UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *102^d^* CONGRESS
SECOND SESSION

VOLUME 138—PART 21

OCTOBER 2, 1992 TO OCTOBER 4, 1992
(PAGES 30259 TO 31452)

GENERAL SERVICES ADMINISTRATION
1/28/98
LAW
LIBRARY
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1992

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

For sale by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402–9328

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 102th CONGRESS, SECOND SESSION

SENATE—*Friday, October 2, 1992*

(Legislative day of Wednesday, September 30, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the acting President pro tempore [Mr. KOHL].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Baruch HaShem. Blessed be the name of the Lord.

Have mercy upon me, O God, according to thy lovingkindness: according unto the multitude of thy tender mercies blot out my transgressions. Wash me thoroughly from mine iniquity, and cleanse me from my sin. For I acknowledge my transgressions: and my sin is ever before me. Against thee, thee only, have I sinned, and done this evil in thy sight: that thou mightest be justified when thou speakest, and be clear when thou judgest. Behold I was shapen in iniquity, and in sin did my mother conceive me. Behold thou desirest truth in the inward parts: and in the hidden part thou shalt make me to know wisdom. Purge me with Hyssop, and I shall be clean: wash me, and I shall be whiter than snow. Make me to hear joy and gladness; that the bones which thou hast broken may rejoice. Hide thy face from my sins, and blot out all mine iniquities. Create in me a clean heart, O God; and renew a right spirit within me.—Psalm 51:1–10.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date and the time for the two leaders is reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. That is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the Senate will debate for 1 hour the motion to invoke cloture on the education bill. At the completion of that debate, a vote will occur on that motion. Following disposition of that bill, the Senate will debate for 1 hour and then vote on the crime bill conference report and then we will vote on that motion. Following disposition of that bill, the Senate will debate for 1 hour and vote on a cloture motion on the reauthorization bill for the National Institutes of Health.

Since the disposition of the matters will depend upon the outcome of each of the cloture votes, it is not possible

NOTICE

A final issue of the Congressional Record for the 102d Congress, second session, will be printed after the sine die adjournment. Members may submit manuscript for printing to the Official Reporters of Debates not later than October 29, 1992. The interim issue will be dated October 29, 1992, and delivered on October 30.

None of the material printed in the Congressional Record during the recess may contain subject matter, or relate to any event, which occurred after the date the Congress officially adjourned.

No provision herein shall be construed to supersede the two-page rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday between the hours of 10 a.m. and 3 p.m.

Members of Congress desiring to purchase reprints of materials printed in the Congressional Record during the adjournment may do so through the Congressional Printing Management Division, located at the Government Printing Office. This office may be reached by telephoning 512-0224 between the hours of 8 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

CHARLIE ROSE, *Chairman.*

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

now to know with certaint when the second and third votes will occur. But we intend to press forward on all of these and other measures as we attempt to meet the deadline for adjournment of this Congress set some weeks ago by the Speaker and myself.

I thank my colleagues for their cooperation. Senators should be aware that there may be a late session this evening. It may be necessary for the Senate to be in session on Saturday. If necessary, there could be a session on Sunday. It is my preference that we not meet on Sunday if we can arrange our affairs in such a manner so as to make it unnecessary, but that will require extraordinary cooperation from our colleagues, and I will not make a decision or announcement about the sessions on Saturday and Sunday until later this evening.

I thank my colleagues, and I yield the floor.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—CONFERENCE REPORT

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 1 hour for debate, equally divided, on the motion to invoke cloture on the conference report accompanying S. 2, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report accompanying S. 2, the education bill:

Paul Simon, Herb Kohl, Jim Sasser, John Breaux, Christopher Dodd, Harry Reid, Charles S. Robb, Daniel K. Akaka, Tom Daschle, Harris Wofford, Dale Bumpers, Richard Bryan, John F. Kerry, Max Baucus, David Pryor, Jay Rockefeller.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, this morning, the Senate is being asked to invoke cloture so that we may approve the conference report on the Neighborhood Schools Improvement Act (S. 2).

This is a strong bill that will take important steps to improve our schools. The bill provides for national education goals, the establishment of voluntary national education standards, the development of model national assessments, and regulatory flexibility initiatives for local schools.

The bill also establishes a formula grants program that will provide Federal funds to States to make competitive grants to local schools to improve student achievement. Those with the best proposals will get funded. Those that do not have good ideas will not win awards.

Funds will be provided to schools over a 5-year period. Schools must show gains in academic achievement. Schools that do not show gains will lose their money. Schools that show gains in academic performance will continue to receive funds.

The opponents of this bill claim that it is deficient because it does not include the initiatives advanced by the Bush administration. With one exception, this is wrong.

There are five principal parts to this bill. Four are initiatives that the administration has previously supported. These are: First, putting the national goals panel on a statutory basis; second, establishing voluntary national education standards; third, developing voluntary model tests and assessments; and fourth, providing greater regulatory flexibility in Federal education programs.

The fifth part of the bill is the Neighborhood Schools Improvement Grants Program, which provides funds to local schools for school reform and links individual school activities with State and local systemwide reform plans.

Unlike the administration's new American schools proposal, this plan will be available to benefit all public schools—not just 535 new schools, one in each congressional district, as the administration proposed.

In addition, this bill will not divert scarce public funds from public schools to private schools.

Unlike the administration's proposal, school reform will be directed by the States and local schools, the Federal Department of Education would not set the terms or pick the winning schools.

Unlike the President's proposal, this bill incorporates strict accountability. Funds will be cut off if the schools do not demonstrate improved academic performance.

The Neighborhood Schools Improvement Act rejects the concept of privatizing education in America, abandoning the public schools, or giving the Secretary of Education final say on where to spend the money. If Federal control of local education is a danger, this bill avoids it far more effectively than the administration's plan.

Yesterday, I received a copy of a letter from Secretary Alexander to the majority leader, GEORGE MITCHELL. The letter cites five reasons for opposing this bill. Secretary Alexander's points are distortions of the legislation, and for the most part contradict positions the administration has previously taken.

First, he claims that the bill "pokes the Federal Government's nose too far in to local decisions—it creates at least the beginnings of a national school board that could make day-to-day school decisions on curriculum."

It is true that the education bill contains national education standards and takes a step forward in the direction of developing a national assessment of education. That is something the administration has eagerly supported.

It was the first point of the President's America 2000 proposal. He called for "new world standards" and "nationwide American achievement tests," developed in conjunction with the National Goals Panel. This bill provides for those standards. It is difficult to understand how Secretary Alexander can now claim that this step will create a National Board of Education.

Second, Secretary Alexander claims that the legislation will allow States to retain 20 percent of their funds, and local education agencies to retain 10 percent of their funds, for systemwide planning and innovative school reform.

Again, the administration has changed its position. In the Senate the administration wanted the States to keep 35 percent of the funds, so they could support innovative new schools.

This bill allows the States and local education agencies together to keep 30 percent—hardly a difference that justifies a veto.

Third, Secretary Alexander complains that the regulatory flexibility proposal does not go far enough.

In fact, it does go quite far. The program initially covers 17 education and social programs, 10 States and 750 schools, far more programs and States than in the original Senate bill.

It is the most comprehensive regulatory reform initiative ever attempted in Federal education policy.

There were good reasons for being careful not to go too far in this process: The Federal regulatory provisions in education are the result of years of evidence that funds were improperly spent. This new flexibility approved in this bill establishes the groundwork for further regulatory reform in the future.

Fourth, Secretary Alexander complains that the bill does not authorize private school choice. Both the House and Senate had rollcall votes on proposals to use Federal funds for such programs and were decisively rejected. Nothing in the bill prevents any State or local agency from spending all its funds from the program on choice among public schools, if that is what States and local schools want.

What the bill does not do is impose choice from the Federal level on States and local schools that choose not to spend it. It is difficult to believe that Secretary Alexander, if he is truly concerned about Federal control, would have it any other way.

Fifth and finally, Secretary Alexander objects to the failure of the bill to authorize 535 new American schools as proposed by the President, at $1 million each, one for each congressional district, to create private, for-profit or religious, schools as chosen by the Secretary himself.

But one per congressional district picked by the Secretary was a bad idea. Innovative new schools are a good idea and the bill specifically allows it. If any State wants to fund new American schools, the bill specifically authorizes funding of "innovative school reform activities."

That term can certainly include new American schools, as long as they are new American public schools.

This bill is an excellent start on school reform. It is the same basic bill that the Senate approved by a vote of 92 to 6 in January. It includes most of the things that the President wants—national goals, education standards, educational assessments, and money for reform of local schools.

We hope that all 92 Members who supported this bill in January will act to approve the conference report and send the bill to the President.

This is a good bill and it deserves to be approved by the Senate. A vote to invoke cloture will be a step in that direction.

Mr. President, I will include these endorsements of the legislation, but I want to just take a moment of the Senate's time in quoting first of all the National Alliance of Business, which includes many of the most important and successful companies and corporations in the country. I will include the full statement in the RECORD. Here is one paragraph:

> Constructive Federal action to stimulate education reform at the state and local levels has been an important goal for the Alliance, representing thousands of business leaders involved in education improvement around the country. We believe that this bill is a constructive effort to legislate the education reform agenda initiated by the President and the Governors in Charlottesville, Virginia, which first established a national education goal.

Here we have a letter from the Council of Chief State School Officers. I will include the full letter in the RECORD.

> The Neighborhood Schools Improvement Act supports schoolwide restructuring, not a piecemeal or categorical approach. Federal legislation has never done that before. The Neighborhood Schools Improvement Act provides that Governors, State legislators, business leaders, mayors, and community leaders have key roles in developing state and local reform plans. Federal legislation has never done that before.

We will hear comments about the structures that are set up and whether it has been overbureaucratized. Here the National Business Alliance urges the Senate to support this proposal, and the Council of Chief State School Officers who are out on the firing line day in and day out.

Let me continue what they say:

> This legislation includes fundamental changes proposed by the President and Members of both parties on the way the Federal Government promotes educational change and excellence. Our schools, school districts and States need the help this act promises as rapidly as possible.

My characterization of the legislation is not only what the legislation states, but it is what those individuals who are on the firing line day in and day out say is needed.

And I continue with the National PTA and will include their full statement.

> The act is not prescriptive, but provides local public schools a variety of restructuring options that will supplement current school improvement moves.

This is the organization that represents the parents. Important provisions in this legislation include parental involvement, and this is what they say, the organization:

> The act allows for parental involvement and recognizes the importance of parent participation in school change.
>
> The act focuses on the most impoverished schools and students in both rural and urban settings.
>
> The act invites collaboration with other community-based child-serving agencies in an effort to coordinate services.

An extremely important position. And finally:

> The act's objectives are most effective—they focus on the neighborhood school as the most critical level for change.

These are the organizations that understand what this bill is all about. These are the groups that are on the firing line day in and day out.

I will include others, but I welcome the kind of endorsement that they have given to this legislation. That is what we attempted to do. That is what I believe we have achieved. And we welcome the fact that those individuals and organizations that are out on the firing line day in and day out and that are closest to the students and the parents and the communities have given such a ringing endorsement to this legislation.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

NATIONAL ALLIANCE OF BUSINESS,
Washington, DC, September 29, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express support of the National Alliance of Business for approval of the final conference report on education reform legislation, the "Neighborhood Schools Improvement Act."

Constructive federal action to stimulate education reform at the state and local levels has been an important goal for the Alliance, representing thousands of business leaders involved in education improvement around the country. We believe that this bill is a constructive effort to legislate the education reform agenda initiated by the President and the governors in Charlottesville, Virginia, which first established national education goals. We recognize that the bill is not ideal, but it represents a critical step toward achieving the goals.

From a business perspective, the key contributions of the bill would be to codify the national education goals into law and to establish federal objectives to help meet the goals. The bill would reconstitute the National Education Goals Panel, and, most important, would authorize a process to develop a system of voluntary, national education standards and assessments. Federal grants to local school districts and schools would be awarded competitively based on state and local plans for comprehensive school restructuring which would be developed with business participation. Schools must show gains in academic achievement or funds are cut off, establishing accountability and responsibility for school reform at the local level.

We view this bill as one important step in the bipartisan effort to improve American education. We commend your efforts to shape and complete a bill in this Congress, and urge your support for final enactment into law.

Sincerely,

WILLIAM H. KOLBERG,
President.

COUNCIL OF CHIEF
STATE SCHOOL OFFICERS,
Washington, DC, September 28, 1992.

Re vote "Yes" on the Neighborhood Schools Improvement Act (S. 2) Conference Report.

DEAR SENATOR: This week the conference report on the Neighborhood Schools Improvement Act (NSIA) will come before the Senate for final passage. The nation's chief state school officers urge you to vote "yes" on this essential legislation.

The Neighborhood Schools Improvement Act supports school-wide restructuring, not a piecemeal or categorical approach. Federal legislation has never done that before. The Neighborhood Schools Improvement Act provides that governors, state legislators, business leaders, mayors, and community leaders have key roles in developing state and local reform plans. Federal legislation has never done that before.

This Act codifies the National Education Goals; authorizes development of voluntary national education content standards for students and voluntary national school delivery standards. It provides funds for developing model assessments in mathematics and science. These are all breakthroughs in Federal legislation.

The Neighborhood Schools Improvement Act provides for demonstration of deregulation by giving flexibility to states and school districts in administering Federal programs. This flexibility is brand new in Federal education legislation.

This legislation includes fundamental changes proposed by the President and members of both parties on the way the Federal government promotes educational change and excellence. Our schools, school districts and states need the help this Act promises as rapidly as possible.

Once again, we urge you to vote "yes" to the conference agreement on S. 2. Thank you in advance.

Sincerely,

GORDON M. AMBACH,
Executive Director.

THE NATIONAL PTA,
Chicago, IL, September 29, 1992.

DEAR SENATOR: The Neighborhood Schools Improvement Act conference report is anticipated to be taken up by the full Senate later this week. The National PTA, comprised of over 6.9 million parents, teachers and other child advocates, urge you to vote for the conference report. This provides financial help to public schools that either are currently or will be undertaking initiatives for educational restructuring and reform.

The Neighborhood Schools Improvement Act should be passed for the following reasons:

1. The act provides assistance solely for needy public schools and does not include funding for private or religious schools in any form;

2. The act is not prescriptive, but provides local public schools a variety of restructuring options that will supplement current school improvement moves;

3. The act allows for parental involvement and recognizes the importance of parental participation in school change;

4. The act focuses on the most impoverished schools and students in both rural and urban settings;

5. The act invites collaboration with other community-based child-serving agencies in an effort to coordinate services;

6. The act's objectives are most effective—they focus on the neighborhood school as the most critical level for change.

The National PTA supports this bill in its current form and asks that you cast your vote in support.

Sincerely,

ARLENE ZIELKE,
Vice-President for Legislative Activity.

THE NATIONAL COALITION
FOR PUBLIC EDUCATION,
Washington, DC, September 29, 1992.

DEAR SENATOR: This week, the Senate will be taking up the Neighborhood Schools Improvement Act Conference report, S. 2 and H.R. 4323. The National Coalition for Public Education (NCPE) has been working with members of both the House and the Senate to assure that monies from this act be allocated only to public elementary and secondary schools. The NCPE strongly supported the Senate's defeat of several private school amendments when S. 2 was originally passed on January 22, 1992; and NCPE was also strongly supportive of the House's overwhelming defeat of similar private school voucher amendments when H.R. 4323 was passed on August 11, 1992. This decisive action on behalf of public schools sends a clear signal that Congress does not believe that private school vouchers are a legitimate educational reform vehicle.

As the Neighborhood Schools Improvement Act comes up for a vote later this week, we ask that you take into account that the act rightly allocates money to public schools only. We ask that you oppose all parliamentary ploys intended to add private school parental choice including the President's G.I. Bill or any other form of private school aid. The National Coalition for Public Education is an organization of over 40 education, religious, civic and civil rights group opposed to public money going to private and religious schools.

We thank you for your attention in this matter.

American Association of School Administrators.

American Civil Liberties Union.

American Federation of Teachers.

American Jewish Committee.

American Association of University Women.

Baptist Joint Committee.

Council of Chief State of School Officers.

General Conference of Seventh-day Adventists.

Council of the Great City Schools.

International Reading Association.

National Association of Elementary School Principals.

National Committee for Citizens in Education.

National Association of State Boards of Education.

National Coalition for Public Education and Religious Liberty (PEARL).

National Education Association.

National Congress of Parents and Teachers Association.

Mr. KENNEDY. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, I rise to express my opposition to the conference report on S. 2, the Neighborhood Schools Improvement Act, and urge that all my colleagues join me in voting against cloture on this measure.

Mr. President, it is not for political reasons that I oppose this legislation. It is because I support sound, sensible measures regarding education, and I do not believe that this is one. It is a great disappointment to me to have to be arguing against a measure I would like to support. The bill we passed in January was one which I did support, as did a large majority of the Senate, as was pointed out by the Senator from Massachusetts.

However, little of that Senate bill is now in this conference bill before us, and I would say to the chairman of the Labor and Human Resources Committee, it is not basically the same bill which was passed by the Senate in January.

I would like to go through some of the reasons why I believe this is not a sound or sensible approach at this time.

It goes without saying that it is difficult for any of us to oppose a bill that has education in its title. No one opposes education. No one argues against its importance in assuring that our Nation stands tall in an increasingly competitive world.

In many respects, the easiest thing to do would be to just let this bill go. We all know there is not any money available to fund this program. Moreover, any action we take at this late date will surely be overshadowed by the reauthorization of the Elementary and Secondary Education Act during the next Congress. The gesture might be meaningless, but we could all go home and say we voted for education reform.

However, it is simply too late to be considering this bill. The conference report for the Labor-HHS-Education fiscal year 1993 appropriations bill was filed last night. There is not one penny of the $800 million authorized by S. 2 in that measure. In fact, funds are already tight for the proven, existing education programs already on the books. That is going to be a very important reauthorization beginning the first of 1993.

Moreover, even under the best of circumstances, by the time any school could expect to receive funds under this bill, we will have passed a major reauthorization of Federal elementary and secondary education programs—involving over $13 billion of funds which are available and are being spent.

The most we can hope to accomplish by approving this measure at this late date is to send a signal that Congress is interested in education reform. However, if we do so, we will be sending the wrong signal. This is a bill which promotes bureaucracy—not reform. By once again saying that the Federal Government knows best, we threaten to strangle creativity and innovation at the State and local levels.

As a former school board member of a small rural school district, in Kansas, I cannot tell you how strongly I feel about increasing bureaucracy at the Federal level regarding our educational system.

Having been a member of the conference committee on this bill and having reviewed its final provisions, I have determined that I cannot simply cast my vote in favor of this legislation just because it concerns education. This is a course I simply cannot take. The structures we build in one piece of legislation are often superimposed on other programs, and—once built—they rarely go away. I believe the structure of this bill is not sound education policy and think it would be a tragedy if it were to serve as a cornerstone of other new or existing Federal assistance programs.

It was dismaying to me to see the features of the Senate bill which I believed were most important hit the cutting room floor during conference deliberations. The bill which left the Senate included a streamlined administrative structure, a direct focus on local neighborhood schools, and a strong emphasis on targeting assistance to those schools in greatest need. By contrast, the conference bill establishes an elaborate maze of new bureaucracies for schools to try to negotiate and fails to target assistance in any meaningful way.

My single biggest concern with the bill is, in fact, its creation of a bureaucracy which could potentially stifle rather than assist reform efforts which are already underway at the State and local levels.

Many of us worked very hard to streamline the process included in earlier versions of the Senate bill, and I was very appreciative of the assistance given by the Senator from Massachusetts in that endeavor, and the chairman of the Education Subcommittee, Senator PELL.

The bill which passed the Senate provided for the provision of grant funds to State education agencies [SEA's], which developed a State reform plan in consultation with an advisory council. Local schools desiring assistance would develop a proposal in cooperation with school officials, community participants, and a local education agency [LEA]. The LEA would then submit the application to the State which would make funding decisions.

The requirements which emerged from conference, however, are much like the before and after pictures of a weight-loss ad—in reverse. And I dislike having to spend some time laying out the bureaucracy of it all.

But under the conference bill—and I would just like to explain how complicated this gets—a State first applies for a planning grant, then establishes a State improvement panel. The panel then develops a plan and sends it to the State education agency, which may approve it or disapprove it or send it back for revision.

When a suitable plan is developed, the SEA submits it to the Secretary—who cannot disapprove it except after giving the State notice, technical assistance, and an opportunity for a hearing.

Local education agencies wishing to receive funding undergo a parallel process—also establishing a reform committee. A peer-review process must be established at the State level to review LEA applications. In the meantime, the LEA selects schools to receive funding and submits both its local reform plan and school funding proposals to the State.

Finally, schools which wish to obtain grant support must submit a restructuring proposal to the LEA.

So the State, the local education agency, and schools by and of themselves, all go through the same elaborate procedure.

I should also point out that, not only does the bill require the establishment of State and local policymaking panels outside those which already exist, but it also specifies who should serve on those bodies. If the point of all these reform committees is to bring in fresh blood and new ideas, we should at least leave room for States and localities to identify such individuals themselves.

The structure I have just described is exactly the reason that the American public is frustrated with the Federal Government and with all of us. Washington is seen not so much a source of support as of aggravation.

Another major point of difference between the House and Senate bills was whether reform will be accomplished from the top-down or from the bottom-up. Clearly, the top-down approach favored by the House prevailed in the conference bill.

I believe that most of us in the Senate were very disappointed with this outcome. Whatever one may say about the failings of our current system and our need for improvement, it would be foolhardy not to recognize that one of the real strengths of the system is the personal stake that individuals and communities have in their schools.

We cannot legislate the kinds of individuals who are involved in schools on a day-to-day basis, nor can we regulate their day-to-day behavior. It is the commitment, talents, and interests of teachers, parents, and administrators that will make or break any reform effort. Reform takes the constant prodding and adjustments which can only be done by those on the scene who are committed to that effort.

The fact of the matter is that the future of education reform in this country does not hinge on the enactment of this legislation. Our tendency to offer Federal assistance in the form of a one-size-fits-all regulatory straitjacket could actually produce the opposite result.

All over this country, States and localities are actively engaged in exciting and innovative reform efforts. They have undertaken these efforts without a Federal prescription regarding the type of committees they should establish, the membership of those committees, or the specific reform methods to be included. They undertook those reforms because people in their districts and in their education arenas believed that they could do it and knew what they wanted for their schools.

I am sure that every Member of this body can produce a list of innovations underway in his own State, whether it is Massachusetts, Kansas, or Utah or any of the other States so represented here on the floor.

One wonders how many of these programs could meet the specs outlined in this bill. I am not sure that they could with the innovations which they are undertaking.

President Bush has called upon communities across the Nation to undertake a concerted examination of what they want from their schools. In a country as diverse as our own, a variety of exciting and thoughtful responses have emerged. Let us not strangle these efforts in their infancy with reams of redtape.

Other aspects of the legislation before us are disappointing as well. It includes a statement of the six national goals, along with a series of findings calling for unrealistic levels of spending for a variety of Federal programs—unfairly raising expectations that the Federal Government will honor commitments in the future which has been unable to honor in the past.

It omits any specific mention of the innovative reform ideas included in the Senate bill. These ideas—such as new American schools, comer schools, essential schools, charter schools—are not even referenced in report language. This totally ignores the substantial interest in this area, as evidenced by the fact that the privately funded New American Schools Development Corporation received proposals from 686 groups.

It also sets the stage for Federal involvement in areas more appropriately left to State and local governments. For example, it calls for data collection activities in the area of school finance. Unless the Federal Government is prepared to help assume the general operating costs of local schools, which I doubt, there are serious questions regarding our ability to play a constructive role in this sensitive and complex area.

Likewise, provisions in the bill relating to the development of school delivery standards open the door to future attempts to decide at the Federal level, educational inputs, ranging from class size to teacher credentials. In addition, at a time when we are trying to do more to look at educational outcomes, this brings us back to looking at inputs and may have the effect of requiring or encouraging every school in the Nation to do everything in the same way, whether or not that makes sense for them.

I also note that there are some good features of the bill. It gives statutory recognition to the National Education Goals Panel, which was established following the 1989 education summit between President Bush and the Nation's Governors. Earlier this week, this group issued the 1992 National Educational Goals Report. This bill also provides the waivers of Federal requirements which stand in the way of efforts to serve students more effectively. Such waivers would be permitted in up to 750 schools across the country. Contrary to the thrust of this bill, this provision recognizes that Federal statutory and regulatory requirements can get in the way of good ideas at the local level.

In conclusion, I urge that, before casting their votes, all Members consider these important points:

First, this bill is not the right thing to do for education and may, in fact, stifle the flexibility needed to achieve true reform.

Second, it holds out false promises and expectations because not one penny of the $800 million authorized for fiscal year 1993 has been appropriated. In fact, it has proven impossible under current budget circumstances to fund existing, proven programs at the levels we would like to see.

I wonder if any of the groups that are endorsing this legislation know that. Although my office has not received any of them, the Senator from Massachusetts says that five or six groups have sent letters of endorsement. However, I wonder if they really know there is nothing in this but, perhaps, false hopes for the future.

Third, even if funds were appropriated in some future year, little, if any, money would be available for programs in schools until a second year of funding was provided. First-year funding would be solely devoted to planning.

Fourth, nearly 2 years after this bill was introduced, and 8 months after it was approved by the Senate, we are considering an elementary and secondary education bill in the waning hours of the 102d Congress. Within the 103d Congress, when it reconvenes in just 3 months, we will begin a comprehensive review of the elementary and secondary education programs—for which over $13 billion are available and being spent—in preparation for reauthorization of the Elementary and Secondary Education Act.

That is the appropriate forum for a serious discussion of the effect of the Federal role in promoting education reform.

Mr. President, for all these reasons, I urge that we not go forward with this bill at this time.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 17 minutes, 40 seconds.

Mr. KENNEDY. I yield myself 3 minutes.

Mr. President, I listened with great interest to my friend and colleague characterize the legislation and the shortage of resources in terms of this legislation. That is very true. It is interesting to have our Republican colleagues urging that we need the additional funding for education programs. We do need it. Although money is not the only answer, the level of funding does reflect the Nation's priorities. I am very hopeful that that attitude will continue as we move forward on other education programs.

What is not mentioned, however, is what is included in this legislation. This legislation is a national statement of policy on education. We have standards and the development of assessments. We have flexibility and waiver provisions. We authorize waiver provisions in this legislation that will help States eliminate some of the Federal regulations on some 17 different programs. That was argued about here in January and was actually proposed by the Senator from Oregon [Mr. HATFIELD]. I know he wishes that we had even more flexibility even though we did 6 States in the Senate bill and have 10 States and 17 programs. Nonetheless, it is not as expansive as some would like. With the authorization however, the process can begin and we can start eliminating interference, duplications, and overlap and the bureaucracy of many programs.

We are for that. We support it. It is in this legislation, and we are delaying eliminating these problems unless we pass it.

Second, the costs of the standards and the costs of the assessments, Mr. President, are not great. These concepts have been supported by the President of the United States. We provide specific authorization for moving ahead. We have to try and determine what our children ought to know in key subjects, such as math and history and other extremely important subjects. Developing assessments for those standards is also enormously important. It is going to take time. How are we going to develop assessments that will be fair and be able to look at various considerations of children's performance? Those are matters that are included in this program.

Finally, Mr. President, if this was as bureaucratic as my friend and colleague has pointed out, it is difficult for me to believe that we would have the kind of support from the business community that we have. They have indicated a ringing endorsement for it. On the one hand, those that are opposed to this legislation say we are not providing new people, new ideas, new opportunities, for parents and community leaders and business leaders to be involved in the education reform. So we have tried to do that by developing groups at the local level and the State level that can provide that kind of input. Now we have done that, we are told that we are developing an additional bureaucracy, and therefore you cannot support it. We have tried to provide a balance, and I think we have a good balance.

On the one hand, our Republican colleagues are complaining about the bureaucracy and, on the other hand, we have the support of the chief of State School Offices, the National State Board Association, the National School Boards, the Council of Great City Schools, the National PTA Association, the Association of Elementary School Principals, and the Association of Secondary School Principals. You cannot have it both ways. It is difficult to believe we could have those endorsements and have provided a mechanism for those that are involved at the local level in the school reform. In such a way that we have the strong and overwhelming support of the business community, and yet still have created a bureaucracy.

So, Mr. President, I hope at least for some of those reasons, and others which identified earlier, that we would support the bill.

Mr. PELL addressed the Chair.

ADDITIONAL CONFEREES—H.R. 5334

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following Senators from the Environment and Public Works Committee be appointed as additional conferees with respect to title X of H.R. 5334, the Affordable Housing and Community Development Reauthorization Act: Senators MOYNIHAN, REID, and CHAFEE.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—CONFERENCE REPORT

CLOTURE MOTION

The Senate continued with consideration of the cloture motion.

Mr. PELL. Mr. President, I express my strong support for the conference agreement that has been reached on S. 2, the Neighborhood Schools Improvement Act. It is important legislation, and I hope very much that we can approve the conference report so that this legislation can be sent to the President for his signature.

The Senate-House agreement provides an authorization of $800 million for a grant program to encourage systemic education reform at the local school level. My home State of Rhode Island would be eligible to receive approximately $2 million a year to support education reform programs in schools throughout the State.

The legislation also provides for a demonstration program to support flexibility in Federal education programs in 10 States. The purpose of the program would be to reduce Federal regulatory burden and achieve program simplification. Both of these goals compliment and strengthen my longstanding commitment and efforts to reduce the paperwork burden in our Federal education programs. Our goal should always be to make sure that our education programs efficiently and effectively serve the students who need our help most, and the demonstration program that is a part of this legislation is designed to do just that.

Finally, the legislation supports the development of voluntary national content standards in all areas, and of model assessments in mathematics and science. The standards are absolutely necessary as a statement of what students should be expected to know in vaious subject areas. This is critical if our education system is to be truly world class, and if we are to achieve the national goals in education set forth almost 3 years ago.

The Department of Education, often in cooperation with other Federal agencies, has already made grants for the development of standards in areas such as history, civics and government, and the arts. This legislation recognizes the work that is already in progress. It seeks not to interrupt that work, but to add to it. It seeks to strengthen the process of stsandards development, and provides for the certification of such standards by the National Goals Panel. These are important steps in the right direction of bringing true reform to the American schools.

Standards are not enough, however, and I am very encouraged that we not only encourage but support, as part of the Eisenhower Math and Science Act, the development of model assessments in mathematics and science. I am equally encouraged that we do not preclude the work on assessments in other areas. Our efforts mean little if we do not have assessments to determine if we are meeting the standards we set forth.

As my colleagues know, I have long believed that we should have a national test or a series of national tests to measure what students know. That measurement would help us understand what we have to do to improve the education of students nationwide. It would also help us target those students most in need of our help, and identify those schools and local education agencies where the need for improvement is most pressing. That information would not only help us help students but also help us improve American education overall.

Our goal is to make American education world class in every classroom in the Nation. None should be left out, and none should be neglected. Make no mistake about it, our efforts are to lift the quality of education everywhere. And, to my mind, that means a very specific, concentrated effort in those schools where improvement is the most difficult to achieve, and with those students who most need our assistance.

This legislation is a step in the right direction, but it is only a step. I would hope, therefore, that we would view it as a precursor to what we should be considering when we begin our work to reauthorize the Elementary and Secondary Education Act next year.

Mr. President, I urge my colleagues to join me in approving this important conference agreement.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield 5 minutes to the Senator from Mississippi [Mr. COCHRAN].

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. I thank the distinguished Senator from Kansas for yielding time to me.

Mr. President, the vote we will be called upon to cast after this 1 hour of debate is completed is on cloture on the motion to proceed to the consideration of the conference report. Some of us have the very strong feeling that this conference report should not be considered by the Senate at this time. I feel very strongly that it should not be considered, and I am going to vote against invoking cloture on this motion.

The reason is because of my serious concern about the discussions that we had in conference, the absolute failure of the conferees on the part of the House to consider seriously or discuss any of the reforms contained in the bill passed by the Senate.

It became clear as the conference proceeded that House Democrats did not want this bill. They were not interested in including any provisions that the Senate had thought were important to authorize, for example, the establishment of new American schools. That was included in the conference in Charlottesville as one of the ways to help improve education in America. The Governors and the President, we all remember, met in Charlottesville to talk about establishment of goals for the future for education in America, how do we improve our schools.

One of the ways was to get the Federal Government to loosen up its regulations on how Federal funds could be spent and let local communities, individual school districts, local administrators, teachers, the private sector get involved in trying to come up with new and better ways to teach our children, to develop new schools for the future.

So, this bill was an opportunity for us to cooperate in the education reform effort and loosen up some of the Federal strings that had been attached to Federal funds that had been allocated to elementary and secondary education in the past.

But House Democrats would not have any of it. They refused to include even the use of the words "new American schools" in the bill. Wherever that appeared in Senate language, it was stricken and no consideration given to reconsidering that decision.

It seems to me, Mr. President, that we ought to recognize that this conference report does not reflect a compromise at all. It does not include important Senate provisions, because the House Democrats would not agree to any compromise on those reform provisions in the Senate bill.

So this conference report should not be considered by the Senate. Next year the Elementary and Secondary Education Act comes up for reauthorization. We will have another opportunity next year, because that is legislation that I am sure the Senate will consider. We will have hearings. We will get input from those who are interested in education reform. We will make a new effort next year to get a better bill after a conference with the House, which I hope will produce some compromise.

But I am very disappointed in the failure of this conference to produce a compromise bill. It is a bill that is not really supported by those involved in education back in the States. It gives the States more regulations, more controls than we already have on the efforts of those at the local level.

It seems to me this is really an effort in disguise to impose more Federal control over local decisionmaking than we have had before. The Federal Government contributes only 6 percent of the money that is used for education back in the States, yet it wants 100 percent of the say-so as to how the funds will be used.

I am hoping the Senate will reject the notion of taking up and seriously considering this conference report. And so I hope Senators will vote "no" on the cloture motion.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

It is extraordinary to hear criticisms of this legislation, saying this program is a top-down program, from those who are supporting the administration's program that would have the Secretary of Education select 535 programs and 535 school districts. Talk about a top-down program, you have it there, unless top down does not mean that. The administration's approach is 535 programs in 535 congressional districts. If that is not a top-down approach, then I don't know what is.

We have a formula program of grants to the States, and the emphasis is on competition among the local schools working through the LEA's.

Let me list the kinds of programs that are already taking place that we want to support, Mr. President:

In the State of Maine, they have a rural middle school. Teams of teachers and students spend 2 years together, and the teams control their own budgeting and their own scheduling.

You have in New Jersey models for ungraded schools with emphasis on K through 3. There will be team teaching, individual school development, and family participation. Head Start will be available to all eligible students by 1998. The first 2 years of the plan are focusing on teacher training in primary grades to learn how to devise interdisciplinary curricula. They are also looking at adding 40 days to the school year over the next two decades.

These are the things that this bill could support. In Rockdale, GA, after joining the Coalition of Essential Schools, the teachers and students redesigned the academic program to eliminate tracking. Textbooks are used only as supplements to lessons which are interdisciplinary, and they make use of computers for math and science tests and use essay questions even in math.

In Baltimore, 6 elementary schools in the Success for All Program have regrouped their students for 90 minutes each day where the youngest students are in classes of 15 and have intensive reading. It has been so successful that it has now spread to Philadelphia.

This is what we are trying to further. This is what we are trying to help. This is what we are trying to stimulate. We used these examples developing this legislation.

Mr. President, these are examples of strategies that we are going to support, and I think it is important to recognize that.

How much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has 6 minutes, 50 seconds.

Who yields time?

Mrs. KASSEBAUM. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Kansas has 8 minutes, 32 seconds.

Mrs. KASSEBAUM. I yield 8 minutes to the Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank the distinguished Senator from Kansas.

I can assure this body the business community would not support this bill. The National Alliance for Business certainly is a respected smaller group within the community, but I have to tell you many in the business community do not support this bill.

I also want to compliment our distinguished ranking member, Senator KASSEBAUM, for the work that she has done on this. I know how disappointed she is that we were unable to get together and have basically the Senate version of this bill. We all fought for and which was a compromise. S. 2, as passed by the Senate, was not everything the distinguished Secretary of Education wanted but, nevertheless, was so much better than what we have come up with in this conference report, which is a political exercise to try and get the President to veto an education bill so that they then can say that the President is against education.

It is really pitiful that we get one of the finest Secretaries of Education who is renowned for his work to improve education as a Governor, who is certainly considered to be a moderate, who has tried to work with our committee and with the House of Representatives for something that would create new American schools, and other innovative and break-the-mold-type approaches, and it gets dissolved into some sort of politics like this one.

This really bothers me. In 16 years of service on this committee, I have never seen a more politicized bill than this one. And it was very apparent when we went to conference that the House of Representatives, after gumming the bill up, was not going to accept any reasonable suggestion. In fact, I made reasonable negotiated suggestions to them that ordinarily would have been grabbed like that by those on both sides. They would not consider the slightest suggestion in any way, shape, or form. So this is a political exercise and I hope everybody understands that.

Now I have to say we have heard quoted by the distinguished Senator from Massachusetts about this bill being a breakthrough for the Federal Government. Well, I suggest that a breakthrough by the Federal Government is a breakdown of State and local control, and that is what this bill is.

Mr. President, this is an important debate because it is going to determine just where we go from here. I have to say that there is not a lot in this bill that the administration wanted. There are no real reform measures in this bill. Innovative educational ideas like new American schools or charter schools are not even mentioned in this bill.

We are told these ideas can be funded out of the small reserve fund left to the States, but no State education officials would even know that because there is not a mention of it in the bill. Nothing to encourage it. And that includes public school choice programs, which Governor Clinton supports. There was not one bit of a chance of having that included in this bill. There is nothing to suggest that any of these innovative suggestions that the Secretary has made even exists as an option.

The Senate passed its version of S. 2 which I was pleased to support. The distinguished Senator from Kansas supported it, as well as the distinguished Senator from Massachusetts. It was a bipartisan bill. We worked together, as we always do. It contained ground-breaking proposals to demonstrate educational flexibility.

But I would just like to say to my distinguished colleague from Oregon, Senator HATFIELD, that I think he would be very upset how the House of Representatives diminished the ed-flex proposal.

It is hard to have a concept for which you have worked so hard to be rejected out of hand.

But, here was a real reform that would have helped States and local school districts better target their resources. Instead of spending money to comply with certain program requirements, they could obtain waivers and spend the funds to meet other needs.

But, Senator HATFIELD would not recognize the vestige of it that is left in the bill, at least I do not think he would.

One can only speculate that the supporters of S. 2 only intend more of the same old thing for education. This, in my book, is an empty promise.

The second reason to reject this bill is this bill creates even more educational bureaucracy.

In my view, we ought to be getting the investment of those scarce resources we have into the classrooms as quickly as possible. This conference agreement plainly does not do that.

For starters, this bill authorizes $800 million in the first year. Not a dime of it will flow down to individual schools. It will go to States for a year's worth of planning activities.

If parents think that their childrens' schools are going to see any quick improvements as a result of this bill, they can forget it. That is an empty promise.

Well, how about the second year? Nothing in the second year either. In the second year, the $800 million authorized would flow to States and then to local education agencies [LEA's] for planning.

Mr. President, I am all in favor of planning, but this strikes me as just a little ridiculous. Two years worth of planning assumes that State and local education agencies, Governors, legislatures, or school boards have never given a moment's thought to their educational needs and how they would like to address them.

Now, how about that planning process? Let me show it to you. I believe my colleagues will agree that the conferees should have stuck with the Senate bill.

This chart shows the procedure States and local education agencies would have to follow, as outlined in the conference report and how it works. It looks like a roadmap of the United States. You start here, go to there, here, here, here, here, here, then up here, through all of these various program requirements right down to all of those.

It is so complex that one has to wonder just what in the world are we trying to do bureaucratizing the educational establishment even more than it is now. This is done by devotees of the Federal Government. And it is done to impose the Federal Government ultimately upon the backs of public schools. And I have to tell you, this is the beginning of a Federal takeover of our schools.

Now that is going to be refuted, but I do not think so. If you look at what this really says, you are going to be concerned.

Now, we are going to make the States establish duplicate school boards and commissions and advisory councils. Why is any of that necessary?

Why are we forcing State and local education dollars—not to mention the dollars allocated by this bill—to be spent on planning and not on kids in the classroom?

I am also very concerned about national school delivery standards, which will basically prescribe to every school district in the United States how to run their schools.

National school delivery standards could include, for example, minimum per pupil expenditures, maximum student-teacher ratios, minimum teacher salaries, number of books in the library, and so forth.

And some States may or may not be able to meet what the Federal Government thinks are the standards they should meet.

National school delivery standards developed by tax dollars sound very reasonable. They say it is really up to the States to adopt them. But this is the beginning of Federal control of education.

There is a lot more I have to say, but my time is nearly up. But before I conclude, let me share a letter from 10 State Governors expressing their opposition and concern about this conference report:

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, September 30, 1992.

Hon. EDWARD KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR: At the Charlottesville Education Summit in September of 1989, the Nation's governors and the President agreed to institute a process to establish performance-based education goals for the nation and a way to hold ourselves accountable for progress toward those goals. Legislation currently before Congress, the conference version of S. 2, is framed around the goals and the bill has been characterized as furthering the governors' education agenda. It does not.

Since the Summit, governors have been active in promoting a national education agenda that is based on the national goals and high standards, but quite specifically relies on state and local strategies to achieve them. Our emphasis has been on performance and outcomes, not programs and input. Unfortunately, the conference version of S. 2 totally reverses that emphasis by including language requiring states to adopt school delivery standards as a condition for receipt of federal funds. From a gubernatorial point of view, S. 2 is fatally flawed in several other ways and could in fact stymie our efforts to achieve real results-based education reform.

Today, the National Education Goals Panel, a group of eight governors, four Members of Congress and two members of the Administration, released the second of 10 National Education Goals Reports. The Panel represents a fairly unusual if not unique experiment in federalism and it is making credible progress in an important domestic policy area. The process has not always been easy, but the panel does its work in a bipartisan way, operating in the spirit of consensus. By contrast, S. 2 does not reflect this cooperative approach.

Many of us have worked with the Congress through the National Governors' Association and others in trying to craft legislation that would further the governors' reform agenda, not stifle it. And, in fact, the original Senate-passed version of S. 2 would have done that. We are deeply concerned, however, that passage of this current version of S. 2 will cripple future opportunities to produce real reform legislation, and we urge you to oppose this Conference Report.

Sincerely,

Tommy Thompson, Governor of Wisconsin; John Ashcroft, Governor of Missouri; John Engler, Governor of Michigan; Jim Martin, Governor of North Carolina; Norman Bangerter, Governor of Utah; Carroll Campbell, Governor of South Carolina; Terry Branstad, Governor of Iowa; Arne H. Carlson, Governor of Minnesota; Jim Edgar, Governor of Illinois; Peter Coleman, Governor of American Samoa.

Let me reiterate what the Senate bill was. Just a very simple plan that would have worked. From this chart the application process goes from right down there, to right there and right there. There are basically only three steps. But to be fair, we put in every little step in the overall process, and it amounts to eight steps. So compare that with the hobgoblin of Federal bureaucratese—found in this conference report, completed without incorporating one suggestion from this side.

How can anybody vote for this and call it an education reform bill?

There is not going to be money for this bill to begin with. This is a fancy charade that we ought to vote down here today. And I hope all of our colleagues vote against cloture here today because basically it is the only way that we can stand up for States and local school districts in the States.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who yields time?

Mr. KENNEDY. Mr. President, how much time remains.

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes and 42 seconds.

Mr. KENNEDY. Mr. President, as pointed out in the earlier debate, the opponents of this legislation somehow are suggesting that this is a Federal takeover. What we have incorporated in this legislation is that the resources go to the States in formula, and that the local schools or the local LEA's will make application for competitive grants. Those competitive grants will then be decided on by a peer review operation or an organization that, based on what will strengthen and improve academic achievement, will make recommendations.

That was in the bill that passed the Senate. And it is in the conference report.

Let us be crystal clear on what is at stake with the vote on cloture for the Neighborhood Schools Improvement Act.

A vote against cloture is a vote to kill this bill for 1993. It is a vote against the establishment of National Education Goals and Federal policies to achieve them.

It is a vote against the establishment of a national education goals panel with two-thirds of its members being State legislators and Governors. It is a vote against establishing voluntary national standards for education. It is a vote against development of assessments. It is a vote against deregulation and flexibility in the administration of Federal education programs.

It is a vote against an $800 million program for individual school restructuring and school system change with decisions made at the State and local level, not by the Secretary of Education. That is what a vote against cloture means. That is what is at stake in this cloture vote.

I urge my colleagues to join in voting for cloture so there is an opportunity for the will of the Senate to be exercised. Let us not lose, as we did in 1990, the opportunity to act on an essential Elementary and Secondary Education Reform Act.

Let us not lose the opportunity to transmit this bill to the President for his choice as to whether he will sign a bill with his national goals, standards, assessments, flexibility, and restructuring schools programs or veto it.

I wish that we knew where the President stood on this legislation. We know where the Secretary of Education stands. But we do not know where the President stands. This is probably the first education bill that I have seen on the floor of the U.S. Senate where we have not had a position from the President of the United States. We know where the Secretary is. But from someone who wanted to be the education President, why do we not have some message to know where he stands on this program?

Mr. President, I hope the Senate will enact cloture so we can make an important step in terms of reforming the schools at the local levels in this country.

The PRESIDING OFFICER. The Senator from Kansas has 40 seconds remaining.

Mrs. KASSEBAUM. Mr. President, I would like to say I know where the President stands on this measure. The President stands for sound, sensible education reform. He cares a great deal about elementary and secondary education and the ability to be innovative, the ability to draw communities together and to establish what they believe important for education.

I feel strongly that this cloture vote is an important vote. We should not proceed ahead with this bill at this time. I strongly urge my colleagues to vote no on cloture, because we will have the opportunity, within only months, to address these same issues with the reauthorization of the Elementary Education Act. I yield my time.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes and 30 seconds.

Mr. KENNEDY. I yield the remaining time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I have to confess when my friend Senator HATCH was talking about this bill I did not recognize it. I think there are three fundamental thrusts in this. One is to promote voluntary national standards so that we can have in other fields what the teachers of mathematics have had—some standards.

If, for example, the Presiding Officer, Senator LIEBERMAN, were suddenly a school administrator and he has to hire a French teacher—perhaps he is an expert in French but I am not aware of it if he is—how does he know whether that French teacher is competent?

So this bill suggests that we have voluntary national standards in other fields. I think that is a significant step forward.

Second, it has innovation. It did not take in the conference the President's title "New American Schools." Frankly, I cannot get excited about that one way or the other. But that is a compromise that was made. But there is innovation.

And the third thing that was rejected is assistance to private schools. Frankly, we have two or three States that are now experimenting in this area. We have a 50-State system, so that we have laboratories. We do not need to make national mistakes. Let us not rush into this area of aid to private schools.

My feeling is that this is a solid piece of legislation. Senator HATCH says there is no quick improvement here. Perhaps no quick movement, but I think substantial improvement, particularly in promoting voluntary national standards.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senate majority leader.

Mr. MITCHELL. Mr. President, I ask Senator KENNEDY if he would yield me the rest of his time and then I will use a brief amount of leader time.

Mr. KENNEDY. Mr. President, I yield such time as remains.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, for the second consecutive Congress, we have the opportunity to approve legislation which will begin the process of national education reform. But again, for the second consecutive Congress, we face obstruction designed to kill the bill.

I hope today that we can invoke cloture on S. 2, the Neighborhood Schools Improvement Act, and end the obstruction that has prevented this good bill becoming law.

Ten years ago, the National Council on Excellence issued a report entitled "A Nation at Risk," which alerted all America to the urgent need for change and renewal in our education system. The second graders of 1982 are this year's high school graduates.

In 1989, at the education summit, the Nation's Governors agreed on a series of explicit education goals. The President endorsed those goals. The high school freshman class of 1989 are this year's high school graduates.

The majority in the Congress responded to the call of the Nation's Governors in 1989.

The education reform bill of the 101st Congress codified the Governor's goals. It would have been the first step in education reform. Instead, a minority of Republican Senators blocked action on it.

We risk the same outcome today. A minority of Republican Senators may again block action. If they do, that will condemn this year's freshmen, this year's third graders to an education system without the resources or the leadership needed for reform.

We have the opportunity today by stopping this filibuster on this legislation to act on the political promises of education reform which everyone is making.

Let us be clear. A majority of Senators favor this bill. It is a minority that is preventing action on the bill.

Our children deserve better than empty promises and grand speeches. We owe them more. The neighborhood schools bill is our chance to make good on those promises and act on those speeches.

The bill codifies the national education goals endorsed by the Nation's Governors at the 1989 education summit; it encourages the development of models for testing and assessment in critical academic areas—math, basic science, history, and English. Without tests to measure student achievement, a school cannot know if its reforms are working; parents cannot know if the school is giving their children the teaching they deserve.

For the first time in the history of Federal aid to education, the neighborhood schools bill makes funds available directly to schools, as opposed to specific students, or student populations. Funds are designed to go only to States and schools that have locally developed reform programs. Instead of top-down directives, there are incentives for grassroots change.

It was interesting to hear the comment about Federal bureaucracy. The President's bill, the bill supported by Republican colleagues, would have had all of the crucial decisions made by the Secretary of Education, a Federal official. This bill has the decisions made by State and local officials. That is one reason why the Secretary of Education is against this bill. He wanted the President's bill, which would have centralized decisionmaking in the Federal Government, in the person of the Secretary of Education.

So the argument turned the facts upside down. The bill that would centralize control at the Federal level in the person of the Secretary of Education was the bill proposed by the President. The bill that will decentralize authority, that will permit decisions to be made not by the Federal Government, not by the Secretary of Education, but by State and local officials is the bill now before us and that is why the Secretary of Education is against it.

So, if you want to vote to decentralize authority, if you want to vote to give authority to State and local officials, you will vote for this bill. If you want to vote to give all of the power to the Federal bureaucracy, if you want to give the Secretary of Education the crucial decisionmaking process, then you will vote against cloture. It is as simple and straightforward as that.

This bill embodies four of the President's education reform proposals and a modified version of the fifth proposal.

I urge my colleagues to reject obstructionism. Our Nation deserves better. Our children deserve better. Our parents deserve better.

A vote for cloture will be a vote to stop the endless circular debate over whose reforms are real reforms and start the process of change that is crucially needed. Our schools and our students need action, not more talk. Let us end the filibuster. Let us end the talk. Let us vote and start action today.

Mr. President, I yield the floor

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given just 1 minute of the leader's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I have been interested in the distinguished majority leader's comments, but, the issue is not whether the Secretary of Education was going to win on this issue or not. He was not. The issue is whether the Senate bill, which was a reasonable bill, was put together in a bipartisan manner. The Senate bill does not have all this bureaucracy. The Senate bill was given no consideration by the House of Representatives. And I am sorry to report to you, it was not given one ounce of consideration by the House of Representatives because they wanted to make this a political football and they wanted to play politics with this.

I tried to get a bipartisan bill. We have done it on this committee for 16 solid years. We have put together bipartisan education bills for 16 years, Republicans and Democrats. It has been a matter of course. This is the first time I can recall where we have gone into it like this. Even more important is the content of this bill. We are going to have the Federal Government making suggestions for voluntary school delivery standards for the State and local school districts. That is the beginning of the takeover of our State and local control over our schools.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I will just take a moment to make a final response.

If this were to deprive local officials of their authority and concentrate it in the Federal Government, what would you expect the response of local officials to be? Why, of course, they would be against it.

But let us look at who is for it: The State school officers, the State board associations, the school board associations—all local officials—the Council of City Schools; the Parent Teachers Association; the Elementary School Principals Association; the Secondary School Principals Association. Virtually every local school official in the country favors the bill that our colleagues say takes authority away from them and gives it to the Federal bureaucracy.

It is the exact opposite of the facts. This bill empowers local school officials. The Republican bill empowers the Secretary of Education. That is the difference between the two bills. If you are for local control, you vote for this bill. If you are for Federal control in the person of the Secretary of Education, you vote against this bill.

Mr. LIEBERMAN. Mr. President, I note that the version of S. 2 reported out by the conference committee does not contain explicit language allowing States to use a portion of the funds that can be held at the State level for the startup of new, innovative public schools, including charter schools, and I want to clarify the committee's intent regarding this program. Chartered public schools offer a significant opportunity for educational improvement by enabling those who know best what our children need to succeed and how to provide it, parents and teachers, to create new and diverse public schools. Chartered public schools can be tailored to meet the particular needs of a community or a group of students. Because they enter into an outcomes based contract with the chartering agency, each school will be held accountable for their performance to the Government, their students, and the parents who decide to send their children there.

Despite the fact that mention of charter schools is not explicit in the conference committee's agreement on S. 2, I understand that under the agreement States may still use available funds to develop new types of public schools. I would like to engage in a brief colloquy with the distinguished Senator from Massachusetts, Senator KENNEDY, to confirm the intent of the language in the conference committee's agreement regarding allowable State uses of funds authorized under section 8305(B)(2)(a)(iii).

I understand that States are authorized to use not more than 20 percent of the total cost of the State's program in the second and succeeding years following enactment for several purposes including "other innovative school reform activities that are consistent with such State's plan and subject to peer review." I ask the Senator from Massachusetts if it is his intention that a State could use a portion of the money set-aside pursuant to this section for startup funding for new, innovative public schools, including charter schools? This would assume, of course, that providing State-level startup funding for charter schools is consistent with the State's plan and subject to the required peer review.

Mr. KENNEDY. Yes, given that assumption, these funds could be used for the startup of such new schools provided that the new schools receiving funds are public schools operating under the authority of a State or local education agency, nonsectarian in their programs, admissions policies, employment practices, and all other operations, and not affiliated with a nonpublic sectarian or religious school or institution. The committee's intent was to provide general program guidance to the States allowing maximum flexibility to the States to design their own programs consistent with the requirements we have discussed.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Massachusetts for the assurance that it is his intention that startup funding for new public schools, including charter schools, will be allowable State uses of funds authorized under section 8305.

Mr. D'AMATO. Mr. President, I wonder if my colleague from Kansas, Senator KASSEBAUM, would be willing to engage in a brief colloquy regarding a program, known as Parents as Teachers [PAT], that was included in the House version of S. 2 but not, as I understand it, in the Senate version of this bill. I have reviewed the bill language on the program and have spoken to a number of my constituents in New York and have some concerns about this program.

My concerns center around the requirements that in some PAT programs parents receive and participate in home visits from an educator, social worker, or other State representative. I know a number of my constituents are troubled by reports of abuse of this requirement in States which already have this program. They are concerned that under certain criteria that have been established, they and their families might be labeled as dysfunctional or even have their children removed from the home.

I would like to ask for some clarification on this matter from my colleague, Senator KASSEBAUM, who serves as the ranking minority member of the Education, Arts, and Humanities, Labor and Human Resources Committee.

It is my understanding that the PAT Program proposed by the House is no longer in the conference bill. I would ask my colleague from Kansas whether this is, in fact, the case.

Mrs. KASSEBAUM. Mr. President, I can assure my colleague from New York that the Parents as Teachers Program, as included in the House version (H.R. 4323) of the Neighborhood Schools Improvement Act is no longer included in this conference bill.

Because the Senator from New York and a number of our colleagues had concerns about this program, we took a careful look at this program and decided that the best course of action for now was not to include the program in the conference bill. In its place, we substituted a directive—an assignment, actually—to the Secretary of Education to conduct a review of the existing evaluations of this program. A number of States already have programs of this type. The review is simply a literature-type review—no Federal program is being established. This review is to be completed and presented to the Senate for its consideration in 6 months.

Mr. D'AMATO. So while we will have an opportunity to consider the Secretary of Education's findings in 6 months, at this point, the bill does not establish a Federal program. Am I correct in my understanding?

Mrs. KASSEBAUM. Yes, the Senator from New York is correct.

Mr. D'AMATO. I thank the Senator from Kansas for this information. I agree that this is a reasonable way to proceed.

Mr. METZENBAUM. Mr. President, I rise in support of the conference report on the Neighborhoods Schools Improvement Act.

We are all aware of the serious problems facing our Nation's schools, and the need to improve our educational system to meet the challenges of the 21st century.

This legislation represents an important step toward this end. It demonstrates our commitment to the national education goals, establishes a program to help our neighborhood public schools achieve these goals, and provides a means for determining our progress.

The core of the bill is the Neighborhood Schools Improvement Program, which will provide sustained assistance to help States and local public schools undertake comprehensive, systemic reform. Neighborhood public schools, working in cooperation with teachers, parents, and the local community, will decide what they need to do to improve student achievement. Schools may use funds for initiatives which will result in comprehensive schoolwide change, including such things as early childhood education, school-based management initiatives, professional and staff development, parent education, and involvement programs, expanded use of technology, alternative programs for school dropouts, and class-size reduction programs.

Unlike the administration's plan to create 535 new American schools, this program is designed to help improve education for all American students in all American public elementary and secondary schools. Its focus is on meeting the real needs of our public school system.

And, Mr. President, I believe that support for our public schools is the best investment we can make in the future of our Nation.

That is why I so strongly opposed the President's proposal to divert scarce Federal resources from our public schools to fund a voucher program for students attending private and religious schools. I believe that proposal is bad public policy, which would unwisely break down the barrier between church and State and distract our attention from the real needs of our public schools.

I am pleased that during consideration of the Neighborhood Schools Improvement Act, both the Senate and the House voted decisively to reject this ill-advised plan.

In this regard, I want to call special attention to the language in this bill that emphasizes that, with the exception of section 8310 regarding information and teacher training, none of the authorized funds may "directly or indirectly benefit any school other than a public school." I don't think we can make any plainer our intention that we are authorizing funds for public schools only. We are not authorizing funds for private schools, nor to create new private schools, nor for school choice or voucher programs involving private or religious schools.

Now some in the administration, in proposing choice programs involving private schools, have argued that they should be permissible since they provide money to families rather than institutions, and after all, they say, public education ultimately benefits. The Senate has rejected that proposal, and that reasoning, and the language I have called attention to is designed to ensure that the Federal funds we authorize in this bill cannot be put to those purposes.

The words "directly or indirectly" mean that the money cannot be used for private schools, whether it flows there through the Government or through parents. It cannot end up in the hands of any educational authorities, other than public school authorities. That is what this body means by this language.

I would like to ask the distinguished chairman of the Labor and Human Resources Committee if that is the effect of the provision I have cited.

Mr. KENNEDY. Yes; the Senator is correct. In January, the Senate decisively rejected an amendment to authorize a private school choice program. The provision you have quoted will ensure that none of the funds authorized by this legislation may be used for voucher programs involving private schools.

Mr. METZENBAUM. I thank the Senator for his confirmation of this important point. I urge my colleagues to support the conference report.

SCHOOL HEALTH PROGRAMS

Mr. DURENBERGER. Mr. President, today, we know that Americans smoke too much, abuse alcohol and drugs, suffer from violence and accidents, engage in unsafe sexual activity, fail to follow healthy diets, and exercise too little. Too many babies are born to unmarried teenagers who have not received adequate prenatal care. Too many of our children are uninsured and lack access to care.

The consequences of personal behavior can be seen in the hospital emergency room and the neonatal intensive care unit. The hospital is asked to provide extraordinarily expensive medical solutions for the consequences of the decisions we have made about our personal behaviors.

We are learning that we can prevent many of these costly diseases through personal choices and community action. Many of the expenses associated with preventable disease can be eliminated if individuals make healthy lifestyle choices. Family and community support for healthy lifestyles, however, must be cultivated at the earliest possible age. This support must begin at home, with families, but must also be emphasized in the nurturing environment of schools.

Mr. President, I rise today to express my desire that we foster healthy children so that they are able to learn and thrive in school. I want to emphasize my commitment to address this important issue in the next session of Congress.

Support for school health services is growing in our States and communities. My distinguished colleagues and I must make every effort to eliminate obstacles to that support and to provide assistance for the development of community-based school health programs.

This important concern is one which I share with many of my distinguished colleagues, Mr. President. Several months ago, the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, introduced the Comprehensive Services for Youth Act of 1992 to assist States and communities to establish integrated health and social services in schools.

I was enthusiastic about this bill because it was consistent with my goals of streamlining health and social services and improving access to children so they are ready to learn.

I was unable to cosponsor this bill, however, because I did not want it to serve as a vehicle for circumventing current requirements regarding Federal funding for abortion. The broader objectives of this bill were too important to compromise with a protracted discussion about abortion.

On July 28, 1992, the Labor and Human Resources Committee held a hearing on the bill. One witness at that hearing was Donna Zimmerman, the executive director of Health Start, a pioneering school-based clinic program in St. Paul, MN. The program provides comprehensive health care services to students who would not otherwise have access to care, and helps students integrate health, wellness, and responsible decisionmaking into their lives.

During the hearing, Donna and several other witnesses talked about the importance of local flexibility and the need to work with parents and teachers to design appropriate school health programs. Several witnesses indicated that they were currently using funds from the maternal and child health block grant to support their school health programs.

This testimony led me to propose an amendment to title V of the Social Security Act to encourage States and communities to use the maternal and child health block grant to support school health services and to increase the authorization for appropriations for this important program.

Mr. President, at least 24 States are currently using MCH block grant funds to support school-based health services. Since the 1930's, these funds have provided resources to support basic school health programs in most States.

In my own State of Minnesota, both the Minneapolis and St. Paul school districts have made school-based clinics a high priority for a number of years. The Health Start Program opened the doors to the first school-based clinic in St. Paul in 1973 and it now serves over 3,000 students in its school-based clinics. This program provides a one-stop shopping model of comprehensive health and social services based on the need of each school's community.

Mr. President, with support from Governors Rudy Perpich and Arne Carlson, the Minnesota Legislature initiated a State grant program to encourage colocation of services in schools. Now in its fourth year, this program has provided both planning and implementation grants to several dozen communities all over the State.

Colocation of services in schools is also a high priority for Minnesota 2000, our State's response to President Bush's America 2000 initiative. And, colocation of services is a major goal of Minnesota's winning entry in the grant competition announced recently by the New American Schools Development Corporation.

Finally, Mr. President, Minnesota leaders—from Governor Carlson to Minneapolis Mayor Don Fraser to Honeywell CEO Jim Renier have made our State a leader in redesigning and colocating a broad range of health, nutrition, education, and social services for children from conception forward—conveniently located and accessible to all.

Two examples of that leadership are the Minneapolis United Way's Success by Six Program—long championed by Honeywell CEO Jim Renier—and the neighborhood family resource center proposal that has been advanced by Minneapolis Mayor Don Fraser.

Mr. President, based upon these innovative efforts in my State and support from the Association of Maternal and Child Health Programs, I worked with

Senators HARKIN and BENTSEN to seek authorization for additional appropriations for the maternal and child health block grant and to include reference to school health in the authorization language.

Because this amendment was not time-sensitive for the closing days of this Congress, it was not included in S. 3274, the Medicare and Medicaid Amendments Act of 1992 and additional funds were not available for fiscal year 1993 appropriations.

Mr. President, I continue to be committed to supporting comprehensive school health services. During the next session of Congress, I will be exploring effective ways to expand funding for comprehensive health and other services through schools. I will also be working with Senator KENNEDY and others who share my support for longer range and more comprehensive ways of encouraging colocation of services within the context of next year's reauthorization of the Elementary and Secondary Education Act.

A number of my colleagues in both parties have expressed an interest in considering legislation that would promote colocation of health and other services in schools in a more proactive and comprehensive manner.

As we move ahead, there are a number of issues that will need to be explored. School health programs must become self-sufficient through collection of third-party payments, including Medicaid and EPSDT. These programs should also be designed to promote continuity of care by establishing relationships with managed care programs.

Mr. President, I intend to hold a series of meetings and public forums in Minnesota on colocation services through schools later this fall. I hope to return next year more knowledgeable about the problems facing our children in school and about creating local solutions.

I intend to translate that knowledge into new legislation that builds upon my commitment to streamlining Government support to States and communities, and supporting local flexibility to design appropriate, integrated school health programs.

Mr. ADAMS. Mr. President, I rise in support of the conference report on the Neighborhood Schools Improvement Act. I am pleased to have been an original cosponsor of this legislation. The bill is an important step toward addressing education reform in the United States.

The Congress will reauthorize the Elementary and Secondary Education Act next year. That reauthorization will include a thorough review of all Federal programs that affect our elementary and secondary schools. The conference report before us now is an appropriate foundation for education reform in our public schools. The bill includes several important provisions to improve education at the local level. Funds are provided to States for grants to local districts and schools. These grants will assist local districts to develop reform initiatives for improving academic achievement and student performance.

Critics of this legislation will continue to express their frustration at the exclusion of President Bush's private school choice proposal—a proposal which I oppose. The Senate has been very clear on this issue. During consideration of S. 2 earlier this year, the Senate defeated a private school choice amendment by a vote of 57 to 36. Public funds should not be used to support private, parochial, or religious schools. We must continue to provide the necessary support for our Nation's public schools—schools that must take in all students, not a select few. The Neighborhood Schools Improvement Act is an important step toward that goal.

During this year when education reform has been an issue of great concern to Americans everywhere, and a priority of the Congress, I am disappointed to learn that the education President is likely to veto this bill. The House approved the conference report on Wednesday. I urge my colleagues in the Senate to join me in support of the conference report on S. 2.

Mr. SIMPSON. Mr. President, I rise today to oppose the conference report to S. 2, the education bill. I do not believe this legislation, in its present form, will empower schools to solve the problems that plague our Nation's educational system, nor is the final conference report a true reflection of the original legislation that was passed by an overwhelmingly majority of the Senate, including me, in January.

The crisis in our schools has not diminished. Children's achievement test scores are stagnant or in decline, violence in schools is on the upswing, and local revenues that pay for the bulk of educational activities are decreasing. There is no benefit in pointing fingers at who is to blame for this state of affairs, but it is clear that creativity and innovations are needed.

We have innovative efforts at the local and State level, but the Democratic-controlled Congress has been loathe to legislate a policy that would be supportive and responsive to those grassroots initiatives. The original version of S. 2, while not as far-reaching or innovative as the President's America 2000 education plan, did offer support and encouragement to local school systems. That is why I decided to support it in its final form earlier this year.

I did not believe the House education bill was anywhere near as sound a policy as the Senate bill, and I was hopeful that the final conference report would be more reflective of the Senate version than the House—but that is not the case. However, a cursory glance at the report shows that the $800 million worth of authorizations included in the agreement creates bureaucracy and pays only lip service to the problems our schools face and does more harm than good to our Nation's schoolchildren.

This report does not enjoy the support that the original version of S. 2 did. In fact, the House is not all that happy with the final version of the bill. There was even a motion on the floor to recommit the bill to conference. That motion failed along largely party lines—but the final vote was 166 to 254. I would not call that a vote of confidence for the conference report by any means.

I view the report as an attempt by Members on the other side of the aisle to ram a very bad education bill down the President's throat—all in the name of improving education. House and Senate Republicans view were wholly ignored during conference, and consequently, we have a report that is completely partisan. That is simply no way to legislate. So now we are put in the position of voting on a bill that does nothing to help our schools and is clearly unfunded. There is no private school choice in this bill. There is no recognition or reward for schools that are reforming or improving their performances. There is an awful lot of bureaucracy—a ton of it—and a mandate for States to pay for programs they have not even chosen to implement—at a time when they can hardly round up enough money to pay for existing programs.

The fact is there was an opportunity for the Congress to do something truly proactive on education. We could have debated the President's education bill. His plan was the first one introduced, but it was never debated. Why? Because the House Democratic leadership knew it was an excellent plan and that the President could garner the bipartisan support needed to get the bill passed.

The President has kept his promise to do something about education. He has signed 10 major pieces of education legislation during his term. He responded to the Nation's education problems with his America 2000 plan. It encourages and rewards change. But the bill was never considered on the floor of the Senate or House. It was never even reported out of committee because the House Democrats didn't want the Bush bill to become a law and that is exactly what would have happened if the process worked the way it is supposed to. Instead, it was manipulated by the Democratic leadership.

Let's be honest about all this: this conference report is an obvious attempt to draw lines on who is for or against education improvement. I think everyone would say they are for improvement. But when we legislate policy that does not include the ideas of all who have a vested interest in the process—and Republicans were surely not included in the conference committee decisionmaking process—then we are using our children as a weapon in the battle for votes. They deserve better than that. They deserve laws that will help free teachers to teach and parents to make informed choices. They deserve the equality of school choice and the chance to excel.

During the next session of Congress, we will take up consideration of the Elementary and Secondary Education Act. A thorough review of every Federal education program is already in progress by the Department of Education and the Congress. I believe we will have a better opportunity at that time to legislate a policy that will truly help our children. I urge my colleagues to join me in voting against this conference report.

Mr. GORTON. Mr. President, I would like to express my opposition to the conference report accompanying S. 2. I cannot support a bill that is supposed to bring fundamental reform to our schools, but instead plugs $800 million into business as usual programs.

Although it codifies the six national education goals adopted by the National Education Conference in 1989, it does little to achieve them. It fails to offer fundamental education reform to those who seek it—Americans who want the best for today's students.

School choice, for example, is a promising concept that has achieved considerable success in my State. It provides powerful incentives for teachers and administrators to demonstrate academic excellence by allowing parents to choose their children's schools. Choice extends educational opportunities to disadvantaged families who desperately want a better life for their children, and who know that a good education is the key. Choice is the ultimate path to accountability in our schools, and S. 2 has failed to include it as an avenue for reform.

Another failure of S. 2 is its deletion of the new American schools concept which would have given each congressional district the opportunity to "break the mold" and reinvent American schools from scratch. This program fosters increased involvement by parents and community leaders with teachers and students. Their combined efforts could develop schools that reflect the best of teaching, learning, the educational technology. S. 2 has failed to extend this unique opportunity to communities who seek school improvement.

The programs that remain in this final version of S. 2 are not new, and they assuredly are not innovative. The education reform legislation we adopt should give specific recognition to truly innovative reform ideas. The opportunity to make significant improvements in our children's education will be lost if we continue to shy away from bold new concepts such as these.

My State has not only taken a step towards reform by adopting choice programs, but has established a program to award innovative educational projects. Washington's Schools for the 21st Century are connected by an electronic network, which enables teachers to discuss ideas and share lesson plans. The program supports a 10-day supplemental contract which, in effect, sets aside 2 weeks for school-level planning, staff development, and instructional improvement. Common themes among projects include outcome-based education, integrated curricula, cross-age grouping of students, parental involvement, and technology.

"Washington's Schools for the 21st Century" are light-years ahead of DC bureaucrats when it comes to education reform. How can I ask Washington taxpayers to pay for Federal education programs that do not take them forward, but bring them back to "business-as-usual" education?

Educators want to implement innovative reform programs that work. My State's educators have passionately taken on bold new programs. This legislation does not reward, commend, or offer support for their hard and spirited work. Instead, it forces them to return to education practices that have failed our students.

Federal education policy should correct problems that have faced educators for years. Overreaching bureaucratic mandates plague our education system and are burdensome to the extent that educators cannot do their jobs. Educators should be able to focus their attention on improving students' skills. They should not have to spend their time and energy interpreting Federal regulations.

Separate regulations and reporting requirements often result in chapter 1 students being removed from a regular reading period, moved across the room, and placed in a chapter 1 reading activity. This senseless interruption is dictated by regulations that harm, not help, chapter 1 students. S. 2 fails to address this frustrating problem.

The provision addressing regulatory flexibility—which is fundamental to any education reform—allows for only a limited number of waivers for a limited period of time for a limited purpose. We have agreed that too many Federal programs are burdened with detailed requirements on what schools can and cannot do with their funding. Yet this legislation opts to relieve only a small number of schools from that burden. Furthermore, those select 750 schools are forced to go through a maze of additional red tape if they are to participate in the waiver program.

If we choose to confront this problem, we should not address it through token national recognition. We should implement a policy that corrects it. Unless school officials can consistently expect flexibility from the Federal Government, these token waivers are of little or no benefit.

The President's America 2000 education reform strategy, however, will reduce the red tape that suffocates innovative teachers in thousands of schools. Because real education improvement happens school by school, teachers and parents in each school must be given the authority and responsibility to make important decisions about how the school will operate. Federal red tape must be cut.

America 2000 calls on the Government to remove Federal constraints that impede the ability of States to spend education resources more effectively. America 2000 asks that this opportunity be given to thousands of schools anxious to answer society's call for education reform. The timid regulatory flexibility proposal in S. 2 gives this opportunity to a mere 750 schools.

I asked educators in my State what single thing can Congress do to improve education. I got the same response from all those I asked: "Let us do our jobs." Their calls for regulatory relief ranged from rescinding specific reporting requirements to a ban on new programs that justify increased bureaucracy. These people who dedicate their lives to teaching should not be required to spend half of their time as administrative lawyers.

S. 2 does nothing to respond to their requests—instead, it heaps new layers on an already swelled bureaucracy. In the first year, the entire $800 million is allocated solely for planning purposes. Not one dollar of this money will go directly to schools, teachers, or students. It would take 1 year of Federal money and paperwork to squeeze any kind of direct support for our schools from this legislation.

Worse yet, by establishing national school delivery standards, the Federal Government begins to direct schools towards particular curriculum and instructional material. School delivery standards make an attempt at defining teacher quality and practices. This does not respect the traditional role of States and localities in providing education. Federal support should assist—not direct—State and local reform efforts.

As long as we continue to build and fund a bureaucratized education system, we cannot expect the results to be any different than they have been for the last decade—less learning, less creatively, and increased frustration.

The conference bill fails to acknowledge bold new reform strategies, it limits the scope of regulatory flexibility initiatives, and it creates a myriad of new bureaucracies.

Mr. President, I supported the original version of S. 2. I cannot support an unfunded initiative that guts the original version and which ultimately does little to promote true reform. I will not support S. 2 in its final form.

Mr. BURNS. Mr. President, I rise to express my opposition to the conference report accompanying S. 2, the Neighborhood Schools Improvement Act. I have supported the Senate bill and voted for it three times. I believe strongly in the need to revitalize our education system. However, in my opinion, this bill does just the opposite and must be defeated.

It is a misnomer to call this the Neighborhood Schools Improvement Act when the only neighborhood that will benefit from this bill is down the street at the Department of Education. Once again the major constituency of the Democratic controlled Congress—the bureaucracy—wins out. This bill sets national delivery standards mandating the resources and conditions under which State and local education agencies should operate. It comes dangerously close to establishing the equivalent of a national school board, a notion which I find very troubling.

In other areas, this bill takes some positive steps toward reform, but then ties them down with redtape. It offers grants to State education agencies to reform local schools, but only if they appoint another level of bureaucracy and get the plan approved by Washington. By the time the grant money filters through the bureaucracy, the schools in our Montana neighborhoods will receive only 68 percent of the money. It offers freedom from certain regulations to a small number of local school boards, but only if they work their way through the bureaucratic maze of State and Federal approval. This is reform? It sounds like business-as-usual to me, Mr. President.

In sum, this bill steals the initiative for reform from the local school boards and puts it in the hands of the State and Federal Governments. It is on the local level that true reform can, and does, happen and I must reject this attempt to usurp their authority in the name of reform.

It is with great disappointment that I vote against this conference report. I only hope that next session we can break free from the grip of the bureaucracy and the special interests and pass true educational reform for our sake of our children and our Nation.

Mr. DODD. Mr. President, I rise in strong support of the conference report on S. 2, the Neighborhood Schools Improvement Act, which will provide communities across the country with assistance in restructuring their schools.

Frankly, Mr. President, I am a little stunned that we find ourselves in a fight this morning to save this bill rather than joining together with many from the other side of the aisle to vote in support of this bill—a bill which will assist States and schools across the country in improving their schools.

Just a little about what is actually in the conference report, as it seems there is some confusion on this point.

S. 2 codifies the six national education goals which were established by the President and our Nation's Governors—school readiness, student achievement, school completion, lifelong learning, achievement in math and science, and drug-free, safe, and disciplined schools. It provides for a standard setting process so that we can reach these goals and for the establishment of model assessments to measure our Nation's progress. These elements of the bill are noncontroversial—supported by the President, the Congress, by governors, teachers, and community leaders.

The heart of the bill is a $800 million formula grant program, which will provide every State in the Nation with funding to pursue school improvement and restructuring. The States will use these funds to make competitive grants to local schools to improve student achievement. The bill does not establish a new program with new Federal mandates—it is an invitation to communities to organize to improve their own schools. It says to parents, teachers, and business leaders if you have a quality plan to improve your children's education, we will help you.

The bill also establishes a demonstration program in educational flexibility, an idea strongly supported by the President. Under this program, 750 schools in ten States will assess the impact of waiving Federal regulations on student achievement. The program will demonstrate if schools can do a better job through an emphasis on results rather than on meeting the various regulatory and statutory requirements.

Just last month as schools began, I held a hearing in New Haven to talk about school reform and explore the success of the initiatives in my State. Over and over, when I asked witnesses about the Federal role in school reform, they talked about the importance of Federal assistance. But they didn't want advice, they wanted funds—funds that they could flexibly in their communities to make the improvements their communities identified. That's what this bill would do. It would empower communities to begin the fundamental restructuring which is so critical to our Nation's future.

Just this week the national education goals panels, which would be statutorily established with this bill, released its third annual report on the state of education in our Nation. Some of their figures were startling; 13-year-olds in U.S. schools were consistently outperformed by students from other industrialized nations in science and math. Sixteen percent of high school students were threatened with a weapon at school. Less than half of all preschoolers were read to daily.

In my State of Connecticut, the statistics also demonstrate the need for this legislation. Twenty percent of our students drop out. Eleven percent are from homes where English is not spoken. Of the 48,545 children born in Connecticut last year, over 8,000 had no prenatal care, nearly 5,000 were born with drug exposure. Each day, our schools are confronted with this reality—and our schools need our help.

But its not just our schools. Not only are we failing to secure a future for our own children, but also the future of our own economy. If you look at some of our major international competitors, with dropout rates near 1 percent, you must ask yourself, how we are going to compete in the high-technology marketplace of the 21st century.

Our school system was designed around an agrarian calendar—afternoons and long summers off for farm work. Basics were reading and writing and arithmetic, not trigonometry, and computer science. Our educational system, in many parts of the country, has just not kept up with the rapid changes in the economy of the world or this Nation.

In years past, a high school diploma opened many doors. Even without a diploma, a hard-working 16-year-old who left school could often find work to support themselves and their families, to purchase homes, and to provide for some financial security.

But the economy has dramatically changed, and in the next decade, less than 1 percent of new jobs will be available to people in this country who have less than a high school diploma.

There are many who are quick to blame others for the problems in our Nation's schools. They blame teachers, or parents, or the bureaucracy of government, or a failure of family values. The blame game is unending, but most would admit it is not the answer. We must all commit ourselves, regardless of what else we do in our lives, to working together to improve our Nation's public educational system.

We need to ask ourselves, as a people, who loses when a young person drops out of school; who loses when a middle-income family is unable to afford the skyrocketing costs of higher education.

If we believe that it is only the dropout, only the jobless, only the undereducated who are the losers, then, I believe there is little hope of changing our priorities in this country.

If, however, we understand that when a student stays in school, when a person has a good paying, decent job, and when a young person receives a college diploma or a degree from a community technical college, then we are all winners.

Reaching these goals is the challenge that lies in front of every one of us, and we can start right here today—by voting to support this bill.

During the waning hours of the last Congress, another education reform bill came before the Senate and was killed by a filibuster similar to the one before us today. The Senate missed that opportunity to provide our communities with vital educational assistance.

The Senate cannot afford to make the same mistake again today. Our communities, schools, and children need our help. I urge my colleagues to join me in support of this bill.

Mr. SASSER. Mr. President, I want to take just a moment to commend the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and the chairman of the Subcommittee on Education, Senator PELL, for their leadership for serious school reform.

The Conference report on S. 2, the Neighborhood Schools Improvement Act, has reached the Senate floor only because of their tenacity and tireless work. This legislation is not business as usual.

For the first time, Federal dollars for educational innovation will be passed through to individual schools. For the first time, schools have been recognized by Congress as the site for the most promising reform efforts.

The vast bulk of the $821 million authorized by this legislation will fund local school restructuring plans; plans collectively developed by principals, teachers, parents, and community representatives. I believe in this blending of Federal resources with local knowhow. Therefore, I urge my colleagues to support the conference report on S. 2.

Mr. CHAFEE. Mr. President, I would like to take a moment to discuss the cloture vote on the conference report to accompany S. 2, the Neighborhood Schools Improvement Act. Earlier this year, I joined 91 of my colleagues in supporting S. 2. As approved by the Senate, the bill incorporated some new ideas, such as new American schools and regulatory flexibility. But I plan to vote against cloture today.

I think many of us agree that the conference agreement does not even come close to reflecting what the Senate approved. Much of what the Senate accomplished was dismantled in conference and replaced with provisions of the House bill.

The conference agreement makes no mention of new American schools, and the regulatory flexibility provision—which I think shows real promise in helping our schools achieve better results—has been scaled back severely.

So what we have here essentially is the House bill that requires States and local education agencies to establish advisory councils to develop State and local school improvement plans—a system that has the potential to stifle innovation by increasing unnecessary bureaucracy.

Further, it concerns me that the entire first year authorization of $800 million would be devoted to planning costs. If you really think about it, the title of the bill is somewhat misleading—the Neighborhood Schools Improvement Act—yet none of the funds in the first year go to local schools.

Mr. President, there clearly is cause for concern over what is happening in our educational system. Studies show that our high school students lag behind those of other nations in math and science ability, and our graduates often lack the skills necessary to obtain entry level employment.

These and other painful observations have led to a desperate call for reform. As you well know, those in government will sometimes try anything to achieve better results. And that is what we have here today.

This certainly is an ambitious plan to embark upon just three months before Congress will begin its work to revise and extend the Elementary and Secondary Education Act [ESEA], and when many of the ESEA programs are not adequately funded to serve all eligible students. And it is my understanding that the conference committee completed its work on the Labor-Health and Human Services appropriations bill for next year, which does not include any funding for programs that would be authorized under this conference agreement.

The solutions to the problems in our Nation's education system will not come easily and reform will not be achieved overnight. We have a tremendous responsibility to ensure that our Nation's students receive a quality education—it is in our Nation's best interest. But we should not vote today just for the sake of saying, "Well, we voted for an education bill this year."

Mr. President, as I mentioned, my decision was not an easy one. The conference agreement does take some steps in the right direction, but it does little to guarantee that innovative ideas will receive attention.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will now report the motion to invoke cloture.

The assistant legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report accompanying S. 2, the education bill:
>
> Paul Simon, Herb Kohl, Jim Sasser, John Breaux, Christopher Dodd, Harry Reid, Charles S. Robb, Daniel K. Akaka, Tom Daschle, Harris Wofford, Dale Bumpers, Richard Bryan, John F. Kerry, Max Baucus, David Pryor, Jay Rockefeller.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on the conference report accompanying S. 2, the Neighborhood Schools Improvement Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 59, nays 40, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—59

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—40

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Jeffords
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—1

Durenberger

The PRESIDING OFFICER (Mr. DASCHLE). On this vote, the yeas are 59, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. KENNEDY. Mr. President, I believe that all parents, all children, all schoolteachers, all the members of the business community, those who have been involved in constructive efforts across the country, and who believe that those efforts to increase and enhance academic achievement for our schoolchildren ought to be supported are disappointed today by the effective blocking by our Republican friends of an opportunity to pass this legislation. We have missed a very, very important opportunity.

Make no mistake about it, Mr. President. The underlying thrust of the administration's proposal was, No. 1, to have the Secretary of Education, the Federal officer, make the decisions, and second, to divert scarce public resources for private schools.

It is those two elements and the differences between us and the administration on those two elements that have virtually prohibited us from making progress on education reform.

We are not going to be deterred. We are going to continue to be committed to this concept. We are going to bring this legislation back time in and time out until we give support at the local level for those that are really trying to do something to enhance school achievement of the children of America.

Mrs. KASSEBAUM. Mr. President, I say to the Senator from Massachusetts, we are just as committed on this side, as is President Bush, to bringing assistance to the local level in all the constructive ways that we can. We are going to have the opportunity to revisit this next year with the reauthorization of the Elementary and Secondary Education Act.

When the Senator from Massachusetts speaks to the Federal bureaucracy and the fact that the administration was wanting all the power to reside in the Secretary of Education, that is not the shape of the bill that left the U.S. Senate, and it was the Senate legislation that was supported here by a majority on both sides of the aisle.

With that in mind, I believe that we can work next year, in the appropriate fashion and at the appropriate time, with a bill that will be supported by a strong majority on both sides of the aisle, that will be a sensible approach to the problems in education. I think that we have addressed all of the problems with this bill. I look forward to working next year in the reauthorization to accomplish what we all hope to achieve in education reform.

THE OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

CLOTURE MOTION

The PRESIDING OFFICER. There will now be an hour equally divided on the debate on the motion to invoke cloture on the conference report accompanying H.R. 3371. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 3371, the omnibus crime control bill:

Kent Conrad, Herb Kohl, George Mitchell, David Pryor, Joe Biden, Wyche Fowler, Jeff Bingaman, Al Gore, Tom Daschle, Tim Wirth, Jim Sasser, Richard Bryan, Edward M. Kennedy, John F. Kerry, Daniel Moynihan, Christopher Dodd.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Chair reminds the Senators that we now are in an hour of debate, equally divided, on the motion to invoke cloture on the conference report accompanying H.R. 3371.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, are we on the crime bill? We want to be sure any time used will not be counted against the crime bill time.

The PRESIDING OFFICER. The hour of debate is currently running.

Mr. THURMOND. We need every minute on this crime bill.

Mr. BIDEN. Mr. President, is the time equally controlled?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. The Senator from Delaware is controlling one-half hour?

The PRESIDING OFFICER. Correct.

Mr. BIDEN. I yield 1 minute to my friend from New Hampshire for unrelated business.

TRIBUTE TO TOM McINTYRE

Mr. RUDMAN. Mr. President, when Senator Tom McIntyre died in August, I lost a dear friend.

And New Hampshire, the U.S. Senate, and our country lost a good and faithful public servant.

We in New Hampshire remember Tom McIntyre with respect and pride—as a native son. Our Government flourishes best when our officials bring to the people's work a deeply rooted sense of place. Tom McIntyre, throughout his 16th years in the Senate, never lost his love for his home State, its people, its physical beauty, and its character.

We learned from Tip O'Neill that all politics is local. Tom McIntyre knew that all policy is local as well, because its effects are experienced by Americans at home where they live and work and play. So for Tom McIntyre a policy proposal's most demanding reality test was how it would work in practice at home.

Tom McIntyre also never lost touch with the values we prize in New England. He always saw himself as a moderate and was proud of it. And indeed, he was one of a distinguished tradition of moderate Senators of both parties whom New England proudly sent to Washington. Tom McIntyre—like George Aiken, Ed Muskie, Charles Tobey, Ralph Flanders, Margaret Chase Smith, and Ed Brooke—brought to the Senate a New Englander's hard work, independence, practicality, common sense, deliberate judgment, and disdain for pomposity.

And when ideological extremes tore at the heart of our country in the 1970's, Tom McIntyre, like these other quiet New Englanders in similar times of stress, defended the most basic American principles of tolerance, due process, and the right to be free of fear. In doing so he helped restore the conscience, civility, and soul of the New England town meeting to a troubled America when we needed it most.

We in the Senate also remember Tom McIntyre with respect and pride—as a self-made legislator.

Tom McIntyre was not a professional politician. He had had no legislative experience when he was elected to the Senate in 1962. He was not a policy expert. He had not been schooled in the policy schools and institutes that have cropped up in recent decades.

He did bring to his Senate work his firsthand experience. Before we had a name for environmental policy, he had led a successful effort to stop the pollution of the beautiful Lake Winnipesaukee near his hometown of Laconia.

Before we had a name for the communications revolution, Tom McIntyre and his wife, Myrtle, had pioneered in bringing cable television to the mountain locked Laconia, even as television itself was in its infancy.

Before we had a budget crisis, let alone a name for it, Tom McIntyre balanced budgets as the mayor of Laconia with classic New England frugality and common sense. One of his favorite stories was about the time he opposed a request from the city fire department for a new firetruck with ladders higher than the highest buildings in Laconia.

And before we had a name for Soviet studies and arms control policy, Tom McIntyre had learned from his own personal experience about dealing with the Soviets. As a young artillery officer he and his unit had linked up with Soviet soldiers in Czechoslovakia at the end of the war. During the impromptu celebration of this historic moment, Major McIntyre noticed Soviet soldiers were smilingly about to heist his jeep. When they didn't respond to his requests to back off, he drew his 45, slammed it on the fender, and said in a clear loud voice: "Dammit, I said, 'Back Off.'" They did, and the celebration of their joint victory over nazism resumed.

So Tom McIntyre brought to the Senate what he had learned from these and other direct experiences with real problems. He also brought to the Senate his own good judgment, common sense, and nonideological practicality.

But he had to learn how to be a legislator. And he had to learn the old fashioned way—through hard work as a Senator.

When he was put on the Senate Banking Committee, he confessed his anxieties about his lack of training in economics or finance to Senator Paul Douglas who, of course, had been a distinguished economist at the University of Chicago. Douglas reassured him, saying: "Don't worry about it Tom. You will have the advantage of not having your mind cluttered up with a lot academic prejudices."

We in the Senate know how Tom developed into one of the Senate's most thoughtful and creative legislators in the field of banking. He chaired the key Subcommittee on Financial Institutions and helped bring into being familiar innovations that we now take for granted—NOW accounts and automatic cash machines.

As he did this work, the McIntyre and his subcommittee became the target of the powerful and willfully competing sectors of the banking industry. Each thought it could dominate and tilt Tom's work to its advantage. But he resisted them all and stood his ground as the people's own independent Senator as he did this extraordinarily consequential work.

His growth as a legislator on the Senate Armed Services Committee was even more impressive. At first he asked to serve there primarily to protect the Portsmouth Naval Shipyard. And he helped preserve that national asset against the shortsightedness of Robert McNamara and Adm. Hyman Rickover.

Otherwise he had little opportunity to shape policy on the Armed Services Committee during his first years. The committee was run firmly from the top of Chairman Richard Russell and one or two other senior Senators.

Tom later recounted his frustrations. He said that 1 day when Senator Russell was quietly consulting at the top of the table with Senator Smith and Senator Stennis on a matter, Tom raised his hand at the bottom of the committee table and asked the chairman: "Would you mind speaking a bit louder please, so Harry Byrd and I could hear what you are deciding up there." This passed for audacity from a junior member of the Senate Armed Services Committee in the 1960's.

But in 1969, Chairman John Stennis asked Tom McIntyre to undertake what proved to be his most consequential senatorial work when he asked Tom to chair a new Subcommittee on Military Research and Development. He protested that he "didn't have a Ph.D. from MIT," but he rolled up his sleeves and set out to learn how to do this work.

For 10 years Tom McIntyre pioneered congressional oversight of this most critical work in the Department of Defense—the seedbed of our military technological advantage in the crucial stages of the cold war and today. His judgments could not have been more consequential to our country's security. Troubled programs like the Patriot had to be made to work. Revolutionary technologies like cruise missiles had to be protected against hostile service interests. And Tom knew that if we invested in the wrong developments, we could make our country less secure by underfunding the necessary programs and by fueling the arms race.

Tom did this work quietly, usually in executive sessions. He annually built consensus among his subcommittee colleagues who rarely agreed on little else—Barry Goldwater and John Culver, Robert Taft, and Harold Hughes, for example. Over 10 years his subcommittee reportedly unanimously 20,000 or so individual recommendations and divided only on a handful.

And Tom so earned the respect of his colleagues on the full Armed Services Committee that they endorsed his recommendations in all but a dozen times or so over a decade. And during this decade the full Senate accepted Tom McIntyre's on these thousands of judgments on all but five or so times. When he left the Senate he was the Congress' most respected and authoritative member regarding military technology.

For all these contributions, we in the Senate remember Tom McIntyre with special respect. We remember he developed a quiet authority, so that when Tom McIntyre spoke on the issues for which he was responsible, the Senate listened and was led.

Our country should also remember Tom McIntyre with respect and gratitude—as an American whose straightforward and unassuming service to our Republic mattered.

Our Government was designed to be directed by citizens, not professionals. And Tom McIntyre's work in the Senate demonstrates yet again that this is both proper and possible. He served in World War Two as a citizen-soldier. And he served in the Senate as a citizen-Senator. He did both jobs with a simple patriotism.

We have won the cold war. The old nuclear danger has eased. And Tom McIntyre is an unsung hero of both of these accomplishments which have made Americans safer tonight.

Finally, Mr. President, let me say that I personally remember Tom McIntyre not only with respect, but also with affection and gratitude—as a friend.

Tom was a role model for many of us in New Hampshire who entered public life in the 1960's. We did not have to be of his party or to share his views to learn from and value his easy good will, his forthrightness, his political courage, and his integrity.

In August, I joined his neighbors and other friends to honor him in St. Joseph's Church in Laconia, where he had worshiped as a boy. An old friend of mine, Larry Smith, gave the final eulogy. Larry had served as Tom's administrative assistant, had worked with him closely as a professional staff member of Senate Armed Services, and loved Tom McIntyre like a father.

Mr. President, I as unanimous consent that Larry's eulogy be printed in the RECORD. He spoke for us all.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

FOR OUR CHILDREN AND THEIR CHILDREN . . .

A EULOGY FOR SENATOR THOMAS J. MC'INTYRE

(By Larry K. Smith, Administrative Assistant to former U.S. Senator Thomas J. McIntyre of New Hampshire)

Children wherever we live will ask us about Tom McIntyre and why they should remember him.

We might tell them about his remarkable Senatorial achievements—laws he wrote, debates he won, causes he championed.

But, above all, we should be sure to tell our children about Tom McIntyre's most profound legacy—a legacy of enduring values about public life.

We should be sure to tell our children that Tom McIntyre pursued politics primarily as a matter of public service.

He believed one should run for office not for personal gain, not out of a compulsion for celebrity, not to bolster one's ego, but basically as a duty, a civic responsibility. Politics, properly understood, is therefore a calling, not a career.

Robert Frost told us how he, as a New Hampshire lad, loved to climb birch trees—up a "snow-white truck toward Heaven till the tree could bear no more . . ." Frost remembered, "This climb will be good both going and coming back."

Washington is filled with driven ambitions who find only climbing good.

But anyone who knew Tom McIntyre well understood that he went to Washington, not to climb, but to serve. And his heart was always here in New Hampshire—here in Laconia. And he agreed with Frost, "One could do worse than being a swinger of birches."

We should also tell our children that Tom McIntyre mastered the art of practical politics as a public responsibility.

He believed that if an office is worth standing for, then it is worth running for—to win. If a cause is worth believing in, then it is worth working for—to prevail. The deeper one's convictions about a cause, the greater one's obligation to be effective. There is no room in this tradition for political kibitzers, dilettantes, or summer candidates.

And Tom and Myrtle McIntyre's campaigns over the years still stand as models of the practical political art.

We should also tell our children that Tom McIntyre's legacy values integrity—insists on integrity.

To him, it meant telling the truth. It meant keeping one's word. It meant standing up for one's conviction even at personal cost. It meant respecting public office as a public trust with standards of ethics and appearance higher than even those set by law.

And let us celebrate today that throughout thirty years of rock'm-sock'm New Hampshire politics, Tom McIntyre's good name and the public's confidence in his integrity met these high standards.

We should also tell our children that Tom McIntyre valued the free competition of ideas.

For two hundred years Americans have understood that a diversity of interests and a competition of ideas are crucial to our liberty.

So Tom McIntyre spent his own earned political capital to try to build a two-party system. He recruited young talents all over New Hampshire and helped them into the fray. Many are here today to honor him.

He also defended the integrity of this political competition. He opposed those who would stifle the free contest of ideas, those who would emulsify the two parties, those who would insist on having two parties in name, but one party in fact.

Let's also tell our children that Tom McIntyre's legacy includes a politics of civility.

Civility—a fancy word—for Tom McIntyre's politics of good cheer and gentleness. His campaigns—for all their seriousness and sense of purpose—were fun. He campaigned with elan, with a twinkle, and with an Irish song.

He also taught us to think well of others until there is a reason not to. He tried his best not to use "mean words" in his campaigns.

So Tom McIntyre's politics was not a politics for fear which appealed to our darker sides. It was not a politics of anger which took pleasure in inflicting pain. It was not a politics of paranoia unable to distinguish between friends and foe. It was not a politics of vengeance which made all adversaries into enemies.

Think of his friendships with Norris Cotton and with Warren Rudman. Their mutual respect transcended political differences. Their friendships were models of civility that gentled debates and campaigns.

And we should also be sure to tell our children Tom McIntyre valued practicality.

Because Tom McIntyre was a practical man. He knew that the true test of public policy is whether it works in practice.

He loved to tell Washington how he, as Mayor of Laconia, rejected the fire department's request for a ladder truck several stories higher than the town's highest building.

Such pragmatism was for centuries America's central philosophic tradition. Only recently have theoreticians without practical experience begun to dominate policy making. This may have made Tom McIntyre's practicality rather unfashionable in some Washington seminars and drawing rooms.

But he was right. And we need to tell our children.

The great Irish poet, W.B. Yeats (and Tom McIntyre loved his Irish poets), summed it up:

God guard me from those thoughts men
 think
In the mind alone.
He that sings a lasting song
Thinks in a marrow bone.

Finally, above all, let's tell our children that the passionate center of Tom McIntyre's political legacy was his moral courage to defend the soul of our Republic—our freedom—abroad and here at home.

He, along with millions of others, did this in uniform.

And here in New Hampshire in the 1970s, his ringing defenses of the rule of law, the right of the other fellow to be heard, and the right of all Americans to be free of fear of intimidation were New Englander's love of liberty in full flower.

And to do this required grit. It required true grit, because others sat in silence.

Tom McIntyre's moral courage was all the more remarkable because he, unlike many politicians, found no joy in a fight, and because he, unlike the ideologies, lacked their bracing self-certainty.

These public values—service, effectiveness, integrity, the competition of ideas, civility, practicality and a passion for liberty—I invite you now to add your own favorite—were, of course, not invented by Tom McIntyre. He never wrote them out. He would be the first to tell us how he did not measure up to these standards. Nonetheless, they were the heart of his witness as a public person and the core of his beliefs as a private man.

And these are not partisan values. They are above party and above personal political persuasion. In this respect, we are all republicans; we are all democrats.

Henry Adams said, "No one can tell where a teacher's influence stops." This legacy of Tom McIntyre is similarly enduring, because it is a set of values larger than his career, yet nurtured and enhanced by his efforts to realize them.

So when we go home today and our children ask us about Tom McIntyre, let's tell them about his legacy of values. Let's sing these lasting songs in a marrow bone to them, because these are values for our children.

They live for all the children of New Hampshire, and for their children * * * and for their children * * * and for their children.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Beverly Gastright of my staff be allowed the full privilege of the floor on this crime bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

CLOTURE MOTION

The Senate continued with the consideration of the motion.

Mr. BIDEN. As they say in the vernacular, "this is it." This is it. We have been working on this crime bill, this conference report, which has been held hostage for 300 days by the opponents.

Mr. President, this is the final, final moment for us to decide whether we are going to do anything about crime this year.

The Senator for whom I have an enormous amount of respect, Senator KASSEBAUM, said something earlier unrelated to the crime bill just a moment ago. As we concluded debate on attempting to invoke cloture on the education bill, she was summing up—I have enormous respect for her—she said something that maybe is a Freudian slip that slipped into the jargon and I think the subconscious shoes of my colleague.

She said, well, we did not get the education bill, but maybe next time we can get a consensus that we have a real majority for the education bill.

There were 59 votes for the education bill. Where I come from, that is a real majority. If there is 100 votes, it is 59 percent. If there are 59 votes, that is almost 60 percent of the vote. I call that a real majority.

What our Republican friends have done in these waning days on important issues—and I will stick to my issue of crime here—they have redefined what constitutes a real majority. They have done it legally under the rules. They have said that for the last 300 days, notwithstanding the fact that I believe 57 Senators on the floor of the U.S. Senate believe strongly that we should free the crime bill, that we should enact the death penalty, that we should reform habeas corpus, that we should provide help for local police officers, that we should deal with violence against women, and that we should deal with violence against children. Notwithstanding that, 56 or 57, depending how many are present today, U.S. Senators think we should do that. Notwithstanding the fact that the House of Representatives voted, finally, for this conference report, a majority of them. For refusing to allow the American people, for refusing to allow the police, for refusing to allow the citizens of this country the overwhelming and undeniable beneficial impact of this significant legislation for 300 days, this has been held hostage.

Sarah Brady is standing outside these doors. She worked for years on a simple, little, tiny provision of the law that many of our States have already, which says that we do not want felons buying guns. It is against the law for felons, convicted felons, to buy guns.

So, she came up with an idea and said, look, you saw what happened to my husband when he got shot with Ronald Reagan. We have to do something about crazy people walking in and buying guns. She wants to have a computer check so that gun dealer can press a button and look and see whether or not the person giving them their driver's license to buy the gun is a convicted felon. What an outrageous notion.

But since most States do not have those laws, or that capacity at the moment, she said until they do, somebody should have to wait 7 days to buy a handgun, so they can run a check. They can pick up the phone and call the local police and say, hey, is John Doe down here a felon? Because that provision, the so-called Brady bill, is in this 500-page crime bill, undeniably the toughest crime bill in the history of this country. I have the presidents and the chief executive officers of every major police organization in America in my office, as I speak, in my conference room. They have been there since 5 o'clock last night, since 5 o'clock. We negotiated with the administration—them acting as the mediator.

They came to me and said, "Look, Joe, we are for the conference report, but we need a crime bill. Our folks are in trouble. So, Joe, are you willing to compromise even further than the crime bill is?" I said "Yes." They said, "We make a proposal, a former proposal, to you." To the best of my knowledge it has never been done and no chairman of any committee has ever agreed to this before, to the best of my knowledge. They said, "Would you agree to let us be the mediator, to literally sit in and mediate between you and the Justice Department?" And I said "Yes."

So last night until 2 o'clock in the morning, Mr. President, I sat in my regular office and I waited to be called in by these nine police chiefs and presidents. This is of the National Association of Police Organizations, the chiefs of police, the Fraternal Order of Police. I will get the whole list of them. And I went in and they said, "Would you compromise on this? The attorneys general say this is not good enough." "OK, I will compromise on that."

We went back and forth like that, me sitting there as chairman of the Judiciary Committee in my office, waiting on call in my office for these police organizations to say to me, "OK, Joe, come on back in now. The Justice Department just stepped out. How about this?" They end up at 2:30 in the morning and they said, "OK, here is what we police think is a legitimate compromise," and they laid it on the table.

I have been selling that compromise to the Members of the House and others since we met. As I speak, my understanding is—and I am going to ask my staff to get up right now and go call, please—my understanding is that the Justice Department will not compromise. You know why, Mr. President, what is this all about?

You are going to hear from my friend—whom I have an inordinate amount of respect for, truly he is my friend—from South Carolina, Senator THURMOND, that this is about habeas corpus. I believe it is about habeas corpus with him, but it is not habeas corpus, Mr. President. This is about Sarah Brady and her drive to do something about keeping the guns outside of the hands of felons. It was about the NRA. That is what this is about.

I agreed with the attorneys general and with these police officers. I will give you the list: National Association of Police Organizations, NAPO, second largest in America; National Fraternal Order of Police, the largest in America; National Brotherhood of Police Officers; International Union of Police Associations; National Troopers coalition; Police Executive Research Foundation; National Organization of Black Law Enforcement Executives; Major City Chiefs; and the Federal Law Enforcement Officers Association.

Their presidents or chief executives have been in my office since 5 o'clock last night. Some of them openly endorsed President Bush, the organizations, the troopers. Some of them have openly endorsed Governor Clinton, NAPO. Some have not endorsed anybody. These guys are not in there for politics. They are in there because they are crying for help. They flew in from around the country, sitting in my office until 2 o'clock in the morning. Finally, a little after 12, we bought them five pizzas, the first thing they had eaten. They care about this. They care about this. I have tried.

I am just told that the Attorney General's office rejected the offer the police put forward to them last night—to me and to them.

Mr. President, the point I want to make here is this is not about habeas corpus. What this is about is guns, guns and the power of the NRA. And we may very well fall three or four votes short of getting a supermajority.

The insistence for 300 days on the part of my Republican friends and the administration, for 300 days. In the meantime, what happened in the 300 days, Mr. President?

Well, there have been 20,978 murders in America, carnage, pure, simple carnage. There have been 90,528 rapes in the last 300 days, Mr. President. There have been 584,099 robberies, Mr. President. There have been 928,081 aggravated assaults, Mr. President, and there have been 1,623,687 violent crimes since the filibuster began 310 days ago.

Mr. President, it is against my political interest to say this, but I agreed, over the howling objections of my friends on the left, to take out of this bill the one objection they say exists with regard to the bill—habeas corpus, the so-called taking provisions in the bill. I agreed to drop it. I had heard for 200 days that the reason this was a bad bill was the provision in this bill that the House has passed, the Senate had passed and needs 4 votes to be put on the President's desk. If they let us vote up or down, it does not need any more votes to be put on the President's desk.

I agreed to drop it. I went over to the House side and got agreement from my friends on the House side to drop it. And we heard a whole raft of new objections. Mr. President, 310 days ago this filibuster began. Three hundred ten days ago there were 1,623,687 fewer violent crimes committed in America.

Mr. President, I am not suggesting to you or anyone within earshot of my voice that had this conference report been the law, there would not be any crime in America. But I am testifying to you that I believe with every fiber of my being, just as the police in America, believe, had this been law, there would have been fewer, would have been fewer.

Mr. President, my friends now, as we say, in my State, having found religion after a year of objecting, came forward and now agree with the Biden proposal in the bill to fund local police officers. So we have no fight about that. They say they are for the Brady bill now. They say that.

But, Mr. President, in this compromise we had when they sent me back a compromise, that would be something other than what we have before us, so we could all unanimously agree on something, guess what, a little change in the Brady bill. The Brady bill up there makes sure that the police are indemnified, so if the police officer, when a gun dealer calls and says, "Could we sell this gun to John Doe?" The police officer, in good faith, looks down the list and says, "No, you cannot sell to John Doe." It turns out later you could have. It was the wrong Doe, and the John Doe that went in to buy the gun could have bought the gun. We all thought that the police officer should be held harmless on that.

My friends, riding around, knocking on doors saying it is a police officer knocking down the door in good faith, there should be compensation, but they do not want compensation for a police officer who makes a mistake if, in fact, he says to a gun dealer when he looks down the record, "No, you cannot sell to that person."

So they say we are for Brady. I am not talking about my colleague here; I am talking about the Justice Department. They said we are for Brady, but a little change, we do not want to indemnify police that way. Guess what that does, Mr. President? It puts an overwhelming burden on the cop when in doubt to say, "Sell." When in doubt say, "Sell." When it is close, say, "Sell."

Mr. President, this is about guns. But you know the worst part of it is—as you and I know, I have been a Senator for 20 years. To the chagrin of my constituents, I am not known as gun control Senator. I am viewed as an anti-gun-control Senator. But even I, Mr. President, recognizing the right of the second amendment, the right for people to bear arms, do not see how any legitimate person is going to be hurt by the existence of a system that says unless we can check quickly you have to wait up to 7 days to be able to buy a handgun so we can find out whether you are a felon.

Mr. President, my State of Delaware probably has as many gun owners per capita as any State in the United States of America, I would guess.

I do not know that for a fact. Big hunting State—duck hunting, bird hunting; big State hunting.

In my State, we found ourselves in the situation where we invoked such a law at the State level. And guess what? In the first 3 months people came in—I do not have the exact figures. I ask unanimous consent that I may be permitted to submit the exact figures.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Out of the first 1,360 people, something like that, who came in to buy a gun under our new law, 10 percent were convicted felons. One out of ten of them who walked in the door—no, I am sorry, it is the first 1,063 people that came in—the number not eligible to buy guns was 10 percent. One out of ten of them, roughly 106 of them, when they looked down the list, they said, oh, this guy is a convicted felon.

So, Mr. President, these laws work. What Sarah Brady has been pouring her heart and soul out to get passed, with the strong support of leaders like Senator METZENBAUM and Senator

MITCHELL and Senator DOLE and others, Senator KOHL, Congressperson SCHUMER on the House side, what 70 percent of the American people support, what a majority of the NRA membership, I am told, supports, but we are stopping an entire crime bill because of that.

Mr. President, it seems like I have made this speech 10 times too many times. I must tell you, I am disheartened. I have worked for years, and in this case on this legislation I have never worked any harder for the past 2 years, to get a tough crime bill passed. It contains capital punishment—a lot of people do not like my position being for capital punishment. It contains significant restrictions on habeas corpus, further willing to restrict them. It contains significant help for local law enforcement.

You know the only thing we know about crime and violence in America for certain is we know that if there are more cops standing on the street, there is less violence. We think we know a lot of other things, but that is the only thing we know with absolute certainty.

And guess what, Mr. President? As this wave of violence—I would like to be able to walk up and have every member—I do not know a single person sitting up in the gallery. I do not know a single American or visitor sitting up in the gallery. I do not know one of them. But I would be willing to bet if we opened up the mike and allowed them to march down here, you would not find one Democrat, Republican, liberal, conservative, crazy right, crazy left, middle, to walk down and stand at this microphone, look at you and look at the American people on C-SPAN and say, "No, America is a safer place today than it was 5 years ago."

I am willing to bet you, you would not find a single person.

Mr. President, here we are, because the NRA does not like the Brady bill, I am required to get a supermajority to do something to make it a little bit safer.

In the last 10 years, Mr. President, that this wave of violence has increased, do you know how many officers have increased on the streets in 10 years? One percent.

We provide help in here, Mr. President, for local law enforcement.

And by the way, I know you will hear my friends say, "Look, law enforcement, that is a local problem, because of local crimes." Drugs are not a local problem, Mr. President. They are grown overseas. They come in through the ports of New York and New Orleans and Wilmington, DE, and California. They come across the border. And they spawn violence; 71,000 murders, Mr. President, since President Bush took office; 71,000 Americans murdered.

What do we do? Well, we insist on the Senate rules and procedures that we require a supermajority in order to be able to remain sure that—I would like my friend, when he stands up—and I am going to save the remainder of my time—to explain to me, other than habeas corpus, what does he object to in this bill? If it is habeas corpus he objects to, I will drop all the habeas corpus out of it, take it all out, every bit of it, take it out and let us pass the bill without it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THURMOND. Mr. President, once again, instead of considering a true crime bill which the prosecutors, police, and victims can all support, the majority party has seen fit to drag out the lifeless remains of a crime bill twice rejected by the Senate.

I have remained strongly committed to passing a true crime bill despite the political objectives of the majority party. In fact, I continued to work with my colleagues to try and resolve our differences as did Attorney General William Barr. Negotiations, it seems, were complete when the Attorney General and I agreed to a compromise with Senator BIDEN. This compromise was to have included the Senate passed Brady bill, the President's death penalty title, a middle-of-the-road compromise on habeas corpus, and all of the funding proposed for additional law enforcement. According to the Attorney General, he and Senator BIDEN had negotiated a package that both agreed was an acceptable basis for compromise.

Unfortunately, the Democrats have retreated and distanced themselves from what we believed to be an accepted compromise. Instead of debating a tough bill, or the compromise we thought had been agreed to, we are once again considering the conference report. This bill is not an anti-crime bill. It is a pro-criminal bill.

For example, the most troubling provision in this bill is the habeas corpus language. Senator BIDEN has stated that it is the most contentious area of negotiations. The language in the conference report would reverse over 14 Supreme Court decisions favorable to law enforcement. This provision will throw the prison doors wide open for thousands of dangerous criminals throughout the Nation. Standing alone, this provision is enough to compel the Senate to reject this conference report.

Thirty-one State attorneys general, 16 Republicans and 15 Democrats, wrote President Bush urging him to "protect the American people" and veto this bill. They wrote that any bill containing this habeas proposal, and I quote: "cannot be described accurately as an anti-crime bill but would instead be a pro-criminal bill and particularly a pro-convicted murderer bill".

Mr. BIDEN. Will the Senator yield for a question?

Mr. THURMOND. Mr. President, I will not yield. I will let him respond later if he wants to.

Mr. President, although this conference report sounds tough, it is not. Another example of this is the death penalty. Although the bill authorizes the death penalty for over 50 Federal offenses, the trial procedures make it extremely unlikely that the death penalty would ever be imposed. Furthermore, the habeas proposal contained in this report renders the death penalty meaningless since virtually no sentences will be implemented.

The House crime bill, as well as the President's bill, responded to some of the serious problems caused through application of the exclusionary rule. Both provide that when an officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial.

The conference report rejects this important measure and instead rolls back court decisions to the detriment of law enforcement and prosecutors. It substantially narrows the current good faith exception to the exclusionary rule. It is yet another provision which expands the rights of criminals.

Unbelievably, this report contains a broad provision which mandates automatic reversal of criminal convictions based on improper admission of a defendant's statements or confession at trial. This new rule applies even in cases where it is shown beyond a reasonable doubt that the error was harmless and could not have affected the outcome of the case. It overturns the Supreme Court case of Arizona versus Fulminante. This case involved a man who took his 11-year-old stepdaughter into a desert, choked her, sexually assaulted her, and then shot her in the head after forcing her to beg for her life. According to the Department of Justice, the result of this procriminal provision will be the release of an untold number of murderers like Fulminante. The decision of the Democrats to include this measure in their bill reflects an arbitrary determination to free criminals solely on the basis of technicalities.

If convicted criminals are unable to avail themselves of this bill's new loopholes to overturn their convictions, this bill still lets them out of prison early. Believe it or not, this bill reduces the sentences of violent offenders if they participate in drug treatment programs.

This report also drops several provisions aimed at fighting sexual violence and increasing victims' rights. It also drops several mandatory minimum penalties. Mandatory restitution requirements for victims of rape, child molestation, and other crimes were dropped. Finally, mandatory HIV testing for rapists was dropped.

Mr. President, a few weeks ago, a young mother named Pamela Basu was brutally murdered in suburban Maryland when she was dragged to her death by two young men who stole her car. It was a heinous offense which focused the Nation's attention on the need to crack down on depraved killers. Yet, if this conference report becomes law it will impede the investigation and prosecution of this and other cases. For example, her assailants apparently confessed to the crime. Yet, if convicted, the admissibility of confessions provision contained in this bill could be asserted to overturn their convictions regardless of whether there was other overwhelming evidence of guilt. Critical evidence proving the killers' guilt was discovered at the scene of the crime. Yet, the type of change to the exclusionary rule this bill proposes could result in the evidence being thrown out or their convictions overturned on mere technicalities. Finally, Maryland has the death penalty. This bill's habeas corpus provision will certainly play a role in whether the death penalty is even sought. Even if the prosecutors seek the death penalty and a jury sees fit to impose it, this bill's habeas corpus proposal will virtually guarantee that the sentence will never be carried out.

Mr. President, I have discussed the Basu case to make a point that these procriminal provisions are real. They will affect real cases where men and women have been murdered or assaulted. Given the violent crime crisis we now face, can this Congress afford to pass a bill which will expand the rights of criminals? The measures I have discussed have the potential to affect virtually every single violent crime investigation and prosecution in this country. Long after all of the additional money authorized by this bill runs out—if it is ever appropriated—the procriminal provisions contained in this bill will still be on the books. As a result, more criminals will walk free, more violent offenders will have their convictions set aside on mere technicalities, and more victims will be outraged. This bill furthers the liberal agenda where technicalities take precedence over the issue of whether a criminal is actually guilty of the crime he has been convicted of. No, Mr. President, this is not a tough crime bill.

In closing, many of the supporters of this conference report have stated that we oppose this report because it contains the Senate-passed Brady language. Yet, a fact that seems to have been missed by my colleagues is that, while I am the Senator leading this opposition, I am also one of the Senators who voted in favor of the Senate-passed Brady provision. The notion that I would oppose a bill simply because it contains this provision is wrong.

The Senate must not permit this bill to pass. It is a bad bill. It is a bad deal for victims, law enforcement, and the other good people of America. I urge my colleagues to vote against cloture on the conference report.

The PRESIDING OFFICER. The chair informs all Senators that the Senator from South Carolina has 20 minutes remaining. The Senator from Delaware has 7 minutes remaining.

Mr. THURMOND. I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I ask unanimous consent that we be able to extend the time for debate by 10 minutes to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I yield myself 30 seconds.

Mr. President, assume what the Senator from South Carolina says is correct, and I disagree with it all. But if he is correct, I stand here now and I ask unanimous consent that we remove from the conference report all provisions relating to habeas corpus and all provisions relating to Fulminante.

The PRESIDING OFFICER. Is there objection? The Senator from South Carolina.

Mr. THURMOND. Mr. President, the need to enact true provisions on habeas corpus is extremely important. We cannot pass a bill without a tough, strong habeas corpus reform proposal. That is the main trouble with the death penalty now.

For instance, in my State a man was on death row for over 11 years——

The PRESIDING OFFICER. Does the Senator object? Does the Senator reserve the right to object and so does object?

Mr. THURMOND. Yes, I object, Mr. President.

Mr. BIDEN. Mr. President, I yield myself an additional 30 seconds.

Mr. President, as we say in other forums, I think the answer speaks for itself.

You just heard why. You heard this whole long speech: The reason why this is a procriminal bill is because of habeas corpus and Fulminante. I said let us drop it. Guess what—what does that leave? What is it that they do not like?

Mr. President, sitting in the gallery are those police officers I talked about. One I left out was Bud Meeks, the head of the Sheriffs Association. I have never known them all to be grouped as a bunch of whacko liberals. I ask you to ask yourself this question, I say to my colleagues: Why, if this is procriminal, does every single police organization of America—not only support it but badly want it?

I yield to my friend from Tennessee, who I thank so much for canceling three major State engagements today to come back here because he felt this was so important.

I thank him for that and I yield him 4 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I want to thank the distinguished chairman of the committee for yielding me time. May I say in response to his kind comment that there was no question in my mind about being here for this vote. This is one of the most important votes of this entire session of Congress.

We have seen records for violent crime in each of the last 2 years—1990 set a record, 1991 set another record. And the Senator from Delaware has worked for an incredibly long period of time, with great skill and energy, with police officers all across this country and experts on crime all across this country, to come up with the toughest crime bill ever to come before the Congress of the United States.

It has to rise above politics. This is a measure that has to be passed.

So I am very pleased to be here. I will just say, very clearly, that I think a vote against this bill is a vote to refuse to help police officers across this country deal with the worst crime epidemic this Nation has ever seen.

This bill does what is needed. It ought to have strong bipartisan support because all of the provisions in this bill will go right down the drain unless we can get enough support from the other side of the aisle to help pass this legislation.

Another 71,000 Americans were murdered during the first 3 years of the current administration. That is not the fault of the administration. But the failure to do anything about it is the fault of the administration.

The chairman of this committee has been working diligently to put together a bipartisan coalition and craft a bill that will be extremely effective in dealing with this matter. By the end of this 4-year period, over 90,000 Americans will have been murdered. We are all familiar with how that compares on a per capita basis with every other nation in the world. What are we going to do about it? Murder, armed robbery, rape. There were over 100,000 reported rapes in the United States last year, and the experts tell us that for every 1 that was reported, there were another 6 that were not. When are we going to do something about it?

Crime among kids is escalating dramatically on any given day. And 135,000 children carry a gun into the classroom. Have you met with schoolchildren lately in some of the cities of this country and asked them: How many of you have been personally fearful of a loaded gun in your classroom? How many of them raised their hands? Sixth, seventh, eighth graders, ninth graders, tenth graders. What are we coming to when we can have a situation like that and no response to it?

Last year, more than 2,200 kids were murdered. The murder toll among such children is rising more than twice as fast as the overall total. And now among children in cities, do you know what the number one cause of death is? Murder. And we are sitting here debating these provisions that allegedly lead to the objections, and we say OK, we will take them out of the bill, and they say: No, no, no, we have some other problems.

The violent crime arrest rate for youth between 10 and 17 held fairly steady between 1980 and 1987, but it has risen dramatically during the last 3½ years.

This legislation provides an effective response to the crisis of crime in America. It provides the largest assistance ever to local police officers all across this country, major new funding for prosecutors and local police, increased penalties for crimes involving firearms, and the largest expansion of the Federal death penalty in the history of this country, including death penalty for drug kingpins, for the murders of law enforcement officers, for drive-by shootings and for terrorist killings and, yes, the Brady bill, a 5-day waiting period for handguns until an instant check system to prevent felons from getting their hands on guns is in place.

I was very pleased to work closely with the chairman of the committee, and with the majority leader, and with others to craft a compromise provision that I think is balanced and extremely effective. But it has more as well: New boot camps, and regional prisons to house drug offenders, new antigang, and rural crime programs, new antichild abuse measures, and much more.

Where the assistance to local law enforcement officers is concerned, this legislation will add 10,000 police officers and prosecutors to our streets and courtrooms in cities all across the United States. That is real help. That is a real response. That is an effective set of measures to do something about this problem.

By sharp contrast, the administration has proposed deep cuts to State and local law enforcement. They would remove 1,000 police officers from the frontlines under the provisions this President has sent to the Congress.

We want to go in the other direction. Military style boot camps as I said, drug treatment prisons, and other law enforcement programs will house 40,000 Federal, State, and local offenders. The drug emergency areas program will put 2,000 more police on the streets within that program, and 60,000 more drug addicts in treatment in the areas most ravaged by drugs and crime.

The police corps program is in this bill. That, too, will go down the drain unless we get enough votes from the other side to get the number we need to pass it. The police corps program would recruit more than 20,000 young police officers to help beef up our war against crime.

This bill also has prison based drug programs that will treat more than 90,000 drug addicted State and local prisoners; aid to rural areas that will treat 10,000 hardcore addicts; antiyouth gang efforts to provide alternatives such as boys and girls clubs in hundreds of public housing projects. And, finally, Federal law enforcement will be boosted in this bill by 400 more DEA agents, 20 new State and local task forces, 1,000 more FBI agents, 900 more agents attacking the flow of drugs through our borders, and 350 more Federal prosecutors.

I plead with my colleagues on both sides of the aisle, pass this bill. Let us get tough with crime. This is the toughest anticrime bill we have ever had a chance to vote on. Do not play politics with it. Let us have a bipartisan vote to pass it.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. KOHL. Mr. President, I rise today to urge my colleagues to vote for cloture on this strong, balanced anticrime package crafted by Chairman BIDEN and others. This measure will create tougher laws, put more police on the street, and result in greater certainty of punishment. Moreover, it includes the Brady bill, which would help keep guns out of the hands of criminals and drug traffickers, and provide a cooling-off period for gun purchasers consumed by violent passion. It is undoubtedly the last clear chance we have this year to pass this crucial measure.

Six weeks ago a 15-year-old honor student named Alain Clamaco was shot to death outside his Northwest Washington home during the middle of the afternoon. He was shot five times—once in the head, twice in the chest, once in the right arm, and once in the back side. At the time of his death, he was mowing his lawn. He was not robbed; he was not assaulted; he was not carrying a weapon; in fact, he had no previous contact with the assailant—Sean Lee Qualls. It was a brutal, unprovoked act of violence. When homicide detectives asked Sean Lee Qualls why he shot Alain Clamaco, he told them it was because he "had an urge to do it."

This motive bears repeating: Sean Lee Qualls killed Alain Clamaco simply because he "had an urge to do it."

Many of us watched the family and friends of Alain Clamaco on television. We understood their grief, their loss, their feelings of helplessness. We understood it because the sad truth is that similar tragedies occur across America every day.

And while we did not see or hear or read much about the family or friends of Sean Lee Qualls, we should feel saddened for them as well. Why? Because Sean Lee Qualls, a disturbed young man and drug abuser who should have never had a gun in the first place, is going to go to jail—as he should—for a very long time.

Of course, there is no panacea for the senseless violence: We all know that we need tougher laws; more police; more certainty of punishment. And, of course, nothing that we can do will ever make Alain Clamaco's family whole again. But there is a crucial step we can take now to reduce at least some of the carnage: We can enact the Brady bill.

Mr. President, more than 15 months ago the majority leader, AL GORE, and I took the original Brady bill and combined it with the best elements of the so-called Staggers amendment. Our compromise measure has three major components: A mandatory background check for all firearm purchases; a uniform 5-business-day waiting period for handgun buys that would remain in effect for at least 2½ years; and $100 million for States to upgrade their computerized criminal history records.

The Mitchell-Kohl-Gore amendment enjoyed broad support: It was endorsed by everyone from Ronald Reagan to Bill Clinton and from HOWARD METZENBAUM—who has tirelessly led the fight in Congress for sane handgun laws—to the minority leader. Our amendment passed the Senate by an overwhelming 67–32 margin more than a year ago.

Yet during this same year—while Congress and the President remained at an impasse over the crime bill—firearms violence continued to rage in our cities and on our streets. In Killeen, TX, a troubled young man drove his truck into Luby's Cafeteria, pulled out his semiautomatic, sprayed pistol fire at a lunchtime crowd, and killed 23 people. At the University of Iowa, a deranged student, distraught over his failure to win an academic award, killed six people with a .38 caliber revolver. And last spring Los Angeles erupted, leaving more than 50 dead. All in all, in the 450 or so days that the President has played politics with the Brady bill and the crime bill, more than 17,000 Americans have been murdered by firearms.

Indeed, it may be more dangerous to live in a major American city than to serve our country in a foreign war. Fewer than 300 Americans died during the Persian Gulf conflict, but 482 people were murdered last year in Washington, DC, alone.

I am not saying that all of these tragedies would have been averted had we enacted the Brady bill, but I am sure that at least a few of these lives would have been saved. And don't take my word for it, ask the NRA. It supports mandatory background checks, which the bill would impose. And in the past it has even endorsed a waiting period. According to its 1976 publication entitled "On Firearms Control":

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

The NRA was right then; it is wrong now.

Mr. President, the measure before us gives Congress a chance to do something about this carnage. Chairman BIDEN has worked hard for this legislation; I will support it; and I hope it is signed into law.

But I want to make one more point to my colleagues who believe they can filibuster the crime bill as a way of stopping Brady: that strategy will fail. The Brady bill has the support of 90 percent of the American people and the endorsement of every major law enforcement organization. In the end, it is going to pass the Senate and it is going to become law. If not today, then tomorrow; if not tomorrow, then next week; if not next week, then next year.

Why? Because America will not sit still while criminals and drug traffickers continue to purchase much of their firepower over the counter. Just open your newspaper or turn on your TV and you will discover this sad fact: Never has the need for the Brady bill been so pressing and the consequence of its absence so regrettable.

So as votes are cast, consider this choice: Do you want to enact the Brady bill as a free-standing measure—or do you want to combine it with the death penalty, habeas corpus reform, and other tough criminal law provisions?

Mr. President, I urge my colleagues to vote for cloture.

Mr. GRASSLEY. Mr. President, if General Douglas MacArthur were here today, he might say, "Old crime bills never fade away; they just die." I had hoped that this crime bill would just fade away. The conference report has been forgotten, a relic of a conference committee that took the weaker version of Senate and House crime provisions. But instead of letting it fade away, this bill continues to be considered, despite the fact that it has no chance of ever becoming law.

This bill was a bad bill in November. It was a bad bill when it was killed earlier this year. And it is still a bad bill. The continuing crime sprees across our country are much too great a match for the weak provisions of this bill.

A serious crime bill would not contain a weak exclusionary rule provision. If police act in good faith, the exclusionary rule will not deter police misconduct. This bill actually creates exceptions to a police officer's ability to rely on facially valid warrants, and will lead to unnecessary disputes regarding the warrant.

A serious crime bill would not contain weak habeas corpus provisions. This crime bill would expand opportunities for criminals to challenge their convictions. And it would allow them to raise arguments from decisions that had not even been handed down at the time of their convictions. Habeas petitions take too long now; expanding the ability to file habeas petitions can only reduce the finality of judgment and show further disregard for victims of crime and their families. Moreover, the capital punishment provisions of this bill are illusory because of the bill's expansion of habeas availability.

The American people want action on fighting crime, not a charade that actually expands the rights of criminals. This bill is not worth voting on.

Mr. DOLE. Mr. President, my remarks will be short. We have been over this time and again.

And let me just say that I appreciate Senator BIDEN'S offer to begin amending this bill on the floor, but it comes a bit too late.

The time to amend this bill was in the conference committee. and instead of asking for the help of Senator THURMOND, the administration, or any other Republican, the Democrat Majority rammed a bill through without any input from our side of the aisle.

Now that is their right. They have the majority. But part of being in the majority is taking responsibility for their actions.

So they have to take responsibility for taking a strong Senate-passed anticrime bill, and a strong House-passed anticrime bill and turning them into mush.

Go on down the line, from habeas corpus to the death penalty, and you will find that in almost every instance, the conference committee reported out the weakest provisions possible.

And, as others have said, just as important as what the conference bill contains is what it does not contain. Seventy tough, no-nonsense anticrime provisions were stripped from the bill.

For some reason that still escapes me, those provisions included a whole series of ones which increased penalties on those who assault women. These provisions included a doubling of maximum penalties for recidivist sex offenders, and HIV testing of defendants in sex offense cases with disclosure of test results to victims.

Mr. President, the sad fact is that Senator GORE and others would rather play the blame game, than sit down in good faith to negotiate a true anticrime bill which would help the American people.

Mr. SIMPSON. Mr. President, this conference committee report is a criminal rights bill, not a crime bill.

As I said on the floor 2 nights ago, President Bush has agreed to a crime bill compromise that was first suggested by a Democrat—but that it was the majority party—the Democrats—who later refused that compromise.

That compromise did have the Brady bill included as a part of it.

It is not the Republican Party or our fine President of the United States who is obstructing this process.

It is the majority party.

Today, we are going to be voting for the second time on whether to invoke cloture on motions to proceed to the conference committee bill. This is pure partisan politics, not legislating.

The series of votes we are having today are being used by the majority party—the Democrats—in a well orchestrated attempt to mislead the public and to shore up Governor Clinton's diminishing lead in the polls.

Let us not forget what we are about here.

Two nights ago, I introduced into the RECORD a copy of the letter from Attorney General Barr accepting a compromise on the crime bill—a compromise which included the gun control. Senator THURMOND has outlined that compromise today. It was once again rejected by our Judiciary Committee chairman.

The conference committee report is a compilation of the worst provisions from the respective Senate and House versions of the crime bill. It includes the worst habeas corpus provisions, the worst of the exclusionary rule provisions, the worst imaginable provisions regarding so-called coerced confessions. And, Mr. President, it incorporates the worst of all the various versions of the so-called Brady bill. That provisions, which the majority introduced separately this week, was not even close to the Dole-Mitchell compromise passed by the Senate.

My record is clear on the gun issue—I have always opposed gun control. My opposition to that shallow solution to crime control is especially dogged when the so-called solution—this conference committee bill—itself is nothing more than a shell of empty promises and it also expands, rather than restricts, the opportunities for criminals to abuse our system of justice.

Let's make no mistake about this: This debate and this cloture is about purely partisan politics. It is an attempt to pump up the Democrats' efforts to take over the White House by misleading the American public.

For over 2 months now, our leadership has been calling upon all Members to come forward with amendments to various bills in a timely manner and to move the appropriations bills promptly so that we can adjourn by October 3. Instead, we are engaging in this exercise—an exercise to generate the stuff for more 30-second spots and election year hype.

Instead, we will dedicate most of today to debating at least three separate motions to invoke cloture on matters that will not become law. In this case, we are rehashing a debate that the Senate has visited twice in the past year—first when the conference committee bill was railroaded through conference, and again a few months ago.

This conference committee bill is a total loser, Mr. President.

The Senate has already recognized that fact twice now. The American people are not being well served this day.

Mr. THURMOND. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Delaware has 1 minute. The Senator from South Carolina has 25 minutes.

Mr. THURMOND. Mr. President, I hold in my hands a letter written to the President of the United States on this very subject by 31 attorneys general; 15 are Democrats, 16 are Republicans. Here are their signatures, signing this letter, opposing this provision, opposing this bill.

I repeat, 31 States' attorneys general—16 Republicans, 15 Democrats—wrote President Bush strongly urging him to veto any bill which contained the habeas corpus provision as contained in this conference report.

They wrote that "any bill containing this weak proposal cannot be described accurately as an anticrime bill but would instead be a procriminal bill and particularly a proconvicted murderer bill." That is what the attorneys general of the States say about it.

Are we willing to listen to them? They are responsible for law enforcement in every State.

Now, the National Association of Attorneys General overwhelmingly passed a resolution urging President Bush to veto the conference report because it adopts provisions that weaken existing law. And here is what they said: "It broadens the range of circumstances in which the convictions of criminals will be reversed."

We certainly do not want to do that, and that is what this conference report does.

The National District Attorneys Association wrote that the conference report "does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens. In fact, passage of this bill is tantamount to handing the jailhouse keys to thousands of convicted State and Federal prisoners."

They urge the Senate "to reject this poor excuse for a crime control bill."

Now, who was I talking about? I was talking about the National District Attorneys Association that is all over the country—all the States. They went on record urging the President not to sign this bill and stating how dangerous it is.

Twelve Democratic district attorneys, 12 Democratic district attorneys alone wrote a separate letter urging that the conference report be vetoed—12 Democratic district attorneys wrote a separate letter in addition to joining in on the other, "because it contains provisions which would hamstring our efforts to combat crime." That is what they said. Do we want to pass a conference report that will hamstring our efforts to combat crime? That is what the Democratic district attorneys said.

The Conference of Chief Justices, which represents the chief justices of our State supreme courts, oppose the habeas reform contained in the conference report because this is not true reform.

Now, that is the Conference of Chief Justices of the Nation—Conference of Chief Justices—the top judge in every State in the Nation, chief justices. They wrote opposing this matter. Who are we going to listen to?

Numerous victims organizations—and these are the people who have suffered; these are the victims who have suffered from criminals—have written letters opposing the conference report stating that "a vote for the cloture motion is a vote against crime victims. We support S. 2305." And that was the Republican proposal.

"We oppose the conference report." These are the victims of the Nation, people who have been robbed, people who have been raped, and people who have had assaults committed upon them. These victims organizations have gone on record as opposing this conference report.

Attorney General William Barr opposes the conference report stating that the conference report has "let down law enforcement, let down victims, and let down those in Congress who have voted for tough anticrime measures." The Attorney General of the United States. Is the Congress going to listen to him any? Attorney General Barr, what does he say? It lets down law enforcement. It lets down victims. It lets down those in Congress who have voted for tough anticrime measures.

The attorney general of California, for instance, and every single one of that State's 58 district attorneys wrote the Congress urging that this conference report be defeated. They wrote that the measure "provides convicted murderers more opportunities to challenge their convictions instead of less, forces victims and their families to endure more delay and litigation, and makes it more difficult for law enforcement to obtain finality in our criminal justice process."

Now, Mr. President, who are we going to listen to? These are the officials responsible for law enforcement—the attorneys general and all these people.

I want to quote this letter from the National District Attorneys Association. This is written to Honorable GEORGE MITCHELL, Honorable ROBERT DOLE, Honorable THOMAS FOLEY, and Honorable ROBERT MICHEL.

Mr. President, before I do this, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes 15 seconds.

Mr. THURMOND. I yield 5 minutes to the distinguished Senator from Idaho.

Mr. CRAIG. I thank my colleague for yielding.

I stand in strong opposition and urge a "no" vote on the cloture motion as it relates to the crime bill conference.

Mr. President, let me speak specifically to a point in this crime bill that is open, often discussed, and found very contentious by many people. That is the issue of a 5-day waiting period on the purchase of a firearm and the instantaneous background check that is proposed within this legislation.

The reason I believe we ought to vote in opposition to cloture is that provision, yes, but, more importantly, language that was put into the conference, Mr. President, that the Senate never voted on and that the House never voted on, new language that no Senator unless he or she has read the fine print of the crime conference knows about.

Let me talk about it for a few moments, because what I am talking about is legislation that the chairman has blinked on and suggested that we can violate civil rights or that we can allow law enforcement officers in this country to violate the civil rights of American citizens and get away with it.

Now, we saw a city burn because it appeared that law enforcement officers had violated the civil rights of Rodney King. We saw a city go down in ashes and a Nation erupt because civil rights were apparently violated.

Let me read the language. "A law enforcement officer or other persons responsible for providing criminal history, background information pursuant to this subsection shall not be liable in an action at law for damages for failure"—for failure—"to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section."

In other words, if they choose to arbitrarily not find the necessary information or cause information not to flow during this background check period that would clear that individual, they are not liable. They are not within the law. They do not have to adhere to the civil rights of that citizen under the Constitution.

Now, I do not know another law of the land we would want to support that would arbitrarily deny someone their civil rights, even as onerous as some of us may believe those rights to be.

I know that a lot of people do not believe in the second amendment rights to our Constitution or they believe that they are malleable or that we can adjust them or change them around a little bit. I disagree with that. I think those rights are absolute. But here we are saying to the law enforcement community, you can blink. We are saying to the local sheriff or the chief of police, if you really do not want guns in your community, you can find a way to disallow it through this method.

Another provision says neither a local government nor any employee of the Federal Government or any State or local government responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages for failure to prevent, for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

There may be a lot of ways to interpret it. I have given you my interpretation. It so happens that attorneys—and I am not one—who are professionals in this area, who hold themselves up to be experts in this area of the law, say that this Senator is absolutely correct.

That is why, Mr. President, we did not vote on this provision in this Senate. That is why the House never voted on it. That is why staff people got together in the conference and conjured up their neat idea that said, "Here is another avenue for disallowing the process to work."

So, in other words, a 5-day waiting period under this law, and a national instant background check under this law, says to those who are responsible for carrying the law out, "If you fail in your actions, you are not liable," and a failure enacted is a denial of a civil right in this country, a constitutional right under the second amendment.

That is why I am in opposition. But I thought our Senators really ought to know what the fine print says. Sometimes it is not wise to read the fine print of a conference report.

But let me suggest that, in the closing days of this session as we are in a rush to get out of here, is it not interesting that we have had so many opportunities to bring up this conference report, and now that Senators are anxious to go home to campaign, it is now time to pass it, it is now time to get it out. Let me suggest, Mr. President, that you and I do not want to intentionally create a law that allows law enforcement officers to act, without liability, to violate the civil rights of the citizens of this country.

A yes vote would do just that.

Mr. GRAMM. Mr. President, I yield myself 10 minutes.

Mr. President, I want to go back to the beginning and basically give a summary of how we arrived where we are and what the choice is. This issue has been debated many times. Rather than debating it all again, I just want to hit the high points.

First of all, 1,237 days ago today the President asked Congress to pass the Nation's toughest and most comprehensive crime bill. That crime bill reinstituted a workable death penalty at the Federal level, had over 70 strong law enforcement provisions related to minimum mandatory sentencing and other anticrime measures, sought to end the endless delays in carrying out justice, sought to eliminate the situation where violent criminals walked the streets because of a technical error in filling out reports, and, in fact, sought to deal with a crisis that faced our bleeding nation as criminals preyed off the health, happiness, and lives of other citizens. That was 1,237 days ago today.

Today, we have yet to pass such a crime bill. We have certainly not passed the President's bill, and we are today looking at a conference report on a product that is totally different from the President's bill.

When we considered the crime bill in the Senate, we adopted many provisions, including 52 tough anticrime provisions. But when the Democrats who run this committee in the Senate and the Democrats who run the committee of jurisdiction in the House met together and wrote the final bill, they dropped some 70 House and Senate provisions that were aimed at grabbing criminals by the throat and not letting them go to get a better grip. I do not want to go through the whole 70. I have done that on another occasion. I simply want to talk about three.

I offered on the floor of the Senate the requirement that, if you are convicted of selling drugs to a minor, no matter who your daddy is or how society may have done you wrong, if you are convicted in the Federal system, you are going to the Federal penitentiary, and you are going to serve every day of 10 years in prison.

The second part of the amendment was, if you got out of prison and you did it again, if you went back and sold drugs to a child again, you got life imprisonment without parole. That amendment was adopted on the floor of the U.S. Senate. That amendment was dropped in conference and is not in this bill; that amendment and 69 others like it.

Another provision that was part of this bill was the so-called three-timer loser provision. What it said is, if a criminal goes out and commits a violent crime or a drug felony, not once, not twice, but three times they are convicted of a violent crime or a drug felony, we decide that maybe the time has come to protect society by putting this person in prison for life.

That amendment was offered on the floor of the Senate, and it was adopted by the Senate. But what happened to it? That provision and 69 others like it were dropped out of this bill in conference.

Amendments were offered to deal with guns, to deal with violent criminals who use guns. The amendments said, if you possess a firearm during the commission of a violent crime or a drug felony, whether you use the gun or not, you are going to prison if you are convicted of possessing that gun independent of the crime you commit other than having the gun, you are going to prison on the gun violation for 10 years, and you are going to serve every single day of 10 years in prison.

If you fire the firearm in the commission of a violent crime or drug felony with the intent to do bodily harm, the amendment says you are going to prison, not 10 years, but 20 years, and you are going to serve every single day of 20 years in the Federal penitentiary.

The amendments further said, if you kill somebody with a firearm during the commission of a violent crime or a drug felony, at a minimum, you are going to spend the rest of your life in prison with no parole, and, in aggravated cases, you are going to be put to death.

Guess what happened to those provisions? The provisions I offered here on the floor of the Senate were adopted overwhelmingly, and yet when the bill came back from conference, they and 67 other provisions were dropped from this bill. In fact, if you go through the Senate bill and the House bill and you look at each one of those bills, almost every grab the criminal by the throat provision was dropped and every soft provision was maintained.

I want to go back over—I know our dear colleague from South Carolina did it once. But I want to be sure that people understand that this bill is not an anticrime bill. You don't have to take just my word. You also have the word of the Senator from South Carolina.

Might I say, Mr. President, I do not know of any man in America who is more committed to protecting law-abiding citizens and grabbing criminals by the throat than our distinguished colleague from South Carolina. I want to thank him for his leadership on this issue. I want to express to him my disappointment that we do not yet have the crime bill that the American people want and need.

When this bill that is before us came out of conference and came to the floor of the Senate for a vote, 31 State attorneys general, 16 of them Republicans and 15 of them Democrats, wrote the President urging him to veto this bill. In fact, the National Association of Attorneys General overwhelmingly passed a resolution urging the President to veto this bill. Let me just read a few things they said.

They said: "This bill weakens existing law, broadens the range of circumstances in which convictions of criminals will be reversed." And then in the letter that they wrote about the bill, they said the following things: the bill "does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens. In fact, passage of this bill is tantamount to handed the jailhouse keys to thousands of convicted State and Federal prisoners." They go on to say: "Reject ths poor excuse for a crime bill."

Mr. President, I cannot understand why we cannot have bipartisanship in passing a crime bill. I know an effort has been made. I know the distinguished chairman and Senator THURMOND sat in meetings for months trying to work out a crime bill. I am not trying to impugn the efforts that anybody has undertaken. A lot of good people tried to get something done. The bottom line is that it did not get done. We have before us a bill that is not an anticrime bill, but a bill that actually, in an incredible move, overturns some 22 Supreme Court decisions that, in the last 30 years or so, have strengthened law enforcement.

Mr. President, what are we doing in the name of a crime bill overturning court decisions that have strengthened law enforcement? We ought to be passing laws to help the cops on the beat who are trying to protect law-abiding citizens.

So there is only one way we can get to that: Reject this conference report, and then let us, even in the waning hours of this session, sit down and try to work out a real anticrime bill.

I urge my colleagues to vote no.

Mr. THURMOND. Mr. President, I yield 2 minutes to the Senator from Washington.

Mr. GORTON. Mr. President, our good friend and distinguished Senator from Delaware, the chairman of the Judiciary Committee, I regret to say, made a number of mistakes in connection with the bill which is before us now.

I believe his primary mistake to have been his failure to represent the position carefully thought out and voted upon over an extended period of time by the Senate, with respect to the most controversial issues connected with this bill.

Not only did he fail to represent that position, but he excluded the administration and Members of the Republican Party from any effective voice in writing this proposal. And it is presented to us on a take it or leave it basis. He can hardly expect the support of those who have been excluded from the process and whose views, when they were the views of a majority here in this body, have been ignored and rejected.

Most particularly, in the view of this Senator, he made a terrible mistake in rendering appeals and habeas corpus petitions on behalf of convicted persons more and not less complicated. He has reversed numerous decisions of the Supreme Court of the United States, which lead to both finality and to justice. As a consequence, he has the opinion of the National Association of Attorneys General, an organization of which this Senator was once President, who very substantially opposed to this bill, as not being one which improves the criminal code but which inhibits the search for justice.

For those reasons, regrettably, this cloture motion should be defeated, and we should start over again with a clean slate next year.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute, 23 seconds. The Senator from Delaware has 58 seconds.

Mr. BIDEN. Mr. President, I have been authorized by the leader to use up to 3 minutes of his leader time. So I assume I will have 3 minutes, 58 seconds.

I will respond to the last comment made——

Mr. THURMOND. Mr. President, I want to ask a question. Can someone else use the leader time, or do the leaders have to use it?

The PRESIDING OFFICER. The leaders are authorized to use their time, but the time can be used by others.

Mr. THURMOND. Would he have to be here to authorize that in person?

The PRESIDING OFFICER. The practice of the Senate is for the leader to be able to authorize it and for other Senators to be able to make that assertion without the leader being present.

Mr. THURMOND. We have already extended the time 10 minutes, I believe. We are ready to vote as soon as we can. How did the Chair rule on that?

The PRESIDING OFFICER. That the Senator from Delaware has 3 minutes of the leader time and 58 seconds of his own.

Mr. BIDEN. To my friend from the State of Washington, this legislation has had the most sought after views and effort of any piece of legislation anyone has ever had up here. I have met literally, over 300 or 400 hours, with every single Republican who wished to meet with me, with 16 different Republican Senators, 12 in the leadership office with Senator DOLE, with every single police organization in the country, with the leaders of the National District Attorneys Association, with the people sitting right here, with the Attorney General himself, personally, and with his representative for more time than the Senator from Washington has ever been near the Justice Department. I guarantee you that no piece of legislation has had the views of the U.S. Senate more than this one. No. 1.

No. 2. My friend from Texas, Senator GRAMM, says that he is disappointed that his tough gun provisions and sentencing did not get in. He did not mean it, probably, but his legislation weakened the gun law, because he allows increased penalties to run concurrent with other sentences. The Federal Sentencing Commission points out that the Senator's position weakened the penalties on gun laws, because they run concurrently and do not run as they do now, which is that you get convicted of one crime, of a gun crime, and it gets laid on top of your first conviction.

No. 3. Mr. President, you heard all this talk from the attorneys general and others, allegedly, disregarding that all of the police officers and their organizations support this crime bill—every single one. If that is the concern, I want my friend from South Carolina to listen, because I am about to propound a unanimous-consent request, if the concern is that habeas corpus is so terrible in this bill, and that is what weakens it and makes this a procriminal bill, because that is what the attorneys general say, nothing else, I point out to my friend from the State of Washington and my friend from the State of South Carolina.

UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of a concurrent resolution to correct the enrollment of H.R. 3371, the crime bill, that would strike title II, the habeas corpus provisions, from the crime bill; that there be no debate or amendments in order on the concurrent resolution; that the Senate proceed to vote without any intervening action or debate on the adoption of the concurrent resolution prior to the vote on cloture on the adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to ask my distinguished colleague whether he would be willing to accept a compromise that he reached with the Attorney General. That bill would include, as I understand—and we cannot amend a conference report, but we can introduce another bill today, if he will agree.

Mr. BIDEN. Mr. President, is there objection to my unanimous-consent request?

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, until we know more about what it is, yes. If the two Senators want to work something else out, I object now, and I will suggest the absence of a quorum.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I ask my distinguished colleague this: You worked with the Attorney General on the bill, and we understood you reached an agreement.

Mr. BIDEN. Not so.

Mr. THURMOND. He says you did.

Mr. BIDEN. No, he does not.

Mr. THURMOND. We will go from here. Would you agree that you and I introduce another bill today—listen now—that would include the Senate passed Brady provision, the administration's death penalty, no exclusionary rule, the power to make a habeas corpus proposal, and all the money for law enforcement. Would you agree to join me in introducing such a bill today?

The PRESIDING OFFICER. The time allotted to the Senator has expired.

The Senator from Delaware has 1 minute and 10 seconds.

Mr. BIDEN. The answer is "no."

Mr. THURMOND. There you go. I knew that would be the answer.

Mr. BIDEN. Mr. President, with the remaining time I have, the Attorney General and I reached no agreement on that. I never said we reached an agreement on that, No. 1, and No. 2, I want to point out that last night the police mediating the agreement of the Attorney General and me to reach a compromise in this reached the solution and came up like mediators do with a proposal. We agreed to pursue it. The Attorney General concluded he could not live with it. Therefore, the old sticking point is habeas corpus. I agreed to drop it out, if it is so bad. It is not so bad. But I did it anyway. If it is so bad drop it out of the bill. I made that proposal. Within the rules I am able to do that. Obviously, they did not want to do that.

This is all about guns, Mr. President. We have 55 to 57 votes for this. We have been prevented for 300 days. There has been a filibuster to prevent us from voting on a tough crime bill.

I yield back my time.

Mr. THURMOND. Mr. President, I understand the time out.

I ask unanimous consent to print two letters here from the Attorney General in the RECORD confirming that agreement.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, September 25, 1992.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you outlined with me orally Wednesday night, and as further discussed yesterday, the following are the elements of a possible compromise crime bill:

1. The President's death penalty provision (set forth in the Gekas amendment passed by the House this Congress) plus a provision on jury instructions—attached at Tab A;

2. The Powell Commission habeas corpus provisions (set forth in the Hyde amendment passed by the House in 1990);

3. Your authorization provisions (see attachment at Tab B) plus the equal funding for habeas provision [section 208 of the conference report] as you and I discussed;

4. The Mitchell/Dole waiting period provision from the conference report [Title V Subtitle A] with proposed new section 18 U.S.C. 922(s)(7)(B) deleted, so that proposed new section 18 U.S.C. 922(s)(7) now reads:

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages for failure to prevent the sale of transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section."; and

5. No other provisions will be included in the package unless mutually agreed upon by us.

This letter will confirm, as you were told yesterday, that this package would be acceptable to the Administration.

Sincerely,

WILLIAM P. BARR,
Attorney General.

COMPROMISE LANGUAGE ON IMPOSITION OF DEATH PENALTY

On page 30 of S. 2305, line one, after "factors." add the following:

"In weighing aggravating and mitigating factors, the jury, or if there is no jury, the court, shall consider both statutory and nonstatutory mitigating factors, and any member of the jury who finds the existence of a mitigating factor and any member of the jury who finds the existence of a mitigating factor as provided in subsections (c) and (d) may consider the factor regardless of the concurrence or non-concurrence of other members of the jury concerning the establishment of the factor."

On page 30 of S. 2305, line ten, after "warrants." add the following:

"The jury shall be further instructed that the court will impose a sentence other than death that is authorized by law if the jury does not recommend a sentence of death. The jury shall be informed of the sentences other than death that are authorized by law for the offense or offenses for which the death penalty is sought, including the fact that life imprisonment without possibility of release is an authorized sentence."

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991 CONFERENCE REPORT TO ACCOMPANY H.R. 3371

Program	Authorization	Body	S. 2305
Brady bill	$100,000,000	Senate	No.
National Child Protection Act (§ 911).	20,000,000	......do......	Yes (§ 741).
Safe Streets (§ 1101)	1,000,000,000	......do......	Yes (§ 901).
DNA Identification (§ 1121).	2,000,000	House	Yes (§ 1288).
DOJ Community Substance Abuse Prevention (§ 1131).	15,000,000	......do......	Yes (§ 1062).
Cop-On-The-Beat (§ 1151)	150,000,000	......do......	Yes (§ 961).
Drug Testing Upon Arrest (§ 1161).	100,000,000	......do......	Yes (§ 1064).
Midnight Basketball (§ 1181).	2,850,000	......do......	No.
Juvenile Drug Trafficking and Gang Prevention (§ 1191).	100,000,000	Senate	Yes (§ 511).
Trauma Centers (§ 1195)	50,000,000	House	Yes (§ 995).
Alternative Punishment for Young Offenders (§ 1198).	200,000,000	......do......	Yes (§ 523).
Law Enforcement Family Support (§ 1201).	5,000,000	......do......	Yes (§ 993).
Police Corps (§ 1231)	100,000,000	Senate	Yes (§ 935).
Law Enforcement Scholarships (§ 1241).	30,000,000	......do......	Yes (§ 942).
Federal Law Enforcement Agencies (§ 1301).	345,000,000	......do......	Yes (§ 1402).
DEA	100,500,000		
FBI	98,000,000		
INS	45,000,000		
U.S. Attorneys	45,000,000		
U.S. Marshals	10,000,000		
BATF	15,000,000		
U.S. Courts	20,000,000		
Federal Defender Service.	12,000,000		
U.S. Attorney's Office	35,000,000	Senate	Yes (§ 1284).
Drug Treatment in Federal Prisons (§ 1404).	such sums	......do......	No.
Regional Prisons (§ 1405)	700,000,000	......do......	No.
Boot Camps (§ 1406)	150,000,000	......do......	No.
Residential Substance Abuse Treatment for Prisoners (§ 1421).	100,000,000	House	Yes (§ 1063).
Mandatory Literacy (§ 1422).	10,000,000	Senate	Yes (§ 994).
Rural Law Enforcement (§ 1501).	50,000,000	......do......	Yes (§ 1054).
Rural Drug Enforcement Training (§ 1504).	1,000,000	......do......	Yes (§ 1053).
Rural Drug Prevention (§ 1511).	25,000,000	......do......	Yes (§ 1055).
Drug Emergency Areas (§ 1601).	300,000,000	House	Yes (§ 1061).
Missing Alzheimers Patients (§ 2101).	1,000,000	Senate	Yes (§ 991).
Safe Schools (§ 2901)	100,000,000	House	Yes (§ 1289).

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, September 25, 1992.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: I received your letter of September 25. I must disagree with your recounting of events.

First, your statement that the Administration never showed any willingness to move beyond our first position on habeas is simply not true. We have come a long way. We dropped "full and fair" and court time limits.

I must also disagree with your characterization of our September 23 evening discussion as you merely offering to try to sell my best offer. On the contrary, we negotiated a package that we both agreed was an acceptable basis for compromise and would actively try to sell to our principals. In this context, you specifically agreed to accept "pure" Powell as part of the package. Further you insisted that we drop court time limits on habeas in return for the President's death penalty, which I agreed to.

It certainly was not my understanding that you would wait to hear back from me before discussing the compromise package with your colleagues. My recollection, as confirmed by your staff the next morning, was that we would both simultaneously try to sell this 4-point compromise to our principals. And I did that.

I certainly don't recall anything about a 12:00 noon deadline, and, in any event, I understand that Jim Baker placed his first call to you before noon and placed a second call at 12:40; these and further calls were not returned by you to Mr. Baker until late in the day. In any case, I cannot understand how a deal that would have been acceptable at 12:00 noon would not be acceptable shortly thereafter.

Your counterproposal seems to be a hardline retread of positions you took much earlier in the negotiations. Your counterproposal on habeas is one that you know is unacceptable; it is precisely the same proposal that you acknowledged Wednesday afternoon could not be a basis for compromise.

I urge you to proceed with the 4-point compromise we crafted Wednesday night and which the Administration has accepted. It reflects a true compromise, and it is certainly the best chance to get any legislation passed. There is little doubt that, if the leadership permits a vote on this package, it would pass both houses by substantial margins.

I urge you to move forward with the package we agreed upon Wednesday night.

Sincerely,

WILLIAM P. BARR,
Attorney General.

Mr. BIDEN. Mr. President, I ask unanimous consent that the statements of Dewey Stokes, president, National Fraternal Order of Police, and Sarah Brady be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

[Transcription of Crime Press Conference, Oct. 1, 1992]

STATEMENT OF DEWEY STOKES, PRESIDENT, NATIONAL FRATERNAL ORDER OF POLICE

Since November, when this went into what I call gridlock seventeen thousand people have died, many more wounded, and I asked the Congress, those Senators, to look in the eyes, the victims, the victims of these crimes. Sarah Brady is a victim of this crime. How can four of you deny two hundred and fifty-five million Americans, the right to bring about crime control and a crime bill that will stop some of the violence in America. How can you do that? Whoever you are, whether you are Republican or Democrat, you are elected to represent the people of the United States. At every poll, even the NRA poll of the membership, says we want the Brady Bill. We don't see any impediment. It does not deprive them of the right to own a firearm, under no circumstances. It gives us the right to make sure that those people who buy a firearm are not a convicted felon and are not mentally incompetent. And to stop a crime bill that is going to protect our people our law enforcement officers on the streets the highways and the institutions of this country is repulsive to me, and it should be to the American people. I would ask you to ask them, "Call those Senators. Give us the privilege and the right to listen to the vote of America."

STATEMENT OF SARAH BRADY

The law enforcement community and I started about six years ago working for the Brady bill. We have been to more press conferences together than you could shake a stick at. We have met all over the country and we've been fighting for one thing. During those six years, three Congresses, over 100,000 people have died, cops getting shot, I keep getting heckled, more cops died, and nothing has happened. And here we are at the very end of yet another Congress, where at the bitter end something has to happen, and I am going to be sure it does this time. I am tired of listening to excuses. I am tired of having to go back to the people all over this country who support us and say that politics as usual is keeping us from passing the Brady bill legislation that will save lives in this country. We're going to get it done this time. And tomorrow we have a sure-fire way of doing it. And I am going to say "Shame on any Member of Congress who keeps that from happening, "Shame" on any member of the administration that keeps that from happening. We have got to save lives today. Otherwise, we lost sixty five within the next twenty four hours, and sixty five more lives the next day, cops will continue to get shot, and I will continue to get heckled, but the lives cannot go on.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 3371, the omnibus crime control bill:

Kent Conrad, Herb Kohl, George Mitchell, David Pryor, Joe Biden, Wyche Fowler, Jeff Bingaman, Al Gore, Tom Daschle, Tim Wirth, Jim Sasser, Richard Bryan, Edward M. Kennedy, John F. Kerry, Daniel Moynihan, Christopher Dodd.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the call of the roll, pursuant to rule XXII, is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Omnibus Crime Control Act conference report accompanying H.R. 3371 shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nevada [Mr. REID] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—55

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NAYS—43

Bond
Breaux
Brown
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Johnston
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—2

Durenberger
Reid

The PRESIDING OFFICER (Mr. BRYAN). On this vote, the yeas are 55, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I am pleased to say righteousness prevailed on that vote. Although we did not pass a tough crime bill, I would like to thank my staff, who worked tirelessly in this endeavor. Manus Cooney provided able counsel, as did Thad Strom. Beverly Gastright and Krista Ellis also provided valuable assistance.

Mr. BIDEN. Mr. President, I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I do not have a claim on righteousness. I am extremely disappointed we are going to adjourn without having done anything on the crime bill. I stand ready to work with my friend from South Carolina next year to try, once again, to get a crime bill.

I thank my colleagues for their indulgence.

Several Senators addressed the Chair.

The PRESIDING OFFICER. There is a regular order.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to say we can pass a crime bill today with what I understood had been agreed to with the Attorney General anyway. It would include the Brady bill, the Powell committee recommendation on habeas corpus, President Bush's death penalty bill, and all of the proposed funding. If the distinguished Senator from Delaware wants to work with me, we can get a bill today and pass it.

NATIONAL INSTITUTES OF HEALTH AUTHORIZATIONS

MOTION TO PROCEED

The PRESIDING OFFICER. There will now be 1 hour equally divided for debate on the motion to proceed to S. 2899.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I know the Senator from Massachusetts is anxious to move forward. I know the Senator from North Dakota and myself would like to say a few words. I do not know the subject she would like to speak about. I would like to speak about the defeat of this and the relationship to the Brady bill. She needs 3 minutes, and I need 10 minutes. Would the Senator from Massachusetts object to a unanimous-consent request?

Mr. KENNEDY. Mr. President, in my heart, I would be glad to accommodate.

The majority leader has set times to proceed. I am trying to conform with what he indicated to me.

Mr. METZENBAUM. He knew we were going to make this request. I just feel so strongly about what has just transpired that I would like to take a few minutes to express myself.

The PRESIDING OFFICER. As the Chair understands the parliamentary situation, it would require unanimous consent of the body to provide the time that is requested by the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the regular order be set aside for a period of 3 minutes for the Senator from North Carolina [Mrs. BURDICK], and 10 minutes for the Senator from Ohio, with no intervening business and having no further impact upon the regular order as has been provided heretofore.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. BURDICK addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mrs. BURDICK. Mr. President, I ask unanimous consent that I be recognized to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKS FOR WARM WELCOME AND SUPPORT

Mrs. BURDICK. Mr. President, I want to thank each and every one of the Members of this distinguished body for the warm welcome and support I have received in my short time as a U.S. Senator.

My husband served in the Senate throughout our 32 years of marriage, always putting North Dakota's interests first. I have tried during these short weeks to complete Quentin's unfinished business, to assist his excellent staff as they explore new challenges, and to represent North Dakota's interests in all matters before the Senate. I hope that in some small measure, I have met each of those goals.

My husband was the first Democrat North Dakotans ever elected to the U.S. House of Representatives. I am honored to be the first woman to represent North Dakota in Congress. My appointment also made history for being the first time three women have served in the U.S. Senate at the same time. I hope that the 103d Congress will find many more women seated in this body.

My great grandmother, Matilda Joslyn Gage, was an early suffragist and feminist theologian who fought on the front lines of the struggle for human freedom, dignity, and the vote for women. She had a motto: "There is a word sweeter than mother, home, or heaven. That word is liberty."

To further the goal of liberty and the cause of equal rights, I have asked to be added as a cosponsor of the equal rights amendment, the Freedom of Choice Act, the Economic Equity Act, the Violence Against Women Act, and the Women's Health Equity Act. I am also proud to have cast my votes to override the President's vetoes of the Family and Medical Leave Act and the Pregnancy Counseling Act.

It is a tremendous honor for me to serve in this body. Once again, thank you.

The PRESIDING OFFICER. The Senator from Ohio is recognized pursuant to the unanimous-consent agreement.

Mr. METZENBAUM. Mr. President, I want to first commend my colleague, Senator BURDICK, for her remarks. More important, I wish to commend her for her able service. She has filled the shoes of our distinguished friend and colleague, Senator Quentin Burdick, and we are all very pleased and privileged to have had an opportunity to work with her.

She has attended to her duties properly and promptly and has been willing to stand up and be counted on the issues. I consider it a real privilege that I have had a chance to sit next to her during this period.

We are going to miss her.

Mr. KENNEDY. Mr. President, I, too, want to join in commending Senator BURDICK. As I mentioned on other occasions, I had a chance to serve with Senator Quentin Burdick for a considerable period of time, since he was an institution in the Senate when I first arrived here.

I have noticed over the period of these last days Senator BURDICK pouring over reports, reading majority and minority opinions about different parts of the legislation. That is something all of us are supposed to do. I notice Senator BURDICK developing a command of these complicated issues in a very thoughtful and studious way and bringing a very important and balanced judgment to these matters.

I, too, join in commending her and pay tribute to her and to the people of North Dakota for giving us the opportunity of serve with her.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the time taken up between Senator KENNEDY and myself in connection with Senator BURDICK'S remarks not be charged against the time.

Mr. CONRAD. Will the Senator from Ohio yield for a brief comment?

Mr. METZENBAUM. Of course. I did not know the Senator was seeking the floor. I apologize.

Mr. CONRAD. I thank very much my colleague from Ohio.

I wanted to add my voice, Mr. President, to those who have spoken about my colleague, Senator BURDICK. It has been an absolute joy to have her join us in this Chamber. She has proved to be extraordinarily diligent in the work of the Senate, and I think we find a true affection in this body for her. I only wish that her service in this Chamber were going to be longer because I think she has already demonstrated she is an outstanding Member of the Senate.

She is independent minded; she is strong; she is an advocate for our State; and I think she is the best kind of U.S. Senator. I thank the Chair, and I thank my colleague from Ohio.

OPPOSITION TO THE BRADY BILL

Mr. METZENBAUM. Mr. President, the American people have just suffered a tragic loss. Let us not kid ourselves. The conference report on the crime bill was killed because of opposition to the Brady bill.

The President and my colleagues on the other side of the aisle have used habeas corpus as a smokescreen. We have fiddled while felons continue to buy guns without any difficulty. We have fiddled while the police plead for the Brady bill. We have fiddled while the American people wonder why this commonsense measure cannot become law.

The most effective anticrime provision in the conference report is the Brady bill. It will keep guns out of the hands of felons. The Brady bill will save lives and be of tremendous help to the police of this country. They supported it wholeheartedly. This Congress, this Senate has let them down. My colleagues on the opposite side of the aisle and the President of the United States have turned their backs on the police of this country.

I fear that the President and his allies in the Senate would rather carry out the will of the National Rifle Association than carry out the will of the American people. The Brady bill passed the Senate by a 2-to-1 margin last year. Polls show that over 90 percent of the American people support this measure. Every single major law enforcement organization in the country supports the Brady bill. Four former Presidents—Presidents Reagan, Carter, Ford, and Nixon—support this measure. And you would be hard pressed to find a major newspaper anywhere in the country that opposes the Brady bill. There are not too many pieces of legislation that command that kind of support. But then there are not too many pieces of legislation that are as sensible as the Brady bill.

Here is a measure which can work and is supported by an overwhelming majority of the American people, by an overwhelming majority of gun owners, and by law enforcement. The American people are right to wonder why cannot this piece of legislation pass? Why cannot it be enacted into law?

The failure to enact the Brady bill is a textbook example of why the American people are losing their faith and confidence in our ability to address the Nation's problems.

The President has the failure of the Brady bill lying right on his doorstep. He opposed it. My colleagues on the other side of the aisle, with few exceptions, opposed it.

A well-funded, single issue, special interest group, the National Rifle Association, has turned this issue into a litmus test, and the President and many Members of Congress have shown themselves to be unwilling to stand up to this special interest group and do what is right for the American people.

Those who object to the Brady bill want to thwart the will of the overwhelming majority of our citizens. They would rather cave in to the wishes of the special interest extremists at the NRA than enact a special measure that will save lives and help the police.

NRA is wrong on this issue, and so is the President of the United States, dead wrong. But that is no surprise. The NRA has vehemently fought every reasonable piece of firearms legislation that has come down the pike. It does not matter to the NRA that the American people want the Brady bill. The NRA does not care that the vast majority of gun owners want the Brady bill. And the NRA does not even care that the police officers of this country are pleading with the Congress to enact the Brady bill so that they can feel just a little safer as they go about their job.

No; Mr. President, the NRA does not care what the cops think about this amendment. When the police officers plead for enactment of the Brady bill, time and time again the NRA responds by saying in essence that the cops do not know what they are talking about. The NRA's Washington lobbyists think they know better. That is absurd. Who do you think knows what is better for the cops on the street, the police officers themselves or the NRA's Washington lobbyists? We should have the courage to stand up to the NRA and do the right thing.

On September 28 of this year, former Presidents Reagan, Carter, Ford, and Nixon wrote a letter urging Senators to "put aside partisan politics and do what is right for the American people." The letter went on to say that these four former Presidents "strongly urge every Senator to stand up for the Nation's law enforcement community as well as for public safety by voting for the Brady bill and sending it immediately to President Bush, whom we urge to sign this important bill."

That letter from the last four Presidents of this country underlines the broad support for the Brady bill. The support is broad for the simple reason that the Brady bill makes sense and the American people want it to become the law of the land.

There is still time to enact the Brady bill. I call upon the President of the United States to send word to those who work with him on the other side of the aisle to join with us, let us pass the Brady bill in the closing days of the session. We can do it if the President will put his shoulder to the wheel and prevail upon those who stand in the way of progress on this important subject. We can save lives.

Let us go out of the Senate in a blaze of glory knowing that we have passed the Brady bill and that the President of the United States has pitched in to help, not to deter its passage.

Mr. President, I thank my colleague from Massachusetts for devoting me this extra time. I yield the floor.

THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

CLOTURE MOTION

The PRESIDING OFFICER. Under the regular order, there will now be an hour for debate equally divided on the motion to invoke cloture on the motion to proceed to S. 2899, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S. 2899, a bill to revise and extend programs of the National Institutes of Health:

Paul Simon, Harry Reid, Frank Lautenberg, George Mitchell, Carl Levin, Jim Sasser, Joe Biden, Daniel K. Inouye, Alan Cranston, Tom Harkin, Edward M. Kennedy, Howard Metzenbaum, John F. Kerry, Paul Wellstone, Jay Rockefeller, and Brock Adams.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, the legislation now before the Senate to reauthorize the National Institutes of Health is a major opportunity to enhance America's leadership and excellence in biomedical research through the end of this century.

The pending bill is a modified version of the legislation that passed the Senate on June 4 by a vote of 85 to 12. It was vetoed by President Bush, and the House of Representatives failed by 14 votes to override the veto. Because this issue is so important, we are trying again, with compromises on several key issues, including fetal tissue transplantation research, in the hope that this important bill can be enacted into law this year.

This new bill is a good-faith effort to meet the concerns raised by the President in his veto message.

The most controversial issue continues to be fetal tissue transplantation research. The new bill gives the President's proposed tissue bank a year to become operational, starting from last May 19, the date of the President's Executive order establishing the bank. After May 19, 1993, researchers must continue to apply to the bank for tissue, but if the bank is unable to provide suitable material, the researchers are then free to obtain it from other sources.

The new bill contains all the safeguards in the previous bill to prevent abuses in fetal tissue transplantation research. Under these safeguards, a clear separation is maintained between a woman's decision to have an abortion and her decision to donate the tissue for research.

Many of us have serious reservations about the tissue bank proposal, which would restrict tissue to what is available from spontaneous abortions and ectopic pregnancies. The administration's estimates of the amount and quality of the tissue that would be available from the bank under these limitations are extremely dubious, and may well bear no relationship to reality. Many NIH officials themselves are clearly blowing the whistle on the bank as a realistic option. They are obviously extremely upset over the way these estimates were prepared and furnished to Congress. There are serious doubts that the tissue will be suitable for research. A top NIH official is reported as saying that senior HHS officials, in fact, misrepresented the amount of tissue that could be collected for the bank each year.

A group of researchers at Columbia University who conducted a study of tissue obtained from all spontaneous abortion specimens at a large Manhattan hospital from 1974 to 1986 have stated categorically that the current NIH plan for the tissue bank cannot be expected to produce sufficient numbers of usable specimens of fetal tissue for research.

Our concern is that political ideology is overruling basic science, and that the research doctors at the NIH are being abused by the spin doctors at White House. NIH has earned enormous credibility with Congress, the country, and the world. Researchers are clearly distressed at what HHS is saying and doing in their name. If this tissue bank is the sham it now seems to be, then valuable research is being unconscionably delayed.

The compromise proposal in this legislation is eminently reasonable. We have given the administration the benefit of the doubt—for another year. If this tissue bank goes the way of the S&L banks, then beginning in May of 1993, scientists will finally have an effective source of tissue for their research. And the victims of Parkinson's disease, Alzheimer's disease, diabetes, spinal cord injuries, and other presently incurable afflictions will have the new hope that they deserve, and that has been unreasonably denied the past 5 years.

The issue is not whether abortion is legal or not. It is what happens after an abortion, and whether tissue from an abortion may be used to save another life, or must be simply thrown away.

This bill will not cause more abortions. Women do not have abortions in order to donate to research. After 5 years of debate and a thorough review of other research projects around the world, there is no evidence that such research is any incentive whatsoever to abortion.

The question is whether urgently needed medical research is to be carried out in accord with sound medical research priorities and public health priorities, or whether it is to be dictated by the most extreme zealots at the Republican Convention in Houston.

Every citizen has a stake in this legislation. Every family that has suffered the tragedy of Alzheimer's disease in a loved one has a stake in this legislation. Every family that has suffered from diabetes, or Parkinson's disease, or a spinal cord injury has a stake in this legislation, because research involving fetal tissue may hold the only hope of medical progress against these devastating afflictions. Those who delay such research because they want to play the rightwing politics of abortion are playing with real people's lives in every community in America.

In his other objections to the bill, the President opposed the levels of the authorizations, and the method of appointment of the Ethics Advisory Board. Our bill makes the following modifications to address these concerns.

First, the earlier bill contained 17 specific authorizations for fiscal year 1993, and authorized such sums as may be necessary for fiscal years 1994 through 1996. The administration objected to the specific levels, and 13 of the 17 have been modified to such sums as may be necessary for 1933.

Because of their special importance, four specific authorization for 1993 were not changed, relating to breast cancer, other gynecological cancers, prostate cancer, and osteoporosis research.

Second, in the original legislation, if the Ethics Advisory Board found that proposed research was ethical and should proceed, the Secretary could not override the decision. In response to concerns that the Secretary should have the final say in such matters, a provision has been added to allow the Secretary to review the decision of the board and set it aside, if the Secretary finds that the Board's decision is arbitrary and capricious. This common and well-known standard of review will provide both the researchers and the Secretary with clear guidance on the course to be pursued.

The opposition to this legislation is also delaying another vital area of research and reform. The women's health provisions of this bill are critical. Progress is being made at the NIH because of the leadership of Dr. Bernadine Healy. But we have no guarantee that this progress will continue under future NIH Directors.

For many years, women have been shockingly neglected in clinical research. In 1985, the Public Health Service Task Force on Women's Health Issues released a report assessing the status of women's health. One of the task force's principal recommendations was that biomedical and behavioral research should be expended to assure adequate emphasis on diseases prevalent among women in all age groups.

The failure to include women as subjects of research at NIH has had serious consequences. Heart disease claims the greatest number of women's lives. Yet all of the major studies on the causes and prevention of heart disease have been limited to men.

A 1988 study of 22,000 physicians funded by the Heart, Lung, and Blood Institute found that aspirin prevents heart attacks in men. Doctors subsequently recommended that older men at increased risk for heart disease take an aspirin every other day. They specifically stated, however, that they could not offer women the same advice. That discrepancy is a shocking indictment and proof of blatant sexism in medical research that must be rooted out immediately.

In addition, no women were included in a major study that examined premature heart disease in 13,000 men over a period of 15 years. Nor were women included in the 15-year coronary primary prevention trial that studied the effects of lower cholesterol levels in 4,000 men, despite evidence that women's cholesterol levels typically increase after menopause and are affected by factors such as smoking or the use of oral contraceptives.

The lack of research on women's health has resulted in second rate care for women. Recent studies show that women receive less effective health care than men in many other ways, not just in treating heart disease.

This legislation establishes permanent statutory authority for the Office of Research on Women's Health to oversee new plans and policies for addressing women's health concerns in each of the NIH institutes. It specifically requires women to be included in research projects supported or conducted by the NIH.

More than 180,000 cases of breast cancer will be diagnosed in 1992, and 46,000 women die from the disease. Every 12 minutes a woman dies of breast cancer. One in every nine American women will develop breast cancer at some point in their lives. The incidence of breast cancer is lower in African-American women than among white women, but the death rate for breast cancer is higher than in white women. If we relegate breast cancer research to second-class status, we cannot effectively target strategies for prevention, cure, and treatment. We must develop new avenues of research and attract new investigators. Research funding must be increased to support these efforts. New research initiatives are needed.

Ovarian cancer is the fifth leading cause of cancer death in women. Every year 20,000 new cases are diagnosed and 12,000 women die from the disease; 13,000 cases of cervical cancer are diagnosed each year and 6,000 women die from it.

NIH has not done enough in any of these areas. During fiscal year 1992, the National Cancer Institute will spend $133 million on breast cancer research, $32 million on cervical cancer research, $10 million on uterine cancer research and $20 million on ovarian cancer research. The NCI by-pass budget, reflecting the professional judgment of the National Cancer Institute, feels that a fiscal year 1993 budget of $430 million is needed to continue progress in the prevention and treatment of breast and other gynecological cancers.

The pending bill authorizes the National Cancer Institute to expand, intensify, and coordinate all these research efforts. The NCI would develop a comprehensive plan emphasizing prevention, early detection and treatment of breast cancer. It would submit to Congress a biennial report on all activities, a description of the plan, an assessment of its implementation, and an evaluation of the progress made in research on cancer in women.

The bill authorizes an additional $325 million to expand breast cancer research activities and an additional $75 million for ovarian, cervical, and other cancers of women's reproductive system.

Osteoporosis affects 24 million Americans. Its prevalence is expected to double in the next 30 years because of the aging of the population. It is responsible for over 1 million fractures a year in women. The rate of hip fractures is two to three times higher than for men. Spinal osteoporosis is eight times more likely to afflict women then men.

Currently, the annual cost of treating osteoporosis is $10 billion. The average cost per hip fracture patient requiring hospitalization and institutionalization is approximately $30,000. These costs are expected to increase as the baby boom generation retires. If current trends continue, the cost will reach $30 billion a year in 30 years. The pending bill authorizes $40 million to intensify basic, clinical, and behavioral research on osteoporosis and related bone disorders, and to establish an information clearinghouse to enhance the understanding of bone disorders by health professionals and the public.

These women's health provisions are essential to assure that the history of neglect of women's health will not be allowed to continue. The women of America deserve their fair share of health research conducted with Federal funds. They deserve a chance to participate in clinical trials. They deserve a change to lead healthy and fulfilling lives. A veto of this bill would be unconscionable. It would elevate the ideological politics of extremists on abortion over the reality of the need to end the shocking discrimination that exists in women's health research.

This legislation is far more than lifting the ban on fetal tissue transplantation research, important as that is. In addition to the women's health initiatives, it also contains the following priorities:

A separate children's vaccine initiative to develop affordable new and improved vaccines for the prevention of other infectious diseases.

A study of the safety and effectiveness of HIV vaccines for treatment and prevention of HIV infection in women, infants, and children.

A program to increase the competitiveness of research proposals in states whose facilities have experienced low success rates in obtaining research awards from the NIH.

A prostate cancer research program to expand and strengthen this research at the NIH. A prostate cancer prevention program at the CDC will provide early detection, screening, and prevention services for high-risk and low-income individuals.

A child health research center program to speed the transfer of knowledge gained from basic research to clinical applications that will benefit the health of children. Centers for basic and clinical research on cardiovascular disease in children will also be established.

A juvenile arthritis program to expand research into the cause, diagnosis, early detection, control, treatment, and rehabilitation of children suffering from arthritis and related diseases.

New Federal policies will be developed on scientific misconduct, conflicts of interest, and prevention of retaliation against whistleblowers in connection with NIH research.

The past decade has confirmed the wisdom of funding for biomedical research. The NIH continues to produce impressive advances that improve the health of people everywhere. Over the past 2 years, we have witnessed tremendous growth in our understanding of disease. In areas such as the identification of the cystic fibrosis gene, NIH-supported research has resulted in numerous practical applications that bring the benefits of research to the bedside of the patient as rapidly as possible.

We all know the vital importance of biomedical research and the central role of the NIH. This major legislation should never have been vetoed in the first place. With these good-faith revisions, this compromise bill deserves to be enacted, and I urge the Senate to approve it by a margin sufficient to demonstrate that any veto would be overridden.

President Bush knows what is in this legislation. It would be an outrage if the President hides behind the 10-day period he has to sign it, and then pocket vetoes it to prevent Congress from acting to override the veto.

I want to, at the outset of this debate, commend the Senator from Washington for all of his work, particularly on the fetal transplantation issue. We have not been able to have an NIH bill that has dealt with that issue for a number of years, and I think to the greatest extent, the work that the Senator has done and the hearings that were held, helping to respond to many ideological issues and questions and to it in a responsible way, has added immeasurably to this very important phase of this particular legislation.

I also commend Senator MIKULSKI from Maryland, who was instrumental in fashioning and shaping the women's health package.

I thank the Senator from Washington.

Mr. ADAMS. Mr. President, I thank the chairman of the committee for his kind remarks and I express my appreciation to him for the great work he has done during this last year. I think that was a magnificent statement the chairman gave on the movement on women's health issues, in this Senate and on the particular importance of lifting the ban on fetal tissue transplantation research.

I agree completely that this should not be a political issue. I am hopeful that the Senator from Utah, who is my good friend, and who has been very cooperative on the committee, might help us pass this legislation. I hope in particular he would help with this cloture motion, so that we can pass legislation on behalf of the National Institutes of Health.

Many of my colleagues have come to me and asked, "Why do we have to take this bill up again when we adopted it 87 to 10 last April?"

Well, the reason is that the President vetoed this bill, and it is my understanding that the veto was primarily because of the fetal tissue transplantation research provision. I held the hearings, and I have dealt with the people most affected by this matter. I feel strongly about it. I have talked with many doctors about it and I have talked to the people who suffer from diseases. These people look forward with some hope to advancing this research—this is their only chance and only hope.

We have tried to compromise with the Senator from Utah, with this bill before us. I think it is a fair compromise, and I hope he supports us on this. I hope he supports it, because I would like to see 100 votes in support of this cloture motion.

Let me talk about why it is so vital that we pass this legislation today. Let me explain what the emergency is.

First, there are too many lives at stake. There are millions of Americans with juvenile diabetes, which can cause early blindness and early death; Parkinson's disease; Alzheimer's disease; spinal cord injuries; inborn genetic diseases; and they cannot wait for a cure any longer. People forget that the polio vaccine by Dr. Salk came from fetal tissue research.

I want to explain a case to show you why this research is important for people who are living today with these other diseases. It is absolutely vital that we pass this motion and the bill and that it not be vetoed.

I want to talk about Joan Samuelson for a moment. She has Parkinson's, and every day that we postpone lifting this ban, which was put in place by an administration official, not by the law, it means a greater loss of Joan's ability to speak and to move.

Let me spell it out for you so that you can understand. This is not an issue that is a theoretical thing. This is personal with me and with the people that have these diseases.

Joan first testified before the House committee in April 1990. She had full use of her right arm and partial use of her left arm. Today, she has no control over her left arm and is losing use of the so-called good right arm. Her only hope, her only chance, is fetal tissue transplantation research, which shows some promise with patients with Parkinson's disease.

I saw Mo Udall, our great colleague in the House of Representatives, just reduced to almost nothing by Parkinson's disease. His family was hopeful up to the day that this bill was vetoed that there might be an opportunity that he would be eligible for a fetal tissue transplantation. Believe me, these people are prepared to participate in this research. Otherwise, they will never be helped.

The second reason given—and I respect the fact that people have strong feelings on abortion, but this is not an abortion issue, as the chairman stated. We wanted to give the President's fetal tissue bank a chance to work.

That is why I hope everybody will vote for this cloture motion; vote "aye" because a new provision in the bill allows the bank to get up and be running by May 19, 1993.

This is a year after the President established the tissue bank by Executive order. At that time, researchers may apply for tissue from spontaneous or ectopic pregnancies from the bank.

So we have given the President what he wants. The compromise was, after 14 days, in this bill, and after this year of experimentation, to see if there is enough tissue, which we do not believe there is, and no doctor believes there is. If after 14 days there is no usable tissue available, researchers would be permitted to carry out the research with fetal tissue from other sources. That is a fair compromise.

This allows time for the President's bank to work; even though we do not believe it will, it gives that chance.

Senator HATCH has so well argued that it ought to have a chance. In the months before he died, Ted Weiss, our House colleague's staff uncovered NIH internal documents that revealed that the NIH officials themselves had serious reservations about using tissue from spontaneous abortions or ectopic pregnancies for transplantation into human beings.

But we have given the opportunity for this to happen even though people are dying and people will lose their lives every day we delay. I just hope that we can get on with this research and save lives. It is time to put ideology and politics aside so that critically important research can go forward and people can have some hope.

The compromise we are taking up today allows for the President's view to prevail. But if it is not scientifically feasible—what I am interested in here—after 1 year, if researchers cannot obtain tissue from the bank, after 14 days they can go to any other source for tissue. This heeds the recommendation of over 40 national medical, disease, scientific research organizations that say "lift the ban."

I point out that the authors of this bill—and I am proud to be part of it—did not pick an arbitrary timeframe, as some suggested. In fact, we followed the recommendation of the President's own chief health policy officer. It was Assistant Secretary Mason who said:

> NIH will move swiftly to establish the tissue bank and we anticipate that it will be in full operation in a matter of months.

The bill provides more than a few months for this tissue bank to become operational. It allows for a full year. I do not think we should have any problems with the President or his supporters. I just would like to hold him to his word and that of his own blue ribbon panel. His own panel said, "Lift this ban so that we can conduct research and we can move ahead and guard against any abuse this bill does."

I close by saying I urge my colleagues to vote again for cloture and for this bill. We voted 87 to 10. We should do it again. I hope this time it is 100 to nothing and we have cloture on this bill to proceed.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. Mr. President, I inquire how much time is available.

The PRESIDING OFFICER. 7 minutes and 11 seconds.

Mr. WELLSTONE addressed the Chair.

Mr. ADAMS. The Senator from Utah, who, I assume, is in opposition to this, has not had an opportunity to use any of his time so the Senator will wait a moment.

Mr. WELLSTONE. Mr. President, if the Senator will yield, I talked to the Senator from Utah. He said it will be all right for me to proceed.

Mr. ADAMS. I yield 4 minutes to Senator WELLSTONE.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 4 minutes.

Mr. WELLSTONE. Mr. President, I believe it is more critical than ever that we pass this NIH reauthorization bill, with its very important promise for millions of Americans who can benefit from its research programs.

There is so much here for people suffering from disease. The bill supports major initiatives in women's health. For the first time, there is a requirement that women be included in research projects supported or conducted by NIH. Previous investigations into AIDS, heart disease, and other life-threatening conditions have all but ignored how those diseases may develop differently in women, and the different responses women may have to potential therapies. We know, for example, that women who are HIV positive have a much shorter life span than men with HIV. We must use our resources to find out how we can intervene for these women, and, until we find a cure, at least understand the barriers to treating them, and how to overcome those barriers. Including women in NIH clinical trials will give us important new information that we can use to save lives.

The bill also expands funding for research into diseases that strike women exclusively. It would fund research efforts on breast cancer at $575 million, an increase of $325 million over last year, to expand, intensify, and coordinate research efforts on breast cancer, and to develop a comprehensive plan for the prevention, early detection and treatment of breast cancer. It authorizes $40 million for research into osteoporosis, and $75 million for ovarian cancer research. It gives permanent statutory authority for the Office of Research on Women's Health, a vital step in assuring that women's concerns will receive attention and funding.

There is also a program to recruit women into the fields of biomedical and behavioral research.

There are new programs for prostate cancer and for comprehensive AIDS research, and a formal process for ethical review and approval of research proposals. Many of our constituents around the country have made us aware over the last year of the rise in traumatic brain injury, and I have joined Senator KENNEDY and others in cosponsoring legislation that would develop prevention and assistance programs for people with TBI. The NIH bill would fund the Interagency Program for Trauma Research, which can make an important contribution to combating this new epidemic.

And the bill reauthorizes the critical ongoing research programs of the NIH, that have contributed to making the United States the world leader in biomedical research. All of these are programs every one of us can be proud of: the National Cancer Institute; the National Heart, Lung and Blood Institute; the National Library of Medicine; the National Heart Institute; the National Institute on Aging.

But all of these programs are threatened because the bill also includes approval for research on the benefits of fetal tissue transplants. This research holds so much promise for people suffering from diabetes, Parkinson's disease, Alzheimer's disease, and other rare and otherwise incurable diseases.

We have argued and debated the merits of fetal tissue research for months now, and it is clear that this Senate understands very well that this is a health issue, a research issue, and not an abortion issue. We have made modification after modification, to address every imagined concern that has been raised.

Our effort today is an attempt to compromise with an administration that is so blinded by ideology it cannot see its way to helping seriously ill Americans who are in desperate need of help.

Since the Senate first passed this bill, with an overwhelming majority, and strong bipartisan support, the administration has tried several times to throw a roadblock in the way of progress. President Bush's proposal to establish a fetal tissue bank using only tissue from ectopic pregnancies was discredited by the very scientists he claimed supported it. A researcher from the University of Minnesota joined many other practicing scientists who let the New York Times know, last July, that their opinions had been publicly misrepresented, and that tissue from ectopic pregnancies is absolutely unreliable to sustain research. Ectopic pregnancies are discovered unpredictably, at a time of medical crisis. No regular lab can count on finding and collecting this tissue in a way that can sustain research.

However, the President has insisted on this approach, and the bill before us today recognizes his desired approach. NIH researchers have made it clear they want to explore the potential therapeutic value of fetal tissue transplants for people suffering from Parkinson's, Alzheimers, diabetes, and other crippling and life-threatening diseases. For 1 year from the date, the President established his tissue bank for tissue from ectopic pregnancies and spontaneous abortions, those researchers will be limited to using that tissue only.

After a year, if this tissue bank cannot fulfill a request for tissue within 14 days, scientists may then turn to using tissue from induced abortions.

This proposal is vitally important to the people with Parkinson's, Alzheimers, diabetes, and other chronic and crippling conditions, who have held out so much hope for the fetal tissue research program this Senate voted for in April, and sustained in conference. These people are not pro-choice or antichoice. They do not see this issue as anything but what it is: an opportunity for this Government to use its vast research capabilities to make a real difference in the lives of suffering human beings.

This is a serious effort, Mr. President, by Senators with a range of opinions on many other issues, to come together for the good of Americans who depend on us to open the door to hope and a healthy life.

How ironic it is, and how tragic, that this legislation that holds out so much hope, especially for women, by recognizing their special health concerns, by elevating them to the status men have always enjoyed as research subjects with particular needs, has been obstructed and misconstrued by a President who is committed to denying women reproductive choice.

Let me be clear about this. I speak for some people who have been working very hard in the House and the Senate: Joan Samuelson with Parkinson's; Ann Udall whose father Mo Udall suffered from Parkinson's, and I speak for myself as well.

Both my parents had Parkinson's disease; both of them.

I remember very well that at the very end of my father's life, when he was about 80 years old, we went out to lunch. We went out to lunch at McDonald's. My father liked McDonald's because there were lots of bright colors and lots of children to look at. A close friend of mine, who taught at Carleton College, Michel Minot, came to McDonald's at the same time. Michel, at about the age of 38, had Parkinson's disease. It was a bad day for my father.

I have mentioned this before.

I decided that we would take my father out not through the front door, where he would have to go past Michel Minot, but out the back door. The reason for that was I did not want Michel to see his future.

I just want to make it crystal clear that those of us who speak in favor of the NIH reauthorization do so because we are vitally serious about the potential of this research for Parkinson's, Alzheimer's, diabetes, and many other diseases.

I want to say as clearly as I can, with as much eloquence as I can, with as much conviction as I can, and with as much emotion as I can, I cannot think of a more important vote than this. I hope that Senators will remain true to the votes most of us have cast in the past, so that the many citizens in this country who suffer from these diseases may have a chance to benefit from cures that could come for research involving fetal tissue transplants. I very much hope that we will vote to stand behind our reauthorization of this program, and for cloture on proceeding to this bill.

Mr. President, women who are HIV positive have a much shorter lifespan than men with HIV, and we do not know why. But with the funds built into this budget we would do the research. As a matter of fact, we have not paid very much attention in our health care research priorities to the health care needs and circumstances of women in our country. But in this authorization bill, finally we focus more on breast cancer research, finally we focus more on effective early breast cancer detection programs, finally we focus more on research in ovarian cancer, finally we are taking a step toward research priorities that are responsive to women in our country.

I want every Senator who votes on this cloture motion to remember that. I want every Senator to remember that.

And then there is the other issue that we have been discussing on this floor, fetal tissue transplant research. Mr. President, the debate has already been covered so let me not go through the specifics. Let me make one simple compelling point. Those men and women with Alzheimer's and Parkinson's disease and diabetes are not pro-life and they are not pro-choice. They suffer from these diseases, and they have hoped that this research could make a difference in their lives, and they look for good public policy that will make a difference in their lives. And they do not want to see their hopes dashed or this research not take place because of overzealous ideological objections.

We compromised with the President of the United States on this issue. We have a different kind of tissue bank now set up. We do not think that ectopic pregnancies will really provide enough tissue to do the job, but we are willing to compromise and we are willing to give it a year to see.

Mr. President, I just say to every single Senator that this is probably one of the most important votes you are going to cast. Before you vote—and I hope you will vote for cloture—please remember women in this country. Please remember it is time to move forward. Please remember the people who suffer from these diseases. Please do not vote on the basis of some kind of ideological objection. Please be willing to compromise.

Mr. President, just to conclude my remarks, and one more time dedicating my remarks to Joan Samuelson, dedicating my remarks to Ann Udall, daughter of Mo Udall, and dedicating my remarks to my mother and father, who both had Parkinson's disease. I say to my colleagues I feel so strongly about this issue. Please vote for cloture. Please let us move forward with some research that will give people who suffer from these diseases some hope. Please do not pour cold water on their hopes and their dreams. Please cast the vote for cloture.

I yield the remainder of my time.

Mr. HATCH. If the Senator needs additional time, I will be happy to yield additional time.

Mr. WELLSTONE. I thank the Senator from Utah. I am fine.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this bill has gone all the way through the Senate before. It passed overwhelmingly, went to the House. Everybody knew it was going to be vetoed. It passed in the House. The President then vetoed it, which he had to do. The veto was sustained by the House exactly the way I said it would be.

One of the strongest proponents of fetal tissue is standing right before you. His name is ORRIN HATCH, the Senator from Utah. But I predicted exactly what would happen, and that is what happened. I suggested that we have fetal tissue banks set up so we could use ectopic pregnancies and miscarriage tissue. The authorities tell me that there can be as much as 2,000 nondiseased tissue samples. That would be more than enough to take care of all of the fetal tissue research and transplantation that we could do each year without getting into this awful issue of abortion. I predicted all of that. And I happen to want the NIH bill to pass to boot.

But the people did not listen, and they did not listen on the basis that, well, fetal tissue research is so important that we have to fight this through. It is important. But we all know that the exercise here is exactly the same as the last. Yes, it would probably pass the Senate; it would certainly pass with more than 50 votes. Yes, it might go to the House. There it would probably pass. And, yes, I have to tell you the President would veto it again, and it would probably be a pocket veto. So why in the world are we doing this in these last few hours of the 102d Congress when I predicted that all of this was going to happen before? Why are we doing this, Mr. President? There has to be some logical reason. It cannot be because nobody on the proponents' side think they are going to get a bill. It cannot be as long as they keep the right to use aborted tissue in there. And that is what they have elected to do.

If they want a bill, they can get a bill. It will do much good for NIH and for this country as a whole, and I would like them to have that. If they want fetal tissue research, they can have it, and it would be authorized by none else than the full Congress of the United States, and it could give an imprimatur to fetal tissue research that it has never had before.

But, no, there is a desire to make abortion the issue by some on both sides. I am not going to name names, but there are some on both sides who want abortion to be the issue. I do not want it to be the issue. I would like to avoid those ethical and moral dilemmas. I would like to have fetal research go forward. I would like to have this body and the other body give its imprimatur and the full weight of the U.S. Congress in favor of fetal tissue research. I like that. I have been fighting for that.

But, no, the only reason for this exercise is so they can cause the President to veto this again and, I guess, get some political advantage out of that when they all know that he has to veto it, because he has taken that position. He does not believe that you need to use abortion tissue, that is, induced abortion tissue, for fetal tissue research, and science backs him up on that.

So what are we doing. We are here in another political exercise. Here we go again. We have the same situation here that we had this morning on the education bill. A debate and a bill with one fundamental purpose: A cynical attempt to provoke a veto by the President. And why? Because I guess they think on the other side that if you can provoke a veto and the President has to veto it, then it shows that he is insensitive to fetal tissue research.

That is pure and simple bunk. It is baloney. Because he has already, by Executive order, set up five fetal tissue banks. There are five of them being set up throughout America. And I have been informed by scientists that those five will produce at least half of all the fetal tissue necessary to do the scientific research in fetal tissue research.

Why only five? My gosh, it would be easy to set up 50 of them. That is the same thought by those who want to use induced aborted tissue, who I guess do not want the banks to work so they can have this issue. And they blame the President, they blame somebody like me who wants this research to go forward. That is a joke of all jokes.

I am dispirited by the fact that election year posturing has reached into an area that ought to be immune from the political thicket—the National Institutes of Health. This agency, a national pride, a national treasure, sometimes called the crown jewels of the U.S. Public Health Service should not be caught in the crossfire between forces on either side of one of the most explosive social issues of our time.

I am saddened that this body must once again consider reauthorizing legislation for the National Institutes of Health. It seems like only yesterday we were debating H.R. 2507—the predecessor to S. 2899. I would not be surprised if some of my colleagues have memorized many provisions in this bill by now—then, again, I guess I would be surprised—given the numerous occasions on which we have had to revisit them. And, this needless waste of time is all because of the controversial ethical provisions that have persisted in the bills.

Let me review the many occasions we have considered NIH reauthorizing legislation during the 102d Congress. On November 12, 1991, during the Labor and Human Resources Committee hearing chaired by my colleague from Washington, I first raised the concern that the administration and many others had with fetal tissue transplantation research using tissue from induced abortion. Again, in committee, on February 4, 1992, I offered an amendment to resolve this particular problem precisely because of the veto threat. And again, on March 31 in this Chamber I rose to warn the Senate that the National Institutes of Health Reauthorization Act was on an unavoidable collision course with the President. On June 4, I discussed several objections that I believe the President would find with H.R. 2507 legislation were it to arrive on his desk in its current form. Finally, a couple of weeks ago on September 14—at a time when I had hope we could resolve the problems in this legislation—we started the predictably tragic process over again in the Labor Committee with S. 2899.

How many times must we vote on these contentious provisions in the reauthorization of the NIH?

What has our Nation gained from this deliberate and calculated confrontation? Congress, regrettably, has not passed legislation reauthorizing the National Institutes of Health since 1988. The reason we have not is because we allowed the ethical and moral issues to cloud the real issues. And I have to say both sides are responsible for that. It is absolutely tragic that today we are no closer to the goal of adopting reauthorizing legislation. As a result, the American citizens are the losers.

Unfortunately, for those of us who are genuinely concerned about advancing the agenda of women's health—and I am working very hard on a mammography bill right now; we have it written, now we have to get it through—we must now wait for yet another opportunity to advance this noble objective. Consequently, important research into the causes and prevention of breast and cervical cancer will be held hostage. There will now be further delays before we can ensure that there will be no discrimination in including women and minorities in clinical trials conducted or supported by the National Institutes of Health.

Moreover, I believe it is necessary that women and children be included in HIV vaccine therapy trials. It is my amendment that is in this bill. Women and children are clearly one of the fastest growing groups affected by HIV disease as evidenced by growing numbers of both reported AIDS cases and HIV prevalence data. This effort, too, has been stalled by an unwillingness of some in Congress to make reasonable compromises.

Applied research into terrible diseases afflicting American children are also held hostage. During the past few years, there have been unprecedented advances in the scientific investigation of inherited and acquired diseases affecting children. Application of this research to infant mortality and genetic disorders such as cystic fibrosis, sickle cell anemia, mental retardation can result in improved treatment and care for the Nation's children. This applied research could be advanced by authorizing the expansion of children research centers.

The same could be said for juvenile arthritis. I am aware that of the 14 centers currently funded by the National Institute on Arthritis and Musculoskeletal and Skin Diseases—something I helped to put through here—three support research into this disease. But, establishing centers with a specific focus on juvenile arthritis would accelerate our efforts in this field.

Furthermore, vital research affecting men has been held hostage unnecessarily. I am speaking about prostate cancer. Prostate cancer is now the second most common cancer nationally and the leading cancer killer among men. In Utah, it is the most common cancer among men. Research into this terrible cancer needs to go forward.

Families, too, were affected by the politicization of the reauthorization bill. Each year about 10 to 15 percent of pregnancies result in miscarriages. These are tragic situations for parents who hope and plan for the rearing of their developing child. I had hoped to encourage Federal leadership into this area. I trust that the administration will utilize the research opportunities created by the President's Executive order to establish fetal tissue banks from exclusively spontaneous abortions and ectopic pregnancies to further investigate the causes infertility leading to birth loss.

Let me reiterate once again that the most serious problems that plagued previous legislation still persist in S. 2899 as well.

The change in the provision regarding the ethics advisory boards is only cosmetic. The Department of Justice has stated that the provision in this bill clearly violates the appointments clause and is recommending a senior advisors veto on this provision alone.

So just do not blame the President on fetal tissue research, because he made a commitment to not allow induced abortion tissue. Do not blame him for that.

There is another very good reason, and that is because of the unconstitutionality of some very important provisions in this bill.

The new measures regarding fetal tissue banks only give a superficial appearance of change. This legislation would nullify the moratorium regardless of the success of the fetal tissue banks established by the President's Executive order.

Since the President's Executive order on fetal tissue banks, abortion advocates—those who want abortion—some researchers, and some Members of Congress have wasted needless energy trying to say that the banks will not work before they ever begin. Mr. President, the banks should be given a fair chance to work. The NIH has just this week funded the first five tissue banks.

We are told by abortion advocates that the legislation we are considering today is a compromise. It is nothing of the sort. It did not involve even one discussion with the other side—not even one discussion.

It is an understatement, in light of the serious health concerns faced by our citizens, to note that this is an instance were political maneuvering by some in an election year has clearly taken precedence over the health needs of our Nation.

Within minutes on the day that the House failed to override the President's veto on the first NIH bill, the Congressman from California, Congressman WAXMAN, rushed to his press conference to announce his new NIH bill. HENRY WAXMAN is a friend of mine. But within minutes, he went to a press conference to announce his new bill. Let me read one of his highly revealing quotes: "Well, Mr. President, this bill is not going to go away. We plan to mark up the bill on a very fast schedule. We're going to get it to your desk before the Republican National Convention." He goes on to say: "We hope that we don't have to override the veto. But if we must, that is exactly what we'll do."

I have to say that Congressman WAXMAN called me and said he did not mean that to be used politically and he apologized and he pulled off before the convention. And I respect him for it. I care a great deal for him, and I care a great deal for his leadership and his ability in the health area.

But nevertheless how can you call it anything but political when we have already been through this whole routine. I have described everything that was going to happen, and it did. I will describe it again, and it will, except it will never get that far unless we keep people in the Senate well into next week and maybe the week after that.

Mr. Clinton, too, hurriedly jumped into the political fray, harshly criticized President's veto action even before he collected all the facts. Which I have been informed by even some of his friends that he often does.

His statement indicated that he thought that fetal tissue transplantation was used for breast cancer and osteoporosis.

That is indeed a tragedy that our election process would elevate the NIH bill to the politics of an election year. Anyone who thinks this bill is not politically motivated is not operating on all cylinders, or to put it another way, their elevator does not go to the top floor. This bill is not about abortion, freedom of research, or women's health; it is about high stakes presidential politics.

A sincere compromise? I should say not. This is a bill hastily thrown together to meet a 6-week political deadline. And, its flaws as we have seen are most evident. When, between Mr. WAXMAN's press conference and the introduction of the new bill, was there time allotted for cool reflection to correct the flaws of H.R. 2507? What hearings have been held? What meetings and negotiations have taken place?

I wonder when the day will come when we can finally lay aside the political and ethical encumbrances that have plagued this NIH reauthorizing legislation and get down to the work in serving the American people.

In my view, we should strip away the controversial and divisive ethical provisions relating ethics advisory boards and human fetal tissue transplantation and authorize the research programs benefiting women and men, children and families at the NIH. There is no reason to hold captive these individuals to the political gamesmanship over abortion.

Let this body be under no illusion: we face a choice today of what comes first: writing a bill to advance the medical research for our Nation, or political maneuvering that prevents the biomedical research needs of our country from being addressed in an appropriate fashion. As always, I continue to hope that we can move beyond ideologies and to reaffirm what the NIH stands for—the finest science in the world.

Despite my anguish, I take comfort in the fact that the NIH possesses the discretion to address most of my research concerns raised today through its existing research authorities. Similarly, Americans who suffer from tragic diseases should continue to place their hope in the NIH; it is the world's finest biomedical research institution in spite of this futile exercise. We can all be proud of this institution and its biomedical investigators for their noble research efforts.

Mr. President, I can only offer this on behalf of myself. I do not know if I can pull those off, if cloture is invoked. I do not know if I can pull those off who would have postcloture remarks and amendments. I do not know if I can. And I have worked very hard to come up with some simple solution that might get everybody off this kick and allow the President to sign the bill.

There are those who would like me to demand no less than 5 years to allow the fetal tissue banks to work. There are those on the other side of this issue who disagree with me, who would go a year.

Some would go to 18 months. I believe, if the distinguished Senator from Massachusetts had his way he would probably go 18 months to allow the fetal tissue banks a chance to work. If they work you avoid the issue of abortion, the issue of ethics, the issue of a constant political battle. Then everybody can be happy and nobody has to get into this kind of a controversy again.

I have taken as much effort as I can to come up with a way to resolve this. I will say this. If the other side would agree to no less than 2 years from January 1, 1993 with appropriate language to give the fetal tissue research a real chance to work through these fetal tissue research banks already set up by NIH and an additional number that would have to be set up to make it work, that I would do everything in my power to add that as an amendment. That would get rid of this problem and get fetal tissue research the imprimatur it really needs—that is the support of both Houses of Congress—to make this thing work. But I guarantee I will not drop 1 minute below 2 years from January 1, 1993, on this issue. If that is so, we will just have to go to war and go to battle and let things fall the way they have to. And again who loses? The American people.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BREAUX). Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts controls 2 minutes and 50 seconds.

Mr. KENNEDY. How much on the other side?

The PRESIDING OFFICER. Senator HATCH has 9 minutes, 50 seconds.

Mr. KENNEDY. Mr. President, I yield myself all of 2 minutes.

Mr. President, just so the Senate understands where we are, there were basically three items in the veto message by the President, One on the fact that he believes the fetal tissue bank would provide sufficient material so we would not need to move ahead with this program. The head of NIH, Bernadine Healy, estimated it would be 1 year to develop that bank. Assistant Secretary Mason said it would be 1 year to develop that bank. They have issued the executive orders as of last May to develop that bank.

We are prepared to take those that know the most, allegedly, about the time to prepare that bank—1 year the administration has basically said—and we were prepared to say all right, we will try it your way. We will try it your way. You heard Senator HATCH this afternoon say he believes there will be sufficient material that will be developed.

However the principal source for that statement, which was referred to by Senator HATCH during the debate last spring, Dr. Berne, her work has been analyzed and reviewed and submitted in Science magazine of August of this year. It indicates there would not be sufficient material.

The opposition says there will be. We say all right, we will take you at your word. We will give you an opportunity to set up that system and if it does not work we want the research to go ahead in these areas of disease that can make a life-and-death difference to individuals. We have compromised on that.

Second, the administration has complained about our increasing various authorization levels. It is true we did increase over the President's budget from $2 billion for the National Cancer Research Institute to $2.2 billion. We did increase research for the National Heart Institute from $1.2 billion to $1.4 billion. We did increase research on the National Institute on Aging from $407 million to $500 million, and we did provide funding for the infertility research centers that were talked about here to $20 million.

But we did something else. The President said we believe those increases in authorization are too much. In this budget of $1.5 trillion you cannot find $200 million for cancer, cannot find another $200 million for heart, you cannot find another $75 million for research on the—too much, they say.

We say all right, if you do not want to do that we retreat on that. We withdraw those. We say, "such sums as necessary," Mr. President. "Such sums as necessary." But we will not retreat on the women's health initiatives.

The President's budget has zero for breast cancer, we have $325 million—I yield myself the remaining 56 seconds—zero for ovarian, we put $75 million; zero for osteoporosis, we put $40 million. We are not retreating on that. We have taken 13 authorizations out but we will not retreat on those.

I believe it is a pretty fair compromise. The final one is on the power of the Secretary on the recommendations of various ethical issues. We say the Secretary's authority will move ahead and be persuasive and controlling unless it is going to be capricious and arbitrary; capricious and arbitrary. It has been in the past with regards to this kind of research. And we do not believe there should be the power in any Secretary, ratified and approved by the Senate or not, that is going to put a political spin on medical and scientific research but can make a difference to the lives of children, elderly people, and women in this society.

We have compromised and I hope we will get the votes for cloture so we can pass this legislation.

The PRESIDING OFFICER. The time of the Senator has expired. Z

The Senator from Utah has 9½ minutes remaining.

Mr. HATCH. Mr. President, I suspect the Senator from Massachusetts really has not heard what I had to say. All that aside, I am willing to take this bill, the extra costs, the language that they have, including the unconstitutional language; I am willing to do everything in my power to see that this administration takes it. And I believe that some of us might be able to get that done.

I am willing to ask those right-to-life Senators, who feel very deeply about that particular issue, to allow this to go. I feel very deeply about the right to life. I suspect that all of us are prochoice when it comes to the life of the mother. There might be a few fringe people who would not be, but I cannot imagine anybody with brains not willing to have abortion for the life of the mother. I think all of us would be prochoice with regard to rape and incest.

The polls show a majority in this country would probably be prochoice with regard to fetal deformity. It is when you get beyond that that you get into all kinds of troubles and that is why we are in this ethical and moral dilemma.

As deeply as I feel about the right of that unborn child to live, I am willing right here and now to work out language to allow these fetal tissue banks to work for 2 years starting January 1. If they do, this debate is over, and we will never have to debate the moral and ethical issues again. We will all be pleased because we will have given imprimatur for fetal tissue research from both Houses of Congress from this day on. What a thing that would be, just for 2 years. If it does not work, we will have come a long way making it work and then they can use aborted tissue.

That is a tough thing for me to say today, but I will do that in the interest of compromise, in the interest of resolving this problem. Do not tell me that top authorities in this country say that these fetal tissue banks will not work. Bernadine Healy and her scientists out at NIH, which the distinguished Senator from Massachusetts has been saying is such a wonderful organization, and I am, too, she and her scientists out there have set up the tissue banks and the grant process over a 2-year period beginning shortly.

These are the experts at NIH and this is what they are doing: Dr. Jim Mason, who is no small person, who has had tremendous experience in health and public health at that, having headed CDC before becoming the No. 1 man in health at HHS, said there will be sufficient tissue from the bank to meet current research needs:

> From the approximately 750,000 miscarriages annually in the U.S., we estimate that only 1,500 will produce usable tissue. Our estimate of the amount of usable tissue from ectopic pregnancies is 500. The goal of the tissue bank is to collect enough tissue from these two sources for experimental implants aimed at altering the course of Parkinson's, diabetes and other disorders.

The figures by the National Institutes of Health back that up. The HHS legislative alert on the fetal tissue bank backs that up. A letter from C. Everett Koop, the former Surgeon General of the United States backs that up. A letter from Dr. Bernadine Healy, one of the leading women doctors in this country, now Director of NIH, backs that up. A letter from Timothy Jackson, Ph.D., from Stanford University backs that up; a letter from Christopher DeGiorgio, M.D., Thomas Murphy Goodwin, M.D., D. Alan Shawmon, M.D., UCLA School of Medicine backs that up; and others, which I ask unanimous consent to print in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC, *May 28, 1992.*

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I strongly endorse your recent Executive Order creating a Fetal Tissue Bank using tissue from ectopic pregnancies and spontaneous abortions. As the former Surgeon General, I share your commitment to find cures and treatments for such debilitating diseases as Parkinsons, diabetes and certain inherited disorders. When the ban on fetal tissue research was first instituted, I frequently told scientific colleagues that if I were engaged in that type of research, I could still pursue it because I would seek and find tissue from ectopic pregnancies and spontaneous abortions. That is essentially what the fetal tissue bank which you propose would do. Using tissue from induced abortions would be easier and more convenient, but a bank of tissue from spontaneous abortions and ectopic pregnancies will still permit orderly research.

The argument that spontaneous abortions may be genetically imperfect is not one which holds up with ectopic pregnancies. Nor would they be infected.

Until new indications for fetal transplant are found, or the number of fetal specimens needed is vastly increased, the tissue bank will prevent the stagnation of research for the serious scientist in this very embryonic field.

Sincerely yours,
C. EVERETT KOOP, M.D., Sc.D.

NATIONAL INSTITUTES OF HEALTH,
Bethesda, MD.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I know the Senate will be considering the Conference Report on H.R. 2507. I would concur with the recommendation to the President to veto the Bill. I have several concerns. For example, the highly intrusive language of the bill micromanages some of NIH's important research programs. In the area on women's health, while I fully support the spirit and the goals listed in this section, the NIH is currently moving forward with aggressive programs on the health of women and minorities and their career development and on the inclusion of women and minorities in clinical trials. The Bill also imposes activities and a number of advisory committees, including an Ethics Board, on NIH that are costly, unnecessary and duplicative, and in some cases intrude on the existing authorities of the Secretary.

With regard to the fetal tissue transplantation moratorium, my own personal views are well known. However, in terms of the fetal tissue bank, I can state unequivocally as a physician and scientist that this approach is feasible and should be given a chance to prove its efficacy in terms of furthering one of the many needed research options for treatment of diseases such as diabetes, Parkinsons and certain inherited disorders.

I believe that such a bank with an established and NIH funded tissue procurement effort will provide a means to continue the transplantation research effort. In particular, harvesting tissue from ectopic pregnancies, which are life threatening to women, should be vigorously pursued. Such tissue is apt to be uninfected and more likely to be genetically normal. Furthermore, with existing echocardiographic diagnostic technology, ectopic pregnancies are being detected resulting in the opportunity for surgical removal of viable and intact fetal tissue in some of these cases. Indeed, in the case of the widely reported success story of fetal tissue transplantation into a young child from Texas for a devastating disease called Hurlers syndrome, the source of the successful transplant was an ectopic pregnancy.

NIH is committed to establishing the bank and determining its efficacy within one year of its initiation. We will report to the Secretary on the progress with the bank. Using this tissue we hope also to accelerate research to establish human fetal cell lines in laboratory cultures where they can be properly characterized, assured of being pathogen free, and in some cases genetically engineered to be of more therapeutic value.

NIH exists to find the best ways to enhance the health and quality of life of the American people. A simple extension of appropriation authorization would be the most effective way to continue our work.

Sincerely yours,

BERNADINE HEALY, M.D.,
Director.

STANFORD UNIVERSITY,
Stanford, CA, May 4, 1992.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to express my support for your issuance of an executive order requiring the Secretary of Health and Human Services to establish a nonprofit registry, a tissue bank and cell lines, using tissue obtained from spontaneous abortions and ectopic pregnancies. Such a registry would represent a collaborative network between transplantation researchers and hospitals and might obviate the need to use tissue from elective abortions.

Elective abortions are, at best, morally problematic, and it is reasonable to suppose that the medical use of tissue from such abortions will tend to increase their numbers. No one ought to encourage or profit from the voluntary taking of a human life, however, and a wise social policy will take the necessary steps to protect the sanctity of human life at all of its stages.

I write not as a scientist but as an ethicist who is sensitive to both the medical needs of patients who might benefit from human fetal tissue transplantation research and the larger society who believe that this research may further legitimize the practice of elective abortion in the United States. This debate involves complex questions that are not easily resolved. I myself have been involved in early phases of this debate here at Stanford University.

On April 20, 1989 the Stanford University Medical Center Committee on Ethics (on which I served along with nearly 50 other experts representing a multidisciplinary group) published its report on "The Ethical Use of Human Fetal Tissue in Medicine." Although the Majority of our committee approved the use of tissue from elective abortions—an opinion from which I dissented—we did recognize that tissue from this source differs from that taken from adult cadavers. For fetal tissue from elective abortion becomes available as the result of a mother's decision, implemented by a physician's actions, to end her pregnancy. This element of volition introduces a new ethical problem. Hence we agreed that "if tissue taken from spontaneous abortions could reasonably satisfy medical demands in both quantity and quality, it would be preferable to avoid the ethical problems of using the tissue from induced abortion" (New England Journal of Medicine, Vol. 320, No. 16, 1989).

Medically screened fetal tissue from spontaneous abortions, as well as from ectopic pregnancies, would be analogous to organ and tissue donations from adult cadavers. Therefore, such fetal tissue could serve as a noncontroversial source of possible highly beneficial transplants—assuming, again, that the tissue meets relevant criteria of quality and quantity. This general approach in conjunction with vital feasibility studies on the recovery, reservation, and transportation of tissue from spontaneous abortion and ectopic pregnancies was proposed by Orrin Hatch in the Senate recently. It is unfortunate that the Senate did not choose to pass his amendment.

Mr. President, an executive order to establish a network between hospitals and researchers to recover human fetal tissue from noncontroversial sources would, I believe, be consistent with the normative preference of the 1989 Stanford University Medical Center on Ethics. It should also meet the humanitarian concerns of biomedical researchers. (Virtually no one, regardless of whether he or she is "pro-life" or "pro-choice," wants people to suffer from tragic diseases.) In short, such an order should help satisfy all parties who hope for a constructive resolution to this very divisive situation. It is on this basis, and as an individual rather than as a representative of Sanford, that I make my appeal.

Sincerely,

TIMOTHY P. JACKSON, Ph.D.,
Assistant Professor.

MAY 5, 1992.

The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing as a multidisciplinary group of physician-scientists who express our support of an executive order requiring the Secretary of Health and Human Services to develop programs to procure, maintain and transplant fetal tissue from spontaneous rather than elective abortions.

Your executive order would allow fetal tissue transplantation research to proceed without engaging in the abortion debate. There is consensus that the use of tissue from spontaneous abortions is ethically acceptable to virtually all. According to the landmark paper by the Stanford Bioethics Committee in the New England Journal of Medicine, "if tissue from spontaneous abortions can satisfy the medical demands for both quantity and quality of tissue, it would be preferable to avoid the ethical problems of using induced abortions."

Substantial evidence exists that spontaneous abortions are an acceptable source of fetal tissue for transplantation. Although tissue from many spontaneous abortions is unsuitable for transplantation due to genetic abnormalities or infection, Byrne indicates that at least 5-7 percent of spontaneous abortions would yield tissue acceptable for transplantation. This compares favorably with the yield from elective abortions, which is 6-9%. Because the tissue will be cryopreserved and banked, safeguards can be established to screen for infection, which is necessary regardless of the source of the tissue (elective or spontaneous).

Mr. President, only a handful (less than 100) of transplants have been performed, and the long term efficacy and safety of fetal tissue transplantation have yet to be established. Is it not wise to use tissue from a source which is ethically acceptable to virtually all. A careful and thoughtful research based program using tissue from spontaneous abortions or ectopic pregnancy would be sufficient to establish efficacy and safety without alienating millions of Americans.

Sincerely,

CHRISTOPHER M. DEGIORGIO
M.D.,
Assistant Professor of Neurology and Neurosurgery, USC School of Medicine.

THOMAS MURPHY GOODWIN
M.D.,
Assistant Professor of Obstetrics and Gynecology, USC School of Medicine.

D. ALAN SHAWMON M.D.
Associate Professor of Pediatric Neurology, UCLA School of Medicine.

THE UNIVERSITY OF NORTH
CAROLINA AT CHAPEL HILL,
Chapel Hill, NC, May 13, 1992.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing in regard to the National Institutes of Health Reauthorization Act of 1992. It is our understanding that you are likely to veto this legislation. We also are aware that the reason for your veto is because of the inclusion of the provision to use human fetal tissue from induced abortions in transplantation research and therapy, a matter which is highly controversial.

It is our opinion that the creation of a human fetal tissue registry, fetal tissue bank and fetal cell lines using tissue obtained from spontaneous abortions and ectopic pregnancies, which was defeated, had great merit. There is evidence that a proportion (5-7%) of spontaneous miscarriages will provide tissue appropriate for use in tissue transplantation research. There is a need to confirm this data and to determine if sufficient tissue can be collected from spontaneous pregnancy losses to recover the needed cells. a collaborative network of transplantation researchers and hospitals working under a properly funded research initiative could accomplish this.

One major advantage of such a project is that it will be free from the controversy that currently surrounds the use of tissue from induced abortions, a matter which seriously offends the ethical sensitivities of many people in our society.

We urge you to consider issuing an executive order requiring the Secretary of Health and Human Services to establish a registry and tissue bank to provide cell lines from spontaneous abortions and ectopic pregnancies. This will be an important positive step that will facilitate much needed research and therapy for conditions that may benefit from transplantation of fetal cells.

The views expressed in this letter are our personal opinion and do not constitute an official position taken by this Medical School or this University.

Respectfully,

R.C. CEFALO.
WATSON A. BOWAS, Jr.

THE UNIVERSITY OF TENNESSEE
MEDICAL CENTER AT KNOXVILLE,
May 13, 1992.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing as physicians who provide health care in an academic setting at our institution in Knoxville. This does not reflect the opinions necessarily of the University of Tennessee. We ask by your executive order that you direct the Secretary of Health and Human Services to develop and maintain tissue for fetal transplantation from spontaneous abortion and ectopic pregnancies rather than elective abortion.

We think that substantial scientific evidence exists that tissue obtained from spontaneous miscarriages would satisfy the needs of those studying fetal tissue transplantation. After screening for problems such as genetic abnormalities and viability, there is evidence to indicate that five to seven percent of such tissues have been found suitable. It is true that tissues from some spontaneous abortions are unsuitable for transplantation because of chromosomal disorders or infections. However, these problems should not detract from the fact that a reasonably high proportion of spontaneous abortion fetuses have normal undiseased tissue suitable for transplantation. There is therefore an untapped source of normal viable tissue from spontaneous abortions and ectopics. Only by attempts to culture organs and tissues from noncontroversial sources should this issue be resolved.

Although a relatively small number of transplants with fetal tissue have been tried to date, we can see the need for further research in this area. The long term efficacy and safety of this fetal transplantation has not been established, however. We therefore urge you to direct our government's efforts toward promoting fetal transplantation research in an ethically acceptable manner, avoiding the serious ethical problems of using elective abortion tissue.

Sincerely,

MICHAEL R. CAUDLE, M.D.,
Professor and Chairman, Department of Obstetrics and Gynecology.
WILLIAM M. HOLLS, M.D.,
Assistant Professor, Perinatologist, Department of Obstetrics and Gynecology.

(These are our personal opinions and not necessarily reflect those of the University of Tennessee.)

GEORGETOWN UNIVERSITY MEDICAL CENTER,
Washington, DC, May 21, 1992.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We were pleased to learn of your recent executive order directing the Department of Health and Human Services to establish a fetal tissue bank of spontaneously aborted tissue for research purposes. This is an area which we have been exploring and advocating for the past several years and we fully support the use of such fetal tissue for research. Somehow, in the heat of debate and controversy over abortion, this valuable source of human tissue has been overlooked. Thus, we support and applaud your decision, and the wisdom and the courage with which it was made.

Various studies, including our own, have shown that there is an untapped source of normal, viable fetal tissue derived from spontaneous abortions and ectopic pregnancies. These abortions most frequently occur in a hospital setting. Although it is true that tissues from some spontaneous abortions may be unsuitable for research because of genetic defects, viral or bacterial infection, or other problems, a reasonably high proportion of spontaneously aborted fetuses have normal, non diseased tissues, which are suitable for research.

Reliable data clearly indicate that 7–10% of all spontaneous abortions provide suitable sources of viable tissues. This translates into several thousands viable specimens for research needs each year. This volume may meet the current requirements for fetal tissue in research. Moreover, this percentage of fetal tissue compares favorably with the percentage available from the controversial source of induced abortions. What has been consistently overlooked in the fetal research debate is the fact that current techniques for induced abortions result in extensive damage to the fetal tissue, with the result that only 6–9% are suitable for research needs. Moreover, future development of birth control technologies are likely to further limit the amount of suitable fetal tissues.

Thus, the use of tissues derived from spontaneous abortions and ectopic pregnancies is a reasonable way to obviate the moral problems involving the use of tissues from elective abortions. It allows biomedical research to proceed, without offending the ethical sensitivities of society at large. Although a similar approach has been promoted by Senator ORRIN HATCH, it is indeed unfortunate that the collective wisdom underlying this legislation was not recognized. Your Executive Order, like Senator HATCH's proposed legislation, are founded on sound scientific grounds. We thank you, Mr. President, for your innovative leadership.

Yours sincerely,

MARIA MICHEJDA, M.D.,
Senior Staff Associate.
JOSEPH A. BELLANTI, M.D.,
Director.

[From the Washington Post, June 16, 1992]

ADVANCING RESEARCH, AVOIDING ETHICAL PROBLEMS

Although a May 31 Post editorial claimed that tissue from elective or induced abortions is necessary for fetal issue transplant research, Ignacio Madrazo and his group of researchers in Mexico City in 1990 reported obtaining and using tissue from spontaneous abortions in their pioneering Parkinson's research.

The Post editorial also said that tissue from tubal or ectopic pregnancies is generally infected or has other problems and that "that's why it aborts." Actually, a tubal or ectopic pregnancy is one in which the fetus grows outside the womb, cannot live long and must be removed in an operation to save the life of the mother. National Institutes of Health Director Bernadine Healy has written that "such tissue is apt to be uninfected and more likely to be genetically normal."

Experts at NIH and in other parts of the U.S. Public Health Service have worked out a plan for a series of centers connected to major birthing centers in big cities to obtain, screen, preserve and distribute to researchers this tissue—about which there are no ethical questions and which will in no way encourage or justify elective abortions. This is being carried out under a directive from President Bush for a fetal tissue bank. As of June 12 we are beginning to advertise for proposals to operate these centers under contract.

While the bank should permit us to move ahead on research, we should be wary of claims that Parkinson's, Alzheimer's, diabetes and several inherited diseases are about to be cured by this work. I wish that were true. But even in terms of Parkinson's, where the work seems most advanced, what the preeminent Swedish researcher Olle Lindvall wrote last year is still true: "Although animal experimental data are very promising and clinical trials have given encouraging results * * * there exists at present no treatment for Parkinson's disease based on intracerebral transplantation."

There is even less progress with fetal tissue in diabetes. Nothing has been done in Alzheimer's disease in humans. (The disease remains such a mystery we would have to ask ourselves which tissue would we transplant and to where.)

We await the results of the attempt to arrest Hurler's syndrome in a child.

The federal government supports many varied studies of these diseases. With the fetal tissue bank eliminating an ethical question, it also will be supporting this further avenue of research, fetal tissue transplantation.

JAMES MASON,
U.S. Public Health Service,
WASHINGTON.

[From the Washington Post, May 30, 1992]

IN SUPPORT OF THE FETAL TISSUE BANK

As biomedical researchers who have closely followed the controversy about the Bush administration's ban on funding for transplanting tissues taken from induced abortions, we've been struck by the one-sided manner in which the press has reported on the issue. With few exceptions, the arguments of those who support the administration's policy have been given short shrift or have been distorted [op-ed, May 22].

About 750,000 spontaneous miscarriages occur annually in the United States, of which about 100,000 occur in hospitals, according to the Public Health Service. In addition, about 100,000 fetuses are removed surgically each year because of life-endangering ectopic pregnancies. The bulk of these tissues is unsuitable or not practically retrievable for transplant purposes, but that also is true for induced abortions—less than 10 percent of those produce usable tissue. The point is that those miscarriages and ectopic pregnancies that do result in viable, healthy and accessible tissue can more than meet research needs.

Fewer then 100 fetal tissue transplants have been performed in the United States. The U.S. Public Health Service estimates that the tissue bank could gather at least 2,000 usable fetal cadavers annually.

The feasibility of the tissue bank has been defended by some prominent advocates of fetal tissue research. Among them are two scientists on the 1988 NIH human fetal tissue transplantation research advisory panel. The majority of that panel recommended lifting the moratorium on abortion-dependent research.

In a May 13 letter to President Bush, Prof. Robert C. Cefalo of the University of North Carolina, who voted with the majority, said that a federally operated bank for nonabortion fetal tissue had "great merit," adding, "There is evidence that a proportion (5 percent to 7 percent) of spontaneous miscarriages will provide tissue appropriate for use in tissue transplantation research." The letter was co-signed by a renowned pioneer in fetal surgery, Watson Bowes.

Likewise, NIH Director Bernadine Healy—who also voted with the majority—wrote, "I can state unequivocally as a physician and scientist that this approach is feasible and should be given a chance to prove its efficacy."

Former surgeon general C. Everett Koop wrote to the president to "strongly endorse" the feasibility of the tissue bank. Dr. Joseph A. Bellanti and Dr. Marcia Michejda of Georgetown University Medical Center wrote, "various studies, including our own, have shown that there is an untapped source of normal, viable fetal tissue derived from spontaneous abortions and ectopic pregnancies * * * a reasonably high proportion of spontaneously aborted fetuses have normal, nondiseased tissues, which are suitable for research."

It is perfectly rational for the president and other Americans—scientists included—who recognize the fetus as a member of the human family, to oppose government promotion of research that would create a societal dependence on induced abortions as a tissue source. There is a respectable medical opinion in support of the feasibility of the president's alternative approach. It should be given a chance to work.

KEITH A. CRUTCHER.
ROBERT WHITE.

(The writers are, respectively, a professor of neurosurgery at the University of Cincinnati Medical Center and a professor of neurosurgery at Case Western University Medical Center in Cleveland.)

[From Nature, Aug. 13, 1992]

FETAL TISSUE BANKS

SIR: Your News story "Researchers reject tissue banks" (Nature 357, 267; 1992) quotes Yale researchers who extrapolated data I supplied to Senator Orrin Hatch and that he and Senator Edward Kennedy used in a Senate debate on fetal tissues research on 31 March 1992. Unfortunately, the researchers erred in their computation.

The data Congress received come from a study of miscarriages conducted at three Manhattan hospitals between 1977 and 1981: I examined more than 3,500 normal, well-preserved specimens up to 28 weeks gestational age, and concluded that about 7 per cent of them would have been potentially suitable for transplant research.

Readers should be aware that the Yale research refers only Parkinson's disease, in which interest focuses mainly on fetal brains of a developmental age of 7-12 weeks—a small fraction of the potentially useful fetal material. Journalists who omit this detail mislead the reader, but the researchers themselves compound the difficulty by understating by half even the amount of material available for Parkinson's related transplant research. The Yale calculation, which you report, that "usable abortions occur, on the average, only 1.4 times a year at each hospital" is an error; in fact, about twice that number would be available for the limited purpose of Parkinson's research.

Our study remains the largest and most systematic inquiry so far into the pathology of miscarriages. The results indicate that enough tissue could be obtained to make the proposed tissue banks worthwhile (J. Byrne et al. Teratology 32, 297-315; 1985). Just how much, and under what conditions, would be determined by the new tissue bank programme.

Not everyone regards the tissue bank issue from a political perspective and, if it were taken out of politics, many researchers would support such a programme. Research using fetal tissue holds enormous promise, not only for transplantation, but also in cancer research, in developmental biology and in AIDS research.

Moreover, we are still far from understanding the causes of miscarriages, despite their common occurrence: there were an estimated 750,000 in the United States last year. Ectopic pregnancies are on the rise, yet their causes are still obscure. Much good will come from the wider availability of fetal tissue for research. The opportunity to use the tissue bank networks for new studies of fetal loss should not be lost.

JUILANNE BYRNE,
Boyne Research Foundation.
WASHINGTON, DC.

[From Science, July 17, 1992]

MISCARRIAGE STUDY

Joseph Palca's article "Banking for transplantation research" (News & Comment, 29 May, p. 1274) conveys a misleading impression regarding data on miscarriages for fetal tissue transplant research that I supplied to Congress. Palca states that I "made no attempt to determine whether vital or bacterial infection might make tissue that [I] classified as acceptable unsuitable for transplantation."

The study referred to [J. Byrne et al., Teratology 32, 297 (1985)] is the largest and most comprehensive to date on the pathology of miscarriages. From January 1977 to August 1981 I was the leader of a team that evaluated more than 3500 miscarriage specimens for evidence of gross disorganization and dysmorphology. The overall study goals concerned the genetic and environmental causes of miscarriage. Detecting infection was not an objective. I suspected then (and still do) that infection might be a casual factor in miscarriages, but attempts to obtain funding for a study were unsuccessful. Transplantation research was also not part of our study. We supplied different kinds of tissue to local investigators. They found this tissue suitable for their purposes which, 10 years ago, probably did not include transplantation.

The information given to Congress referred only to well-preserved specimens and did not include data on fetuses that had died some time before delivery. The data indicate that enough miscarriage tissue could be obtained for tissue banks (Byrna et al.). How much, and under what conditions, would be a probable subject to study by the new tissue bank program.

JULIANNE BYRNE,
Executive Director,
Boyne Research
Foundation, Washington, DC.

PUBLIC HEALTH SERVICE, OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH,
Washington, DC, July 28, 1992.

To: The Secretary.
From: Assistant Secretary for Health.
Subject: New York Times Article on Fetal Tissue Bank—Information.

ISSUE

I would like to respond to the article by Philip Hilts in the Monday, July 27, New York Times which severely distorts and misrepresents the good faith efforts by the Administration to establish a fetal tissue bank.

DISCUSSION

The primary criticism of the article (copy attached) focuses on the estimates of the quantity of tissue from spontaneous abortions and ectopic pregnancies that the Department has estimated will be usable for transplantation and which will be the target of the fetal tissue bank's collection efforts.

First, I would like to state unequivocally that at no time was any attempt made to misrepresent or distort information about the feasibility and utility of the fetal tissue bank proposal. In fact, an extensive effort was made to collect the most recent and accurate scientific data.

The following are the allegations put forth in the article and our responses.

Allegation 1

The New York Times claims the Department misrepresented estimates of the quantity and quality of tissue from ectopic pregnancies and miscarriages.

Response

Memoranda from NIH, which were quoted extensively and out of context in the New York Times article, were neither ignored nor misrepresented by us. In fact, it was precisely this information which was the basis for our determination that only a small fraction of the total tissue from all spontaneous abortions and miscarriages will be usable for transplantation purposes. From the approximately 750,000 miscarriages annually in the U.S., we estimate that only 1,500 will produce usable tissue. Our estimate of the amount of usable tissue from ectopic pregnancies is 500. The goal of the tissue bank is to collect enough tissue from these two sources of tissue for experimental implants aimed at altering the course of Parkinson's, diabetes and other disorders.

Allegation 2

An anonymous NIH source quoted in the article claims that in order to retrieve all of the 1,500-2,000 fetal tissue specimens included in our estimate, it would be necessary to have a "SWAT team of highly trained professionals in every bedroom and every hospital in the United States."

Response

We intend to have a highly trained professional team at major medical centers where the majority of obstetrics cases are seen. This system, when fully operational, will allow us to access and collect a sufficient number of usable specimens from these sources.

Allegation 3

The article claims the fetal tissue bank will cost $330 million per year.

Response

This estimate is based on the erroneous assumption that we will go to unreasonable extremes to retrieve every single usable fetus. Future costs will be largely determined by the level of effort needed to support scientifically meritorious research and therefore, I am unable to make specific cost projections at this time. Given that NIH has not received nor evaluated such proposals, it is not possible to determine the likely number of research projects nor can we predict the course of scientific discovery. If we find that fetal cell transplantation does dramatically improve the condition of patients, who would argue with increased efforts to provide this relief? Both NIH and I remain unconvinced that in time, a fetal tissue bank will become obsolete as new and cost-effective cell and gene therapies are developed.

Allegation 4

The New York Times quotes unidentified sources as saying that 60–75 percent of fetal specimens will be contaminated and claims that half of the usable tissue will be expended for testing.

Response

The infection rate for fetal samples has been estimated by us at 50 percent. There have been on large scale studies to determine precisely the rate of infection but the first year of the bank will certainly provide valuable data on this point as well as contribute to studies about the causes of pregnancy loss. Further, modern technologies allow testing for infection on a very small number of cells.

Allegation 5

The article cites a Congressional Committee estimate that the number of fetuses that could be collected from the entire nation in a year would be 24. A Yale University researcher and critic of the fetal tissue bank has estimated that if the bank starts at six hospitals, 8 usable specimens could be retrieved.

Response

I would like to refute these pessimistic estimated by providing a simple illustrative example. One major medical center sees more than 1,000 cases of spontaneous pregnancy loss at greater than 9 weeks gestational age and over 350 ectopic pregnancies annually. This institution alone could provide about 50 usable specimens annually. Thus, with the participation of large institutions or networks of institutions, we expect significant numbers of specimens in the early stages of the bank.

Allegation 6

The New York Times article cites a source who claims that there will be at least a half a dozen scientific teams who will each want to carry out 20 fetal tissue transplants and that 2,000 samples will be needed in the first year.

Response

These projections are clearly exaggerated as only 60 transplants have been conducted in the last 30 years in the U.S. Given that transplantation research is in the early experimental stages, we are unable to predict what the actual level of future experimentation will be. A request for applications for the fetal tissue bank has already been published and 14 letters of intent have been received. We will fund approximately six centers in the first year.

CONCLUSION

The allegations made in the New York Times article are without merit. We remain confident that the bank will supply more than sufficient fetal tissue than is required for research needs. Without encouraging or justifying elective abortions, the bank will permit us to move ahead on responsible research attempts to help people with debilitating and deadly diseases.

JAMES O. MASON, M.D., Dr. P.H.

Mr. HATCH. Mr. President, we can resolve this problem, and why be tough about it? I would fight my guts out to get this bill passed with the fetal tissue banks, given a reasonable chance of 2 years which is what NIH has set them up to do. We certainly will have fetal tissue that will be used in research from those banks in that period of time.

I will do that today, and I will go to the White House and tell them they have to do it. I will talk to my colleagues who feel otherwise about this particular offer. I cannot guarantee it, all I can say is I will do my very best. In the past, I think that has been pretty good on a lot of health legislation that has passed around here. But if they will not even take that, knowing that this is going to be filibustered if cloture is invoked, knowing that the President will veto it if they can go to a process all next week to get it there and knowing that that veto would be sustained, then who is being unreasonable in this matter?

I have to say, it is not I, and I would like to have the distinguished Senator from Massachusetts and I go arm in arm down the center to get this done as we have on so many other important health bills in the past. I would like to call on my friend HENRY WAXMAN over in the House, JOHN DINGELL and others, who are linesmen in health matters in the House, tremendous people. I would like to call on them to go arm in arm and do a bipartisan effort and do what has to be done. If we can and pull that through, it will be a wonderful victory for fetal tissue research and the country as a whole. I cannot do anything less than that. I cannot argue for anything less than that. I do not think I have a chance with just anything less than that.

Frankly, it all comes down to, really what do we want, a political issue or do what is best for peoples health and lives? Do we really want this research to go forward? Do we really want to give our best to it? Do we really want to go down in defeat with NIH in the 102d Congress?

I do not blame the President. He is right to stand by his word. He is right to do what he said he would do. He is not going to have to do that unless we are willing to be in here another 1 or 2 weeks. It is a bona fide offer. I do not know if we can pull it off, but I would do my very best to get it done, and if we could, then it would be up to the House. If they do not want to take it, then that is the way life is. I reserve the remainder of my time.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. Two minutes, 45 seconds.

Mr. HATCH. I yield a minute to my friend.

Mr. KENNEDY. I would like to ask that we have 4 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH Mr. President, I have to object to that.

Mr. KENNEDY. I will suggest the absence of a quorum.

Mr. HATCH. I will give him my time, how much time does the Senator need?

I yield all that time to Senator KENNEDY.

Mr. KENNEDY. Mr. President, so we have an understanding, effectively this legislation was passed 87 to 10 in the spring; in April, 85 to 12, bipartisan Republican and Democrat. The Senator from Utah has said a 2-year extension. The language which we had included in the legislation had a 1 year trial which was the language which Secretary Healy and Secretary Mason suggested. He has mentioned 2 years. I would be prepared to split the difference with what the Senator from Utah has suggested and what is in the bill and offer that as a joint amendment and let us pass that legislation right here this afternoon.

That will give 10 more months than the administration said would be necessary for the bank. We will split the difference. He made a proposal. I would make a recommendation to our colleagues who believe very deeply that everyday we delay action is a day that avoids careful important research.

Mr. HATCH. Mr. President, if the Senator will yield, I said what I would do. It would be a big undertaking on my part. I do not know if I could get it done, but 2 years from January 1 is the absolute best—a lot of people want more than that, but that is the best I can do.

Frankly, I know it will be a crime, I know the other side is willing to go to 18 months. It is a crime if we do not do 2 years. All I can do is offer the best I can do in good faith, do everything I possibly can to get it done and I cannot guarantee I can even at that, but I will do everything in my power and good faith to get it done. That is the best I can do. It would be a shame not to do it for 6 months.

Mr. KENNEDY. I ask for 20 seconds.

Mr. President, talk about compromise. It is a difficult compromise to say to those families of Alzheimer's and Parkinson's disease, we are going to delay it further. We took a halfway mark between what came out of the committee and what the Senator is offering. If he is not prepared to do that when we have 86 Members of this body who supported that position, I think the record will reflect who is prepared to move the process forward.

Mr. HATCH. I ask unanimous consent for 20 seconds.

The PRESIDING OFFICER. The Senator has 25 seconds remaining.

Mr. HATCH. Mr. President, the money for the grants that have already been made, and they clearly are not enough, has not even been given. This is not a calendar year situation, and it probably will not even get going until next May. We are talking about the necessary time to give these banks the chance to work.

I am willing to do everything in my power for 2 years, with the right kind of legislative language—that is the two aspects of this offer—from January 1, 1993.

I thank the Chair.

Mr. SEYMOUR. Mr. President, I rise today to help end the needless suffering of millions of Americans from debilitating diseases such as Parkinson's, Alzheimer's, and Huntington's diseases. Striking the central nervous system, these diseases lead to severe brain damage, paralysis and eventually, death. Today, we have an opportunity to help save these lives, an opportunity to turn the tide of severe disability and give these individuals a chance to actively participate in the prime years of life. This opportunity is research.

In 1988, the administration placed a ban on Federal funding for fetal tissue transplantation research. Despite this ban, several medical institutions sought private donations to continue research in hopes of finding a cure to diseases such as Parkinson's and Alzheimer's. The results of their research have proved to be promising. At the University of Colorado, seven individuals suffering from Parkinson's participated in fetal cell implantation to reverse the damaging effects of their disease. Four of these patients experienced substantial improvement over time. Although this treatment has not proved to provide permanent relief researchers, including Dr. Moskowitz of the National Institutes of Health, believe that and expansion of this research may lead to a cure.

Mr. President, these diseases are both physically and emotionally excruciating—for the victim, for the family, and for their friends. Although the onset of Alzheimer's and Parkinson's is gradual, it is a slow and painful process, involving severe memory lapse, the inability to feed or dress oneself, the inability to walk, to move or to speak. Perhaps one of the most frightening affects of these diseases, is loneliness. Alzhemier's is so severe that the victims no longer know or recognize their families or friends. They cannot remember events, emotions, or thoughts that happened the day before, or even minutes before. They live in constant fear of the unknown.

Beyond lifting the ban on fetal tissue research and creating a tissue bank, this legislation reauthorizes all of the valuable programs under the National Institutes of Health. It is imperative that this legislation be passed before we recess this year. We can not allow these programs to go unfunded. This is perhaps one of the most important and intelligent health care investments we can make this year. We can help stop the onset of damaging diseases in our future if we invest in research today.

The time has come to stand and offer our support to allow this vital research opportunity to continue. Not only will it improve the lives of millions of Americans, but will save our health care dollars in the future. I ask my colleagues to join me in support of S. 2899.

Mr. REID. Mr. President, I rise today in support of the NIH reauthorization bill, specifically as it addresses an underrepresented group here in the U.S. Congress: women.

Two hundred years of a male-dominated legislature has left its mark on women in many areas, particularly in that of medical research. Traditionally, men have decided, and still do decide, what types of medical research get funded, and at what levels.

Men are in the majority in the Congress, men are in the majority in medical research. This means the needs of women are overlooked. I am here to speak for those women currently suffering from female-specific diseases, and for those who may have died from those diseases.

If men suffered from illnesses such as interstitial cystitis, multiple sclerosis, lupus, and osteoporosis at the same rate women do, I would wager that much more research would be done on these illnesses. Perhaps there would even be cures. I see this inequity as nothing less than medical sexism.

Last year, as a member of the Senate Appropriations Committee, I worked to secure $50 million for breast cancer screening programs, more than $200 million for research on breast, cervical, and ovarian cancer at the National Institutes of Health, and $3 million for research on interstitial cystitis—a painful, debilitating disease affecting 500,000 Americans, of whom 90 percent are women. These appropriations, and they have been increased under this year's appropriations, were a significant step toward placing women's health on par with men's. Today, we are fortunate to have the opportunity to go a step further.

This bill provides permanent authority for an Office of Research on Women's Health within the Office of the NIH Director. This office will ensure that NIH complies with the congressional mandate of inclusion of women in clinical research and will coordinate among the institutes the various research projects involving women.

For too long, women have been excluded from research projects due to arbitrary considerations. Researchers believed that because women have a more complicated hormonal system, results of studies on women would be difficult to interpret and more costly to gather. Therefore, women have been considered a special case, and men have been considered the norm.

How can we consider a majority of the population as a special case? How can we refuse to test more than half our population because we say they are not the norm? This makes no sense. It is blatant medical sexism. The bill requires clinical research equity in every institute to ensure that women and minorities are included as subjects in each project.

Millions of women have read the study suggesting an aspirin a day may prevent heart disease. Do they know the sample group was entirely male? In fact, we do not know whether an aspirin a day is harmful or beneficial to women with heart disease. It is patently unfair to assume that men and women do not differ in their response to aspirin or to ignore any difference as not technically significant. Heart disease claims the greatest number of women's lives in this country. Yet all major studies of causes and prevention has involved exclusively men.

Once again, women are left in the dark because of medical sexism.

Unfortunately, physicians have a poor understanding of the effects of aging on the development of disease in older women. One-third of women in America are post-menopausal and doctors are without the tools to treat the accompanying aging problems. This bill requires research on the aging process in women, especially on the effects of menopause and loss of ovarian hormones. Further, $40 million is authorized for research of osteoporosis, a disease affecting one-third to one-half of postmenopausal women, and resulting in 50,000 deaths annually. In addition to research on osteoporosis, the effort shall include a study of Paget's disease and related bone disorders.

Information is the greatest necessity in women's health today. This bill establishes a clearinghouse and data bank to provide information on research and prevention activities in women's health. A registry is established to provide the sample pool and data for continuing research projects.

Despite our advances in technology, the number of women diagnosed with breast cancer each year has increased from 1 in 14 women, to 1 in 8, as reported yesterday. In my home State of Nevada alone, it is estimated that 200 women this year will die from breast cancer. This is unacceptable. This bill authorizes $325 million for breast cancer research, prevention, education, and establishment of research centers; $75 million is further provided for research in gynecological cancers. We must continue to provide the assistance needed to investigate and combat these pervasive, deadly diseases.

As I have said before, women have been underrepresented in positions that affect this Nation's health policy. Health problems unique to women have received inadequate attention. I intend to change that trend. I urge your support for this important legislation, for the health of our wives, daughters, mothers, and all American women.

I would like to address another section of this bill which provides for loan repayment for those professionals researching within the NIH. After being in Washington for almost 9 years, I made my first visit to the National Institutes of Health. These Institutes are the world's foremost biomedical research facilities. I had developed over the years a respect and appreciation for the work done by the Institutes, but my personal tour closely showed how impressive and even exciting are these Institutes.

While visiting the National Institute of Neurological Disorders and Stroke [NINDS], the Director, Dr. Murray Goldstein, acquainted me with the evolution of a great discovery. Researchers came to him for permission to follow a course of study involving the use of corticosteroids to prevent paralysis resulting from trauma to the spine, as in the case of a car accident.

Initially, results showed no reduction in paralysis when corticosteroids were administered. The steroids were administered again in larger doses. Still no improvement. But, because the experiment had worked in cats, researchers at NINDS were not ready to give up hope. They administered the substance in mass quantities and found that if given to a trauma victim within an hour of injury, degeneration of the spine could be halted. Even more exciting, this treatment costs less than $100. Less than $100 to save someone from paralysis.

I could continue for hours about the seemingly miraculous medical discoveries made at NIH. While all the Institutes work on vastly different projects, I did encounter a recurring theme in every one I visited. Because NIH does not pay salaries comparable to those offered by private sector biomedical research facilities, the various Institutes frequently have difficulty recruiting scientists. When one considers the amount of debt amassed by both medical doctors and Ph.D.'s during their training, it comes as no surprise that recently graduated scientists cannot accept lower paying jobs offered by this biomedical research center.

Currently, NIH employs a very successful approach to attracting scientists to the facility to research in an area where shortages of researchers exist—specifically the area of AIDS investigation and research.

The AIDS Loan Repayment Program permits NIH to attract researchers to work in the area of AIDS, where a desperate shortage exists, by repaying each year of service to NIH a predetermined amount of the researchers' educational loans. This bill extends this excellent program to allow NIH to attract scientists in other areas where shortages of researchers exist, such as in the area of Alzheimer's disease, cancer and heart disease.

Extension of the AIDS Loan Repayment Program to other specialties takes on an even greater significance when one considers that in 1990, 79 percent of all medical students borrowed to finance their education. The average debt in 1990 for medical students was $46,224, and 30 percent had debt over $50,000. Not surprisingly, debt levels for minority students were significantly higher than average.

As the National Institutes of Health is reauthorized this Congress, I sincerely urge my colleagues to support the finest biomedical research facility in the world, and in particular by ensuring that the Institutes remain capable of attracting research personnel. I also strongly recommend that each of my colleagues find time in their busy schedules to visit this impressive institution.

Mr. GORTON. Mr. President, I would like to express my support for the compromise provisions contained within S. 2899, the National Institutes of Health Revitalization Amendments of 1992.

Fetal tissue transplant research holds the promise of finding cures for crippling diseases such as Alzheimer's, Parkinson's disease, spinal cord injury, diabetes, and many other life threatening conditions. S. 2899 offers a sound approach to helping the thousands of people who suffer from these afflictions. Our continued delay on this necessary research is turning the hope and optimism of millions of ill Americans and their families into despair and resignation.

This legislation contains important safeguards and guidelines that prevent abuse of this research. It adopts the protections as recommended by the National Institutes of Health Task Force that ensure separation between research and the decision to perform an abortion.

It is critical that we do not ignore ethical guidelines or exploit this research in our haste to save lives. This bill will set forth necessary and ethical guidelines and regulations, as well as strict penalties for violations of those guidelines.

S. 2899 requires that consent to the abortion precede the consent to donate the fetal tissue. The mother may not be informed as to the identity of the individuals who will receive the tissue transplant, nor can she identify to whom the tissue will be donated. The recipient of the tissue must be informed by researchers that the tissue is human fetal tissue and the tissue may have been donated as a result of an induced abortion.

S. 2899 would require that the physician make known any interest that he may have in the research to be conducted with the donated tissue. Researchers and physicians may not contribute to any costs associated with the abortion. The bill prohibits the physician or researcher from altering the timing, method, or procedure used to terminate the pregnancy in order to obtain a better fetal tissue sample. Procedural changes which may cause greater than minimal risk to the fetus or the pregnant woman are prohibited. Additionally, the bill will outlaw the purchase, sale or solicitation of fetal tissue. This legislation would assess fines, or mandate imprisonment for violations relating to this act.

In addition to these safeguards contained in the original version of this bill, H. R. 2507, this legislation will require researchers to first request tissue from the bank established under President Bush's executive order. If the bank is unable to supply tissue within 14 days, the researcher would be permitted to use tissue from other sources.

I believe that the safeguards contained within this legislation effectively prevent, and ultimately prohibit, potential abuse of fetal tissue research. S. 2899 will give Federal support to essential research that may help millions of suffering Americans.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S. 2899, a bill to revise and extend programs of the National Institutes of Health:

Paul Simon, Harry Reid, Frank Lautenberg, George Mitchell, Carl Levin, Jim Sasser, Joe Biden, Daniel K. Inouye, Alan Cranston, Tom Harkin, Edward M. Kennedy, Howard Metzenbaum, John F. Kerry, Paul Wellstone, Jay Rockefeller, and Brock Adams.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2899, the NIH reauthorization, shall be brought to a close? The yeas and nays are required. The clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 85, nays 12, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—85

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Fowler
Garn
Glenn
Gorton
Graham
Grassley
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—12

Burns
Coats
Craig
D'Amato
Ford
Gramm
Hatch
Helms
Nickles
Pressler
Smith
Symms

NOT VOTING—3

Durenberger
Gore
Riegle

The PRESIDING OFFICER (Mr. FORD). Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. SYMMS. Mr. President, I suggest the absence of a qourum.

Mr. KENNEDY. Mr. President, regular order. There has been no intervening business between the call of the roll on the cloture motion.

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. SYMMS. Mr. President, I rise to take the floor, and I had a little bit of housekeeping I wanted to do before I commence my remarks to my colleagues. So I suggest the absence of a quorum.

Mr. KENNEDY. Regular order. I make the same point of order that was made before.

The PRESIDING OFFICER. There has been no intervening business, and the Senator from Massachusetts is correct.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might speak as in morning business for 30 seconds to insert a speech into the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

WILLIAM J. AGEE ON RAIL TRANSPORTATION

Mr. SYMMS. Mr. President, on September 23, William J. Agee, the chairman and chief executive officer of Morrison Knudsen Corp., delivered the keynote address at the sixth annual American Railroad Conference in Chicago. That speech has garnered very wide acclaim in national print media and trade journals, and I take this opportunity to call it to the attention of my Senate colleagues.

My long time friend, Bill Agee, has turned the Morrison Knudsen Corp. into the Nation's leading rail transportation construction company, and in the process, Bill has himself become one of the Nation's leading authorities on the multimodal future of transportation in the United States. His remarks should be read carefully by Members of Congress, policymakers in the administration, and business men and women across the country planning the future of their business investments and growth opportunities.

Bill notes correctly that congestion is a fact of life today for passengers on many of our Nation's highways and at airports across the country. Rail transportation, particularly high-speed passenger rail service, can help solve those congestion problems in an economically and environmentally sound fashion.

I ask unanimous consent that Mr. Agee's speech be printed in the RECORD following my remarks, and I urge my colleagues and their staffs to use the few minutes it will take to read his important remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A LOOK AT AMERICA'S RAIL INDUSTRY

(Remarks by William J. Agee)

It's great to be in Chicago, to see so many friends and to spend some time together talking about America's rail industry.

As many of you know, railroads are a subject very dear to me and very dear to the entire Morrison-Knudsen family. Our company's heritage is steeped in America's rich railroad tradition. And we've made a commitment to carry that tradition forward into the next century.

So I'm very excited to be here and to have the chance to share with you my thoughts about where we've been, where we are and where we're going as an industry.

Chicago is an appropriate place to discuss these issues because it's been—perhaps more than any other city—the hub of America's transportation system. It's the center of our railway supply industry. And it's home to the country's premiere commuter rail system.

Early in our history, Chicago was a great staging ground for the builders of a new nation. Chicago witnessed the legendary struggles and triumphs of the men and women who built America's Railroads. And it was in large part as a result of their efforts that Chicago became one of the world's great commercial centers.

It was not far from here—during the last century—that a young aspiring politician was first captivated by rail's promise.

Abraham Lincoln was just beginning his political career when he was called to serve in the Blackhawk wars. It was there in the north woods of Illinois—as he watched armies of men and wagons mired in mud—that Lincoln was first inspired by a vision of railroads revolutionizing travel in Illinois and across the country.

Returning home, he made rail a campaign issue, speaking of railroads as a "never-failing source of communication" which "no other improvement can equal in utility."

We've come far since Lincoln's day. When travelers in America slogged along muddy roads. When commerce was slow and uncertain. When information moved at a wagon's pace.

Led by many of the people and companies represented in this room. We built the world's greatest system of railroads, highways and airports. And they helped revolutionize American travel, business, communications—and ultimately—our way of life.

Did we achieve some of the promise that Lincoln dreamed of? You bet. But have we been able to live up to his ideal of transportation as a "never-failing source of communication?" or even an almost-never-failing source of communication?

Clearly, the answer is no. Far from it.

Consider this:

At the turn of the century, America's standard form of travel was the horse-drawn carriage. Average speed—about 11 miles per hour. Right now in New York City automobiles are averaging 6 miles per hour.

Now you have to ask yourself, is that progress?

What would Lincoln think if he hopped in a car and tried to get out to O'Hare today during rush hour? Sooner or later, he'd be missing the horse and wagon.

The average commuter in Los Angeles spends 4 hours and 20 minutes—each day—going back and forth to work. Some say people from southern California are laid-back. I think they're just constantly exhausted by the commute.

Each year, Americans are forced to waste 2 billion hours and 3 billion gallons of fuel sitting in traffic. By the end of the decade, that's going to cost us $50 billion in lost wages and fuel.

It's no secret that America's transportation system is in crisis. Across the country—in our cities, towns and in the countryside—we're seeing aging roads and bridges deteriorate. At the same time, we're using them more and more. And—surprise, surprise—conditions are getting worse.

And there's no end in sight.

Unless something changes, over the next 20 years, congestion on our freeways will more than quadruple. It will double on our nonfreeway system. And it will increase tenfold in low population areas.

Things are so bad already in so many places, that it's hard to imagine what that kind of traffic would look like.

Let me give you an example.

Recently, a group of experts was asked to figure out how much Florida would have to expand highway I-95 between Miami and Fort Lauderdale to handle traffic 28 years from now—in the year 2020. They concluded—no joke—that 44 lanes would just about do it.

Ladies and gentlemen, there's a serious message here. We can't go on paving over America and calling it progress.

Make no mistake, the stakes are high. We're not just talking about wasted time and wasted fuel; 68 cities are failing Federal air pollution standards for ozone and almost as many can't meet carbon monoxide guidelines. Over 100 suburban areas exceed the limits.

All told, that means 150 million Americans live in areas where the air quality is below acceptable levels. The American Lung Association estimates that the national health care bill for air pollution is $40 billion per year.

So what's the alternative? How can we accommodate our growing transportation needs? The airlines? Well, I think we all know the answer to that one from hard experience.

Today, most airline passengers on trips of 1,000 miles or less spend more time on the ground than in the air. You know the routine. You sit on the runway at both ends. You have to commute to and from the airports. It adds up. A 2-hour flight from Denver to Chicago can consume half a work day, door to door.

The Federal Aviation Administration says that each year air travelers sit through 20,000 hours of flight delays, that costs us $5 billion in wasted time and fuel. It would take an awful lot of complimentary drinks and honey-roasted peanuts to make up for that.

Even if we could build more airports quickly enough—and we clearly can't—that's not the answer. The skies above our major airports already look like the San Diego freeway on a holiday weekend.

That brings us to rail. And as you know, the picture in our industry is quite different.

Unlike the highways and airports, railroads aren't overburdened. Without adding track, railroads are capable of carrying four times the traffic they do now. Rail is the only mode of transportation that offers us a way to immediately begin easing the pressure on our transportation system.

Rail also provides creative approaches to improving the way we use other modes of transportation. In fact, we've been doing it for years. We began piggy-backing trucks on trains a long time ago. Today it's become the rail industry's fastest-growing segment.

And as higher labor and insurance costs continue to change the economics of trucking, we're working with trucking industry leaders such as J.B. Hunt and Schneider National to offer even better door-to-door service.

But wait. If rail provides answers to many of our transportation problems. Why isn't it playing a big role in solving our transportation crisis today?

Everyone in this room knows the answer.

It's fact of life in our industry that, for far too long, rail has been a relatively national low priority. During the next 5 years, the United States plans to invest barely over 1 percent of our Federal transportation dollars in rail. That's one of what the European Community will invest in its rail network.

Rail has been the Cinderella of the transportation family—the neglected stepchild. Highway building has been heavily subsidized while rail has been left largely to its own devices. Airport builders benefit from tax incentives. Trucking is given preferential treatment. But by and large rail has to pull its own weight.

None of this is news to you. The people in this room have had front row seats as America's rail industry struggled over the years to overcome neglect and underfunding—the result of this country's bias toward highways and airports.

The good news is that despite this inequitable treatment, the industry came through the 1980's in fairly good shape. Since deregulation 12 years ago, railroads have improved services and cut operating expenses. Revenue per mile increased significantly at the same time that the number of locomotives decreased by 25 percent. That's a major accomplishment in any industry.

During the 1980's, railroads invested more than $30 billion in new and improved equipment and another $100 billion in maintenance. Unproductive assets were shed and, today, more than 200 new short line and regional railroads are operating profitably in facilities once slated for abandonment.

And the rail industry has been bringing new technologies to the market. As a result, various measures of output rose during the 1980's. Freight-car utilization up 13 percent. Operating efficiency up 51 percent. Fuel efficiency up 36 percent.

As individual businesses and as an industry we have a lot more to do if we are going to be competitive during the 1990's. We also have to continue improving operating ratios, cutting costs while increasing services and sustaining growth.

These are formidable challenges. But I believe that we are beginning to move in the right direction—as an industry and as a nation. I believe that in some very important respects we are in a position much like the one we were in during the 1950's.

Back then, America was emerging as a superpower in a world still recovering from War. We were just beginning to confront a host of dramatic changes that transformed life in the wake of the allied victory. It was a time of tremendous opportunity—and we were poised on the brink of unprecedented economic growth.

But President Eisenhower and congressional leaders from both parties recognized that this golden opportunity could be lost unless something was done about our roads, which had been badly neglected during the war years.

If you think about it, this scenario sounds familiar, doesn't it? America fresh from leading the forces of democracy to a historic victory. A new world order in the making. An uncertain promise of prosperity and growth in a transformed global economy. And the Nation confronting the urgent need to get its house in order to be able to realize the promise of this new era.

How did we respond in the 1950's.

We rolled up our sleeves and built a modern highway system that was the envy of the world. It wasn't easy and it didn't come cheap. But Government provided the vision and the financing through the Interstate Highway Act. And Americans across the country did the rest. And that great construction effort helped kick-start the most powerful economic engine the world has ever seen.

I'm optimistic about the future of the Nation and of our industry because I believe America will rise and seize this moment again. And I believe that—this time—our solution to the problem will focus on rail as the key transportation resource.

Last year, we took an important step in that direction by making a substantial national commitment to improving our transportation system. Congress passed, and the President signed into law, the Intermodal Surface Transportation Efficiency Act of 1991.

This legislation authorizes $151 billion for rebuilding transportation systems across the country. But just as important, it put in place a balanced, and much more promising, approach to transportation.

For the first time, cities and States will be able to use highway trust funds for intermodal transportation planning. That's important because, as you know, an intermodal system combines the various modes of transportation—road, air and rail—so that they work together efficiently.

I take this as a promising sign that American transportation and infrastructure policy is finally climbing out of its philosophical rut. For far too long, we've been stuck in a rut in which highways and airlines and railroads were forced to fight each other every step of the way.

Rail had its hand tied in that fight, so it was really no contest. The results were good for builders of highways and airports, but they weren't very good—as we've seen—for the traveling public, American businesses or the national economy.

Our new approach proposes using rail, road and air travel in combinations that are more the result of informed planning rather than special interest lobbying.

I'm convinced that's good for rail. Why? Because on a level playing field, our industry's comparative advantages will allow us—finally—to bring rail's full value to America's transportation marketplace.

A national transportation policy based on the principle of intermodalism is good for rail because—guess what?—in much of the country, rail is the missing piece of the transportation puzzle. And under any truly intermodal system you can imagine, rail plays a central role.

And it's already beginning to happen.

Cities and States are taking advantage of their new-found freedom to establish priorities for intermodal systems. And local initiatives featuring rail are in the works across the country. Voters in Wisconsin, for example, recently amended their State constitution to invest State gasoline tax revenues in rail-passenger projects.

As you can see, I'm an optimist when it comes to our industry. But I also understand that—as in the past—there are no guarantees and no shortcuts on the way to a world class transportation system.

It won't come easy. It won't come cheap. And there are some fundamental challenges that we must accept if we are going to succeed.

First, we need to make sure that we fully restore balance to America's transportation and infrastructure policy. We've taken a first crucial step on the legislative front. Now we need the tools to unleash rail's potential.

We need tax exempt financing. We need relief from onerous red tape and work rules. In short, we need equal treatment with other modes of transportation.

At every level of government, when public transportation policy is being made, rail has to be represented. As we plan the transportation systems of the future, we have to take a close look at the comparative costs and benefits of various modes of transportation.

These objective factors—no special interest agendas—should form the basis of our national, State and local transportation plans.

We know the facts about trucks, for example. A twin axle rig can cause as much as $1.80 in road damage, and yet the operator pays only 4 cents per mile in road-use taxes.

Compare that to rail. Unlike highways, railroad rights of way are privately built and maintained. Yet railroads recently got hit with tax increases while trucks continue to enjoy their sheltered status.

This inequitable treatment has got to stop. Our industry supports weight-distance user charges and I believe they should be seriously considered and in some cases adopted. In any case, the guiding principal should be fairness.

Let me say it loud and clear. All the American rail industry asks for is a fair shake. On an equal basis, on a level playing field, we'll compete with anyone, anywhere. Just don't expect us to stand by quietly when the game is rigged.

I believe that—ultimately—the greatest challenge facing the rail industry is communication. Now more than ever, we need to take the case for rail to the American public—to Washington, to the States and to the grassroots.

America needs to know about the many advantages that rail brings to the table. We have to tell people that the rail is a high tech industry that can provide productive jobs and serve as a catalyst for economic growth.

Gone are the days when railroads just meant heavy metal and brute power. They still have the muscle, but now they have the brains to match.

We have to tell America that today's advanced rail systems use some of the most sophisticated technologies around. That we are developing more and better applications—advanced light rail, very high speed rail, maglev technologies. And super-sophisticated parts such as computerized transit system components.

MK is working on one of the most exciting high tech projects in our history—Texas high speed rail. Anyone who's spent more that 10 minutes with me knows all about it.

It will be the Nation's first very high speed train. Running from Dallas to Houston and capable of carrying 12,000 passengers a day at 200 miles per hour of comfortable speed. And it will become a part of a system connecting every major city in Texas.

I believe that 20-30 years from now, we'll have very high speed rail trains operating in 6 to 10 markets. And we'll have high speed rail trains such as the Amtrak Metroliner doing 150 miles per hour in 8 to 10 markets. In addition, we have the prospect of maglev trains running at over 300 miles per hour.

We as an industry are serving notice—the day of America lagging the rest of the world in rail technology are over.

We need to tell American that the rail industry can provide high tech transit to help accommodate new development and to complement roads and airports. That the transit systems of the future will use high speed rail to link urban centers to out-of-the-way regional airports.

We need to tell America that these intermodal systems will create regional "super hubs"—such as an O'Hare superhub right here outside Chicago. And much like the rail hubs of early American history, these modern day crossroads will help spur economic growth.

Imagine San Antonio as a super hub. A gateway to Mexico much like Hong Kong serves as a gateway to China. Like Hong Kong, the San Antonio-Monterey corridor would be transformed into a hotbed of entrepreneurial activity.

We have to tell America that we are developing new strategic alliances in order to maximize asset utilization and bring diverse resources to bear on today's increasingly complex projects.

MK has been fortunate to have the opportunity to form such an alliance with one of Illinois' favorite sons, Caterpillar. Together, we are introducing three new locomotives.

They include the world's first single-engine, 5,000 horse power locomotive with 25 percent more power than the industry's current heavy haulers. It will allow railroads to significantly boost tonnage hauled per unit. We're talking about three-for-four and sometimes two-for-three unit replacement ratios.

We have to tell America that rail is good for the environment. That rail is the environmentally-friendly transportation alternative.

This is a critical advantage—on one of the biggest issues of the 1990's, we're squarely on the winning side. Environmental groups have been strong supports of Texas high speed rail and I believe they will support us in other projects.

Locomotives account for 1 percent of all emissions into the air. And we are working on ways to decrease that further. By comparison, motor vehicles such as cars and trucks—on the other hand—cause over 30 percent of carbon dioxide pollution. They cause 40 to 60 percent of the hydrocarbon pollution. They cause 70 to 80 percent of the carbon monoxide pollution. Trucks emit 10 times more diesel particles and hydrocarbons and 3 times more nitrous oxide and carbon monoxide.

MK is teaming with Caterpillar to offer the first locomotive powered solely by clean-burning natural gas. This 1,200 horse power switcher that will help key regions of the country to comply with the Clean Air Act.

Now, these locomotives may not be an industry-wide solution, but they demonstrate how quickly we are able to adapt new technologies to do our part for a cleaner environment.

Ladies and gentlemen, despite all the serious challenges we face as an industry, we have a good story to tell. And we must take every possible opportunity to tell it.

Perhaps most importantly, we have to tell the American people that the Nation has arrived at a crossroads. One road takes us further along the previous path of ad hoc transportation policies that favor roads and airports. Given our experience, that's ultimately a slow road to nowhere.

The other road leads in an entirely different direction. Toward a transportation system that takes full advantage of today's promising rail technologies. Toward an intermodal intelligent transportation system second to none. Toward a transportation system that provides a solid foundation for America's economic development during the 1990's and beyond.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

THE CABLE TELEVISION BILL

Mr. PRESSLER. Mr. President, I wish to state very clearly, as I have stated, that I shall retain my position on the cable television bill.

I was an original sponsor of that bill. I serve on the committee. I have worked closely with Senator DANFORTH. I believe I voted for that bill four or five times. And in the event of a Presidential veto, I shall continue that position.

I wanted to say that to clear the air, because there has been a great struggle over this bill. I know that. I have urged the President to sign the bill into law or to let the bill become law.

In my State of South Dakota, there are enormous issues regarding cable television. They are perhaps unique, but we do need to get more public service programming. We do need to have more options for the pay-per-view people who are interested in sports. There is a whole host of issues, and I have spoken on those issues on this Senate floor many times. For me to change my vote at this point would run against my principles.

But I wanted to say that in a speech because there is a great struggle underway. There are a number of rumors about who is going to vote which way in the case of a veto override. I shall maintain my position.

I urge that the President sign the bill. I hope that he will do so in the next few hours.

I yield the floor.

Mr. WIRTH. Mr. President, I ask if I might speak for 10 minutes as if morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Thank you Mr. President.

SETTING THE RECORD STRAIGHT ON IRAQ

Mr. WIRTH. Mr. President, Senator GORE apparently hit a raw nerve in his recent speech on our country's policy in Iraq and the Middle East overall.

In detailing the President's coziness toward Saddam, Senator GORE provided an accurate indictment of a foreign policy blunder.

The reaction last night on the Senate floor revealed how sensitive this matter is, and rightly so.

George Bush's attempt to befriend Saddam had many loyal supporters. Senator GORE'S critique hit home. It seems to me that, to paraphrase Shakespeare, some "doth protest too much."

The record of the Bush administration's failed policy toward Iraq is clear. There is no dispute about that record. The only real issue is what this sad record says about the President's judgment—and common sense tells us what a devastating failure of judgment his policy represented.

What is so disturbing is the moral blindness which allowed an American President to stroke and coddle this vicious despot. In foreign affairs, where is the clear moral compass to steer this administration?

This moral blindness was clearly evident in the administration's handling, for example, of the Voice of America scandal. As many Senators, I am sure, will remember, the VOA broadcast an editorial on February 15, 1990, entitled "No More Secret Police." This editorial properly and accurately reflected American values.

Let me quote a few passages from what the Voice of America said:

> A successful tyranny requires a strong, ruthless secret police force. A successful democracy requires the abolition of such a

> force. That is the lesson the people of Eastern Europe have learned well in more than four decades of tyranny. * * * Secret police are also entrenched in other countries, such as China, North Korea, Iran, Iraq, Syria, Libya, Cuba and Albania. The rulers of these countries hold power by force and fear, not by consent of the governed. But as East Europeans demonstrated so dramatically in 1989, the tide of history is against such rulers. The 1990s should belong not to the dictators and secret police, but to the people.

And then the VOA announcer closed by stating "That was an editorial reflecting the views of the U.S. Government". He might also have added that the editorial reflected the values of the American people.

In any case, the announcer was soon proved wrong. Saddam took terrible offense that the VOA would broadcast such critical things about his police state and within 2 weeks Secretary of State Baker sent a cable to our Ambassador in Baghdad with instructions to apologize for this offensive language. Let me quote a few key passages from that cable, now declassified, dated February 27, 1990:

> It is in no way U.S. Government policy to suggest that the government of Iraq is illegitimate or that the people of Iraq should or will revolt against the government of Iraq. We regret that the wording of the VOA editorial left it open to that incorrect interpretation.

The cable, signed by James Baker, now George Bush's campaign manager, added that the "Department believes that failure to clear the text of the editorial represents a violation of the understanding we have with USIA, and by extension, VOA. We intend to follow up."

And follow up they did, Mr. President. The next day, February 28, U.S. Ambassador April Glaspie sent a letter to Iraq's Foreign Minister, Tariq Aziz, stating:

> I was surprised to learn from Undersecretary Hamdoon on February 25 of the existence of a Voice of America editorial entitled "No More Secret Police." I conveyed your concern to my Government, and was immediately instructed to assure you that it is absolutely not United States policy to question the legitimacy of the Government of Iraq nor to intervene in any way in the domestic concerns of the Iraqi people and government.
>
> My Government regrets that the wording of the editorial left it open to incorrect interpretation.
>
> As Assistant Secretary Kelly told His Excellency the President on February 12, President Bush wants good relations with Iraq, relations built on confidence and trust, so that we can discuss a broad range of issues frankly and fruitfully. I am sorry that the Government of Iraq did not inform me of its concern about the editorial sooner, so that I could have provided you with the official assurance of our regret without delay.

Mr. President, not only did she apologize that the U.S. Government had the audacity to criticize tyrannical regimes, but our Ambassador apologized for not being able to apologize sooner.

As if this were not enough, a delegation then met with Saddam in Mosul, Iraq in April 1990 and according to available transcripts confirmed in later press interviews further apologized for this indiscreet VOA editorial. It is no small irony, Mr. President, that this meeting took place in the Kurdish part of Iraq—an area devastated by Saddam's attempted genocide of the Kurds. All around that meeting site was ample evidence of vicious, brutal, violent repression, evidence of attempted genocide against the Kurds, evidence of the use of chemical weapons to kill innocent men, women, and children whose only crime was their heritage.

It would have been inconvenient to focus on genocide. The Reagan-Bush administration had, after all, vehemently opposed congressional efforts to pass the Prevention of Genocide Act in response to Saddam's brutal slaughter of the Kurdish people. Instead, the U.S. delegation to Saddam reportedly engaged in mutual criticism of the spoiled and conceited Western press and informed Saddam that the VOA official responsible for that outrageous assault on the moral credentials of the Iraqi despot would be fired.

Mr. President, there was nothing to apologize for in that VOA broadcast. Nothing at all. It rightly reflected American values. It stood up for freedom from tyranny. It stood up for democracy. The fact that our Government felt it necessary or even appropriate to apologize for the VOA defense of freedom speaks volumes about the moral blindness which led the administration to coddle Saddam right up to the invasion of Kuwait. And we have paid a high price for that blindness.

Also, Mr. President, how about George Bush's opposition to sanctions against Iraq right up until the invasion of Kuwait.

As late as July 27, 1990—4 days before the invasion—the Senate considered a Gramm-Dole amendment to gut meaningful sanctions against Iraq. The amendment, which had the support of the Bush administration, failed. One of our Republican colleagues, the junior Senator from Kansas, also voted on the 6–D amendment, put it well in that debate on Iraqi sanctions:

> There is no one who feels more strongly than myself that food should not be used as a weapon. But * * * there comes a time when I think we have to stand up and be counted.

Had the Bush administration demonstrated the moral compass of the junior Senator from Kansas, had Bush stood up to Saddam earlier, had Bush's foreign policy reflected American values, we may well have succeeded in containing Saddam's aggression at home and abroad.

I ask unanimous consent that the full text of the VOA editorial, the State Department cable from Secretary Baker to the U.S. Embassy in Baghdad and the letter from Ambassador Glaspie to Tariq Aziz be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Voice of America, Feb. 15, 1990]

NO MORE SECRET POLICE

Announcer: Next, an editorial reflecting the views of the U.S. Government.

Voice: A successful tyranny requires a strong, ruthless secret police force. A successful democracy requires the abolition of such a force.

That is a lesson the people of Eastern Europe have learned well in more than four decades of tyranny. As East Europeans have replaced Communist regimes with moderate interim leaders, and begun to prepare for democratic elections, they have moved to dismantle secret police forces. In Czechoslovakia, the secret policy headquarters building in Prague has been completely emptied. Secret police employees have been ordered to turn in their handguns and identity cards, and to stay at home until the new non-Communist Interior Minister decides what to do with them. They will no longer be kept busy spying on their fellow citizens—or engaging in even worse crimes.

The governments of Poland, Hungary, Bulgaria and East Germany are also looking for productive work for former members of the secret police. It is an especially large task in East Germany because the secret police, known as the Stasi, had about eighty-five thousand full-time employees, along with huge caches of weapons, scattered in buildings around the country. When the East German government suggested that it might replace the Stasi with another internal security agency, a crowd of demonstrators at the Stasi headquarters in East Berlin made it clear that no more secret police are wanted. Graffiti scrawled on the walls read: "Stasi, Gestapo, KGB, Securitate: all bloodsuckers."

In Romania, many people shed their blood to overthrow the Ceausescu tyranny. They had to fight against well-armed secret police, the dreaded Securitate, which fought to the bitter end to maintain its grasp on power. Romania's interim government has said it is committed to the complete disbanding of the Securitate, but many people are concerned that secret police are still active in the country. On a brief visit to Romania on Sunday [February 11] U.S. Secretary of State James Baker stressed the need to dismantle the secret police completely. Mr. Baker said the U.S. wants to help Romania, but such help will depend on the extent of internal reforms and on whether the elections planned for May are free and fair.

The Soviet Union has also made significant reforms in recent years, but the secret police apparatus, the KGB, remains a powerful and feared institution. Lasting change can come to the Soviet Union only when citizens no longer need to fear massive surveillance—and worse—from the KGB. Secret police are also entrenched in other countries, such as China, North Korea, Iran, Iraq, Syria, Libya, Cuba and Albania. The rulers of these countries hold power by force and fear, not by the consent of the governed. But as East Europeans demonstrated so dramatically in 1989, the tide of history is against such rulers. The 1990s should belong not to the dictators and secret police, but to the people.

Announcer: That was an editorial reflecting the views of the U.S. Government.

O 270810Z FEB90.

Fm: SECSTATE WASHDC.

To: AMEMBASSY BAGHDAD IMMEDIATE.
Info: USIA WASHDC IMMEDIATE.
E.O. 12356: DECL: OADR.
Tags: PREL IZ.
Subject: Iraqi protest: VOA editorial.
Ref: BAGHDAD 1150.

1. Confidential—entire text.

2. Ambassador may respond to the Iraqi protest (REFTEL) over February 15 VOA editorial by making the following points:

It is in no way USG policy to suggest that the Government of Iraq is illegitimate or that the people of Iraq should or will revolt against the Government of Iraq.

We regret that the wording of the VOA editorial left it open to that incorrect interpretation.

3. FYI: Department believes that failure to clear the text of the editorial represents a violation of the understanding we have with USIA, and by extension, VOA. We intend to follow up.

BAKER.

Declassified under the Freedom of Information Act 7/26/90.

EMBASSY OF THE
UNITED STATES OF AMERICA,
Baghdad, Iraq, February 28, 1990.

His Excellency Deputy Prime Minister and Minister of Foreign Affairs TARIQ AZIZ,
Baghdad, Iraq.

DEAR MR. MINISTER: I was surprised to learn from Undersecretary Hamdoon on February 25 of the existence of a Voice of America editorial entitled "No More Secret Police." I conveyed your concern to my Government, and was immediately instructed to assure you that it is absolutely not United States policy to question the legitimacy of the Government of Iraq nor to intervene in any way in the domestic concerns of the Iraqi people and government.

My Government regrets that the wording of the editorial left it open to incorrect interpretation.

As Assistant Secretary Kelly told His Excellency the President on February 12, President Bush wants good relations with Iraq, relations built on confidence and trust, so that we can discuss a broad range of issues frankly and fruitfully. I am sorry that the Government of Iraq did not inform me of its concern about the editorial sooner, so that I could have provided you with the official assurance of our regret without delay.

Respectfully,

APRIL GLASPIE,
American Ambassador.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, I do not know how long the Senator from Colorado will remain in the Chamber but I hope he might do so. I will be saying some things about his remarks, including my own remarks from last night.

I would just like to review—and I welcome other Members to come forward, because I would enjoy the debate—some of the events that occurred last night here on the floor.

I had not finished my remarks last evening when my longtime friend, Senator DAVE PRYOR, came to the Senate floor to challenge some of my comments. DAVID PRYOR is a remarkable man. He is probably one of the most respected men in this Chamber. He is fair, firm, kind—and the kind of person you would want on the Ethics Committee. That is where he served for so many years and did it with superb energy—so much energy that he placed his own health in jeopardy and he has recovered nicely and has indeed been in our prayers.

He was very concerned. There is no question about his concern. He was deeply moved, filled with angst, and I understand that so very clearly.

Before I could complete my address, we subsequently moved on to the transportation bill. So I would like to do that at this time.

Senator AL GORE made what was billed as a major foreign policy speech on Tuesday. It received tremendously wide media attention in both print and television. I want to reiterate this so that we have everything in order here as we review all of this: Not one Republican made any type of response on this floor to Senator GORE's speech until it was then entered into the CONGRESSIONAL RECORD by Senator WIRTH on September 29, 1992.

Last night it was alleged that I had violated Senate rule 19.2. We know what that rule is. We discussed that last night. The rule 19.2 states:

> No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

What Senator GORE said about Senator DOLE and this Senator from Wyoming in his public speech Tuesday in the public record and domain is fair game. There is nothing wrong with that. You can say anything you want to about a colleague in public, and he did. And I will quote that in a minute.

But I would clearly point out that Senator GORE's statement, which later came into the official proceedings of the U.S. Senate, when it was placed in the CONGRESSIONAL RECORD, included a number of the most egregious and wholly erroneous characterizations of not just one U.S. Senator but five U.S. Senators, as a result of a visit to Iraq.

Not only did that traveling group include Senator DOLE and myself, as the Senator correctly indicated, but it also included Senator MURKOWSKI, Senator MCCLURE and Senator METZENBAUM.

Senator GORE accused us of delivering—I guess that meant all of us because 5 of us were there—at President Bush's personal request, so-called comforting news to Saddam Hussein. He characterized this as an official mission on behalf of the President. Accordingly, anyone who reads the RECORD could reasonably assume that we, according to Senator GORE, were part and parcel of the President's foreign policy. He characterized that as a policy of coddling tyrants, which Senator GORE said had been the hallmark of the administration's foreign policy.

Senator GORE said, and I quote from his speech which then became part of the CONGRESSIONAL RECORD—please hear this—he said, "Yet, on April 12, at the personal request of George Bush, Senators BOB DOLE and ALAN SIMPSON, the No. 1 and No. 2 Republican leaders in the Senate, traveled to Baghdad and told Saddam Hussein that President Bush was still ready to veto any sanctions bill that Congress might pass. Furthermore they delivered, "again at Bush's personal request" and this is still the quotation "the comforting news that the author of the offending Voice of America criticism had been fired that same day in an effort to please Saddam."

That is a direct quote from Senator GORE's speech which was placed in the CONGRESSIONAL RECORD by Senator WIRTH.

Based upon what we all know now about Saddam's deceit and tyranny, an unsuspecting reader of Senator GORE's speech might easily assume that we had given aid to an enemy. Surely there can be no more egregious violation of rule 19.2 than that. I deeply resent it, and I am offended by it.

Neither Senator WIRTH nor Senator GORE ever consulted with me prior to making such a statement concerning the motives of not one but five U.S. Senators. I have not the slightest difficulty accepting anything that the Senator from Tennessee wants to say about me in his recent speech at the Hyatt in Washington. But when it gets into the CONGRESSIONAL RECORD under the auspices of the Senator from Colorado, then it, too, is a violation of rule 19.2 without any question whatsoever, and a Parliamentarian has already determined that. That is where we are in this interesting little exercise.

At this point, I would like to note Senator BOB DOLE's response to Senator GORE's comments on this trip. I think it pretty well sets the record straight.

Senator DOLE said:

> The delegation was bipartisan and included the senior Senate Democrat with that group, HOWARD METZENBAUM, Democrat of Ohio. The delegation did not go to the Middle East or Iraq at the "personal request of Bush" or the indirect request of Bush or with any reference to Bush at all. I made the decision to go based on the suggestion of other Middle East leaders, such as President Mubarak and King Hussein of Jordan and some of my colleagues and advisers. Senator METZENBAUM and others decided to accompany me entirely on their own. Having decided to go to Iraq, we did inform President Bush of our intention the night before we met with Saddam Hussein.

It would be well when making irresponsible statements to check with the sources, especially when those sources are your colleagues.

We went to the Middle East. We did not believe we would have any opportunity to see Saddam Hussein, and we went. I believe I can paraphrase what our fine Republican Leader said: With peace breaking out all over the world, why not go to that part of the world and talk to the leaders there and talk about peace in that terribly historically, strife-torn region of the world? That excited us all. We went with excitement because the Berlin wall had come down, other things were happening, tyranny was being crushed all over Eastern Europe. It was a very exciting time.

The specific assertions in Senator GORE's speech about the delegation's trip are dead wrong. We delivered no message of any kind from President Bush about his intentions to veto any legislation. That is a fallacy. We delivered no message from President Bush about the Voice of America report, not one. Both topics were discussed, but not in the context of "delivering any message" from President Bush.

And remember, the only official transcript that came from our visit came from Iraqi radio. Iraqi radio sent the transcript of their version of our meeting to the national and international media which was hopped on pretty well with the case of the Senator from Wyoming because I referred to the media as "haughty, pampered, cynical," and many other interesting adjectives which I felt then, and still feel. And, indeed, in the context of those times when visiting with the press corps in that part of the world, it seemed almost disappointing to them, that perhaps there would not be a conflagration in that part of the world. They were almost saddened by that.

It was a strange reaction. They talked about, "Well, does this mean there will not be a great fireball against Israel?"—which is what Saddam Hussein had said. I said I think that is a stupid statement. We are here to discuss such issues and you can bet that we did. Certainly, Senator METZENBAUM did, I can assure you of that. He was powerful, persuasive, and excellent in his presentation.

Then we talked about conventional warfare in that part of the world and we hoped we could avoid that. We said it is all up to you, Saddam Hussein, as to whether we avoid conventional warfare in this part of the world. Then I shall never forget the words of Senator BOB DOLE. He said, "I have a daily reminder of the effects of war in my own body, and we are here to talk about peace."

That is what we talked about. Whatever transcript or information which came from that came from Iraqi radio or Iraqi television. You can only imagine what little twist they would have put on all that!

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts of a letter I submitted to the Casper Star-Tribune which further discusses our visit with Saddam Hussein.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR EDITOR: [The] transcript, issued by this deceitful government who we are warring with—describes in 15 small pages approximately one hour of what was in reality a three hour and fifteen minute meeting. At that meeting we discussed the gassing of the Kurds, the 150 foot "tube" cannon of "oil field equipment," the triggering devices for nuclear weaponry and the hanging of the English journalist. We asked all the questions any thoughtful American would have asked on that date in time. We also carried with us a letter signed by the five of us, and cleared with the President, setting out the perils in his future life if he were to continue his course of action in the world. Obviously that released transcript, supplied (not "leaked") by Iraqi officials—carefully avoids any form of criticism which we leveled in the face of Saddam. Our own tape recorders were confiscated by Saddam's guards in order that there be no other record of the meeting. We were all well aware that the room was being bugged because there were microphones physically present on the conference tables.

Most of that transcript is propaganda and nicely tailored to fit Saddam's needs. In addition, a second transcript which was read on Baghdad radio differs from the other printed transcript. My critical comments of some members of the press in that part of the world were that some were "haughty, pampered, cynical and with many of them trying to win the Pulitzer Prize." That comment was correctly reported and my colleagues have said that also. Yet, none of my colleagues have ever expressed that the entire remaining portion of the transcript was correct as to our full meeting. It had many omissions. The media failed to point out any of the realities of this pure propaganda piece and in many cases they simply believed all of it themselves—"hook, line and sinker"—as they attempted to convince others of its total authenticity. Thus, my passionate scrap with Jack Anderson. In this same vein, I would suggest that the media might spend much more of its time "analyzing" the CNN reports out of Baghdad. After all, the media seems compelled to spend an hour or so analyzing every State of the Union address, and many other major speeches made by the President, delivered in plain English. One might think they would put the crafty ploys and feints used by our wartime enemy to just as tough a test!

Sincerely,

ALAN K. SIMPSON,
U.S. Senator, Wyoming.

Mr. SIMPSON. The delegation delivered a tough, a plenty tough, message to the Iraqi dictator as detailed in our letter to Saddam Hussein, signed by all five members of the delegation, including our colleague, HOWARD METZENBAUM.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President, we would like to present to you a letter signed by the five of us. We have provided the translator with a copy, and perhaps it would be easier for us to have a discussion with you after the letter has been read. It's very short.

UNITED STATES SENATE DELEGATION,
April 12, 1990.

His Excellency SADDAM HUSSEIN,
President of the Republic of Iraq, Baghdad.

DEAR MR. PRESIDENT: We appreciate your willingness to receive us during your holy month of Ramadan, particularly on such short notice.

We come to Baghdad, as a bipartisan delegation of the United States Senate, because of our belief that Iraq plays a key role in the Middle East. We would also like to see improved bilateral relations between our nations.

It is clear to us that we can never resolve the serious differences between our nations if we ignore them, or fail to take advantage of opportunities to communicate with each other clearly and candidly. For that reason, we believe it is important that you hear our very deep concerns about certain policies and activities of your Government, which stand as a major barrier to improved relations.

Your nation has just emerged from a long and costly war, which has generated concerns about your own security. But we cannot stress too firmly our conviction that your efforts to develop a nuclear, chemical and biological capability seriously jeopardize—rather than enhance—your security, potentially threaten other nations of the region, and provoke dangerous tensions throughout the Middle East. Your recent statements threatening to use chemical weapons against Israel have created anxiety among nations throughout the world. In your own interest and in the interest of peace in the Middle East, we urge you to reconsider pursuit of these dangerous programs and provocative assertions.

We must also express our profound distress at the alleged activities which led to the expulsion of an official of your diplomatic mission in the United States on charges that he was involved in a conspiracy to murder. We repeat: if our two nations are to have better relations, such activities as those alleged to have occurred must never happen again.

Finally, we urge you to become actively and constructively engaged in the peace process now underway involving Egypt, Israel, representatives of the Palestinian people, and the United States.

Mr. President, we thank you again for receiving us. We look forward to our exchange of views.

Sincerely yours,

JAMES A. MCCLURE.
HOWARD M. METZENBAUM.
BOB DOLE.
ALAN K. SIMPSON.
FRANK H. MURKOWSKI.

Mr. SIMPSON. Mr. President, by the way, there is one more bit of evidence that proves that the handlers of the Clinton-Gore ticket are not doing their homework. Our Senate delegation did not meet with Hussein in Baghdad, as the Senator claimed in his rather tall tale of woe, but in Mosul, some 200 miles from Baghdad.

That is what happened, and the only discussion we had with President George Bush came in a telephone call, which we made from Jordan the night before we went to Baghdad where we landed. Then we were taken by Saddam Hussein's security people to Mosul which as I have said was some 200 miles away.

The only reason we visited with Saddam Hussein was because President Mubarak of Egypt asked, "What are you going to do after you leave here?"

Our leader, BOB DOLE, said that we were going to go see the King of Jordan and that we would have liked to have seen Saddam Hussein, just for our own information.

President Mubarak said "Let me pick up the phone and call him."

In our presence, he then picked up the phone in our morning meeting. He called Saddam Hussein and said, "I have these Senators here." He was speaking in Arabic and, of course, we had people with us who could translate. President Mubarak said in essence: "No, they are all right. You can see them. They are not bomb throwers. They are here on a mission of peace, and there are five of them."

We sat for another period of time. I do not remember how long it was. Suddenly we were told that on the next day we would fly to Baghdad, which we did. And so the night before we left from Jordan we called the President of the United States to tell him we were going to go to Baghdad and then to Mosul. We said, "Do you have anything to add?" He said, "No. I will be interested in whatever you tell me when you come back." And we read to the President of the United States the actual language of the letter that the five of us had composed, and signed, and which I just placed in the CONGRESSIONAL RECORD a few moments ago.

Now, that is what we did. Really not too sinister, not at all. And that is precisely the reason this Senator from Wyoming came to this floor last night and said exactly what he said. And you may note the RECORD and compare it, if you wish, with the electronic transcription and the reporters transcription. You will see that it does not differ a bit in substance. There was nothing to retract. I have nothing to retract. And so to think that should have to be presented with some semblance of a question of whether I had violated, rule 19.2, when, indeed, the insertion in the CONGRESSIONAL RECORD of what I have just read is obviously, without any question, in the framework of any Parliamentarian, clearly an abuse of that rule.

So it seems to me that these things needed to be said. We really did not go over to comfort Saddam Hussein. That is a disgusting assertion. And if that is not a violation of rule 19.2, which says, "No Senator in debate shall, directly or indirectly"—and I can tell you it may appear indirect, but it is quite direct in that it was placed in the CONGRESSIONAL RECORD by a fellow colleague.

We talked last night about comity and how we should notify each other about such speeches. I can tell you, I had no notification whatsoever that there was to be placed in the CONGRESSIONAL RECORD comments about me made in a speech by Senator GORE. No one gave me the courtesy of a call while they ripped that one through this Chamber in the form of these comments which are now in the CONGRESSIONAL RECORD. I was not given the benefit of a call. Can anyone come forward and tell me why that is or was?

So those are the things I wanted to share with my colleagues. I do not come in here in this Chamber and "run off the rail" and do things that are ugly and mean-spirited. But let me tell you, when somebody dings me in a political year, I will ding them back every time. I can tell you I learned politics in Wyoming, where it is a contact sport.

[Laughter from the gallery.]

Mr. President, I admonish the gallery to please be quiet.

The PRESIDING OFFICER. The Senator from Wyoming will please suspend. The gallery is admonished to make no notification of anything that takes place on the floor.

Mr. SIMPSON. I thank the Chair for that admonition. My father ran for the U.S. Senate in 1940, and in one community in Wyoming they cut the tires on his car and two goons came and beat him up. That was politics in 1940 in Wyoming. He was campaigning along the Union Pacific Railroad, which was not exactly Republican country in those days, although it is a little better now. I even get a few votes down there. When he ran for reelection in 1958 as Governor they did the same. They thought it was a fun thing, a high old time. He lost for Governor. The fellow who was the State Chairman who beat him is a wonderful friend today, a former Congressman. But they used to really whack each other around—and had great respect for each other.

That is what this is all about. I do not mind getting whacked around, but I do not like and I will not tolerate having it be presented to me that somehow I have violated rule 19.2 when it was really violated by a colleague without any notice, any indication, any comment, nothing whatsoever, in the way of notice to this Senator from Wyoming.

We did go to see the Iraqi dictator, and we laid it on him. Read the letter. The public, I guess, could take from Senator GORE'S speech that our delegation was somehow coddling Saddam Hussein. That is not true. We challenged him on his threats to the region. We challenged him on what he had said about Israel. We challenged him on the stability of the region. We urged him to cease the development of biological and chemical and nuclear weapons capabilities, in no uncertain terms. We outlined that his policies and conduct threatened relations between our countries. And we laid it out to him with clarity.

Just one other thing. I want to commend the comments last night that were made by my old friend, Senator PAUL SIMON from Illinois. He is a great conciliator and a great mediator. I have known him for 20 years. What he said was very true. And what he said in essence, as he wound down his comments, was that maybe we ought to stop in these next few hours and short days from placing little bombs in the RECORD and whack on each other from long distance—not here. I commend him.

And finally we have had so many lectures from some on the other side of the aisle in these last years, especially in 1988, during the Presidential campaign. Some of the majority Members practically chopped Senator DAN QUALYE to ribbons in this Chamber. They have also spent a great deal of time chopping to ribbons the President of the United States on every single issue. I could not even compile the list of adjectives that one could find in that vast array of material.

But thanks to Senator PAUL SIMON, maybe we will all listen a little more to each other. But I can tell you this Senator on this aisle has had his fill of Senators from the other side of the aisle coming to this floor with harsh, nasty, cute, clever, invective directed at President George Bush, my friend. I could see the pain of the Senator from Arkansas with his friend Senator AL GORE. It was palpable in the Chamber last night. Real pain, and he felt just like I did, to hear that kind of thing fall and ring around the ears of his friend.

As I have said, in my book of politics, an attack unanswered is an attack believed. If the Senator from Tennessee would like to have a forum where he would like to debate me, he can name the time and the place and the format. It will not be the floor of the Senate. I will be glad to participate on any subject from the Clean Air Act, to Rio, to Baghdad, or even on the road to Morocco without a supporting cast.

So I am ready for that. But I once again want to make it clear that we did not start this process. I did not start this process. It was put in the CONGRESSIONAL RECORD by a colleague, and it became a part of the official proceedings of this Chamber. I find it totally ironic, totally ironic, how several of the Members from the other side feel so defensive when they hear critical remarks about their Vice-Presidential candidate while we have heard an entire eternal flight of a trajectory of invective from that side of the aisle about our Vice Presidential candidate, Senator QUAYLE.

So for the remainder of the session I would offer to my Democrat colleagues this proposal. I would discourage any of the Members on our side of the aisle from placing campaign speeches of President Bush or Vice President QUAYLE in the RECORD. As a matter of reciprocity, I trust that the majority leadership would discourage their Members from placing Governor Clinton's or Senator GORE'S campaign speeches in the RECORD, especially if they refer to colleagues in a derogatory manner, which in my mind is totally in violation of Senate Rule 19.2. And then maybe such responses as I was making last night—and which I am very pleased I was able to conclude today—will not be necessary. And particularly when they are responding, as I am, to a speech like Senator GORE's that impugned the character and motives of four current Members of this body.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, may I inquire, are we in morning business?

The PRESIDING OFFICER. The Senate is in the process of postcloture debate on the motion to proceed.

Mr. KERREY. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. KERREY. Mr. President, we have had two votes today, cloture votes, on motions to proceed to two very important pieces of legislation. One of them was the crime bill about which there has been much contention. Unfortunately there is a great deal of unity that did not appear during the debate, and regrettably that bill is not signed and moved on to the President. It is much needed.

There is a great, I think, sense of frustration in this body about not being able to accomplish the tasks of enacting that crime bill. I share that frustration.

Similarly we attempted to pass and move on to the President after conference the Neighborhood Schools Improvement Act. That motion to proceed also failed, and thus we will not enact legislation trying to help neighborhood schools.

I come to the floor to discuss part of the process, and I think part of the problem as well. I understand that I have, like lots of other folks, not had the opportunity to participate in these conferences. Very often we are being asked to trust the product coming back to us in the same shape as it went over. Regrettably that is not the case sometimes.

I have come to talk about the Neighborhood Schools Improvement Act, but even with the crime bill the alterations made in the bill in the conference is sometimes made in the moment that we have to get agreement with the trust and hope when they bring it back that we support it as it was when it went over, and that we will support those changes. I am not sure that is the case in this particular crime bill. Changes were made that I heard reference to that, if they were true, might have caused me to vote against the bill, which I would have regretted.

With the School Improvement Act we have a very worthwhile objective, very important objective. In light of the changes in world economy and all the rest of the changes we have observed, the importance to try to make our schools work in America has never been greater.

Yesterday the distinguished Senators from Georgia and New Mexico, Mr. NUNN and Mr. DOMENICI, were a part of a national commission that recommended action on the death penalty. They also hinted they are going to come back with recommendations on education.

We spend about $181 billion a year on public schools in America. We are converting about $181 billion from the personal income to fund about approximately 100,000 school buildings in 16,000 schools districts, about 41 million school children, with about 2.5 million teachers who are in business, in operation, for about 180 days a year on average for most school districts.

The business of those schools is to try to provide an education for those young people so that they, over the course of their lives, will be able to be productive as well as being good citizens.

Most of us have observed that a great deal of progress needs to be made. We are struggling. What S. 2, the Neighborhood School Improvement Act, attempted to do was provide an environment where the Federal Government could become a part of the local school as they struggled with the need to reform.

I believe there are many positive aspects of the bill, and for national standards to be in place is extremely important. Development of tough national education standards is an imperative for America if we are going to have some measure to evaluate at the local level how good of a job we are doing compared with other schools in the United States, as well as others in the world.

I do not like the idea of some kind of a Federal test, but that is just because I am a bit skeptical as well about the idea of any kind of a standardized test, such as SAT or some new Federal test that might get the job done. But it is critical for us to move forward with the standards, and I believe that the committee and the conference report reflected that need.

The committee also attempted to deal with the urgent requirement to provide regulatory flexibility at the local level. All of us have talked with local schools. They are faced with a pile of regulation.

We have come to the floor talking about the need to deregulate business. We just had a big argument about the cable industry, whether or not to regulate. There is no area of our life that is more regulated than our schools.

The legislation created a 10-State project to assist and to assess the impact of relaxing Federal regulations in 16 programs, serving disadvantaged students, to provide us with the road map on how we can lessen the regulatory burden we impose on our schools. In almost every single aspect we set out objectives of what we want our schools to accomplish, and then we set in motion laws followed by regulation and rules to try to carry out those objectives. I observe that we have put handcuffs on the schools at the local level in an attempt to reform.

The committee addressed that and provided, I think, an opportunity to evaluate those regulations and provide flexibility at the local level.

I have some concerns about the way this bill came back out of conference. I had hoped to be able to come to the floor and enthusiastically support it. I regret we did not have the opportunity to vote and debate on it. I am here to express those concerns not just for the purpose of filling up time, but for the purpose of informing the authorizing committee that next year when we come back to this matter, hopefully, in my judgment, with a new President, the authorizing committee needs to understand that there are people, other folks that are not on that committee that have a powerful concern about providing the opportunity for reform at the local level.

Regrettably, the bill as it came back had a formula program again that guaranteed every State a certain amount of money. I would say if we are going to take this approach it would be better to ask the States to equalize financing in return for receiving the Federal reform funds, but to merely provide in some form or fashion every single State with some money I think risks advancing the very reform that we seek to achieve.

Second, I observe, and comment on what was said on the other side of the aisle—and there was a great deal of truth to what they were saying—the legislation in the end reinforced the bureaucratic approach. Under this legislation as it came back from conference, States would develop a State committee. Unfortunately, for all practical purposes it would be run by State Departments of Education. In some cases that is fine. But in others it may not be.

Unfortunately, the bill did not give us a mechanism to allow us to give those State agencies, that were advocates of reform, even those that might produce, a structure in their own organization from those who are just talking about the reform, but want to make sure that they have the opportunity to define the reforms so as to protect the status quo.

Then local school districts would go through a similar process—a committee, developing a local plan, and then the schools within the district would submit proposals for school reforms to the local committee for approval.

This approach does not challenge the current structure that has acted as a tremendous drag on real reform. This legislation will allow the current structure, Mr. President, to define the reform and therefore I doubt that it will indeed spur real reform.

Mr. President, this approach reinforces the top-down effort to reform itself. Local entities, by this legislation, would be required to have a reform plan that is consistent with State plans, and while this seems reasonable, they would have to have something again consistent with the State plans. I am concerned that we will be telling local districts and schools that these are the true reforms of reform. In other words, the State education agency would be putting the word out. If you are going to reform, here is to how we would like you to reform. We approve of this kind of reform, but if you come up with some other kind of reform, some other desired way to get the job done, then you may find yourself being turned down.

Beyond that, this legislation, while outlining the worthy goals of helping disadvantaged Americans, ends up in my judgment micromanaging the reform process at the local level. Let me give you some examples.

The local committee may decide to involve a parent, God forbid. It is required by the legislation that the parent be a parent of a disabled child, low-income child, or a child with limited English proficiency. All of that is desirable, but what we are saying is that if you are a parent of a child who is not disabled, not a low-income child, who is a child that does not have limited English proficiency, then you may not have the opportunity to become involved.

It seems to me, again, that we are micromanaging from Washington, DC, the reform process. Certainly, we can establish standards that prevent the local schools from acts of discrimination, and we can make certain that the civil rights laws of the United States are going to be applied in our school boards, but with our own legislation, to write that kind of detail, Mr. President, I think again runs counter to the desire to encourage community-based reform in America.

The local plan developed by the local committee is required as well to meet a number of criteria including reflect cultural awareness and multicultural awareness; encourage alternative learning styles; promote gender equity in class.

These are worthy goals, Mr. President. I do not take away from the fact that the Member of the House, or whoever it was in the conference committee, established worthy goals, but unless we want to change in a radical fashion and have all of education in America being run out of Washington, we should establish instead broad, general, and tough standards for civil rights in this country, and then allow the people at the local level to develop their own curriculum and efforts of reform.

Some specific areas of concern, Mr. President. As written, the legislation does not seem to allow small rural school districts to form consortiums to apply jointly for school reform funds. Many rural school districts do not have the resources to apply for grants as the bill is currently written.

In addition, Mr. President, there is a very controversial issue that all of us get asked about when we are filling out questionnaires and are running for office which is: Do you support school vouchers or school choice? It has become a very important part of the political debate.

I, myself, think that vouchers mandated particularly out of Washington, DC, are dangerous. I have seen the school choice work and not work. But there is an idea today in America that has a considerable amount of merit, and I support it strongly and this bill, as it went over to the House, would have allowed it, and in conference that was taken out, and it gives those of us who want to see school reform occur, want to see competition, want to see flexibility, want to see innovation, but are concerned about the dangerous aspect of vouchers, and allows those of us who feel that way, to have that policy worked out in a charter school concept.

The Senate version specifically mentions charter schools as one of the models to be considered by States and localities, but unfortunately, that provision was removed. To me, Mr. President, that is a crucial error on the part of the conferees. For those of my colleagues who do not understand the charter school concept, they are public schools. The public school board charters with the direct contract with sometimes private sector operators, sometimes private schools, but other entities to carry out some function that the public school itself is struggling to get done, particularly in the area of dropouts and children who are struggling to learn in the school; these charter schools provide a smaller scale innovative opportunity for public schools to be able to get the job done.

I support them. I understand there are opponents of it. There is a hearing and thinking that this is somehow the proverbial nose under the tent regarding vouchers. I think they are quite the opposite. They reinforce the desire to have strong public schools, but I recognize that there are times those institutions need to contract outside to get the job done.

Perhaps a better example of the desire to provide State flexibility in our language—but when it becomes time to act, we do just the opposite—no better example can we find than in a little provision added at the end of this bill called a buy American provision. I am for buying American, Mr. President. Who in this Chamber is not for buying American? Who in this Chamber does not think we should not go out and buy American products and make sure Americans have the opportunity to have jobs here at home?

But, Mr. President, at the same time, we are taking a step forward in addressing the increasing paperwork and lack or regulatory flexibility. We attack this tiny provision, expressing the sense of the Congress that entities that receive assistance should be notified by the Secretary of Education, by the Federal Government, that it is the sense of the Congress that they buy American when using these funds.

Mr. President, we are adding regulation. We are not just achieving some popular notion that says we are all for buy American. We are insisting that 16,000 local school districts, local school entities, before they receive money to restructure their schools, that they have to certify in some unstated fashion at this point that they are going to buy American when they use these funds.

Mr. President, I believe when it comes to education, we are going to have an active debate next year. I believe we are going to have a President in Bill Clinton who has been involved in education in the State of Arkansas.

I believe we are going to have a President in Bill Clinton who is passionately concerned about education. He understands the need for local control. He understands the need for a Federal partner that will reinforce parents and community leaders and business leaders that are trying to improve the quality of education in America today.

I believe that the Congress of the United States will have the opportunity to hear in the first inaugural address from President Clinton a challenge to participate in providing local communities the opportunity to restructure and reform their schools so as to be able to produce graduates, Mr. President, that will have the skills, the enthusiasm, and the ability to earn a living over the course of their lives and to be good citizens of this country.

I hope that when the Congress responds to an action-oriented President in President Clinton, they will not fall into the trap of saying that we know best. If we want reform at the local level, then we have to let that reform happen. Unfortunately, Mr. President, I feel like the conference bill, as it came back, did not trust democracy from below.

I yield the floor.

Mr. BYRD addressed the Chair.

Mr. WIRTH. Will the Senator yield to the Senator from Colorado?

Mr. BYRD. Mr. President, may I ask the Senator how long he would like?

Mr. WIRTH. Five minutes maximum. I shall not use all of that time.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Colorado for 5 minutes, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RULES OF THE SENATE

Mr. WIRTH. Mr. President, I was pleased that I was here earlier to hear the remarks of the distinguished Senator from Wyoming. I have enormous respect for the distinguished Senator. He and I have worked together on so many, many issues, as we all have. And you cannot help but enjoy working with ALAN SIMPSON, whether one agrees or disagrees. We have worked on baseball, and population, and fishing, and on issues dear to our particular area of the West.

So I wanted to address in particular Senator SIMPSON'S citing of rule 19.2, which says:

> No Senator in debate shall, directly or indirectly, by any form of words, impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

I want to tell my colleagues that it was not in any way, shape, or form my intention to do so related to the distinguished Senator from Wyoming or to any other Member of this institution.

I placed in the RECORD the speech that was given by Senator GORE, the speech of some discussion, in which there is a paragraph related to what happened in April in Iraq. It was a recitation of that history that Senator GORE had included here, a recitation of that history which as I read it and know of that section and have now reviewed all of the documents—and I think I can say very clearly on behalf of Senator GORE, it is not intended in any way, shape, or form to impugn the integrity or motive whatever of any Member of that Senate delegation.

Rather, I think we are talking about a difference in policy, a difference in what happened at this meeting. The meeting was reported by the Iraqi service. It was later confirmed in press reports, and later confirmed by our State Department, what had happened there.

And repeatedly in the transcript are references to the fact that the Senate delegation had recently talked to President Bush, and I think reading that, as I look back at this, valuing as I do the concerns of the Senator from Wyoming, looking at this one could read it very much in that fashion that in fact they are registering and were reflecting the President's concerns.

So I appreciate the Senator from West Virginia yielding me this time. I have reread these documents again and I know I can say on behalf of Senator GORE that he had no intention at all in what he included in here of suggesting anything related to impute the conduct or anything else related to the distinguished Senator from Wyoming or anyone else.

We have a policy difference and perhaps some difference in interpretation as to what happened, and rather than put all these documents in the RECORD, I am going to ask my staff to sit down with the staff of the distinguished Senator from Wyoming and look at the documents and make sure that we all understand, and Senator SIMPSON and I can understand where any difference of opinion might have come about reading those documents. Those documents were the basis of Senator GORE'S speech. I have recently reviewed them. I think I understand how those conclusions were reached. Clearly, it may be up for other interpretation and I think we ought to look at that and make sure we understand it.

I want at this point to just publicly say to the distinguished Senator if he felt that I was in any way, shape, or form impugning any of his motives, or whatever it may be, that is the furthest from my mind. I deeply apologize for that. I would never do anything like that, as the Senator knows, and I would then leave it open from there and maybe we can have our two staffs take a look at this and we together can take a look at just the exact paragraph that is at issue in that speech and make sure we understand from the documents where that paragraph came from and I think we are talking about differences in interpretation of history and nothing more than that.

The PRESIDING OFFICER (Mr. DODD). The President pro tempore has the floor.

Mr. SIMPSON. May I inquire of the senior Senator from West Virginia if I may have 2 minutes to respond to my friend from Colorado?

Mr. BYRD. Mr. President, I gladly yield 2 minutes to the distinguished Senator from Wyoming with the understanding that I not lose my right to the floor.

The PRESIDING OFFICER. Without objection, the President pro tempore retains the floor.

The Senator from Wyoming is recognized for 2 minutes.

Mr. SIMPSON. Mr. President, I greatly appreciate the remarks of my friend the Senator from Colorado. He came over to communicate this to me during this debate. I know him well. We have enjoyed each other's company greatly. He and I and our spouses are friends.

He left out one other thing we worked on, and that was that we were trying to bring some Cossacks over here and trade them for a bunch of cowboys to go there—and all have a rodeo in Cheyenne. We did not get that done or one in the Caucasus. That will come at another time.

I do greatly appreciate his comments today. I was offended by the comments of Senator GORE made on September 29th when I read them in the CONGRESSIONAL RECORD. I was not offended at all that they were presented during the course of his recent speech at the Hyatt in Washington. That is fair game. I understand that one. But the word "comforting" to Hussein—as appeared in the CONGRESSIONAL RECORD was not at all comforting to me.

I deeply understand what the Senator is saying. I appreciate it. It takes a great and generous person to do what he has just done, and I accept it as a friend. Perhaps we can restrain ourselves on both sides in these next hours before we get out of town. Then we can really go whack on each other with gusto outside of this Chamber.

Thank you very much.

Mr. WIRTH. I thank the distinguished Senator and the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed out of order for 15 minutes.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is recognized out of order for up to 15 minutes.

Mr. BYRD. Mr. President, I thank the Chair.

RIDDICK'S SENATE PROCEDURE

Mr. BYRD. Mr. President, I call to the attention of Senators the publication titled "Riddick's Senate Procedure." This is a newly published book on Senate procedure. It contains 1,564 pages, including the appendix but not the index. And its predecessor contained 1,289 pages. In other words, this volume contains almost 300 pages more than its predecessor volume.

I call attention to this new book, because I think it warrants the attention of the public and particularly the attention of my colleagues.

I read now from my own book, volume 2 of the Senate, 1789–1989, page 45, chapter 3 titled "Rules."

> Mr. President, someone has said that the difference between a lynching and a fair trial is procedure.
>
> In his Manual of Parliamentary Practice, Thomas Jefferson quoted "Mr. Onslow, the ablest among the Speakers of the House of Commons" as follows:
>
> It was a maxim he had often heard when he was a young man, from old and experienced Members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power.

> Jefferson himself wrote that whether the rules of a legislative body
>
> * * * be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.

And then I go on to say as follows:

> All legislative bodies need rules to follow if they are to transact business in an orderly fashion and if they are to operate fairly, efficiently, and expeditiously.

So the rules are exceedingly important. They are very basic, and the rules of the Senate have been developed over a period of more than two centuries, and in my volume on the Senate, 1789–1989, I trace the development of the rules from the very beginning of the Senate in 1789 to the date of the publication of my own volume in 1989.

I point out in my history of the Senate that the rules of the Senate by which we operate today, in many ways, are almost the same, if not the same, as the rules which were adopted in 1789, and that, in some respects, the rules of today even have their roots in the Continental Congress that first met in 1774 and, even beyond that, reaching across the great Atlantic Ocean to the House of Commons in England.

When I first came to the Senate, the Southern Senators, in particular, were very conversant with the rules of the Senate.

The late Senator Richard Russell, of Georgia, was at that time acclaimed to be the expert, insofar as Senators were concerned, on the Senate rules. At that time, the Parliamentarian was named Watkins when I first came here.

I was talking with Senator Russell one day, and I commented on his purported knowledge of the rules. I had not been here a long time, but I had heard it said that he was the master of the rules, if there can be such, if there can be a master of the rules.

He indicated to me that the rules were very important, but, he said, as much so or more important are the precedents of the Senate. The precedents are much like the old common law of England. The common law was built upon precedents.

Now the book on Senate procedure contains the precedents of the Senate.

The rules of the Senate are not—this little volume is not very voluminous, as those who are listening and watching can well see. I hold in hand a booklet titled "Standing Rules of the Senate".

Now, the copy of the Standing Rules of the Senate, which I hold in my hand, consists of 59 pages. There is a considerable amount of material in this pamphlet that really should be stricken from it because it is of no use in our daily work here. It has to do with appointments to committees and so on and so on.

For example, reading from page 35.

> A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

And it goes on for several paragraphs of that nature. I have thought about asking the leadership and others if we might find a way to delete those sections from this booklet so that Senators who really want to look at the rules of the Senate will not be intimidated by a grouping of paragraphs that, for all intents and purposes, serve no purpose.

Now, this is the book on procedure. This book contains the precedents as brought up to date by Dr. Riddick and our parliamentarian, Alan Frumin.

For more than one-third of a century, I have been privileged to call Dr. Floyd Riddick my teacher and friend. Dr. Riddick has participated in, and observed, the operations of the U.S. Senate for more than 50 years. No other staff member or independent scholar of the Senate's 200-year history has possessed his mastery of the institution's precedents and practices.

Among the many distinctions of Dr. Riddick's remarkable career, two major contributions are worthy of special note. He is the second person to have served as the Senate's official Parliamentarian, and he is the principal author, as I have already indicated, of this indispensable volume.

While conducting research for his Duke University doctoral dissertation in the late 1930's, he spent a year observing the workings of the U.S. House of Representatives. In 1941, he published that dissertation in a book entitled "Congressional Procedure."

In the decades to follow, Dr. Riddick would publish other works that have become classics in the field of legislative operations and procedure.

In 1947, he was invited to establish a new section for the CONGRESSIONAL RECORD to summarize floor activities and other events titled the "Daily Digest." It is a very useful compartment of the daily CONGRESSIONAL RECORD.

Dr. Riddick joined the Office of Senate Parliamentarian in 1951 and remained there for 24 richly productive years. From 1964 until 1974, he held the post of Senate Parliamentarian, and since that time he has faithfully served the Senate as its Parliamentarian Emeritus.

In speeches of tribute at the time of Dr. Riddick's 1974 retirement, Senators called him "the Senate's truly indispensable man," and noted that "without his daily wisdom and guidance and constant reassurance," the Senate would not have functioned as effectively as a legislative body. The Parliamentarian's office, they suggested, might have seemed quiet, but it was "the quiet at the center of the storm." Seated at the lower dais in the Senate Chamber, immediately before the Presiding Officer, Dr. Riddick was always at the center of every major Senate debate.

In the book on Senate Procedure, this unique scholar preserves and shares his many decades of experience with the parliamentary precedents and procedures of the U.S. Senate.

Without the talent and the dedication of Senate Parliamentarian Alan Frumin, this edition of Riddick's Senate procedure would not exist. Mr. Frumin received his undergraduate education at Colgate University and holds a juris doctor degree from Georgetown University. Before coming to the Senate in 1977 as Third Assistant Parliamentarian, he worked for the House of Representatives as an editor for "Deschler's Precedents."

By January 1981, Mr. Frumin had advanced to the rank of First Assistant Parliamentarian, and since January 1987 he has served as Parliamentarian of the Senate.

Although previous Parliamentarians had enjoyed long office apprenticeships before assuming floor duties, Mr. Frumin accepted these responsibilities within his first year at the Senate. He was often the Parliamentarian on duty during a most difficult and contentious filibuster in the fall of 1977, barely 9 months after he first came to the Senate.

I can remember that contentious filibuster, the most contentious filibuster that I have ever witnessed. And in that instance, I was at the center of the storm, not Dr. Riddick.

Senators who are still in the Senate who were here at that time will very well remember the filibuster on the natural gas legislation. That filibuster was very ably led by Senator METZENBAUM, and former Senator Abourezk, two very good-natured Senators. They tied this Senate in knots for days—days—as I remember, 13 days of it and 1 night. And they would have gone on and on—they probably would be filibustering yet—if a couple of things had not happened—the passage of time, of course, and events.

Having asked the Vice President of the United States, Mr. Walter Mondale, to take the Chair, I made certain points of order which were upheld by the Chair. This broke the back of the filibuster, and it was over within a couple of hours.

But, while the filibuster's back was broken, I came very near having my head, or neck, I thought, at least figuratively speaking, broken. That was truly an electrifying event here when I, as the leader of my own party in the

Senate, was in great contention with members of my own party on this side because I was trying to break the filibuster. Even though I, on the substance of the matter, sided with the filibusters, I felt it was my duty to break it.

Anyhow, Alan Frumin was here at that time. And he was getting his apprenticeship, if I might use that term, while I was taking quite a bit of flak from my own colleagues on this side of the aisle.

In 1981, in conjunction with personnel from the Senate Computer Center, Mr. Frumin designed the Senate's Rules and Precedents computer data base. In order to maintain that data base he was given full responsibility for compiling, analyzing and writing the current Precedents of the Senate. These precedents have now been incorporated by Mr. Frumin, with Dr. Riddick's assistance, into this edition of Senate Procedure. These new precedents, together with amendments to the Standing Rules of the Senate, pertinent statutory provisions and revised explanatory material, comprise "Riddick's Senate Procedure."

Together, the careers of Dr. Riddick and Mr. Frumin span more than four decades of service to the Senate. Their collaboration on this volume is a testimony to the continuity of the Senate's rules, precedents and practices and the dedication of the Senators and career staff to preserving the traditions of the United States Senate.

Mr. President, I will say just a few further words concerning the importance of this newly published volume.

Dr. Riddick and Mr. Frumin have not only put hours into the production of this volume; they have put in years of their lives, good years of their lives; years of toil, the searching of precedents methodically, systematically and meticulously. And they have compiled these precedents for the benefit of Senators and for the benefit of the Senate. And Senators ought to read this volume.

I would not say it would compete with the works of Herodotus or Thucydides or Xenophon or Polybius or Eutropius or Tacitus or Procopius or Zosimus or Cassius Dio Cocceianus, or Gibbon, or Plutarch, or Suetonius, or others of the ancient historians. But it is exceedingly important that Senators be at least somewhat conversant with the precedents of the Senate.

We owe it to the parliamentarians who spent much of their lives in compiling it. More than that, we owe it to the Senate of the United States.

Majorian, when he became Emperor of the West in the year 457 AD, referred to himself as, "a prince who still glories in the name of Senator."

Augustus reigned from 27 BC to 14 AD, as the first emperor. His name originally was Gaius Octavius and he took the name of Gaius Julius Caesar Octavianus when he was adopted by his uncle Julius Caesar. He was given the title Augustus—meaning "exalted," "sacred"—in 27 B.C. by the Roman Senate. He always maintained that the title of which he was most proud was that of Princeps Senatus, the Prince of the Senate.

I do not expect every Senator, or any Senator, for that matter, to adopt my views with respect to things. But I think that most Members would have given an arm to become a United States Senator. And many of them have given a great deal to become a United States Senator. And, as did Majorian; they ought to glory in the name of Senator.

There have only been 1800 United States Senators since the Senate first met in 1789. It is quite an august institution. And Senators ought, with humility to, take pride in having been selected by their constituents to be a Member of "the Senate."

One hundred Members, like the first Roman Senate, which legend tells us that Romulus created when he established Rome, in 753 B.C. That date may be somewhat in question. But generally speaking, I think it is accepted.

There were 100 Senators in that Roman Senate. The greatest Senate, in my judgment, of all the Senates of the world, from the very beginning of legislative bodies, is the American Senate. There were 96 Senators here when I first came to this body; today there are 100, as we all know.

I sometimes wonder if all Senators really understand the meaning of "Senator," and have an understanding of this institution.

There is not much by way of headlines in the reading of this book. But a Senator who knows the rules of the Senate fairly well, and the precedents, and is pretty sure-footed, can at critical times hold the Senate in this hand—in his hand, so to speak. And procedure determines whether or not the substance of legislation becomes law.

The rules govern debate. The debate governs the legislation. The legislation then, in being enacted into law, impacts upon the country.

Mr. President, I know there are those in the fourth estate, and some in the Senate itself, perhaps, and otherwise, who do not think much of Senate procedure. Who would want to tie himself down and waste his time on that dull reading?

Well, if one likes mathematics, he will probably like Senate procedure. Because it will tax one's thinking processes. But one owes it to himself, if he is going to carry the title of Senator, to develop an institutional memory, and his pride in this institution will then grow.

Without procedure, there would not be laws enacted by a Representative body.

Our colleagues should always keep in mind, that they are being watched by the people inside and on the outside. The Senator who sits in that chair should never sign letters or read newspapers or books while presiding. He should do that in his office or somewhere else other than in that chair. The camera is on that chair much of the time. Watching that chair are students, professors, lawyers, judges, Parliamentarians, members of State legislatures, city councils—people from all over the world see that chair, and they ought to see the best. When the public observes the United States Senate, they ought to see the best.

I have been a member of State legislative bodies in the House and Senate of West Virginia, so I can talk somewhat freely and knowledgeably about State legislatures. That is where I started. Many State legislators start there and some never get beyond there, and they render a great service to the people of their respective States in those legislative bodies. But they do watch the United States Senate. I have seen some very capable members of the State legislature of West Virginia. I served in the State legislature of West Virginia with two former United States Senators when I was in the House of Delegates there, the late Rush D. Holt and another Senator by the name of Rosier.

But that chair is being watched and Senators are being watched as they speak on this floor, and other Senators watch Senators. A Senator who comes here and is newly sworn can be forgiven. It can be expected that he would perhaps not comport himself as Senators are required to do by the rules. But Senators who have been here any considerable length of time should learn a number of simple things. One is, a Senator should not address another Senator in the second person. I hear that so much of the time here, and I am troubled by it. There is a purpose and a reason back of that rule that requires addressing other Senators through the Chair and in the third person. It lowers the acridity of debate. It makes it impersonal. And it keeps the decibel a little less than sharp or shrill. It contributes to decorousness in debate. Senators ought to strive to comport with that rule. To say "you" in addressing another Senator is like pointing one's finger at another person. It becomes personal.

A few other small items I will mention, but they are important. Senators should learn that there is no such motion as, "Mr. President, I move the adoption of the resolution;" "Mr. President, I move the adoption of the amendment." When one moves, he makes a motion, and formal Senate procedure, Senate rules do not recognize such a motion.

The Senator does not have to say, "Mr. President, I move the adoption of the amendment;" "I move the adoption of the resolution;" "I move the adoption of the bill." Any Senator who knows the rules knows that that Senator does not know the rules. There is no such motion. And yet practically all Senators fall into this habit. I suppose it gets to be a habit like the inane senseless expression "you know;" "you know."

Now why is it not necessary to say, "Mr. President, I move the adoption?" In the U.S. Senate, when all debate ceases and no Senator seeks recognition, the Chair will automatically put the question. And if Senators will note that when they say, "I move the adoption of the amendment," the Chair never says, "You have heard the motion by the Senator from West Virginia." The Chair always says, "Is there further debate?" Which is to say, the Chair pays no attention to that pseudo motion. The Chair carries out the rules. If Senators will just sit down, if there is a question pending before the Senate, the Chair will state it when nobody seeks recognition.

Another small item I have noticed is, when Senators send amendments to the desk, they most always say, "I send an amendment to the desk, and I ask for its immediate consideration." Senators do not need to do that. All they need do is say, "I send an amendment to the desk," and the Chair will take over from there. That amendment goes to the desk, if no other amendment is pending, and the Chair will say, "The clerk will state the amendment."

Many times staffs will hand me a piece of paper, when I am going to send an amendment to the desk. They will write on the piece of paper for me, "Mr. President, I send an amendment to the desk and I ask for its immediate consideration." And I say to the staff, you do not need all that verbiage. The Chair will take over from there and will forthwith tell the clerk to state the amendment.

Now if there is a pending amendment, and it needs to be set aside, that is a different matter. One would send his amendment to the desk and ask unanimous consent that the pending amendment be set aside temporarily, but so much for that.

Those are just little things. But the "little foxes spoil the vine," we are told in the Book of Proverbs. These are little foxes I am addressing.

So, Mr. President, I thought that, on this Friday afternoon when the Senate seems not to be in a great rush to transact business, I would call attention to the new book, "Riddick's Senate Procedure," and reference its importance to the body and urge my colleagues to read it. If it is the good Lord's will to let me live, I plan to read this book, along with some additional volumes on the history of England and Roman history and perhaps something by Epictetus and Heraclitus and other philosophers. Just a few readings I have in mind during the break. I intend to be the first Senator to read this book from beginning to end.

Let me close these random remarks by calling attention, again, to the Senate, 1789 to 1989, page 57, where I write as follows:

> Mr. President, during my twenty-two years of service in various leadership posts in the Senate—secretary of the Democratic conference, majority whip, majority leader, minority leader, again majority leader, and now president pro tempore—I have had the opportunity to become familiar with this body's rules and many of its precedents. As I have noted on other occasions, to know the rules and precedents is to know the Senate and its infinite capacity for flexibility in serving as a forum for reasoned deliberation and constructive action. To study the development of the Senate's rules over the past two hundred years is, indeed, to study the very history and institutional fiber of the Senate. The Senate's rules are milestones by which we can measure its struggle to meet the needs of a growing nation. With the passage of time, outmoded rules have fallen by the wayside, while those that have effectively promoted the Senate's business have survived in their original or modified form.
>
> My experience with the Senate's rules compels me to appreciate the wisdom that Vice President Adlai Stevenson expressed in his farewell address to the Senate on March 3, 1897. I believe his observation is as fitting today as it was at the end of the nineteenth century.

Before reading his observation, let me also hasten to mention a word of thanks to the Secretary of the Senate, Mr. Joe Stewart, for his having worked with the Parliamentarians, at my request—I was the majority leader at that time—to press forward on this magisterial work on Senate procedure.

I also would be remiss if I did not express a word of gratitude to Mrs. Riddick and to Mrs. Frumin, because, while their husbands were detained many hours into the evenings over the years in the development of this volume of precedents, they, the wives of these two gentlemen had to be very patient, understanding, and supportive. Too often we forget the sacrifices that our spouses make while we labor in the vineyard of the peoples' business.

So I thank them, too. And I thank our two leaders for their strong support of the effort by the two authors of this volume.

Now, Vice President Adlai Stevenson spoke as follows:

> It must not be forgotten that the rules governing this body are founded deep in human experience; that they are the result of centuries of tireless effort in legislative hall, to conserve, to render stable and secure, the rights and liberties which have been achieved by conflict. By its rules the Senate wisely fixes the limits to its own power. Of those who clamor against the Senate, and its methods of procedure, it may be truly said: "They know not what they do." In this Chamber alone are preserved, without restraint, two essentials of wise legislation and of good government—the right of amendment and of debate.

Parenthetically, let me state that therein for the most part, not entirely but for the most part, lies the uniqueness of this legislative body, the greatest Senate in the history of the world, the American Senate: The ability to amend and, more particularly, to debate at length.

> Great evils often result from hasty legislation; rarely from the delay which follows full discussion and deliberation. In my humble judgment, the historic Senate—preserving the unrestricted right of amendment and of debate, maintaining intact the time-honored parliamentary methods and amenities which unfailingly secure action after deliberation—possesses in our scheme of government a value which can not be measured by words.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I first say to my very good friend, the distinguished senior Senator from West Virginia, I always greatly appreciate his efforts to educate people like the Senator from New Mexico. I thank him for that.

I remember 20 years ago, when I came here, one of the ideas was to have Dr. Riddick teach us, and we had then organized some classes so we would learn the rules. I must say the Senator's assessment of what most did is right. Most said this is not very important. But it took a while, and I must admit, at least for this Senator, I found out, although not the hard way, it was imperative that the rules, basic rules be understood.

I might suggest—just to put my little bit in this record—this Senator came here direct from a mayorship of the city of Albuquerque, so I was never a legislator in the sense of State legislatures and obviously had never been in the House of Representatives.

Legislating in a city is much different, especially when you are mayor presiding over the ordinance drafting, which is legislative. But essentially I would like to say that until this Senator felt comfortable with the rules, I really never did a good job in this Chamber with the things I wanted to do for my State or for the country because you never quite feel relaxed. You always have to inquire of someone, and you are constantly—if you are normal, your nature makes you kind of timid and apprehensive, and when you see somebody come to the floor that you know knows the rules and you are in the middle of some kind of very difficult discussion and debate, you know they can do something. It is a lot better to know what they can do than to be on the floor arguing and wondering. You can anticipate, if you are as good as Senator BYRD, what they can do under all circumstances.

But, clearly, what the Senator has said here is not a lesson only for those Senators who think they know the rules but for everybody in this body. Clearly, we are at that time when a number of new Senators are going to come in, and maybe it would serve them well just to take this very simple little lesson today and just a few basics and get started down that path.

While the new volume on "Precedents of the Senate" was talked about today, I just want to lend my statement of real admiration for Dr. Riddick. When I first came, he was already beginning to be less than fully active. That is how experienced he is. But everyone knew that if we had a tough one, we would clearly, in either a partisan or bipartisan way, get him in the cloakroom or somewhere and talk to him about the issues, as I remember, about what could and could not be done.

We have a lot of such help now, but I am sure there is no one around quite like him. And while I do not want to make the commitment that I will read that entire volume—I am one who has a great deal of difficulty reading that kind of history, so to speak—the Senator's suggestions did not fall on totally unfertile ground, and I will try my best to see what I can make of it.

THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. DOMENICI Mr. President, I cannot state strongly enough my objections to the education bill we have before us today. I truly wish I could have stood before you today to say otherwise.

I think it is fair to say that all of us in the Senate are in favor of education. Further, I think all of us are in favor of educational reform. Frankly, it is because I am in favor of education and meaningful education reform that I will express my opposition to this bill by voting against invoking cloture.

The language we have before us is not the kind of reform we are looking for. The heavily partisan report shows a complete and utter disregard for the reforms proposed by the President's America 2000 initiative—many of which were contained in the Senate version of the bill. The report is not innovative, it is simply more of the same old thing. A lot more of the same old thing: More Federal spending, more Federal interference, and more bureaucracy.

When we passed S. 2 back in January, I was one of the 92 Senators who voted in favor of the bill. S. 2 was not a perfect bill—far from it. Yet, it was a good compromise, and a good start at implementing reform. I was pleased with many provisions in the bill, and was hoping that the House would take the initiative to improve upon the foundation we had put into place.

I do not need to tell you what happened. The House of Representatives presented us with a partisan bill that did nothing to implement meaningful reforms. It was basically just another block grant program with lots of strings tied to the Federal bureaucrats. I strongly disagreed with the language in the House bill, and on September 15 the Senate overwhelmingly approved the motion to disagree with the House version of the legislation and send the bill to conference.

Frankly, Mr. President, I was shocked by the language of the bill we got back from the conference. Not only did we lose many important provisions of the Senate version of the bill, but the conference basically shut out Republicans—who did not even sign the conference report—in order to craft a bill which would force a Presidential veto just before the election. I cannot tell you how disgusted and disappointed I am that the provisions of the President's America 2000 educational initiative—which were included in the Senate version of the bill—have been removed.

First of all, the report makes no mention of New American Schools provision. New American schools are meant to be the first wave of a new generation of break the mold schools. These schools reflect the best of what is known about teaching, learning, and educational technologies to enable all students to meet world class standards of achievement. The New American Schools Development Corp.—which is not a Republican commission, but a private, nonprofit organization—announced in July the 11 design teams whose ideas will serve as blueprints for reinventing schools.

More than 680 organizations, including seven from New Mexico, submitted plans to the NASDC. Educators are obviously enthusiastic about this program. But now we are telling the President—and the educational community as well—that this idea is not worth considering. Frankly, I find that insulting, as I'm sure do the 11 design teams from all across the country.

The report also rejects the President's proposal regarding school choice. While the bill that passed in the Senate contained provisions allowing for only public school choice—language, in my view, that was not broad enough—the conference report contains no school choice provision at all. Even the minimal change contained in S. 2 was considered too much of a reform. We are once again left holding the bag reading "status quo."

Mr. President, why are we so determined to stand still? Last year, the Appropriations Committee allocated $100 million for fiscal year 1992 for America 2000 initiatives, pending enactment of authorizing legislation. Obviously, we will never approach that authorization. Meanwhile, as the conference report telegraphs the message that America 2000 is not sound educational policy, hundreds of communities across our country are already carrying out America 2000 activities—including Las Cruces, NM, which became an America 2000 community in October 1991. Thousands of people—Governors, businessmen, educators, students, parents, and concerned citizens—are working to carry out this reform strategy. And we are telling them in this report that these efforts aren't worth their time. Again, I find that insulting.

Further, the provisons that have been left in place have been altered so as to be virtually unrecognizable. The President has asked us to help ease the regulatory burden we too often have placed upon our local school districts. In the Senate version of S. 2, we approved an amendment proposed by Senator HATFIELD allowing the Secretary of Education to waive statutory or regulatory requirements that may stand in the way of achieving educational gains. In return, grantees would be held absolutely accountable for achieving these gains.

Mr. President, this amendment—a perfectly logical, reasonable provision—was unanimously accepted by the Senate. Look over the conference report now and you will find that this provision exists in name only. In its place is a program to allow the waiver of specific Federal requirements for schools that wish to explore better ways of educating disadvantaged students—but only to those schools with chapter 1 programs. This automatically cuts a number of schools out of the equation, including most high schools. This is an extremely limited scope, and it is obviously inconsistent with the intent of the Senate language and the President's request. This so-called flexibility is nothing but smoke and mirrors.

Even more outrageous is the wrench that has been thrown into the gears of the school improvement block grant. The block grant approved in the Senate bill sent money to State and local neighborhood schools with a few Federal conditions.

What do we find in the conference report, but that this provision has been gutted, and restuffed with new regulations and needless bureaucracy. The conference report, like the House bill, prescribes an enormous bureaucracy. The number of bureaucratic advisory councils and agencies this bill puts into place to bounce and direct the grant money looks like it was designed to be a pinball machine.

Let me make this clear: This bill is a bureaucratic boondoggle. Funding goes directly to bureaucrats long before our children will ever see it. Under the direction of the conference report, in the first year, all $800 million allocated by the bill goes to State educational agencies solely for planning purposes. None of it will go to schools, principals, or teachers.

What happens the second year? Will our teachers and students begin to reap the benefits of this planning phase? Not yet. We've put another level of planning into place at the local level, and 30 percent of the funds are still set aside for administrative costs. By the time State and local educational agencies finish with planning, the bureaucratic filter ensures that only 68 percent of the State grant will ever reach the schools.

Mr. President, I support improving our educational system, I regularly hear from the teachers, principals, and administrators in New Mexico who tell me they are being strangled by regulation and intimidated by a government that too often wants to peek over their shoulders. I honestly want to give our educators the opportunities they need to do their jobs right, which means doing their jobs effectively, creatively, and efficiently. Bureaucratic chains of command do not allow educators this opportunity, nor does the Federal Government sticking it's nose deep into the affairs of local decisions.

Frankly, I cannot in good conscience vote for a measure that assumes the Government knows better than our teachers, principals, and local school boards about what works in local schools. There is too much evidence to the contrary.

Again, I regret that our attempts at getting a good bill and initiating some positive reforms in our schools has deteriorated to this kind of partisan folly. This bill is not pro-education; it is pro-big government, pro-redtape, pro-regulation, and pro-nonsense. We put a foot forward with the Senate version of the bill, only to find we have stepped into a hole with the conference report.

I did not have a chance because of time limitations and other things that I had to do to talk about why I did not vote in support of Senate bill 2, the so-called Neighborhood Schools Improvement Act. I want to tell the Senate that no one would jump to his feet faster in support of a bill, the Neighborhood Schools Improvement Act, if I thought it was really going to improve the neighborhood schools. I would not vote against it. I would try to vote for it twice.

The truth of the matter is the name is a sham as compared to the content of this bill. This bill is literally—I do not think only Republicans are saying this; I think I heard the distinguished Senator from Nebraska, former Governor, awhile ago talk a little bit about this bill in tones that are somewhat like part of my argument.

This bill is filled with a new level and layer of direct strings and management from Washington over the school systems in our counties, cities, and States in ways that just cannot produce better neighborhood schools. There is hardly anyone talking about rigidity of regulation and bureaucracy over our school systems as a cure for the faltering and shortcomings of our public schools in America. Yet, this bill is rampant. I mean if we had bureaucracy for the last 30 years in the aid to public education and in the attempt at telling schools what they should do if they want some of our money, if that was what was here, this bill doubles it all. In fact, there is one new set of funding that, if I read it right, the whole first $900 million that goes out there to the communities and school systems goes to planning and administration before we ever spend anything that gets down to principals and teachers and kids. It is just loaded with that.

Frankly, I do not believe at this time in American history that only members of the Democratic Party in the U.S. House and U.S. Senate have a lock on what is good for American schools. And I do not think that, as partisan as Democrats want to be here, the President of the United States, having met in summits with the Governors who have themselves said some of the things he was talking about are good, I do not believe that Republicans and the President should be shut out of the so-called Neighborhood School Improvement Act that some took the floor and said was a historic new movement in the direction of improving our schools.

Essentially that is what happened to this bill. I would not be here saying that in as much confidence as I am if I did not hear the distinguished Senator from Kansas [Mrs. KASSEBAUM] say that nobody cared what the Senate Republicans thought should be in the bill. Nobody even asked them to sign the conference report. And that included Senators like Senator KASSEBAUM. I do not see her do that very often. And when she says that, it seems to me that I can conclude that there was no interest in what this side of the aisle had to say about public education. That just cannot be right.

Second, the President of the United States, perhaps to the political chagrin of some on that side of the aisle, started down the path of moving ahead with education shortly after Secretary Alexander joined him as a Cabinet Member. He joined with a bipartisan Governor leadership in the United States to prescribe some very exciting things—the break-the-mold schools, the notion of America 2000.

We find the other side of the aisle, especially those on the Education Committee, saying, "The President wanted to be the education President; he did not do anything."

Well, let me just make sure the American people understand. He did not do anything because in a partisan way those who wrote the law decided they would not let him do anything. And that is a neat trick today, especially as you get close to the elections. Let a President get a whole series of good ideas, let Governors support him, let hundreds of communities support them—and they are. There are literally 1,500 communities and cities which have public school districts in them that are moving toward the President's goals of a break-the-mold school, including one city and county in New Mexico.

So what do we do? What did the Democratic leadership of the committee do? They gave him nothing, and then they tell the American people he was not an education President. Well, I hope everyone knows that is a pretty good way for the majority party in these two Houses to make sure that he is not, under any circumstance, going to be an education President. You urge him to get on with it. He does. He prescribes it. Then you have this historic bill, and you say to him, nothing that you suggested—nothing that you suggested—is going to be adopted by us, and we want you to sign the bill anyway.

There is chagrin here that the Republicans will say this bill is not going anywhere. There are people on the other side saying we are doing all these horrendous things to education. But what they really wanted to do was say to a President who tried, who got a lot of Governors to support him, hundreds and hundreds of communities to support his ideas, "We have better ideas. We are not going to include any of yours, and we want the bill passed, and we expect you to sign it."

Now, nobody really can believe that that is much more than the absolute epitome of playing partisan politics with education. It is. You know even on the break-the-mold school concept, we said in an appropriations bill late last year, for this fiscal year that we just finished, well, Republicans and the President are making so much noise about it, let us put $100 million in the appropriations.

Mr. President, it is very interesting. The $100 million is in there, and then there is a little parentheses, and it says "if authorized." So, everybody could say the President is getting some of his $100 million. But it is not authorized. It is not even authorized in this. So the $100 million does not even get spent. We are talking about billions, so people should not think that $100 million was any great acceptance of much of what the President wanted, but just kind of a token so nobody could say the appropriators did not want to help him with his American education program, excepting they said you got to pass this bill, and this bill has to say it is OK and we are going to do neither.

Surely you are not going to pass this. It is already here being filibustered. There is just no way that, in these closing days, anything is going to happen to it that is close to getting to the President for signature.

THE ENERGY BILL

Mr. DOMENICI. Mr. President, it is said that a journey of 1,000 miles starts with the first step. Believe it or not, after about 15 to 18 years with almost no energy policy for the United States and two very severe situations when the source of oil to America was held back by foreigners and we had a situation where we almost had to go to rationing—remember the lines. Remember people in New York shooting each other waiting around in gas lines.

Now there is plenty of oil, but it is all foreign oil, and our own production is going down and our consumption is going up. We are more dependent. Oil is still the prime, prime energizer of the American transportation marketplace and a sustantial player in our industrial marketplace.

So, after all this time, with the help of the President, his Secretary of Energy, and, yes, bipartisan work in both bodies, historically, a start with that first step when the comprehensive energy strategy was introduced. Now with many, many committees of the House and three or four committees of the Senate, for the last 5 or 6 weeks, working in an atmosphere which I would have thought would yield nothing, has surprisingly yielded a bill.

It is not all great, but it has some real positive energy policy. But, that energy policy encapsulated in those hundreds of pages are just about rendered useless unless we crown it with the oil production tax provisions that passed both bodies.

This parade of horrors in our country includes the shutdown of stripper wells, oil rigs rusting away in inventory, instead of pumping away in the field. There are somewhere between 350,000 to 450,000 American workers no longer employed, because we let our independent oil industry just fall apart, piece by piece, because it could not compete and because it could not get enough cash to take the risks.

All of those things are happening, and we finally pass in both bodies an energy strategy, except—except—to get American independent production back up, the American independent producers of oil, the risktakers, the finders, have to get money invested in their business. Cash has to flow from investors to the independents so they can risk drilling holes, so they can risk hiring people again.

Lo and behold, we are constantly bent on doing exactly what is the worst for a situation that we must improve. We let an alternative minimum tax, be enacted. It was part of the Tax Reform Act. It was enacted under some very exciting rhetoric from some: "Tax the extra profits being made by those who invest in oil." We created a rather beautiful sounding tax phrase, the "alternative minimum tax"—AMT, we call it today.

Well, Mr. President, with the passage of time, the alternative minimum tax, became a confiscatory tax on those who invest in risktaking, in drilling oil and gas wells. The AMT can result in effective rates for those independent oil and gas producers, believe it or not, that is anywhere from 50 to 60, to even as high as 70 or 80 percent.

So who in the world is going to take money out of the bank, or cash in some stock, or convert their CD and say, here, I want to invest in drilling an oil well, when if you do not find anything, you lose it all; if you find it, you get taxed at a confiscatory rate?

That piece of tax policy has to be changed. The substantial modification of the alternative minimum tax must occur if we are going to have any positive movement in oil patch or gas patch in America. We desperately need investment of money, new rigs in the field, new employment, and new oil found that is domestic in nature. Oil development activity is taking place in Saudi Arabia, and in other foreign countries, where our investment is going. This is terrible energy policy.

So, now, Mr. President, the issue is very, very simple but profound. Attached to the national energy strategy bill, when it left the Senate and when it left the House, is a tax component, and in both bodies that tax component includes the alternative minimum tax changes that are absolutely necessary for the energy policy encapsulated in the hundreds of pages of nontax law. If we want to increase domestic supply and to an extent lessen our foreign dependence, the tax title must be attached, or the energy policy will fall totally short of the mark.

Both bills had the alternative minimum tax changes on them. At this moment, there are two tax bills around. There is House bill 11, which is the bill that is supposed to put together assistance for the inner city problems, but is loaded with provisions that are controversial. Some provisions increase taxes under the rhetoric of Pease and PEP. They diminish the value of deductions, and the personal exemption raising the tax level for many Americans and making. The Senate version of H.R. 11 would make Pease and PEP permanent. All of that is packaged up in H.R. 11.

Both of those bills are waiting to be conferenced; that is, to get into a final form so they can pass the House and Senate and go to the President.

Now the trick of it all: Neither of those bills are in the control of any Republicans. Senator PACKWOOD, Senator DOLE, Senator DANFORTH on our side do not have anything to say about what we do in those two bills. It is totally within the control of a few Democratic Senators and a few Democratic House Members, who are the majority and control the Finance and Ways and Means Committees. I know Senator BENTSEN is committed as anyone to enacting AMT relief for the oil and gas industry. But this is a very political season.

Mr. President, I hear and now want to say that if they do not get together and pass the alternative minimum tax relief, which both bodies have already agreed to, and put it on the energy bill so it can become law, then the independent oil and gas producers, the thousands of people in this country who are going to lose their jobs, and the thousands who would have gone to work because the alternative minimum tax would bring investment back into oil patch, there is no one to blame but the leadership of the Ways and Means Committee—no one.

The President is for the alternative minimum and the tax package that passed on the energy bill. He supported it. He supported it in the House, and it is just there waiting for a half-day of meeting, and it can be put on the bill, and we will have done the most significant, positive thing for the independent oil producers and risktakers in oil and gas in the last 10 or 15, maybe 20 years.

So I come to the floor today saying to those Democratic leaders who are the ones to blame. The Republican Senators anxiously await an opportunity to put the alternative minimum tax relief on the energy bill and send it to the President for signature.

They are not interested—we are not interested in playing games between the two bills. The bill for the inner cities of America, as I said, has many other things in it which are very controversial. It is not a good legislative vehicle for the energy tax provisions. But I believe that, for some reason, one is being held hostage to the other, one is being held to leverage the other. And I just came to the floor today because unbeknownst to many, New Mexico, my home State, is the fourth largest producer of natural gas in the United States and either the sixth or seventh largest oil-producing State.

We have gone through the unemployment and the shriveling of our small communities, as oil patch went from vibrancy some 8 to 10 years ago to absolute dehydration, with businesses closed and main streets turned into almost nonexistence roads.

We have gone through that much. But we do not want it to all disappear, and we feel confident that with the alternative minimum tax relief that ought to be on the energy bill and on the way to the President. The current price of oil could cause money to flow to meet the investment needs of oil's independent operators, and we would have a ray of hope. Equally as important, America would produce much more of its own oil, which means we would buy less from others, send our hard-earned dollars to oil patch and oil workers instead of Saudi Arabia or some foreign country.

So I close by urging the leadership in this body, in particular the Ways and Means Committee in the House that they do what is right, that all facts indicate is just, do what facts indicate is good for America, and go ahead and put the alternative minimum tax relief on the energy bill which is otherwise completed and put in place some real national energy strategy.

DO NOT PLAY POLITICS WITH THE AMT RELIEF FOR INDEPENDENT OIL AND GAS PRODUCERS

Mr. DOMENICI. Mr. President, it has been said that a journey of a thousand miles begins with a single step. The national energy strategy is the legislative equivalent of a journey of a thousand miles.

We have come a long way and we are down to the final steps of our legislative journey. We are within sight of our destination—a comprehensive, and monumental energy strategy. Yet we may stumble. No, let me change my choice of words. We aren't going to stumble, but we may be tripped up because of political maneuvering over the very important alternative minimum tax relief needed and contained in the tax title of the energy strategy.

This is an unusual situation. In these final days of this Congress, the tax writing committees are working out the differences on two important tax bills—the tax title to the energy strategy and H.R. 11, the urban aid bill.

The tax title to the energy strategy when incorporated into the energy strategy would get signed by the President. The fate of H.R. 11 is not as clear.

But AMT relief for the independent oil and gas producers is urgent and its passage should be clear. The industry is in serious peril and they desperately need the changes in the AMT that were incorporated in the tax title to energy strategy that passed both Houses of Congress.

The oil and gas industry is one of the most capital intensive industries in the United States, and capital intensive industries bear the heaviest burden under the alternative minimum tax due to the many adjustments required of capital outlays. Some critics have gone so far as to state emphatically that AMT is a tax on capital.

I am not here to argue the merits of AMT relief for the independent oil and gas producers. I have argued the fairness, equity and good tax policy of AMT relief on many occasions. Almost every Member of this Chamber recognizes the urgency of scaling back this punitive tax.

The fate of AMT relief for independent oil and gas producers is in the hands of the Democrat leadership of the House Ways and Means Committee and the Senate Finance Committee. The members of that small group of leaders from the other side of the aisle of both Houses of Congress literally control whether many independent domestic producers will be able to continue in business.

If the oil and gas AMT provisions do not become law because the Democrats decide to play politics, the message should not be mistaken: The Democrats are willing to jeopardize an indispensable sector of our economy. We can't have growth, jobs and prosperity without the energy to run our factories, to power our utilities and to run our automobiles.

Killing the AMT provisions is tantamount to economic sabotage, energy policy treason and gross irresponsibility toward our independent producers of crude oil and natural gas.

I implore these leaders who control the destiny of AMT relief provisions approved by majority votes in both Houses of Congress to resist the temptation to play politics with the lives and businesses of our independents. It must be obvious to them, as it is to the entire Congress, that our new energy policy is incomplete with AMT tax relief.

With regard to energy policy, the basic economic facts of life are these: We need an oil industry. Oil and gas are indispensable in our economy. The independent industry needs tax relief now. There isn't much of that industry left. Delay seriously not only jeopardizes the domestic oil and gas industry in the short run but would threaten our sovereignty in the long run as we become more and more vulnerable because we can not meet our own energy needs.

One of the first acts, and most serious issues that came before this the 102d Congress was the January 12, 1991, vote to authorize force in the Persian Gulf. Let me not mince words. It was a vote to go to war.

There were many reasons why we had to go into the gulf, but the reason most related to our national self-interest was to make sure we had a source of energy—oil and gas.

We sent our sons and daughters into the gulf, some died because we needed to have a secure source of oil and gas.

Now, the domestic industry is in even greater peril and the Democrats' strategy to either kill the AMT relief or force the President into signing a big tax increase is as belligerent an act as Saddam Hussein's invasion of Kuwait.

I urge the conferees to conference quickly the tax title of the energy strategy and leave the politicking to the campaigns. We were elected to govern the country, not run the Presidential campaigns from the Senate and House Chambers.

Mr. President, perhaps later I will speak to another subject but I note that some of my colleagues have been waiting, and in particular Senator BIDEN, and I do not want to have him wait any longer. He was kind enough to let me go first, and I thank him for that, and I yield at this point.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, my friend from Idaho asked if I would yield to him for a minute or so, and I yield to him without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank the Senator for yielding.

IN CELEBRATION OF THE 81ST ANNIVERSARY OF THE REPUBLIC OF CHINA ON TAIWAN

Mr. CRAIG. Mr. President, I would like to take a moment to pass on my best wishes to President Lee Teng-hui, Foreign Minister Fredrick Chien and Ambassador Mou-shih Ding in honor of the celebration of the national day of the Republic of China.

On the 10th of October this year, the Republic of China will be celebrating its 81st anniversary. The relationship between the ROC and the United States has been very beneficial for both parties. Not only do I look forward to the continued relations between the United States and the ROC, but the friendly and mutually beneficial ties that have developed between the ROC and my home State of Idaho.

Mr. President, I ask unanimous consent to print a congratulatory letter in the RECORD to President Lee that is signed by myself and 38 of my Republican colleagues.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 29, 1992.

President LEE TENG-HUI,
Foreign Minister Fredrick Chien, Ministry of Foreign Affairs, Taipei, Taiwan, ROC.

DEAR MR. PRESIDENT: We send our greetings and congratulations to you, Premier Hau Pei-tsun and Foreign Minister Fredrick Chien in honor of the 81st Anniversary of the founding of the Republic of China.

The Republic of China has a long and proud history. Dr. Sun Yat-sen's dream of building a modern nation based on the principles of nationhood, freedom and equality is being realized on the island of Taiwan. The Republic of China is universally recognized as a major economic power and a democracy whose citizens enjoy one of the highest standards of living in Asia.

We applaud your achievements and hope you and your people will continue to prosper.

Through the good offices of your representatives here in Washington, most notably through the tireless efforts of Ambassador Ding-shih, we have been kept informed of the developments in your country. First, let us congratulate you on the ruling RMT party's overwhelming success at last December's National Assembly elections. We were also pleased to hear the news of your country's having launched a 6-year National Development Plan with a budget of U.S. $303 billion. Finally, your country's recent success in establishing representative offices with the states of the former Soviet Union is to be commended.

Undoubtedly, there will be challenges ahead for you and your people, but we have confidence in your leadership and the resolve of your people to rise to the occasion and continue to be a fine example of democracy and prosperity to the rest of the world.

We are pleased that President Bush has decided to sell F-16 jet fighters to the ROC and that he has strongly endorsed your country's bid to join the GATT. These and other actions taken by the administration strongly suggest that the partnership between the ROC and the United States continues to strengthen.

Congratulations, Mr. President. Please be assured that we are solidly behind you, your people and your democratic ideals.

Sincerely,

Larry E. Craig, Thad Cochran, Phil Gramm, Mitch McConnell, Bob Packwood, Bob Dole, Steve Symms, Pete V. Domenici, John Seymour, Malcolm Wallop, Richard G. Lugar, Orrin G. Hatch, Jesse Helms, Jake Garn, Trent Lott, Slade Gorton, Bill Roth, Connie Mack, Jim Jeffords, Hank Brown.

Don Nickles, Conrad Burns, Nancy Landon Kassebaum, Ted Stevens, Strom Thurmond, Bill Cohen, Dan Coats, Bob Kasten, Alfonse D'Amato, Mark O. Hatfield, Dave Durenberger, Chuck Grassley, Warren B. Rudman, Frank H. Murkowski, Larry Pressler, Arlen Specter, John McCain, Alan Simpson, John C. Danforth.

PRESIDENT BUSH'S POLICY TOWARD IRAQ

Mr. BIDEN. Mr. President, 3 days ago the junior Senator from Tennessee [Mr. GORE], developed a comprehensive critique of President Bush's policy toward Iraq, and there has been much discussion about that statement since then.

The criticism that Senator GORE directed at administration policy apparently stung last evening. Some of my colleagues on the other side of the aisle engaged in fairly lively attack on Senator GORE while others challenged his critique of the Bush policy. In supporting Senator GORE today I intend to stick to the substance and I hope if there is any further discussion on that my colleagues will do the same.

This subject was not raised by Democrats. It is President Bush who repeatedly emphasized his role in reversing Iraq's invasion of Kuwait. It is President Bush and his campaign aides who continue to attack Governor Clinton for supposedly waffling in his support of the gulf war. In truth, I can think of no Democrat who has criticized the President's response to Saddam Hussein's invasion of Kuwait. Senator GORE was right, and I might say eminently fair, to say, and I quote:

> When it came time to confront Saddam Hussein's invasion of Kuwait with an international coalition united in its resolve and purpose, George Bush all the way up until the moment the combat ended displayed fortitude and skill.

But Senator GORE also was right when he said, and I again quote.

> If George Bush's prosecution of the war is part of his record, so too is his involvement in the diplomacy which led to it.

So let us examine what the President's supporters have said on this floor in defense of the Bush administration's diplomatic record. One of my Republican colleagues challenged Senator GORE's critique with two arguments.

First, my friend argued that it was not President Bush whose policies helped build Saddam's war machine but rather China, the Soviet Union, and other countries. The distinguished Republican Senator's second argument was that President Bush's efforts to moderate Iraqi behavior prior to August 1990 were supported by Republicans and Democrats alike.

I would like to speak to both those points, if I may. On the first point, no argument: the United States was not Iraq's biggest military supplier. The Bush administration was not guilty as Moscow's Communists, or Beijing, or even Paris in arming Saddam Hussein. President Bush is not as guilty. But "not as guilty" does not mean "innocent", particularly when it is United States policy that Saddam Hussein probably viewed as the ultimate guide to what he could, and could not, get away with—in his tyranny, his genocide, and his aggression.

It simply cannot be denied that it was President Bush, in his October 1989 national security directive, who ordered his administration to establish closer ties with Saddam Hussein's bloodthirsty dictatorship. And just as day follows night that fateful decision had consequences.

The Bush administration enthusiastically supported billions of dollars in grain credits for Baghdad. And the President's men bent over backward to justify questionable high technology exports to Iraq, exports that had a powerful military potential. To deny that these credits freed up money for Saddam to spend on weapons, to deny that U.S. dual use exports played absolutely no role in Saddam's war machine, to deny that Saddam Hussein drew conclusions from this weak policy, is to deny reality.

Think about it, Mr. President: Saddam Hussein has already engaged in the most heinous crime known to man, genocide, and the Bush administration was still treating him with kid gloves. The administration did help build Saddam's weapons of war. It did lead Saddam to believe that the Bush administration would ignore any crime he might commit in its enthusiasm to win his friendship.

When it comes to appeasement, one is either guilty or innocent, Mr. President. And the sad truth is that, in his prewar diplomacy, President Bush was guilty of a sustained act of appeasement constituting a colossal foreign policy blunder.

Turning to the second point made by my distinguished Republican friend yesterday, I do not concede even partial agreement with his premise. Were the President's policies really supported by Republicans and Democrats alike up until August of 1990? I think not, Mr. President. It is true that from 1980 to 1988 when Iraq was at war with Iran, American officials were concerned, and rightly, about dangerous Islamic fundamentalism.

For emotional reasons, because Iran had taken Americans hostage, and for strategic reasons, because no one wanted Iran to dominate the Persian gulf, many of us accepted the Reagan administration's mild tilt toward Iraq as a practical measure. That was a pragmatic measure not unlike American support for the Soviet Union during the war against Hitler.

But what happened after the Iran-Iraq war was over? President Bush likes to compare himself to Harry Truman. Well, in 1945 when the Second World War had ended, President Truman recognized the changed reality; indeed he ordered the lend-lease ships that were in the mid-Atlantic to turn around and come home.

Why? Because there was no longer any need to perpetuate our pragmatic alliance with Stalin.

When George Bush took office in January of 1989, did he conduct a similar reappraisal of policy under changed circumstances? The answer is clearly no. He put the accelerator to the floor, to race full speed ahead with a policy of appeasement.

Later, after the invasion of Kuwait, President Bush attempted to cast himself in the role of Winston Churchill standing against the aggression of Adolf Hitler. The fact is that, in the years before Saddam's invasion of Kuwait, our President did a rather bitter imitation of Neville Chamberlain. If anyone was in the role of Churchill, it was those in Congress, including Senators PELL and HELMS, trying to shake the Bush administration from its determined policy of appeasement.

My friend said yesterday, and I quote:

> No one seriously challenged our policy in the months between August of 1988 and the August 1990 invasion of Kuwait.

I would beg to differ and beg to differ most profoundly. Has the Senator forgotten that the Reagan-Bush administration's adamant position to Senate efforts to impose sanctions on Iraq in 1988 in response to genocide, its determined and, unfortunately, successful opposition to congressional efforts to enact the "Prevention of Genocide Act"?

Has the Senator also forgotten President Bush's rejection of the congressional sanctions again in July 1990, just 1 week before the invasion?

I ask my friends on the other side who spoke in a similar vein, do they remember why the Congress sought to impose sanctions on Iraq? Have the President's supporters forgotten about the gassing of innocent Kurdish civilians, the thousands of horrible, excruciating deaths ordered by Saddam Hussein against the citizens of his own country?

That is, indeed, what struck me most about yesterday's debate. Not once, in all their assertions made and all their attacks, not once did President Bush's supporters mention Saddam's barbaric use of chemical weapons against the Kurds. They totally ignored genocide while rising up in righteous indignation to claim that Senator GORE was out of bounds in referring to President Bush's moral blindness. Well, what else is it? I would say that moral blindness was in fact a rather kinder and gentler way of putting it. Just where was President Bush's policy lens focused when the Kurds were suffering relentless poison gas attacks?

Nor, I might add, was this a simple oversight—a policy decision that "fell between the cracks," so to speak. But it was not even that. Rather it was part of a larger pattern, characteristic of the administration, of ignoring fundamental principles of human rights in the pursuit of friendly relations with tyrants.

Look at the administration's policy toward China. Does not the coddling of the butcher of Beijing, along with the butcher of Baghdad, demonstrate for all to see that moral blindness has become virtually a hallmark of our present foreign policy?

Since the 1989 massacre on Tiananmen Square, the Communist elders in Beijing have had precious little to fear from Washington. Why? Because the administration has vetoed every congressional effort to sanction China's brutal human rights policies and its dangerously irresponsible sales of weapons to rogue nations around the world.

I want the record to show we have disagreed 2, 3, 4, 10, 12 times. We have passed legislation here and the President has vetoed it. We did the same thing, Mr. President, with regard to Saddam Hussein. I just want to remind my friends, that on this floor a year ago, 2 years ago—

We did that, Mr. President. So, for whatever mysterious reason, opposition to sanctions against tyrants—the coddling of tyrants, to be extremely critical about it—is the one objective that has energized the Bush administration as much as its obsession with a cut in the tax on capital gains.

Let me conclude with a prediction of basic cause and effect. Every time President Bush or his campaign aids claim credit for the President's role in the gulf war, I will join with others in reminding the American people of the origins of that war. For it was: only after propping up Saddam Hussein with loans; only after disregarding a mountain of incriminating evidence that Saddam was using American aid to buy arms; only after ignoring Saddam Hussein's genocidal slaughter of his own Kurdish citizens; only after fostering high technology exports to Iraq even as Saddam Hussein provided safe haven for the world's most infamous terrorists; only after overlooking his manifest quest for nuclear and chemical weapons; only after supplying Saddam Hussein with military intelligence almost until the eve of the invasion; only after first responding that the United States contemplated no military action; and only after being wakened from his moral slumber by Prime Minister Thatcher—only then did the President finally act.

Mr. President, in past weeks I have examined President Bush's policy vis-a-vis the former Soviet Union, in China, in the Middle East, in arms control, in nonproliferation—the Bush foreign policy around the world. And my conclusion is this: It is not just President Bush's Iraq policy that fails short of the grandiose claims made for it. It is the entire foreign policy of this administration that falls short.

I am anxiously looking forward to the debate between the two Presidential candidates on foreign policy. Everyone seems to acknowledge there is no economic policy. I am anxious for the debate on the foreign policy to prove that there is not a foreign policy.

Mr. President, the President of the United States did show immense skill once he decided, after all the diplomatic failures, that he should have acted. And I stand here and say, had he acted properly diplomatically would we have been able to avoid the ultimate 500,000 troop commitment or thereabouts that was made by us, and the billions of dollars spent? The honest answer to that question is I do not know whether we could have. I do not know for certain that, had we acted in concurrence with congressional requests to sanction Saddam Hussein, that that would have stopped Saddam Hussein.

But one thing I do know. The diplomatic policy was an abject failure.

Mr. President, if you want to take credit for correcting a disaster, you must be willing to be looked at in terms of whether or not your actions brought about the disaster in the first place.

The only people who were completely unsullied in this effort were the brave women and men in uniform, sent to that region to do the job. And they did it so admirably, we almost forgot that it is very important to correct our foreign policy myopia. The result of which was clear: A costly way to make up for a serious foreign policy blunder.

I yield the floor.

THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. SYMMS. Mr. President, I have been on the floor here since 3 p.m., and I found it most enlightening, the comments of many of my colleagues from both sides of the aisle. We have talked about everything except the pending business. But it has been most enlightening and most interesting. I think it is worth saying that the distinguished President pro tempore talked about a new book of procedures that has been recently written, and Alan Frumin, the Parliamentarian of the Senate.

I want to just say to my colleagues that I think there is no Senator who is opposed to most of the projects that happen at the National Institutes of Health. But I think it is worthy to note that there are enough Senators who have some objection to certain parts of this authorization bill that under the time constraints, the bill is not going anywhere.

I expect that every Senator is aware of the important scientific research involving the use of fetal tissue that has been done and is continuing unabated today. That fetal tissue research is important. And I expect that every Senator supports the Federal contribution to that research.

So the question comes then, why are we here today debating this bill at such length, and going through these cloture votes? We are not here because Senators oppose the work of the National Institutes of Health. We are not here because of their concern about induced abortions associated with the language in this bill on certain types of fetal research. The President has previously vetoed very similar legislation in part because of the abortion issue, and Congress has sustained that veto.

So that is not why we are here. The question of course is why are we here? And let me say it as plainly as I can. We are here because of politics. We are simply here because the leadership of the Congress, the Democratic leadership, has decided it would be politically harmful to the President if he pocket-vetoes this bill just a few days before the election.

There is no possibility this bill will become law this year. The only reason in the world to have us here—for the second time this year this is on the agenda—is the perception of the majority of the political ramifications for the President when he vetoes this bill.

Mr. President, the majority party is the majority and, after all, they do have the votes and they can push something they want. They can shove it hard, push it hard and they can finally get their way, but after having talked with a number of my colleagues on this side of the aisle, it will not be easy. I think there is no better master of the rules of the Senate than the distinguished President pro tempore. He made it very clear that one of the great things about this Senate is that a few Senators, if they use their ability and the rules and the procedures, can slow something down at least for a while.

I think it is very clear, if one looks at the rules, we simply are not going anywhere with this authorization bill. My hope would be that when the leadership recognizes this, they will pull this bill down and we will get on with what needs to get done: The DOD authorization and appropriations bill, the energy bill that Senator DOMENICI so eloquently spoke to earlier this afternoon. We need to get some of these things done that could be very helpful to the people of this country. We can pull this bill down and they can have another look at this next year.

Mr. President, I have been a Member of this body for 12 years. I kept at my desk a treatise by the late Frederic Bastiat. I want to share this treatise by Bastiat with my colleagues as it pertains to this legislation, but also other pieces of legislation that come before this body.

I want to read this, first, about this treatise:

> When a reviewer wishes to give special recognition to a book, he predicts that it will still be read "a hundred years from now." "The Law", first published as a pamphlet in June, 1850, is already more than a hundred years old. And because its truths are eternal, it will still be read when another century has passed.
>
> Frederic Bastiat (1801-1850) was a French economist, statesman, and author. He did most of his writing during the years just before—and immediately following—the Revolution of February 1848. This was the period when France was rapidly turning to complete socialism. As a Deputy to the Legislative Assembly, Mr. Bastiat was studying and explaining each socialist fallacy as it appeared. And he explained how socialism must inevitably degenerate into communism. But most of his countrymen chose to ignore his logic.
>
> "The Law" is here presented again because the same situation exists in America today as in the France of 1848. The same socialist-communist ideas and plans that were then adopted in France are now sweeping America. The explanations and arguments then advanced against socialism by Mr. Bastiat are—word for word—equally valid today. His ideas deserve a serious hearing.

Mr. President, this book was published by the Foundation for Economic Education at Irvington-on-Hudson in New York. It is in its 12th printing. It was translated by Dean Russell of the foundation staff and "his objective was to make an accurate rendering of Bastiat's words and ideas into 20th century English. * * *"

Mr. President, I ask unanimous consent that this treatise be printed in the RECORD. I shall read some excerpts from it.

There being no objection, the treatise was ordered to be printed in the RECORD, as follows:

THE LAW

THE BOOK AND AUTHOR

When a reviewer wishes to give special recognition to a book, he predicts that it will still be read "a hundred years from now." The Law, first published as a pamphlet in June, 1850, is already more than a hundred years old. And because its truths are eternal, it will still be read when another century has passed.

Frederic Bastiat (1801-1850) was a French economist, statesman, and author. He did most of his writing during the years just before—and immediately following—the Revolution of February 1848. This was the period when France was rapidly turning to complete socialism. As a Deputy of the Legislative Assembly, Mr. Bastiat was studying and explaining each socialist fallacy as it appeared. And he explained how socialism must inevitably degenerate into communism. But most of his countrymen chose to ignore his logic.

The Law is here presented again because the same situation exists in America today as in the France of 1848. The same socialist-communist ideas and plans that were then adopted in France are now sweeping America. The explanations and arguments then advanced against socialism by Mr. Bastiat are—word for word—equally valid today. His ideas deserve a serious hearing.

THE TRANSLATION

This translation of The Law was done by Dean Russell of The Foundation staff. His objective was an accurate rendering of Mr. Bastiat's words and ideas into twentieth century, idiomatic English.

A nineteenth century translation of The Law, made in 1853 in England by an unidentified contemporary of Mr. Bastiat, was of much value as a check against this translation. In addition, Dean Russell had his work reviewed by Bertrand de Jouvenel, the noted French economist, historian, and author who is also thoroughly familiar with the English language.

While Mr. de Jouvenel offered many valuable corrections and suggestions, it should be clearly understood that Dr. Russell bears full responsibility for the translation.

The law perverted! And the police powers of the state perverted along with it! The law, I say, not only turned from its proper purpose but made to follow an entirely contrary purpose! The law become the weapon of every kind of greed! Instead of checking crime, the law itself guilty of the evils it is supposed to punish!

If this is true, it is a serious fact, and moral duty requires me to call the attention of my fellow-citizens to it.

LIFE IS A GIFT FROM GOD

We hold from God the gift which includes all others. This gift is life—physical, intellectual, and moral life.

But life cannot maintain itself alone. The Creator of life has entrusted us with the responsibility of preserving, developing, and perfecting it. In order that we may accomplish this, He has provided us with a collection of marvelous faculties. And He has put us in the midst of a variety of natural resources. By the application of our faculties to these natural resources we convert them into products, and use them. This process is necessary in order that life may run its appointed course.

Life, faculties, production—in other words, individuality, liberty, property—this is man. And in spite of the cunning of artful political leaders, these three gifts from God precede all human legislation, and are superior to it.

Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.

WHAT IS LAW?

What, then, is law? It is the collective organization of the individual right to lawful defense.

Each of us has a natural right—from God—to defend his person, his liberty, and his property. These are the three basic requirements of life, and the preservation of any one of them is completely dependent upon the preservation of the other two. For what are our faculties but the extension of our individuality? And what is property but an extension of our faculties?

If every person has the right to defend—even by force—his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right—its reason for existing, its lawfulness—is based on individual right. And the common force that protects this collective right cannot logically have any other purpose or any other mission than that for which it acts as a substitute. Thus, since an individual cannot lawfully use force against the person, liberty, or property of another individual, then the common force—for the same reason—cannot lawfully be used to destroy the person, liberty, or property of individuals or groups.

Such a perversion of force would be, in both cases, contrary to our premise. Force has been given to us to defend our own individual rights. Who will dare to say that force has been given to us to destroy the equal rights of our brothers? Since no individual acting separately can lawfully use force to destroy the rights of others, does it not logically follow that the same principle also applies to the common force that is nothing more than the organized combination of the individual forces?

If this is true, then nothing can be more evident than this: The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause justice to reign over us all.

A JUST AND ENDURING GOVERNMENT

If a notion were founded on this basis, it seems to me that order would prevail among the people, in thought as well as in deed. It seems to me that such a nation would have the most simple, easy to accept, economical, limited, non-oppressive, just, and enduring government imaginable—whatever its political form might be.

Under such an administration, everyone would understand that he possessed all the privileges as well as all the responsibilities of his existence. No one would have any argument with government, provided that his person was respected, his labor was free, and the fruits of his labor were protected against all unjust attack. When successful, we would not have to thank the state for our success. And, conversely, when unsuccessful, we would no more think of blaming the state for our misfortune than would the farmers blame the state because of hail or frost. The state would be felt only by the invaluable blessings of safety provided by this concept of government.

It can be further stated that, thanks to the non-intervention of the state in private affairs, our wants and their satisfactions would develop themselves in a logical manner. We would not see poor families seeking literary instruction before they have bread.

We would not see cities populated at the expense of rural districts, nor rural districts at the expense of cities. We would not see the great displacements of capital, labor, and population that are caused by legislative decisions.

The sources of our existence are made uncertain and precarious by these state-created displacements. And, furthermore, these acts burden the government with increased responsibilities.

THE COMPLETE PERVERSION OF THE LAW

But, unfortunately, law by no means confines itself to its proper functions. And when it has exceeded its proper functions, it has not done so merely in some inconsequential and debatable matters. The law has gone further than this; it has acted in direct opposition to its own purpose. The law has been used to destroy its own objective: It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force at the disposal of the unscrupulous who wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense.

How has this perversion of the law been accomplished? And what have been the results?

The law has been perverted by the influence of two entirely different causes: stupid greed and false philanthropy. Let us speak of the first.

A FATAL TENDENCY OF MANKIND

Self-preservation and self-development are common aspirations among all people. And if everyone enjoyed the unrestricted use of his faculties and the free disposition of the fruits of his labor, social progress would be ceaseless, uninterrupted, and unfailing.

But there is also another tendency that is common among people. When they can, they wish to live and prosper at the expense of others. This is no rash accusation. Nor does it come from a gloomy and uncharitable spirit. The annals of history bear witness to the truth of it: the incessant wars, mass migrations, religious persecutions, universal slavery, dishonesty in commerce, and monopolies. This fatal desire has its origin in the very nature of man—in that primitive, universal, and insuppressible instinct that impels him to satisfy his desires with the least possible pain.

PROPERTY AND PLUNDER

Man can live and satisfy his wants only by ceaseless labor; by the ceaseless application of his faculties to natural resources. This process is the origin of property.

But it is also true that a man may live and satisfy his wants by seizing and consuming the products of the labor of others. This process is the origin of plunder.

Now since man is naturally inclined to avoid pain—and since labor is pain in itself—it follows that men will resort to plunder whenever plunder is easier than work. History shows this quite clearly. And under these conditions, neither religion nor morality can stop it.

When, then, does plunder stop? It stops when it becomes more painful and more dangerous than labor.

It is evident, then, that the proper purpose of law is to use the power of its collective force to stop this fatal tendency to plunder instead of to work. All the measures of the law should protect property and punish plunder.

But, generally, the law is made by one man or one class of men. And since law cannot operate without the sanction and support of a dominating force, this force must be entrusted to those who make the laws.

This fact, combined with the fatal tendency that exists in the heart of man to satisfy his wants with the least possible effort, explains the almost universal perversion of the law. Thus it is easy to understand how law, instead of checking injustice, becomes the invincible weapon of injustice. It is easy to understand why the law is used by the legislator to destroy in varying degrees among the rest of the people, their personal independence by slavery, their liberty by oppression, and their property by plunder. This is done for the benefit of the person who makes the law, and in proportion to the power that he holds.

VICTIMS OF LAWFUL PLUNDER

Men naturally rebel against the injustice of which they are victims. Thus, when plunder is organized by law for the profit of those who make the law, all the plundered classes try somehow to enter—by peaceful or revolutionary means—into the making of laws. According to their degree of enlightenment, these plundered classes may propose one of two entirely different purposes when they attempt to attain political power: Either they may wish to stop lawful plunder, or they may wish to share in it.

Woe to the nation when this latter purpose prevails among the mass victims of lawful plunder when they, in turn, seize the power to make laws!

Until that happens, the few practice lawful plunder upon the many, a common practice where the right to participate in the making of law is limited to a few persons. But then, participation in the making of law becomes universal. And then, men seek to balance their conflicting interests by universal plunder. Instead of rooting out the injustices found in society, they make these injustices general. As soon as the plundered classes gain political power, they establish a system of reprisals against other classes. They do not abolish legal plunder. (This objective would demand more enlightenment than they possess.) Instead, they emulate their evil predecessors by participating in this legal plunder, even though it is against their own interests.

It is as if it were necessary, before a reign of justice appears, for everyone to suffer a cruel retribution—some for their evilness, and some for their lack of understanding.

THE RESULTS OF LEGAL PLUNDER

It is impossible to introduce into society a greater change and a greater evil than this: the conversion of the law into an instrument of plunder.

What are the consequences of such a perversion? It would require volumes to describe them all. Thus we must content ourselves with pointing out the most striking.

In the first place, it erases from everyone's conscience the distinction between justice and injustice.

No society can exist unless the laws are respected to a certain degree. The safest way to make laws respected is to make them respectable. When law and morality contradict each other, the citizen has the cruel alternative of either losing his moral sense or losing his respect for the law. These two evils are of equal consequence, and it would be difficult for a person to choose between them.

The nature of law is to maintain justice. This is so much the case that, in the minds of the people, law and justice are one and the same thing. There is in all of us a strong disposition to believe that anything lawful is also legitimate. This belief is so widespread that many persons have erroneously held that things are "just" because law makes them so. Thus, in order to make plunder appear just and sacred to many consciences, it is only necessary for the law to decree and sanction it. Slavery, restrictions, and monopoly find defenders not only among those who profit from them but also among those who suffer from them.

THE FATE OF NON-CONFORMISTS

If you suggest a doubt as to the morality of these institutions, it is boldly said that "You are a dangerous innovator, a utopian, a theorist, a subvervise; you would shatter the foundation upon which society rests."

If you lecture upon morality or upon political science, there will be found official organizations petitioning the government in this vein of though; "That science no longer be taught exclusively from the point of view of free trade (of liberty, of property, and of justice) as has been the case until now, but also, in the future, science is to be especially taught from the viewpoint of the facts and laws that regulate French industry (facts and laws which are contrary to liberty, to property, and to justice). That, in government-endowed teaching positions, the professor rigorously refrain from endangering in the slightest degree the respect due to the laws now in force."[1]

Thus, if there exists a law which sanctions slavery or monopoly, oppression or robbery, in any form whatever, it must not even be mentioned. For how can it be mentioned without damaging the respect which it inspires? Still further, morality and political economy must be taught from the point of view of this law, from the supposition that it must be a just law merely because it is a law.

Another effect of this tragic perversion of the law is that it gives an exaggerated importance to political passions and conflicts, and to politics in general.

I could prove this assertion in a thousand ways. But, by way of illustration, I shall limit myself to a subject that has lately occupied the minds of everyone: universal suffrage.

WHO SHALL JUDGE?

The followers of Rosseau's school of thought—who consider themselves far advanced, but whom I consider twenty centuries behind the times—will not agree with me on this. But universal suffrage—using the world in its strictest sense—is not one of those sacred dogmas which it is a crime to examine or doubt. In fact serious objections may be made to universal suffrage.

In the first place, the word *universal* conceals a gross fallacy. For example, there are 36 million people in France. Thus, to make the right of suffrage universal, there should be 36 million voters. But the most extended system permits only 9 million people to vote. Three persons out of four are excluded. And more than this, they are excluded by the fourth. This fourth person advances the principle of *incapacty* as his reason for excluding the others.

Universal suffrage means, then, universal suffrage for those who are capable. But there remains this question of fact: Who is capable? Are minors, females, insane persons, and persons who have committed certain major crimes the only ones to be determined incapable?

---

[1] General Council of Manufacturers, Agriculture, and Commerce, May 6, 1850.

THE REASON WHY VOTING IS RESTRICTED

A closer examination of the subject shows us the motive which causes the right of suffrage to be based upon the supposition of incapacity. The motive is that the elector or voter does not exercise this right for himself alone, but for everybody.

The most extended elective system and the most restricted elective system are alike in this respect. They differ only in respect to what constitutes incapacity. It is not a difference of principle, but merely a difference of degree.

If, as the republicans of our present-day Greek and Roman schools of thought pretend, the right of suffrage arrives with one's birth, it would be an injustice for adults to prevent women and children from voting. Why are they prevented? Because they are presumed to be incapable. And why is incapacity a motive for exclusion? Because it is not the voter alone who suffers the consequences of his vote; because each vote touches and affects everyone in the entire community; because the people in the community have a right to demand some safeguards concerning the acts upon which their welfare and existence depend.

THE ANSWER IS TO RESTRICT THE LAW

I know what might be said in answer to this; what the objections might be. But this is not the place to exhaust a controversy of this nature. I wish merely to observe here that this controversy over universal suffrage (as well as most other political questions) which agitates, excites, and overthrows nations, would lose nearly all of its importance if the law had always been what it ought to be.

In fact, if law were restricted to protecting all persons, all liberties, and all properties; if law were nothing more than the organized combination of the individual's right to self defense; if law were the obstacle, the check, the punisher of all oppression and plunder—is it likely that we citizens would then argue much about the extent of the franchise?

Under these circumstances, is it likely that the extent of the right to vote would endanger that supreme good, the public peace? Is it likely that the excluded classes would refuse to peaceably await the coming of their right to vote? Is it likely that those who had the right to vote would jealously defend their privilege?

If the law were confined to its proper functions, everyone's interest in the law would be the same. Is it not clear that, under these circumstances, those who voted could not inconvenience those who did not vote?

THE FATAL IDEA OF LEGAL PLUNDER

But on the other hand, imagine that this fatal principle has been introduced: Under the pretense of organization, regulation, protection, or encouragement, the law takes property from one person and gives it to another; the law takes the wealth of all and gives it to a few—whether farmers, manufacturers, shipowners, artists, or comedians. Under these circumstances, then certainly every class will aspire to grasp the law, and logically so.

The excluded classes will furiously demand their right to vote—and will overthrow society rather than not to obtain it. Even beggars and vagabonds will then prove to you that they also have an incontestable title to vote. They will say to you:

"We cannot buy wine, tobacco, or salt without paying the tax. And a part of the tax that we pay is given by law—in privileges and subsidies—to men who are richer than we are. Others use the law to raise the prices of bread, meat, iron, or cloth. Thus, since everyone else uses the law for his own profit, we also would like to use the law for our own profit. We demand from the law the right to relief, which is the poor man's plunder. To obtain this right, we also should be voters and legislators in order that we may organize Beggary on a grand scale for our own class, as you have organized Protection on a grand scale for your class. Now don't tell us beggars that you will act for us, and then toss us, as Mr. Mimerel proposes, 600,000 francs to keep us quiet, like throwing us a bone to gnaw. We have other claims. And anyway, we wish to bargain for ourselves as other classes have bargained for themselves!"

And what can you say to answer that argument!

PERVERTED LAW CAUSES CONFLICT

As long as it is admitted that the law may be diverted from its true purpose—that it may violate property instead of protecting it—then everyone will want to participate in making the law, either to protect himself against plunder or to use it for plunder. Political questions will always be prejudicial, dominant, and all-absorbing. There will be fighting at the door of the Legislative Palace, and the struggle within will be no less furious. To know this, it is hardly necessary to examine what transpires in the French and English legislatures; merely to understand the issue is to know the answer.

Is there any need to offer proof that this odious perversion of the law is a perpetual source of hatred and discord; that it tends to destroy society itself? If such proof is needed, look at the United States [in 1850]. There is no country in the world where the law is kept more within its proper domain: the protection of every person's liberty and property. As a consequence of this, there appears to be no country in the world where the social order rests on a firmer foundation. But even in the United States, there are two issues—and only two—that have always endangered the public peace.

SLAVERY AND TARIFFS ARE PLUNDER

What are these two issues? They are slavery and tariffs. These are the only two issues where, contrary to the general spirit of the republic of the United States, law has assumed the character of a plunderer.

Slavery is a violation, by law, of liberty. The protective tariff is a violation, by law, of property.

It is a most remarkable fact that this double legal crime—a sorrowful inheritance from the Old World—should be the only issue which can, and perhaps will, lead to the ruin of the Union. It is indeed impossible to imagine, at the very heart of society, a more astounding fact than this: The law has come to be an instrument of injustice. And if this fact brings terrible consequences to the United States—where the proper purpose of the law has been perverted only in the instances of slavery and tariffs—what must be the consequences in Europe, where the perversion of the law is a principle; a system?

TWO KINDS OF PLUNDER

Mr. de Montalembert [politician and writer] adopting the thought contained in a famous proclamation by Mr. Carlier, has said: "We must make war against socialism." According to the definition of socialism advanced by Mr. Charles Dupin, he meant: "We must make war against plunder."

But of what plunder was he speaking? For there are two kinds of plunder: legal and illegal.

I do not think that illegal plunder, such as theft or swindling—which the penal code defines, anticipates, and punishes—can be called socialism. It is not this kind of plunder that systematically threatens the foundations of society. Anyway, the war against this kind of plunder has not waited for the command of these gentlemen. The war against illegal plunder has been fought since the beginning of the world. Long before the Revolution of February 1848—long before the appearance even of socialism itself—France had provided police, judges, gendarmes, prisons, dungeons, and scaffolds for the purpose of fighting illegal plunder. The law itself conducts this war, and it is my wish and opinion that the law should always maintain this attitude toward plunder.

THE LAW DEFENDS PLUNDER

But it does not always do this. Sometimes the law defends plunder and participates in it. Thus the beneficiaries are spared the shame, danger, and scruple which their acts would otherwise involve. Sometimes the law places the whole apparatus of judges, police, prisons, and gendarmes at the service of the plunderers, and treats the victim—when he defends himself—as a criminal. In short, there is a legal plunder, and it is of this, no doubt, that Mr. de Montalembert speaks.

This legal plunder may be only an isolated stain among the legislative measures of the people. If so, it is best to wipe it out with a minimum of speeches and denunciations—and in spite of the uproar of the vested interests.

HOW TO IDENTIFY LEGAL PLUNDER

But how is this legal plunder to be identified? Quite simply. See if the law takes from some persons what belongs to them, and gives it to other persons to whom it does not belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime.

Then abolish this law without delay, for it is not only an evil itself, but also it is a fertile source for further evils because it invites reprisals. If such a law—which may be an isolated case—is not abolished immediately, it will spread, multiply, and develop into a system.

The person who profits from this law will complain bitterly, defending his acquired rights. He will claim that the state is obligated to protect and encourage his particular industry; that this procedure enriches the state because the protected industry is thus able to spend more and to pay higher wages to the poor workingmen.

Do not listen to this sophistry by vested interests. The acceptance of these arguments will build legal plunder into a whole system. In fact this has already occurred. The present-day delusion is an attempt to enrich everyone at the expense of everyone else; to make plunder universal under the pretense of organizing it.

LEGAL PLUNDER HAS MANY NAMES

Now, legal plunder can be committed in an infinite number of ways. Thus we have an infinite number of plans for organizing it: tariffs, protection, benefits, subsidies, encouragements, progressive taxation, public schools, guaranteed jobs, guaranteed profits, minimum wages, a right to relief, a right to the tools of labor, free credit, and so on, and so on. All these plans as a whole—with their common aim of legal plunder—constitute socialism.

Now, since under this definition socialism is a body of doctrine, what attack can be made against it other than a war of doctrine? If you find this socialistic doctrine to be false, absurd, and evil, then refute it. And the more false, the more absurd, and the more evil it is, the easier it will be to refute. Above all, if you wish to be strong, begin by rooting out every particle of socialism that may have crept into your legislation. This will be no light task.

SOCIALISM IS LEGAL PLUNDER

Mr. de Montalembert has been accused of desiring to fight socialism by the use of brute force. He ought to be exonerated from this accusation, for he has plainly said: "The war that we must fight against socialism must be in harmony with law, honor, and justice."

But why does not Mr. de Montalembert see that he has placed himself in a vicious circle? You would use the law to oppose socialism? But it is upon the law that socialism itself relies. Socialists desire to practice legal plunder, not illegal plunder. Socialists, like all other monopolists, desire to make the law their own weapon. And when once the law is on the side of socialism, how can it be used against socialism? For when plunder is abetted by the law, it does not fear your courts, your gendarmes, and your prisons. Rather, it may call upon them for help.

To prevent this, you would exclude socialism from entering into the making of laws? You would prevent socialists from entering the Legislative Palace? You shall not succeed, I predict, so long as legal plunder continues to be the main business of the legislature. It is illogical—in fact, absurd—to assume otherwise.

THE CHOICE BEFORE US

This question of legal plunder must be settled once and for all, and there are only three ways to settle it:

1. The few plunder the many.
2. Everybody plunders everybody.
3. Nobody plunders anybody.

We must make our choice among limited plunder, universal plunder, and no plunder. The law can follow only one of these three.

Limited legal plunder: This system prevailed when the right to vote was restricted. One would turn back to this system to prevent the invasion of socialism.

Universal legal plunder: We have been threatened with this system since the franchise was made universal. The newly enfranchised majority has decided to formulate law on the same principle of legal plunder that was used by their predecessors when the vote was limited.

No legal plunder: This is the principle of justice, peace, order, stability, harmony, and logic. Until the day of my death, I shall proclaim this principle with all the force of my lungs (which alas! is all too inadequate).[2]

THE PROPER FUNCTION OF THE LAW

And, in all sincerity, can anything more than the absence of plunder be required of the law? Can the law—which necessarily requires the use of force—rationally be used for anything except protecting the rights of everyone? I defy anyone to extend it beyond this purpose without perverting it and, consequently, turning might against right. This is the most fatal and most illogical social perversion that can possibly be imagined. It must be admitted that the true solution—so long searched for in the area of social relationship—is contained in these simple words: Law is organized justice.

Now this must be said: When justice is organized by law—that is, by force—this excludes the idea of using law (force) to organize any human activity whatever, whether it be labor, charity, agriculture, commerce, industry, education, art, or religion. The organizing by law of any one of these would inevitably destroy the essential organization—justice. For truly, how can we imagine force being used against the liberty of citizens without it also being used against justice, and thus acting against its proper purpose?

THE SEDUCTIVE LURE OF SOCIALISM

Here I encounter the most popular fallacy of our times. It is not considered sufficient that the law should be just; it must be philanthropic. Nor is it sufficient that the law should guarantee to every citizen the free and inoffensive use of his faculties for physical, intellectual, and moral self-improvement. Instead, it is demanded that the law should directly extend welfare, education, and morality throughout the nation.

This is the seductive lure of socialism. And I repeat again: These two uses of the law are in direct contradiction to each other. We must choose between them. A citizen cannot at the same time be free and not free.

ENFORCED FRATERNITY DESTROYS LIBERTY

Mr. de Lamartine once wrote to me thusly: "Your doctrine is only the half of my program. You have stopped at liberty; I go on to fraternity." I answered him: "The second half of your program will destroy the first."

In fact, it is impossible for me to separate the word fraternity from the word voluntary. I cannot possibly understand how fraternity can be legally enforced without liberty being legally destroyed, and thus justice being legally trampled underfoot.

Legal plunder has two roots: One of them, as I have said before, is in human greed; the other is in false philanthropy.

At this point, I think that I should explain exactly what I mean by the word plunder.[3]

PLUNDER VIOLATES OWNERSHIP

I do not, as is often done, use the word in any vague, uncertain, approximate, or metaphorical sense. I use it in its scientific acceptance—as expressing the idea opposite to that of property [wages, land, money, or whatever]. When a portion of wealth is transferred from the person who owns it—without his consent and without compensation, and whether by force or by fraud—to anyone who does not own it, then I say that property is violated; that an act of plunder is committed.

I say that this act is exactly what the law is supposed to suppress, always and everywhere. When the law itself commits this act that it is supposed to suppress, I say that plunder is still committed, and I add that from the point of view of society and welfare, this agression against right is even worse. In this case of legal plunder, however, the person who receives the benefits is not responsible for the act of plundering. The responsibility for this legal plunder rests with the law, the legislator, and society itself. Therein lies the political danger.

It is to be regretted that the word plunder is offensive. I have tried in vain to find an inoffensive word, for I would not at any time—especially now—wish to add an irritating word to our dissentions. Thus, whether I am believed or not, I declare that I do not mean to attack the intentions or the morality of anyone. Rather, I am attacking an idea which I believe to be false; a system which appears to me to be unjust; an injustice so independent of personal intentions that each of us profits from it without wishing to do so, and suffers from it without knowing the cause of the suffering.

THREE SYSTEMS OF PLUNDER

The sincerity of those who advocate protectionism, socialism, and communism is not here questioned. Any writer who would do that must be influenced by a political spirit or a political fear. It is to be pointed out, however, that protectionism, socialism, and communism are basically the same plant in three different stages of its growth. All that can be said is that legal plunder is more visible in communism because it is complete plunder; and in protectionism because the plunder is limited to specific groups and industries.[4] Thus it follows that, of the three systems, socialism is the vaguest, the most indecisive, and, consequently, the most sincere stage of development.

But sincere or insincere, the intentions of persons are not here under question. In fact, I have already said that legal plunder is based partially on philanthropy, even though it is a false philanthropy.

With this explanation, let us examine the value—the origin and the tendency—of this popular aspiration which claims to accomplish the general welfare by general plunder.

LAW IS FORCE

Since the law organizes justice, the socialists ask why the law should not also organize labor, education, and religion.

Why should not law be used for these purposes? Because it would not organize labor, education, and religion without destroying justice. We must remember that law is force, and that, consequently, the proper functions of the law cannot lawfully extend beyond the proper functions of force.

When law and force keep a person within the bounds of justice, they impose nothing but a mere negation. They oblige him only to abstain from harming others. They violate neither his personality, his liberty, nor his property. They safeguard all of these. They are defensive; they defend equally the rights of all.

LAW IS A NEGATIVE CONCEPT

The harmlessness of the mission performed by law and lawful defense is self-evident; the usefulness is obvious; and the legitimacy cannot be disputed.

As a friend of mine once remarked, this negative concept of law is so true that the statement, the purpose of the law is to cause justice to reign, is not a rigorously accurate statement. It ought to be stated that the purpose of the law is to prevent injustice from reigning. It fact, it is injustice, instead of justice, that has an existence of its own. Justice is achieved only when injustice is absent.

But when the law, by means of its necessary agent, force, imposes upon men a regulation of labor, a method or a subject of education, a religious faith or creed—then the law is no longer negative; it acts positively upon people. It substitutes the will of the legislator for their own wills; the initiative of the legislator for their own initiatives. When this happens, the people no longer need to discuss, to compare, to plan ahead; the law does all this for them. Intelligence becomes a useless prop for the people; they cease to be men; they lose their personality, their liberty, their property.

---

[2] Translator's note: At the time this was written. Mr. Bastiat knew that he was dying of tuberculosis. Within a year, he was dead.

[3] Translator's note: The French word used by Mr. Bastiat is spoliation.

[4] If the special privilege of government protection against competition—a monopoly—were granted only to one group in France, the iron workers, for instance, this act would so obviously be legal plunder that it could not last for long. It is for this reason that we see all the protected trades combined into a common cause. They even organize themselves in such a manner as to appear to represent all persons who labor. Instinctively, they feel that legal plunder is concealed by generalizing it.

Try to imagine a regulation of labor imposed by force that is not a violation of liberty; a transfer of wealth imposed by force that is not a violation of property. If you cannot reconcile these contradictions, then you must conclude that the law cannot organize labor and industry without organizing injustice.

THE POLITICAL APPROACH

When a politician views society from the seclusion of his office, he is struck by the spectacle of the inequality that he sees. He deplores the deprivations which are the lot of so many of our brothers, deprivations which appear to be even sadder when contrasted with luxury and wealth.

Perhaps the politician should ask himself whether this state of affairs has not been caused by old conquests and lootings, and by more recent legal plunder. Perhaps he should consider this proposition: Since all persons seek well-being and perfection, would not a condition of justice be sufficient to cause the greatest efforts toward progress, and the greatest possible equality that is compatible with individual responsibility? Would not this be in accord with the concept of individual responsibility which God has willed in order that mankind may have the choice between vice and virtue, and the resulting punishment and reward?

But the politician never gives this a thought. His mind turns to organizations, combinations, and arrangements—legal or apparently legal. He attempts to remedy the evil by increasing and perpetuating the very thing that caused the evil in the first place: legal plunder. We have seen that justice is a negative concept. Is there even one of these positive legal actions that does not contain the principle of plunder?

THE LAW AND CHARITY

You say: "There are persons who have no money," and you turn to the law. But the law is not a breast that fills itself with milk. Nor are the lacteal veins of the law supplied with milk from a source outside the society. Nothing can enter the public treasury for the benefit of one citizen or one class unless other citizens and other classes have been forced to send it in. If every person draws from the treasury the amount that he has put in it, it is true that the law then plunders nobody. But this procedure does nothing for the persons who have no money. It does not promote equality of income. The law can be an instrument of equalization only as it takes from some persons and gives to other persons. When the law does this, it is an instrument of plunder.

With this in mind, examine the protective tariffs, subsidies, guaranteed profits, guaranteed jobs, relief and welfare schemes, public education, progressive taxation, free credit, and public works. You will find that they are always based on legal plunder, organized injustice.

THE LAW AND EDUCATION

You say: "There are persons who lack education," and you turn to the law. But the law is not, in itself, a torch of learning which shines its light abroad. The law extends over a society where some persons have knowledge and others do not; where some citizens need to learn, and others can teach. In this matter of education, the law has only two alternatives: It can permit this transaction of teaching-and-learning to operate freely and without the use of force, or it can force human wills in this matter by taking from some of them enough to pay the teachers who are appointed by government to instruct others, without charge. But in this second case, the law commits legal plunder by violating liberty and property.

THE LAW AND MORALS

You say: "Here are persons who are lacking in morality or religion," and you turn to the law. But law is force. And need I point out what a violent and futile effort it is to use force in the matters of morality and religion?

It would seem that socialists, however self-complacent, could not avoid seeing this monstrous legal plunder that results from such systems and such efforts. But what do the socialists do? They cleverly disguise this legal plunder from others—and even from themselves—under the seductive names of fraternity, unity, organization, and association. Because we ask so little from the law—only justice—the socialists thereby assume that we reject fraternity, unity, organization, and association. The socialists brand us with the name individualist.

But we assure the socialists that we repudiate only forced organization, not natural organization. We repudiate the forms of association that are forced upon us, not free association. We repudiate forced fraternity, not true fraternity. We repudiate the artificial unity that does nothing more than deprive persons of individual responsibility. We do not repudiate the natural unity of mankind under Providence.

A CONFUSION OF TERMS

Socialism, like the ancient ideas from which it springs, confuses the distinction between government and society. As a result of this, every time we object to a thing being done by government, the socialists concluded that we object to its being done at all.

We disapprove of state education. Then the socialists say that we are opposed to any education. We object to a state religion. Then the socialists say that we want no religion at all. We object to a state-enforced equality. Then they say that we are against equality. And so on, and so on. It is as if the socialists were to accuse us of not wanting persons to eat because we do not want the state to raise grain.

THE INFLUENCE OF SOCIALIST WRITERS

How did politicians ever come to believe this weird idea that the law could be made to produce what it does not contain—the wealth, science, and religion that, in a positive sense, constitute prosperity? Is it due to the influence of our modern writers on public affairs?

Present-day writers—especially those of the socialist school of thought—base their various theories upon one common hypothesis: They divide mankind into two parts. People in general—with the exception of the writer himself—form the first group. The writer, all alone, forms the second and most important group. Surely this is the weirdest and most conceited notion that ever entered a human brain?

In fact, these writers on public affairs begin by supposing that people have within themselves no means of discernment; no motivation to action. The writers assume that people are inert matter, passive particles, motionless atoms, at best a kind of vegetation indifferent to its own manner of existence. They assume that people are susceptible to being shaped—by the will and hand of another person—into an infinite variety of forms, more or less symmetrical, artistic, and perfected.

Moreover, not one of these writers on governmental affairs hesitates to imagine that he himself—under the title of organizer, discoverer, legislator, or founder—is this will and hand, this universal motivating force, this creative power whose sublime mission is to mold these scattered materials—persons—into a society.

These socialist writers look upon people in the same manner that the gardener views his trees. Just as the gardener capriciously shapes the trees into pyramids, parasols, cubes, vases, fans, and other forms, just so does the socialist writer whimsically shape human beings into groups, series, centers, sub-centers, honeycombs, labor-corps, and other variations. And just as the gardener needs axes, pruning hooks, saws, and shears to shape his trees, just so does the socialist writer need the force that he can find only in law to shape human beings. For this purpose, he devises tariff laws, tax laws, relief laws, and school laws.

THE SOCIALISTS WISH TO PLAY GOD

Socialists look upon people as raw material to be formed into social combinations. This is so true that, if by chance, the socialists have any doubts about the success of these combinations, they will demand that a small portion of mankind be set aside to experiment upon. The popular idea of trying all systems is well known. And one socialist leader has been known seriously to demand that the Constituent Assembly give him a small district with all its inhabitants, to try his experiments upon.

In the same manner, an inventor makes a model before he constructs the full-sized machine; the chemist wastes some chemicals—the farmer wastes some seeds and land—to try out an idea.

But what a difference there is between the gardener and his trees, between the inventor and his machine, between the chemist and his elements, between the farmer and his seeds! And in all sincerity, the socialist thinks that there is the same difference between him and mankind!

It is no wonder that the writers of the nineteenth century look upon society as an artificial creation of the legislator's genius. This idea—the fruit of classical education—has taken possession of all the intellectuals and famous writers of our country. To these intellectuals and writers, the relationship between persons and the legislator appears to be the same as the relationship between the clay and the potter.

Moreover, even where they have consented to recognize a principle of action in the heart of man—and a principle of discernment in man's intellect—they have considered these gifts from God to be fatal gifts. They have thought that persons, under the impulse of these two gifts, would fatally tend to ruin themselves. They assume that if the legislators left persons free to follow their own inclinations, they would arrive at atheism instead of religion, ignorance instead of knowledge, poverty instead of production and exchange.

THE SOCIALISTS DESPISE MANKIND

According to these writers, it is indeed fortunate that Heaven has bestowed upon certain men—governors and legislators—the exact opposite inclinations, not only for their own sake but also for the sake of the rest of the world! While mankind tends toward evil, the legislators yearn for good; while mankind advances toward darkness, the legislators aspire for enlightenment; while mankind is drawn toward vice, the legislators are attracted toward virtue. Since they have decided that this is the true state of affairs, they then demand the use of force in order to substitute their own inclinations for those of the human race.

Open at random any book on philosophy, politics, or history, and you will probably see how deeply rooted in our country is this idea—the child of classical studies, the mother of socialism. In all of them, you will probably find this idea that mankind is merely inert matter, receiving life, organization, morality, and prosperity from the power of the state. And even worse, it will be stated that mankind tends toward degeneration, and is stopped from this downward course only by the mysterious hand of the legislator. Conventional classical thought everywhere says that behind passive society there is a concealed power called law or legislator (or called by some other terminology that designates some unnamed person or persons of undisputed influence and authority) which moves, controls, benefits, and improves mankind.

A DEFENSE OF COMPULSORY LABOR

Let us first consider a quotation from Bossuet [tutor to the Dauphin in the Court of Louis XIV]:[4]

One of the things most strongly impressed (by whom?) upon the minds of the Egyptians was patriotism. . . . No one was permitted to be useless to the state. The law assigned to each one his work, which was handed down from father to son. No one was permitted to have two professions. Nor could a person change from one job to another. . . . But there was one task to which all were forced to conform: the study of the laws and of wisdom. Ignorance of religion and of the political regulations of the country was not excused under any circumstances. Moreover, each occupation was assigned (by whom?) to a certain district. . . . Among the good laws, one of the best was that everyone was trained (by whom?) to obey them. As a result of this, Egypt was filled with wonderful inventions, and nothing was neglected that could make life easy and quiet.

Thus, according to Bossuet, persons derive nothing from themselves. Patriotism, prosperity, inventions, husbandry, science—all of these are given to the people by the operation of the laws, the rulers. All that the people have to do is to bow to leadership.

A DEFENSE OF PATERNAL GOVERNMENT

Bossuet carries this idea of the state as the source of all progress even so far as to defend the Egyptians against the charge that they rejected wrestling and music. He said:

How is that possible? These arts were invented by Trismegistus [who was alleged to have been Chancellor to the Egyptian god Osiris].

And again among the Persians, Bossuet claims that all comes from above:

One of the first responsibilities of the prince was to encourage agriculture. . . . Just as there were offices established for the regulation of armies, just so were there offices for the direction of farm work. . . . The Persian people were inspired with an overwhelming respect for royal authority.

And according to Bossuet, the Greek people, although exceedingly intelligent, had no sense of personal responsibility; like dogs and horses, they themselves could not have invented the most simple games:

The Greeks, naturally intelligent and courageous, had been early cultivated by the kings and settlers who had come from Egypt. From these Egyptian rulers, the Greek people had learned bodily exercises, foot races, and horse and chariot races. . . . But the best thing that the Egyptians had taught the Greeks was to become docile, and to permit themselves to be formed by the law for the public good.

THE IDEA OF PASSIVE MANKIND

It cannot be disputed that these classical theories [advanced by these latter-day teachers, writers, legislators, economist, and philosophers] held that everything came to the people from a source outside themselves. As another example, take Fenelon [archbishop, author, and instructor to the Duke of Burgundy].

He was a witness to the power of Louis XIV. This, plus the fact that he was nurtured in the classical studies and the admiration of antiquity, naturally caused Fenelon to accept the idea that mankind should be passive; that the misfortunes and the prosperity—vice and virtues—of people are caused by the external influence exercised upon them by the law and the legislators. Thus, in his Utopia of Salentum, he puts men—with all their interests, faculties, desires, and possessions—under the absolute discretion of the legislator. Whatever the issue may be, persons do not decide it for themselves; the prince decides for them. The prince is depicted as the soul of this shapeless mass of people who form the nation. In the prince resides the thought, the foresight, all progress, and the principle of all organization. Thus all responsibility rests with him.

The whole of the tenth book of Fenelon's Telemachus proves this. I refer the reader to it, and content myself with quoting at random from this celebrated work to which, in every other respect, I am the first to pay homage.

SOCIALISTS IGNORE REASON AND FACTS

With the amazing credulity which is typical of the classicists, Fenelon ignores the authority of reason and facts when he attributes the general happiness of the Egyptians, not to their own wisdom but to the wisdom of their kings:

We could not turn our eyes to either shore without seeing rich towns and country estates most agreeably located; fields, never fallowed, covered with golden crops every year; meadows full of flocks; workers bending under the weight of the fruit which the earth lavished upon its cultivators; shepherds who made the echoes resound with the soft notes from their pipes and flutes. "Happy," said Mentor, "is the people governed by a wise king.". . .

Later, Mentor desired that I observe the contentment and abundance which covered all Egypt, where twenty-two thousand cities could be counted. He admired the good police regulations in the cities; the justice rendered in favor of the poor against the rich; the sound education of the children in obedience, labor, sobriety, and the love of the arts and letters; the exactness with which all religious ceremonies were performed; the unselfishness, the high regard for honor, the faithfulness to men, and the fear of the gods which every father taught his children. He never stopped admiring the prosperity of the country. "Happy," said he, "is the people ruled by a wise king in such a manner."

SOCIALISTS WANT TO REGIMENT PEOPLE

Fenelon's idyl on Crete is even more alluring. Mentor is made to say:

All that you see in this wonderful island results from the laws of Minos. The education which he ordained for the children makes their bodies strong and robust. From the very beginning, one accustoms the children to a life of frugality and labor, because one assumes that all pleasures of the senses weaken both body and mind. Thus one allows them no pleasure except that of becoming invincible by virtue, and of acquiring glory. . . . Here one punishes three vices that go unpunished among other people: ingratuude, hypocrisy, and greed. There is no need to punish persons for pomp and dissipation, for they are unknown in Crete. . . . No costly furniture, no magnificent clothing, no delicious feasts, no gilded palaces are permitted.

Thus does Mentor prepare his student to mold and to manipulate—doubtless with the best of intentions—the people of Ithaca. And to convince the student of the wisdom of these ideas, Mentor recites to him the example of Salentum.

It is from this sort of philosophy that we receive our first political ideas! We are taught to treat persons much as an instructor in agriculture teaches farmers to prepare and tend the soil.

A FAMOUS NAME AND AN EVIL IDEA

Now listen to the great Montesquieu on this same subject:

To maintain the spirit of commerce, it is necessary that all the laws must favor it. These laws, by proportionately dividing up the fortunes as they are made in commerce, should provide every poor citizen with sufficiently easy circumstances to enable him to work like the others. These same laws should put every rich citizen in such lowered circumstances as to force him to work in order to keep or to gain.

Thus the laws are to to dispose of all fortunes!

Although real equality is the soul of the state in a democracy, yet this is so difficult to establish that an extreme precision in this matter would not always be desirable. It is sufficient that there be established a census to reduce or fix these differences in wealth within a certain limit. After this is done, it remains for specific laws to equalize inequality by imposing burdens upon the rich and granting relief to the poor.

Here again we find the idea of equalizing fortunes by law, by force.

In Greece, there were two kinds of republics, One, Sparta, was military; the other, Athens, was commercial. In the former, it was desired that the citizens be idle; in the latter, love of labor was encouraged.

Note the marvelous genius of these legislators: By debasing all established customs—by mixing the usual concepts of all virtues—they knew in advance that the world would admire their wisdom.

Lycurgus gave stability to his city of Sparta by combining petty thievery with the soul of justice; by combining the most complete bondage with the most extreme liberty; by combining the most atrocious beliefs with the greatest moderation. He appeared to deprive his city of all its resources, arts, commerce, money, and defenses. In Sparta, ambition went without the hope of material reward. Natural affection found no outlet because a man was neither son, husband, nor father. Even chastity was no longer considered becoming. By this road, Lycurgus led Sparta on to greatness and glory.

This boldness which was to found in the institutions of Greece has been repeated in the midst of the degeneracy and corruption of our modern times. An occasional honest legislator has molded a people in whom integrity appears as natural as courage in the Spartans.

---

[4] Translator's note: The parenthetical expressions and the italicized words throughout this book were supplied by Mr. Bastiat. All subheads and bracketed material were supplied by the translator.

Mr. William Penn, for example, is a true Lycurgus. Even though Mr. Penn had peace as his objective—while Lycurgus had war as his objective—they resemble each other in that their moral prestige over free men allowed them to overcome prejudices, to subdue passions, and to lead their respective people into new paths.

The country of Paraguay furnishes us with another example [of a people who, for their own good, are molded by their legislators].[5]

Now it is true that if one considers the sheer pleasure of commanding to be the greatest joy in life, he contemplates a crime against society; it will, however, always be a noble ideal to govern men in a manner that will make them happier.

Those who desire to establish similar institutions must do as follows: Establish common ownership of property as in the republic of Plato; revere the gods as Plato commanded; prevent foreigners from mingling with the people, in order to preserve the customs; let the state, instead of the citizens, establish commerce. The legislators should supply arts instead of luxuries; they should satisfy needs instead of desires.

A FRIGHTFUL IDEA

Those who are subject to vulgar infatuation may exclaim: "Montesquieu has said this! So it's magnificent! It's sublime!" As for me, I have the courage of my own opinion. I say: What! You have the nerve to call that fine? It is frightful! It is abominable! These random selections from the writings of Montesquieu show that he considers persons, liberties, property—mankind itself—to be nothing but materials for legislators to exercise their wisdom upon.

THE LEADER OF THE DEMOCRATS

Now let us examine Rousseau of this subject. This writer on public affairs is the supreme authority of the democrats. And although he bases the social structure upon the will of the people, he has, to a greater extent than anyone else, completely accepted the theory of the total inertness of mankind in the presence of the legislators:

If it is true that a great prince is rare, then is it not true that a great legislator is even more rare? The prince has only to follow the pattern that the legislator creates. The legislator is the mechanic who invents the machine; the prince is merely the workman who sets it in motion.

And what part do persons play in all this? They are merely the machine that is set in motion. In fact, are they not merely considered to be the raw material of which the machine is made?

Thus the same relationship exists between the legislator and the prince as exists between the agricultural expert and the farmer; and the relationship between the prince and his subjects is the same as that between the farmer and his land. How high above mankind, then, has this writer on public affairs been placed? Rousseau rules over legislators themselves, and teaches them their trade in these imperious terms:

Would you give stability to the state? Then bring the extremes as closely together as possible. Tolerate neither wealthy persons nor beggars.

If the soil is poor or barren, or the country too small for its inhabitants, then turn to industry and arts, and trade these products for the foods that you need. . . . On a fertile soil—if you are short of inhabitants—devote all your attention to agriculture, because this multiplies people; banish the arts, because they only serve to depopulate the nation. . . .

If you have extensive and accessible coast lines, then cover the sea with merchant ships; you will have a brilliant but short existence. If your seas wash only inaccessible cliffs, let the people be barbarous and eat fish; they will live more quietly—perhaps better—and, most certainly, they will live more happily.

In short, and in addition to the maxims that are common to all, every people has its own particular circumstances. And this fact in itself will cause legislation appropriate to the circumstances.

This is the reason why the Hebrews formerly—and, more recently, the Arabs—had religion as their principle objective. The objective of the Athenians was literature; of Carthage and Tyre, commerce; of Rhodes, naval affairs; of Sparta, war; and of Rome, virtue. The author of The Spirit of Laws has shown by what art the legislator should direct his institutions toward each of these objectives. . . . But suppose that the legislator mistakes his proper objective, and acts on a principle different from that indicated by the nature of things? Supports that the selected principle sometimes creates slavery, and sometimes liberty; sometimes wealth, and sometimes population; sometimes peace, and sometimes conquest? This confusion of objective will slowly enfeeble the law and impair the constitution. The state will be subjected to ceaseless agitations until it is destroyed or changed, and invincible nature regains her empire.

But if nature is sufficiently invincible to regain its empire, why does not Rousseau admit that it did not need the legislator to gain it in the first place? Why does he not see that men, by obeying their own instincts, would turn to farming on fertile soil, and to commerce on an extensive and easily accessible coast, without the interference of a Lycurgus or a Solon or a Rousseau who might easily be mistaken.

SOCIALISTS WANT FORCED CONFORMITY

Be that as it may, Rousseau invests the creators, organizers, directors, legislators, and controllers of society with a terrible responsibility. He is, therefore, most exacting with them:

He who would dare to undertake the political creation of a people ought to believe that he can, in a manner of speaking, transform human nature; transform each individual—who, by himself, is a solitary and perfect whole—into a mere part of a greater whole from which the individual will henceforth receive his life and being. Thus the person who would undertake the political creation of a people should believe in his ability to alter man's constitution; to strengthen it; to substitute for the physical and independent existence received from nature, an existence which is partial and moral.[6] In short, the would-be creator of political man must remove man's own forces and endow him with others that are naturally alien to him.

Poor human nature! What would become of a person's dignity if it were entrusted to the followers of Rousseau?

LEGISLATORS DESIRE TO MOLD MANKIND

Now let us examine Raynal on this subject of mankind being molded by the legislator:

The legislator must first consider the climate, the air, and the soil. The resources at his disposal determine his duties. He must first consider his locality. A population living on maritime shores must have laws designed for navigation. . . . If it is an inland settlement, the legislator must make his plans according to the nature and fertility of the soil. . . .

It is especially in the distribution of property that the genius of the legislator will be found. As a general rule, when a new colony is established in any country, sufficient land should be given to each man to support his family. . . .

On an uncultivated island that you are populating with children, you need do nothing but let the seeds of truth germinate along with the development of reason. . . . But when you resettle a nation with a past into a new country, the skill of the legislator rests in the policy of permitting the people to retain no injurious opinions and customs which can possibly be cured and corrected. If you desire to prevent these opinions and customs from becoming permanent, you will secure the second generation by a general system of public education for the children. A prince or a legislator should never establish a colony without first arranging to send wise men along to instruct the youth. . . .

In a new colony, ample opportunity is open to the careful legislator who desires to purify the customs and manners of the people. If he has virtue and genius, the land and the people at his disposal will inspire his soul with a plan for society. A writer can only vaguely trace the plan in advance because it is necessarily subject to the instability of all hypotheses; the problem has many forms, complications, and circumstances that are difficult to foresee and settle in detail.

LEGISLATORS TOLD HOW TO MANAGE MEN

Raynal's instructions to the legislators on how to manage people may be compared to a professor of agriculture lecturing his students: "The climate is the first rule for the farmer. His resources determine his procedure. He must first consider his locality. If his soil is clay, he must do so and so. If his soil is sand, he must act in another manner. Every facility is open to the farmer who wishes to clear and improve his soil. If he is skillful enough, the manure at his disposal will suggest to him a plan of operation. A professor can only vaguely trace this plan in advance because it is necessarily subject to the instability of all hypotheses; the problem has many forms, complications, and circumstances that are difficult to foresee and settle in detail."

Oh, sublime writers! Please remember sometimes that this clay, this sand, and this manure which you so arbitrarily dispose of, are men! They are your equals! They are intelligent and free human beings like yourselves! As you have, they too have received from God the faculty to observe, to plan ahead, to think, and to judge for themselves!

A TEMPORARY DICTATORSHIP

Here is Mably on this subject of the law and the legislator. In the passages preceding the one here quoted, Mably has supposed the laws, due to a neglect of security, to be worn out. He continues to address the reader thusly:

Under these circumstances, it is obvious that the springs of government are slack. Given them a new tension, and the evil will be cured. . . . Think less of punishing faults, and more of rewarding that which you need. In this manner you will restore to your republic the vigor of youth. Because free people have been ignorant of this procedure, they have lost their liberty! But if the evil has made such headway that ordinary governmental procedures are unable to cure it, then resort to an extraordinary tribunal with considerable powers for a short time. The imagination of the citizens needs to be struck a hard blow.

---

[5] Translator's note: What was then known as Paraguay was a much larger area then it is today. It was colonized by the Jesuits who settled the Indians into villages, and generally saved them from further brutalities by the avid conquerors.

[6] Translator's note: According to Rousseau, the existence of social man is partial in the sense that he is henceforth merely a part of society. Knowing himself as such—and thinking and feeling from the point of view of the whole—he thereby becomes moral.

In this manner, Mably continues through twenty volumes.

Under the influence of teaching like this—which stems from classical education—there came a time when everyone wished to place himself above mankind in order to arrange, organize, and regulate it in his own way.

SOCIALISTS WANT EQUALITY OF WEALTH

Next let us examine Condillac on this subject of the legislators and mankind:

My Lord, assume the character of Lycurgus or of Solon. And before you finish reading this essay, amuse yourself by giving laws to some savages in America or Africa. Confine these nomads to fixed dwellings; teach them to tend flocks. . . . Attempt to develop the social consciousness that nature has planted in them. . . . Force them to begin to practice the duties of humanity. . . . Use punishment to cause sensual pleasures to become distasteful to them. Then you will see that every point of your legislation will cause these savages to lose a vice and gain a virtue.

All people have had laws. But few people have been happy. Why is this so? Because the legislators themselves have almost always been ignorant of the purpose of society, which is the uniting of families by a common interest.

Impartiality in law consists of two things: the establishing of equality in wealth and equality in dignity among the citizens. . . . As the laws establish greater equality, they become proportionately more precious to every citizen. . . . When all men are equal in wealth and dignity—and when the laws leave no hope of disturbing this equality—how can men then be agitated by greed, ambition, dissipation, idleness, sloth, envy, hatred, or jealousy?

What you have learned about the republic of Sparta should enlighten you on this question. No other state has ever had laws more in accord with the order of nature; of equality.

THE ERROR OF THE SOCIALIST WRITERS

Actually, it is not strange that during the seventeenth and eighteenth centuries the human race was regarded as insert matter, ready to receive everything—form, face, energy, movement, life—from a great prince or a great legislator or a great genius. These centuries were nourished on the study of antiquity. And antiquity presents everywhere—in Egypt, Persia, Greece, Rome—the spectacle of a few men molding mankind according to their whims, thanks to the prestige of force and of fraud. But this does not prove that this situation is desirable. It proves only that since men and society are capable of improvement, it is naturally to be expected that error, ignorance, despotism, slavery, and superstition should be greatest towards the origins of history. The writers quoted above were not in error when they found ancient institutions to be such, but they were in error when they offered them for the admiration and imitation of future generations. Uncritical and childish conformists, they took for granted the grandeur, dignity, morality, and happiness of the artificial societies of the ancient world. They did not understand that knowledge appears and grows with the passage of time; and that in proportion to this growth of knowledge, might takes the side of right, and society regains possession of itself.

WHAT IS LIBERTY?

Actually, what is the political struggle that we witness? It is the instinctive struggle of all people toward liberty. And what is this liberty, whose very name makes the heart beat faster and shakes the world? Is it not the union of all liberties—liberty of conscience, of education, of association, of the press, of travel, of labor, of trade? In short, is not liberty the freedom of every person to make full use of his faculties, so long as he does not harm other persons while doing so? Is not liberty the destruction of all despotism—including, of course, legal despotism? Finally, is not liberty the restricting of the law only to its rational sphere of organizing the right of the individual to lawful self-defense; of punishing injustice?

It must be admitted that the tendency of the human race toward liberty is largely thwarted, especially in France. This is greatly due to a fatal desire—learned from the teachings of antiquity—that our writers on public affairs have in common: They desire to set themselves above mankind in order to arrange, organize, and regulate it according to their fancy.

PHILANTHROPIC TYRANNY

While society is struggling toward liberty, these famous men who put themselves at its head are filled with the spirit of the seventeenth and eighteenth centuries. They think only of subjecting mankind of the philanthropic tyranny of their own social inventions. Like Rousseau, they desire to force mankind docilely to bear this yoke of the public welfare that they have dreamed up in their own imaginations.

This was especially true in 1789. No sooner was the old regime destroyed than society was subjected to still other artificial arrangements, always starting from the same point: the omnipotence of the law.

Listen to the ideas of a few of the writers and politicians during that period:

Saint-Just: The legislator commands the future. It is for him to will the good of mankind. It is for him to make men what he wills then to be.

Robespierre: The function of government is to direct the physical and moral powers of the nation toward the end for which the commonwealth has come into being.

Billaud-Varennes: A people who are to be returned to liberty must be formed anew. A strong force and vigorous action are necessary to destroy old prejudices, to change old customs, to correct depraved affections, to restrict superfluous wants, and to destroy ingrained vices. . . . Citizens, the inflexible austerity of Lycurgus created in firm foundation of the Spartan republic. The weak and trusting character of Solon plunged Athens into slavery. This parallel embraces the whole science of government.

Le Pelletier: Considering the extent of human degradation, I am convinced that it is necessary to affect a total regeneration and, if I may so express myself, of creating a new people.

THE SOCIALISTS WANT DICTATORSHIP

Again, it is claimed that persons are nothing but raw material. It is not for them to will their own improvement; they are incapable of it. According to Saint-Just, only the legislator is capable of doing this. Persons are merely to be what the legislator wills them to be. According to Robespierre, who copies Rousseau literally, the legislator begins by decreasing the end for which the commonwealth has come into being. Once this is determined, the government has only to direct the physical and moral forces of the nation toward that end. Meanwhile, the inhabitants of the nation are to remain completely passive. And according to the teachings of Billaud-Varennes, the people should have no prejudices, no affections, and no desires except those authorized by the legislator. He even goes so far as to say that the inflexible austerity of one man is the foundation of a republic.

In cases where the alleged evil is so great that ordinary governmental procedures cannot cure it, Mably recommends a dictatorship to promote virtue: "Resort," he says, "to an extraordinary tribunal with considerable powers for a short time. The imagination of the citizens needs to be struck a hard blow." This doctrine has not been forgotten. Listen to Robespierre:

The principle of the republican government is virtue, and the means required to establish virtue is terror. In our country we desire to substitute morality for selfishness, honesty for honor, principles for customs, duties for manners, the empire or reason for the tyranny of fashion, contempt of vice for contempt of poverty, pride for insolence, greatness of soul for vanity, love of glory for love of money, good people for good companions, merit for intrigue, genius for wit, truth for glitter, the charm of happiness for the boredom of pleasure, the greatness of man for the littleness of the great, a generous, strong, happy people for a good-natured, frivolous, degraded people; in short, we desire to substitute all the virtues and miracles of a republic for all the vices and absurdities of a monarchy.

DICTATORIAL ARROGANCE

At what a tremendous height above the rest of mankind does Robespierre here place himself! And note the arrogance with which he speaks. He is not content to pray for a great reawakening of the human spirit. Nor does he expect such a result from a well-ordered government. No, he himself will remake mankind, and by means of terror.

This mass of rotten and contradictory statements is extracted from a discourse by Robespierre in which he aims to explain the principles of morality which ought to guide a revolutionary government. Note that Robespierre's request for dictatorship is not made merely for the purpose of repelling a foreign invasion or putting down the opposing groups. Rather he wants a dictatorship in order that he may use terror to force upon the country his own principles of morality. He says that this act is only to be a temporary measure preceding a new constitution. But in reality, he desires nothing short of using terror to extinguish from France selfishness, honor, customs, manners, fashion, vanity, love of money, good companionship, intrigue, wit, sensuousness, and poverty. Not until he, Robespierre, shall have accomplished these miracles, as he so rightly calls them, will he permit the law to reign again.[7]

THE INDIRECT APPROACH TO DESPOTISM

Usually, however, these gentlemen—the reformers, the legislators, and the writers on public affairs—do not desire to impose direct despotism upon mankind. On no, they are too moderate and philanthropic for such direct action. Instead, they turn to the law for this despotism, this absolutism, this omnipotence. They desire only to make the laws.

---

[7] At this point in the original French text, Mr. Bastiat pauses and speaks thusly to all do-gooders and would-be rulers of mankind: "Ah, you miserable creatures! You who think that you are so great! You who judge humanity to be so small! You who wish to reform everything! Why don't you reform yourselves? That task would be sufficient enough."

To show the prevalence of this queer idea in France, I would need to copy not only the entire works of Mably, Raynal, Rousseau, and Fenelon—plus long extracts from Bossuet and Montequieu—but also the entire proceedings of the Convention. I shall do no such thing; I merely refer the reader to them.

NAPOLEON WANTED PASSIVE MANKIND

It is, of course, not at all surprising that this same idea should have greatly appealed to Napoleon. He embraced it ardently and used it with vigor. Like a chemist, Napoleon considered all Europe to be material for his experiments. But, in due course, this material reacted against him.

At St. Helena, Napoleon—greatly disillusioned—seemed to recognize some initiative in mankind. Recognizing this, he became less hostile to liberty. Nevertheless, this did not prevent him from leaving this lesson to his son in his will: "To govern is to increase and spread morality, education, and happiness."

After all this, it is hardly necessary to quote the same opinions from Morelly, Babeuf, Owen, Saint-Simon, and Fourier. Here are, however, a few extracts from Louis Blanc's book on the organization of labor: "In our plan, society receives its momentum from power."

Now consider this: The impulse behind this momentum is to be supplied by the plan of Louis Blanc; his plan is to be forced upon society; the society referred to is the human race. Thus the human race is to receive its momentum from Louis Blanc.

Now it will be said that the people are free to accept or to reject this plan. Admittedly, people are free to accept or to reject advice from whomever they wish. But this is not the way in which Mr. Louis Blanc understands the matter. He expects that his plan will be legalized, and thus forcibly imposed upon the people by the power of the law:

In our plan, the state has only to pass labor laws (nothing else?) by means of which industrial progress can and must proceed in complete liberty. The state merely places society on an incline (that is all?). Then society will slide down this incline by the mere force of things, and by the natural workings of the established mechanism.

But what is this incline that is indicated by Mr. Louis Blanc? Does it not lead to an abyss? (No, it leads to happiness.) If this is true, then why does not society get to there of its own choice? (Because society does not know what it wants; it must be propelled.) What is to propel it? (Power.) And who is to supply the impulse for this power? (Why, the inventor of the machine—in this instance, Mr. Louis Blanc.)

THE VICIOUS CIRCLE OF SOCIALISM

We shall never escape from this circle: the idea of passive mankind, and the power of the law being used by a great man to propel the people.

Once on this incline, will society enjoy some liberty? (Certainly.) And what is liberty, Mr. Louis Blanc?

Once and for all, liberty is not only a mere granted right; it is also the power granted to a person to use and to develop his faculties under a reign of justice and under the protection of the law.

And this is no pointless distinction; its meaning is deep and its consequences are difficult to estimate. For once it is agreed that a person, to be truly free, must have the power to use and develop his faculties, then it follows that every person has a claim on society for such education as will permit him to develop himself. It also follows that every person has a claim on society for tools of production, without which human activity cannot be fully effective. Now by what action can society give to every person the necessary education and the necessary tools of production, if not by the action of the state?

Thus, again, liberty is power. Of what does this power consist? (Of being educated and of being given the tools of production.) Who is to give the education and the tools of production? (Society, which owes them to everyone.) By what action is society to give tools of production to those who do not own them? (Why, by the action of the state.) And from whom will the State take them?

Let the reader answer that question. Let him also notice the direction in which this is taking us.

THE DOCTRINE OF THE DEMOCRATS

The strange phenomenon of our times—one which will probably astound our descendants—is the doctrine based on this triple hypothesis: the total inertness of mankind, the omnipotence of the law, and the infallibility of the legislator. These three ideas form the sacred symbol of those who proclaim themselves totally democratic.

The advocates of this doctrine also profess to be social. So far as they are democratic, they place unlimited faith in mankind. But so far as they are social, they regard mankind as little better than mud. Let us examine this contrast in greater detail.

What is the attitude of the democrat when political rights are under discussion? How does he regard the people when a legislator is to be chosen? Ah, then it is claimed that the people have an instinctive wisdom; they are gifted with the finest perception; their will is always right; the general will cannot err; voting cannot be too universal.

When it is time to vote, apparently the voter is not to be asked for any guarantee of his wisdom. His will and capacity to choose wisely are taken for granted. Can the people be mistaken? Are we not living in an age of enlightenment? What! are the people always to be kept on leashes? Have they not won their rights by great effort and sacrifice? Have they not given ample proof of their intelligence and wisdom? Are they not adults? Are they not capable of judging for themselves? Do they not know what is best for themselves? Is there a class or a man who would be so bold as to set himself above the people, and judge and act for them? No, no, the people are and should be free. They desire to manage their own affairs, and they shall do so.

But when the legislator is finally elected—ah! then indeed does the tone of his speech undergo a radical change. The people are returned to passiveness, inertness, and unconsciences; the legislator enters into omnipotence. Now it is for him to initiate, to direct, to propel, and to organize. Mankind has only to submit; the hour of despotism has struck. We now observe this fatal idea: The people who, during the election, were so wise, so moral, and so perfect, now have no tendencies whatever; or if they have any, they are tendencies that lead downward into degradation.

THE SOCIALIST CONCEPT OF LIBERTY

But ought not the people be given a little liberty?

But Mr. Considerant has assured us that liberty leads inevitably to monopoly!

We understand that liberty means competition. But according to Mr. Louis Blanc, competition is a system that ruins the businessmen and exterminates the people. It is for this reason that free people are ruined and exterminated in proportion to their degree of freedom. (Possibly Mr. Louis Blanc should observe the results of competition in, for example, Switzerland, Holland, England, and the United States.)

Mr. Louis Blanc also tells us that competition leads to monopoly. And by the same reasoning, he thus informs us that low prices lead to high prices; that competition drives production to destructive activity; that competition drains away the sources of purchasing power; that competition forces an increase in production while, at the same time, it forces a decrease in consumption. From this, it follows that free people produce for the sake of not consuming; that liberty means oppression and madness among the people; and that Mr. Louis Blanc absolutely must attend to it.

SOCIALISTS FEAR ALL LIBERTIES

Well, what liberty should the legislators permit people to have? Liberty of conscience? (But if this were permitted, we would see the people taking this opportunity to become atheists.)

Then liberty of education? (But parents would pay professors to teach their children immorality and falsehoods; besides, according to Mr. Thiers, if education were left to national liberty, it would cease to be national, and we would be teaching our children the ideas of the Turks or Hindus; whereas, thanks to this legal despotism over education, our children now have the good fortune to be taught the noble ideas of the Romans.)

Then liberty of labor? (But that would mean competition which, in turn, leaves production unconsumed, ruins businessmen, and exterminates the people.)

Perhaps liberty of trade? (But everyone knows—and the advocates of protective tariffs have proved over the over again—that freedom of trade ruins every person who engages in it, and that it is necessary to suppress freedom of trade in order to prosper.)

Possibly then, liberty of association? (But, according to socialist doctrine, true liberty and voluntary association are in contradiction to each other, and the purpose of the socialists is to suppress liberty of association precisely in order to force people to associate together in true liberty.)

Clearly then, the conscience of the social democrats cannot permit persons to have any liberty because they believe that the nature of mankind tends always toward every kind of degradation and disaster. Thus, of course, the legislators must make plans for the people in order to save them for themselves.

This line of reasoning brings us to a challenging question: If people are as incapable, as immoral, and as ignorant as the politicians indicate, then why is the right of these same people to vote defended with such passionate insistence?

THE SUPERMAN IDEA

The claims of these organizers of humanity raise another question which I have often asked them and which, so far as I know, they have never answered: If the natural tendencies of mankind are so bad that it is not safe to permit people to be free, how is it that the tendencies of these organizers are always good? Do not the legislators and their appointed agents also belong to the human race? Or do they believe that they themselves are made of a finer clay than the rest of mankind? The organizers maintain that society, when left undirected, rushes headlong to its inevitable destruction because the instincts of the people are so perverse. The legislators claim to stop this suicidal course and to give it a saner direction. Apparently, then, the legislators and the organizers have received from Heaven an intelligence and virtue that place them beyond and above mankind; if so, let them show their titles to this superiority.

They would be the shepherds over us, their sheep. Certainly such an arrangement presupposes that they are naturally superior to the rest of us. And certainly we are fully justified in demanding from the legislators and organizers proof of this natural superiority.

THE SOCIALISTS REJECT FREE CHOICE

Please understand that I do not dispute their right to invent social combinations, to advertise them, to advocate them, and to try them upon themselves, at their own expense and risk. But I do dispute their right to impose these plans upon us by law—by force—and to compel us to pay for them with our taxes.

I do not insist that the supporters of these various social schools of thought—the Proudhonists, the Cabetists, the Fourierists, the Universitarists, and the Protectionists—renounce their various ideas. I insist only that they renounce this one idea that they have in common: They need only to give up the idea of *forcing* us to acquiesce to their groups and series, their socialized projects, their free-credit banks, their Gracco-Roman concept of morality, and their commercial regulations. I ask only that we be permitted to decide upon these plans for ourselves; that we not be forced to accept them, directly or indirectly, if we find them to be contrary to our best interests or repugnant to our consciences.

But these organizers desire access to the tax funds and to the power of the law in order to carry out their plans.

In addition to being oppressive and unjust, this desire also implies the fatal supposition that the organizer is infallible and mankind is incompetent. But, again, if persons are incompetent to judge for themselves, then why all this talk about universal suffrage?

THE CAUSE OF FRENCH REVOLUTIONS

This contradiction in ideas is, unfortunately but logically, reflected in events in France. For example, Frenchmen have led all other Europeans in obtaining their rights—or, more accurately, their political demands. Yet this fact has in no respect prevented us from becoming the most governed, the most regulated, the most imposed upon, the most harnessed, and the most exploited people in Europe. France also leads all other nations as the one where revolutions are constantly to be anticipated. And under the circumstances, it is quite natural that this should be the case.

And this will remain the case so long as our politicians continue to accept this idea that has been so well expressed by Mr. Louis Blanc: "Society receives its momentum from power." This will remain the case so long as human beings with feelings continue to remain passive; so long as they consider themselves incapable of bettering their prosperity and happiness by their own intelligence and their own energy; so long as they expect everything from the law; in short, so long as they imagine that their relationship to the state is the same as that of the sheep to the shepherd.

THE ENORMOUS POWER OF GOVERNMENT

As long as these ideas prevail, it is clear that the responsibility of government is enormous. Good fortune and bad fortune, wealth and destitution, equality and inequality, virtue and vice—all then depend upon political administration. It is burdened with everything, it undertakes everything, it does everything; therefore it is responsible for everything.

If we are fortunate, then government has a claim to our gratitude; but if we are unfortunate, then government must bear the blame. For are not our persons and property now at the disposal of government? Is not the law omnipotent?

In creating a monopoly of education, the government must answer to the hopes of the fathers of families who have thus been deprived of their liberty; and if these hopes are shattered, whose fault is it?

In regulating industry, the government has contracted to make it prosper; otherwise it is absurd to deprive industry of its liberty. And if industry now suffers, whose fault is it?

In meddling with the balance of trade by playing with tariffs, the government thereby contracts to make trade prosper; and if this results in destruction instead of prosperity, whose fault is it?

In giving the maritime industries protection in exchange for the liberty, the government undertakes to make them profitable; and if they become a burden to the taxpayers, whose fault is it?

Thus there is not a grievance in the nation for which the government does not voluntarily make itself responsible. It is surprising, then, that every failure increases the threat of another revolution in France?

And what remedy is proposed for this? To extend indefinitely the domain of the law; that is, the responsibility of government.

But if the government undertakes to control and to raise wages, and cannot do it; if the government undertakes to care for all who may be in want, and cannot do it; if the government undertakes to support all unemployed workers, and cannot do it; if the government undertakes to lend interest-free money to all borrowers, and cannot do it; if, in these words that we regret to say escaped from the pen of Mr. de Lamartine, "The state considers that its purpose is to enlighten, to develop, to enlarge, to strengthen, to spiritualize, and to sanctify the soul of the people"—and if the government cannot do all of these things, what then? Is it not certain that after every government failure—which, alas! is more than probable—there will be an equally inevitable resolution?

POLITICS AND ECONOMICS

[Now let us return to a subject that was briefly discussed in the opening pages of this thesis: the relationship of economics and of politics—political economy.[8]]

A science of economics must be developed before a science of politics can be logically formulated. Essentially, economics is the science of determining whether the interests of human beings are harmonious or antagonistic. This must be known before a science of politics can be formulated to determine the proper functions of government.

Immediately following he development of a science of economics, and at the very beginning of the formulation of a science of politics, this all-important question must be answered: What is law? What ought it to be? What is its scope; its limits? Logically, at what point do the just powers of the legislator stop?

I do not hesitate to answer: Law is the common force organized to act as an obstacle to injustice. In short, law is justice.

PROPER LEGISLATIVE FUNCTIONS

It is not true that the legislator has absolute power over our persons and property. The existence of persons and property preceded the existence of the legislator, and his function is only to guarantee their safety.

It is not true that the function of law is to regulate our consciences, our ideas, our wills, our education, our opinions, our work, our trade, our talents, or our pleasures. The function of law is to protect the free exercise of these rights, and to prevent any person from interfering with the free exercise of these same rights by any other person.

Since law necessarily requires the support of force, its lawful domain is only in the areas where the use of force is necessary. This is justice.

Every individual has the right to use force for lawful self-defense. It is for this reason that the collective force—which is only the organized combination of the individual forces—may lawfully be used for the same purpose; and it cannot be used legitimately for any other purpose.

Law is solely the organization of the individual right of self-defense which existed before law was formalized. Law is justice.

LAW AND CHARITY ARE NOT THE SAME

The mission of the law is not to oppress persons and plunder them of their property, even though the law may be acting in a philanthropic spirit. Its mission is to protect persons and property.

Furthermore, it must not be said that the law may be philanthropic if, in the process, it refrains from oppressing persons and plundering them of their property; this would be a contradiction. The law cannot avoid having an effect upon persons and property; and if the law acts in any manner except to protect them, its actions then necessarily violate the liberty of persons and their right to own property.

The law is justice—simple and clear, precise and bounded. Every eye can see it, and every mind can grasp it; for justice is measurable, immutable, and unchangeable. Justice is neither more than this nor less than this.

If you exceed this proper limit—if you attempt to make the law religious, fraternal, equalizing, philanthropic, industrial, literary, or artistic—you will then be lost in an uncharted territory, in vagueness and uncertainty, in a forced utopia or, even worse, in a multitude of utopias, each striving to seize the law and impose it upon you. This is true because fraternity and philanthropy, unlike justice, do not have precise limits. Once started, where will you stop? And where will the law stop itself?

THE HIGH ROAD TO COMMUNISM

Mr. de Saint-Cricq would extend his philanthropy only to some of the industrial groups; he would demand that the law control the consumers to benefit the producers.

Mr. Considerant would sponsor the cause of the labor groups; he would use the law to secure for them a guaranteed minimum of clothing, housing, food, and all other necessities of life.

Mr. Louis Blanc would say—and with reason—that these minimum guarantees are merely the beginning of complete fraternity; he would say that the law should give tools of production and free education to all working people.

---

[8] Translator's note: Mr. Bastiat has devoted three other books and several articles to the development of the ideas contained in the three sentences of the following paragraph.

Another person would observe that this arrangement would still leave room for inequality; he would claim that the law should give to everyone—even in the most inaccessible hamlet—luxury, literature, and art.

All of these proposals are the high road to communism; legislation will then be—in fact, it already is—the battlefield for the fantasies and greed of everyone.

THE BASIS FOR STABLE GOVERNMENT

Law is justice. In this proposition a simple and enduring government can be conceived. And I defy anyone to say how even the thought of revolution, of insurrection, of the slightest uprising could arise against a government whose organized force was confined only to suppressing injustice.

Under such a regime, there would be the most prosperity—and it would be the most equally distributed. As for the sufferings that are inseparable from humanity, no one would even think of accusing the government for them. This is true because, if the force of government were limited to suppressing injustice, then government would be as innocent of these sufferings as it is now innocent of changes in the temperature.

As proof of this statement, consider this question: Have the people ever been known to rise against the Court of Appeals, or mob a Justice of the Peace, in order to get higher wages, free credit, tools of production, favorable tariffs, or government-created jobs? Everyone knows perfectly well that such matters are not within the jurisdiction of the Court of Appeals or a Justice of the Peace. And if government were limited to its proper functions, everyone would soon learn that these matters are not within the jurisdiction of the law itself.

But make the laws upon the principle of fraternity—proclaim that all good, and all bad, stem from the law; that the law is responsible for all individual misfortunes and all social inequalities—then the door is open to an endless succession of complaints, irritations, troubles, and revolutions.

JUSTICE MEANS EQUAL RIGHTS

Law is justice. And it would indeed be strange if law could properly be anything else. Is not justice right? Are not rights equal? By what right does the law force me to conform to the social plans of Mr. Mimerel, Mr. de Melun, Mr. Thiers, or Mr. Louis Blanc? If the law has a moral right to do this, why does it not, then, force these gentlemen to submit to my plans? Is it logical to suppose that nature has not given me sufficient imagination to dream up a utopia also? Should the law choose one fantasy among many, and put the organized force of government at its service only?

Law is justice. And let it not be said—as it cotinually is said—that under this concept, the law would be atheistic, individualistic, and heartless; that it would make mankind in its own image. This is an absurd conclusion, worthy only of those worshippers of government who believe that the law is mankind.

Nonsense. Do those worshippers of government believe that free persons will cease to act? Does it follow that if we receive no energy from the law, we shall receive no energy at all? Does it follow that if the law is restricted to the function of protecting the free use of our faculties, we will be unable to use our faculties? Suppose that the law does not force us to follow certain forms of religion, or systems of association, or methods of education, or regulations of labor, or regulations of trade, or plans for charity; does it then follow that we shall eagerly plunge into atheism, hermitary, ignorance, misery, and greed? If we are free, does it follow that we shall no longer recognize the power and goodness of God? Does it follow that we shall then cease to associate with each other, to help each other, to love and succor our unfortunate brothers, to study the secrets of nature, and to strive to improve ourselves to the best of our abilities?

THE PATH TO DIGNITY AND PROGRESS

Law is justice. And it is under the law of justice—under the reign of right; under the influence of liberty, safety, stability, and responsibility—that every person will attain his real worth and the true dignity of his being. It is only under this law of justice that mankind will achieve—slowly, no doubt, but certianly—God's design for the orderly and peacefull progress of humanity.

It seems to me that this is theoretically right, for whatever the question under discussion—whether religious, philosophical, political, or economic; whether it concerns prosperity, morality, equality, right, justice, progress, responsibility, cooperation, property, labor, trade, capital, wages, taxes, population, finance, or government—at whatever point on the scientific horizon I begin my researches, I invariably reach this one conclusion: The solution to the problems of human relationships is to be found in liberty.

PROOF OF AN IDEA

And does not experience prove this? Look at the entire world. Which countries contain the most peaceful, the most moral, and the happiest people? Those people are found in the countries where the law least interferes with private affairs; where government is least felt; where the individual has the greatest scope, and free opinion the greatest influence; where administrative powers are fewest and simplest; where taxes are lightest and most nearly equal, and popular discontent the least excited and the least justifiable; where individuals and groups most actively assume their responsibilities, and, consequently, where the morals of admittedly imperfect human beings are constantly improving; where trade, assemblies, and associations are the least restricted; where labor, capital, and populations suffer the fewest forced displacements; where mankind most nearly follows its own natural inclinations; where the inventions of men are most nearly in harmony with the laws of God; in short, the happiest, most moral, and most peaceful people are those who most nearly follow this principle: Although mankind is not perfect, still, all hope rests upon the free and voluntary actions of persons within the limits of right; law or force is to be used for nothing except the administration of universal justice.

THE DESIRE TO RULE OVER OTHERS

This must be said: There are too many "great" men in the world—legislators, organizers, do-gooders, leaders of the people, fathers of nations, and so on, and so on. Too many persons place themselves above mankind; they make a career of organizing it, patronizing it, and ruling it.

Now someone will say: "You yourself are doing this very thing."

True. But it must be admitted that I act in an entirely different sense; if I have joined the ranks of the reformers, it is solely for the purpose of persuading them to leave people alone. I do not look upon people as Vancauson looked upon his automaton. Rather, just as the physiologist accepts the human body as it is, so do I accept people as they are. I desire only to study and admire.

My attitude toward all other persons is well illustrated by this story from a celebrated traveler: He arrived one day in the midst of a tribe of savages, where a child had just been born. A crowd of soothsayers, magicians, and quacks—armed with rings, hooks, and cords—surrounded it. One said: "This child will never smell the perfume of a peace-pipe unless I stretch his nostrils." Another said: "He will never be able to hear unless I draw his ear-lobes down to his shoulders." A third said: "He will never see the sunshine unless I slant his eyes." Another said: "He will never stand upright unless I bend his legs." A fifth said: "He will never learn to think unless I flatten his skull."

"Stop," cried the traveler. "What God does is well done. Do not claim to know more than He. God has given organs to this frail creature; let them develop and grow strong by exercise, use, experience, and liberty."

LET US NOW TRY LIBERTY

God has given to men all that is necessary for them to accomplish their destinies. He has provided a social form as well as a human form. And these social organs of persons are so constituted that they will develop themselves harmoniously in the clean air of liberty. Away, then, with quacks and organizers! Away with their rings, chains, hooks, and pincers! Away with their artificial systems! Away with the whims of governmental administrators, their socialized projects, their centralization, their tariffs, their government schools, their state religions, their free credit, their bank monopolies, their regulations, their restrictions, their equalization by taxation, and their pious moralizations!

And now that the legislators and do-gooders have so futilely inflicted so many systems upon society, may they finally end where they should have begun: May they reject all systems, and try liberty; for liberty is an acknowledgment of faith in God and His works.

Mr. SYMMS. Mr. President, I will continue:

The law perverted! And the police powers of the state perverted along with it! The law, I say, not only turned from its proper purpose but made to follow an entirely contrary purpose! The law became the weapon of every kind of greed! Instead of checking crime, the law itself guilty of the evils it is supposed to punish!

If this is true, it is a serious fact, and moral duty requires me to call the attention of my fellow-citizens to it.

LIFE IS A GIFT FROM GOD

We hold from God the gift which includes all others. This gift is life—physical, intellectual, and moral life.

But life cannot maintain itself alone. The Creator of life has entrusted us with the responsibility of preserving, developing, and perfecting it. In order that we may accomplish this, He has provided us with a collection of marvelous faculties. And He has put us in the midst of a variety of natural resources. By the application of our faculties to these natural resources we convert them into products, and use them. This process is necessary in order that life may run its appointed course.

Life, faculties, production—in other words, individuality, liberty, property—this is man. And in spite of the cunning of artful political leaders, these three gifts from God precede all human legislation, and are superior to it.

Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.

WHAT IS LAW?

What, then, is law? It is the collective organization of the individual right to lawful defense.

Each of us has a natural right—from God—to defend his person, his liberty, and his property. These are the three basic requirements of life, and the preservation of any one of them is completely dependent upon the preservation of the other two. For what are our faculties but the extension of our individuality? And what is property but an extension of our faculties?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I continue on with this great work by Frederic Bastiat:

If every person has the right to defend—even by force—his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right—its reason for existing, its lawfulness—is based on individual right. And the common force that protects this collective right cannot logically have any other purpose or any other mission than that for which it acts as a substitute. Thus, since an individual cannot lawfully use force against the person, liberty, or property of another individual, then the common force—for the same reason—cannot lawfully be used to destroy the person, liberty, or property of individuals or groups.

Such a perversion of force would be, in both cases, contrary to our premise. Force has been given to us to defend our own individual rights. Who will dare to say that force has been given to us to destroy the equal rights of our brothers? Since no individual acting separately can lawfully use force to destroy the rights of others, does it not logically follow that the same principle also applies to the common force that is nothing more than the organized combination of the individual forces?

If this is true, then nothing can be more evident than this: The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause justice to reign over us all.

A JUST AND ENDURING GOVERNMENT

If a nation were founded on this basis, it seems to me that order would prevail among the people, in thought as well as in deed. It seems to me that such a nation would have the most simple, easy to accept, economical, limited, non-oppressive, just, and enduring government imaginable—whatever its political form might be.

Under such an administration, everyone would understand that he possessed all the privileges as well as all the responsibilities of his existence. No one would have any argument with government, provided that his person was respected, his labor was free, and the fruits of his labor were protected against all unjust attack. When successful, we would not have to thank the state for our success. And, conversely, when unsuccessful, we would no more think of blaming the state for our misfortune than would the farmers blame the state because of hail or frost. The state would be felt only by the invaluable blessings of safety provided by this concept of government.

It can be further stated that, thanks to the non-intervention of the state in private affairs, our wants and their satisfactions would develop themselves in a logical manner. We would not see poor families seeking literary instruction before they have bread. We would not see cities populated at the expense of rural districts, nor rural districts at the expense of cities. We would not see the great displacements of capital, labor, and population that are caused by legislative decisions.

The sources of our existence are made uncertain and precarious by these state-created displacements. And, furthermore, these acts burden the government with increased responsibilities.

Mr. President, I find it interesting that Frederic Bastiat wrote these words in 1948 and how pertinent they are to the day that we now live in.

THE COMPLETE PERVERSION OF THE LAW

But, unfortunately, law by no means confines itself to its proper functions. And when it has exceeded its proper functions, it has not done so merely in some inconsequential and debatable matters. The law has gone further than this; it has acted in direct opposition to its own purpose. The law has been used to destroy its own objective: It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force at the disposal of the unscrupulous who wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense.

How has this perversion of the law been accomplished? And what have been the results?

The law has been perverted by the influence of two entirely different causes; stupid greed and false philanthropy. Let us speak of the first.

A FATAL TENDENCY OF MANKIND

Self-preservation and self-development are common aspirations among all people. And if everyone enjoyed the unrestricted use of his faculties and the free disposition of the fruits of his labor, social progress would be ceaseless, uninterrupted, and unfailing.

But there is also another tendency that is common among people. When they can, they wish to live and prosper at the expense of others. This is no rash accusation. Nor does it come from a gloomy and uncharitable spirit. The annals of history bear witness to the truth of it: the incessant wars, mass migrations, religious persecutions, universal slavery, dishonesty in commerce, and monopolies. This fatal desire has its origin in the very nature of man—in that primitive, universal, and insuppressible instinct that impels him to satisfy his desires with the least possible pain.

PROPERTY AND PLUNDER

Man can live and satisfy his wants only by ceaseless labor; by the ceaseless application of his faculties to natural resources. This process is the origin of property.

But it is also true that a man may live and satisfy his wants by seizing and consuming the products of the labor of others. This process is the origin of plunder.

Now since man is naturally inclined to avoid pain—and since labor is pain in itself—if follows that men will resort to plunder whenever plunder is easier than work. History shows this quite clearly. And under these conditions, neither religion nor morality can stop it.

When, then, does plunder stop? It stops when it becomes more painful and more dangerous than labor.

It is evident, then, that the proper purpose of law is to use the power of its collective force to stop this fatal tendency to plunder instead of to work. All the measures of the law should protest property and punish plunder.

But, generally, the law is made by one man or one class of men. And since law cannot operate without the sanction and support of a dominating force, this force must be entrusted to those who make the laws.

This, fact, combined with the fatal tendency that exists in the heart of man to satisfy his wants with the least possible effort, explains the almost universal perversion of the law. Thus it is easy to understand how law, instead of checking injustice, becomes the invincible weapon of injustice. It is easy to understand why the law is used by the legislator to destory in varying degree among the rest of the people, their personal independence by slavery, their liberty by oppression, and their property by plunder. This is done for the benefit of the person who makes the law, and in proportion to the power that he holds.

VICTIMS OF LAWFUL PLUNDER

Men naturally rebel against the injustice of which they are victims. Thus, when plunder is organized by law for the profit of those who make the law, all the plundered classes try somehow to enter—by peaceful or revolutionary means—into the making of laws. According to their degree of enlightenment, these plundered classes may propose one of two entirely different purposes when they attempt to attain political power: Either they may wish to stop lawful plunder, or they may wish to share in it.

Woe to the nation when this latter purpose prevails among the mass victims of lawful plunder when they, in turn, seize the power to make laws!

Until that happens, the few practice lawful plunder upon the many, a common practice where the right to participate in the making of law is limited to a few persons. But then, participating in the making of law becomes universal. And then, men seek to balance their conflicting interests by universal plunder. Instead of rooting out the injustices found in society, they make these injustices general. As soon as the plundered classes gain political power, they establish a system of reprisals against other classes. They do not abolish legal plunder. (This objective would demand more enlightenment than they possess.) Instead, they emulate their evil predecessors by participating in this legal plunder, even though it is against their own interests.

It is as if it were necessary, before a reign of justice appears, for everyone to suffer a cruel retribution—some for their evilness, and some for their lack of understanding.

Mr. President, I am going to close by giving the last paragraph of this treatise. I urge my colleagues to review this and to ask their staffs to review this because it is so pertinent to the situation we face today in this great country of ours. Here is a French philosopher and statesman who wrote this book, most of it, in 1848. It is a little treatise. You can see the parallels of the quest towards more Government in the United States of America, more solutions, all the gullible ideas, all the positive, noble ideas. And I impugn no one's motives in the Senate who pushes for Government to solve problems.

Bastiat closes with a little story that I shall share about a traveler who comes upon a group of people who were living out in a more primitive state and his observation of how they wanted to do certain things to improve the life of the people.

He made the observation that these people are already gifted with the right facilities and faculties; that maybe we should just stop trying to change them. We were trying to flatten their heads; slant their eyes; that we could do all these things. He made the point:

> "Stop," cried the traveler. "What God does is well done. Do not claim to know more than He. God has given organs to this frail creature; let them develop and grow strong by exercise, use, experience, and liberty."
>
> LET US NOW TRY LIBERTY
>
> God has given to men all that is necessary for them to accomplish their destinies. He has provided a social form as well as human form. And these social organs of persons are so constituted that they will develop themselves harmoniously in the clean air of liberty. Away, then, with quacks and organizers! Away with their artificial systems! Away with the whims of governmental administrators, their socialized projects, their centralization, their tariffs, their government schools, their state religions, their free credit, their bank monopolies, their regulations, their restrictions, their equalization by taxation, and their pious moralizations!
>
> And now that the legislators and do-gooders have so futilely inflicted so many systems upon society, may they finally end where they should have begun: May they reject all systems, and try liberty; for liberty is an acknowledgment of faith in God and His works.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Oklahoma.

Mr. NICKLES. First, I wish to compliment my friend and colleague, Senator SYMMS from Idaho. I, for one, hate to see him retire from this body. He has made valuable contributions, day in and day out. I had the pleasure of being elected with him 12 years ago to the U.S. Senate.

The speech he has been making today in talking about individual liberty, talking about preserving and protecting individual freedom, is a message that needs to be heard in this body. That is what a lot of people think about the Senate when they think of our forefathers who had the courage and conviction to fight to protect our freedoms. I think of that, and of Senator SYMMS and his unrelenting conviction for trying to protect individual liberty. I compliment him again for his speech, and also for his consistency and steadfastness and his conviction.

There are very few times we have Members of the Senate, and probably for the House as well, that really have conviction on issues; that are not just looking for the weather vane, but they actually have heartfelt convictions that they believe would help make this country better. And certainly Senator SYMMS has exemplified that for the last 12 years. I for one will certainly miss his service and tenure in this body.

Mr. SYMMS. Will my colleague yield? I thank my outstanding colleague from Oklahoma, and the feeling is mutual. I appreciate the work he has done in this body. I look forward to seeing him here in this body for many years to come.

With reference to the book, "Treatise by Bastiat," I have not completed it yet, I say to my colleagues. I am sure many would like to hear the rest of it. If it is necessary, I will come back and read it all personally into the RECORD, although it will be printed in the RECORD. But I thank my colleague.

Mr. NICKLES. I thank my friend.

THE ENERGY BILL

Mr. NICKLES. Mr. President, this Congress needs to pass an energy bill. This Congress needs to pass a positive energy bill. I have heard many people say we have not had an energy policy in the last 10 or 12 years. We certainly need one.

I think somewhat implied in that is that we had an energy policy in the late seventies. And I will just state yes, we had some energy policies in the late seventies, but they did more harm than good. As a matter of fact they did a lot of damage. We had to make changes. I tell my friend and colleague, who is Presiding Officer, that we had to undo most all the damage that was done in the late seventies because Congress made some serious mistakes. I hope that Congress will not repeat those mistakes.

Congress passed legislation in the late seventies to impose a windfall profits tax which was placed only on domestic production. It was not placed on imports. It was only placed on domestic production.

I tell my friend from New Jersey, maybe they do not have a lot of oil wells in New Jersey, but we have quite a few in Oklahoma, about 80,000-some.

We only placed a tax on domestic production. We did not place it on imports. So we discouraged domestic production and we encouraged imports. That does not make any sense.

This Senator came into office saying we need to repeal the windfall profit tax. It took several years. But we finally did repeal it. So we had to undo some of the damage that was done in that particular piece of legislation that passed in 1980.

We had to undo the price controls on natural gas.

When Congress passed, in 1978, the Natural Gas Policy Act, it placed price controls on 28 different categories of natural gas. That did not make any sense whatsoever. It was a serious mistake. Finally, we repealed it.

Finally, President Bush signed legislation that many people have worked on for 35 years, decontrolling all natural gas. I will tell my colleagues that has been a real benefit for consumers. Gas prices have fallen as a result of that legislation, as many of us said it would.

Many of us happened to believe that the marketplace is much better at setting prices than Congress. Congress certainly set prices with the Natural Gas Policy Act and in effect made some serious mistakes that caused ripples throughout the economy. A lot of people are not aware of the fact that when Congress passed the Natural Gas Policy Act it controlled all prices except for one category of gas, and that was so-called deep gas, gas that was below 15,000 feet. We decontrolled the so-called deep gas and the net result was there was a shortage back in 1978.

We had some real shortages that were not caused by a shortage of natural gas. It was caused by an abundance of regulation. The net result was we had a shortage. When we decontrolled that one category of gas, everybody ran in to drill the so-called deep gas. It is unbelievable to many that it was directed toward that one category.

The point I am making is that then the banks came running in, yes, we will loan money. Gas prices went way up to $9, $10. They went up very rapidly. But then when supply equaled demand, they also fell very rapidly. We had the first big bank failure in some time, not a particularly big bank, but Penn Square Bank in my State of Oklahoma on July 5, 1982. Then following that we had the bank failure of Penn Continental Illinois that had to be bailed out.

Then we had the problems in Seattle with the Sea First Bank. Even Chase Manhattan, as big it was, had to write off very large loans, all of which loans were predicated on loaning money to drill for deep gas that was decontrolled, because Congress did not decontrol all gas. It only decontrolled one category of gas.

Again, that made no sense whatsoever; no economic sense. Congress made a serious mistake. I will mention that it was the Carter administration that supported that. Both the House and Senate were controlled by the Democrats. They made a serious mistake. We have been paying for that and paying for that ever since.

Finally, we eliminated the Natural Gas Policy Act for all practical purposes, and decontrolled natural gas. That has been a positive solution to correcting a previous mistake.

Also, I might mention in the late seventies Congress passed the Synthetic Fuels Corporation Act, creating a massive Federal corporation; we were going to produce synthetic fuel with the Federal Government owning the corporation. Many of us thought that was a serious mistake. We did not need the Federal Government involved in the business, and supported repeal.

Finally, a few years later we were successful in repealing the Synthetic Fuels Corporation Act, although I might mention after we wasted billions and billions of dollars.

So my point is, Mr. President, we need an energy policy. But we need a good energy policy, and we need to pass it this year.

So I call upon my colleagues, while we have a little floor time available, to look at the energy issue that we have before us.

Many of us worked on an energy bill for months. I wish to compliment my colleagues, Senator JOHNSTON from Louisiana, and also Senator WALLOP from Wyoming, for their leadership, because I think we put together a good bill, both in the Senate and I also say coming out of conference. This was not an easy conference. It is a conference that many of us spent many hours in. We did not conclude until, I think, 12:30 in the morning. That would have been Wednesday morning. It was a very long and difficult conference, but one where I believe we came up with a good package, one that needs to pass.

I hope we will be able to bring up the energy package tomorrow, or maybe tonight. Let us get it on the floor and debate it and pass it and have the President sign it.

We had a successful conference dealing with all of the titles of the bill except for the tax title. The House and Senate have yet to have a conference on the tax titles. One particular section of the tax title deals with reform of the alternative minimum tax. We need that. In this Senator's opinion, it is the most important part of the energy bill.

You may ask why do we need that. Well, there is a real depression right now in the drilling industry. Many people are not aware of that, but actually the number of rigs running right now are about 700 some-odd rigs, and that is one of the lowest number we have had running in the last 40-some years. So we need to encourage drilling.

You may ask, why is it so low, and why are we not drilling more than that? The reason is because of the tax changes that were made in 1986. Tax changes in 1986 placed intangible drilling costs as a preference item for alternative minimum tax.

A lot of people in this body do not understand the alternative minimum tax. There are a lot of different preference items. The idea is that we are going to tax income that has been tax exempt to make sure people pay their fair share.

I do not disagree with the theory. Intangible drilling costs are out-of-pocket business expenses incurred in drilling a well. Those are expenses that are expensed, and if anybody is familiar with business, you should not tax expended items. You are supposed to tax net income items. This is not an income item. That is money that is spent on drilling muds and fluids and pipe, and not pipe that is recoverable, pipe that is sunk into the well and mud and comet and other expenditures that cannot be taken and moved to the next well site. It is not something you can amortize over 10 different wells. This is an out-of-pocket business expense that is put into the ground, that is not recovered. So it should be written off that year.

But Congress, in 1986, made a mistake and included intangible drilling costs as a preference item for alternative minimum tax. What does that mean? It means that an independent—which is who does most of the drilling in this country, and certainly makes most of the new finds in this country—has to pay a surcharge or surtax of 24 percent on his expensed items, not on net income items, not on how much money they made off of the oil well, but a 24-percent tax surcharge on an expense. It is just the opposite of the refundable tax credit, or just the opposite of a tax benefit. It is a tax penalty. It needs to be repealed and changed.

I will tell my colleagues that in the bill now pending that passed the Senate, and hopefully the House will concur, I do not think we went far enough. We did not totally repeal the alternative minimum tax on intangible drilling costs. Actually, we did it only for about 40 percent, and it should have been 100 percent. You should not have a tax on an expense. At least that is a big step in the right direction. We have to take the tax penalty off if we are going to be successful in encouraging drilling in the United States.

So I just urge Senator BENTSEN and Senator PACKWOOD, our leaders on the tax committees that are now in Conference in the Senate, to get together with the chairman and ranking member on the House Ways and Means Committee to pass this section. Let us get the energy bill on the floor of the Senate tomorrow and pass the energy bill. We need to pass the energy bill.

A lot of people are not aware that we are still importing today almost 50 percent of our oil needs. They are not aware of the fact that our net balance of payments is over 50 percent for oil. They are not aware of the fact that we are becoming more and more vulnerable all of the time. So we need to pass the bill.

We have a letter from the President, written to Senator DOLE. I will soon insert this into the RECORD.

Mr. President, the President said it well. We have spent months and months, actually, well over a year in this body working together in a bipartisan fashion to pass this bill. We need to pass it. We need to pass it before we adjourn. If we do not adjourn on Monday, that is OK. We need to pass this bill.

So I urge the Members of the tax-writing committees to have their conference, to report out the tax-writing sections of the energy bill so we can take it up on the floor, hopefully on Saturday, Sunday or Monday. This Senator does not care which day but it is important that we pass it before we adjourn.

Mr. President, I ask unanimous consent that the letter from the White House be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 2, 1992.

Hon. ROBERT DOLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR BOB: I strongly urge the 102nd Congress to pass H.R. 776, legislation implementing my National Energy Strategy, before it adjourns. For the last 18 months, my Administration has worked closely with the Congress to produce comprehensive and balanced energy legislation that will meet the nation's future energy needs and promote economic growth.

The energy bill Conference report will soon come before the Congress. Although the Conference Report does not include everything I wanted in the bill, I strongly support the bipartisan work of the conference. Both Houses of Congress also have demonstrated their support for this legislation. The Senate passed its version on July 30 by a vote of 93–3, and the House passed its version on May 27 by a vote 381–37.

The energy bill is good news for Americans. The legislation will increase conservation efforts, promote domestic renewable resources and alternative fuels, increase competition in the electric utility industry and reduce consumer costs, and remove regulatory barriers to increased use of clean-burning natural gas. The bill also provides much-needed Alternative Minimum Tax (AMT) relief for independent oil and gas producers, thus removing a substantial disincentive to domestic oil and gas production.

The National Energy Strategy has come too far to let the bill fall victim to the rush to adjourn. I strongly urge the Congress to send me a bill that I can sign before it adjourns.

Sincerely,

GEORGE BUSH.

Mr. NICKLES. Mr. President, I yield the floor.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE REMARKS OF SENATOR GORE

Mr. LIEBERMAN. Mr. President, there has been a discussion, at times a debate, sometimes substantive and sometimes heated, going on here in the Chamber over the last day about remarks that our colleague from Tennessee, Senator GORE, has made and what underlies them with regard to American policy toward Iraq prior to the outbreak of the Persian Gulf war.

I want to just speak for a very few moments, in the first regard, to try to say some things for the RECORD that I hope will affect what history will think of what the distinguished Senator and our colleague from Tennessee was doing at that time and, second, just to comment briefly and more generally on the so-called "Iraqgate" situation, and what it suggests for our future.

Mr. President, during the week prior to that fateful vote here in this Chamber, I believe on Saturday, January 12, 1991, on the question of whether to authorize the President to take military action to enforce the U.N. resolutions within the Persian Gulf, I spoke at length on more than one occasion to our colleague, the Senator from Tennessee [Mr. GORE] about his thoughts about this.

I can tell you and I want to record for the RECORD that he appreciated the seriousness of the decision, he considered it to be a momentous decision, and he was going at it in a thoughtful way, I might say a painstakingly thoughtful way, having extensive conversations with people on both sides of the question.

I was privileged to have been party to a few of those conversations with him, urging him, along with many others, to support the resolution.

When he reached the decision to support the resolution, he did so, because he thought it was right for America, for the Persian Gulf, for the Middle East, for the world.

In my opinion, the question of when he spoke or how long he spoke—though I am not party to any conversations that he may have had with any other Member of the Senate—was irrelevant to that decision.

If I may say so, looking back at that moment, as will be recalled, as we headed into Thursday or Friday of that week, working as I was alongside the representatives of the President, we were not certain that we had a majority support in this Chamber to authorize the President to take military action in the Persian Gulf.

The decision of Senator GORE to support that resolution was critical. It was pivotal; it was one of the decisions that authorized that war and led to what I believe was not only appropriate action by the President, but probably the finest hour of the Bush Presidency and one of the finest hours in recent American history. We stood for a principle and carried it out, thanks to the bravery and skill of our military. We won the war. We reversed Iraqi aggression.

But the RECORD will note from this Senator, who spent a fair amount of time with Senator GORE that week discussing this question, he made a very serious, thoughtful, and substantive decision, the right decision, I think, but what I want to stress here, made for the right reasons.

Second, and very briefly, Mr. President, though as I have said, I think the assembling of the allied coalition, the carrying out of the Persian Gulf war was probably the finest hour of the Bush Presidency, I regret much that this administration did before the war and afterward and that of course is the subject that has now become known as Iraqgate. I do not need to go over the details of this prewar history of relations between the United States and Iraq. But I do want to suggest that they reveal for us the conflict that runs through the history of American foreign policy and that is between policy and principle, and personality and practicality on the other side.

We are a nation. Someone—I think it was F. Scott Fitzgerald—who said a long time ago—I hope I got this one right—that France is a land, Britain is a people, America is an idea. America is an idea, and that idea is freedom, is democracy.

It is when that idea stands as the guidepost for American foreign policy that we are at our best. I am not naive, Mr. President. I know we live in a world of realities, and there are occasions where real political decision, real politics influence our foreign policy. We were at our best in the Persian Gulf war when we stood for principle.

In the time before the war, I think our foreign policy relations with Iraq were guided not by policy and principle but by a sense of practicality and, if I may say so, personality, feeling that we could convert Saddam; that we could make him into our friend in spite of all the evidence that went on even immediately prior to the war was impossible and his policy was aggressive and not in the interest of the United States, certainly not in the interest of our allies within the Persian Gulf.

Looking back at the last decades—President Truman, President Kennedy, and President Reagan—Presidents who I think conducted foreign policy based primarily on principle, and particularly the great overriding American principles of freedom, freedom politically and freedom economically of free markets, I think the error of our ways prior to Operation Desert Storm and afterward was that we retreated from principle and we acted too much on the basis of personality, practicality, balance of power politics.

Mr. President, I think that is the leasson for us. And, in conclusion, I would say this: I think increasingly as this Presidential campaign has gone on, Governor Clinton has articulated a policy-principle-based American approach to the world and in that he offers us great hope of the kind of leadership that we need, that we want, that makes America great, the kind of leadership that would not have attempted to curry favor with Saddam prior to the war, that would have understood, if I may quote a homey old adage: "When you lie down with dogs, you get up with fleas." That is exactly but in mch more consequential terms what happened prior to the war.

Mr. President, yesterday, Governor Clinton gave a speech on foreign policy in Milwaukee, WI. I quote from two paragraphs of it.

> But in a world where freedom, not tyranny, is on the march, the cynical calculus of pure power politics simply does not compute. It is ill-suited to a new era in which ideas and information are broadcast around the globe before ambassadors can read their cable.
>
> Simple reliance on old balance-of-power strategies cannot bring the same practical success as a foreign policy that draws more generously from American democratic experience and ideals and lights fires in the hearts of millions of freedom-loving people around the world.

I am proud of these words spoken by Governor Clinton yesterday. I think they reflect the lessons that are learned not just from Iraqgate but so much else that has occurred in American history.

I ask unanimous consent that excerpts of the speech given by Governor Clinton in Milwaukee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 1992 CAMPAIGN: EXCERPTS FROM SPEECH BY CLINTON ON U.S. ROLE

WASHINGTON, October 1.—Following are excerpts from today's foreign-policy speech by Gov. Bill Clinton in Milwaukee, as transcribed by News Transcripts Inc.:

No American foreign policy can succeed if it neglects our domestic needs. and no American foreign policy can succeed if it slights our commitment to democracy.

The President often takes a lot of credit for Communism's downfall, but fails to recognize that the global democratic revolution actually gave freedom its birth.

He simply does not seem at home in the mainstream pro-democracy tradition of American foreign policy. He shows little regard for the idea that we must have a principled and coherent American purpose in international affairs, something he calls "the vision thing."

Instead, President Bush seems too often to prefer a foreign policy that embraces stability at the expense of freedom, a foreign policy built more on personal relationships with foreign leaders than on consideration of how those leaders acquired and maintained their power.

It is almost as if this Administration were nostalgic for a world of times past, when foreign policy was the exclusive preserve of a few aristocrats. This approach to foreign policy is sometimes described as power politics, to distinguish it from what some contend is sentimentalism and idealism of a pro-democracy foreign policy.

But in a world where freedom, not tyranny, is on the march, the cynical calculus of pure power politics simply does not compute. It is ill-suited to a new era in which ideas and information are broadcast around the globe before ambassadors can read their cable.

Simple reliance on old balance-of-power strategies cannot bring the same practical success as a foreign policy that draws more generously from American democratic experience and ideals and lights fires in the hearts of millions of freedom-loving people around the world.

STATEMENT OF PURPOSE

Let there be no mistake, this world is still a dangerous place. Military power still matters. And I am committed to maintaining a strong and ready defense. I will use that strength where necessary to defend our vital interests. But power must be accompanied by clear purpose.

Mr. Bush's ambivalence about supporting democracy, his eagerness to defend potentates and dictators, has shown itself time and again.

It has been a disservice not only to our democratic values, but also to our national interest. For in the long run I believe that Mr. Bush's neglect of our democratic ideals abroad could do as much harm as our neglect of our economic needs at home.

Let us look at the record. It reflects an unmistakable pattern in the Bush Administration's foreign policy. Fearing attacks by isolationists in his own party, President Bush was reluctant to offer Boris Yeltsin, Russia's freely elected president, a helping hand. It took a chorus of complaints, culminating with the prodding of another Republican, Richard Nixon, to move him into action on the Russian aid package.

Just weeks before the attempted coup in Moscow, President Bush traveled to Ukraine: There he lectured a people subjected to genocidal starvation in the Stalin era, warning that their aspirations for independence constituted, and I quote, "a suicidal nationalism."

A few months later, the people of Ukraine voted by a huge margin for the immediate and total dissolution of the Soviet Union.

ACTION ON THE BALTICS

For over 40 years, the United States refused to recognize Soviet claims to the Baltic nations: Lithuania, Latvia and Estonia. But when at long last, the moment of Baltic independence came, President Bush suddenly became a reluctant bridegroom.

The United States was 37th among the world's nations to extend diplomatic recognition to these countries. We should have been first.

In the Middle East, I supported the President when it became necessary to evict Saddam Hussein from Kuwait, and I support his decision now to provide air cover to Saddam's Kurdish and Shiite opponents in the north and the south of Iraq.

But I am angered by the Administration's appeasement of Saddam Hussein before the war and disappointed by its callous disregard for democratic principles after the war.

Just this week another friend of freedom, my running mate, Senator Gore, laid out in precise and devastating detail the errors of this Administration in dealing with Saddam Hussein.

President Bush showered Government-backed grain credits and high technology on a regime that had used poison gas on its own people. After the war, Mr. Bush encouraged the Iraqi people to revolt against Saddam Hussein but then abandoned them.

MIDDLE EAST POLICIES

The Adinistration has sometimes treated the conflict between Israel and the Arab states as just another quarrel between religions and nations, rather than one in which the survival of a democratic ally, Israel, has been at stake. I support strongly the peace talks that are under way, and if elected, I will continue without interruption America's role in them.

I also believe that America's policy in the Middle East should be guided by a vision of the region in which Israel and Arab partners are secure in their peace, and where the practices and principles of the personal liberty and governmental accountability are spreading.

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL

Mr. MITCHELL. Mr. President, yesterday, during debate in the Senate, references were made to Senator GORE's vote, and his Senate speech announcing his vote, during debate on the gulf war resolution last year. I was involved in those events.

It is routine practice in the Senate for Senators to discuss with me the timing and length of floor statements. During the debate on the gulf war resolution, I discussed with most Democratic Senators the timing and length of their floor statements, since I controlled the time allotted to those Senators who were in favor of the resolution then pending. My discussions with Senator GORE were similar to my discussions with other Senators.

I discussed the matter with Senator GORE on the Friday evening prior to the Saturday vote. He told me that he had not yet made up his mind on the resolution. I told him that I would make time available to him if he decided to vote for the resolution, but that if he were going to vote against the resolution he would have to talk with Senator DOLE who controlled the time allotted to those Senators who were opposed to the resolution. At no time did Senator GORE suggest that his vote was dependent on floor time made available to him.

My understanding was and is that as of Friday evening he had not made up his mind on the resolution and therefore was arranging time to make his statement however he eventually decided to vote. This was a reasonable and honorable approach. I believe any criticism of Senator GORE on this matter is wholly unfounded.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR WARREN RUDMAN

Mr. GORTON. Mr. President, it is a matter of regret to this Senator that his tribute to his colleague, the senior Senator from New Hampshire [Mr. RUDMAN] takes place 2 days after that presented to this body by the senior Senator from Maine [Mr. COHEN]. That tribute was so eloquent that any other must pale by comparison. But, nonetheless, an attempt must be made to state the feelings of this Senator about his long-time friend and colleague.

The departure from this body of Senator RUDMAN will leave an aching void in the lives and hearts of his legion of friends and admirers in the U.S. Senate on both sides of the political dividing line, a legion which, in the view of this Member, almost certainly includes every Member of this body.

Nevertheless, for this Senator, that void will be particularly difficult to fill as I believe that I have perhaps known the Senator from New Hampshire over more extended period of time than any or almost any of his other colleagues here.

He and I were attorneys general from our respective States from 1970 in the case of Senator RUDMAN, each of us was devoted to the work of that organization and to what we could learn from one another. Senator RUDMAN became president of the National Association of Attorneys General and was in fact during that Presidency instrumental in helping my candidacy to succeed him after a year or so.

During the time that he served as attorney general of New Hampshire, the now Senator was an aggressive prosecutor of wrongdoing of all types in his State. He was a fearless defender of the interests of consumers of the State of New Hampshire and, in general, of the rights of the people whom he represented in that appointed position.

Mr. RUDMAN resigned after half a decade or more of distinguished service as attorney general to return to the private practice of law, but in a way, with an opportunity that is offered only to a handful of us in positions like that of State attorney general, he was able to see to his successors for several future generations in that office. They included many other distinguished New Hampshire lawyers, including the now Associate Justice of the Supreme Court of the United States, David Souter, whose nomination to that position and whose confirmation by this body were guided in large measure by the skills and advocacy and friendship of Senator RUDMAN.

When he left office as attorney general, I felt that personal loss of friendship very severely. As a consequence, this Senator was delighted when each of us became a candidate for the U.S. Senate in 1980, when we ran together and were elected.

From the time that we were sworn in, early in 1981, we found that we voted as similarly in this body, with or without consultation between ourselves, as, I think, was the case with any other pair of Members of the U.S. Senate. We often vigorously debated particular issues. But Senator RUDMAN, no matter how strongly he holds views on an issue, is willing to listen to and credit to good faith of those against whom he debates as well as the good faith and intentions of his friends and allies.

Senator RUDMAN served in this body for 12 years as a soaring comet, perhaps most particularly in his vice chairmanship of the Iran-Contra investigating committee with his friend and partner, the Senator from Hawaii, Mr. INOUYE. That investigation was one of the most successful ever conducted by the U.S. Senate. And, for all practical purposes, every fact relevant to a history of that sorry episode was, in fact, determined by that committee and included in its report.

Senator RUDMAN, as well as any Member of this body, has combined that balanced duty of representing the peculiar and particular interests of his own State with the duties incumbent upon any U.S. Senator to act in the public interests of all of the people of this country and of its future.

Senator RUDMAN here, and in the rest of his life, has been a man of passion and a man of action. But passion can be directed at unworthy ends as well as worthy ends. In the case of our friend, that passion has been for justice, that passion has been for fiscal responsibility, that passion has been for the preservation of ordered liberty in the United States of America, that passion has been for a nation he has loved and served extraordinarily well.

Each of us is a better person as a result of his or her associations with the Senator from New Hampshire. Each of us can do far worse in our future careers than to measure ourselves and our performance by the standard he has set and to strive to live and act by his example.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

THE HUMANITARIAN SITUATION IN SUDAN

Mr. SIMON. Mr. President, a little later on this evening—I hope when we wrap up, it will be cleared—I will be introducing a resolution on behalf of Senator KASSEBAUM, Senator PELL, and Senator HELMS on the situation in the Sudan.

Back as early as January 15, looking at the records, Senator KASSEBAUM and I talked about the situation in Somalia, warning that we were heading for some very grim times.

Unfortunately, until there is media attention on some of these spots, we do not get the attention that we need. Right now, there is attention on Somalia, and I am pleased to say that food is getting in, though it is still a very troubled area where there is more chaos than government and where we need the presence of U.N. troops, at least those that have been authorized, about an additional 3,000, to bring some stability to the situation.

Unfortunately, the situation in the Sudan is another situation that is developing that is a very grim one. If we cannot get U.N. action to bring some sense to the Government there, not only will we have the very severe human rights violations that are taking place in the Sudan, we are going to have massive starvation.

Around Khartoum, the capital city, they have relocated some 500,000 people, who, in desperation, have come from the south. They have relocated them to camps where there is very little water, no means of livelihood, and where the situation is desperate. Perhaps an additional 250,000 will go there shortly.

In Juba, a city in the southern part of Sudan, where we have a civil war going on, the Sudanese army has taken 300,000 people and made them buffers against the opposition forces. And there is danger both of starvation and of people just being wiped out by military action.

A few days ago, we learned that two of the Sudanese employees of USAID were killed for treason. What they were doing was simply delivering food to desperate people and were slain. And we have reports of at least two people, and perhaps four, from voluntary organizations who were down there delivering food to people, who have also been slain. It is a grim situation.

Our resolution urges that this be brought to the Security Council. We urge the Secretary General, who has been doing a good job, to do what he can to try to bring some sense and some leverage on the Government of the Sudan.

We do not want the Sudan to turn out to be as bad a situation as we have in Somalia right now. But right now, it is grim.

I have just been handed a note by a page that Senator LEVIN would like to be added as a cosponsor on the resolution, and Senator BRADLEY, the Presiding Officer, who has shown an interest in these areas, also wants to be added as a cosponsor.

I ask unanimous consent that both be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I would add that the general situation in Africa is one of hope, despite Somalia, despite what is happening in the Sudan. Democracy is spreading in Africa. It is one of the little-known realities of our world. But the economic problems are overwhelming. Africa has had an increase of 50 percent in population over the last 20 years, and a drop of 20 percent in food production.

I just see my colleague, Senator LEAHY coming through. Senator LEAHY has been great, as chairman of the appropriations subcommittee, in focusing more attention on Africa. And while there are probably very few people in Africa who know the name of Senator PATRICK LEAHY of Vermont, I for one am very grateful that he has been able to shift a little more attention to the desperate plight of the people of Africa. Since he was coming right through, I wanted to mention that.

Mr. LEAHY. Will the distinguished Senator yield?

Mr. SIMON. I would be pleased to yield to my colleague.

WORLD HUNGER

Mr. LEAHY. I would say, Mr. President, the distinguished Senator and his subcommittee have brought the plight of Africa, and the issues of food and starvation, not only to my attention but to the attention of many, many other Senators.

I would compliment him on the work that he has done. We have many demands, in the Appropriations Committee. Certain demands, though, are not of a strategic or economic nature, but more of a real moral imperative. The Senator from Illinois has stressed the fact over and over again, that this Nation, with our relatively small world population but our enormous use of world resources, have moral responsibilities in other parts of the world.

I thank him for his praise; it is high praise indeed. But nobody could praise enough, the work the Senator from Illinois has done.

Mr. SIMON. I thank my colleague for his generous remarks.

Mr. President, I yield the floor. I see my distinguished and colorful colleague from Montana is seeking the floor. I am pleased to yield the floor to him.

Let me just add, later this evening, as I think I indicated earlier, I believe our resolution will be adopted.

My colleague from Montana has also shown an interest in these problems, and I appreciate it.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. If the Senator will suspend, the Chair, on behalf of the Republican leader, pursuant to Public Law 102-325, appoints the following Senators as members of the National Commission on the Cost of Higher Education:

The Senator from Vermont [Mr. JEFFORDS], from the Committee on Labor and Human Resources; and

The Senator from Mississippi [Mr. COCHRAN], from the Appropriations Committee.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 93-29, as amended by Public Law 98-459, appoints to the Federal Council on the Aging:

Rudolph Cleghorn, of Oklahoma; and Stephen M. Farnham, of Maine.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I ask unanimous consent I may be allowed to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS

Mr. BURNS. Mr. President, I thank my friend from Illinois for his comments. I would wear a bow tie if I could get away with it. But I cannot do that. But his work along those humanitarian lines is well known here in the U.S. Senate.

Mr. President, we have finally wrapped up our work on the conference on energy and I think there are some important measures in this energy bill that are of interest to all Americans. There were some things that were dropped from conference, and from the energy bill, that also should be noted at this time.

We, in the conference, dropped the authority to buy back Federal Outer Continental Shelf leases. We leased the Outer Continental Shelf for oil and gas and then the Government went in and put a moratorium on that kind of activity offshore so we still have that liability to take care of. We also dropped the House language, preempting State regulation of natural gas production.

That brings me to a point. This afternoon there was a Montana wilderness bill that originated here in the U.S. Senate, on which Senator BAUCUS and I worked very hard in crafting a compromise and to pass through the Senate. It was then sent to the House. They have had it about 6 months. They chose, in a closing hours of the 102d Congress, to finally act on it.

We will see that final version, probably in conference over the weekend. But in that wilderness bill is action contradictory to what we are trying to do for, not only energy security in this country but also responding to the obligation we have promulgating those activities to directly result in a better environment.

It is pretty much thought among the scientific community and all those people who dealt with the Clean Air Act that compressed natural gas or natural gas will be part of the fuel mix or energy mix in this country. Not only is it clean burning and helps the environment but also we have great reserves of natural gas. That is in parts of my State of Montana. But those same folks who would promote the Clean Air Act and are very concerned about cleaning up the air are the same folks who want to designate thousands and thousands of acres of public lands as wilderness, which precludes any oil or gas—principally gas in our part of the country—development whatsoever.

So there are two different movements here, moving against one another. We have established goals on what we would like to do and what we would like to see in our transportation fuels as far as the air is concerned, but we also take another step and lock up those areas that hold vast amounts of natural gas. There is a contradiction in that.

I want to congratulate Montana and Dakota Utilities up in Montana. Last time I was home we dedicated a compressed natural gas fuel station in Billings. They will have them all over the western part of the Dakotas and the eastern part of Montana as a principal transportation fuel. That is certainly a step in the right direction. Because we will have to depend on that for transportation fuel.

It just does not make sense for this country. If those folks are all excited about our trade deficit—65 percent of the trade deficit in this country is directly attributed to energy purchased offshore. Fifty percent of the oil that we use in this country is now being imported into this country from foreign sources. That leaves us in a very vulnerable position. Whenever we take a look at this country's economy, this country's economic strength is based on our mobility and the way we power our cars—our needs for energy.

We also dropped from that conference report new restrictions on hydroelectric dam licensing. As we progress, increasing our demand for electricity across the country, we will probably have to revisit that issue. How do we become more efficient in producing electricity from water, the cleanest form of producing electricity? In my State of Montana we have ongoing research with MHD and also on the way we can better use our coal reserves which the West has. They are low-sulfur coals, in our coal-powdered electric generating plant. That, too, that research, will have to be ongoing. Of course, in this bill are ways to fund the research that will let that go forward.

If you look at the States of Montana, North Dakota, Wyoming, and in the West, the coal reserves in the West are equal to the oil reserves in the Middle East. We are the Saudi Arabia of the coal industry. It is economical to get to; it is low in sulfur; and research has to go on. We become more efficient and we also deal with the emissions problem of coal-fired generation.

When we start talking about alternative fuels, I think we have to start matching some dollars with industry in the research and development of fuel cells, and I will talk about that in a little bit.

Also, dropped from that bill was the requirement to establish an expensive gasoline and diesel fuel storage in New England. Mr. President, that is not a bad idea. I can sympathize with those folks who live in areas of these United States where we are dependent on imported fuel sources, both in natural gas and heating oil, as we go into the winter, should some disruption happen on the foreign side where oil cannot come into this country and it cannot even go through the refineries, then I will say the States up in the Northeast will have concerns that, yes, maybe there is some way they could set up something that looks like the Strategic Oil Reserve that this country has. But also we deal with problems of turnover and the storage of the refined product or the end product which is very difficult to handle and turn over.

I am aware and I am concerned for those folks in the Northeast who are dependent on those fuels to come in from somewhere else—especially going into the winter—where the majority of their heating oil has to be imported to their States. The same would be true of natural gas.

What was also dropped from this energy bill was the change to the present authority to draw down oil in the Strategic Petroleum Reserve, the SPR, that would increase control of price manipulation by the Federal Government.

That is one of the things that was debated, and we had to go back to the old philosophy of just exactly why was the SPR developed in the first place. The primary reason and the first-tier reason would be for national security, if we had another embargo, and we know that the security of this Nation would be severely undermined if we had to depend on foreign sources again for our energy supplies just to power our Armed Forces.

The SPR never was established and put there to manipulate prices, price spikes. We saw that happen at the opening of the gulf war when many said the President should use the oil that was contained or held in the SPR to be used in order to defuse the price increase.

We have to keep with the philosophy, I think, that was established and that, of course, was for national security.

There are some awfully good things in this energy bill. Energy efficiency: We tried to set some goals and I think we set some goals that we have to be more efficient on all of the energy that we have in this country. It enacts the entire agenda of the past decade's energy efficiency proposals, including those policies that increase the energy efficiency of residential and commercial buildings, appliances and heating and cooling equipment, utilities, and the Federal Government.

I was a little concerned the other day when I saw a figure released that there are now more people working for the Government than we have in manufacturing jobs. I am wondering how long we can stand that kind of a situation.

But there will be new goals and new requirements on what we put into buildings, how we will handle our heating and cooling situations and, yes, how we handle our utilities; that we are more efficient in the power that we use, both the fossil fuels and, yes, of course, electricity.

In this bill also under the natural gas it eliminates certain restrictions on natural gas imports and exports, and it contains a sense-of-Congress provision on competitive wellhead natural gas markets. In other words, do we treat all of our gas suppliers the same?

In the fleet and alternative fuels section, I think the country has to pay a lot of attention to that section because when we start talking about alternative fuels, we are talking about fuels that do not come from a fossil base. It gives the Secretary of Energy authority to require private and municipal fleet programs starting in 1998. It will be applicable to fleets of 20 or more centrally fueled vehicles used primarily in cities of 250,000 or more population if the fleet operator owns 50 or more vehicles.

That sounds kind of funny, but that was the formula that was worked out so the different parts of the country and industry and those folks who depend on fleets to do business can make some sanity of their transition.

There is a phase-in purchase goal started at 20 percent in 1998. What is the use of building a flexible car equipped to burn flexible fuels if there is nobody to buy it? And of course we still have a lot of work to do on that, a lot of technology has to be developed before we can finally get it done.

But the Secretary can set those goals and can get some formula and establish the program by the year 2002. It provides for a Federal fleet program with purchase requirements of 5,000 vehicles in 1993, increasing to 75 percent of the fleet acquisitions in 1999 and after. In other words, the Government, it is going to put mandates on private enterprise then we, too, have to lead the way so that the marketplace will finally be the driving force of these new fuels.

The use of ethanol and methanol as additives to fuels as extenders is a step in the right direction because ethanol is being produced from a renewable resource, the grains across the country. With the announcement of the President yesterday on some waivers, he is going to enable that to happen, we hope, just a little bit quicker than the pace at which it is now going.

We used to say how come we can be in agriculture and farm? If you look at the farm prices, we were selling wheat in 1948 for more dollars a bushel than we are selling it now. Back then a combine cost $7,000. Now it costs $110,000 and, yes, it does more work and it probably does it a little better, but still the price of the grain did not go up with the cost of everything else. It sure did not stay with the retail price of what you pay for bread in the grocery store. For those folks who wonder how that formula works, in an average pound loaf of bread, the wrapper cost more than the wheat that went in it.

Nonetheless, agriculture was produced back then probably with a lot of horsepower. We used horses. What we did is we produced our own fuel on the farm. Then when we mechanized and we had to use tractors and all of the equipment we use today, that requires an off-farm fuel source. Of course, now we see the trend going back. This provides for an alternative fuels program applicable to those who transport and sell alternative fuels and operate large fleets which operate in large cities.

Phase-in purchase requirements start at 30 percent of acquisitions in 1996, increasing to 90 percent in 1999 and thereafter. There, again, it gives a big leeway to the Secretary of Energy to establish some goals and to set up the rules of that transition.

Electric vehicles: We have always heard that they are there, but we do not see them. We do not see them on the street. Maybe we see them going down the fairway on the golf course. That is about the only ones we see so far. But this bill addresses electric vehicles. This provision establishes a comprehensive program for research and development, infrastructure promotion, and vehicle demonstration for electric motor vehicles.

Here we might bring in something else that we overlooked in this bill and the importance of its development and that is a thing called fuel costs. Most of the developed countries around the world are quickly developing this kind of power.

The fuel cell is nothing more than just a big old battery, you might say, developed of coal base and methanol that would probably power your house. You just plug it in, it would run a certain time, and you would change it. But that development is getting awfully close now where the cost can almost compete with other forms of electricity.

Over in the electricity department, and those of you who use electricity, we did not have a very hot summer this summer. Maybe some areas of the country did, but we sure did not. We saw the heavy use of air conditioning. We also have a thing called brownouts. As we move into the winter, that concerns me a little bit. But it is marvelous that the American people will probably put some restrictions on how we produce power and they will not get excited about it until the electric lights go out. Then we will get awfully excited on how we produce our energy and where it comes from and how much can we produce.

But in this bill it removes the obstacles to wholesale power competition in the Public Utility Holding Company Act of 1935 by allowing both utilities and nonutilities to form exempt wholesale generators without triggering the restrictions of the 1935 act.

What that means is that there will be independent power producers that will have to be paid for their power if they can get access to transportation for that power.

The bill contains provisions allowing the FERC, or the Federal Energy Regulatory Commission to order wholesale but not retail transmission access on a case-by-case basis.

And that is good because I think all of your small power producers that want to get in the business of producing power should be reviewed on a case-by-case basis. We try to do it in Congress every day. We try to produce a law of one-size-fits-all, and that just does not work.

Renewable energy establishes a program for Federal support on a competitive basis for renewable energy technologies. There again we go back to our renewable energy sources and how we dealt with that.

And, in coal, new strategies, new moneys for research and development for a variety of advanced coal-based technologies that offer significant potential not only for producing clean fuel for energy and electricity but also for producing coal byproducts that may have considerable commercial value for other uses.

We tried to level the playing field between what we call a low-sulfur coal in parts of Montana, but we also have lignite. We tried to level the playing field so both of those fuels could be used and developed.

Also, in global climate change, it directs EIA to establish a baseline inventory of greenhouse gas emissions, establishes a program for the voluntary reporting of greenhouse gas emissions, and it directs the Secretary to prepare a report analyzing strategies for mitigating or adopting to global climate change including the economic, environmental, social, and competitive implications of such strategies. It directs the Secretary to prepare a least-cost energy strategy for reducing the generation of greenhouse gases.

But I think probably the most important part of this bill as it gets to the President is that we gave the Secretary wide discretion in the use of R&D, research and development moneys in a multitude of areas: natural gas supply, high-efficiency heat engines, oil shale, high-temperature super conducting electric power systems, renewable energy sources, energy efficiency, natural gas, electric heating and cooling technologies, and also support for postsecondary education programs promoting math and science, education for low-income and first-generation college students. That is to go into this business called energy and keeping this country energy secure.

So it would look to me that this bill which covers so much of America and is so important to America tried to cover all the bases, but yet we will probably leave some uncovered. As we look at energy and energy supply, there is not one thing that is any more key to the security of the country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY CONFERENCE

Mr. DOLE. Mr. President, we have but a few days—a few hours really—before the sine die adjournment of the 102d Congress. In the past few days, we have made great progress on the so-called must-do list of bills we need to pass before we leave.

One of the bills on my must do list is the energy bill. The Senate has already passed it twice, and it would be a black mark on this Congress if we leave without providing for a comprehensive strategy on that which truly fuels our economy—energy.

I want to commend the Senate Energy Committee for completing its work with the House in the conference to resolve the differences on the matters under its jurisdiction. Long, arduous hours were spent by our colleagues on the Energy Committee and they deserve our gratitude.

But, Mr. President, one title remains to be resolved in conference—the revenue title and that is under the jurisdiction of the Senate Finance Committee and the House Ways and Means Committee. As a conferee from the Finance Committee I want all my colleagues to know I am prepared to go to work, to go to conference and reach consensus on this title.

Let me remind my colleagues of some of the provisions:

For the oilpatch—the elimination of the alternate minimum tax for intangible drilling costs and percentage depletion allowance for independent oil and gas producers will breath some life back into the industry. We hear a lot of talk about jobs around here, about how our trade deficit is too high, about the economy being stagnant. I have said it many times, but let me repeat it again—over two-thirds—in fact almost 70 percent—of our entire foreign trade deficit is due to imported oil. It is not Sony televisions or Braun coffeemakers that is causing our problem, it is that we import too much oil. This would be a big shot in the arm for our domestic industry, and industry which has lost 450,000 jobs—450,000 jobs of American workers.

In the past, some of my colleagues have suggested offering any assistance to the oil and gas industry is bad public policy, because the oil and gas industry makes too much money. Well, those voices seem to have had their day. Because we now have a tax system under which the oil and gas industry has the highest effective tax rate in the country—over 70 percent. We raised their taxes all right, but we also drove the industry overseas and we have a trade deficit to prove it.

But the energy bill has incentives for other industries as well. We provide for mass transportation benefits, which will reduce congestion on our roadways. We would grant credits for the purchase of clean burning vehicles and the facilities to pump the alternate fuels into those vehicles. The bill makes permanent the investment credit for solar, geothermal, and ocean energy producing facilities.

Mr. President, there are several other similar provisions worthy of our consideration this year. Many of these projects on the drawing board might not make it if they have to wait until next year, and they wouldn't have to wait if we just do our job.

As I said, I am a conferee, and I am ready to meet. The Republican conferees in the Senate and the House are ready to meet. We are ready to strike a blow in favor of American jobs and the American economy. Mr. President, the Republicans are awaiting word on whether our colleagues on the other side of the aisle are ready to do the same.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BRETT KIMBERLIN

Mr. LEVIN. Mr. President, as chairman of the Subcommittee on Oversight of Government Management, for the past several months I have been looking into allegations that the Bureau of Prisons silenced a Federal prisoner named Brett Kimberlin for political purposes prior to the 1988 election. My subcommittee staff has prepared a report which summarizes my findings and in short, based on the information that was obtained by my subcommittee staff and based on the refusal of the Justice Department to provide two witnesses to me, I can only conclude that the bureau did act for political purposes with respect to Kimberlin.

I have referred this matter today to the inspector general of the Justice Department for his investigation.

Mr. President, in May of this year, the New York Times ran an article about a 1988 incident involving a Federal prisoner by the name of Brett Kimberlin and allegations that the Bureau of Prisons had tried to silence him for political purposes. Although the article appeared almost 4 years after the incident, it contained information that had recently come to light in a related court case. It was the first time I had read about the Kimberline matter in any detail, and I found it startling.

The Times reported that when Kimberlin began making allegations involving then vice presidential candidate Dan Quayle just before the 1988 election—and the press began to pay attention to those allegations—the Bureau of Prisons took a number of actions to silence him. The Times reported that after calls from the Bush-Quayle campaign to the Justice Department, the Director of the Bureau of Prisons Michael Quinlan took a highly unusual course of action. He personally cancelled a press conference arranged by local prison officials in response to several press requests to interview Kimberlin. He then personally ordered Kimberlin placed in administrative detention, or the hole as it is referred to by the prisoners. Both events took place only days before the November 1988 election.

The prison released Kimberline from detention the following day. But when he later attempted to give an interview to a group of reporters by telephone, the Bureau put Kimberline back into administrative detention for a week, until well after the election. A month later, when the press again began to pay attention to Kimberlin's allegations, the Bureau again returned him to administrative detention.

The Times article suggested that the Bureau of Prisons had violated prison rules in its effort to silence Kimberlin. Such an allegation, if true, would violate our fundamental principle of a fair and open government.

As chairman of the Subcommittee on Oversight of Government Management, I initiated a subcommittee investigation into the facts behind the New York Times article and the Kimberlin detentions. Let me make clear that the focus of this investigation was not to examine the validity of the allegations made by Kimberlin but solely whether, in 1988, the Bureau of Prisons and the Department of Justice engaged in improper conduct in the Kimberlin matter to advance a political purpose.

After my subcommittee staff reviewed press accounts, public documents in a pending court case filed by Kimberlin against key officials in the Bureau of Prisons and the Department of Justice, and other information, I sent a list of questions to Mr. Quinlan, Mr. Loye Miller who headed the public affairs office of the Department of Justice in 1988, and the Justice Department itself. My questions were not answered specifically or by the person to whom they were addressed; the Justice Department responded in narrative form on behalf of all three addressees.

I responded with a letter identifying the many questions that had not been answered and requesting interviews with Mr. Quilan and Mr. Miller. The Justice Department answered, again on behalf of both Mr. Quinlan and Mr. Miller, denying my request for interviews, but providing some additional information. The additional information did not, however, lay to rest important questions in this matter.

Those questions go to a fundamental concern: guaranteeing that the power of our Federal Government is not used to silence individuals for political purposes.

Without interviewing Mr. Quinlan and Mr. Miller, I can go no further in the investigation. Were these ordinary times, I would convene a subcommittee hearing and call these individuals and others to testify under oath to the facts pertaining to the cancellation of Kimberlin's press conference and his detentions by the Bureau of Prisons.

However, these are not ordinary times—we are in the final month of a Presidential election—and holding a hearing would probably lead to charges of politics. That would deflect the public's attention and the attention of the agencies involved from the important substance of the issues involved. Consequently, I have decided not to hold a hearing at this time, but to present my findings as well as the outstanding questions to the Inspector General of the outstanding questions to the Inspector General of the Department of Justice.

Mr. President, I ask unanimous consent that my letter dated today to the inspector general and a report describing my investigation be included in the RECORD in full immediately following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. LEVIN. The report addresses four key events in the Kimberlin chronology, all flashpoints of what appears to be improper Government action to isolate Kimberlin. These are: the decision by Bureau Director Quinlan on November 4, 1988, to cancel a press conference arranged by local prison officials and three separate decisions by the Bureau of Prisons on November 4, November 7, and December 22, 1988, to confine Kimberlin in administrative detention. The information we have about each of these events is based upon our review of depositions taken in the pending civil case, court pleadings and decisions, our own interviews, and the responses to our questions by the Department of Justice.

Mr. President, after reviewing that evidence and given the refusal of the Justice Department to allow interviews of Mr. Quinlan and Mr. Miller, I can only conclude that the cancellation of Kimberlin's November 4th press conference and his subsequent administrative detentions were actions taken by the Bureau of Prisons for political purposes. The primary purpose was to keep Kimberlin's allegations that he sold marijuana to Vice President QUAYLE in the 1970's out of the 1988 campaign. Whether these actions occurred on the independent initiative of Mr. Quinlan or other Federal employees or at the request of the Bush-Quayle campaign is a question that remains unanswered.

The evidence of political considerations in the Kimberlin matter is as follows:

We know that the most senior officials in the Bush-Quayle campaign—Jim Baker, Lee Atwater, Fred Fielding, Stu Spencer and Joe Canzeri, as well as Vice President QUAYLE himself—knew about Kimberlin's allegations and his efforts to publicize them.

We know the Bush-Quayle campaign believed that the public's attention to the Kimberlin allegations could have serious consequences. Mark Goodin, the campaign's deputy press secretary, has stated in a deposition that:

> Oh, I don't think there was any doubt about what could happen. I have seen this kind of thing play out before. I made it very clear when I approached other senior officials of the campaign that it could be—it was something that we needed to take seriously and deal with seriously because of its potential for adverse publicity.

Mr. Goodin conveyed that sentiment to the Justice Department in a conversation described in a 1989 memorandum prepared by Mr. Miller in which he states that Mr. Goodin "noted the obvious: that the closer to the Tuesday election that the story were to break, the more attention it was likely to get, and the better the chance that it could have at least some adverse effect on the Bush-Quayle chances." Stu Spencer, QUAYLE's campaign manager, stated in his deposition that he, too, took the Kimberlin allegations seriously because, "Late charges can be devastating."

We know that the campaign monitored the situation closely. Mr. Goodin, the campaign's key link to the Justice Department, stayed in constant touch with the Department on the Kimberlin matter. As Mr. Goodin stated in his deposition:

> Over a fairly substantial period of time, it is fair to characterize my contact with the Department of Justice as fairly close contact. * * * It's certainly fair to say that I kept close tabs on the issue through the Department of Justice.

A December 1988 memorandum prepared by Mr. Quinlan for his superiors also reveals that at least one unidentified person from the campaign—Mr. Goodin has said it wasn't him—telephoned the Bureau directly to inquire about Kimberlin's media contacts.

We know the Justice Department, through Mr. Miller, agreed to keep the campaign informed and, in fact, kept Mr. Goodin apprised of key developments in Kimberlin's attempts to reach the press with his allegations. Mr. Goodin then kept Mr. Baker and other top campaign officials apprised of the key developments.

We know that the campaign, the Justice Department and the Bureau of Prisons fielded frequent calls from the press in the final days of the 1988 election about the Kimberlin allegations.

We know that Mr. Quinlan became personally involved to a highly unusual, if not unprecedented, degree in the decisions made with respect to Kinberlin: First, he personally ordered the cancellation of the press conference arranged by the prison; second, he personally ordered Kimberlin placed in administrative detention; and third, he requested and reviewed transcripts of Kimberlin's telephone calls during this period.

We know that Mr. Quinlan was aware of and concerned about Kimberlin's contacts with the media. The December 1988 memorandum he prepared for his superiors began, for example, by stating that, "As you know, Kimberlin's allegations * * * have received additional media attention in the last several days." Later in that memorandum, Mr. Quinlan pointed with satisfaction to the fact that his earliest decision in the Kimberlin matter, to allow an interview by NBC, resulted in "no news outlet carr[ying] the story in the pre-election period."

We know that there are serious gaps and inconsistencies in the Bureau's explanations of the substantive basis for its actions in the Kimberlin matter:

> First, Mr. Quinlan cancelled the November 4th press conference arranged by local prison officials by citing a purported policy against inmate press conferences, which local prison officials had never heard of, has never been put in writing, and was not applied by the Bureau to monthly press conferences held by a former Member of Congress incarcerated in federal prison in 1986 and 1987.
>
> Second, Mr. Quinlan justified placing Kimberlin in detention on November 4th by claiming he'd received information that Kimberlin feared for his safety from other inmates, despite a contemporaneous finding by the prison that no such inmate threat existed, and despite inconsistent and questionable evidence of how that information reached the Director late at night in an out-of-town hotel.
>
> Third, the Bureau's decision to return Kimberlin to detention on November 7th, the day before the election, relies on unclear documentation and suspect timing, lacks an

identifiable authorizing official, and has been justified by inconsistent explanations.

Fourth, the Bureau's explanations for placing Kimberlin in detention on December 22nd were found unconvincing by an independent hearing officer who determined that Kimberlin was innocent of the rule infractions charged.

Key individuals must be directed to explain these inconsistencies, contradictions and gaps in the Kimberlin story. Because the Justice Department has refused to permit subcommittee interviews of two of these individuals, Mr. Quinlan and Mr. Miller, and a subcommittee hearing is not feasible at this time, I've taken the investigation as far as I can. That is why I have asked the inspector general to become involved.

If the conclusion of the inspector general is similar to mine—that the Bureau took these actions against Kimberlin to isolate him for political purposes—the inspector general should identify the Federal officials involved and recommend appropriate disciplinary action.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, October 2, 1992.

Hon. RICHARD J. HANKINSON,
Inspector General, Department of Justice, Washington, DC.

DEAR MR. HANKINSON: As Chairman of the Senate Subcommittee on Oversight of Government Management, I recently directed my staff to investigate allegations that the Bureau of Prisons acted for political purposes to silence a federal prisoner in 1988. The prisoner's name is Brett Kimberlin, and he was incarcerated at the time in El Reno, Oklahoma.

Although the incidents occurred in 1988, a pending civil suit against the Department of Justice and several individuals involved in the incidents has brought new and more detailed information to light. Based on the evidence which I and my staff reviewed, I have concluded that the allegations are substantial and credible. Several key people, however, have not been interviewed because the Justice Department has refused to make them available. Before any administrative or personnel actions can be recommended, further investigation is necessary.

I ask your office to investigate this matter as soon as possible, and I am enclosing a report on the investigation conducted by my staff for your information and use. Your office may have access to the information and documents we have obtained or developed.

Some key questions for your office to address are as follows:

What were the reasons for actions taken by the Bureau of Prisons in 1988 to cancel the press conference and place Kimberlin in administrative detention in the enclosed report?

Did these actions violate Bureau policy, and were they motivated in whole or in part by political considerations?

Were efforts made to cover-up the real reasons for the Bureau's actions?

Did any Bureau or Department personnel engage in improper conduct with respect to Kimberlin in 1988, and, if so, would they be subject to disciplinary action?

For additional information, please contact Elise Bean of my staff at (202) 224-3682. I appreciate your prompt attention to this matter.

Sincerely,

CARL LEVIN,
Chairman, Subcommittee on Oversight of Government Management.

REPORT BY SENATOR CARL LEVIN, CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT ON ACTIONS BY BUREAU OF PRISONS IN RESPONSE TO MEDIA CONTACTS WITH PRISONER BRETT KIMBERLIN, OCTOBER 2, 1992

In June 1992, as Chairman of the Subcommittee on Oversight of Government Management, I directed my Subcommittee staff to undertake an investigation into the facts behind an article published in the New York Times on May 3, 1992. The article claimed that, in the weeks just prior to the 1988 election, the Bureau of Prisons took action to silence a federal prisoner, Brett Kimberlin, who had been making allegations to the press about then vice presidential candidate Dan Quayle.

The investigation has reviewed press accounts, pleadings and sworn depositions in a pending court case, materials provided by the Justice Department, and other information. The Justice Department has refused to permit requested interviews of two key individuals, Michael Quinlan, Director of the Bureau of Prisons, and Loye Miller, Director of the Office of Public Affairs of the Justice Department in 1988.

Based on the information reviewed and having been denied by the Justice Department the two requested interviews, I can only conclude that the Bureau of Prisons did, in fact, take action against Brett Kimberlin for political purposes by cancelling a press conference on November 4, 1988, and placing him in administrative detention on November 4, November 7, and December 22, 1988, the primary purpose of which was to keep Kimberlin's allegations concerning Mr. Quayle out of the 1988 campaign.

This report sets forth the information that forms the basis for this conclusion.

BACKGROUND

Approximately one month before the 1988 presidential election, Brett Kimberlin, who has been incarcerated in federal prison since 1979, talked to National Public Radio reporter Nina Totenberg about his allegations that he sold marijuana to Vice President Dan Quayle in the 1970's. Shortly thereafter, Ms. Totenberg, without disclosing Kimberlin as the source, asked the deputy press secretary of the Bush-Quayle campaign, Mark Goodin, to comment on these allegations. When Mr. Goodin declined to comment without more information on who was making the allegations, Ms. Totenberg provided a signed affidavit from Kimberlin.

Mr. Goodin has stated he immediately notified the top officials in the campaign, including Jim Baker, overall campaign chairman; Lee Atwater, overall campaign manager; and Stu Spencer, campaign manager for Mr. Quayle. Mr. Goodin has stated that Mr. Baker told him to "find out" who Kimberlin was, and when the campaign's research discovered that Kimberlin was a convicted felon, Mr. Goodin continued to refuse comment to Ms. Totenberg.

According to Mr. Goodin, when he informed Ms. Totenberg that he had discovered Kimberlin's prison status and declined further comment, her response convinced him that she was nevertheless preparing to publicize Kimberlin's allegations. He again notified top campaign officials. Mr. Goodin has testified that, at that point, Mr. Baker decided Mr. Quayle had to be informed. When told of the Kimberlin allegations, Mr. Goodin said that Mr. Quayle flatly denied them. Mr. Goodin reported that denial to Ms. Totenberg on an "off the record" basis to convince her not to run the story, but, according to Mr. Goodin, he still wasn't sure what she would do.

After a few days passed, Mr. Goodin has stated that he began to receive calls from other reporters repeating the Kimberlin allegations. He guessed that Kimberlin "was becoming restless" and had begun contacting other media outlets. Mr. Goodin has stated that he called the Justice Department to find out how Kimberlin was getting through to the press.

Mr. Goodin called the Justice Department because the Bureau of Prisons is under its authority. He has stated that the deputy director of the Department's office of public affairs, Deborah Burstion-Wade, told him that federal prisoners have the right to use the telephone and may contact the press. Mr. Goodin has stated that he expressed surprise, but accepted her explanation.

On Thursday, November 3, 1988, five days before the presidential election, NBC News asked the 1500-inmate prison at El Reno, Oklahoma, where Kimberlin was then incarcerated, for an on-camera interview with Kimberlin. The prison offered to schedule the interview on Wednesday of the following week, its regular scheduling day for media interviews. Because that day would be after the election, however, NBC asked that the interview take place earlier, before the election.

The prison called the Bureau's public affairs office in Washington, D.C. for guidance. The chief of that office, Jim Jones, has stated that he met with Bureau Director Quinlan and Mr. Quinlan's chief of staff, Tom Kane, about NBC's request. He also spoke with Frank Keating, the Associate Attorney General of the Justice Department with direct management authority over the Bureau of Prisons. Mr. Keating's deputy, Cary Copeland was also contacted and testified later that, while the Bureau didn't call him about every inmate interview, it did "[o]bviously because of the political sensitivity here. We had a candidate for vice president, the election is 5 days away, very obvious sensitivity."

In a memoradum prepared for his superiors, Director Quinlan has stated that someone from the Bush-Quayle campaign also called the Bureau to inquire about the interview, although the Bureau has not disclosed who made the call, who took it, or what was said.

The Bureau decided to instruct the prison to schedule the interview for the next day. In a subsequent memorandum, Director Quinlan gave three reasons: (1) unless granted, NBC had threatened to air the Kimberlin allegations "with the additional twist that the Bureau was preventing the interview until after the election to protect the Quayle candidacy"; (2) Kimberlin had a "fundamental lack of credibility," and (3) delaying the interview created the "likelihood of unnecessarily precipitating a 'cover-up' story just before the election." Director Quinlan also noted with satisfaction that the Bureau's judgment to allow the interview was "borne out by the fact that no news outlet carried the story in the pre-election period."

The NBC interview took place the next day, November 4, 1988. Although it was not broadcast, it did create a local stir when a small Oklahoma paper published the fact that the interview had taken place earlier that day. This article resulted in several new requests to the prison for interviews with Kimberlin.

PRESS CONFERENCE CANCELLATION—EARLY EVENING, NOVEMBER 4TH

The prison attempted to respond to the new interview requests. The acting warden, Greg Hershberger, who'd been with the Bureau for about ten years, decided that the best way to handle the requests was to schedule a single group interview that night in the prison's visiting room.

Mr. Hershberger set the group interview for 7:00 that evening. He told the prison official who handled press matters, Rodger Benefiel, to inform those interested in attending. He called his warden, Tom Martin, who was out of town for the weekend to tell him what he'd decided. The warden has testified that his reaction at the time was that, it "seemed to be a way of * * * appropriately utilizing the resources of the institution, as opposed to having a lot of individual interviews there. It was a way of handling the situation." He expressed no opposition. Mr. Hershberger also notified the Bureau's regional office, which expressed no opposition. He has stated that he consciously decided not to alert the Bureau's Washington office, because that was out of his "chain of command"; he instead left it to the regional office to take what action it would in terms of notifying Bureau headquarters.

About 10 to 15 individuals indicated that they would attend the prison's group interview that night, just four nights before the election.

Then word of the prison's plan started getting back to Washington. Reporters contacted the campaign and the Department of Justice public affairs office. The campaign's deputy press secretary, Mark Goodin, called the Justice Department to determine whether the prison was, in fact, going to hold a group interview. He has stated that, "I knew that I was about to be overtaken by events, and if this guy had a press conference, it was very likely that I was going to have to respond to the [Kimberlin] allegation[s] whether I liked it or not."

Mr. Goodin says that when he was told by Ms. Burstion-Wade, deputy director of public affairs at the Justice Department, that inmates can participate in press conferences, he responded, "I just never cease to be amazed." He then asked to speak to the public affairs director, Loye Miller, who also said it was within an inmate's rights to participate in a group interview. Goodin has stated that he responded, "I'm amazed," and later, "I am bowled over."

Mr. Goodin has stated that he asked Mr. Miller to keep the campaign informed of developments in this matter and that Mr. Miller agreed. Mr. Goodin and Mr. Miller have both stated that they later discussed the fact that a press conference could affect the election. In a 1989 memorandum, Mr. Miller stated that, in one conversation, Mr. Goodin "noted the obvious: that the closer to the Tuesday election that the story were to break, the more attention it was likely to get, and the better the chance that it could have at least some adverse effect on the Bush-Quayle chances." Mr. Goodin has testified: "Oh, I don't think there was any doubt about what could happen. I have seen this kind of thing play out before. I made it very clear when I approached other senior officials of the campaign that it could be—it was something that we needed to take seriously and deal with seriously because of its potential for adverse publicity."

Mr. Miller and his deputy, Ms. Burstion-Wade, each called the chief of the public affairs office at the Bureau of Prisons, Jim Jones, to inquire about the press event. Mr. Jones had already learned of the planned event from a reporter. Other top officials at the Justice Department, including the Attorney General's chief of staff, Robin Ross, were also informed.

Mr. Goodin alerted Mr. Baker and other top officials in the Bush-Quayle campaign to the possibility of the press event. In response, Mr. Quayle's campaign manager, Stu Spencer, began making press calls to challenge Kimberlin's credibility, but testified later that he got "no guarantees" from the press not to run the story. He testified that he made these press calls because, "Late charges can be devastating."

In the meantime, Mr. Jones sent a beeper message to Bureau Director Quinlan, then on a plane to Chicago. After landing, Mr. Quinlan called his office and was told of the prison's plan. Mr. Quinlan and Mr. Jones decided that the press event should be cancelled.

Mr. Quinlan then personally called the Bureau's regional director, J.D. Williams, and told him to cancel the press event. Mr. Williams called the prison. According to the acting warden, Mr. Hershberger, it was almost time for the group interview, and he asked Mr. Williams to reconsider. Mr. Williams agreed to do so, hung up the phone and apparently consulted with Mr. Quinlan or Mr. Jones once more. Mr. Hershberger has testified that Mr. Williams then called back with the verdict: "It's off. Cancel it."

The prison official assigned to deal with the media, Rodger Benefiel, told the 10 to 15 reporters waiting in the prison parking lot. When one demanded to film a public statement on why the interview had been cancelled, Mr. Benefiel read a statement drafted by the acting warden. It said that the press conference had been cancelled due to "unforeseen developments." When asked in a recent deposition what those unforeseen developments were, Mr. Benefiel said they were the order from Bureau officials to cancel the event.

Meanwhile, word of the cancellation got back to others in Washington who were interested. Mr. Miller in the Justice Department said word reached him within an hour or two of his first learning that a press conference was going to be held. Mr. Goodin at the campaign has stated that Justice alerted him by "late afternoon." The acting warden has reported learning of the cancellation a short time before the press conference was scheduled to begin at 7:00 p.m. It is unclear whether Mr. Goodin and Mr. Miller knew of the cancellation before the acting warden did. Mr. Miller has said that he also alerted Ms. Totenberg, who had inquired about the press event earlier. Kimberlin has said he was told of the cancellation about 8:30 that night.

At various times, the Bureau has given two different reasons for cancelling the prison's press event. In some depositions, Bureau personnel have implied that the press event was disruptive to the prison and had to be cancelled due to logistical problems. However, since the prison officials most closely involved have testified that there was no significant disruption to prison routine, that explanation is unconvincing.

The primary justification that Mr. Quinlan, Mr. Jones and other Bureau officials have offered is the flat statement that inmate press conferences are against Bureau policy. The Justice Department has stated in a letter to my Subcommittee that it has been "unable to identify any occasion on which an inmate 'press conference' was held in a federal prison."

There are four facts which refute this position. First, there is no written Bureau regulation or guideline that prohibits press conferences or even indirectly discusses them. The Bureau subsequently proposed such a written policy as part of a larger regulation, but then withdrew the rule without taking action on it.

Second, a November 1988 affidavit by former Congressman George Hansen, filed in unrelated litigation, copy attached, states that, during 1986 and 1987, the Bureau of Prisons allowed him to hold monthly press conferences in a federal prison in Virginia.

In his affidavit, Mr. Hansen states that, "Holding these press conferences was not merely approved, but was actually suggested, by the Federal Bureau of Prisons to accommodate press interest in me * * *." He states that "[s]ometimes over ten reporters and several television cameras were present."

A third fact that contradicts the Bureau's explanation is that the El Reno and regional prison officials were unaware that a "no press conference" policy existed. Tom Martin, who had been with the Bureau for almost 30 years, eight of them as warden of El Reno prison, testified that during his term the prison had housed some notorious inmates and "we were not exactly novice in terms of dealing with high visibility inmates." Yet he had not known of the policy against inmate press conference.

The Bureau's regional director, J.D. Williams, had been with the Bureau over 20 years. He also knew of the press event beforehand, yet expressed no opposition to it nor did he alert the prison to the alleged "no press conference" policy.

The acting warden, Mr. Hershberger, who had been with the Bureau about 10 years, has stated that he was unaware of the policy at the time and has yet to see it in writing.

Finally, Mr. Miller and his deputy at Justice initially advised the Bush-Quayle campaign that inmates are allowed to participate in press conferences. Deposition testimony indicates that they obtained that information from the Bureau. The Bureau's general counsel, Clair Cripe, has also been quoted in the press as saying inmate press conferences have been allowed in the past and are not against law or Bureau policy. The Hansen monthly press conferences provide proof of that position.

Yet Director Quinlan and the Justice Department maintain that the Kimberlin press conference, which was set up by the El Reno prison officials, was cancelled because inmate press conferences are not allowed. The available evidence does not support that claim.

FIRST DETENTION—LATE EVENING, NOVEMBER 4TH

The same night the press event was cancelled, Kimberlin was removed from the general prison population, placed in administrative detention, and his access to the media was halted.

Being placed in administrative detention is described by El Reno prisoners as getting thrown "in the hole." It consists of a prisoner's being confined in a particular cellblock with restricted privileges. Telephone use, exercise and visiting privileges are curtailed. Administrative detention removes prisoners from the general prison population to assess or protect their safety, investigate rule infractions, prepare for transfers to other facilities, or for other reasons. According to the Bureau, placement in administrative detention is not a punitive action. Punishment for prison rule violations is handled instead by placing prisoners in "disciplinary segregation," although at El Reno in 1988, prisoners subject to administrative detention were housed in the same cellblock as those subject to disciplinary segregation.

By November 1988, Kimberlin had been in prison approximately nine years without disciplinary problems. But on November 4, 1988, shortly after the press conference was cancelled, he was taken from his cell and thrown in "the hole."

When asked to explain the reason for placing Kimberlin in administrative detention, the Justice Department and Bureau of Prisons have provided the following facts.

Bureau Director Quinlan, whose actions directly caused Kimberlin's detention, has stated that sometime between 10:00 and 11:00 p.m. on November 4th, while attending an ABA function in Chicago, he received information that Kimberlin had expressed fear for his safety. Federal prison policy states that any inmate who fears for his or her safety may be placed in administrative detention pending an investigation of possible threats. Receiving that information thus gave Mr. Quinlan the justification he needed to order Kimberlin's detention.

Mr. Quinlan has never related who gave him this alleged information, when or in what form. But the Department of Justice has indicated that, upon receiving it, Mr. Quinlan personally telephoned the Bureau's regional director, J.D. Williams. In his December 1988 memorandum prepared for his superiors, Mr. Quinlan has stated that, "My instructions were to take appropriate steps to ensure the inmate's safety and to investigate the purported danger; it was clearly understood that this information would result in Kimberlin being placed in administrative detention * * * pending an assessment of any possible threat * * *."

Within the hour of Mr. Quinlan's call, Kimberlin was seized in his cell by six guards, handcuffed, marched to the detention unit in the cold, strip searched and placed in a small cell. Kimberlin's housing order stated: "NO! MORE CALLS FOR THIS INMATE/per Lt. Garvue"—a note which has been described by El Reno officials as unusual.

There is no evidence that any Director of the Bureau of Prisons had ever before personally ordered an individual inmate into administrative detention. Tom Martin, the prison warden, has expressed surprise at any involvement by the Director since, in his words, Mr. Quinlan "leaves that kind of thing up to the local facility." In fact, Mr. Martin has stated that administrative detention decisions are usually the province of the on-duty supervising lieutenant at the prison—in most cases, not even wardens are involved. Yet Kimberlin's circumstances rose through the Bureau's ranks all the way to the Director, leading Mr. Quinlan to make a late-night call from an out-of-town hotel to get Kimberlin placed in administrative detention, and, in contradiction to his own 1988 memorandum, is apparently now claiming it was a local decision.

The Justice Department made that latter claim in a September letter to the Subcommittee which stated that, "there was no order or instruction [by Mr. Quinlan or Mr. Williams] that Mr. Kimberlin be placed in administrative detention. * * * The actual decision to place Mr. Kimberlin into administrative detention pending an evaluation of the degree of risk facing him was made at the local level by Acting Warden Hershberger."

Yet Mr. Hershberger has stated under oath that he did not order Kimberlin's detention. In fact, after the press event was cancelled, Mr. Hershberger has stated that he ordered his staff to go out on the prison compound to assess any threat to Kimberlin from other inmates. The staff and he explicitly concluded that there was insufficient threat to justify Kimberlin's being confined. Mr. Hershberger then went home. Mr. Benefiel, the prison official who actually received the call from the regional director, was trying to finish up after the cancelled press event so he, too, could go home. He has stated under oath that he did not independently decide to place Kimberlin in administrative detention; he merely "passed on the request from the regional director" to do so. In fact, both he and Mr. Hershberger have agreed under oath that, in light of the prison's own investigation into Kimberlin's safety that night, absent the instruction from the regional director (which was initiated by Mr. Quinlan), Kimberlin would not have been placed in detention at all.

In contrast to the Justice Department's current position, in a June 19, 1989 letter issued by the Bureau of Prisons denying tort claims filed by Kimberlin, Carolyn Sabol, Regional Counsel, speaking for the Bureau states: "Mr. Quinlan did request that Mr. Kimberlin be placed in administrative detention late in the evening of November 4, 1988 * * *."

In short, despite the Justice Department's latest claim, the evidence is overwhelming that it was Mr. Quinlan's personal action that was the direct cause of Kimberlin's detention on November 4th.

There are also a number of unanswered questions about this detention. First is how Mr. Quinlan came to believe that Kimberlin feared for his safety. The Justice Department has indicated that Kimberlin told Ms. Totenberg over the telephone at some time on November 4th that he feared for his safety, that Ms. Totenberg conveyed this to Mr. Miller at the Justice Department, and that somehow Mr. Miller conveyed that information to Mr. Quinlan.

Contemporaneous documents and subsequent deposition testimony also use the Totenberg-Miller conversation as the primary justification for Kimberlin's detention on November 4th. A memorandum drafted by Mr. Benefiel, the prison official who got the call from the regional director to place Kimberlin in detention, cites that conversation. The actual detention papers, completed by a Lt. Wingo, cites that conversation. Jim Jones at the Bureau has stated under oath that both Mr. Miller and Mr. Quinlan told him that Mr. Miller had spoken directly to Mr. Quinlan about his conversation with Ms. Totenberg, and that Mr. Quinlan then called the regional director to detain Kimberlin on that basis.

Yet the evidence for this chain of events is weak and contradictory. First, the prison's own review of all of Kimberlin's telephone conversations on November 4th did not find any call in which Kimberlin made such a statement. Second, Ms. Totenberg has stated in a sworn affidavit that she never communicated that information to Mr. Miller, the alleged source for Mr. Quinlan. Third, Mr. Miller, who insists that Ms. Totenberg did give him that information, says she did so *after* she learned Kimberlin had been placed in administrative detention and was calling Mr. Miller to demand his release. Finally, Mr. Miller denies ever speaking to Mr. Quinlan about Kimberlin, period.

When asked to explain these discrepancies, the Justice Department merely states in its September letter to the Subcommittee that, "Just when and how that information reached Director Quinlan, who was then in Chicago, remains obscure."

Another unanswered question is who placed the "NO! MORE CALLS" order on Kimberlin's detention papers, which was unusual at El Reno and appears intended to cut off Kimberlin's access to the media. Lt. Garvue, who is credited with the no-more-calls order, cannot recall giving it nor can he explain the basis for it. Lt. Wingo, who completed the detention papers that night, has stated that Lt. Garvue did not have the authority to issue that order, and it would have "had to come from higher up." Yet Mr. Benefiel, Mr. Williams, Mr. Jones and everyone else deposed so far has denied providing that instruction.

The instruction was overridden the next day anyway when Ms. Totenberg called Mr. Miller at the Justice Department and Fred Fielding at the campaign and threatened to run the Kimberlin story unless Kimberlin were allowed to speak with her on the telephone to prove he was unharmed. Mr. Miller conveyed that threat to the Bureau, and Jim Jones instructed the regional office to arrange the call.

A third question pertains to why the investigation that was conducted the next day, on November 5th, to assess the alleged threat to Kimberlin's safety was handled in such an unusual way. The Special Investigative Supervisor placed in charge of the investigation was Lt. Jim Monk. He has stated under oath that his normal procedure when a third party alleges that an inmate fears for his safety is to interview the third party, the inmate, other inmates and the prison staff. But he took none of those steps here. Instead, he was instructed by acting warden Hershberger to review all of Kimberlin's telephone calls from October 31st through November 4th to determine whether Kimberlin ever expressed a fear for his safety. Lt. Monk reviewed 35 calls over that five-day period and never located such a statement. After he concluded his analysis, Kimberlin was released from detention at about 7:30 that evening. The Bureau has been unable to determine, however, who actually ordered Kimberlin's release.

The discrepancies, contradictions and confusion in the explanation of the first decision to place Kimberlin in administrative detention are evidence that it was not a straightforward decision made by professionals. Rather than protecting Kimberlin's safety it appears to be an effort to isolate Kimberlin for political purposes.

SECOND DETENTION—EARLY MORNING, NOVEMBER 7TH

Shortly after Kimberlin's release from detention the first time, the Bureau learned of his plans to contact an assembled group of reporters by telephone on November 7, 1988. Kimberlin was then isolated in a second administrative detention for a week, starting the day before the election and minutes before his scheduled telephone call.

After Kimberlin had been released from his first detention on Saturday evening, November 5th, he spent the next 24 hours trying to arrange his own press conference. His plan was to convince a group of reporters to assemble in a room at the Mayflower Hotel in Washington, D.C. on Monday, November 7th, at 10:00 a.m. and, at the appointed time, to telephone and present his story with the help of a speaker phone.

Because acting warden Hershberger had instructed Lt. Monk to monitor all of

Kimberlin's telephone conversations that weekend, the Bureau learned of Kimberlin's plan. There was no instruction, by the way, that Lt. Monk listen for threats to Kimberlin's safety; Mr. Hershberger did not provide him with any instruction other than to listen to all of Kimberlin's calls.

Federal prisons have the capability to monitor and record all telephone calls by inmates. Inmates are warned of this capability and, at the El Reno prison, signs by the telephones remind prisoners they are being monitored. El Reno's system permits the prison both to review past calls and to listen contemporaneously to ongoing conversations.

On Sunday evening, November 6, 1988, two days before the election, Richard Acuff, an associate warden at El Reno who was serving as acting warden while Mr. Hershberger was called away on a family emergency, stopped by the monitoring facility.

Mr. Acuff has stated that he regularly stopped by the monitoring facility to listen to prisoners' calls on a random basis. He has stated that he did so on Sunday night to get a sense of what was going on in the prison and to see what the prisoners thought about the upcoming election. During that visit, he listened to a conversation in which Kimberlin was urging a reporter to attend the hotel press conference the next morning. Lt. Monk informed him about Kimberlin's plan.

Mr. Acuff left the prison and walked to the nearby residence of prison warden Tom Martin, who had returned from out of town that Sunday night. Mr. Acuff has stated that he was leaving town for the next three days and wanted to be sure that the warden was informed of Kimberlin's plan to contact reporters at the Mayflower Hotel the next morning at 10:00 a.m.

By Monday morning, word of the hotel press conference had also reached Washington as reporters contacted both the Bureau of Prisons and the Department of Justice. At 9:45 on Monday morning, November 7th, 15 minutes before his scheduled telephone call to the press, Kimberlin was once again seized, handcuffed, strip searched, and placed in administrative detention. The log was marked: "No Phone Calls." He remained there for a week.

Like the first detention, there are a number of unanswered questions about this decision by the Bureau to place Kimberlin in administrative detention.

First, no one has admitted to making the decision to put Kimberlin in administrative detention a second time. The prison warden, Tom Martin, was in his office Monday morning, but doesn't recall giving the order or being consulted about it. He has stated that such decisions are usually made by a supervising lieutenant. However, Lt. Monk denies making the decision, as does Mr. Benefiel. On that particular Monday morning, Messrs. Hershberger and Acuff were both out of town.

A press article has quoted Mr. Miller as saying that Director Quinlan ordered the second detention. Mr. Quinlan is quoted in the same article as saying that he was aware of the detention but did not "personally" make the decision—unspecified local prison officials did. The Justice Department has claimed that Kimberlin's second detention was not even known to Washington officials beforehand.

Second, no one has admitted to issuing the "No Phone Calls" instruction. Kimberlin's access to the media was clearly halted during his week in detention yet, again, no Bureau official can recall issuing or being consulted about the order that limited Kimberlins's telephone use.

Third, the Bureau's justification for detaining Kimberlin raises substantive issues. The Bureau now insists that the sole reason for his November 7th detention was because, three days earlier, on November 4th, Kimberlin had made an unallowed third party telephone call to the Dukakis campaign. On November 4th, Kimberlin had, in fact, attempted to telephone the campaign. When the Dukakis campaign refused to accept his collect call, Kimberlin telephoned a friend who called the campaign on his behalf and forwarded Kimberlin's call. The Dukakis campaign then took a message from Kimberlin for the person he was trying to reach. This third party call was allegedly discovered on Monday morning by Lt. Monk who completed an "incident report" by 9:30 a.m.; this time is marked on the document. Fifteen minutes later, Kimberlin was thrown into administrative detention.

This alleged explanation for Kimberlin's second detention is suspect for several reasons.

There is the question of timing. Lt. Monk had completed reviewing Kimberlin's November 4th calls on November 5th, yet allegedly didn't discover the unallowed call until November 7th. It is unclear why he either failed to notice the call two days earlier or why he was again reviewing Kimberlin's calls that Monday morning. Even more surprising is that, within 15 minutes of his filing the incident report at 9:30 a.m., the prison processed it, located Kimberlin and placed him in administrative detention by 9:45 a.m.—all prior to his scheduled 10:00 a.m. call to the Mayflower Hotel.

There is the question of the administrative detention order itself. The only explanation given for Kimberlin's detention is the single word, "Investigation." The order doesn't say what was being investigated or who was doing it. And there is no evidence that any investigation was then underway. Lt. Monk has stated under oath that, unlike Kimberlin's first detention, he performed no investigation during Kimberlin's second detention. He explained that he had already completed his investigative work when he filed the incident report.

There is the question of the severity of the detention decision. Although third party calls are against prison rules, because they interfere with a prison's ability to monitor its prisoners and raise concerns about prison security and commissions of crime, federal regulations classify third party calls as one of the least severe rule infractions a prisoner can commit. A telephone call to the Dukakis campaign is not the type of call that raises security or criminal considerations. Administrative detention is not required in such circumstances.

For those reasons, the claim that Kimberlin's November 7th detention was caused by his November 4th third party call to the Dukakis campaign is simply not convincing.

Another factor is that there have also been other explanations offered by the Bureau of Prisons and Justice Department for this detention. The first focuses on the hotel press event. A December 1988 press article in the *Legal Times* quotes Mr. Miller as stating that, "The Bureau of Prisons caught on that [Kimberlin] was going to hold another press conference, so they put him back in." A memorandum written by Mr. Miller in October 1989, states that the Bureau had told him that Kimberlin: "had indeed tried to set up such a press conference. When they overhead this they took steps to prevent that and, in fact, Kimberlin was back in detention. It was certainly my understanding at the time that it was this attempt to hold an unauthorized press conference which directly caused him to be segregated once again. But it may well be that the cause, instead, was his attempt to get hold of the Dukakis campaign. Both of these gambits were clearly in violation of prison regulations and either or both were good cause for detention."

Similarly, the Bureau of Prisons stated in its June 1989 letter denying Kimberlin's tort claim that he was placed in detention a second time "as a result of" his attempts to "use the telephone to set up a press conference in Washington, D.C. that morning * * * [in] violation of our rules and [to] protect the integrity of institutional security." This document makes no mention of the third party call to the Dukakis campaign.

Another explanation advanced by Bureau officials cites third party calls in connection with the hotel press conference. Bureau Director Quinlan, in a December 1988 letter to Senator Biden, stated that it was a third party call on "Monday, November 7" that led to Kimberlin's detention. He made no mention of the call to the Dukakis campaign on Friday, November 4th. In an August 1990 letter to Congressman Kastenmeier, Mr. Quinland wrote that Kimberlin was detained because he made third party calls to arrange the hotel press conference, again making no mention of the November 4th call to the Dukakis campaign. Mr. Quinlan's chief of staff, Tom Kane, has also stated that his recollection of the reason for Kimberlin's second detention was his use of third party telephone calls to arrange the hotel press conference.

Yet the Justice Department has claimed in a letter to the Subcommittee that the hotel press conference was completely "unrelated" to the decision to place Kimberlin in detention a second time. The sole reason for Kimberlin's second detention on November 7th, according to the Justice Department, was Kimberlin's third party call on November 4th.

Finally, on November 7th, after Kimberlin's second detention had begun, the warden mailed to Director Quinlan, personally, seven cassette tapes containing recordings of Kimberlin's telephone conversations over the previous few days. Mr. Hershberger and Mr. Acuff have stated under oath that this was an unusual occurrence. Mr. Quinlan's chief of staff, Tom Kane, has stated that Mr. Quinlan's receipt of such tapes was "uncommon." We don't know why Mr. Quinlan requested these tapes or what was done with them.

THIRD DETENTION—DECEMBER 22ND

Kimberlin's second detention ended after a hearing on November 14th. That hearing found him guilty of making the third party call to the Dukakis campaign, then ordered his release. That same day, the United States Parole Commission reversed an earlier, preliminary decision making Kimberlin eligible for parole in 1993. It set back his parole date five years, to 1998.

A month later, on December 19, 1988, an extensive article on Kimberlin's allegations and treatment by the Bureau of Prisons appeared in the *Legal Times*. On December 20th, a short piece appeared in the *New York Times*. On December 21st, Kimberlin provided a telephone interview to a New York radio show which requested a response from the Bureau. That same day, USA Today, which then produced a television show, ran a story which featured split screen photographs of Kimberlin and Director Quinlan.

The prison resumed surveillance of Kimberlin during this time. Deposition testimony indicates that prison Lt. Gale Williams recorded Kimberlin's telephone conversations on at least December 20th and 21st, and in some cases listened to them contemporaneously.

At some point on December 21st, Jim Jones, chief of the public affairs office in the Bureau's headquarters in Washington, asked his chief of communications, Richard Phillips, to obtain an immediate recording of at least some of Kimberlin's calls. Mr. Phillips has stated under oath that he doesn't know why Mr. Jones wanted the recording, but "[t]here was a great deal of media interest" in Kimberlin at the time. He also stated that this was the only time he has been asked to obtain a recording of an inmate's conversations.

After obtaining permission from Warden Martin, Mr. Phillips contacted Lt. Gale Williams that same day. Lt. Williams played a tape of several Kimberlin conversations over the telephone, which Mr. Phillips recorded on his end. Mr. Phillips' recording also picked up the voices of himself and Lt. Williams as they discussed the calls. Several of the conversations were between Kimberlin and his attorney. At one point, Mr. Phillips indicated that he had taken notes, had to get the "attorney call * * * into the director," and asked Lt. Williams to send him by overnight mail cassette tapes of the conversations. Lt. Williams agreed.

The next day, on December 22, 1988, the prison seized Kimberlin from his work detail, handcuffed him, marched him to the administrative detention unit, strip searched him, and isolated him a third time. The housing log stated: "No phone calls unless permitted by team (per R Benefiel)." The charge was that Kimberlin had made a third party call to his attorney.

Again, no one has admitted issuing this detention order, and Mr. Benefiel can't recall giving the no-phone-calls instruction. The justification for the detention is even flimsier than for the second detention. According to letters provided by Kimberlin's attorneys to the prison, the findings of the hearing officer and information provided to the Subcommittee by the Justice Department, Kimberlin had called his attorney's office and the receptionist, without informing Kimberlin, had forwarded his call to the appropriate attorney who was in another building. A subsequent Bureau hearing not only cleared Kimberlin of any guilt, but criticized the prison for sending the matter out for a formal review.

On the same day that Kimberlin was thrown in "the hole" for the third time, Bureau Director Quinlan sent a memorandum to his superior, Associate Attorney General Keating, describing the "media activity" in the Kimberlin case. He began the memorandum by stating: "As you know, Kimberlin's allegations * * * have received additional media attention in the last several days."

FINDINGS

Based on the information reviewed and having been denied by the Justice Department two requested interviews, I can only conclude that the Bureau of Prisons did, in fact, take action against Brett Kimberlin for political purposes by cancelling a press conference on November 4, 1988, and placing him in administrative detention on November 4, November 7, and December 22, 1988, the primary purpose of which was to keep Kimberlin's allegations concerning Mr. Quayle out of the 1988 campaign.

As to each of these events:

(1) *Press Conference.* At the time, the Bureau of Prison's alleged "no inmate press conference" policy was either non-existent or selectively enforced and was used by the Bureau as a pretext for cancelling the press event scheduled by the prison on November 4, 1988.

(2) *First Detention.* Director Quinlan's actions were the direct cause of Kimberlin's placement in administrative detention on November 4, 1988. Director Quinlan's determination of the need to place Kimberlin in administrative detention on November 4th to protect him from other inmates contradicted the prison's own analysis of Kimberlin's safety needs and served as a pretext for placing Kimberlin in detention in order to limit his access to the media.

(3) *Second Detention.* After learning of Kimberlin's plan for a telephone press conference at the Mayflower Hotel on November 7, 1988, at 10:00 a.m., the Bureau used the information that Kimberlin had made an unallowed third party telephone call to the Dukakis campaign on November 4th as a pretext for returning him to detention on November 7th at 9:45 a.m., in order to prevent his telephone call to reporters and otherwise limit his access to the media.

(4) *Third Detention.* After several media stories in December 1988 describing Kimberlin's allegations and treatment by the Bureau of Prisons, the Bureau used information that Kimberlin had made a third party telephone call to his attorney as a pretext for returning him to administrative detention a third time on December 22, 1988, again in order to limit his access to the media.

UNANSWERED QUESTIONS

The information available to date leaves a number of specific questions about the Kimberlin matter unanswered:

Who from the Bush-Quayle campaign called the Bureau of Prisons on November 3, 1988, to ask about the NBC interview, and what was said?

Was the "no inmate press conferences" policy in existence on November 4, 1988; why hasn't the Bureau ever placed that policy in writing; and why wasn't it applied to the monthly press conferences held by former Congressman Hansen?

Who told Mr. Quinlan on November 4th that Kimberlin feared for his safety, and when did that occur?

Who released Kimberlin on November 5th?

Who ordered Kimberlin's second detention on November 7, 1988, and what was the Bureau's Washington office involvement, if any?

Why did Lt. Monk write up the incident report on Kimberlin's unallowed third party call to the Dukakis campaign on the morning of November 7th rather than the afternoon of November 5th, and how was the prison able to process that incident report within 15 minutes?

Who ordered Kimberlin's third detention on December 22, 1988, and what was the Bureau's Washington office involvement, if any?

Who limited Kimberlin's right to use the telephone during each of the three detentions and why?

What was the reason for heightened monitoring of Kimberlin's telephone calls; why were tapes of those calls sent to Director Quinlan; and what was done with the information?

What was the extent and purpose of all contacts by the Bush-Quayle campaign with either the Bureau of Prisons or the Department of Justice on this matter?

These specific questions cannot be answered until, at a minimum, interviews with Mr. Quinlan and Mr. Miller are conducted. Interviews of top officials from the 1988 campaign and the Justice Department may also be needed. Without this additional information, the evidence accumulated to date indicates that, in 1988, the Bureau of Prisons cancelled the prison's press conference and repeatedly placed Kimberlin in administrative detention for political purposes.

Jeffer, Mangels & Butler; William F. Abrams; Jeffrey A. Leon; One Sansome Street, 12th Floor, San Francisco, California 94104; telephone: (415) 398-8080

ACLU Foundation of Southern California; Carol Sobel; John Hagar; 633 South Schatto Place, Los Angeles, California 90005; telephone: (213) 487-1720

Attorneys for Plaintiffs, Dannie Martin and Nancy Hoffman.

Cooper, White & Cooper; Neil L. Shapiro; Lisa A. Zinkan; 101 California Street, San Francisco, California 9411; telephone: (415) 433-1900

Attorneys for Plaintiffs, The Chronicle Publishing Company.

[U.S. District Court, Northern District of California, Case No. C-88-2570 CAL]

DANNIE MARTIN, THE CHRONICLE PUBLISHING COMPANY, AND NANCY HOFFMAN, PLAINTIFFS, *v.* R.H. RISON, WARDEN FOR THE UNITED STATES PENITENTIARY AT LOMPOC, CALIFORNIA; TOM CURD, ASSISTANT WARDEN; PAUL HOFER, EXECUTIVE ASSISTANT TO THE WARDEN; JERRY WILLIFORD, DIRECTOR, WESTERN REGION, FEDERAL BUREAU OF PRISONS; MICHAEL QUINLAN, DIRECTOR, FEDERAL BUREAU OF PRISONS; AND THE FEDERAL BUREAU OF PRISONS, DEFENDANTS

DECLARATION OF GEORGE HANSEN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION AND SUMMARY JUDGMENT

I George Hansen, declare:

1. I am a former member of the United States Congress, having served for seven terms as a Congressman from the State of Idaho. I make this Declaration based upon my personal knowledge, and if called as a witness, I could competently testify to the truth and accuracy of the statements herein.

2. I served a six month federal prison term in 1986 on a charge of filing false financial disclosure statements. Because I allegedly violated a parole condition that required me to stay in the State of Virginia, I was returned to federal prison in April of 1987 for approximately six more months. I was incarcerated at the Federal Prison Camp at Petersburg, Virginia, during both my 1986 and 1987 prison stays.

3. While incarcerated at the Petersburg Federal Prison Camp, I wrote a provocative article entitled "The American Gulag" that was published with my byline in the *Freedom Magazine*. The Bureau of Prisons was well aware of my by-lined article. Thousands of petitions protesting my incarceration were sent to the White House, the Directors of the Federal Bureau of Prisons and the United States Parole Commission, and my Warden at the Peterburg Federal Prison Camp. Many of these petitions enclosed copies of my "American Gulag" article. In addition, copies of the "American Gulag" article were mailed to me in prison, and prison authorities reviewed my mail prior to my receipt of that mail. Finally, based on my observations, my by-lined article was common knowledge among prisoners and prison staff at the Petersburg Federal Prison Camp.

4. I gained substantial notoriety while I was in federal prison. Once every month of my incarceration, I conducted a press con-

ference with television, radio and newspaper reporters. Sometimes over ten reporters and several television cameras were present for these press conferences. Holding these press conferences was not merely approved, but was actually suggested, by the Federal Bureau of Prisons to accommodate press interest in me, my incarceration and my views on the federal prison system.

5. As a federal inmate I was an outspoken advocate for my fellow inmates. For example, while I was in federal prison, I testified in Washington, D.C., before the House Select Committee on Narcotics on the spread of AIDS in prisons. I also complained about prison conditions to numerous journalists. For example, I wrote to Columnist Jack Anderson about the serious health hazards from prison food preparation and handling. As reflected by the attached nationally syndicated columns by Jack Anderson, my written criticisms were quoted word-for-word and extensively in Mr. Anderson's columns. Other magazines, such as *Human Events* and *Spotlight Magazine* also quoted me extensively while I was incarcerated.

6. I was never punished during my incarceration for having a bylined article published. Nor was I ever even made aware of any prohibition on bylines or compensation for writers of articles in newspapers and magazines.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of Nov. 1988, in Washington, D.C.

GEORGE HANSEN.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5006

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of the conference report on the defense authorization bill, H.R. 5006; and that when the conference report is considered, it be considered under the following limitations: that there be a time limitation for debate of 90 minutes, with the time controlled as follows: 60 minutes under the control of the two managers, or their designees, and 30 minutes under the control of Senator GLENN.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT—H.R. 5006

Mr. MITCHELL. Mr. President, I ask unanimous consent that the agreement be modified to make clear that if this matter is taken up while the pending measure is before the Senate, that the time used on the DOD authorization be counted against the 30 hours postcloture on the pending NIH authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5677

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may, at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of the conference report and the amendments in disagreement to the Labor HHS appropriations bill, H.R. 5677, that no amendments to any amendments in disagreement be in order thereto; and that there be a time limitation for debate of 1 hour on both the conference report and the amendments in disagreement, equally divided between the two managers, or their designees, with an additional 20 minutes for debate under the control of Senator GRAHAM; provided that managers amendments be in order if the House further amends any amendments in disagreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. EXON. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for not more than 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1992 12-DAY PRE-GENERAL REPORTS

The filing date of the 12-Day Pre-General Report required by the Federal Election Campaign Act, as amended, is Thursday, October 22, 1992. The mailing date for the aforementioned report in Monday, October 19, 1992, if postmarked by registered or certified mail. If this report is transmitted in any other manner is must be received by the filing date. All Principal Campaign Committees supporting Senate candidates in the 1992 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. Senators may wish to advise campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 9 p.m. on Thursday, October 22, to receive these filings. In general, reports will be available the day after receipt. For further information, please contact the Office of Public Records on (202) 224-0322.

THE 1992 30-DAY POST-GENERAL REPORTS

The mailing and filing date of the 30-Day Post-General Report required by the Federal Election Campaign Act, as amended, in Thursday, December 3, 1993. All Principal Campaign Committees supporting Senate candidates in the 1992 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. Senators may wish to advise campaign committee personnel of this requirement.

The Public Records Office will be open from 9 a.m. until 5:30 p.m. on Thursday, December 3, to receive these filings. In general, reports will be available the day after receipt. For further information, please contact the Office of Public Records on (202) 224-0322.

THE 48-HOUR NOTIFICATIONS

The Office of Public Records will be open on three successive Saturdays and Sundays from 12 noon until 4 p.m. for the purpose of accepting 48-hour notifications of contributions required by the Federal Election Campaign Act, as amended. The dates are October 17 and 18, October 24 and 25, and October 31 and November 1. All principal campaign committees supporting Senate candidates in 1992 must notify the Secretary of the Senate regarding contribution of $1,000 or more if received after the 20th day, but more than 48 hours before the day of the general election. The 48-hour notifications may also be transmitted by facsimile machine. The Office of Public Records fax number is (202) 224-1851.

IN SUPPORT OF LEAHY AMENDMENT TO THE FISCAL YEAR 1993 DOD AUTHORIZATION

Mr. KERREY. Mr. President, I rise in strong support of the amendment offered by Senator LEAHY to impose a 1-

year moratorium on the sale, transfer or export of antipersonnel landmines.

The amendment also calls on the President to demonstrate leadership in an area where America's leadership is critically needed—to go much further than a 1-year moratorium by leading the international community in an effort to prohibit the sale, transfer or export of landmines.

The end of the cold war has brought with it tremendous opportunities to reduce and control the proliferation of nuclear and nonnuclear weapons around the world, but those opportunities demand that we demonstrate leadership within the international community. We have made progress recently with treaties to curb conventional forces in Europe and strategic weapons with the former Soviet States. We have made progress here in the Senate recently by adopting a mutual ban on nuclear testing. We must add to that effort measures to control the proliferation of antipersonnel landmines.

To understand why we need only look at the graphic results of the unrestricted laying of landmines in Afghanistan, Nicaragua, Mozambique, Angola, Sri Lanka and other conflicts. While the intended targets may be forces opposing the layers of the mines, all too often the true victims are children and other noncombatants. In the name of fighting a war, the minelayers sow terror and the trauma of living, and maybe dying, with grievous injuries and disabilities.

Nowhere is this more true today than in Cambodia. No one knows how many mines have been laid, what types of mines have been laid, where they have been laid, which factions have laid them, which country produced them, and so forth. The result is chaos, terror, and the highest percentage of physically disabled inhabitants of any country in the world.

The mines that are being detonated by civilians clearly miss the mark if the objective is to hit combatants. They are laid along footpaths, rice paddies, riverbeds, and around villages. According to a March 1991 survey conducted by representatives for Asia Watch, there are now 30,000 amputees in Cambodia, with an additional 5,000 to 6,000 living in refugee camps along the Thai-Cambodian border. They conclude that "These grim statistics mean that the Cambodian conflict may be the first war in history in which landmines have claimed more victims—combatants and noncombatants alike—than any other weapon."

It is estimated that, for every victim who survives the injuries from the explosion, another dies. For those who do survive and who must then undergo amputations, the prospects of rehabilitation are grim. The number of prosthetics turned out each year average 1,300—falling far short of the demand. Only 1 in 8 amputees receives an artificial limb, and most of them are soldiers.

These landmines are a major obstacle to the successful repatriation of Cambodian refugees who have lived for years on the Thai-Cambodian border. In the absence of an aggressive mine-clearing operation, which is still not in place, repatriation cannot proceed safely.

On a trip to Cambodia in 1990, I visited a clinic treating landmine victims in a refugee camp on the border. The conditions were appalling and the suffering extreme. And, even more troubling, the future for these amputees was grim in a country where access to prosthetics is very limited and where society treats them like pariahs. I urge my colleagues to support this amendment which can help prevent future situations like we see in Cambodia. And I urge the President to take the lead in the international community to curb the proliferation of these devastating weapons.

THE FISCAL YEAR 1993 TRANSPORTATION APPROPRIATIONS BILL

Mr. KERREY. Mr. President, I rise to express my strong objections to the conference agreement on the fiscal year 1993 transportation appropriations bill. Had there been a recorded vote on the conference report, I would have voted no.

While I understand that spending constraints impose heavy burdens on appropriations legislation, the allocation of highway funds in this conference agreement imposes an undue burden on Nebraska. Nebraska's allocation of highway funds in the conference agreement is $10 million less than the figure in the bill when it passed the Senate. A $10 million cut will impose serious hardships on a rural State like Nebraska where highway construction needs are great and where potential job creation would be of great benefit.

In the first year in which the new highway authorization legislation is in place, it is unfortunate but not surprising that Nebraska's allocation is so restrictive. Unfortunately, the authorizing legislation, which passed the Congress and was signed by the President in late 1991, included a formula that disadvantaged Nebraska. Under the final conference agreement on the highway legislation Nebraska will receive $87 million less than in the version which passed the Senate over the 5-year authorization period.

While there are problems with the underlying highway authorization legislation, I intend to work with Senator EXON to address this situation in next year's appropriations legislation.

START TREATY RATIFICATION

Mr. KERREY. Mr. President, I rise in support of ratifying the START Treaty. This is a vital treaty, an essential treaty. I didn't always feel that way. When the Soviet Union dissolved into 15 countries, when those successor countries renounced communism and came under leadership that was friendlier to us, when the economic problems in the former Soviet Union seemed to affect their military readiness, and especially when, last June 17, Presidents Bush and Yeltsin agreed on weapons reductions far below the START levels, it seemed to me that START's relevance had faded. But when we reviewed the treaty in the Intelligence Committee, to determine whether the treaty could be monitored and verified by our Intelligence Community, I recognized that for several reasons, this treaty is key to a peaceful transition away from the cold war.

First, START provides a method for reducing nuclear arms. Its mix of cooperative measures—inspections, measurements, transmission of missile test telemetry in the clear—provides a system and a recurring, reassuring routine by which these weapons can be reduced. The cooperative measures and unilateral intelligence capabilities can, together, provide us and the former Soviet signatories with confidence in the process. The same methods ordained by START can and almost undoubtedly will be used to carry out the reductions required by the Bush-Yeltsin agreement. The parties know these methods work because we and they use some of them to enforce the INF and CFE Treaties.

Second, START works toward our longer range interest, which is stability in the former Soviet Union. In the course of carrying out their START obligations, the new Republics of Russia, Byelarus, Ikraine, and Kazakhstan will have to cooperate with each other, since they together are the Soviet Union's successor for the purposes of arms reduction under START. Their militaries will have strong reasons to share data and to coordinate. The possibility of inspections under START will also encourage the smaller Republics to meet their commitments to gradually cease to be nuclear states. START reduces the risk that these countries will fight each other. That's a key goal for us, especially if the fight could become nuclear.

Third, START helps stabilize the former Soviet Republics because it encourages them to be responsibile and mature. It brings Ukraine, Byelarus, and Kazakhstan into the world of grownups on the international stage. No longer are they the artifical creations of some long-deceased Soviet mapmaker. START makes them signatories to a nuclear weapons reduction treaty with the strongest nation on Earth. I can think of no better way to bring maturity and responsibility to these new republics than to have them playing in our league, required to send inspection teams to the United States and to receive ours in their countries.

But I am concerned about the ability of the former Soviet signatories to carry out their obligations under the START. These countries are undergoing terrible financial crises, their resources are very poorly distributed. I note the administration's stated belief that each of the parties is capable of paying its portion of the START costs, but I also note that Ukraine has already asked informally for a reallocation of the costs. I doubt if this will be the last such request, because these countries are truly strapped. It is in our long term interest to respond favorably.

They are also strapped for know-how. If they can't destroy their missiles and warheads safely, and if our cosignatories, who lived through Chernobyl, don't have confidence in their destruction methods, START won't work. We shouldn't wait for their request for technical assistance in START-mandated destruction, we should be preparing now to provide it. No country in the world can match out expertise in demilitarizing these missiles and warheads.

The last thing anyone wants to hear about START, or any other treaty, is that it will involve us spending money in another country. There is nothing in START that says we have to, either. But if we don't offer financial and technical assistance so that these impoverished countries can abide by START, we run the risk of losing the greatest opportunity presented by our victory in the cold war.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. JOHNSTON. Mr. President, it is appropriate that we are considering the conference report to S. 2, the Neighborhood Schools Improvement Act, upon the recent release of the 1992 edition of the National Education Goals Report. The report is a timely reminder of what our purpose should be when we consider educational reform measures.

Perhaps the most important message contained in the report for students, parents, and policymakers is that we are in danger of becoming too complacent about academic achievement and performance. Evidence suggests that too many of our notions about educational achievement are rooted in misperceptions about innate ability and not in the reality of hard work and effort.

In addition, many of us are not realistic about the educational demands of the changing global economy. For example, we do not have enough programs for noncollege-bound students who, now more than ever, must have the ability to quickly create and adapt to new technologies in order to compete effectively.

Our mandate is clear, and the objectives of Federal support for education must be targeted even more effectively. This brings me to the issue before the Senate today.

The purpose of the Neighborhood Schools Improvement Act is to codify the national educational goals under a framework which can be achieved by the year 2000. And the question before us today is, will this legislation help in achieving these goals? I think that it does.

This bill strengthens our resolve to enhance the role of public education. Funds will be targeted directly to help those schools which have the greatest needs. And, without question, our public schools must be the backbone of the effort to reform education in the United States.

The Neighborhood Schools Improvement Act will do much to provide the resources needed to restore confidence in our public schools, especially in my home State, Louisiana. The bill will provide $16.9 million for my State's public schools, which are in need of increased support.

According to the Louisiana State Department of Education, over 787,000 students attend Louisiana public schools and we spend an average of $3,641 per student, which ranks our State 42d in the Nation. The programs that can be implemented by this act will afford my State the opportunity to extract even more value for every dollar spent on education.

Under this legislation, our local school districts will have the opportunity to create innovative, cooperative educational ventures to benefit all of our students, teachers, and families. It will concentrate on, among other things, our efforts to save the 9,394 students in my State who dropped out of school last year, and the potential dropouts who will be denied opportunity to gain the necessary skills to fulfill their lives. If we do not address the needs of such students, the cost to our future will be crippling.

We need more legislative initiatives such as this to foster a cooperative effort of policy, public opinion, compassion, and courage. By allowing for local input, where the decisions about our educational priorities should be made, we honor the tradition of community based American public education.

Finally, we must recognize, as Jonathan Kozol points out in "Savage Inequalities", that our Nation's best public schools are also the best schools in the world. Many have argued for the abandonment of many of our most impoverished public schools. But, in my view, this subverts the intent of real reform. The problem is not that we do not have great schools; it is that we do not have enough of them.

I believe that the Neighborhood Schools Improvement Act will create incentives for an expansion of public schools of excellence and achievement. It will add to the number of our great public schools and provide an impetus for all students to achieve their goals and our Nation's goals.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Ms. MIKULSKI. Mr. President, our education system is in big trouble and we all know it. The Neighborhood Schools Improvement Act is a big step in the right direction.

This bill establishes broad national goals toward which State and local school systems and individual schools can work.

These goals allow schools the flexibility to develop and try innovative methods, but give the necessary framework to assure that we're all moving in the same direction.

This is an important step forward because we want to improve all our schools and be able to borrow the best ideas from each other toward meeting mutual goals.

Mr. President, I want all American children to start school ready to learn. That's why I'm glad this is one of the goals in this bill.

I also want American students to graduate from high school. We know that 25 percent of current jobs will disappear before the end of this century—they just won't exist any more. What jobs are these? They're the jobs that don't require a high school diploma.

Mr. President, the goal under this bill to increase the rate of high school graduation is critical to our national well-being because our jobs are at stake.

It's also critical that our students get the math and science skills to compete for the jobs that will take the place of the lost jobs I just spoke about.

Making our students No. 1 in the world in math and science is another goal in this bill. I know we can do it, but we need the national commitment and focus that this bill gives.

And who can argue against the goal to rid our schools of the drugs and violence that have threatened our children?

Mr. President, goals are important. They are important because they keep us focused on our future, the future of Maryland's students, and future of students all across America.

My State has an innovative education reform plan called Schools for Success. The support that Maryland could get from S. 2 would add the financial spark Maryland schools need to get this plan going. The plan is aimed at comprehensive school improvement and reform.

S. 2 will allow the State to set up more regional staff development centers. These centers will better train the teachers in our classrooms.

It will also allow the State to award challenge grants to schools to develop annual improvement plans and strengthen the Maryland school performance program. My State needs this help.

Mr. President, I submit that we all need this help. We must make this investment in improving our schools. The promise of education is too precious to squander. I want the best for our children and our future.

Mr. President, there is much to like about this bill, but I want to mention a few things that I especially like.

First, it is based on the premise that the best solutions to the problems facing the schools will come from local schools, parents, teachers, business people, administrators, and students—not from the Federal Government. I couldn't agree more with this premise.

Second, this bill deals with improving all our schools in a comprehensive manner.

Third, it gets money down to the individual school level—at least 80 percent must reach the local level after the first year. We don't need or want to fund bureaucracies at the State or local level. We need money to be in the hands of the people on the front lines.

Fourth, it demands that schools that participate in the improvement grants program actually improve. If they don't improve in the area they are working on, funds are cut off. We don't continue to pour good money after bad. Schools are held accountable.

Fifth, it continues development of education content standards. As a nation, we need to know if we are progressing in meeting our goals.

And finally, Mr. President, it contains a provision to fund tests in 10 States in which schools will be freed from regulatory requirements.

Mr. President, I am pleased to support the bill we are considering today.

We are in a war for America's future. And the future of our children is at stake.

It's time we stopped fooling around and stopped talking about the need for school reform and, instead, actually do something about it.

We need this bill to add some fuel to the fire we must light under the educational system in this country.

THE CONFERENCE REPORT TO THE CRIME BILL

Mr. **GORTON**. Mr. President, in June 1988, Chief Justice Rehnquist formed the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases in response to widespread frustration with the criminal justice system's inability to administer fairness and justice in cases dealing with the death penalty. The committee was chaired by retired Associate Justice Lewis F. Powell and included several highly respected judges from the fifth and eleventh circuits which experience the highest numbers of death penalty cases.

The committee's findings in 1989 included the following statement:

> The fundamental requirement of a criminal justice system is fairness. In habeas corpus proceedings fairness requires that a defendant be provided a searching and impartial examination of his claims. Fairness also requires that if a defendant's claims are found to be devoid of merit after such examination, society is rightfully entitled to have the penalty prescribed by law carried out without unreasonable delay.

Rather than responding to that appeal, the conference report that is before us again instead overturns the Supreme Court's habeas corpus decisions that keep convicted criminals in prison and limit obstruction of the death penalty. In addition, the conference report would require the reversal of convictions based on harmless error despite independent overwhelming evidence of guilt. The conference bill also has provisions which would shorten the prison terms of many Federal offenders.

Mr. President, it is the habeas corpus provisions in the conference report that concern me the most. These provisons not only ignore the appeal of the Powell Commission, they intentionally reverse the progress the Supreme Court has made to alleviate the delays in our justice system. In Barefoot versus Estelle (1983), the Supreme Court encouraged the lower Federal courts to give expedited consideration to habeas corpus petitions in capital cases, and held that stays of execution are not automatically granted in the course of habeas corpus litigation in such cases.

The conference bill, however, overturns this decision and increases delay by imposing an automatic stay of execution in all capital cases which continues through the litigation of a habeas corpus petition. A position more consistent with the Powell Commission is the Thurmond-Gramm Crime Control Act of 1992 which goes beyond Barefoot in reducing delay by providing for a 180-day time limit for filing habeas corpus petitions in capital cases and sets definite time limits for Federal courts to finish the litigation of such petitions. That is progress in achieving fairness in our criminal justice system.

A closer look at the fine print of the conference report confirms the belief shared among many that the Democrat's crime bill is a lawyer's dream. For instance, in Murray versus Giarratano (1989), Pennsylvania versus Finley (1987), and Ross versus Moffitt (1974), the Supreme Court has held that States are not required to provide appointed counsel at the later stages of litigation—collateral and discretionary review proceedings—which come after trial and appeal. The conference bill overturns these decisions as well and requires in capital cases States to appoint at least two lawyers to represent capital defendants at all stages of litigation, including collateral and discretionary review proceedings. Such a requirement, again, will simply add to the delays and costs already prevalent in our legal system.

Another common abuse in capital cases is efforts by defendants and their attorneys to overturn convictions by raising claims in Federal habeas corpus proceedings that were never presented to State courts. Even in the Warren Court period, the Supreme Court placed some limits on this abuse, holding in Fay versus Noia (1963) that a Federal court may dismiss a claim if it was deliberately withheld in the State proceedings.

Recent decisions of the Court have imposed more stringent restrictions on this abuse. A prisoner generally must show cause; that is, a clear justification—for failing to raise a claim earlier. Alleged error by a defendant's lawyer in failing to raise a claim is no excuse unless the error amounted to constitutional ineffectiveness of counsel. In addition, in Sumner verus Mata (1981), the Supreme Court strengthened a rule that requires Federal habeas corpus courts to respect the Federal determinations of the State courts that rejected a prisoner's claims.

The conference bill overturns all of these decisions and all appointments of lawyers in State capital cases would have to be made by a defender organization, a capital defense resource center, or a special committee of criminal lawyers, not by judges. At least two lawyers would have to be appointed at all stages of litigation, and these lawyers would have to meet qualifications standards which exceed those that Congress has provided for Federal capital cases. Again, we can see why this legislation has so much support by lawyers.

In contrast, the proposed Thurmond-Gramm crime bill, S. 2305, provides effective reforms to curb the abuse of habeas corpus that thwarts the use of State death penalty laws and undermines the criminal justice process in every type of criminal case. The reforms include definite time limits for Federal courts to conclude the litigation of habeas corpus petitions so that lawfully imposed death sentences can be promptly carried out, and strict limitation of repetitive habeas petitions. In addition, the Thurmond-Gramm Crime Control Act provides for time limits on the filing by prisoners of habeas corpus petitions attacking their convictions or sentences, and a rule upholding reasonable decisions by State courts rejecting prisoners' claims.

The issue of habeas corpus is arcane and usually reserved for law school classroom debates. However, its relevance here cannot be overstated. The impact of the Democrats' conference report would be devastating to efforts to reform and improve the fairness and efficiency of our criminal justice system. We cannot afford to take a step backwards and create more impediments to justice. Although this conference report contains a variety of reasons to oppose it, mostly due to the fact that Republicans were left out of the critical House-Senate conference, the habeas corpus provisions are reason enough for this Senator to oppose a motion to proceed to consideration.

THE 20TH ANNIVERSARY OF RHODE ISLAND HEALTH CENTER ASSOCIATION

Mr. PELL. Mr. President, this October marks the 20th anniversary of the Rhode Island Health Center Association, the organization that represents Rhode Island's community health centers. As a strong and longtime supporter of our Nation's community health centers, and as a Rhode Islander who is very proud of the excellent work of, and quality care provided by, Rhode Island's community health centers, I would like to offer my congratulations and best wishes to all those affiliated with the Rhode Island Health Center Association, including its hard-working and dedicated director, Barbara Colt.

Mr. President, I recently received the September 1992 issue of the Community's Health, the newsletter of the Rhode Island Health Center Association. The cover page contains an excellent article describing the association and its history and goals. I ask unanimous consent to include in the RECORD, at the conclusion of my remarks, the article entitled "Association's Twentieth Anniversary," and would like to take this opportunity to wish Rhode Island's community health centers, their staffs, and their patients, a healthy and successful future.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Newsletter of the Rhode Island Health Center Association, September 1992]

ASSOCIATION'S TWENTIETH ANNIVERSARY

In October, the Rhode Island Health Center Association will mark its twentieth anniversary. The Association was founded to promote the development of a sound system of high quality primary health care for all and to advance the work of community health centers.

Community health centers are organizations governed by the people they serve. They provide primary care, address the health needs of their community, and care for people regardless of their ability to pay. In 1992, the goals of the Association haven't changed, but the environment in which they operate is vastly different.

Community health centers are no longer small, store-front clinics with volunteer doctors and nurses delivering minimal primary care. There are now fourteen community health centers in Rhode Island providing the full range of primary health care services to almost 60,000 people, in every part of the state. Although each center is a private, non-profit, charitable organization, the network of centers functions as the state's public health system, but without the sufficient public funding that such a responsibility demands.

As for the health care environment, the emphasis has been on developing sophisticated and expensive technologies for complicated diseases. It has often been done at the expense of basic prenatal, pediatric, and adult health care which might, if rendered early and appropriately, prevent serious and chronic disease and, hopefully, the financial and personal cost of treatment.

An even more detrimental trend, however, has been the erosion of concern for providing good health care for people who are poor or have limited resources. Every day, there are more and more people without health insurance. Practically daily, the cost of health care escalates, putting it out of the reach of even middle-income families. The anguish, frustration, and just plain fear which these developments cause is real and damaging to people's mental and physical well-being.

We hope that the hallmark of our twenty-first year is a renewed commitment on the part of the political and medical establishment to get serious about ensuring proper health care for everyone.

ALAN CRANSTON: CRUSADER FOR PEACE

Mr. PELL. Mr. President, it was with a true sense of sadness and regret that I learned of the coming departure of our colleague and friend, the distinguished senior Senator from California, ALAN CRANSTON.

I have long admired Senator CRANSTON for his courageous espousal of the many causes in which we shared a common commitment, most especially his crusade for arms control. It was because of his unwavering dedication to reduction in armaments that I enthusiastically supported his candidacy for President in 1984.

For almost 24 years, ALAN CRANSTON has been in the forefront of the campaign for world peace. It is perhaps fitting that he should choose to retire now that the cold war has ended, for it was his concern over the threat of nuclear arms which first brought him to the Senate. Since that time, no issue was too small or too large for him to take on in his quest to make the world a safer better place in which to live.

In his first term, Senator CRANSTON was a very active participant in the Senate deliberations on the interim Strategic Arms Limitation Treaty in 1972, and called for deep reductions in SALT II. As Whip, he organized a bipartisan, informal SALT Study Group to discuss ways of controlling the spread of nuclear arms. He was an original cosponsor of the Nuclear Nonproliferation Act of 1978, which tightened nuclear exports standards and safeguards.

He has always been quick to use the Senate's bully pulpit to focus the Nation's attention on the dangers of nuclear proliferation, whether it was his 1980 fight to oppose the sale of nuclear fuel to India or his speeches early in 1981 which drew attention to the danger of nuclear programs in Pakistan, India and Iraq.

Recently, as a member of the Foreign Relations Committee and chairman of the Subcommittee on East Asia and Pacific Affairs, he held a series of hearings to draw attention to North Korea's nuclear weapons program, as well as that of the People's Republic of China.

From his early days, ALAN CRANSTON was a crusader against man's inhumanity to man and a vigorous advocate for the rule of law. In 1939, he translated a version of Hitler's "Mein Kampf" draw the American people's attention to the implications of the Nazi program.

As a member of the Senate, he worked to make human rights a cornerstone of American foreign policy. He joined with Hubert Humphrey to win adoption of 1975 legislation which curbed U.S. aid to dictators. He supported conditions of United States aid to El Salvador, and he led efforts to secure emigration rights for Soviet Jews.

Most recently he tenaciously led the fight on the Senate floor to reverse the Bush administration's policies toward Cambodia. Today there are United Nations forces in Cambodia, due in good part to ALAN CRANSTON's insistence that an American policy of supporting warring Cambodia factions was not going to lead to a Cambodian peace.

ALAN CRANSTON was an early supporter of United States recognition of the People's Republic of China, but he always believed that the Chinese people were more important than the Chinese Government. When the massacre in Tiananmen Square took place in June 1989, he was one of the first Senators to introduce legislation ending most-favored-nation treatment for China. Diplomatic relations and trade have always been perceived as a means to the end, which is achievement of freedom and democracy—but not the end itself.

ALAN CRANSTON is bringing to a close a truly remarkable senatorial career. It can best be summed up, I believe, by saying that ALAN CRANSTON has been, above all, an ardent crusader for peace, a vigilant guardian of human rights and a ready opponent of injustice wherever it appeared. I can think of no higher levels of accomplishment to which any of us could aspire.

TRIBUTE TO WILLIAM PENN MOTT

Mr. CRANSTON. Mr. President, I rise to pay tribute to William Penn Mott who died on September 21.

Many of my colleagues will remember Bill Mott as the director of the National Park Service from 1985 to 1989. But they may not be familiar with Bill's long and distinguished career in parks and recreation at all levels of government. Bill first worked for the National Park Service from 1933 to 1946 when he became parks superintendent for Oakland, CA. In 1962 Bill Mott was named general manager of the East Bay Regional Park District, the largest regional park in the Nation. From 1967 to 1975 he served as director of the California Department of Parks and Recreation under Governor Reagan. He then served as general manager of the East Bay Zoological Society in Oakland before being named director of the National Park Service. After stepping down as NPS director, Bill Mott returned to California where he continued to work for the Interior Department as a special assistant to the NPS western regional director until his death.

I first met Bill Mott years ago in California and was enormously pleased with his appointment as NPS Director. Bill gave early encouragement to my efforts to protect the California desert, and most especially for national park status of Kelso Dunes and surrounding lands in the East Mojave. He worked well with both Democrats and Republicans. He was courteous and mild mannered, and also a strong voice for and champion of preservation and parks throughout his life.

We shall miss Bill Mott.

JOSEPH L. RAUH, JR.—A FEARLESS FIGHTER FOR JUSTICE

Mr. KENNEDY. Mr. President, on September 3, 1992, the Constitution and the country lost one of their greatest defenders when Joseph L. Rauh, Jr. passed away. I extend my deepest sympathy to Olie Rauh, Joe's wife of 57 years, and to the entire Rauh family.

Joe Rauh was a lawyer's lawyer. A graduate of Harvard College and Harvard Law School, he served as a law clerk for Justices Benjamin Cardozo and Felix Frankfurter. He then became one of the young Turks who made the New Deal work, and he played an important role in America's mobilization at the beginning of World War II, before enlisting and serving in the Pacific.

Following the war, Joe Rauh entered private law practice, where he was a consistent champion of individual liberty. He defended playwrights Lillian Hellman and Arthur Miller against congressional excesses during the McCarthy era. And he represented many outstanding leaders of organized labor, including Jock Yablonski and Walter Reuther.

Even in the face of many setbacks, Joe Rauh maintained his wonderful humor and good cheer. Of his years in practice, he said, "Others made all the money, but we had all the fun." And I would add, he made all the difference.

For more than half a century, Joe Rauh was the conscience of civil rights in America. He helped to draft the civil rights plank at the 1948 Democratic Convention, a key first step in the struggle to remove the stain of discrimination from the fabric of America. As counsel to the Leadership Conference on Civil Rights, he was a leader in all of the historic legislative battles to enact into law the Constitution's great promise of equal justice for all. No one fought harder or better than Joe Rauh to resist efforts to stack the Supreme Court with Justices who would turn back the clock on civil rights.

Here in the Senate, whenever constitutional rights and liberties were at issue, Joe Rauh would be in the Senate reception room just off the floor, or walking the Halls of the Capitol and the Senate office buildings, urging Senators to cast a vote of conscience. He was a beacon of principle cutting through the fog of political debate. I sought his wise counsel many times over the years on legislative strategy and Supreme Court nominations and he gave it generously, with wit, grace, surpassing intelligence, and always straight from the heart.

Looking back on America's accomplishments in his lifetime, Joe said, "I'm proud of our laws. What our generation has done is bring equality in law. The next generation has to bring equality in fact." All of us who knew Joe and loved him will miss him deeply in the years ahead. His greatest memorial will be to rededicate ourselves to working, as he did, to fulfill the Constitution's great promise of equal justice under law.

Last Sunday, September 27, nearly a thousand people attended a memorial service for Joe here in Washington. The list of speakers reflected the breadth and richness of Joe's extraordinary life: Senator Tom Eagleton, Roger Wilkins, Arthur Schlesinger, Jr., Arthur Miller, and Katharine Graham joined Joe's family in paying tribute to this exemplary American.

I ask unanimous consent that their tributes and other materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOSEPH L. RAUH, JR., JANUARY 3, 1911 TO SEPTEMBER 3, 1992

(Memorial Service, September, 27, 1992)

QUOTES FROM JOE RAUH

"Do your best and don't take yourself too seriously."

"Others made all the money, but we had all the fun."

"Everybody knows that lawyers are rated below sanitation workers in public esteem but even the legal profession affords those who will take it the opportunity to work in the public interest and the joy that comes with such work."

"I'm proud of our laws. What our generation has done is bring equality in law. The next generation has to bring equality in fact."

"I believe the organizations that comprise the Leadership Conference on Civil Rights can one day build a truly equitable society. Having accomplished so much we should be bold enough to try for more."

"The legal profession should be one that places public interest above private gain, that puts the use of legal tools for progress and equality above the defense of the status quo, that treats legal services for the have nots on a par with those for the haves, that utilizes law as an instrument for helping the powerless and not for protecting the powerful, and above all that makes the law a vehicle for righting social wrongs and not perpetuating them."

THE FREEDOM OF SPEECH MEDAL

(Presented on March 4, 1983, St. James Church, Hyde Park)

As a young man, you served Franklin Roosevelt, first as a lieutenant in the New Deal, later as a lieutenant-colonel in the Pacific war. In the years since, you have greatly exemplified the purposes that President Roosevelt affirmed in demanding Freedom of Speech as a universal obligation of nations. Your courage and eloquence in defense of civil liberties and human rights have commanded the consent of the courts and the respect of your countrymen. The working people of our land have found in you an undaunted champion. You have roused the national conscience in the struggle against injustice. You have lived faithfully by your own philosophy. In your vindication of Freedom of Speech, you have shown the power of free expression to help shape the better world of which Franklin Roosevelt dreamed.

MEMORIAL SERVICE

Rabbi Fred Reiner, Fifteenth Psalm, Twenty-third Psalm.

Suzanne Rauh, B. Michael Rauh, Jr.

Thomas F. Eagleton.

Roger W. Wilkins.

Arthur M. Schlesinger, Jr.

Arthur Miller.

Katharine Graham.

Statements of Carl S. Rauh and Joseph L. Rauh, III (read by Rabbi Reiner).

B. Michael Rauh.

Memorial Prayer: Mourners Kaddish.

Songs sung by Douglas Mishkin: "Sweet Survivor," "Weave Me The Sunshine".

DEMOCRACY'S PITCHMAN

The life story of Joseph Rauh, who died on Thursday at 81, had many histories. The most famous, perhaps, were his strenuous lobbying in behalf of every major civil rights bill from 1957 on, his battle against McCarthyism and his struggles over the conscience and membership of the U.S. Supreme Court.

He was also the proud partner of Clarence Mitchell when the two served as co-chairmen of the Leadership Conference on Civil Rights. He treasured the day when Senator Harry Byrd Sr., the Virginia segregationist, gestured toward the gallery and cried, "There they are, the Gold Dust twins."

Generations of Washingtonians enjoyed the spectacle of the private Joe Rauh holding forth on a softball diamond on Sunday afternoons. When he chose up sides with Alan Barth, the Washington Post editorial writer, he did so shrewdly and competitively after scouting the day's array of talent.

Pitching for his side, he would hurl the ball past all batters, old and young, male and female, with equal speed and spin. Later, over lemonade, he'd savor the day's political developments and tell of his hopes and worries for a Supreme Court he had revered since his time as law clerk to Justices Benjamin Cardozo and Felix Frankfurter.

He continued to think about the Court until the end. A friend who saw him at lunch Thursday heard his guarded optimism about the election and hip prediction that Democratic appointees could help correct the Court's rightward course.

Mostly he pitched for democracy. His deep, craggy voice resonated through the halls and chambers of Congress. He demanded to be heard and he got his hearings through lean and fat years of his causes. Those who knew him will miss his attentiveness—and his pressure on others to be attentive—to human rights. Many who never knew him are the beneficiaries of that pressure and passion.

New York Times Editorial, September 5, 1992.

REMARKS OF SUZANNE RAUH

Most of you gathered here today, knew my grandfather, my Pawpaw, in a public way—through his never ending march for equal rights throughout his life time. Some of you may been a close friend, an all, you may have crossed paths, or you might have been an admirer from afar.

I had the distinct honor of being his only granddaughter.

The day I was born, my grandfather brought my mother a charm. It lit up and said "it's a girl". Pawpaw continued to light up my life for the following 30 years.

My grandfather always told me that I was one of the two other women in his life, excluding my grandmother, the other woman being Marilyn Monroe. Can you imagine being 8 years old and having to compete with those two blondes!

My grandfather was not a materialistic person, although I do recall several family occasions when he encouraged my two brothers to dance with my grandmother. I believe he offered then $5 for one dance and $15 for two.

My life has been filled with much family travel. We always spent birthdays, holidays, and anniversary together. In my growing up years our Sundays were spend at "Joe's office", that is poolside. We always ended the day with a family dinner, typically Chinese or at Arbaugh's.

It is these times that I became aware of my grandfathers contagious laughter and his keen ability to tell a story. He brought so much enthusiasm to the table, he gave us all so much pleasure. As I grew older, our Sunday's lead into tailgate parties at RFK Stadium and cheering for the Redskins.

I look back now, and I find it quite amazing that with all of his accomplishments, his interests, his battles, his dates for lunch at Duke's, Pawpaw always made time for me. No matter what the occasion, from my preschool, kindergarten, high school, college, equestrian competitions, he was always present. Never overshadowing an event, always letting me know how important I was and how much he loved me.

Pawpaw had a great love for people, for themselves, at their best and at their worst. He knew the faults of others and recognized his own. My grandfather loved his grandchildren very much. As I loved him.

I will never forget the many things in life he stood for, things which were so evident in the life he lived. I will try to keep as many of his virtues alive in me as I can, though there are a few that I cannot approach, for where my grandfather was good, he was very, very good.

I know that up there, some where, Pawpaw is sipping on his first martini of the day, sharing stories with Sachel Paige, Sammy Baugh, Mr. King, President Kennedy, Marilyn—of course, Dooyie and Carol, and a cast of thousands. So I would like to take this opportunity, to toast him for just a few of the many contributions he made to my life.

Pawpaw, I'd like to thank you for making better laws for our Nation, for caring and believing so much in your causes, for changing our country so that it would be a better place for me to live.

As my high school graduation speaker you taught my generation that it is not what you do in life but how you do it that leads to the fulfillment to which we all aspire. Thank you for being the finest example of this any person could have been.

Thanks for sharing so many nice times with me, and making so many special memories with me. For teaching me how to grow old gracefully, and with dignity. Most of all for not allowing any of us, especially yourself, to suffer from loneliness, indignities, or pain.

Thank you for teaching me how to make every minute of life count, how to keep the cup full, and live life to it's fullest. This is what you did until the very end.

Well Pawpaw, now you are gone, and I think of you, our friendship, our happiness, the love that we shared. I am trying very hard not to be sad. Instead, I smile at our memories, and I share with you the ultimate peace that I have found in knowing and loving you.

"Cheers to my Pawpaw."

REMARKS OF B. MICHAEL RAUH, JR.

I used to think I was a pretty special person because Joe Rauh was my grandfather. A couple of days after he died, a little less than a month ago, we had a small service for our family at the house and I spoke to that group, and as I stood there in front of fifteen or twenty of our closest relatives, I realized that we were all pretty special because we are all related to Joe. And as I stand here this morning and as I have seen people this morning, I realize that everybody here is very special. We are all special—not just me—not just the family—but all of us because we all knew Joe in one way or another.

I think as far back as I can remember, Joe was really a role model for me personally, and I know for probably just about everyone in this room in one way or another he was a role model as well. Probably one of the best role models you could have because every part of his life was spent in the same beliefs. He was truthful and self-true to his beliefs and so all of us were able to pick up on the things that he believed in simply by watching him live life. It really wasn't unfortunately until he died, that I started to think about many of the things that I learned from him personally and I'm sure most of you learned from him as well.

I think probably one of the most important things that we all learned from Joe was to use our personal resources for the good of other people—not for ourselves. Not just money, because anyone can give money, but what Joe gave of was himself. From his head to his toes, he gave everything he had, physically, emotionally and intellectually for the good of others.

I think most of us have respect for him because he was able to take the moral high ground on any issue that came before him. I remember whenever I was a little bit confused about things, life always seemed to be gray to me but to him it was black and white and I could always turn to him if I needed to know which way I should be going on a particular issue. One of the things that I really appreciated about him personally was that he was the kind of person who didn't believe in simply talking about the philosophy of things, he was the kind of person who believed in making things happen. He wanted to make a difference. And he made a difference in a lot of ways.

I think on a family level, he taught us all a lot about love; particularly his love for his wife, Olie. There was never a person who in my experience was more dedicated to his wife than Joe was, and I think we all learned a lot from that. Speaking of his love for his family, I remember one New Year's Eve when I was in college, I had gotten quite ill and was in the hospital, feeling pretty sorry for myself because it was about 9:00 o'clock on New Year's Eve and I was there by myself. No one was around, the family was all out celebrating—the nurses on New Year's Eve aren't the best looking nurses in the hospital—and I was lying there, watching television, waiting for the big ball to come down, and in comes Joe, in a tuxedo and an overcoat, with a bottle of champagne tucked under his arm. And my face obviously lit up, and I said, "This is fantastic. I can't believe that finally, someone remembered that I was here." Joe said, "Don't flatter yourself, kid. This was the best excuse I ever had to get out of the ballet with Olie."

He taught me a lot about many, many things. But one of the things I really appreciate the most is that he taught me to appreciate the finer points of a good, smooth Bourbon. I remember as a kid, he and I used to go to the Redskins games together—I think I was seven or eight when we started going together and I went for years and years. And on particularly cold Sundays in December Olie would pack a couple of thermoses—one for him one for me. I don't know how old I was, I must have been nine or ten probably and it was a particularly cold Sunday at RFK and I must have gone through my thermos of hot chocolate before the end of the third quarter and I started to get a little shivery. And he looked at me and said, "Here, try some of this." I can still remember that taste in my mouth. Once I got over the initial shock I thought, "Boy, this is pretty good." So I started dumping the hot chocolate in the parking lot after that—and going right for Joe's bullshot.

I think probably the thing I remember best about my grandfather is that he was the eternal optimist. You couldn't get him to say anything bad. You couldn't get him to say what was wrong. He always looked on the bright side of things. And of all the things that I appreciate about him the most, I think that's probably it. Joe's life touched a lot of people. He touched me—he touched our family—he touched all of you. He touched tens of thousands, countless people that we'll never even know about. But I think for his life to take the kind of meaning that is should, it is important that Suzanne, my brother, Terry, and I, the rest of our family, and all of you pledge to ourselves, but more importantly, pledge to Joe, that we will take the things he taught us as our role model and will apply them in the same way that he did, because in that way his life will have touched even more. Thank you.

REMARKS OF SENATOR THOMAS EAGLETON

If—God forbid—our country were someday hit with an ideological Hurricane Andrew, we could endure as free people if the Bill of Rights and the XIV Amendment were able to survive such an awesome ill wind. The Bill of Rights and the XIV Amendment constitute the bedrock of America's freedom now and forever more. This was the premise—and the promise—of Joe Rauh.

He was a lawyer who actually believed in the rule of law. He believed in the capacity of law to help fashion a more just society. To him, the law was the tool to be used affirmatively to remedy inequity. As he saw it, the Equal Protection Clause of the Constitution in practical application was quite obvious: Everyone—however situated, however textured—everyone was to be accepted and treated fairly—so Joe Rauh devoutly believed.

In my life, I have known some wonderful, refreshing, inspiring people. But I have known perhaps as few as three individuals who on all occasions—I repeat all occasions—put conscience ahead of all other considerations: Senator Mike Mansfield, Senator Phil Hart, and Joe Rauh. Whenever I needed a conscience, I knew where to turn—to Joe Rauh.

His last letter to me on May 16 of this year addressed the issue of school integration—specifically in the context of a hugely expensive and controversial high school that had been recently built in Kansas City. I had sent him an article from the Kansas City newspaper on the subject. He wrote back to me, "Yes, there seems to have been a hell of a lot of spending on the school building and the fancy athletic equipment. I can't pass judgment on that. I can pass judgment on equal educational opportunity. On that, we cannot turn back—no matter what."

In this time in which public decision-making is frozen in the end-justifies-the-means mentality, men of conscience are all the more needed, all the more precious. We have now lost the best that God can fashion.

"We" means the nation as a whole and the disadvantaged in particular. "We" means his friends and admirers here present. And "we", most of all, mean Olie, Michael and Carl. They, fortified with the moving, warm, and tender personal memories, know how fortunate we all were that the courage and conscience of Joe Rauh came America's way.

REMARKS OF ROGER WILKINS

A little more than thirty years ago, when I was preparing to come to Washington, my Uncle Roy gave me two pieces of advice: Never forget where you came from and get to know Clarence Mitchell and Joe Rauh. He didn't call them by their rightful name, "The Goldust Twins," but he made it clear that he thought they were the twin peaks of our side; the bulwarks in Washington of American decency.

It was the best advice my uncle ever gave me.

When I was young, I expected that America would solve her racial problems. I thought that the best white people in the country had internalized the nation's highest ideals and would fight for them until they were realized and that they would struggle and lead by example until the rest of white America had been brought along. It hasn't quite worked out that way.

But Joe lived up to every hope I ever had for white people. While others retreated to lower ground, Joe never gave up on the country's highest principles.

He also saw us blacks whole. He had no need to color us from the palate of his fantasy. If he encountered a black hero like A. Philip Randolph, the head of the Brotherhood of Sleeping Car Porters, (whom Joe always called "Mr. Randolph"), he saw a hero. If he encountered a black beloved colleague and friend, like Clarence Mitchell, he saw a beloved colleague and friend. And if he encountered a black bum, Joe saw a bum.

Shortly after Andy Young was fired for having had contact with a PLO representative, a leadership meeting was called at NAACP headquarters in New York. When I got there and was heading into the meeting room, I noticed Joe sitting alone in a small room just off the hallway.

"What're you doing sitting in here all by yourself, Joe?" I asked.

"Well, I got an invitation," he replied, "but now they say they don't want any white people in there."

"That's awful," I said. "I'll stay here with you."

"No," Joe said, "that's all right. Sometimes people need their privacy. Now you go on in there. That's where you ought to be."

And then there was Joe's spirit. The day after he died, Bill Taylor and I were talking about how Joe really was a happy warrior and I was dwelling on "happy" and Bill was emphasizing "warrior."

"Joe taught me a lot," Bill said. "Though he was more than twenty years older than I, there'd be times when I thought we'd been beaten and Joe would say, 'No, we've got to do something.'"

I remember sharing a platform with Joe one time in San Diego and making one of my gloomy speeches about how bad things are and how we're mired down and all that sour stuff.

Joe rushed to the microphone and said:

"Look! We've changed this nation. We used to have a legalized system of racial subordination. We've destroyed that. That's done. We may still have a lot to do, but we've changed this nation!"

A true warrior.

Joe was the full embodiment of the ideal citizen that Jefferson used to dream about. Joe gloried in his political freedom and never tired of working to keep America's promises whether they were embodied in some statute or in the Bill of Rights or in the great Civil War Amendments.

We who have lived in this town for a long time have seen a lot of puffed egos in expensive suits staggering around under big titles that were too heavy for them to carry. Joe didn't have a government title for almost fifty years and yet there was a title that he made and burnished. It grew with all his works. It was finally so large that only one man was big enough to carry it. It was the best title in town.

It was, simply, Joe Rauh.

REMARKS OF ARTHUR SCHLESINGER, JR.

Joe Rauh was a great American patriot. He believed profoundly and stubbornly and wholeheartedly in American democracy, in the Constitution, in the Bill of Rights, and he dedicated his life to making the promises of America real for all Americans. He fought for his country in wartime, and he fought for it in peacetime, and he fought always with brilliance and boundless energy and candor and joy.

Joe was the quintessential New Dealer. Yet, as an undergraduate at Harvard, he had been a football-watching, basketball-playing (Jimmy Wechsler used to say that Joe's experience playing center for losing Harvard basketball teams explained his later sympathy for the underdog), hipflask-carrying, generally roystering and rollicking fellow, who once helped tear down the goalposts in New Haven the night before The Game. His mother reproached him in later years: "I wish I had known you were going to turn out so well, because I wouldn't have worried so much about you when you were young."

His life changed at Harvard Law School when Felix Frankfurter brought the New Deal to Cambridge and found in Joe one of his most apt and devoted, if also one of his most irreverent, pupils. More than half a century ago Joe moved on to Washington and the New Deal—and never abandoned either.

He had the New Dealer's conviction that people mattered. He had an active, practical, indomitable faith in the right of free men and women to speak their minds and to use affirmative government for the general welfare and in their capacity to exercise these rights within the American constitutional order. He was anti-dogmatic and anti-sentimental; nor was he ever bothered by the prospect of power. He adored a good fight and much preferred winning to losing. He believed in the force of ideas, of reason, of debate, of persuasion. He was the conscience of liberalism in our time.

We first met in 1945 when we had both returned from the war. We both wanted to preserve the New Deal spirit from sabotage on the right and Stalinism on the left, and I gratefully followed Joe and Eleanor Roosevelt and Reinhold Niebuhr and Walter Reuther into Americans for Democratic Action. For many years Joe was the soul of ADA, the sagacious mentor, the tireless organizer, the animating and sustaining force. Liberalism, as Joe and ADA understood it, had nothing in common with communism, either as to means or as to ends. He therefore saw no role for communists in the liberal movement at home and no hope in the world beyond for a creed that murdered its dissenters and required a cruel police state to stay in power.

He was our great contemporary guardian of the Constitution. As clerk to two remarkable men, Justice Cardozo and Justice Frankfurter, he had learned both the resilience and the potentiality of the great charter of American democracy and the intricacy and precision of legal craftsmanship; and he became the foremost civil liberties and civil rights lawyer of our time. He battled for unions and for union democracy, condemned the abuses of congressional investigations and of the executive loyalty program, denounced Joe McCarthy and never hesitated to question the divinity of J. Edgar Hoover. He was the vigilant protector of the Supreme Court against improper and unqualified nominations. He was an unlimited source of aid and support to men and women in distress. I doubt that any lawyer in American history has had more impact on the Court and on Congress in the vindication of individual freedoms and in the defense of the Bill of Rights.

His passion for racial justice began early. At Harvard, when a New York hotel turned away a black basketball teammate, Joe led the whole team to another hotel. In 1941 he wrote FRD's executive order establishing the Fair Employment Practices Commission with the famous phrase mandating employment in defense industries for all "regardless of race, national origin, religion, or color." As counsel of the Leadership Conference on Civil Rights, he played a central role in the formulation and enactment of every piece of civil rights legislation.

And through it all, for all the passion of his commitment, he kept his humor and perspective. He was such a joyous man; there always remained that rollicking quality about him. He was the greatest fun to be with. He laughed a great deal, mostly at himself. Who's Who in America invites people to sum up their philosophy of life. Joe's entry concludes: "Do your best and don't take yourself too seriously."

He loved a good joke, a good softball game, a good tennis match, a good dry martini, a good barge trip through the canals of France. He loved FDR and Cardozo and Frankfurter and Ben Cohen and Ed Prichard and Phil Graham and Jimmy Wechsler and so many friends still alive and with us here this morning. He loved his children and grandchildren and, above all, he loved Olie, that enchanting blonde from St. Louis who, in one of his luckiest hours, agreed to marry him nearly sixty years ago. One has the picture of Olie through the years waiting sweetly and patiently while Joe worked or argued late into the night, introducing a gentle skepticism at moments of undue fervor or tension and infusing Joe's life with a lovely tranquility.

The republic was lucky to have had him around for more than eighty years, and we are all lucky to have known him for even a portion of that time. Joe was high-spirited and great-hearted and tough-minded and brave and funny and wise. His strength, his optimism, his purity of leadership refreshed the liberal soul in bad times and held it to its highest standards in good. He was an unrepentant New Dealer to the end. He embodied the old, robust, realistic, exuberant American liberal tradition—liberalism without sentimentality, without self-pity, without illusion but with unquenchable hope for all humanity. That is the tradition that perennially recalls America to its best self and that will bring the America of the future ever closer to its professed ideals. Joe Rauh will go down in history as one of its heroes.

REMARKS OF ARTHUR MILLER

Joe Rauh can be summed up in five words—the truth was in him.

Joe was of course a deeply serious man but I have always associated him with laughter. The world—especially America—must have seemed a wonderfully ironical place to him. One afternoon during my trial in Federal Court for contempt of Congress the Prosecution managed for the third or fourth time to repeat in passing that I had misused a United States passport by travelling in Poland, then a country proscribed for Americans to enter without special authorization from God. Delighted with the opportunity to make monkeys out of the Justice Department, Joe sprang to his feet and told the judge, as he had two or three times before, that I had never set foot in Poland and that the charge was a deliberate fabrication.

The Judge thought—or seemed to think—about this for a full quarter of a minute and then said, "I think it falls under the four corners of the indictment," and continued the trial.

I turned to Joe beside me and whispered, "What does that mean?"

With a grin of overwhelming happiness he replied, "Not a damned thing."

He admired my work but I think what he really loved was a good musical. He was absolutely American. He did not particularly like sad endings. Life had enough misery without buying a ticket to more. Joe never wore his seriousness on his sleeve.

I know how futile a thought it is but I have never been able to accept that Joe Rauh was not appointed a justice of the Supreme Court. But of course he was too uncompromising, especially in his insistence upon the equality of all the races in this country, a cause to which he devoted so much of his life.

The poet Robert Burns wrote, "My father was an uncompromisingly honest and forthright man, and so we were poor." Joe's views and principles did not know seasons but kept blooming in the winter as well as in the enfolding warmth of summer. It is not a rhetorical excess to say that he lived the Law. Not just the laws that suited him but the Law as the embodiment of perhaps the most sublime ideals of civilized people in their age-old wrestling match with their baser instincts, their prejudices and greed and vindictiveness.

If Joe was a reader of literature he certainly kept it a secret from me; but perhaps the law and the achievement of justice had all the intellectual beauty and majesty he required to nourish his soul. But I think he understood in his bones the deep underlying themes of great literature and lived them out; the immortal longing of humankind for freedom, the noble and endlessly repeated confrontations with arbitrary power and above all the struggle with hypocrisy and fake moralizing. These kept him busy through his long life—busy and laughing.

His standards of political morality could be daunting. When Bork was turned down and all opposing him were congratulating themselves with great sighs of relief, Joe was unable to forget that Mr. Kennedy, to whom there were practically no liberal objections, had a record quite as reactionary and insensitive and he could not quite celebrate Bork's defeat when the larger battle was not finished.

Joe Rauh was unusual among those who defy prevailing opinion—he had no guilt feelings about doing it. His object as a citizen and a lawyer was not to achieve some noble remorse for a lost cause, but to win. I recall the first day of my trail for contempt of the UnAmerican Committee; the judge leaned forward and said that the Government was going to need about an hour to present its case, and would Joe like to take about the same amount of time for the defense?—he saw no reason not to finish the whole thing by lunch.

"I'm afraid not before lunch," Joe replied, "I'd estimate four to five days to present our case." Days! Agony struck the judge's eyes and the Prosecution table went white. Joe resumed his seat, straightened his polka dot bow tie, and looked as contented as Mark Twain's proverbial Christian with five aces.

If at any particular time he found himself in a suspect minority he never stopped believing that fate was on his side and that this was by its very nature a liberal country whose fundamental principles were liberal ones. I think he was sure that his basic political positions were in a direct line with the Constitution and the Bill of Rights, which had made Conservatives nervous from the very beginning and still do. But that was their problem, not his. He seemed to have no intellectual roots in Europe and its class struggles; if in fact his attitudes were the inheritance from English political philosophers like John Stuart Mill and Jeremy Bentham and Adam Smith, his conscious sources were almost purely Middle West American.

By any standards Joe Rauh had a wonderful life. He had his beloved Olie to collaborate with him, and their children, and perhaps the rarest of all gifts—a sublime reason to live in his lifelong battle for freedom, a battle which has enriched and enlightened us all, and nation he so loved.

REMARKS OF KATHARINE GRAHAM

As I think back over Joe's long, fruitful, dynamic life, a central fact emerges: Joe never changed from the time Phil and I first knew him and Olie over fifty years ago, to the moment of his death. He was in the prime of his life from beginning to end. He never slowed down in his passionate zeal to improve the world for individuals and for society.

To very few people is it given to be brave, wise, embattled and funny, to enjoy life and to contribute, to have the same mind and verve and memory, and then to be taken one evening in a minute. It makes the loss seem greater for us because it seemed as though Joe would go on being Joe forever.

Joe and Phil first came to know each other as Frankurter's progeny and first law clerks. Along with Prich and Butch Fisher, Joe and Phil formed a remarkable group of young turks who were brash, brilliant, irreverent, argumentative and cut-ups.

Frankfurther treated them as equals, and they responded in kind. Joe said, "Frankfurter denounced us, but no more than we denounced him. We screamed at him to such an extent one night that Mrs. Frankfurter referred to us as the four barbarians."

The barbarians didn't wait long to get involved in national affairs. Joe said, "We had the gall to tell Felix what he had to tell Roosevelt about how to stop Hitler. We weren't at all bashful in making our proposals on how to help the allies. We had chutzpah."

Later, working together in Lend-Lease, Joe and his compatriots strove relentlessly to prepare for war when the country didn't want to. They cut corners and red tape. They manipulated the bureaucracy. And they leaked to the press with splendid regularity. The joke was that Don Nelson, chairman of the War Production Board, read his mail in the morning paper.

Somewhat to my surprise Joe later reflected that leaking raised serious ethical problems, but said: "We would never have gotten as much done in the pre-war period, if we had not engaged in that tactic. In plain English, we thought we knew more about converting to war than the people who were running it." I think they were right.

The day after Pearl Harbor, Joe and Phil tried to enlist, but the recruiting officer laughed. They both had wives and bad eyes, and Joe had children. Later, of course, both made it into the service. Phil and Joe met-up in the Philippines, from which Phil wrote me in early December 1944:

"Lunch with Joe was as much fun as you can imagine. He came bursting in, in typical bearlike attitude and embraced me heartily and noisily and then proceeded to shout all the local gossip in as Rauhlike and as unsoldierly a manner as you can imagine. We would walk along and bump into a chicken colonel and Joe would say to him you tell general so-and-so that if he doesn't turn over such-and-such a job to us, he'll get his throat cut. And the chicken would smile understandingly and call Joe a disrespectful sonofabitch. You can see the old goon has not lost his touch."

After the war, Joe started his own law firm. But the law for Joe was just a way of leading the life he wanted to lead. Joe always lived his beliefs more than anyone in our whole generation, or anyone I know. And Olie lived them with him. The two formed a unique and indissoluble union, with Olie bringing gentleness and stability, and her own humor and loyalty to their partnership. They worked together always and on everything.

In the early '50s several organizations each took a night to picket the segregated National Theatre. ADA had Friday night. Olie and Joe used to go and picket. Joe said, "It was kind of a nice social thing, you'd work off your dinner." In fact, it was dangerous.

Joe's role in the 1957 civil rights act, the first to be passed, illustrates his extraordinary ability to be mentally flexible in the way he chose to reach his goals. There was a lot of feeling on the part of the civil rights forces that this bill was less than nothing. Virtually everything had been taken out except the right to vote.

The liberals had the forces to kill the bill. Joe started out on the fence. But he understood that you had to show you could pass something, even something small, to go forward and pass something big. In an all-night meeting, Joe persuaded Roy Wilkins and the whole group to accept the bill.

Phil called Joe at 6:00 a.m. to relay a message from Johnson, who had told Phil, "That goddam sonofabitch friend of yours saved my bill."

Unlike Phil Joe was not a Johnson supporter. He not only was against Johnson for the vice presidential nomination in 1960, but Joe thought he had a promise from Kennedy that it would be either Humphrey or a midwestern liberal. When Johnson got the nod, very real anger broke out on the floor of the convention among many people. Phil and Joe were photographed there, with Phil—a soulful expression of his face—trying to calm Joe down.

Many years later, Joe told me he wished he could get a message to Phil that Johnson turned out to be the best civil rights president the country ever had. I like to think the message has been delivered.

As the years went on, Joe never lost his delight in a good argument and telling it like it is. He never lost his boundless optimism. He never lost his faith in the ultimate victory of liberal values. He never gave up the fight.

Fifty years ago, early in World War II, Joe wrote to Phil and me from overseas. Referring to Phil and himself, Joe said, "We've both got the same itch to see what it's really like up front. I wonder if either of us is going to satisfy the itch before it's over."

In a valiant life of noble battles, glorious victories and only temporary defeats, Joe did.

REMARKS OF CARL S. RAUH

I had the good fortune to have had Joe Rauh for my father. I loved him dearly and am very grateful for all he did for me. For as long ago as I can remember, we were the greatest of friends and had such wonderful times together.

My dad loved his family so very much. He brought his beautiful qualities of warmth, humor, caring for others, commitment to justice and enjoyment for life into our family. He totally abored Olie, and no wife could have been more devoted to a husband than she was to him. My dad would make the following statement after going to a political party:

"Everybody was chasing after celebrities. The only celebrity I chased was Olie."

My dad always made Debbie and me feel so special, too, as I know he did with many of you. He wrote us a note recently, saying:

"It's great to have such a lovely family. The older one gets, the more that means. Thanks from the bottom of my heart."

My dad would always welcome my friends into his home, and my close friends became his good friends.

My father was a wonderful teacher of what matters in life. He taught by example; he taught by his actions. No one ever worked harder or persevered more than he did to accomplish what was right. He devoted his life to fight intolerance and injustice in America and he usually succeeded. He was the best lawyer I ever knew, and his career will be a model for many young people for years to come.

He gave all the strength he had to the cause of freedom in this country. Yet he seemed to have plenty of time and energy left over for family, friends and fun.

As boys growing up in the fifties, he would take Michael and me to the ballpark to watch the Senators and Redskins. We would play tennis and softball together. He was a terrific athlete, enjoyed sports immensely and played tennis until he was 75, often with me as his doubles partner.

There were always memorable summer vacations at Cape Cod or elsewhere. In 1952, the family took a six-week station wagon tour of the Western United States, visiting Yellowstone and Yosemite, the Grand Canyon, San Francisco, the California coast, and more. In 1954, the family took an eight-week tour of Europe; this time in a Volkswagen Bus. What fun we had being together, eating at wonderful restaurants and seeing the great sites of England, Scotland, France, Belgium, Holland, Germany and Italy. Dad's sister Louise was always included in these travels. There were many other fabulous family trips in the 1960s and 1970s. These were great times. In 1985, the family had a week-long celebration of Olie and Joe's 50th wedding anniversary at Mallow Castle in Ireland. In January 1991, the whole family gathered for almost a week at the Breakers in Palm Beach to celebrate Dad's 80th birthday. We were all there with him—Olie, Michael, Maggie, Debbie, Michael, Jr., Annette, Suzanne, Tim, Terry and me—and he had a big smile for each of us.

My dad really enjoyed living, which frequently included two martinis at lunch and a bourbon on the rocks before dinner. His good nature and perpetual smile made him such fun to be around. He had such a good time just sitting around and talking with his family, friends and acquaintances. For the past 10 years or more I had lunch almost every Saturday with him and my Mom at their house. We would have a sandwich and talk about the week's events in their lives and in mine. It was something we all looked forward to and enjoyed immensely.

I could talk on and on. I have such vivid, wonderful memories of my father. I will end with simply this. My dad's courage and accomplishments have left the world a much better place. He was a beautiful person, and I am very proud to be his son.

REMARKS OF JOSEPH L. RAUH, III

My grandfather was the greatest man I'll ever know. My grandfather loved people. He loved my grandmother, he loved his family and friends but most of all, he loved life.

Because the name Joseph L. Rauh, Jr. may be synonymous with civil rights, not surprisingly, every aspect of his life embraced the advancement of the cause.

My earliest and fondest memories were of the family "sip 'n dips" in the backyard where national and local leaders, unbeknownst to me, spoke about civil rights around the pool-side bar.

I also enjoyed personal time with my grandfather. We would talk in the car on the way to baseball and football games. And, of course, in the Washington tradition, these discussions centered around law, and were always engaging. We played softball up the street from his house and that was another opportunity to have drink, (or two) and a good time. He eagerly looked forward to my 21st birthday so that we could drink together. And that time with him affected me in ways that I'm still discovering now.

I remember being too young to recognize the people in the pictures on his office walls—like Humphrey, McGovern, and Stevenson. I would take documents from his desk to form an elaborate paper fort, watching and listening as he defended the civil liberties of the United States. Although I was playing with his work, I remember seeing his enormous hands feeding me the needed pencils and pens to erect the door to my monumental playhouse. He had a great sense of humor and was always willing to aid in the construction of a dream.

In the twenty nine years that I was blessed to have known my grandfather, he instilled in me values, commitments and dreams that will last me my lifetime. He taught me the values of helping others and about the commitments and sacrifices that one must make to achieve these goals. He taught me that life is short. Do it now, make it happen, believe in yourself and others will believe in you. He gave me ambition, love and an appreciation and respect for the world and its people. But the most important thing he taught me was how to dream. My grandfather, like so many others, had many dreams. His dreams encompassed the unity and brotherhood of mankind.

Always eager to listen with such great intensity, my grandfather was always there for me. He answered historical questions for history and law classes, giving me first hand accounts on major civil liberties acts, guiding me through my adolescent years. He genuinely cared about what people had to say and would go out of his way to see things from their point of view. He would let you know how he felt about a situation, but would never infringe upon your rights to an opinion. His mannerisms and demeanor were governed by the laws of equality and justice for all.

My grandfather has influenced the lives of everyone here. His willingness to educate, write and speak out has given us all a foundation on which to grow, live and love. He has taught us to be thankful that we live in a Democratic society and that we have a constitutional right to speak out for what we believe. He has planted seeds in the minds of people of my generation, knowing that civil liberties for all is a never ending, uphill battle. He has given us strength and a belief that where there is a will, through perseverance, unity, and education, we can change the world. Joseph L. Rauh, Jr. was living proof that one person can make a difference, and he did.

I will greatly miss my grandfather. My grandfather was the greatest man I'll ever know.

REMARKS OF B. MICHAEL RAUH

Rabbi, thank you, Terry and Carl, your thoughts are beautiful.

Suzanne and Michael, you certainly have inherited your Grandfather's gift for public speaking.

Kay, Arthur, Roger, Arthur, and Tom, for Olie, Carl, myself and our entire family, thank you for sharing your remembrances with us today.

Dad lovest you. That may not be the best of grammar, but those three words speak volumes about my view of the life of Paw Paw, his advocacy, his commitments, his dedication, his enthusiasm, and his priorities.

Dad—Dad was a family person. Long before an about-to-be former President used words like "kinder, gentler," "thousand points of light," and "family values," Dad was that caring person, he lit the candles that gave hope for so many, and he set real values for honesty in government service, hard work, civic leadership, fairness and equality to all persons regardless of economic strata, and he spent lifetime dedicated to improving the opportunities for his fellow man and woman, so that their place in their lifetime could reach their highest goals. He fought to give rights and liberties that others tried to take away.

Dad taught us that in order to accomplish all that had to be done in a lifetime you had to do at least two things at once. Carl and I benefited from that lesson. I have fond memories of the old Washington Senators ball games with Dad and his friends Phil Graham, Ed Pritchard, Jimmy Wechler, Wilson Wyatt and Jim Loeb. Dad enjoyed the game, an evening with this sons, and discussions with his contemporaries of the day's major issues. I learned the love of a father, sports and current events, all at the same time.

He rooted for the Redskins with a passion. Remember, they followed him from Boston. Eight Sundays (and more in the good/playoff years) each Fall you could find him before the game at the Tailgate parties prepared by Maggie, with deserts by Suzanne, and then in the stands with his friends Jim Reynolds, Bob Nathan, Wayne Horvitz, John Anderson, and so many others, betting that first bourbon on a Redskin touchdown, and in the not-so-good years on a field goal, or a first down, or a completed pass and in the really bad years on even a play without a fumble. He loved those competitive sporting events, with friends and family. And he never left before the last play, even sitting through the famous Bear trouncing of 73–0.

He loved holidays and trips with his family, they were lifetime highlights and remembrances for three generations, from across the Western States, to the Caribbean, through Europe, the castle in Ireland, and most memorable of all, seventeen days on a Kenyan safari. A perfect holiday for him and for us, history, geography, adventure, fun and family. His favorites, I believe, were to Ireland with Michael, to Russia with Suzanne, and back to Africa with Terry.

He was equally dedicated to his parents and siblings. During his mother's lifetime he called or wrote her every Sunday. And after death he continued that practice with his Sister, until her passing last year.

Dad was always there in time of need, always with sage fatherly advice, always firm, but always fair.

Two of life's most important goals are to be a good parent and leave this earth a little better than you found it. Dad, you succeeded in both magnificently.

Lovest—lovest tells us of his deep commitment to human rights and civil liberties for everyone. The superlative is how he lived his life. Everything was done to perfection, or at the very least to the best of his ability, from his efforts on the Harvard basketball court to his appearances before the United States Supreme Court. I was thrilled to be present on several of those occasions, and on one before the high court, he proudly moved my admission, an event I will always treasure.

He learned his love for the underdog as center on the Harvard basketball team. He became committed to civil rights and liberties when a Black teammate was refused a hotel room. And he learned his competitiveness at Camp Kennebec and the Harvard Law School.

The quest for good and challenge of victory were his motivating forces. Preparation and perseverance were his trademark and cause for success.

You—you are what his life was all about—other people—most of whom he never knew.

At times like these it is often said that the decedent "played the hand that he was dealt." In Dad's case, he found he did not like the game, the play, the deal, the table, in some cases the players, and usually the level of the field. So he changed them all, to his undying credit and to our benefit. And he has left us a playing field, game, rules and deal more equal to all who must endure some birth disadvantage.

He took on all causes, regardless of degree of difficulty so long as there was social advancement at issue, well almost all.

Amongst my favorite stories is the phone call he received, probably forty years ago, from I believe Stockholm, and a voice that said, "Mr. Rauh, my name is Christine Jorgenson, and the State Department has invalidated my passport. I need your help." Dad, remembering a recent news story of a person undergoing a sex change operation quickly responded with his marvelous wit and usual good sense of humor, "Mr. Jorgenson or Mrs. Jorgenson, or whatever you are, I have enough clients that are nuts, I don't need one who doesn't have any."

Dad would have been overjoyed with this crowd and place today—not just because of its integration by elder and young, rich and poor, Christians and Jews, blacks and whites, but because this was the site of the D.C. Law School's first graduation; an accomplishment of which he was very proud.

St. Peter, look out, for I have a feeling that as we sit here today he and Clarence Mitchell sit at the head of a table above, with their allies and friends (all of whose photographs are on Dad's office wall), including Mr. A. Philip Randolph, Walter Reuther, Bobby Kennedy, Jock Yablonski, Adlai Stevenson, Arron Henry, Hubert Humphrey, Roy Wilkins, Paul Douglas, Phil Hart, Eleanor Roosevelt, and scores of others, organizing those Heavenly workers.

He strongly believed that whatever you do, there must be an element of enjoyment, it must be fun.

Amongst his highest values was the continual search for knowledge and truth, honesty and fairness, love and affection for you and his family. And above all his 57 year marriage to and partnership with Mom.

It was not by irony or coincidence, but rather by what in hindsight would have been likely, that his last phone call was to a family member, his daughter-in-law, to seek her advice on an issue of women's rights. An hour later he was gone, and a family was devastated.

The only thing that might have made him a little sad today would be that with this tremendous gathering of good friends, and marvelously talented podium, no one has taken a "pitch" for any of his favorite organizations, any issue or cause dear to his heart, or any liberal Democratic candidate. And certainly I will not—but allow me, for him, to suggest, no urge, that as you remember him today, tomorrow and for years to come, that you dedicate a little time, a small check, a modicum of energy, or however you choose, to a cause for the benefit of others, that makes you happy, and for which he would have been proud.

And as we conclude this service, and I must say goodbye, but always remembered; Dad being part of your family has been fun.

We will miss you.

I lovest you.

REMARKS OF THE HONORABLE HENRY F. GREENE, ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, SEPTEMBER 8, 1992

Judge GREENE. Over the past weekend, after my wife and I had been out of the city for two weeks, I was distressed upon returning to learn of the death of an extraordinary distinguished member of the Bar, both of the District of Columbia and of the United States, Joseph L. Rauh, Jr.

Mr. Rauh died of a heart attack last Thursday evening at the age of 81. He lived as full and productive a life as any person with when I have ever had the honor of being acquainted during my life. He was a champion of racial integration, of the rights of minorities and labor unions, union reform, and the interests of citizens of the District of Columbia over many many years.

To meet Mr. Rauh personally was to meet a gentleman who was always optimistic, who always hoped for and expected the best from other human beings, who had a marvelous sense of humor and who believed passionately and fought courageously for the issues in which he was so involved. Joseph Rauh was one of my heroes.

In May 1979, Mr. Rauh lectured at the University of Minnesota Law School on Law Day. I had occasion to refer to his remarks once when I was addressing the Bar, and last night looked back on the speech he made. I think it reflects the standards to which we should hold our profession and how Mr. Rauh represented the very best in our profession. He thought—and I quote from him—that "the legal profession should be one that places public interest above private gain, that puts the use of legal tools for progress and equality above the defense of the status quo, that treats legal services for the have nots on a par with those for the haves, that utilizes law as an instrument for helping the powerless and not for protecting the powerful, and above all that makes the law a vehicle for righting social wrongs and not perpetuating then."

He alluded in his remarks to a statement by Mr. Justice Holmes, who said, "I always have thought that not place or power or popularity makes the success that one desires, but a trembling hope that one has come near to an ideal."

It is ironic, I thank that in quoting Mr. Justice Holmes, Mr. Rauh might have well written his own epitaph, for if there is anyone who in my life time has come nearest to the ideal of being what a lawyer in our society should be it is Joseph Rauh.

During his distinguished legal career, Mr. Rauh was more particular than most of his more financially productive colleagues of the Bar in terms of what he devoted his time and his enormous energy and his very substantial intellect to. As a lawyer, he took only those cases he believed in, and he suggested that no lawyer ever should do otherwise. He thought that our profession stands in a unique position, that it has a special duty to the people of this country, to the interests' of the public at large, and ultimately to the preservation of our Democratic system of government based on the law. He suspected, and I think accurately, that the basis of widespread public contempt for the legal profession is based on a widely held belief that lawyers are mercenaries, concerned only with making money and obtaining power, recklessly pleading their clients' cases without sight of the public good. And he observed—again, unfortunately, quite accurately—that the perception too often conforms to the reality.

In a wry but perceptive way, he said a lawyer should not do anything for a client that he would not do in a tennis match, at the bridge table or in any other walk of his own life. He should not do or say anything for a client he knows is wrong any more than he would do or say it on his own behalf. He thought that a lawyer should no more give an opinion which he could not believe to be correct than he would give such an opinion to his bank on his own behalf when seeking a personal loan. A lawyer, he stated, should no more knowingly miscall a legal opinion than a tennis player should deliberately miscall a line decision; a lawyer should no more assist a client in covering up misdeeds than a doubles player should allow his partner to cheat. In short, he asserted that the interests of a client—any client—are not sufficient to justify actions which a lawyer would not take in other walks of life with a clear conscience. A conscientious lawyer does something because it is right, not only because the client wants him or her to do it. In essence, he did not feel that a lawyer should be a hired gun for any cause.

Mr. Rauh exemplified what he believed in by the actions he took. And, indeed, when we talk about a distinguished member of the Bar, if we mean by that a lawyer who over a long period of time acts as he professes to think lawyers should act, and does it with intellect and ability and energy and dedication and courage, it is fair to say that Joseph Rauh is the most distinguished lawyer that I have ever known.

Among his numerous accomplishments at the Bar, after he clerked for Mr. Justice Cardozo and Mr. Justice Frankfurter, was his representation of artists and government employees accused of being security risks during the red scares of the 1950's, his representation of the Brotherhood of the Sleeping Car Porters, and his founding of the Americans for Domestic Action with Eleanor Roosevelt, Walter Reuther and Reinhold Niebuhr.

In 1947, well before the Civil Rights movement became a national cause or, indeed, a popular cause, Mr. Rauh marched on picket lines outside the National Theatre to protest the exclusion of black persons from the audience, and over the years he became a leading figure in opposition to racial segregation in Washington. In the summer of 1964, he represented the Mississippi Freedom Democratic Party in a challenge to the seating of the all-white Mississippi Democratic Organization at the Democratic National Convention. And as counsel to the NAACP legal defense fund, he instituted a lawsuit in 1972 that during the next ten years brought about a series of federal ultimatums for dismantling racially segregated school systems throughout the southern and border states of the United States.

More recently, Mr. Rauh was eloquent in support of legislation requiring redress for Japanese Americans who had been interned during World War II. And during the relatively short period of his life I had the good fortune to be acquainted with him, I repeatedly was present on occasions in the District of Columbia when he was a forthright and articulate spokesman for the interests of its citizens.

Joseph Rauh stood out because, more than any man I have known, he spoke for things that were right at times that it took courage to do so; I believe that is among the highest tributes one can make to any member of our profession—or, indeed, to any citizen.

This court adjourns today in honor and memory of Joseph L. Rauh, Jr., and expresses on behalf of all of the judges of the Court its deepest condolences to his wife, Mrs. Olie W. Rauh, and his two sons, both themselves among the most distinguished members of our Bar, B. Michael Rauh and Carl S. Rauh.

Court stands adjourned.

[From the Washington Post, Sept. 12, 1992]

JOE RAUH AND THE CIVIL RIGHTS PLANK OF 1948

(By Chalmers M. Roberts)

In the spring of 1948, when President Harry S. Truman looked like a sure loser in that fall's election, Joseph L. Rauh Jr. found the way to carry forward his civil rights campaign. And I'm happy to say I helped him do so by the simple act of reporting the news.

At the time I was covering local news for the Washington Star, and my wife and I were irked to be voteless residents of the District of Columbia. I discovered that District Democrats (Republicans, too) were going to select national convention delegates by passing out their six seats to insiders with nary an opportunity for anyone else to participate.

My stories in the Star—the rival Washington Post essentially ignored all this—caught Rauh's eye and then that of his associates in the newly formed Americans for Democratic Action. Rauh asked me about the so-called party rules—there were no federal or District laws or regulations whatever—and he complained to me about the problems in advancing his civil rights agenda. I told him to stop complaining and run for office.

He did—for both delegate to the '48 convention in Philadelphia and for the local Democratic Central Committee. The District's organization Democratic chairman was a soft-spoken lawyer, Melvin D. Hildreth (whose true passion was the circus), and it didn't take much pressure from Rauh to break into the hitherto exclusive party machine.

Rauh organized an ADA slate with a strong labor component, including Tilford Dudley, Betty Lindley and Katie Louchheim. The slate was aided by a couple of restraining orders by a helpful District Court judge, T. Alan Goldsborough.

In the end, to avoid a contest, Hildreth offered to give Rauh, his slate and their allies half the convention seats—or, more precisely—to double the six allotted seats to 12, each with a half vote. And so on June 28, 1948, Joe Rauh was elected a delegate as well as a central committee member, the latter a post he was to hold for 20 years.

Exactly 471 votes were cast that day in the presidential preferences part of the primary ballot—236 for Truman, and 235 (write-ins all) for all the others. The runner-up was Gen. Dwight D. Eisenhower with 181, and next was Justice William O. Douglas with 31. The vote was a virtual Truman vs. the others tie in six of the seven voting places, but Truman triumphed by carrying, 92 to 24, the seventh at 16th and U Streets NW.

So rusty was the idea of a local election that two days earlier a worker for Veterans for Eisenhower was arrested for passing out handbills at 14th and F. His case was dismissed after an hour in jail, and he went back to the corner.

Rauh was chiefly motivated by his civil rights crusade; he was mostly negative about Truman, and the national ADA was strongly for Ike. When Rauh got to Philadelphia he joined with the young mayor of Minneapolis, then making his first run for the Senate, Hubert H. Humphrey. Rauh was a major contributor to Humphrey's minority civil rights plank. It was adopted by the convention, leading to the southern walkout by then-Democratic Sen. Strom Thurmond of South Carolina, who went on to run for president as the Dixiecrat candidate. Henry Wallace's left wing of the party became the Progressive Party.

By the time Truman defeated Thomas E. Dewey, Joe Rauh was deep in party politics. But it was never politics as politics; it always was politics as a way to advance civil rights and political liberalism. The rest, as the saying goes, is history.

[From the Washington Post, Sept. 15, 1992]

JOSEPH RAUH AND THE PUBLIC INTEREST

(By Colman McCarthy)

JOSEPH RAUH AND THE PUBLIC INTEREST

With George Bush on his hind legs barking at lawyers for wearing tasseled loafers and bringing "crazy lawsuits," it's worth a moment, in the cause of balance, to think about the life and ideals of Joseph L. Rauh, Jr. He died recently at 81, a Washington lawyer with a national caseload over a half-century involving civil rights and civil liberties. Few lawyers had as deep a passion for justice.

Rauh's taste was for representing clients whose claims were legally strong and morally sound, from antiwar Quakers and union auto workers to minorities kept on the margins because of race. He was among those lawyers—a few in the profession, for sure—who rejected the view that attorneys should be unconcerned about the ethics of those they represent. The public interest came before the private interest. Rauh was the opposite of the kind of hired-gun lawyer once instructed by J. P. Morgan, the buccaneer banker: "Your job is to help me do what I want to do."

In Washington, a city dense with one lawyer per 40 people, Rauh never stitched a loophole for a corporation, fronted for a bank or cut a corner for a trade association. No one bought him, in other words. Instead of billing his time out at $200 an hour, Rauh believed—with evidence on his side—that the monied clients could well get along without him but that the marginalized citizens could not.

Few were further on the political fringes than his own fellow District of Columbians. As general counsel for the Leadership Conference on Civil Rights, Rauh came early to the fight for D.C. home rule. In 1982, which was about halfway into the seven years Congress gave as a ratification period for states to approve the constitutional amendment to grant District citizens full voting rights, Rauh argued: "So why don't [we] have the right to vote? * * * Because we might send two black, liberal urban Democrats to the Senate. But that's an immoral argument, and everybody using it knows it is immoral to deny the franchise because of how it might be exercised."

Because of what Rauh called "the combination of racism, reaction and regionalism," the District's citizens have remained unrepresented.

Rauh had a briefcase full of other seemingly lost causes. In August 1980, he was the only major Democrat at the national convention to argue that the renomination of President Jimmy Carter was not worth it. Instead, Rauh, a founder of the liberal Americans for Democratic Action in the late 1940's, endorsed John B. Anderson, the Illinois independent. Rauh explained: "I am 70 years old and I have never voted for anyone but a Democrat in a presidential election. I'm a little tired of Democrats and Republicans. I think Anderson is simply the best candidate. I'd rather support a man who is moving to the left than a man who moves in circles."

Rauh, married for 57 years and the father of two lawyers, lived near a playground in Northwest Washington. For years, he and Alan Barth, a Washington Post editorial writer who died in 1979, presided over springtime Sunday afternoon softball games for neighborhood families. Women and girls were included at Rauh's insistence. Why else, he would ask, did we work so hard to get Title IX—the anti-sex-discrimination law—passed if the playground cannot be opened to all? Teammates of Rauh—male Cabinet secretaries, judges and politicians—often found themselves benched in favor of an 8-year-old girl who could peg it hard from the outfield.

My family and I played in those games for about 10 years. After the final out, it was open house for lemonade, fruit and cookies at the Barths' across the street. Then the children, and a fair number of adults smart enough to listen, could learn something about current events, as well as charm and wit, from the stories and comments of Rauh and Barth. Had C-SPAN been around then, these back patio seminars, led by Rauh the activist and Barth the thinker, would have equaled any offering of public affairs programming.

Was Joe Rauh the last of the liberals, the breed said now to be nearing extinction? Hardly. Ask the clients and groups he served pro bono, or the powerless he stood with. They're firmly on the left, and as patient as Rauh always was in knowing that no liberal cause is lost as long as it is just. Few are not.

[From the Washington Post, Sept. 28, 1992]

A LIBERAL DOSE OF MEMORIES: CELEBRATING JOSEPH RAUH, LAWYER, ACTIVIST AND "FUN GUY"

(By Roxanne Roberts)

Considering that it was Sunday during football season, Joseph Rauh was probably at a celestial tailgate party—sipping bourbon and flirting with Marilyn Monroe.

At least, that was the speculation at yesterday's memorial service in his honor. Rauh, the legendary Washington lawyer who died earlier this month at age 81, loved his family, the Redskins, Wild Turkey and two blondes—his wife of 57 years, Olie, and Monroe (but just from afar).

But most of all he loved the law and used it to fight for his beliefs. For more than 50 years, from FDR's New Deal to this year's presidential race, he supported Democratic causes and fought for groundbreaking civil rights legislation. "He was a liberal with a capital L—first, last and always," said former Senator Thomas Eagleton.

"Long before an about-to-be former president used words like 'kinder, gentler,' 'thousand points of light' and 'family values,' Dad was that caring person," Rauh's son Michael told the audience. "He lit the candle that gave hope for so many."

Yesterday, more than 700 relatives, friends admirers packed into the University of the District of Columbia's auditorium for one last thank-you. Young and old, obscure and famous—including retired Supreme Court Justice William Brennan, 1980 presidential candidate John Anderson, Eagleton, historian Arthur Schlesinger, Jr., Washington Post Co., Chairman Katharine Graham, playwright Arthur Miller and civil rights activist and professor Roger Wilkins—came to praise one of the country's truest liberals.

"He represents the great continuity between the New Deal and today," said Schlesinger, who called Rauh one of his generation's leading guardians of the Constitution. "I doubt that any lawyer in American history has had more impact on the Court and on the Congress in the vindication of individual freedoms and in the defense of the Bill of Rights."

"It's not an exaggeration to say that Joe Rauh had a penetrating effect on every important struggle for freedom in his lifetime," said Del. Eleanor Holmes Norton (D-D.C.).

If Joe Rauh was even half as good as he is remembered, he still puts mere mortals to shame—at least liberal Democratic mortals.

An ardent New Dealer, Rauh helped found Americans for Democratic Action, served on the board of the NAACP, wrote the civil rights plank for the 1948 Democratic convention, fought for D.C. home rule, battled Joe McCarthy and pushed for equal rights and liberties for everybody. He used to say he learned about being the underdog as a member of Harvard's losing basketball team and never believed you had to play the hand life dealt.

"In Dad's case, he found he did not like the game, the deal, the table, in some cases the players, and usually the level of the field," said Michael Rauh. "So he changed them all."

After graduating from Harvard Law School in the 1930s, Rauh clerked for Supreme Court Justices Benjamin Cardozo and Felix Frankfurter, then founded his own law firm after serving in World War II.

"The law for Joe was just a way of leading the life he wanted to lead," Graham told the audience. "Joe always lived his beliefs more than anyone in our whole generation or anyone I ever knew."

Rauh, said Wilkins, "lived up to every hope I ever had for good white people."

But that's not to say Rauh was one of those painfully earnest liberal types. "I don't want to make it sound too heavy," said Sen. Paul Simon (D-Ill.), "because he was also a fun guy. He was very serious about his battles, but he didn't take himself that seriously."

So there were his weekly softball games, a crush on Marilyn Monroe—and laughter. More than once, family members remember how he enjoyed a good Redskin game and a good bourbon—often at the same time.

In a winning season, Michael Rauh explained, his father would down his first bourbon "on a Redskins touchdown. In the not-so-good years, on a field goal. Or a first down. Or on a completed pass. And in the really bad years, on a play without a fumble."

The photo on the front of yesterday's program showed a smiling Rauh surrounded by 50 years of "liberal mementos" and his quotation inside: "Others made all the money but we had all the fun."

"By any standards," said Arthur Miller, "Joe Rauh had a wonderful life."

[From the Washington Post, Sept. 29, 1992]

HAIL THE LAUGHING REFORMER

(By Mary McGrory)

The last time I saw Joe Rauh in public he was, despite his age and infirmities, standing on the unforgiving marble floor of the U.S. Senate behind a red velvet rope. He was doing what he did best, lobbying for a cause, this time collaring senators to vote against the confirmation of Clarence Thomas. "I think we can stop him," he told me. "When they see . . ."

That was Joe. He never excused himself from any exertion on behalf of right. He never tired. And he believed all his long life (he died at 81 on Sept. 3) that if people were shown the facts and the reason, they would of course, choose to do the rational and progressive thing.

Sixty years in public life, with powerful evidence to the contrary, did not change his mind. He was highhearted to the end.

Almost everyone in Washington has memories of Joseph L. Rauh Jr. He was a synonym for courage and good cheer. He was a big, smiling, rugged, athletic type who loved life, the law, martinis, blondes—especially Olie, his wife of 57 years, and, like a teenager, Marilyn Monroe, the onetime wife of one of his most distinguished clients, playwright Arthur Miller. Rauh shattered the conservatives' stereotype of a liberal, a word that the Republicans have transformed into an epithet, although never for him.

On Sunday, Arthur Miller spoke at a memorial service for Rauh at the University of the District of Columbia, one of the innumerable institutions and causes that engaged Rauh's strenuous attentions.

"He lived the law," said Miller, "the law as the embodiment of the most sublime ideals of civilized people in their age-old wrestling match with their baser instincts, their prejudices and greed and vindictiveness."

Rauh successfully defended Miller against charges of contempt of Congress, during the McCarthy era, when Rauh was the boldest critic of the great defamer. He didn't scare easily, and perhaps more importantly, given the high concentration of posturers and stuffed shirts in town, he made light of his almost reflexive valor. He was a laughing reformer.

Katharine Graham, chairman of The Washington Post Co., told of Rauh's picketing of a local theater that excluded blacks in the '50s. She said it was dangerous; he said it was "a good way to walk off your dinner."

Another old friend, historian Arthur M. Schlesinger Jr., called him "the soul of the great contemporary guardian of the Constitution," and told of the conversion from college playboy to crusader. As a member of the Harvard basketball team, he encountered racism firsthand when a black team member was turned away at a New York hotel. Rauh led an exodus from the hotel—and spent the rest of his life in the vanguard of civil rights advocates and agitators.

Rauh was a passionate believer in the endless uses of democracy. All is possible was his unspoken motto. After the Senate Judiciary Committee rejected Richard Nixon's first Supreme Court choice, Clement F. Haynsworth Jr., they were extremely nervous about turning down his second, G. Harrold Carswell, and making it two in a row. But goaded by Joe—apostle of "why not?"—they sent him packing, too.

He also was involved in fighting union crime, the war in Vietnam, civil liberties abuses, and worked for District home rule. But tearful children and grandchildren testified that, miraculously, he always had time for them.

He never held back. In 1960, at the Democratic convention, much consternation on the left attended John Kennedy's choice of Lyndon Johnson. Only Joe grabbed his delegation's mike and roared into it—"Jack, Jack, don't do it." But in the White House, Johnson proved as fierce a civil rights advocate as himself; they worked hand in glove on the great rights bills of the '60s.

In 1982, he found another unexpected ally in the fight for equality, when voting rights renewal was up for a vote and Ronald Reagan outdid himself in circumvention: Reagan came up with a novel requirement, to prove "intent." For there to be no federal offense, the registrar had only to say he had no intention of depriving minorities as he moved polling places out of their reach.

Senate Republican leader Robert J. Dole (Kan.), without saying much about it, made common cause with his generation's most vociferous liberal to avert the travesty. Together, they worked out a bill that was beyond Rauh's wildest dreams. Dole drove it through the Senate. Rauh called Dole "superb," and said he could think of voting for him for president.

It was one more proof of what his whole life had proved: that to be liberal as the dictionary says, is to be "open to new ideas."

[From the St. Louis Post-Dispatch, Sept. 11, 1992]

LABOR'S RAUH GAVE MOVEMENT WISE COUNSEL

(By Philip Dine)

Just last month, at one of his Sunday afternoon poolside gatherings that had become a Washington institution, Joe Rauh was eagerly anticipating the results of the presidential election, telling his guests that he would relish a post-election chance to revisit the discussion.

Sadly, that is no longer possible. Rauh died a week ago at the age of 81 from a heart attack in his home in northwest Washington.

The wire obit called him "a prominent lawyer," an understatement for a man who probably was the most important civil rights and labor attorney of the past half-century.

As counsel to the United Auto Workers from the 1940s to the 1980s, Rauh exerted a key influence on Walter Reuther, helping promote an open, vibrant union. He also represented reform movements in the miners, steelworkers and maritime unions.

Rauh's hand was visible on the nation's civil rights bills of the 1960s, legislation he had persaged with his work at the 1948 Democratic convention. He was the trusted counsel to a wide array of civil rights activists and groups across the country for much of the post-World War II era.

But Rauh was more than a lofty historical figure to those who knew him, such as Chip Yablonski, a Washington lawyer and the son of Jock Yablonski. The elder Yablonski was murdered on New Year's Eve 1969 for his efforts to reform the United Mine Workers of America.

Chip Yablonski later served as general counsel for the UMWA and, for the last decade, has represented the National Football League Players Association.

"He was a colleague, he was a friend, he was a mentor. He was a substitute father," Chip Yablonski said this week.

"What do you say about somebody who puts his life on the line? The time my folks were murdered, Joe helped me to pick up the pieces and put my life together and dedicate myself to fighting the battle to see the murderers were caught and prosecuted—and to see that my father's dream for democracy in the UMWA was realized.

"He was my father's attorney and after my dad's death he stood up in front of those miners at a time when no one knew who had perpetrated the murders, and a lot of my father's supporters were quite leery of doing anything. Joe announced to that group. 'The fight will go on, if that's what you guys want to do.' And, of course, they did."

Rauh's labor career shifted over the years. Yablonski noted: "He was the pre-eminent spokesman for labor before the Supreme Court of the '50s and '60s, until he decided to do union democracy work, which I think is a red badge of courage," because Rauh was treated unkindly by certain entrenched union leaders.

Rauh's Sunday poolside sessions were replete with Missourians, reflecting Rauh's St. Louis-area ties. His wife, Olie (Westheimer) Rauh, was raised in St. Louis and the couple was married here in the Park Plaza Hotel.

One frequent guest was David Wigdor, a native of Charleston in Missouri's Bootheel and the custodian of Rauh's papers at the Library of Congress. "His life covered a lot of things and people have been using the papers for almost every aspect of what he did: the union reform movement, development of liberalism, civil liberties work," Wigdor said.

Victor Reuther, who grew up in Southern Illinois, co-founded the UAW 55 years ago. At 80, he is just a year younger than Rauh, and for many years the two men lived near one another in northwest Washington.

Rauh and Reuther were close friends and allies since the late 1940s.

"In my personal, family and organizational involvements," said Reuther, "there were numerous crises, and Joe was always there with wise counsel, a steady hand and wise compassion. When the hired thugs of corporate America sought to snuff out my life and that of my brother, Joe bore down on the Justice Department.

"Since the inception of the modern labor movement, Joe was on the side of the workers, and I mean rank-and-file workers and union members. Joe's leadership in civil rights and in strengthening the quality of our judicial system is legendary. American democracy has been enriched by his life."

Tom Eagleton—former senator from Missouri and now a lawyer in St. Louis—and his wife traveled regularly with the Rauhs. In remarks Eagleton plans to deliver at a eulogy in Washington on Sept. 27, he writes:

"In my life I have known some wonderful, refreshing, inspiring people. But I have known perhaps as few as three individuals who on all occasions put conscience ahead of all other considerations: Sen. Mike Mansfield, Sen. Phil Hart and Joe Rauh.

"In this time in which public decision-making is frozen in the end-justified-the-means mentality, men of conscience are all the more needed, all the more precious. We have now lost the best that God can fashion. . . . We know how fortunate we all were that the courage and conscience of Joe Rauh came America's way."

Mr. WOFFORD. Mr. President, on September 3, 1992, the country lost a great citizen and the legal profession lost an unparalleled advocate for justice. Joseph L. Rauh, Jr., left behind over a half century of constitutional vigilance and an inexhaustible pursuit of equality.

A passionate believer in the Bill of Rights and the freedoms it embodies for all citizens, Joe Rauh represented a continuum of democratic struggle from the New Deal to the present. In 1947, after graduating first in his class at Harvard Law School, clerking for Justices Benjamin N. Cardozo and Felix Frankfurter, and service in the army during World War II, Joe Rauh along with Eleanor Roosevelt and other notable liberals founded the Americans for Democratic Action. In that same year before the civil rights movement came to the nation's consciousness, he marched on picket lines outside National Theater in protest of its exclusion of African-Americans.

At the 1948 Democratic Convention Joe Rauh played a leading role in drafting the party's first civil rights plank which became the foundation for future federal civil rights legislation. In 1964 he continued his convention action by representing the Mississippi Freedom Democratic Party in its challenge to the all-white Mississippi delegation to the Democratic Convention.

Through the 1960's he was a major force in the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. He was general counsel for the Leadership Conference on Civil Rights and served on the board of the NAACP. Joe Rauh was also a prominent civil liberties lawyer representing playwrights Lillian Hellman and Arthur Miller before the House Committee on Un-American Activities in the 1950's.

Joe Rauh was in his element organizing opposition to President Nixon's Supreme Court nominees G. Harold Carswell and Clement F. Haynsworth, Jr., President Reagan's nomination of Robert H. Bork, and in the end President Bush's nomination of Clarence Thomas. It was Joe Rauh's profound belief that protection of the Court was paramount to the pursuit of justice.

With his zest for life and unbounded conviction that all was possible, Joe Rauh left an indelible mark on all of us who worked with him. Thirty-five years ago he asked me to join his three-person law firm. I went a different course but like to think that wherever I worked I was a member of the larger firm without walls in which he was the senior partner. It is his extraordinary legacy that I memorialize today. But it is the man that I will miss.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,064,620,655,521.66, as of the close of business on Wednesday, September 30.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the fiscal year which ended on September 30, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $15,824.33—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127,85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

THIS MAN OF MANY FACETS—SENATOR ALAN CRANSTON

Mr. PRYOR. Mr. President, the Senate will lose one of its giants with the retirement of Senator ALAN CRANSTON of California at the end of this Congress.

This man of many facets—athlete, artist, writer, reporter, businessman, lobbyist, and public servant—came to the Senate in 1969.

ALAN CRANSTON's hand has been in the making of a number of the most important bills to become law in the past 20 years. A student of international law, ALAN CRANSTON has been a key player in almost all of this Nation's foreign policy initiatives. On the domestic front, ALAN CRANSTON is recognized as the undisputed authority on housing in the Congress. The Cranston-Gonzalez National Affordable Housing Act is a testament to his expertise and dedication to meeting the housing needs of our population.

Our Nation's veterans have looked to ALAN CRANSTON for leadership in the Senate on issues of compensation and health care. He has been an effective advocate for our men and women in uniform.

Mr. President, if there is any single trait that I can cite about ALAN CRANSTON, it would be his compassion. Whether the issue was a Bill of Rights for the disabled, or protecting abortion rights, or prevention of crime and drug abuse, wildlife protection, or immigration reform, ALAN CRANSTON has always sought solutions that were kind and compassionate and which addressed the real needs of hardworking people.

We will miss ALAN CRANSTON. He has certainly earned a long and fulfilling retirement. I know I join a State full of grateful Californians in wishing him all the best.

THE LEGACY OF SENATOR BROCK ADAMS

Mr. PRYOR. Mr. President, Senator BROCK ADAMS will leave this body at the end of the 102d Congress. He will leave behind a legacy of constant and dedicated service to the people of his native Washington State that will be hard to match.

BROCK ADAMS came to Washington in 1965. When Congress passed the Budget Act of 1974, the House of Representatives looked to BROCK ADAMS as its first chairman of the Budget Committee.

When Jimmy Carter was assembling his Cabinet, he looked to BROCK ADAMS to be his Secretary of Transportation.

BROCK ADAMS has always been true to his convictions. Not worrying about whether he would win a popularity contest for his stand, he nevertheless has always spoken his mind.

Among his many legislative accomplishments are his bill to strengthen truck safety laws and a bill to improve medical testing standards.

Last spring, I had the pleasure of working with Senator ADAMS on the Defense/Economic Transition Task Force. He was an active Member of that group of Senators and made a large contribution to the eventual recommendations that we made to the full Senate.

Mr. President, it has been a distinct pleasure to serve with BROCK ADAMS in this great body and I wish him all the best in his future endeavors.

THE RETIREMENT OF CONGRESSMAN FRANK ANNUNZIO

Mr. DIXON. Mr. President, I would like to join my colleagues on both sides of the aisle in honoring the distinguished gentleman from Illinois, FRANK ANNUNZIO and congratulate him on his forthcoming retirement. After 28 years of exemplary public service, FRANK is entitled to sit back, relax and enjoy an occasional Chicago Cubs game.

Many men and women come to this great legislative body and, due to the allure of national policy or dreams of higher office, tend to lose sight of their constituents. Not FRANK ANNUNZIO. FRANK never lost sight of his roots and the people who elected him to office 14 times. He was a never-ending warrior on behalf of the little guy, and always had a special place in his heart for the elderly, the infirm, and working men and women everywhere.

On his many trips home, he could almost always be found talking to local officials or chatting with his constituents. He was also a regular at church services, retirement homes, union meetings, and party caucuses. In short, FRANK could be found with an available ear almost everywhere there were concerned citizens in Chicago and Illinois. And those citizens knew that their Congressman—FRANK ANNUNZIO—would go to great lengths to represent their views in Washington, and would never roll over to special interest groups or high-powered lobbyists.

In addition to his diligent representation and constituent service, FRANK was also very successful on the legislative front. In his 15 years as chairman of the Subcommittee on Consumer Affairs and Coinage, and his 4 years as chairman of the Subcommittee on Financial Institutions, he was responsible for such monumental bills as the Truth in Lending Act, the Electronic Funds Transfer Act, the Financial Institutions Reform, Recovery and Enforcement Act, and the FDIC Improvement Act. All of these laws made banking either safer or easier to understand for FRANK'S number one constituent—the common man.

As a former history teacher at Chicago's Harper High School, union official with the United Steelworkers of America, and small businessman, FRANK brought a wealth of knowledge and experience with him to Congress. He is leaving behind far more—a legacy of fairness and doing the right thing with an ever-present eye on the ordinary citizen. Congress is losing a great leader, but Illinois is fortunate to have one of its great citizens returning full time. I was honored to serve as his colleague and I wish him and Angie the best of luck in retirement.

ON THE PAYMENT-IN-LIEU-OF-TAXES PROGRAM

Mr. HATFIELD. I know my good colleague from the great State of West Virginia is aware of an issue that has arisen with county governments over the payment-in-lieu-of-taxes [PILT] program, a program funded through the Senate Appropriations Subcommittee on Interior. To put it simply, the PILT Program enacted in 1976, which compensates counties for the presence of Federal tax exempt lands in their jurisdictions, has not received an increase in the authorization level in 16 years. Today, the value of the program is less than half of when it was originally enacted.

County governments provide vital search and rescue, law enforcement, fire and emergency services, and road maintenance and construction to national parks, national forests and wildlife refuges. Though the costs of providing these services has risen, the PILT payments which assist the counties in providing these services have remained static. We are fond of saying that the Nation's public lands belong to all of us. We should also recognize the responsibility of the Federal Government to financially assist the local units of government expected to provide services to these areas.

Today, PILT payments are distributed to 1,789 counties in 49 States. Contrary to a perception by some, PILT is not simply a western program.

Mr. BYRD. I understand that, Senator HATFIELD. PILT payments are critical to the local budgets of counties located within or adjacent to national parks or forests in the east, and throughout the country.

Mr. HATFIELD. That is an excellent point. Other States whose counties receive at least $1 million through the PILT Program are Arkansas, Florida, Michigan, North Carolina, Texas, and Virginia. My own State of Oregon receives about $2.9 million per year under the PILT Program.

In order to adjust these current PILT levels for inflation, however, legislation is necessary. Senate bill 140, currently before the Congress, attempts to make an inflationary adjustment for the PILT Program. The bill received broad bipartisan support in the Senate, as indicated by the cosponsorship of 64 Senators.

Mr. BYRD. I understand the popular support for S. 140, but am concerned about how an increased authorization will impact many of the other critical programs contained in the Department of Interior appropriations bill. The Federal budget outlook for next year is less than optimistic at this time and thus the increase in the PILT Program called for under S. 140 is simply unworkable in today's fiscally limited climate.

Next year the rules of the budget process will allow us to review domestic versus defense programs and to assess our spending priorities. I will be glad to work with the ranking member at that time to consider a solution that seeks to address the concerns raised by the Nation's counties while also being fiscally responsible and sensitive to the constraints on our Federal budget and the Interior appropriations bill. We are unable at this time to fund many existing authorizations, let alone providing for the significant increases contemplated in S. 140, as well as other legislation.

Mr. HATFIELD. I appreciate the Senator's expression of support for finding an equitable solution in the next Congress, and I look forward to working closely with him on the PILT issue next year.

IN MEMORY OF MORTIMER WRIGHT

Mr. DODD. Mr. President, I rise today to salute Mortimer Dickinson Wright who passed away on September 26, 1992 at the age of 72. Throughout his life, Mortimer's accomplishments were illustrative of his love for his community and affection for democracy. Those that had the opportunity to know and work with him remember him for his integrity, strength of character, and understanding.

Mortimer has left an indelible mark on the Groton community. Beginning in 1968 he served as the chairman of the Groton Democratic Town Committee and was chairman emeritus of the town committee. In 1971, he was elected as a State Representative from the former 66th Connecticut Assembly District. Quite an impressive victory considering that he was the first Democrat elected since the Civil War.

As an advocate for the environment, Mortimer has achieved a number of successes. He provided pioneer work and support for the preservation of the 200-acre Haley Farm in Groton as open space. He was a leader in the successful citizens' movement to prevent the rezoning of the Haley Farm to support intensive multifamily residential development and was a leader of the subsequent drive to designate the land as a State park. He is also responsible for the preservation of, and public access to, the Branford House Mansion at Avery Point.

More recently, in recognition of his many contributions to environmental quality and planning, the Groton Town Council dedicated a 76-acre parcel in the Eccleston Brook watershed area as the Mortimer D. Wright Nature Reserve.

In business, Mortimer was equally successful. In 1947 he founded an insurance and real estate company called The Wright Agency that still thrives today in Mystic.

In 1986 Mortimer was diagnosed to have Kugelber-Welander syndrome and in recent years was confined to a wheelchair. During this time he remained active in the community through his wife, Eva, and two daughters, Elissa and Hansina. To them I would like to extend my sincere condolences for their loss.

It is often difficult to capture in words the energy and enthusiasm of a man like Mortimer Wright. His career was driven not by personal gain but the desire to make this world a better place for this generation and the next. Today, Groton and the State of Connecticut are a better place as a result of his dedication and commitment.

IN HONOR OF STUART HAINES

Mr. SEYMOUR. Mr. President, it is always a pleasure to come before my distinguished colleagues in the Senate to honor my fellow Californians who have demonstrated a selfless commitment to the public good.

In this regard, I want to bring your attention to Mr. Stuart Haines, president and chairman of Textured Coatings of America [TCA] of Los Angeles, CA. Since 1984, Mr. Haines and his company have continued to play a leading role in the effort to combat graffiti vandalism.

Like many of our cities, Los Angeles is afflicted with its share of unsightly graffiti and property damage. The vandals who practice their craft on buildings, walls, bridges, signs, and other private and public property, do so with little thought or respect for their community. Their illegal actions, much of it sponsored by violent criminal gangs, have resulted in reduced property values and weakened community pride. Indeed, they are ominous symbols of neighborhoods under siege.

However, as the manufacturer of Tex-Cote Graffiti-Card, a graffiti repellant, TCA has enabled the citizens of Los Angeles to fight back.

In 1984, TCA was called on by the city of Los Angeles to apply its Tex-Cote Graffiti-Card to protect the Olympic murals. Donating its product and manpower, this marked the beginning of TCA's efforts to rid Los Angeles of the graffiti epidemic. In 1985, with the assistance of reformed gang members, TCA was recruited to protect another Los Angeles landmark, the Hollywood sign.

For his leadership in the war on graffiti, Stuart Haines was named by Mayor Bradley to chair the Mayor's Committee for Graffiti Removal and Prevention in 1986. The committee, in coordination with the Southern California Paint and Coatings Association [SCPCA], established the first paint bank in Los Angeles, providing over 65,000 gallons of free paint to concerned citizens.

The State of California and the Los Angeles City Council aided the committee's mission when they imposed stiff penalties for graffiti vandalism and adopted a new "no graffiti" sign for display in California neighborhoods and communities. Sure enough, this new sign was designed by Mr. Haines and his committee.

Over the past few years, the committee has worked with the SCPCA, TCA and thousands of concerned volunteers to paint out specific neighborhoods and streets in the Los Angeles area. For example, in 1988, they painted out Sunset and Hollywood Boulevards. In 1991, coordinating their efforts with the San Fernando West Valley Police Department, the dedicated group painted out 240 miles of defaced property.

It may interest my colleagues to know that the committee has scheduled another paint out for the near future. And, I am pleased to report that TCA intends to continue its tradition of generosity. The company plans to donate the equipment and manpower necessary to maintain the new graffiti-free zone for 1 year.

Mr. President, TCA is now celebrating its 32d anniversary. With this in mind, it is my pleasure to congratulate the TCA organization, as well as commend Mr. Haines for the years of hard work and commitment to renewing the city of Angels. Indeed, the citizens of Los Angeles have set the standard for graffiti removal and prevention. "Take back our streets" is a phrase I use often to describe empowerment efforts by community leaders. In this case, Stuart Haines' empowerment efforts have helped Angelenos paint back their community.

Keep up the good work.

IN TRIBUTE TO GEORGE F. CUDWORTH

Mr. CHAFEE. Mr. President, I rise today to pay tribute to Mr. George F. Cudworth of Newport, RI. Mr. Cudworth is this years's recipient of the Veteran of the Year Award presented by the Benevolent and Protective Order of Elks, Newport Lodge 104.

The Newport Elks have been active since 1888. Their organization has a distinguished record of involvement in numerous charitable activities that have benefited veterans, children, the handicapped, and the sick and aged. Each year, the lodge presents its Veteran of the Year Award to a local veteran, in recognition of that person's outstanding service to the country and fellow citizens.

George Cudworth's long and distinguished Naval career spanned over 20 years and included duty in many distant lands. After joining the Navy in 1945, Petty Officer Cudworth served aboard seven ships and six shore activities, including duty in Saigon and Danang, Vietnam.

Mr. Cudworth's service was outstanding, as evidenced by the many decorations he received: The World War II Victory Medal, American Theater Medal, United Nations Service Medal, Good Conduct Medal with four Bronze Stars, National Defense Service Medal with one Bronze Star, Korean Presidential Unit Citation, Korean Service Medal, Vietnam Campaign Medal, Vietnam Service Medal, and the Navy Expeditionary Medal.

Since his retirement from the Navy, Mr. Cudworth has continued to serve others through his activity in numerous civic organizations. He is an active lifetime member of the Veterans of Foreign Wars, Post 4487, Middletown, and the Fleet Reserve Association, Branch 19, Newport. He served as exalted ruler of the Newport Elks from 1980–81 and past district deputy of R.I. East from 1990–91. He is presently the chairperson of the Elks indoctrination committee and is a member of the Elks National Foundation.

Through his distinguished service to country and community, George Cudworth has provided an outstanding example for others, and I applaud the Newport Lodge of Elks for selecting him as Veteran of the Year. I ask my colleagues in the U.S. Senate to join me in extending to him our heartiest congratulations and best wishes for the future.

A NEW VISION FOR COMSAT

Mr. INOUYE. Mr. President, on February 21, 1992, Bruce L. Crockett became the new chief executive officer of COMSAT Corp., succeeding Irving Goldstein, who was elected director general of INTELSAT. Let me take a few moments to introduce my colleagues to Mr. Crockett and his vision for COMSAT and the role it will play in the future of global telecommunications.

Mr. Crockett joined COMSAT in 1980 and has served in a number of key positions, most recently as president and chief operating officer. From February 1987 to April 1991, he served as president of COMSAT World Systems Division, which has since grown to become COMSAT World Systems and COMSAT Mobile Communications. As head of these two major business units, he directed the corporation's role in the International Telecommunications Satellite Organization [INTELSAT] and its counterpart for mobile communications, the London-based INMARSAT consortium. From June 1990 to June 1991, he served as chairman of INTELSAT's board of governors.

In addition to his COMSAT responsibilities, Mr. Crockett also serves as a member of the Presidentially appointed National Security Telecommunications Advisory Committee as well as NASA's Commercial Program Advisory Committee.

Mr. Crockett is the first person with an MBA to serve as CEO of COMSAT. His business acumen, combined with his strong leadership ability and compelling vision will serve him well as he steers the company toward an exciting future, one of solid growth and increasing competition.

Mr. Crockett outlined his vision for COMSAT's success in remarks directed at the corporation's recently held annual shareholders meeting. I ask unanimous consent to insert those remarks into the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF BRUCE L. CROCKETT, PRESIDENT AND CHIEF EXECUTIVE OFFICER, 1992 COMSAT SHAREHOLDERS MEETING, MAY 16, 1992

Competition in its current form has been something new for us. We've had to learn to make competition be an ally. We've learned that you can't fight the irresistible force of the marketplace; and, quite frankly, we did resist it for a while. So it took us some time to get our act together. We also, in the process, learned to focus on our customers, providing quality service at the best price possible. In fact, saying we have a focus on customers is really an understatement. It's more a fixation! Moreover, in the process of learning to respond to the competitive marketplace and our customers' requirements, we've had to change: Change our culture and how we look at ourselves. And we've had to get others to change how they look at us. I'd like to go into a little more detail on what I like to call the three C's: Competition, customers and culture.

Number one, Competition. We've always had a lot of competition in the form of fiber optic cables, but we've also been blessed because we've had a dominant position in international satellite communications. On both fronts, the ante is going up. With respect to cables, the proliferation of fiber optic cables is increasing at a seemingly exponential rate. I'm sure you saw in this week's newspaper that Nynex is now considering a billion dollar cable connecting Southeast Asia, Japan and the United Kingdom. This is just another in a whole series of attempts by major carriers to blanket the earth with cables. On the satellite side, changes are coming at an equally rapid pace. The policy that has come out of the Government says that, by 1997, international communications from a satellite perspective essentially will be deregulated, and there will be total interconnection with the switched voice network. That means totally unfettered competition for us. But, I don't think it's really a problem. I view it somewhat analogously to what happened when AT&T was broken up. Rates came down, the traffic responded because of the price elasticity of the marketplace and the applications proliferated; and I expect to see the same thing happen in terms of international communications.

In this process of the globalization of markets and new competition and what COMSAT will face, you really don't have to worry very much, for we still have many strengths. The global connectivity of our systems really can't be matched by anybody for a long time to come. Our global reach exceeds 180 countries, and satellites are still the quickest and most cost-effective way to jump-start the creation of communications systems for very large portions of the world, developing and otherwise. That means there are plenty of opportunities for us, and we're really taking advantage of them. For example, our establishing COMSAT International Ventures was just a recognition that the foreign end of the INTELSAT system link, or the vertical integration of services to end customers, offers a very attractive business opportunity. We're pursing that through private line services throughout Latin America and other parts of the world. And those markets will continue to proliferate as privatization and deregulation become even more pervasive than they are already.

Worldwide video is a tremendously growing market. I know you're all in as much awe as I am of the events that took place this week concerning the recovery of the INTELSAT VI, F–3. Next Wednesday, the 20th, we have another launch scheduled, the INTELSAT K satellite, which will be our first in the INTELSAT constellation dedicated to a specialized service, i.e., video. Since this new satellite will permit us to go into very-small-aperture earth stations, we will begin to pepper the rest of the world with the proliferation of television channels we have here in this country. There is tremendous pent-up demand for this, and the market is going to grow very rapidly.

We've demonstrated over the last several years, without too much fanfare, that we in fact can deal with competition. COMSAT Mobile Communications provides a good example. We compete against other signatories, we compete against cellular, we compete against other coast earth station operators, and, notwithstanding all of that competition over the last decade, we're still the largest provider of mobile communications services in the world. We also have more customers than any other providers of such services, and have that business growing at close to 30% a year. We are building a new earth station in the country of Turkey. Once that station is in, we'll be the only signatory in the world providing true global communications—service in all four ocean regions. So, I'm very much convinced that we understand how, where and when we have to compete.

Number two, Customers. Listen to my words carefully. Competitive forces have taught us how to understand our customers better. I have to admit that the vicissitudes of the competitive marketplace have made us a better company. That's a pretty bold statement, but in fact it's true. Understanding customers has been an arrow in our quiver of capabilities, allowing COMSAT to make the systematic changes necessary to be successful. And that's kind of exciting. To the extent we've been successful, it's because we have discovered who the customers are and how to make them happy and satisfied.

I remember back in 1986 when I had just taken over the international business, I flew up to New Jersey with the then management team. We got in a rental car in Newark and headed out. And we got lost! We, the management team of the business, didn't know where our largest customer lived. I didn't quite understand the symbolism of that then as much as I do today, but that embarrassment was the catalyst that really forced a re-orchestration of the business and a focus on our customers. It was the beginning of the change for our new general managers and a whole new management team. Just four years later, in a survey of its customers by Sales and Marketing Management magazine, the World Systems organization was named as the single best selling force in communications in the United States. That same magazine surveyed five other industries that year and the winners were, in their respective categories, Knight Ridder News, Procter and Gamble, RJR Nabisco, Reynolds Metals and United Parcel Service. COMSAT's in good company!

Number three, Culture. In order to be responsive to the competitive marketplace and to our customers, it was important that we change who we thought we were, how we perceived ourselves, and how other people perceived us. And a couple of subtle changes have been happening here that are very symbolic. Over the last several years we've begun to emphasize the word Corporation in our name. This is both to convince ourselves that we're not an inside-the-beltway government agency, and to convince others we are in fact a pragmatic company, operating for the benefit of our shareholders. The second thing we've done more recently is deemphasize the word satellite. The idea is that sometimes a little broader perspective in terms of satisfying customers' communications requirements makes sense, rather than too narrow a focus on satellite-only applications.

Culturally speaking, we're also empowering our employees. You've heard that expression before—it's kind of a chic phrase these days. What it really means at COMSAT is we are instituting more decentralization. The customer meets COMSAT in the marketplace at the division level. Therefore, it is important that our customers have access to people who have decision-making responsibility and the authority that goes along with such responsibility. Since that's at the division level, that's where the empowerment takes place. We're being run less by a central staff, and a lot more where the "rubber meets the road," i.e. where the customers meet COMSAT.

We're also going to avoid leading with our technological chin. We won't force-fit satellites to solutions where they aren't necessary or don't fit. While it was comforting and exciting over the last couple of days to stay up and watch the Endeavour's crew rescue the INTELSAT satellite, it was to a certain extent disconcerting to think that $400+ million rode on three individuals saying, "One, two, three, grab." You don't want to have all your eggs in one basket. That doesn't mean we're going to abandon satellites; rather we will continue to build on our strengths and our heritage. But we're not going to be blind to other opportunities, if and where and when they present themselves and make sense.

The industry doesn't even have a name yet for the business that we're in, in the sense that computers, telecommunications and entertainment are all merging into one business. It's happening because of satellites, it's happening because of digitization, and because of where technology is pushing things. The best words I've heard yet to describe the business, although I don't think this ultimately will be its name, is the digital transportation of information—or information transportation. Whatever it is called, COMSAT will be agile, pragmatic, and niche player. The reason I say niche is that these markets are going to be global and they're going to be consumer-based, and we're just not that big a company to go out and compete on all levels, on all fronts, in all ways and fashions on a global basis. But, there are opportunities, because of the rapid change and because of our nimbleness, where we will be able to participate, and we will be in the thick of this change and take advantage of this change.

There really isn't any magic involved in what we're attempting to do. We're sticking to the basics, we're going to work hard and work smart, we're going to out-hustle our competition, and we're going to have happy, satisfied customers.

CONFERENCE REPORT FOR FISCAL YEAR 1993 TRANSPORTATION APPROPRIATIONS

Mr. HATFIELD. I would like to take this opportunity to thank the chairman and ranking member of the Transportation Subcommittee and clarify the conferees intent with regard to section 373 of the bill so there is no confusion as to the intent of the provision.

Section 373 was agreed to by the conferees in order to clarify the terms and conditions of interstate maintenance discretionary funds that the State of Oregon receives subject to Section 1069(t) of the Intermodal Surface Transportation Efficiency Act of 1991.

Mr. LAUTENBERG. It is clearly the intent of this chairman and of the conference committee that interstate maintenance discretionary grant funds received by the State of Oregon should be provided in addition to the State's annual obligation limitation. In addition, the conferees intend that section 373 will exempt any funds the State receives for the I-5 corridor in fiscal year 1992 through fiscal year 1997 under section 118(c)(2) of title 23, U.S.C., from being treated as allocations for interstate maintenance under section 157(a)(4) of title 23, U.S.C., and sections 1013(c), 1015(a)(1), and 1015(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991.

Mr. HATFIELD. Thank you for the clarification. I also note that the conferees have made clear in the Statement of Managers that the North Santiam River Bridge on I-5 is an extremely high priority and that FHWA should fund this project in fiscal year 1993 pursuant to section 1069(t) of ISTEA.

Mr. LAUTENBERG. The Senator from Oregon is correct.

Mr. HATFIELD. I thank the Senator.

LEAVE OF ABSENCE

Mr. MURKOWSKI. Mr. President, I wish to inform the Senate that due to prior commitments in my home State this weekend, I will be departing later this evening for Alaska. I plan to return on Monday, if after consultation with the Republican leader Senator DOLE, it is determined that the Senate's schedule requires my presence.

In my absence, my able senior colleague from Alaska, Senator TED STEVENS, will remain in Washington to represent Alaska's interests.

TRIBUTE TO SENATOR TIM WIRTH

Mr. CRANSTON. Mr. President, I rise today to pay tribute to a friend and colleague, Senator TIM WIRTH.

TIM WIRTH will be retiring from the Senate at the end of this session, but hopefully not from public life.

TIM's distinguished career in public service spans 25 years, starting with his White House fellowship in 1967. Elected to the Senate in 1986 after posts at the Department of Health, Education and Welfare and 12 years in the House, TIM is leaving the Senate after only one term. But he leaves with an exceptional record of accomplishments.

TIM has been extraordinarily active and effective on the great issues of our time, especially those relating to the environment and the future of our planet.

Perhaps best noted for his comprehensive approach to global environmental problems and championing of a world-wide view, TIM has provided critical leadership on global warming, ozone depletion, and protection of rainforests around the world, including our own Tongass National Forest.

TIM has worked hard on international population issues, seeking to bring back rational policies in a critical area where America's leadership has deteriorated.

As a member of the Banking, Housing, and Urban Affairs Committee on which we both served, TIM WIRTH has been a leader in helping make America's homes more energy efficient, using both the Federal housing programs and mortgage programs to bring energy efficiency standards into the mainstream housing market.

In his work on the Energy and Natural Resources Committee, TIM has been a champion of measures to improve energy efficiency and promote the use of natural gas.

TIM and I worked very closely together when the Senate considered reauthorization of the Clean Air Act, fighting for stricter air pollution control standards for cars and trucks and pushing for the introduction of alternatively fueled vehicles. He was a great ally, diligent in his efforts.

In fact, TIM has been an invaluable ally on many fronts.

TIM was an early supporter of my California desert protection bill.

He has fought persistently for reproductive rights for women, particularly to restore access to abortion services for American women serving overseas in our military.

He has been a steadfast partner in the battle for civil rights and opportunities for women and minorities, including indigenous peoples abroad.

And as a Deputy Whip when I served as Democratic Whip, TIM was an able vote counter and helpmate.

The Senate will miss TIM WIRTH. But I know he will continue to be personally engaged in the issues of our day and continue to be source of wisdom and strength.

TIM, my friend, I join our colleagues in wishing you well.

ALAN DIXON

Mr. CRANSTON. Mr. President, few States combine the varieties of life that Illinois does. As the home of Chicago, our Nation's third largest city, Illinois faces the complex challenges posed by a major urban environment. But that is only part of the State. There is another side of Illinois, an equally important component that makes the State so special—and that is rural Illinois, where agricultural concerns are at issue.

These two features, the urban and the rural, give Illinois a unique character—it does not fit into one niche. A diverse State needs a multi-faceted representative and the senior Senator from Illinois, ALAN DIXON, has proven a versatile legislator. He has found many niches.

ALAN DIXON is neither an ardent liberal nor a staunch conservative. Rather, he has given voice to causes near to the hearts of constituents from all walks of life. They asked him to go to Washington, to go to work for them and he did exactly that.

As a member of the Agricultural Committee, ALAN DIXON worked diligently to provide farm credit relief for his rural constituents. He was also the founder and cochairman of the Senate corn caucus. This group acted to promote the utility of corn—particularly its use in ethanol—and ALAN DIXON was its driving force. I cannot think of two more worthy causes than working for the interests of constituents and working for a cleaner environment.

He has also served his urban constituents well. I say this having seen the work he accomplished during our time together on the Banking Committee. As chairman of the Subcommittee on Consumer Affairs, he proved a vigorous leader in fighting consumer discrimination, red-lining, and mortgage discrimination. He also showed fervor in improving the plight of inner cities and increasing spending for mass transit. These are the achievements of a committed public servant.

And it is to public service that ALAN DIXON has devoted the majority of his life—for 40 years he has served the people of Illinois admirably. He began his service as Police Magistrate in his hometown of Belleville, continued it in both houses of the Illinois State legislature, and then extended it to statewide offices, serving as treasurer and secretary of state. In 1981, ALAN DIXON brought that service to the U.S. Senate, committing himself to making tangible improvements in the lives of all Illinoisans.

ALAN DIXON did not only serve the people of Illinois during his time in this Chamber, he served his colleagues well too. As chief deputy Democratic Whip, he provided insight and support that was invaluable to the Democratic Party and to me during my service as Democratic Whip. And I was not alone in this view. The fact that his peers twice elected him unanimously to that post attests to our great confidence in him.

Though ALAN DIXON served our party well, his passion was strongest in his commitment to serve the people of Illinois—and he did that with distinction. He brought energy and enthusiasm to his work and this body will miss his presence. ALAN DIXON can take pride in his tenure here—there is much he has accomplished, much to be proud of. I thank him for all he has done and wish him well in his future endeavors.

JAKE GARN

Mr. CRANSTON. Mr. President, as each of us knows, the individuals who comprise this body represent a wide range of backgrounds and experiences. Of course, that's as it should be. We've had war heroes and business leaders, movie stars and college professors, journalists and judges. Not surprisingly, the more daring type of physical exploits of Members usually precede one's tenure here. Usually, but not always.

The senior Senator from Utah has one up on his Senate colleagues. Or perhaps I should say he has 109 up. JAKE GARN will be remembered for many things, I'm sure. But at the top of the list will always be his distinction as the first Member of Congress to orbit the Earth while serving in Congress. Taking to new heights, literally, his responsibility to learn as much as possible about the programs Congress funds, Senator GARN spent 7 days in 1985 as a payload specialist on flight 51-D of the space shuttle Discovery. I, for one, will be eternally envious.

I'm sure, too, that the men and women who make America's space program great will be eternally thankful for Senator GARN's enthusiastic support for their work. He shares their dreams and his commitment to their efforts has been total. The space station, a manned mission to Mars, and a permanent colony on the Moon are just a few of the goals toward which he has worked.

Senator GARN has covered a lot of ground here on Earth as well. He served for 6 years as chairman of a committee on which I also serve, the Committee on Banking, Housing, and Urban Affairs. His efforts and input were invaluable to me in 1989 as we worked together to improve the Community Reinvestment Act. In addition to the full committee, we both also serve on the Subcommittee on Housing and Urban Affairs. Although our States are very different, as are our ideas of the best use of Government, I believe we complemented each other well over the years.

We always found we could work together in a friendly, trusting, straightforward and effective way—often working out compromises that bridged wide gaps between the Democratic and the Republican sides.

Senator GARN's work here has obviously been to the liking of his constituents, who chose to return him to the Senate in 1980 and 1986 by overwhelming majorities of 74 percent and 72 percent. I know they'll miss him and his commitment to their concerns.

I don't know what all of his plans for the future include, but I hope that if he makes it on that mission to Mars he remembers how much I'd love to see the pictures he brings back.

THE RETIREMENT OF CONGRESSMAN FRANK ANNUNZIO

Mr. D'AMATO. Mr. President, I rise today to pay tribute to one of my close friends and esteemed colleagues, FRANK ANNUNZIO, who will be retiring from the House of Representatives in a few short months after 28 years of distinguished service.

FRANK was always accessible to his constituents and his colleagues, and his easygoing personality made it much easier to extend a hand across bipartisan lines and legislative aisles. When a sticky problem had to be worked out, or a difficult compromise had to reached, FRANK was always ready to roll up his sleeves and get to the task at hand. This attitude helped him craft many significant pieces of banking legislation which I was fortunate enough to work with him on over the years.

FRANK's banking philosophy was premised on two fundamental principles: safety and accessibility. He strived to make the Federal deposit insurance system fiscally responsible and financially safe, while making banking services readily available and easily accessible to all consumers. The pieces of banking legislation he helped pass were constantly guided by these principles. Some of these measures included: the Truth in Lending Act, the Consumer Leasing Act, the Electronic Funds Transfer Act, the Financial Institutions Reform Recovery and Enforcement Act, and the FDIC Improvement Act.

In handling his legislative duties, FRANK had a definite flair and style about him. As chairman of the House Administration Committee and the Subcommittees on Consumer Affairs and Financial Institutions, his hearings and witness lists were legendary. Who could ever forget the time he chaired hearings on the Fair Debt Collection Practices Act and brought in a former debt collector in a black hood and dark sunglasses to underscore the abusive practices that consumers were then subject to from debt collectors.

Who could also forget his tireless pursuit of financial institution criminals. FRANK passed out "Put the S&L Crooks in Jail" buttons everywhere he went, and oversaw a subcommittee study which uncovered that convicted bank criminals were only paying pennies on every dollar of restitution and fines owned to the Federal Government despite still living lavish lifestyles.

FRANK also exposed waste and abuse in the lifestyles of Federal regulators as well. For example, his subcommittee issued a report showing lavish expenses by the Federal bank regulators including the purchase of 3,000 Asian cookbooks by the Federal Deposit Insurance Corporation at a cost of over $7,000, and the purchase of 36 coffee mugs and 12 golf shirts by the Resolution Trust Corporation for a total cost of over $3,000.

In addition to being a great legislator, FRANK has also been a tremendous leader and role model to Italian-Americans throughout this country. He was one of the founders of the National Italian American Foundation and has served on numerous advisory boards and panels, all to promote the exchange of ideas and better relations between Italy, the United States, and its citizens.

FRANK's impact will be felt for a long time around here, but his presence will be sorely missed when the 103d Congress convenes. I wish him and his lovely wife Angie much health and happiness in their retirement years.

METALS RECOVERY STUDY

Mr. SPECTER. Mr. President, on Friday, September 25, 1992, the Senate approved the conference report to H.R. 5679, the HUD/VA appropriations bill. The bill included an amendment authored by Senators GARN and CHAFEE, with a section authored by me calling for a metals recovery study. At that time I submitted no remarks as the content of the amendment was clearly understood between all drafting parties and appeared unambiguous. At this time, however, I would like to submit comments pertaining to the metals recovery study portion of the amendment which I authored.

I am advised that there is significant uncertainty within EPA's regulatory programs as to whether recovered, or partially recovered, materials—whether an interim metals compound or refined metals—remain wastes or are in fact products. It has also been represented to me that there is some confusion within the agency's regulatory programs as to whether these metal recovery facilities are industrial operations, because they manufacture products or are waste treatment operations under EPA's broad regulatory definitions.

The study provision requires the EPA to conduct a study of the effect of existing regulations on attempts to recover metals from our Nation's wastes, and to report to the Congress by April 28, 1993. This will help us better understand why many interim industrial materials—although designated as hazardous due to the presence of heavy metals—may in fact be significant resources which could be recovered so as to reduce the massive quantities of waste now landfilled in our country. Another advantage in recovering these materials would be a reduction in our dependence on mining and/or importing of vital virgin materials. While scrap metal has been adequately addressed in the past, this amendment focuses on resource-rich wastes deemed hazardous.

Mr. GARN. I rise in agreement with the gentleman from Pennsylvania. Metals recovery is not only extraordinarily important to his State, one of the largest steel-producing States which therefore contributes to the generation of hundreds and hundreds of thousands of tons of metals-rich waste annually, but also similarly vital to other steel producting States such as Texas, Ohio, and Indiana, and my own. Indeed, it is vital to the Nation, with heightened concerns for environmentally sound materials management practices and diminishing space for land disposal, that we reclaim as many resources as we safely can from what would otherwise be considered waste.

The metals industry is unique among the activities which we addressed in the hazardous waste amendment, and the metals recovery study amendment recognizes that there may be great potential in safely assisting and increasing our capacity for recovering metals from hazardous waste materials.

Mr. NICKLES. I, too, agree with my colleague from Pennsylvania. This provision will enable Congress to benefit from a comprehensive review of the metals recovery industry in time for hearings on the controversial revisions to the mixture and derived-from rules. These very important hearings, which are expected to occur early next session, will be enhanced by the agency's presentation of the effect of existing regulations on efforts to recover metals from the Nation's wastes, and how the materials should be regulated to be consistent with the objectives of the Resource Conservation and Recovery Act.

FLSA AND PRISON LABOR

Mr. REID. Senator KENNEDY, I would like to express my concern over the recent ninth circuit court decision holding that prisoners are entitled to minimum wages for work performed in a prison. I have heard from many State governments and prison directors that they cannot possibly afford to pay minimum wages to prisoners and that they would have to discontinue their prison work programs. I think this would be tragic. These prisoners gain valuable job training and work experience, and the prisons gain by occupying the otherwise idle time of their inmates. Given these concerns, do you think the Committee on Labor and Human Resources should hold hearings as soon as we convene in the new year to investigate this subject and invite prison directors and officials to testify?

Mr. KENNEDY. I am aware of the ninth circuit decision, and I know that it has prompted concerns among prison officials who are involved in the operation of prison industries programs.

Prison work programs that give inmates opportunities to learn new skills and acquire work experience that will help them find productive employment when they are released can be of great social benefit, provided that they are carefully structured so as not to take away jobs or drive down the wages of workers on the outside. Since legitimate questions have been raised about the impact the ninth circuit's decision might have on the continued viability of various prison labor programs, I am certainly willing to have hearings on this issue in the Labor and Human Resources Committee early in the next Congress, and I look forward to working with the Senator from Nevada to achieve a satisfactory resolution.

FLSA AND PRISON LABOR

Mr. REID. Mr. President, on August 10, I offered legislation along with Senators BRYAN, DOLE, GRAHAM, MCCAIN, COHEN, and D'AMATO, to clarify the status of prisoners under the Fair Labor Standards Act. This is necessary because State governments in the ninth circuit, which includes my home State of Nevada, are in a quandary. The circuit court has reversed a decision delivered a year earlier which denied prisoners minimum wage protections afforded by the Fair Labor Standards Act—an act fought hard for by the labor unions of this country to protect our average, blue collar workers from the evils of big business. If this aberration of a court decision is allowed to stand, the work programs in prisons will discontinue. That means every work project: including the small amount of sophisticated manufacturing to the menial sweeping up of the grounds.

The State governments simply cannot afford to pay minimum wage for maintenance services. Mr. President, I am not saying that prisoners should not be paid. In fact, I encourage some type of compensation. Some of these wages go to child support, victim restitution and other valuable programs.

The seventh circuit last month, in Vanskike versus Peters, expressly rejected the ninth circuit Hale decision, by finding the twin aims of the FLSA *inapplicable to prison labor*. The first FLSA purpose, ensuring a minimum standard of living for workers, has no application to prisoners because their basic needs, food and shelter, are already constitutionally provided. The second purpose, preventing unfair competition, has received extensive congressional attention in the context of prison labor.

Congress assumed the responsibility of regulating prison labor 3 years before enacting the FLSA, in the Ashurst-Sumners Act. If the FLSA was intended to cover prisoners, the Ashurst-Sumners Act would have been rendered superfluous. Yet Congress has since amended and recodified the Ashurst-Sumners Act, providing authority for certain prison work programs and the wages to be paid prisoners, thereby clearly expressing intent to keep prison labor under laws other than the FLSA.

The Ashurst-Sumners Act requires that the prison pay the prevailing wage of the locality so as not to dilute any wages of nonincarcerated individuals. Here is the law that regulates prison wages. Why bring in the Fair Labor Standards Act in 1992? If there is a problem with what prisoners are paid under work programs, change these governing and authorizing statutes in the State and Federal law. But do not bring in the FLSA in 1992 to protect hardened criminals.

If we allow this decision to stand, we open ourselves to a whole host of decisions from this circuit court regarding other protections intended only for our hard-working laborers. What should we expect next? Unemployment compensation for prisoners? Holidays and vacation time for prisoners? Job security? Collective Bargaining? Mr. President, I urge my colleagues to send a message to this circuit court to allow the Fair Labor Standards Act to protect those it was intended to protect and not to bust the budgets of our State governments.

Mr. President, I will file legislation to correct this situation as soon as the 103d Congress convenes. Senator KENNEDY has agreed to hold hearings in the Labor and Human Resources Committee to study this matter. Mr. President, I would like to enter into the record the numerous letters of support I have received from across the country so that the committee may invite these individuals to submit data and testify at the hearings.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARIZONA DEPARTMENT OF CORRECTIONS,
Phoenix, AZ, September 15, 1992.

Hon. ED. PASTOR,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE PASTOR: On June 24, 1992, the 9th Circuit Court of Appeals ruled, in *Hale and Fuller v. Arizona*, that working Arizona inmates come under the Fair Labor Standards Act and should be paid minimum wages for work performed in prison. The effect of this court ruling, if allowed to stand, will be to create serious financial problems for our state in paying for the programs in our prison system.

I strongly object to this course of action and have asked our Attorney General to file an appeal to this case.

We have been informed that Senate Bill 3160 has been initiated by two Nevada senators designed to overturn this nonsense.

I invite your attention to the comments expressed in the attached newspaper article and agree with them wholeheartedly-inmates are not entitled to the minimum wage, even the idea is repugnant.

I encourage your proactive support.

SAMUEL A. LEWIS,
Director.

DEPARTMENT OF CORRECTIONS,
OFFICE OF THE SECRETARY,
Topeka, KS, September 24, 1992.

Senator BOB DOLE,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DOLE: This letter is to urge your support for S 3160 which was recently introduced in the Senate. This legislation amends the Fair Labor Standards Act of 1938 to ensure that inmates are not treated as employees for purposes of the Act.

This legislation was proposed because of a recent decision of the Ninth Circuit Court of Appeals which held that the Fair Labor Standards Act is applicable to inmate labor in correctional facilities. This would mean that inmates would have to be paid minimum wage as compensation for the labor they perform while incarcerated. Obvious and significant financial implications to state and local governments would result from extension of the Act to cover inmates. We do not believe the Fair Labor Standards Act was intended to be applied in this manner and urge that legislation be enacted to ensure that it will not be interpreted by other courts as applying to prison inmates. I have read the comments of Senators Reid and Bryan in the Congressional Record of August 10, 1992 and believe they present a sound justification for S. 3160.

I urge you to support enactment of this legislation.

Sincerely,

GARY STOTTS,
Secretary of Corrections.

DEPARTMENT OF CORRECTIONS,
OFFICE OF THE SECRETARY,
Topeka, KS, September 25, 1992.

Senator HARRY REID,
Hart Building, Washington, DC.

DEAR SENATOR REID: This letter is to inform you of our support for S 3160 which you have introduced. I have enclosed copies of letters which we have mailed to Senators Dole and Kassebaum urging them to support this legislation as well.

Place let me know if we may be of any assistance to you in this matter.

Sincerely,

GARY STOTTS,
Secretary of Corrections.

AMERICAN CORRECTIONAL
INDUSTRIES ASSOCIATION, INC.,
St. Petersburg, FL, September 24, 1992.

Re Hale versus Arizona

Hon. HARRY REID,
U.S. Senator, Hart Office Building, Washington, DC.

DEAR SENATOR REID: Support your objective to amend the Fair Labor Standards Act to exempt inmates from the "employees purposes of the legislation." My company agrees with your closing statement so adequately expressed, "is ridiculous and. I think we as a Congress should rectify it and do it quickly."

I am sure you are aware that in Senator Graham, you have an individual who is perhaps more knowledgeable than most political leaders concerning Prison Industries. The Senator was Governor of Florida at the time the Florida Legislature created PRIDE, a private, not for profit company to take over and manage Florida's Prison Industry Program. It was through Governor Graham's bold and progressive leadership that PRIDE was recognized as a national role model for Prison Industries.

Please advise me if there is anything I might do to assist you.

Sincerely yours,

J. FLOYD GLISSON,
President.

CORRECTIONAL INDUSTRIES
ASSOCIATION, INC.,
Waterbury, VT, September 15, 1992.

Re Senate bill 3160.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: I wish to lend my full and unqualified support to your efforts to resolve the serious fiscal implications related to "Hale vs Arizona", created by the Ninth Circuit Court decisions.

The Fair Labor Standards Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Prison Industry Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance, food service, laundry services and Industries' programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purposes stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities;

and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

The Corrections' population in our State and Federal systems has virtually doubled in the last decade and approaches 1 million offenders, at an operating cost alone of some $25 billion annually.

Unless greater attention is given to cost reductions, the drain on scarce tax supported resources will continue unabated, at the expense of other essential social needs. The Ninth Circuit decision, if allowed to stand, would impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your associates to join with you in eliminating the confusion in our courts by passing your amendment.

My personal time and services are available to you if I can be of any service.

Sincerely yours,

ROBERT M. MARTINEAU,
President.

CORCRAFT,
Menands, NY, September 21, 1992.
Mr. ROBERT M. MARTINEAU,
Director, Correctional Industries, Waterbury, VT.

DEAR BOB: Larry Kyle asked me to provide you with some financial information regarding what's going on in Arizona and the Fair Labor Standards Act. We did some quick calculations and our figures show that if we paid inmates in our facilities the current minimum wage, we would increase our inmate wage costs seven (7) fold. That would translate to an additional cost to us of $12,360,000. Right now, we pay inmates an average of $.60 per hour.

Last year our income before covering non-operating expenses was $1.8 million. As you and I have discussed, we cover the costs of the security officers in our shops and 15 vocational instructors associated with our program. By the time we cover the $5.5 million associated with these non-operating expenses, we showed a loss of $3.7 million. If we were required to pay the inmates in the program minimum wage, we would have shown a loss of $10.6 million, before including non-operating expenses, and a total loss of $16 million, after covering non-operating expenses. Obviously, any requirement that we pay inmates minimum wage, which is not offset by some other factor, would devastate us.

Sincerely,

JOHN W. CONROY,
Director of Correctional Industries.

PHILADELPHIA CORRECTIONAL INDUSTRIES,
Philadelphia, PA, September 17, 1992.
Hon. HARRY REID,
U.S. Senate, Washington, DC.

Re: Senate bill 3160.

DEAR SENATOR REID: I wish to lend my full and unqualified support to your efforts to resolve the serious fiscal implications related to "Hale vs. Arizona", created by the Ninth Circuit Court decisions.

The Fair Labor Standards Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Prison Industry Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance, food service, laundry services and Industries programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purpose stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities; and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

The Corrections population in our state and federal systems has virtually doubled in the last decade and approaches one million offenders, at an operating cost along of some $25,000,000,000.00 annually.

Unless greater attention is given to cost reductions the drain on scarce tax supported resources will continue unabated, at the expense of other essential social needs. The Ninth Circuit decision, if allowed to stand, would impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your associates to join with you in eliminating the confusion in our courts by passing your amendment.

My personal time and services are available to you if I can be of any service.

Sincerely yours,

ROBERT J. GORSKI, PH.D.,
Director.

STATE OF NEVADA,
DEPARTMENT OF PRISONS,
Carson City, NV, September 15, 1992.
Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: Thank you for your efforts on behalf of Prison Industries as evidenced in the Reid Amendment to the Labor Appropriation Bill. Although most of the inmates working in Prison Industries in Nevada are being paid minimum or near minimum wage, the impact of protecting inmates under the Fair Labor Standards Act would be devastating. We anticipate a weekly cost of $5,000 to $12,000 in wages alone. More importantly are the potential implications in creating employee status for inmates.

It is this status which can and probably will severely limit our ability to function effectively. Having inmates covered as employees opens the door to a number of problems which will severely limit our ability to control our institutions.

If there is anything else that can be done by us to assist you please let me know.

Very truly yours,

HOWARD L. SKOLNIK,
Assistant Director.

NEVADA LEGISLATURE,
September 15, 1992.
Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: As Chairman of the Prison Industry Advisory Board in Nevada, I am deeply concerned with the implications of the recent decision by the 9th Circuit Federal Court of Appeals in Hale v. Arizona. It is my understanding that this court decision determined that all inmates working for Arizona correctional industries programs (ARCOR) are covered by the Fair Labor Standards Act (FLSA); are to be considered employees of the State of Arizona; and are, thereby, entitled to minimum wage as well as other protections of the FLSA. It is also my understanding Arizona is appealing this decision to the 9th Circuit en banc review and anticipates that if the decision is affirmed, the state will seek review by the U.S. Supreme Court.

The decision determined that the inmates laboring for ARCOR in the manufacturing of license plates, prison beds, mattresses and other in-house industries in Arizona were specifically covered by the FLSA. While the full implications of the decision are not yet known, the creation of an employee status for inmates may open the door to entitlement to unemployment compensation, workmens' compensation, minimum wage and overtime for all inmates working within correctional settings. The potential cost of this benefit for inmates is staggering.

As Chairman of the Prison Industry Advisory Board in Nevada, I would like to go on record in support of your amendment to the Fair Labor Standards Act of 1938 which would define the term, "employee," to not include any inmate of a penal or correctional institution of a state or political subdivision of a state.

With best regards,

Assemblyman JOHN MARVEL,
Chairman, Nevada's Prison Industry Advisory Board.

CRIMINAL JUSTICE ASSOCIATES,
Philadelphia, PA, September 15, 1992.
Senator HARRY REID,
U.S. Senate Office Bldg., Washington, DC.

DEAR SENATOR REID: As a consulting firm doing work with state and county prison industries, Criminal Justice Associates is writing to support your efforts to prevent certain classes of prison inmates from attaining employee status under the FLSA. We are particularly concerned that institutional maintenance workers not be included in definitions of employee under the legislation.

We wish to point out, however, that under P.L. 96-157, Sec. 128, now codified at 18 U.S.C. 1761(c), inmates participating in the U.S. Department of Justice's Private Sector Prison Industries Enhancement Program—including those in Nevada—are now considered to be employees and thus should be exempted from your proposed amendment.

Sincerely,

BARBARA J. AUERBACH,
Partner.

MISSOURI DEPARTMENT OF CORRECTIONS, DIVISION OF ADMINISTRATION,

Jefferson City, MO, September 16, 1992.
Re Senate bill 3160.
Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: I wish to lend my full and unqualified support to your efforts to resolve the serious fiscal implications related to "Hale vs Arizona", created by the Ninth Circuit Court decisions.

The Fair Labor Standards Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Prison Industry Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance, food service, laundry services and Industries' programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purposes stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities; and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

Unless greater attention is given to cost reductions, the drain on scarce tax supported resources will continue unabated, at the expense of other essential social needs. The Ninth Circuit decision, if allowed to stand, could impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your associates to join with you in eliminating the confusion in our courts by passing your amendment.

Sincerely,

WILBUR W. GOOCH, Jr.,
Administrator,
Missouri Correctional Enterprises.

STATE OF WISCONSIN,
DEPARTMENT OF CORRECTIONS,
Madison, WI, September 24, 1992.
Hon. ROBERT W. KASTEN,
U.S. Senate, Washington, DC.

DEAR SENATOR KASTEN: I wish to lend my full support for passage of S. 3160 introduced by Senator Reid. This legislation will resolve a serious fiscal problem created by the Ninth Circuit Federal Appeals Court in its Hale v. State of Arizona decision. Essentially, this decision states that inmates working in prison industries are covered under the Fair Labor Standards Act and are therefore entitled to minimum wage as well as other protections of the FLSA.

We do not feel that it was ever the intent of Congress to include inmates working for the correctional system under the Act. The FLSA was enacted in 1938 to assure that working men and women received a wage substantial enough to meet a person's life sustaining needs. Prison inmates are provided adequate food, clothing, living quarters, health services and other necessities of life at no cost to the inmate.

The Ninth Circuit Court has decided that FLSA rights and compensation should be provided to inmates in prison industries. Full implementation of this decision on a national scale would impose a substantial financial burden on the State of Wisconsin. The result will be either increased inmate idleness in overcrowded prisons or the appropriation of substantially more tax dollars for higher inmate wages.

I urge you to support S. 3160 which would clarify that inmates working in prison industries or regular institution work assignments are not covered under the Fair Labor Standards Act.

If you need any additional information, please let me know. Thank you for your consideration of this issue.

Very truly yours,

PATRICK J. FIEDLER,
Secretary.

STATE OF WISCONSIN,
DEPARTMENT OF CORRECTIONS,
Madison, WI, September 24, 1992.
Hon. HERBERT H. KOHL,
U.S. Senate, Washington, DC.

DEAR SENATOR KOHL: I wish to lend my full support for passage of S. 3160 introduced by Senator Reid. This legislation will resolve a serious fiscal problem created by the Ninth Circuit Federal Appeals Court in its Hale v. State of Arizona decision. Essentially, this decision states that inmates working in prison industries are covered under the Fair Labor Standards Act and are therefore entitled to minimum wage as well as other protections of the FLSA.

We do not feel that it was ever the intent of Congress to include inmates working for the correctional system under the Act. The FLSA was enacted in 1938 to assure that working men and women received a wage substantial enough to meet a person's life sustaining needs. Prison inmates are provided adequate food, clothing, living quarters, health services and other necessities of life at no cost to the inmate.

The Ninth Circuit Court has decided that FLSA rights and compensation should be provided to inmates in prison industries. Full implementation of this decision on a national scale would impose a substantial financial burden on the State of Wisconsin. The result will be either increased inmate idleness in overcrowded prisons or the appropriation of substantially more tax dollars for higher inmate wages.

I urge you to support S. 3160 which would clarify that inmates working in prison industries or regular institution work assignments are not covered under the Fair Labor Standards Act.

If you need any additional information, please let me know. Thank you for your consideration of this issue.

Very truly yours,

PATRICK J. FIEDLER,
Secretary.

ILLINOIS DEPARTMENT OF CORRECTIONS,
Springfield, IL, September 16, 1992.
Hon. HARRY REID,
U.S. Senator, Washington, DC.

DEAR SENATOR REID: It is my understanding that you have introduced an amendment to the Labor appropriations bill which will ensure that incarcerated individuals are not covered by the Fair Labor Standards Act.

This letter is to support your amendment. If inmates were to be covered, it would render Departments of Corrections substantially unable to utilize inmate labor in ways that are consistent with good corrections practice and with needs of inmates to learn and develop work skills and habits. It would be most inappropriate under such conditions for incarcerated individuals to receive prevailing wage. Inclusion of incarcerated people in the Fair Labor Standards Act would therefore be a substantial cost burden to the taxpayers and the system of incarceration.

We encourage your effort to see your amendment pass.

Sincerely,

HOWARD A. PETTERS III,
Director.

ASSOCIATION OF STATE
CORRECTIONAL ADMINISTRATIONS,
South Salem, NY, September 16, 1992.
Senator HARRY REID,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR REID: The Association of State Correctional Administrators is a national professional association whose membership consists of the Directors of the 50 state prison systems as well as several other major correctional agencies. As the leaders of the nation's correctional agencies, they are responsible for the care and control of more than 800,000 inmates and lead a work force of more than 250,000.

I am writing to express our strong support for the amendment you are proposing to the Labor Appropriations bill, which would amend and clarify the provisions of the Fair Labor Standards Act to exclude inmates from those provisions. As you know, a recent decision by the U.S. District Court in Arizona brings prison inmates under the provisions of the Act. Although the case is on appeal, the court's decision runs the risk of doing serious harm to our prison systems, all of which are already seriously financially overburdened. If the Act is not amended, the very real risk is run of having to terminate state prison employees in order to find the funds to pay inmates wages and benefits comparable to those received by ordinary citizens. That situation would be intolerable.

Further, as a consequence of the court's decision, an employer-employee relationship between staff and inmates would be created. Such a relationship would make the operation of every prison in the country very problematic. It is an unnecessary burden to place on our prison systems and the people who operate them.

We hope that your colleagues will support your amendment with the same level of intensity and unanimous commitment as our membership. If you have any questions, please call.

Thank you very much.

Sincerely,

GEORGE M. CAMP,
Executive Director.

IOWA PRISON INDUSTRIES,
Des Moines, IA, September 16, 1992.
Hon. TOM HARKIN,
U.S. Senate, Washington, DC.
Reference: Senate Bill 3160.

DEAR SENATOR HARKIN: May I urge your support of the amendment to the Appropriations Bill being offered by Senator Harry Reid of Nevada.

This amendment seeks to clarify the intent of Congress that the FLSA was not intended to apply to incarcerated offenders, as the U.S. 9th Circuit Court of Appeals has recently held in Hale vs. Arizona.

This amendment is vital to Iowa Prison Industries. If minimum wage is applied to inmates who participate in the programs of our workshops those shops will be forced to close, due to paying productive labor rates for what is essentially a training enterprise.

The average Iowa inmate has never held a long term, economically productive job, has dropped out of school before finishing the twelfth grade, has received no vocational/technical or apprenticeship training, and consequently reads at the ninth grade level and uses math at the fourth grade level.

Iowa Prison Industries provides over 500,000 hours of training annually to such inmates. Research has shown that inmates who work in Iowa Prison Industries have the lowest recidivism rate of any treatment group, and that they also commit sixty percent fewer rules infractions than the general population. We believe this is because in our workshops we address some of the major problems which caused our inmates to fail in society.

We urge your support of an amendment which will protect this vital program, which has a record of successful rehabilitation of the inmates in our care.

Sincerely,

HARRY CANNON, PH.D.,
Deputy Director for Industries,
Department of Corrections.

STATE OF UTAH,
DEPARTMENT OF CORRECTIONS,
Draper, UT, September 16, 1992.
Hon. E.J. "JAKE" GARN,
U.S. Senate, Washington, DC.

DEAR SENATOR GARN: I am writing to encourage your support of this bill sponsored by Senator Harry Reid of Nevada. The bill is intended to clarify the intent of the Congress, which has been that the FLSA was not intended to apply to incarcerated offenders.

This clarification is necessitated by recent decisions by the Ninth Circuit Court in "Hale vs Arizona." In these decisions the court held that an employee/employer relationship existed between Arizona Correctional Industries and inmate workers. This decision appears to mean that inmates working in certain Arizona Correctional Industries programs must be paid Federal minimum wages for their labor.

The Fair Labor Standard Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Federal Private Sector/Prison Industries Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance food service, laundry services and industries' programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purposes stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities; and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

The Corrections' population in our State and the Federal systems has virtually doubled in the last decade and approaches 1 million offenders, at an operating cost alone of some $25 billion annually.

Unless greater attention is given to cost reductions, the drain on scarce tax supported resources will continue unabated, at the expense of the other essential social needs. The Ninth Circuit decision, if allowed to stand, would impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your support and the support of your colleagues, for Senate Bill 3160.

Sincerely,

RICHARD A. CLASBY,
Director, Utah Correctional Industries.

DEPARTMENT OF
CORRECTIONS AND REHABILITATION,
Bismarck, ND.

To: Senator Harry M. Reid, United States Senator—Nevada.
From: Elaine Little, Director.
Date: September 17, 1992.
Re: Amendment to Fair Labor Standards Act to exclude inmates from its provisions.

I am writing to express my strong support for your proposed amendment to exclude inmates from the provisions of the Fair Labor Standards Act. The applicability of the Act to inmates has been a question and concern to us for some time. Including inmates under the provisions of the Fair Labor Standards Act would place an extreme hardship on the North Dakota corrections system. This would not only be very detrimental to our department, but since our system could not afford to meet the provisions of the Fair Labor Standards Act for inmates, there would be many fewer inmates who could benefit from work programs, etc. Therefore, we strongly endorse your amendment to exclude inmates from the provisions of the Fair Labor Standards Act.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION,
Columbus, OH, September 17, 1992.
Hon. HARRY REID,
U.S. Senator, Washington, DC.

DEAR SENATOR REID: I would like to express my strong support for passage of your proposed amendment to the Fair Labor Standards Act which I believe is of critical importance to the State of Ohio.

As you are aware, the Correctional Industries Association has expressed concern with the implications of the recent 9th circuit federal appeals court decision *Hale* v. *Arizona*. Should this decision stand, it could open the door to states paying for unemployment, worker's compensation, minimum wage and overtime for all inmates working within prisons. The cost implications for Ohio are staggering.

I would like to offer my support and assistance to your prepared legislation. Should you need additional information regarding the potential impact of the court's decision on Ohio or assistance from my office in your efforts to obtain passage of this critical legislation, please contact me or my Legislative Liaison, Scott Neely, at (614) 431-2762.

Sincerely,

REGINALD A. WILKINSON,
Director.

STATE OF WASHINGTON,
DEPARTMENT OF CORRECTIONS,
Olympia, WA, September 18, 1992.
Hon. HARRY M. REID,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR REID: I wholeheartedly support your amendment that would exclude inmates from the Fair Labor Standards Act. The application of FLSA to inmate populations could well have the affect of destroying legitimate work programs that presently provide healthy activity, job skill training and solid work habits for those incarcerated. States simply do not have funds available to meet FLSA requirements. Such a loss would be devastating to generally overcrowded correctional facilities across the country.

Thank you for sponsoring this amendment.

Sincerely,

CHASE RIVELAND,
Secretary.

LAW OFFICES OF,
LEONARD, RALSTON, STANTON & DANKS,
Washington, DC, September 16, 1992.
Hon. HARRY M. REID,
Chairman, U.S. Senate, Hart Office Building, Washington, DC.

DEAR MR. CHAIRMAN: We represent the 18,000 employees of the Federal Bureau of Prisons who are members of the Council of Prison Locals of the AFL-CIO.

We have been directed by the President of the Council to vigorously support the proposed Amendment to the DOL Appropriations Bill which would overturn Hale v. Arizona, a decision recently rendered by the United State Court of Appeals for the 9th Circuit.

Please understand that our employees are dues paying members of the AFL-CIO employees with a contrary position should be totally disregarded.

Our employees support this legislation because it would reverse a court decision which would put in jeopardy of bodily injury or death every member of our union who daily must work in the presence of convicted felons.

Senator, we know that you understand that even office secretaries in the Bureau are in continuous contact with those people who society has decided are not ready to be with the wives and children in our communities. Unlike the law enforcement officer, these prison workers are constantly surrounded by convicted felons many of whom have violent records.

Senator, these workers are your workers. You and your colleagues are their employers on whom they and their families must rely.

Senator, the issue here is simply. Every time someone makes it more difficult to operate our prisons by restricting the ability of Federal Prison Industries to control the prison environment and safeguard the prison employees and the prisoners themselves, there is a greater likelihood of prison riots, violence, injury, death and destruction of prison property. There are simply too many examples of this fact for it to be disputed.

We need and urgently request that you do all in your power to support the Reid Amendment to the DOL Appropriations Bill.

Sincerely,

JERRIS LEONARD,
Washington Counsel,
Council of Prison Locals.

CORRECTIONAL PRODUCTS
& SERVICES, INC.,
Westminster, CO, September 18, 1992.

Hon. HARRY REID,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR REID: As an owner of a private sector company and as Chairman of the Correctional Industries Association Corporate Relations Committee, I wish to express my complete support to you in your effort to resolve the chaos that will result from the recent "Hale vs. Arizona" ruling in the Ninth Circuit Court.

As a taxpayer, I find it difficult to comprehend, and would find it even harder to explain to my taxpaying employees why their jobs are in jeopardy because tax-costing offenders gain the benefits of the Fair Labor Standards Act.

The Fair Labor Standards Act is excellent legislation to the benefit of hard-working taxpayers, but I believe, to contort it in such a manner as to include criminals will raise unprecedented contempt for government from the American people.

As chairman of the Corporate Relations Committee of the CIA and representing 59 taxpaying, private corporations, we recognize the immediate and catastrophic effect this will have on our companies and the thousands of taxpaying workers we employ.

The benefits of working inmates are clear—reduced idleness and violence, reduced costs to taxpayers as well as the benefits in the rehabilitation of the inmate, but to consider inmates as employees with the same wages and benefits of free-world labor is wrong. Please continue your efforts in support of the taxpayer.

Sincerely,

ED COOK,
Chairman, Corporate Relations Committee, Correctional Industries Association, Vice President, CPSI.

THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY, DEPARTMENT OF CORRECTION,
Boston, MA, September 22, 1992.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: I would like to take this moment to strongly support Senate bill 3160. The amendment to the Fair Labor Standards Act of 1938.

The Massachusetts Department of Correction attempts to employ all inmates within our jurisdiction. This provides for healthier, safer and more secure institutions. It also gives an inmate a sense of responsibility which can prepare him/her for an easier more effective reintegration into the community. Inmate labor positions include janitorial work, paint crews, walks and grounds maintenance and inmate industries.

I would like to add that the inmate industries is not in competition with the private industries. Therefore, the enactment of this bill will not affect the private sector. If this bill is not passed the budget will far surpass any economical and safety objectives. In essence, we would be paying minimum wage for inmates to maintain their own living quarters, eating area, recreation rooms and yards.

Furthermore, the Department of Correction might be forced to lay off current Department employees in order to pay inmate wages. It would be economically detrimental to pay inmate wages in addition to the amenities currently provided (food, shelter, clothing, medical care, education and recreation programs).

Again, the Department of Correction strongly supports S3160. I thank you for the opportunity to express my opinions and concerns.

Sincerely,

LARRY E. DUBOIS,
Commissioner.

MINNESOTA DEPARTMENT
OF CORRECTIONS,
St. Paul, MN, September 18, 1992.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: As commissioner of the Minnesota Department of Corrections and president of the Association of State Correctional Administrators, I am writing to express my strong support for the amendment you are proposing to the Labor Appropriations bill which would amend and clarify the provisions of the Fair Labor Standards Act to exclude inmates from those provisions.

As you know, a recent decision by the U.S. District Court in Arizona brings prison inmates under the provisions of the act. Although the case is on appeal, the court's decision runs the risk of doing serious harm to our prison systems which are already seriously financially overburdened. if the act is not amended, state corrections departments may face the very real risk of having to terminate state prison employees in order to find the funds to pay inmate wages and benefits comparable to those received by citizens in the free community. I am also concerned about the creation of an employer/employee relationship between staff and inmates.

Your efforts in amending the labor Appropriations bill are very much appreciated.

Sincerely,

ORVILLE B. PUNG,
Commissioner.

JUNIPER VALLEY PRODUCTS,
Colorado Springs, CO, September 24, 1992.

Hon. HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: I have reviewed a copy of your proposal to amend the Fair Labor Standard Act to ensure that inmates are not treated as employees as determined by the 9th Circuit Court for Arizona, and our office fully supports this endeavor.

I am sure that you are aware that should the decision to pay inmate workers prevailing wages become the "law of the land," we in State Government will be affected drastically in our efforts to provide training and work opportunities for inmates. As you know, there are some circumstances that offer us the opportunity to pay offenders minimum or prevailing wages. While these programs work well for those states authorized to participate, there are precious few private-sector employers willing to suffer the liabilities associated with such a program due to worker turnover, training, security, and related restrictions that must be imposed in a prison environment.

For the most part, all correctional industry programs provide products to State agencies that meet their needs at a price comparable to the prevailing market; however, the training in basic work ethics and the satisfaction of having a job while incarcerated go a long way in preventing disruptive behavior while in prison as well as preparing them for their release to society.

In addition, there are considerable cost savings to tax payers in the form of cost avoidance. We in Colorado have determined that it would cost approximately $5,000 per inmate per year to provide other training or alternate work programs for assigned inmates. When applied to the overall incarceration rate nationwide the numbers are staggering.

Your efforts to amend the FLSA to exclude inmates from coverage is greatly appreciated.

Sincerely,

TOM G. CRAGO, Ph.D.,
Director, Correctional Industries.

FLOOR STATEMENT OF SENATOR RICHARD H. BRYAN, OCTOBER 2, 1992

Mr. President, in August, Senator Reid and I introduced S. 3160; a bill compelled by the Ninth Circuit Court of Appeals' June decision in Hale. This decision held that prison inmates are covered under the Fair Labor Standards Act as "employees", and thus are to be paid at the prevailing minimum wage rate. This decision is absurd. To hold that criminals, some convicted of violent crimes, some serving decades in prison are now entitled to be paid minimum wage while serving time is nonsensical.

The Fair Labor Standards Act has a detailed listing of employees exempted from the Act's minimum wage requirements. This listing has never exempted prisoners. The Hale decision requires Congress to now make such an exemption. The decision requires Congress to restore a little common sense through this legislation.

Hale has opened the gates for inmates to file lawsuits to recover minimum wage payments under FLSA for work done as an inmate in prison. The gates are also open for inmates to seek back payment of minimum wages; up to two years retroactively under the FSLA. The magnitude of Hale's ramifications is obvious.

For my state of Nevada, Hale will cost hundreds of thousand of dollars annually to pay state prisoners at minimum wages. Like many other states throughout this country, Nevada is dealing with a major budget crisis, and the painful program cuts necessitated by the reality of this situation. To add to the budgetary problems of these states by allowing the Hale decision to prevail will be disastrous. To place states in the position of also defending inmate lawsuits for retroactive payment of wages, magnifies the disaster.

As a former governor, I am particularly aware of Hale's impact. As governor, I encouraged the creation of state prison employment programs, both to ensure inmates' working time was used productively, and that inmates developed an employable skill. I certainly did not contemplate these prison programs would result in the establishment of an "employer-employee" relationship between the prison and the inmates, and thus coverage under the Fair Labor Standards Act minimum wage provisions. As the Ninth Circuit Court of Appeals stated in its earlier 1991 *Gilbreath*, 931 F.2d 1320, decision. "* * * it is highly implausible that Congress intended the FLSA's minimum wage protection be extended to felons serving time in prison."

Our state governments are under extreme budget duress. Over 34 states have been required to revamp their budgets this year to address shortfalls. To allow Hale to stand puts all states at risk of inmate lawsuits with retroactive award potential, and at risk of state budget chaos. For many of the affected states, the result may be the termination of prison employment programs.

Hale must be rectified. We cannot expect the states to survive another round of lawsuits and retroactive awards in this economic climate. We cannot justify asking this country's taxpayers to pay prisoners a minimum wage. We do not have the money to do it. Even if we did, those funds could be better spent putting more police on patrol, rather than bringing prisoners to the wage level of working Americans.

I would like to thank Senator Edward Kennedy very much for his cooperation in agreeing to hold hearings on this issue early in the 103rd Congress. This is a problem we need to resolve as quickly as possible—before all of our states are unduly harmed by the Hale decision.

BOSNIA AND SOMALIA

Mr. SIMON. Mr. President, periodically I submit my weekly newspaper column for publication in the CONGRESSIONAL RECORD.

Today, I would like to focus my colleagues' attention on the serious issue of donor relief—both as it applies to Bosnia and Somalia. I ask unanimous consent the article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMON. In a related issue, as many of my colleagues know, I have spoken on this floor numerous times, pleading for attention to famine-stricken Somalia. An article in the September 29 edition of the Christian Science Monitor, quoted a Somali agricultural expert Hussein Iman, painting an incredibly miserable picture. He says "some family members are lying in their houses so weak they can't go out." He estimates that, due to the fighting, looting and drought, farmers lost 80 percent of their crops this year.

What we have seen closer to Baidoa, the epicenter of the famine—about 120 miles inland and where fighting continued well into this year—the harvest was practically nothing.

The plight of Samolia is one of the doom and despair. It will take Somalia 10 to 20 years just to rebuild the country's infrastructure

I chair the Senate Panel on African Affairs, and we have held several hearings on the situation in Somalia, and in fact, we will convene the subcommittee today to discuss this and other African developments. Whether it was Assistant Secretary of State for African Affairs Herman Cohen or the President's designee to coordinate Somali relief Andrew Natsios, we have been jolted by the triple digit deaths each day. This week we learned that a significantly higher percentage of deaths were adults.

I fear the greatest bulk are dying of disease, and the endless banditry has hampered the work of relief agencies in the interior which has slowed the transport of food to an estimated 2 million Somalis on the brink of death.

Somalia's 6 million people are on the move because of anarchy and hunger. Perhaps that is a big reason why so many of them are dying. We see, and certainly the Senator from Kansas who recently returned from the Horn of Africa will agree, relief agencies are trying to deliver food directly to villages rather than focusing on centralized aid camps. The rationale is to keep people at home rather than wasting their energies in desperate, often fruitless, searches for food. Most camps for Somalis outside their country have well-organized operations by now, but the problem is overwhelming. More than 300,000 Somalis are sheltering in Kenya, 400,000 in Ethiopia.

One out of every three Somalis are starving at home. More than 100,000 have already starved to death.

We have an obligation to humanity to stop this senseless death. We must. Hopefully this column will put our role in solving these two world crises into perspective.

EXHIBIT 1

WHAT ROLES FOR THE U.S. AND THE U.N. IN BOSNIA AND SOMALIA?

When should U.S. force be used to maintain stability around the world?

Congress and the White House wrestle with that question, knowing that if force is used, American lives may be lost—but also knowing that failure to take action also can cost loss of lives, and ultimately much greater loss of American and other lives if the resort to violence by one nation spreads to others.

One of the difficulties is that resolutions in Congress authorizing or suggesting the use of force are general.

The other day, for example, we adopted a resolution calling on the President to get action from the Security Council of the United Nations authorizing the use of force, if necessary, to get relief supplies to surrounded Bosnian cities.

But the resolution did not specify how much U.S. force would eventually be used, and the resolution did not authorize it yet.

I voted for it. I favor using air power to help relieve the tragic situation in Bosnia. I oppose the use of U.S. ground troops. The Serbian government's call for "ethnic cleansing" has a Hitleresque ring to it, and its clear-cut aggression against the people of Bosnia should be resisted

The community of nations has to do more than mouth pleasant pieties denouncing the Serbian government. We are providing a limited economic boycott and there is a small United Nations presence in Sarajevo, but the response has been anemic.

An even more tragic situation is in Somalia, where there is a clear-cut civil war. Many times the numbers of civilians being killed in Bosnia are dying of starvation in Somalia. The U.N. has authorized 500 troops to bring food to the starving nation.

How can the United States exert leadership, yet not have situations develop into a Desert Storm in which the United Nations action became overwhelmingly a United States action? (539,000 U.S. troops were in Kuwait.)

Complicating all of this is that when Congress authorizes the use of force, whether in Vietnam or Kuwait, we simply give the President the authority to use force. We do not stipulate how much force. Whether it is 1,000 troops or 500,000, we leave it to the President.

Senator Joseph Biden and I are discussing the possibility of a measure authorizing the President to use up to a specified number—perhaps 2,000 armed forces personnel—who could be used by the President if the United Nations Security Council calls for action.

Under our proposal, these would be volunteers from our armed forces, who would be made available at the discretion of the President to help get food into Somalia, or provide air cover for food and medicine going into Bosnia—or whatever situation is serious enough to warrant United Nations Security Council action.

UN Security Council measures cannot be passed if any one of five nations—including the United States—vetoes it. UN actions have not been frequent.

The Biden-Simon proposal would permit the United States to participate with a limited use of force without further authorization from Congress.

My guess is that occasional, small uses of international force will be necessary in the coming decade.

History suggests that when an empire shrinks or collapses, small wars and difficulties sometimes follow. When the British left the Indian subcontinent, it broke into two nations with significant loss of life. When the United States left the Philippines, a mini-civil war eventually erupted. And when both the Soviet and Yugoslav empires collapsed, there has been some chaos, and more can be expected.

We must strive to see that small conflicts do not grow into large wars.

The United States and other nations should assist in that, and the authorization of a limited use of force by our President, when he approves, and if requested by the United Nations, seems the best way to achieve that.

ON CLOTURE ON THE MOTION TO PROCEED TO S. 2, THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. HATFIELD. Mr. President, earlier today the Senate defeated the motion to invoke cloture on S. 2, the Neighborhood Schools Improvement Act by vote of 59-40. As the author of one of the key amendments incorporated in the Senate version of S. 2, I was disheartened to have to cast my vote against this motion. Two weeks ago I expressed my hope on this floor, during consideration of the fiscal year 1993 Labor, HHS, Education Appropraitons bill, that the conference agreement on S. 2 would reflect the will of the Senate on eduction flexibility. Unfortunately, the final outcome failed to satisfy this test.

Last January the Senate voted 95-0 to support the concept of education flexibility as an amendment to S. 2. As the sponsor of this legislative effort, I was pleased with the overwhelming endorsement of my colleagues to give States and local school districts the freedom to use Federal funds in the most effective ways possible. On a bipartisan basis, we joined together to support the thousands of quality educators across the country in their efforts to reduce the Federal regulatory burden in order to proceed with the important task of educating our young people.

The goal of the Senate ed-flex provision was to allow 50 local, education agencies in 6 States the opportunity to experiment with Federal flexibility on a limited basis. School districts, including both elementary and secondary schools, could apply for regulatory waivers in the following programs: chapter 1, chapter 2, the Dwight D. Eisenhower Mathematics and Science Education Act, the Follow Through Act, sections of the Stewart B. McKinney Homeless Assistance Act and the Carl D. Perkins Vocational and Applied Technology Act. Civil rights protections would not be waived under any circumstances, not would the flexibility waivers impact Federal funding allocations to these critical programs. In exchange for a loosening of the Federal regulations, educators would be carefully monitored and required to demonstrate edcuational achievement through out the duration of the waiver period.

The House also incorporated educational flexibility into their companion legislation on this matter. However, their demonstration program was limited to a total of 300 schools nationwide and mandated the creation of local reform committees to oversee the flexibility program. The House also included a limitation on the program restricting waivers only to those institutions which are affiliated with chapter 1. While most elementary schools do participate in the chapter 1 program, the majority of the Nation's secondary schools do not. Unfortunately, the House provision remained in the final version of the conference report, thereby limiting a small demonstration program even further by restricting the waiver authorization to solely chapter 1 institutions. In my State of Oregon alone, only 13 percent of chapter 1 students are enrolled in secondary schools. This limitation substantially reduced our ability to have a well-rounded demonstration opportunity in flexibility.

At this point, Mr. President, I would ask that a list of the percentage of students in chapter 1 programs in secondary schools across the Nation be included in the RECORD. I urge my colleagues to evaluate the impact of this limitation in their own States. Nationally, only 9 percent of chapter 1 students are in secondary schools.

I ask unanimous consent the material be printed in the RECORD.

(See exhibit 1).

Mr. HATFIELD. The intention of any flexibility effort is to lessen the regulatory burden on schools and teachers by allowing certain regulations to be waived which may be impeding real education reform. In return for this flexibility, the Government requires accountability to ensure that Federal dollars are spent as wisely as possible. In essence, the conference agreement is interested in assuring that Federal funds are spent as wisely as possible, but only in programs which effect the disadvantaged. I believe the promise of flexibility includes the disadvantaged, but goes far beyond to include all children affected by elementary and secondary education programs. My amendment to S. 2 was designed as a compliment to deregulation efforts already in place in many States across this country. Today's conference agreement takes us a step backward from the amendment supported in this body by 94 of my colleagues.

As I noted a few weeks ago, I am pleased that the Senate is moving forward on educational flexibility on other fronts. Recently, the Senate Appropriations Committee included language regarding "ed-flex" in H.R. 5620, the supplemental appropriations bill providing disaster relief assistance to parts of the country devastated by recent disasters. Specific provisions were included in that act to allow the Secretary of Education to waive Federal regulations in a variety of education programs in those areas substantially affected by Hurricane Andrew, Hurricane Iniki and Typhoon Omar. While these provisions are limited in application, I believe they will provide significant relief to school officials working to rebuild their educational institutions.

Furthermore, in the fiscal year 1993 Labor, HHS, Education appropriations bill, the Senate Appropriations Committee included report language indicating our support for authorization efforts to enact "ed-flex". The committee has directed the Secretary of Education to report on State initiatives in this area before the fiscal year 1994 appropriations hearings.

Many States throughout the country have joined Oregon and already acted to deregulate education programs in order to permit more time to be spent in the classroom rather than on complying with costly paperwork burdens. Many of the educators in my State—Norma Paulus and the Oregon Department of Education, the Confederation of Oregon School Administrators, the Oregon Education Association—were hopeful that S. 2 would signal the beginning of a commitment from the Federal Government to support State efforts to reduce Federal regulatory oversight complications. Furthermore, many of my colleagues on the Senate Labor Committee—particularly Senators KASSEBAUM, KENNEDY, HATCH, and PELL, and the Secretary of Education as well, were supportive of flexibility efforts. Unfortunately, the final conference agreement did not reflect our collective efforts over the past few months.

Therefore, I will look to the 103d Congress for the opportunity to make substantial strides in education flexibility. I intend to introduce legislation early in the 103d Congress proposing broad Federal educational flexibility. I am confident that the unanimous support of this Senate for the flexibility concept will prevail in the 103d Congress and we will see education flexibility realized for the thousands of educators across this country who believe in the promise it holds.

EXHIBIT 1

Chapter 1 1989-90 Data

State	Total grades 9-12	Percent grades 9-12	Total students
Alabama	3,979	3	130,028
Alaska	311	5	5,760
Arizona	8,842	13	69,570
Arkansas	3,021	4	67,223
California	179,783	16	1,140,074
Colorado	3,361	9	37,516
Connecticut	6,017	12	49,174
Delaware	190	2	10,416
District of Columbia	967	7	12,922
Florida	4,401	3	172,290
Georgia	4,815	3	142,527
Hawaii	1,152	8	14,966
Idaho	1,981	8	23,741
Illinois	20,010	13	155,369
Indiana	4,496	5	96,963
Iowa	1,012	3	39,436
Kansas	2,022	6	35,505
Kentucky	5,111	5	99,675
Louisiana	1,277	1	102,437
Maine	534	2	25,597
Maryland	558	1	67,923
Massachusetts	7,181	10	75,350
Michigan	6,660	5	143,270
Minnesota	1,385	2	64,329
Mississippi	12,812	10	123,634
Missouri	860	1	72,345
Montana	3,395	24	14,072
Nebraska	1,865	7	28,565
Nevada	433	4	9,861
New Hampshire	720	6	12,483
New Jersey	23,609	14	174,868
New Mexico	2,800	8	34,092
New York	60,797	17	363,587
North Carolina	7,142	6	114,687
North Dakota	621	6	10,192
Ohio	2,344	2	138,027
Oklahoma	2,779	5	59,072
Oregon	6,230	13	46,255
Pennsylvania	21,387	10	217,618
Rhode Island	1,236	8	14,571
South Carolina	4,009	7	57,803
South Dakota	583	4	14,564
Tennessee	1,521	1	107,734
Texas	20,153	5	417,601
Utah	999	3	29,418
Vermont	515	5	10,063
Virginia	509	1	70,485
Washington	4,847	8	62,132
West Virginia	412	1	33,087
Wisconsin	7,036	10	69,602
Wyoming	270	6	4,877
Puerto Rico	19,840	9	210,483
Bureau of Indian Affairs	4,055	25	15,998
Nation	482,845	9	5,327,837

IN SUPPORT OF S. 2575, THE VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1992

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to join with committee chairman, Senator CRANSTON, in support of the Veterans Health Program Improvement Act of 1992. This bill makes meaningful and essential changes which ensure quality of health care that our Nation's veterans deserve.

As reported by the committee, this bill has seven titles which address issues of concern to veterans and the health system that serves their needs. It improves nurses' pay, heightens awareness of preventive health services, corrects inequities in the State veterans homes, and enhances the health care needs of the rural veteran population. It also establishes demonstration programs for veterans to obtain better access to telephone services within the VA medical centers. In addition, the bill addresses the escalating prices of prescription drugs purchased by VA and deals with several expiring VA authorities.

NURSE PAY AMENDMENTS

Title I contains provisions to address concerns and problems in implementing the Department of Veterans Affairs Nurse Pay Act of 1990, Public Law 101-366. That act was designed to help VA overcome difficulties in the recruitment and retention of nurses within the VA health care system by making salaries competitive with the private sector by requiring VA to establish a locality pay system covering registered nurses and certified registered nurse anesthetists.

Mr. President, it is critical to the quality of VA health care that professional nurses receive fair wages in today's competitive health care market. Many VA nurses have suffered salary inequities during the past year and have waited patiently for their recommendations to be heard. Title I addresses their concerns to ensure that veterans receive the benefit of the highest quality of nursing care.

PREVENTIVE HEALTH CARE

Title II of S. 2575 focuses on the provision of preventive health care services within VA. Originally introduced as S. 2740, this section would serve to elevate the status and priority placed upon preventive health services in the overall package of comprehensive health care services VA provides.

Mr. President, I continue to support efforts to improve preventive health services both within and outside the veterans health care system. Title II takes an appropriate step in that direction.

STATE VETERANS HOMES FACILITIES

Title III contains provisions which would correct an inequitable situation that exists under current law with respect to veterans in State veterans homes who receive needs-based pension and who participate in compensated work therapy [CWT] or incentive therapy [IT] programs. This title of the bill would clarify that a veteran's participation in a State home incentive therapy or Compensated Work Therapy Program would affect neither the veteran's eligibility for pension, nor its amount.

RURAL HEALTH CARE CLINICS

Title IV of the bill would require VA to furnish health care services in geographically remote areas by utilizing a variety of modes of health care delivery. This title allows for great flexibility in determining the appropriate means of providing access to health care for rural veterans, and I am pleased to support its adoption.

Mr. President, it is worth noting that the mobile clinics scheduled for delivery this September pursuant to the Mobile Clinic Pilot Program established in Public Law 100-322 were quickly put to the test to help out victims of Hurricane Andrew in Florida recently. Three fully staffed VA mobile clinics were flown and driven to the site of the disaster in south Florida to provide onsite, mobile health care to victims of the hurricane. I commend the VA employees who participated in this mission.

TELEPHONE USE DEMONSTRATION PROJECT

Title V of the bill would require VA to establish demonstration projects in the VA medical centers in Philadelphia and Tucson to determine the feasibility of bedside telephone installations in patient rooms throughout the VA system of 171 medical centers.

The time has come for VA to provide, on a system-wide basis, the same sort of telephone service—bedside service—that has become the norm in most hospitals. VA shares that goal. Nonetheless, I am informed that a number of technical and cost issues must be addressed before VA can proceed. Therefore, this bill directs VA to install bedside telephones in the VA medical centers in Philadelphia and Tucson as demonstration projects in order to assess those issues. Once such assessments have been completed, VA will then be in a better position to determine how it will proceed on a nationwide basis.

PRICES FOR DRUGS AND BIOLOGICALS

Title VI of the bill addresses the current crisis in VA's drug costs by establishing a set of limits on the prices VA and other Federal entities will pay for drugs and biologicals. While I applaud the hard work that went into this compromise crafted by Senators CRANSTON, MURKOWSKI, ROCKEFELLER, and SIMPSON, I am, frankly, troubled by the fact that this provision was not subject to the normal hearing process due such an important measure, and I am withholding an objection with some reservation. Nevertheless, having had an opportunity to study title VI, it is my judgment that it represents a meaningful way in which to deal with the problems our veterans face because of increased drug prices, and I am consenting to it because of the urgent need for action on this important subject.

There is no doubt, Mr. President, that VA drug prices have increased dramatically over the past few years. In Pennsylvania alone, VA hospital directors reported shortfalls in fiscal year 1991 totaling nearly $2 million in their pharmacy budgets which they attributed to price increases. Those shortfalls have resulted in cutbacks both in the veterans who can be treated as well as in important maintenance programs.

Title VI is one step in dealing with that problem.

Under title VI of the bill, the prices VA pays for most of its drugs would be limited to 76 percent of what wholesalers pay for the same drugs. Because VA has historically enjoyed deep discounts on its pharmaceuticals, and because of the vital mission of our veterans health care system, I believe such a discount is entirely appropriate. The bill would also authorize the Secretary to establish buying groups within the Federal sector, termed unified pharmaceutical award contracts, or "UPAC's." In order to determine the worth of UPAC's, the authorization would be limited to a demonstration program which would end in 1997. Mandatory discounts and buying smart are, in my view, two excellent means for getting a handle on VA drug prices.

There is, however, a second step required. I know that at least part of the escalation in VA's drug prices can be attributed to the Medicaid rebate provisions of the Omnibus Budget Reconciliation Act of 1990 [OBRA 90]. Those provisions require rebates to Medicaid purchasers which are computed by reference to the lowest prices negotiated by any purchaser, including VA. The rebate provisions have contributed to this problem by creating a disincentive for drug companies to continue to offer large discounts to VA. I am pleased that the Committee on Finance, led by Senators BENSTEN and PACKWOOD, included a provision in H.R. 11, which the Senate recently passed, which would exempt VA prices from the so-called best price calculation. That is a vital and necessary second step in the process which I was pleased to support.

Title VI is critical to the continued viability of our veterans health care system, and I urge my colleagues to support it.

EXPIRING AUTHORITIES

Finally, Mr. President, title VII of the bill will extend, or make permanent, certain statutory authorities applicable to the VA which have expired in the recent past. I support these measures.

Mr. President a great amount of time and labor went into the committee bill. I would like to thank Janet Coffman, Susan Thaul, Bill Brew, and Ed Scott of the committee's majority staff and Carrie Gavora, Yvonne Santa Anna, Bill Tuerk, Charlie Battaglia, and Tom Roberts of my staff.

Mr. President, no issue has higher priority with me than ensuring the highest quality of care within the VA health care system. The Veterans Health Programs Improvement Act of 1992 takes vital steps in securing this objective.

I urge my colleagues to support this important measure.

EEOC TECHNICAL ASSISTANCE AND TRAINING BILL

Mr. EXON. Mr. President, I ask unanimous consent that the Labor Committee be discharged in further consideration of H.R. 5925, the EEOC technical assistance and training bill; that the Senate proceed to its consideration; that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements thereon appear in the RECORD at the appropriate place, as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5925) was deemed read a third time, and passed.

Mr. METZENBAUM. The EEOC Education, Technical Assistance, and Training Revolving Fund Act of 1992 provides for a one-time transfer of $1 million from EEOC's existing appropriation for salaries and expenses to a new technical assistance revolving fund, under which the EEOC may charge fees for education, technical assistance, and training. Once established, the fund would be self-sustaining.

The Technical Assistance Revolving Fund is a creative, deficit-neutral approach to ensure that the EEOC has the ability to provide technical assistance to the employers and individuals who are affected by the laws which are administered by the agency. The money for the fund has already been appropriated through the Commerce, State, and Justice Departments appropriations process. The transfer effected by this legislation is necessary to make that money available for use in creating the fund.

The bill requires that fees could be charged only for specified services, that such fees would be charged on a uniform basis for persons receiving such services, that the fees would not exceed the costs of providing such services, and that with respect to each person receiving such services, the fees would bear a reasonable relationship to the cost of providing such services.

Notably, the EEOC will continue to provide technical assistance at no charge in accordance with its legislative mandate and the availability of appropriated funds. For example, the EEOC will not charge fees to individuals seeking single copies of materials containing basic information about their rights. I ask unanimous consent that a letter from EEOC Chairman Evan Kemp which confirms this commitment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,
Washington, DC, October 1, 1992.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: This is in regard to the Technical Assistance Revolving Fund legislation, H.R. 5925, which is pending in the Labor and Human Resources Committee.

Under existing law, the EEOC currently provides education, technical assistance and training through appropriated funds. These activities are provided to the public at no cost.

As a result of the Civil Rights Act of 1991 and the Americans with Disabilities Act, the EEOC anticipates a 20 to 30 percent increase in charges to process. A workload increase of that magnitude will strain the agency's resources, making it impossible for the EEOC to expand or even to continue the current level of outreach activities.

The Revolving Fund will give the EEOC the ability to charge reasonable fees to particular audiences for certain specialized products and services relating to all of the laws under the EEOC's jurisdiction. The Revolving Fund will help to reduce the demand on appropriated funds, thereby permitting the EEOC to continue and to expand its current free education, technical assistance and training activities.

The Revolving Fund will in no way reduce the EEOC's commitment or legal responsibility to provide free technical assistance and training. On the contrary, it will permit us to increase our outreach efforts.

The EEOC will continue to offer education, technical assistance and training to the general public at no cost. It is our intention that no one will be denied access to these products and services because of lack of ability to pay.

I hope you and the other members of the Senate will support H.R. 5925. Its passage is vital to our ability to inform people of their rights under the law and to educate employers about their responsibilities.

Attached is a list of products and services which the EEOC provides to the public at no cost.

Sincerely,

EVAN J. KEMP, Jr.,
Chairman.

EDUCATION, TECHNICAL ASSISTANCE AND TRAINING SERVICES PROVIDED BY THE EEOC AT NO COST TO THE PUBLIC

1. Written education/technical assistance materials in FY 1992.

More than two million public information pieces were distributed to the public.

18 new pieces were made available in English, Spanish, Creole and Mandarin Chinese (also understood by Vietnamese-speaking individuals).

34 ADA-related publications were put into alternate formats: Braille, tape, large print and disc.

2. New educational/technical assistance materials (full listing attached.)

3. New Publications Distribution System (project description attached.)

4. Outward bound transfer capability of toll-free telephone service automatically transfers the caller to the nearest EEOC field office (14,000 to 22,000 calls per month).

5. Speakers Bureau—Approximately 100 professional staff members are available upon request to speak to audiences about the laws under the EEOC's jurisdiction.

6. Field office outreach.

Six field offices have each established one program analyst position for a pilot program of outreach to underserved populations.

In the first, second and third quarters of FY 1992, 1749 field staff members made presentations to approximately 125,000 individuals, including members of civil rights groups, advocacy groups, educational institutions, trade associations and businesses.

Expanded presence—outreach activities focus on geographical areas with a history of low charge numbers.

7. Technical assistance is available to individuals and groups from the Office of Legal Counsel.

8. Attorney-of-the-day—Staff members in the office of Legal Counsel are available on a rotating basis to assist with technical assistance questions from field office staff.

9. The Office of Communications and Legislative Affairs provides information, both written and verbal, to Congress, the public, and print and electronic media.

Mr. METZENBAUM. This legislation will help the EEOC accomplish its enforcement responsibilities under the Civil Rights Acts of 1964 and 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and other civil rights legislation within its jurisdiction. Compliance begins with understanding the law. My hope is that as a result of the increased education, training, and technical assistance made possible through this legislation, employers will be better informed of their legal obligations, and compliance with these laws will be improved.

THE SCIENTIFIC AND ADVANCED TECHNOLOGY ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 1146, a bill to establish an advanced technician program, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1146) to establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in intenational trade, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3390

(Purpose: To establish programs at the National Science Foundation to strengthen and improve the scientific and technical education capabilities of associate-degree-granting institutions, and for other purposes)

Mr. EXON. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Ms. MIKULSKI, for herself and Mr. COCHRAN, proposes an amendment numbered 3390.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Scientific and Advanced-Technology Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the workforce (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this paragraph shall, at a minimum—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distibution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (c)(2) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as

the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATIVE AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3390) was agreed to.

Ms. MIKULSKI. Mr. President, I rise today to urge my colleagues to support S. 1146, the Scientific and Advanced Technology Act.

We are in a war for America's future. And winning that war depends on having jobs today and jobs tomorrow. Jobs for the nineties and jobs for the 21st century. And we must have a work force that is job-ready for a high-tech future.

This bill will help students get ready to compete in the global marketplace. This is particularly true in the fast-changing fields of science and technology.

Yet in a time of increasing demand for science and technology, study after study has shown that we are falling behind in training students in science, math, and technology.

We are facing a critical shortage of young people who are capable and willing to major in science and engineering.

In addition, more women and minorities than ever before are entering the work force.

One study found that by the year 2000, about a quarter of all jobs as we know them today will disappear—these are current jobs that do not require a high school diploma.

And the new jobs that will take their place will be different. They will require more scientific training and more advanced technical skills.

These new jobs are not all going to Ph.D. scientists—they are going to skilled technicians who will be the backbone of our scientific and technical infrastructure.

Mr. President, the efforts of Government, private industry, and our associate-degree colleges will all be needed to address this critical need.

This bill addresses this challenge. It authorizes the National Science Foundation to expand and improve advanced technician training programs in associates-degree-granting colleges.

Mr. President, my bill does this through three very important competitive grant programs—and these are not designed to be Government giveaways, associates degree colleges must match funds in either in-kind contributions or other funding.

The first competitive grants program involves grants to associates-degree colleges to provide technical training and education in advanced technology fields.

Awardees will enter into innovative private industry or local government partnerships, improve faculty competence in advanced technology fields, or upgrade laboratory instruments.

This is important because associate-degree-granting colleges are in a unique position to work with local industry.

They can return workers, meet the needs of industry, and create jobs for local people who may need training or retraining.

But they cannot do this without the right equipment and faculty. If the tools of education aren't state-of-the-art, how can education be state-of-the-art?

In my own State of Maryland, Dundalk, Community College has been working with private industry to meet their training needs, but had to turn away one large company in need of advanced technology training for its employees because it did not have the facilities.

The second kind of grant strengthens the relationships between associate-degree colleges and secondary schools. It is designed to improve the teaching of math and science at the high school level.

It also has another important benefit. A stronger relationship between colleges and high schools will help students to focus on their future, give them direction and help them set goals to get there. This vision is important. Some students cannot see themselves going on to a 4-year college or university, but could see themselves becoming highly skilled technicians.

The third kind of grant strengthens the relationships between 2-year and 4-year colleges.

As college costs continue to grow, more and more students start out at local 2-year schools.

Among minorities, in particular, as many as half of students who go on after high school begin at 2-year schools.

Strengthening partnerships between 2-year and 4-year schools will help students move between schools and will increase the numbers of bachelors degrees in math, science and engineering.

Mr. President, my bill does one more important thing. It directs the National Science Foundation to establish, on a competitive basis, up to 10 centers of scientific and technical education. These centers will be located at institutions that are already recognized for their excellence. The centers will serve as national clearinghouses for education and training programs.

Mr. President, we must not close our eyes to the looming shortage of skilled scientific and technical workers.

We must better prepare for this technologically advanced competitive global economy.

This bill is an important step in developing the skills needed for technological industry.

I urge my colleagues to join me in this effort to develop our technological skills infrastructure and to prepare our work force for the future.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Scientific and Advanced-Technology Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the workforce (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this paragraph shall, at a minimum—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distibution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (c)(2) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATIVE AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL INDIAN POLICY RESEARCH INSTITUTE ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 755, S. 3155, a bill to establish the National Indian Policy Research Institute.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3155) to establish the National Indian Policy Research Institute.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Indian Policy Research Institute Act".

SEC. 2. FINDINGS.

(a) FINDINGS OF CONGRESS.—The Congress finds that:

(1) The policy of the United States toward Indian and Alaska Native tribes which has emerged over the course of 200 years of relationships is based upon the following fundamental principles:

(A) the United States has a trust responsibility to protect, maintain, and manage Indian lands and related natural resources, including water, fisheries, game and game habitat, and to preserve permanent homelands for native people within this Nation;

(B) tribal rights of self-government are recognized under the United States Constitution and numerous treaties, intergovernmental agreements, statutes and Executive orders, and have been consistently upheld by the highest courts of the United States;

(C) the goals of economic self-sufficiency and improvement of the social well-being of tribal communities, with the objective of achieving parity with the general United States population as evidenced by national averages for health care, per capita income and rates of employment and educational achievement, are recognized as the basis of numerous Federal statutes and administrative policies;

(D) the unique cultural heritage of tribal people in the United States, including maintenance of native language proficiency, the practice of traditional ceremonies, and religious and artistic expression, is recognized in numerous Acts of Congress as an irreplaceable national heritage to be supported and protected; and

(E) for nearly two decades, the United States has consistently endorsed and advanced the principle of Indian self-determination, with the objective of ending Federal domination of programs affecting Indians and ensuring that tribal governments are empowered to plan, conduct, and administer such programs themselves.

(2) Despite broad agreement on the underlying principles of United States Indian policy, laws enacted by the Congress and regulations adopted by Federal agencies do not invariably reflect such principles owing to the large number of executive branch agencies and the large number of congressional committees determining policy and owing to the absence of an institutional resource from which agencies and congressional committees might obtain objective and reliable data, information, and analyses based upon the fullest knowledge of the underlying policy principles.

(3) Performance of its trust responsibility to American Indians consistent with the highest fiduciary standards requires the United States to assure that informed and reliable information and scholarly analyses are available to institutions shaping public policy.

(4) Federal Indian policy impacts the lives and property of all American citizens, Indian and non-Indian, living on or near reservations throughout Indian country.

[(4)**]** *(5)* Establishment of an independent, nonpartisan, institute to provide data, information, and analyses related to Indian issues would assist institutions in shaping sound and consistent public policy and its establishment is warranted.

[(5)**]** *(6)* The establishment of an institute is not intended, nor should it be construed as, a delegation of the responsibilities of the United States in formulating and adopting public policy.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Indian" means any person who is a member of an Indian tribe.

(2) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians including any Alaska Native village which is recognized by the United States as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Institute" means the National Indian Policy Research Institute established by this Act.

(4) The term "Board" means the Board of Directors of the Institute.

(5) The term "president" means the president of the George Washington University located in Washington, District of Columbia.

SEC. 4. ESTABLISHMENT OF INSTITUTE.

(a) IN GENERAL.—There is established a federally chartered corporation to be known as the "National Indian Policy Research Institute" which shall be located in Washington, District of Columbia, and, with the consent of George Washington University, as indicated by the acceptance by it of the grant authorized under section 12 of this Act, within the George Washington University for purposes of administration and management. For purposes of policy and direction, the Institute shall be under the control of the Board of Directors established under section 7 of this Act.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The Federal corporation established by this Act shall have succession, subject to the review provided for in subsection (c), until dissolved by Act of Congress. The Congress shall have exclusive authority to revise or amend the provisions of this Act involving the establishment and operation of such corporation.

(c) REVIEW.—No later than **[**36**]** *60* months after enactment of this Act, the Congress shall review the activities and performance of the Institute and of George Washington University in support of the Institute's purposes to determine whether amendments to this Act are required.

SEC. 5. FUNCTIONS.

(a) RESEARCH AND ANALYSIS.—The Institute shall, at the request of institutions shaping policies affecting Indians or upon its own initiative, conduct or commission research and analysis to be carried out, in accordance with the highest standards of scholarship and independence, on issues related to the development of public policy affecting Indians. The Institute shall adopt criteria and procedures to guide the selection of research projects. Priority consideration shall be given to policy initiatives proposed for consideration by the executive or legislative branches of the Federal Government. *In conducting or commissioning research and analysis on issues relating to the development of public policy affecting Indians, the Institute shall ensure that such research shall consider all factors affecting Indian policy including the impact of such policy upon other Americans.*

(b) DATA AND INFORMATION CLEARINGHOUSE.—The Institute shall establish a data base to make accessible information and data maintained by Government agencies, academic institutions, and Indian and other organizations, and shall develop computer and telecommunication networks to make such information recoverable by policymakers and the public. Where it is determined that developing a new and specific data base is required, the Institute shall undertake to meet such need.

(c) FORUMS AND SYMPOSIA.—The Institute shall conduct periodic public forums to identify and explore emerging Indian policy issues and to identify needs for data, information, or analyses, and shall conduct symposia, when appropriate, to clarify options for policymakers and to advance an understanding of complex and interrelated public policy issues as they affect Indian people and the formulation of Indian policy.

(d) PUBLIC INFORMATION.—*(1)* The Institute shall publish and make available to the executive and legislative branches of the Federal Government, tribal governments, tribal colleges, and the public, the products of its research and reports of other activities by disseminating information about such research and reports as deemed appropriate by the Board.

(2) Nothing in paragraph (1) or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by such tribal government to the Institute under this Act.

(e) Fellowships.—The Institute shall, consistent with the availability of funds, and resources and procedures established by the Board of Directors, provide fellowship opportunities for students of Indian policy at tribal colleges and other institutions of higher education and experienced policy experts in order to make it possible for such fellows to dedicate their time and energies to researching significant public policy issues.

SEC. 6. GENERAL POWERS OF INSTITUTE.

(a) Powers of Institute.—In carrying out the provisions of this Act, the Institute shall have the power, consistent with the provisions of this Act—

(1) to adopt, use and alter a corporate seal;

(2) to make, subject to the availability of funds, agreements and contracts with persons, Indian tribal governments, tribal organizations, and private or governmental entities, and to make payments or advance payments under such agreements or contracts without regard to the provisions of section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the Federal agency concerned and on a reimbursable basis, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the Federal Government in carrying out the provisions of this Act, and to pay for such use;

(6) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(7) to receive grants from, and subject to the availability of funds, enter into contracts and other arrangements with Federal, State, tribal, or local governments, public and private agencies, organizations, institutions, and [individuals, and, at the request of a tribal government or tribal governments, to receive grants and contracts from Federal agencies on the same basis as a tribal organization as defined and provided for by the Indian Self-Determination and Education Assistance Act] *individuals*;

(8) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Institute to carry out the provisions of this Act;

(9) to obtain insurance or make other provisions against losses;

(10) to use any funds or property received by the Institute to carry out the purpose of this Act except that any funds received by, or under the control of the Institute that are not Federal funds shall be accounted for separately from Federal funds; and

(11) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this Act and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

SEC. 7. BOARD OF DIRECTORS.

(a) Composition.—

(1) The Board of Directors of the Institute shall consist of the following members:

(A) [Six] *Seven* individuals appointed within 12 months following the date of enactment of this Act by the President pro tempore of the Senate and [6] *7* individuals appointed within the same period by the Speaker of the House of Representatives, who are representative of a broad range of Indian policy expertise as evidenced by established credentials in the different disciplines which make up the diverse field of Indian policy, including degrees from recognized academic institutions, leadership in public policymaking positions, or affiliation with public and private institutions which are known for their significant contributions to the public interest. The President pro tempore shall appoint from a list of persons submitted by the chairman of the Select Committee on Indian Affairs, and the Speaker shall appoint from a list of persons submitted by the chairman of the Interior and Insular Affairs Committee.

(B) Two individuals appointed by the president of George Washington University within 12 months following the date of the enactment of this Act from among the faculty, officers, or employees of George Washington University. Members appointed pursuant to this subparagraph shall serve at the pleasure of the president.

[(B)] *(C)* The president of George Washington University, or his or her designee, and the Director of the Institute, both of whom shall serve as ex officio voting members of the Board.

(2) In making appointments under subsection [(a)(1)] *(a)(1)(A)*, the appointing authorities shall—

(A) consult with Indian tribal governments and tribal organizations;

(B) solicit nominations from Indian public policy specialists, Indian tribal governments, tribal colleges, other Indian organizations, academic institutions and public officials with Indian policy responsibilities; and

(C) ensure that a majority of appointments are Indians who are broadly representative of Indian country.

(b) Interim Board.—The Planning Committee, appointed by the president of George Washington University to assist with the feasibility study for the establishment of a National Center for Native American Studies and Indian Policy Development, as authorized by section 11 of Public Law 101-301, and composed of those individuals serving at the time of enactment of this Act, shall serve as the interim Board until the appointments authorized in subsection (a)(1) have been made. Their service shall terminate on the date that all [12 members are appointed.] *members authorized to be appointed under subparagraphs (A) and (B) of paragraph (1) of subsection (a) are appointed.*

(c) Terms of Office.—

(1) Except as otherwise provided in this section, members of the Board of Directors appointed pursuant to subsection (a)(1)(A) shall be appointed for terms of office of 3 years.

(2) Of the members first appointed under subsection (a)(1)(A) of this section—

(A) [4] *5* shall have a term of office of 12 months;

(B) [4] *5* shall have a term of office of 24 months; and

(C) 4 shall have a term of office of 36 months.

(3) The term of office assigned to each of the initial members of the Board as provided under paragraph (2) shall be determined by the appointing authorities at the time of appointment, except that no member shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(d) Vacancies.—Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term.

(e) Removal.—No member of the Board appointed pursuant to subsection (a)(1)(A) of this section may be removed during the term of office of such member except for just and sufficient cause. However, absence from 3 consecutive meetings shall be considered just and sufficient cause.

(f) Powers of Board.—The Board is authorized to—

(1) formulate policy for the Institute and provide direction for its management, in consultation with George Washington University; and

(2) make such bylaws and rules as it deems necessary for the administration of its functions under this Act, including the organization and operating procedures of the Board.

(g) Officers and Executive Committee.—The Board shall select from among its members an executive committee to be comprised of a co-chair selected by the Board to serve with a co-chair designated by George Washington University, and a vice chair, secretary, treasurer, and one at-large member selected by the Board. In accordance with the bylaws of the Board, such members shall provide direction for the Board, and serve in lieu of the Board on matters requiring Board action, subject to review and action by the Board as the members of the Board may deem appropriate.

(h) Committees.—The Board may establish such committees, task forces, and working groups as it deems appropriate and necessary.

(i) Compensation.—Members of the Board appointed under subsection (a)(1)(A) shall, for each day they are engaged in the performance of their duties, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular place of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

SEC. 8. RESOURCE ADVISORY COUNCIL.

(a) Resource Advisory Council.—There is established the Resource Advisory Council to the National Indian Policy Research Institute (hereafter referred to as the "Council") which shall provide assistance in the development and operations of the Institute.

(b) Composition.—The membership of the Council is as follows:

(1) Secretary of Health and Human Services;

(2) Secretary of the Interior;

(3) Secretary of Education;

(4) Secretary, Smithsonian Institution;

(5) Secretary of Commerce;

(6) Secretary of Labor;

(7) Administrator of the Environmental Protection Agency;

(8) Director, National Academy of Sciences;

(9) Librarian of Congress;

(10) Director, Office of Technology Assessment

(11) Director, National Institutes of Health;

(12) Chairman, Select Committee on Indian Affairs, United States Senate; and

(13) Chairman, Interior and Insular Affairs Committee, United States House of Representatives.

(c) Functions.—The Council—

(1) shall make recommendations to the Board of Directors regarding research procedures and organizational development;

(2) shall provide professional and technical assistance upon request of the Board of Directors, including staff support for the activities of the Council;

(3) when biannual meetings are called by the chairmen of the Senate Select Commit-

tee on Indian Affairs and the Committee on Interior and Insular Affairs of the House of Representatives, shall attend such meetings or shall designate an individual or individuals to attend on behalf of the Council; and

(4) shall make reports and recommendations to the Board of Directors and to the Congress as they may from time to time request, or as the Council may consider necessary to more effectively accomplish the purposes of this Act.

SEC. 9. OFFICERS AND EMPLOYEES.

(a) DIRECTOR.—The Board of Directors, with the concurrence of the president, shall appoint a Director of the Institute. The Director may only be removed from office by the Board in accordance with the bylaws of the Institute.

(b) RESPONSIBILITY OF DIRECTOR.—Subject to the direction of the Board, and the general supervision of the president, the Director shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute.

(c) EMPLOYEES.—The Director, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute.

(d) PREFERENCE.—In implementing this section, the Board and the Director shall afford preference to American Indians.

SEC. 10. NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE.

(a) NOT AN ADVOCACY ORGANIZATION.—The Institute shall not engage in the advocacy of public policy alternatives, represent itself as the voice of tribal governments, or take other actions that might be construed as interfering with or diminishing the government-to-government relationship between tribal governments and the United States.

(b) NO SUPPORT TO POLITICAL PARTIES.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(c) OTHER.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual, except as salary or reasonable compensation for services.

SEC. 11. TAX STATUS OF INSTITUTE.

The Institute and the franchise, capital, reserves, income and property of the Institute is exempt from all taxation imposed by the United States, by any Indian tribal government, or by any State or political subdivision thereof, or the District of Columbia.

SEC. 12. TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Institute, and such Institute shall perform, the functions of the National Center for Native American Studies and Indian Policy Development, as authorized under section 11 of Public Law 101–301.

(b) GRANT.—Subject to an appropriation by the Congress for this purpose, within 30 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall award a grant to the George Washington University for all activities of the Institute and to enable the University to provide such management, technical and support assistance to the Institute as may be reasonable or necessary to operate the Institute, including audit, accounting, computer services and building and maintenance services. Subject to the availability of funds, the grant shall be automatically renewable, at the option of the University, on an annual basis until such time as Congress may provide otherwise. No offsets or matching requirements may be imposed.

SEC. 13. RELATIONSHIP WITH TRIBAL COLLEGES.

The Director of the Institute, pursuant to the direction of, and in consultation with, the Board of Directors, is authorized to enter into contracts, memoranda of understanding and agreements with, and make grants to—

(1) tribally-controlled community colleges as defined by section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; and

[(2) the United Tribes Technical College and Southwest Indian Polytechnic Institute;]

(2) the United Tribes Technical College, Southwest Indian Polytechnic Institute, Haskell Indian Junior College, and Crownpoint Institute of Technology;

for the purpose of conducting research, developing issue papers, or to assist the Institute in carrying out its responsibilities under this Act.

SEC. 14. REPORTS.

(a) ANNUAL REPORT.—The Director of the Institute shall submit an annual report to the chairman of the Senate Select Committee on Indian Affairs, the chairman of the Interior and Insular Affairs Committee of the House of Representatives, and to the Board concerning the activities and status of the Institute during the 12-month period preceding the date of the report. Such report shall include, among other matters, a comprehensive summary of studies performed and activities carried out, a detailed statement of private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period, and the disposition thereof, as well as any recommendations for improving the Institute. Such report shall also be provided to all tribal governments.

(b) BUDGET PROPOSAL.—(1) The Board shall submit a budget proposal for the Institute for fiscal year 1994, and each fiscal year thereafter, to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall transmit such budget proposal, together with the budget proposal of the Department of Health and Human Services, to the President of the United States. The budget proposal of the Institute shall be included in the annual budget of the President of the United States.

(2) In determining the amount of funds to be appropriated for any fiscal year to the Institute on the basis of the budget of the Institute for that fiscal year, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

SEC. 15. COMPLIANCE WITH FEDERAL LAWS.

For the purpose of administering the Federal criminal laws relating to larceny, embezzlement, or conversion of property or funds, the Institute shall be considered to be a Federal entity and subject to such laws.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 for fiscal year 1994, and for fiscal years 1995 and 1996, such sums as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to the authorizations under this section shall remain available without fiscal year limitation.

AMENDMENT NO. 3391

(Purpose: To delete authorizations for grants and a fellowship program and to clarify that the Resource Advisory Council is only an advisory council, having no executive functions)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Senator INOUYE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. INOUYE, proposes an amendment numbered 3391.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 8, line 16, delete all through line 23;

On page 17, line 6, delete "Council—" and insert in lieu thereof "Council, which is advisory only and exercises no executive authority—";

On page 17, line 20, delete "shall" and insert in lieu thereof "may"; and

On page 20, line 17, delete "with, and make grants to—" and insert in lieu thereof "with—".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3391) was agreed to.

Mr. INOUYE. Mr. President, the Select Committee on Indian Affairs was informed of the administration's views on S. 3155 only after the bill was ordered favorably reported on September 25. It is to meet the objections of the Department of Justice to S. 3155 that this amendment is being offered.

The Department of Justice had objected to a provision authorizing the grant of fellowships by the National Indian Policy Research Institute, since its board is not made up of persons appointed by the President, but would be carrying out a governmental function. The amendment would eliminate the authorization for the Institute to award fellowships.

Second, the Department objected, on the same grounds, to the provision authorizing the Institute to make grants to tribally controlled community colleges and other postsecondary institutions. The amendment deletes that grantmaking authority.

Third, the Department pointed out the need to clarify that the Resource Advisory Council was only advisory, possessed no executive function, and could not be required to make recommendations to the Congress. The amendment clarifies the advisory role of the Council and removes any obligation for the Council to make recommendations to the Congress.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Indian Policy Research Institute Act".

SEC. 2. FINDINGS.

(a) FINDINGS OF CONGRESS.—The Congress finds that:

(1) The policy of the United States toward Indian and Alaska Native tribes which has emerged over the course of 200 years of relationships is based upon the following fundamental principles:

(A) the United States has a trust responsibility to protect, maintain, and manage Indian lands and related natural resources, including water, fisheries, game and game habitat, and to preserve permanent homelands for native people within this Nation;

(B) tribal rights of self-government are recognized under the United States Constitution and numerous treaties, intergovernmental agreements, statutes and Executive orders, and have been consistently upheld by the highest courts of the United States;

(C) the goals of economic self-sufficiency and improvement of the social well-being of tribal communities, with the objective of achieving parity with the general United States population as evidenced by national averages for health care, per capita income and rates of employment and educational achievement, are recognized as the basis of numerous Federal statutes and administrative policies;

(D) the unique cultural heritage of tribal people in the United States, including maintenance of native language proficiency, the practice of traditional ceremonies, and religious and artistic expression, is recognized in numerous Acts of Congress as an irreplaceable national heritage to be supported and protected; and

(E) for nearly two decades, the United States has consistently endorsed and advanced the principle of Indian self-determination, with the objective of ending Federal domination of programs affecting Indians and ensuring that tribal governments are empowered to plan, conduct, and administer such programs themselves.

(2) Despite broad agreement on the underlying principles of United States Indian policy, laws enacted by the Congress and regulations adopted by Federal agencies do not invariably reflect such principles owing to the large number of executive branch agencies and the large number of congressional committees determining policy and owing to the absence of an institutional resource from which agencies and congressional committees might obtain objective and reliable data, information, and analyses based upon the fullest knowledge of the underlying policy principles.

(3) Performance of its trust responsibility to American Indians consistent with the highest fiduciary standards requires the United States to assure that informed and reliable information and scholarly analyses are available to institutions shaping public policy.

(4) Federal Indian policy impacts the lives and property of all American citizens, Indian and non-Indian, living on or near reservations throughout Indian country.

(5) Establishment of an independent, nonpartisan, institute to provide data, information, and analyses related to Indian issues would assist institutions in shaping sound and consistent public policy and its establishment is warranted.

(6) The establishment of an institute is not intended, nor should it be construed as, a delegation of the responsibilities of the United States in formulating and adopting public policy.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Indian" means any person who is a member of an Indian tribe.

(2) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians including any Alaska Native village which is recognized by the United States as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Institute" means the National Indian Policy Research Institute established by this Act.

(4) The term "Board" means the Board of Directors of the Institute.

(5) The term "president" means the president of the George Washington University located in Washington, District of Columbia.

SEC. 4. ESTABLISHMENT OF INSTITUTE.

(a) IN GENERAL.—There is established a federally chartered corporation to be known as the "National Indian Policy Research Institute" which shall be located in Washington, District of Columbia, and, with the consent of George Washington University, as indicated by the acceptance by it of the grant authorized under section 12 of this Act, within the George Washington University for purposes of administration and management. For purposes of policy and direction, the Institute shall be under the control of the Board of Directors established under section 7 of this Act.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The Federal corporation established by this Act shall have succession, subject to the review provided for in subsection (c), until dissolved by Act of Congress. The Congress shall have exclusive authority to revise or amend the provisions of this Act involving the establishment and operation of such corporation.

(c) REVIEW.—No later than 60 months after enactment of this Act, the Congress shall review the activities and performance of the Institute and of George Washington University in support of the Institute's purposes to determine whether amendments to this Act are required.

SEC. 5. FUNCTIONS.

(a) RESEARCH AND ANALYSIS.—The Institute shall, at the request of institutions shaping policies affecting Indians or upon its own initiative, conduct or commission research and analysis to be carried out, in accordance with the highest standards of scholarship and independence, on issues related to the development of public policy affecting Indians. The Institute shall adopt criteria and procedures to guide the selection of research projects. Priority consideration shall be given to policy initiatives proposed for consideration by the executive or legislative branches of the Federal Government. In conducting or commissioning research and analysis on issues relating to the development of public policy affecting Indians, the Institute shall ensure that such research shall consider all factors affecting Indian policy including the impact of such policy upon other Americans.

(b) DATA AND INFORMATION CLEARINGHOUSE.—The Institute shall establish a data base to make accessible information and data maintained by Government agencies, academic institutions, and Indian and other organizations, and shall develop computer and telecommunication networks to make such information recoverable by policymakers and the public. Where it is determined that developing a new and specific data base is required, the Institute shall undertake to meet such need.

(c) FORUMS AND SYMPOSIA.—The Institute shall conduct periodic public forums to identify and explore emerging Indian policy issues and to identify needs for data, information, or analyses, and shall conduct symposia, when appropriate, to clarify options for policymakers and to advance an understanding of complex and interrelated public policy issues as they affect Indian people and the formulation of Indian policy.

(d) PUBLIC INFORMATION.—(1) The Institute shall publish and make available to the executive and legislative branches of the Federal Government, tribal governments, tribal colleges, and the public, the products of its research and reports of other activities by disseminating information about such research and reports as deemed appropriate by the Board.

(2) Nothing in paragraph (1) or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by such tribal government to the Institute under this Act.

SEC. 6. GENERAL POWERS OF INSTITUTE.

(a) POWERS OF INSTITUTE.—In carrying out the provisions of this Act, the Institute shall have the power, consistent with the provisions of this Act—

(1) to adopt, use and alter a corporate seal;

(2) to make, subject to the availability of funds, agreements and contracts with persons, Indian tribal governments, tribal organizations, and private or governmental entities, and to make payments or advance payments under such agreements or contracts without regard to the provisions of section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the Federal agency concerned and on a reimbursable basis, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the Federal Government in carrying out the provisions of this Act, and to pay for such use;

(6) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(7) to receive grants from, and subject to the availability of funds, enter into contracts and other arrangements with Federal, State, tribal, or local governments, public

and private agencies, organizations, institutions, and individuals;

(8) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Institute to carry out the provisions of this Act;

(9) to obtain insurance or make other provisions against losses;

(10) to use any funds or property received by the Institute to carry out the purpose of this Act except that any funds received by, or under the control of the Institute that are not Federal funds shall be accounted for separately from Federal funds; and

(11) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this Act and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

SEC. 7. BOARD OF DIRECTORS.

(a) COMPOSITION.—

(1) The Board of Directors of the Institute shall consist of the following members:

(A) Seven individuals appointed within 12 months following the date of enactment of this Act by the President pro tempore of the Senate and 7 individuals appointed within the same period by the Speaker of the House of Representatives, who are representative of a broad range of Indian policy expertise as evidenced by established credentials in the different disciplines which make up the diverse field of Indian policy, including degrees from recognized academic institutions, leadership in public policymaking positions, or affiliation with public and private institutions which are known for their significant contributions to the public interest. The President pro tempore shall appoint from a list of persons submitted by the chairman of the Select Committee on Indian Affairs, and the Speaker shall appoint from a list of persons submitted by the chairman of the Interior and Insular Affairs Committee.

(B) Two individuals appointed by the president of George Washington University within 12 months following the date of the enactment of this Act from among the faculty, officers, or employees of George Washington University. Members appointed pursuant to this subparagraph shall serve at the pleasure of the president.

(C) The president of George Washington University, or his or her designee, and the Director of the Institute, both of whom shall serve as ex officio voting members of the Board.

(2) In making appointments under subsection (a)(1)(A), the appointing authorities shall—

(A) consult with Indian tribal governments and tribal organizations;

(B) solicit nominations from Indian public policy specialists, Indian tribal governments, tribal colleges, other Indian organizations, academic institutions and public officials with Indian policy responsibilities; and

(C) ensure that a majority of appointments are Indians who are broadly representative of Indian country.

(b) INTERIM BOARD.—The Planning Committee, appointed by the president of George Washington University to assist with the feasibility study for the establishment of a National Center for Native American Studies and Indian Policy Development, as authorized by section 11 of Public Law 101-301, and composed of those individuals serving at the time of enactment of this Act, shall serve as the interim Board until the appointments authorized in subsection (a)(1) have been made. Their service shall terminate on the date that all members authorized to be appointed under subparagraphs (A) and (B) of paragraph (1) of subsection (a) are appointed.

(c) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members of the Board of Directors appointed pursuant to subsection (a)(1)(A) shall be appointed for terms of office of 3 years.

(2) Of the members first appointed under subsection (a)(1)(A) of this section—

(A) 5 shall have a term of office of 12 months;

(B) 5 shall have a term of office of 24 months; and

(C) 4 shall have a term of office of 36 months.

(3) The term of office assigned to each of the initial members of the Board as provided under paragraph (2) shall be determined by the appointing authorities at the time of appointment, except that no member shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(d) VACANCIES.—Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term.

(e) REMOVAL.—No member of the Board appointed pursuant to subsection (a)(1)(A) of this section may be removed during the term of office of such member except for just and sufficient cause. However, absence from 3 consecutive meetings shall be considered just and sufficient cause.

(f) POWERS OF BOARD.—The Board is authorized to—

(1) formulate policy for the Institute and provide direction for its management, in consultation with George Washington University; and

(2) make such bylaws and rules as it deems necessary for the administration of its functions under this Act, including the organization and operating procedures of the Board.

(g) OFFICERS AND EXECUTIVE COMMITTEE.—The Board shall select from among its members an executive committee to be comprised of a co-chair selected by the Board to serve with a co-chair designated by George Washington University, and a vice chair, secretary, treasurer, and one at-large member selected by the Board. In accordance with the bylaws of the Board, such members shall provide direction for the Board, and serve in lieu of the Board on matters requiring Board action, subject to review and action by the Board as the members of the Board may deem appropriate.

(h) COMMITTEES.—The Board may establish such committees, task forces, and working groups as it deems appropriate and necessary.

(i) COMPENSATION.—Members of the Board appointed under subsection (a)(1)(A) shall, for each day they are engaged in the performance of their duties, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular place of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

SEC. 8. RESOURCE ADVISORY COUNCIL.

(a) RESOURCE ADVISORY COUNCIL.—There is established the Resource Advisory Council to the National Indian Policy Research Institute (hereafter referred to as the "Council") which shall provide assistance in the development and operations of the Institute.

(b) COMPOSITION.—The membership of the Council is as follows:

(1) Secretary of Health and Human Services;

(2) Secretary of Interior;

(3) Secretary of Education;

(4) Secretary, Smithsonian Institution;

(5) Secretary of Commerce;

(6) Secretary of Labor;

(7) Administrator of the Environmental Protection Agency;

(8) Director, National Academy of Sciences;

(9) Librarian of Congress;

(10) Director, Office of Technology Assessment

(11) Director, National Institutes of Health;

(12) Chairman, Select Committee on Indian Affairs, United States Senate; and

(13) Chairman, Interior and Insular Affairs Committee, United States House of Representatives.

(c) FUNCTIONS.—The Council, which is advisory only and exercises no executive authority—

(1) shall make recommendations to the Board of Directors regarding research procedures and organizational development;

(2) shall provide professional and technical assistance upon request of the Board of Directors, including staff support for the activities of the Council;

(3) when biannual meetings are called by the chairmen of the Senate Select Committee on Indian Affairs and the Committee on Interior and Insular Affairs of the House of Representatives, shall attend such meetings or shall designate an individual or individuals to attend on behalf of the Council; and

(4) may make reports and recommendations to the Board of Directors and to the Congress as they may from time to time request, or as the Council may consider necessary to more effectively accomplish the purposes of this Act.

SEC. 9. OFFICERS AND EMPLOYEES.

(a) DIRECTOR.—The Board of Directors, with the concurrence of the president, shall appoint a Director of the Institute. The Director may only be removed from office by the Board in accordance with the bylaws of the Institute.

(b) RESPONSIBILITY OF DIRECTOR.—Subject to the direction of the Board, and the general supervision of the president, the Director shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute.

(c) EMPLOYEES.—The Director, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute.

(d) PREFERENCE.—In implementing this section, the Board and the Director shall afford preference to American Indians.

SEC. 10. NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE.

(a) NOT AN ADVOCACY ORGANIZATION.—The Institute shall not engage in the advocacy of public policy alternatives, represent itself as the voice of tribal governments, or take other actions that might be construed as interfering with or diminishing the government-to-government relationship between tribal governments and the United States.

(b) NO SUPPORT TO POLITICAL PARTIES.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(c) OTHER.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual, except as salary or reasonable compensation for services.

SEC. 11. TAX STATUS OF INSTITUTE.

The Institute and the franchise, capital, reserves, income and property of the Institute is exempt from all taxation imposed by the United States, by any Indian tribal government, or by any State or political subdivision thereof, or the District of Columbia.

SEC. 12. TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Institute, and such Institute shall perform, the functions of the National Center for Native American Studies and Indian Policy Development, as authorized under section 11 of Public Law 101-301.

(b) GRANT.—Subject to an appropriation by the Congress for this purpose, within 30 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall award a grant to the George Washington University for all activities of the Institute and to enable the University to provide such management, technical and support assistance to the Institute as may be reasonable or necessary to operate the Institute, including audit, accounting, computer services and building and maintenance services. Subject to the availability of funds, the grant shall be automatically renewable, at the option of the University, on an annual basis until such time as Congress may provide otherwise. No offsets or matching requirements may be imposed.

SEC. 13. RELATIONSHIP WITH TRIBAL COLLEGES.

The Director of the Institute, pursuant to the direction of, and in consultation with, the Board of Directors, is authorized to enter into contracts, memoranda of understanding and agreements with—

(1) tribally controlled community colleges as defined by section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; and

(2) the United Tribes Technical College, Southwest Indian Polytechnic Institute, Haskell Indian Junior College, and Crownpoint Institute of Technology;

for the purpose of conducting research, developing issue papers, or to assist the Institute in carrying out its responsibilities under this Act.

SEC. 14. REPORTS.

(a) ANNUAL REPORT.—The Director of the Institute shall submit an annual report to the chairman of the Senate Select Committee on Indian Affairs, the chairman of the Interior and Insular Affairs Committee of the House of Representatives, and to the Board concerning the activities and status of the Institute during the 12-month period preceding the date of the report. Such report shall include, among other matters, a comprehensive summary of studies performed and activities carried out, a detailed statement of private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period, and the disposition thereof, as well as any recommendations for improving the Institute. Such report shall also be provided to all tribal governments.

(b) BUDGET PROPOSAL.—(1) The Board shall submit a budget proposal for the Institute for fiscal year 1994, and each fiscal year thereafter, to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall transmit such budget proposal, together with the budget proposal of the Department of Health and Human Services, to the President of the United States. The budget proposal of the Institute shall be included in the annual budget of the President of the United States.

(2) In determining the amount of funds to be appropriated for any fiscal year to the Institute on the basis of the budget of the Institute for that fiscal year, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

SEC. 15. COMPLIANCE WITH FEDERAL LAWS.

For the purpose of administering the Federal criminal laws relating to larceny, embezzlement, or conversion of property or funds, the Institute shall be considered to be a Federal entity and subject to such laws.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 for fiscal year 1994, and for fiscal years 1995 and 1996, such sums as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to the authorizations under this section shall remain available without fiscal year limitation.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CASH MANAGEMENT IMPROVEMENT ACT AMENDMENTS OF 1992

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 701, S. 2970, the Cash Management Improvement Act Amendments of 1992.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2970) to amend the Cash Management Improvement Act of 1990, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.

The Cash Management Improvement Act of 1990 (Public Law 101-453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act" and inserting "with regard to each State, by July 1, 1993";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four" and inserting "Five".

SEC. 3. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

SEC. 4. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.

Section 3720A of title 31, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "and that the agency has made reasonable efforts to obtain payment of such debt." and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) certifies that reasonable efforts have been made to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

SEC. 5. EXTENSION OF THE PRIVATE COUNSEL PILOT.

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to

amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

SEC. 6. AUDIT BY INSPECTOR GENERAL.

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

SEC. 7. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall become effective on the date of enactment of this Act.

AMENDMENT NO. 3392

(Purpose: To amend the Cash Management Improvement Act of 1990, and for other purposes)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Mr. GLENN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. GLENN, proposes an amendment numbered 3392.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.

The Cash Management Improvement Act of 1990 (Public Law 101-453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four and inserting "Five".

SEC. 3. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.

Section 3720A of title 31, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "to obtain payment of such debt." and inserting in lieu thereof "(determined on a government-wide basis) to obtain payment of such debt; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

SEC. 4. EXTENSION OF THE PRIVATE COUNSEL PILOT.

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States." approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

(d) CONTRACT EXTENSION.—The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.

SEC. 5. AUDIT BY INSPECTOR GENERAL.

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

SEC. 6. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

SEC. 7. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall take effect on the date of enactment of this Act, except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3392) was agreed to.

Mr. LIEBERMAN. Mr. President, on behalf of Chairman GLENN, I rise today to clarify one question that has been raised regarding the provisions extending the private counsel pilot project. Some have raised fears that the Department of Justice would be required by this legislation to shut down the project to resolicit Requests for Proposals. This is not the intent of the legislation or of the committee.

It is not the intent of the committee to interrupt ongoing debt collection activities being carried out under the private counsel pilot project. It is the intent of this legislation to allow the Attorney General to administer the project to ensure its smooth and continuous operation, including, if the Attorney General deems it appropriate and to the extent necessary to ensure such smooth and continuous operation, to permit the Attorney General to extend contracts currently in existence with private counsel. The Attorney General is granted such authority, however, only for such time as is necessary to carry out a full and open procurement for private collection services in those areas where contracts are expiring. This legislation in no way creates an indefinite waiver of competition requirements.

The committee recognizes, however, that the Department is also currently conducting its procurement of a new nationwide Central Intake Facility, and that it may not be possible to begin the procurement of new private counsel contracts to replace existing contracts until after completion of the CIF procurement. If the Attorney General deems it necessary to delay the start of those procurements pending completion of the CIF procurement, nothing in this legislation requires him to do otherwise.

Mr. President, I also want to make it clear that the committee is pushing this legislation forward on the basis of representations it has received from the Office of Management and Budget that this legislation will not cause a sequester. The Office of Management and Budget has told the committee that it will score this legislation as increasing outlays by $75 million in fiscal year 1993, and as increasing offsetting revenues by $80 million for the same year. Thus, the net effect of this bill in fiscal year 1993 is to increase revenues by $5 million.

In addition, OMB has told the committee that over the 5-year budget period, it expects this legislation to raise revenue by a total of $36 million. It is important to note that none of these increases in revenue come from additional fees or taxes, but simply through improving collection of debts already owed the Federal Government.

Mr. President, this is legislation that needs to be passed before we adjourn. I have been contacted by the top three financial management officials in the Connecticut State government asking us to pass this bill. I urge my colleagues to do so.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to engrossed for a third reading, was read the third time.

Mr. EXON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 5377, the House companion, and that the Senate then proceed to its immediate consideration, that all after the enacting clause be stricken and the text of S. 2970, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the bill (H.R. 5377) was passed.

Mr. EXON. Mr. President, I ask unanimous consent that Calendar No. 701 indefinitely be postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PEACE CORPS REAUTHORIZATION

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3309, introduced earlier today by Senator CRANSTON, reauthorizing the Peace Corps; that the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 3309) was passed, as follows:

S. 3309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATIONS OF APPROPRIATIONS.

Section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended to read as follows:

"(b) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this Act $218,146,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.".

SEC. 2. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 15 the following new section:

"SEC. 16. FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.

"(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States an account to be known as the 'Foreign Currency Fluctuations, Peace Corps, Account'. The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

"(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

"(b) USE OF FUNDS IN THE ACCOUNT.—Funds transferred under subsection (a) shall be merged with, and be available for the same time period, as the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) EXCHANGE RATES APPLICABLE TO OBLIGATIONS.—An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) TRANSFERS BACK TO ACCOUNT.—Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) LIMITATION ON TRANSFERS BACK.—A transfer of funds back to the account under subsection (d) may not be made after the end of the fiscal year or other period for which the appropriation, to which the funds were originally transferred, is available for obligation.

"(f) TRANSFERS TO THE ACCOUNT FROM REGULAR APPROPRIATIONS.—(1) At the end of the fiscal year or other period for which appropriations for the expenses of the Peace Corps are made available, unobligated balances of such appropriation may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with, and to be available for the same period and purposes as, that account.

"(2) The authority of this subsection shall be exercised only to the extent that specific amounts are provided in advance in an appropriation Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of $5,000,000 in such account at the beginning of such fiscal year.

"(h) REPORTS.—Each year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs and the Committee on

Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on funds transferred under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.

SEC. 3. EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS.

(a) IN GENERAL.—The Director of the Peace Corps shall contract with an eligible organization or organizations to conduct before January 1, 1997, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

(b) REQUIREMENTS OF THE EVALUATIONS.—Each evaluation shall include an assessment of the adequacy of the Peace Corps health-care system—

(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers, and

(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

(c) REPORTS TO THE PEACE CORPS.—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and recommendations not later than May 31, 1993, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate standards and procedures for ensuring the furnishing of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

(d) REPORT TO CONGRESS.—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "eligible organization" means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps.

SEC. 4. REPORTING REQUIREMENT ON EMPLOYMENT-RELATED MATTERS.

(a) IN GENERAL.—Not later than May 31, 1992, the Director of the Peace Corps and the Secretary of Labor shall jointly submit to the appropriate congressional committees a report which describes—

(1) the information provided by the Peace Corps to its volunteers and to applicants for volunteer service in the Peace Corps regarding the benefits and services to which Peace Corps volunteers or trainees may be entitled or for which they may be eligible in the event that they sustain injuries or become disabled during their service, or their training for service, with the Peace Corps;

(2) the efforts by the Peace Corps and the Department of Labor to coordinate the provision of such information to Peace Corps volunteer-applicants and volunteers and the processing of claims by Peace Corps volunteers under the Federal Employees Compensation Act (FECA);

(3) the number of Peace Corps volunteers and volunteer-applicants who have filed claims under the Federal Employees Compensation Act (FECA) and the percentage of the claims that have been approved; and

(4) the timeliness of approvals or denials of claims of Peace Corps volunteers and volunteer-applicants under the Federal Employees Compensation Act (FECA).

(b) RECOMMENDATIONS.—The report required by subsection (a) shall also include such recommendations as the Director of the Peace Corps and the Secretary of Labor may determine necessary to facilitate the filing and processing of claims by Peace Corps volunteers regarding the benefits described in that subsection.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "Federal Employees Compensation Act (FECA)" means chapter 81 of title 5, United States Code.

SEC. 5. PEACE CORPS PROGRAMS IN THE FORMER SOVIET UNION.

(a) AVAILABILITY OF FUNDS.—Up to $6,000,000 of the funds made available to carry out the Peace Corps Act for fiscal year 1993 shall be made available for establishing Small Business Development Programs in the independent states of the former Soviet Union. The programs shall include the promotion of local economic development by providing technical assistance and training in municipal restructuring and financing, privatization, valuation of state-owned enterprises, the development and promotion of business associations, and the identification of investment opportunities and requirements.

(b) DEFINITION.—For purposes of this section, the term "independent states of the former Soviet Union" means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

S. 3309: PEACE CORPS AUTHORIZATION

Mr. CRANSTON. Mr. President, I have today introduced S. 3309, legislation relating to the Peace Corps which contains provisions previously reported by the Foreign Relations Committee and passed by the Senate as title XII of the conference report on H.R. 2508, the proposed International Cooperation Act of 1991. As my colleagues are aware, the conference report on H.R. 2508 will not be enacted during this Congress for reasons unrelated to the Peace Corps provisions. The provisions of this bill are noncontroversial and would make needed administrative and programmatic improvements to the Peace Corps operations, and I urge my colleagues to support its passage.

Mr. President, the provisions in this bill were derived from S. 1042, a fiscal year 1992 authorization bill I introduced in the first session of the 102d Congress with the cosponsorship of the chairman of the Foreign Relations Committee, Senator PELL, committee members, Senator WOFFORD and Senator SIMON, and Senators DECONCINI, ROCKEFELLER, and BOREN. The provisions of S. 1042, except for section 4 of the bill, relating to the crediting of Peace Corps volunteer service for Federal retirement purposes, were approved by the Foreign Relations Committee at the committee's June 11, 1991, markup, and reported favorably by the committee in title XI of S. 1435, an original bill comprised of provisions from numerous initiatives that had been referred to the committee. The text of S. 1435 was passed by the Senate on July 26, 1991, as a substitute amendment to H.R. 2508. Thereafter, the Senate-passed Peace Corps provisions were included in title XII of the conference report on H.R. 2508, which also included an amendment to authorize the Peace Corps to carry out programs in the sovereign States of the former Soviet Union. That provision would not require any Peace Corps action and, thus, would not violate the Congress' longstanding practice of not mandating particular Peace Corps programs.

The Senate passed the conference report on H.R. 2508 on October 8, 1991, but on October 30, 1991, the House voted down the conference report because of matters unrelated to the Peace Corps provisions.

AUTHORIZATION OF APPROPRIATIONS

Mr. President, section 1 of the bill would amend section 3 of the Peace Corps Act to authorize a fiscal year 1993 appropriation of $218,146,000 which would be available through September 30, 1994. This is the amount that was requested by the administration and has been approved by both the House and Senate, though final action on the foreign operations appropriations bill has not been taken and would allow for progress towards achieving the congressionally mandated goal of 10,000 volunteers established in section 1102 of the International Security and Development Cooperation Act of 1985, Public Law 99-83.

I note that section 1 would provide for fiscal year 1993 funds to be spent through the following fiscal year, which would provide the Peace Corps with added flexibility to plan programs for more than a 1-year period. When the Peace Corps makes plans to enter a new country or accept a new group of volunteers, the agency is making a commitment of at least 2 years to both the country and the volunteers. Requiring a wait-and-see approach to funding each year causes underutilization of resources and a failure to achieve steady and well-planned growth. I note that the administration's fiscal year 1992 and fiscal year 1993 budget requests included a similar proposal to allow funds appropriated in each of those fiscal years to remain available through the following fiscal year.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

Mr. President, section 2 of the bill would establish a foreign currency fluctuations account from which the Peace Corps could draw when the costs of its operations increase as a result of a decline in the value of the U.S. dollar. One significant factor that has slowed progress toward the 10,000 volunteer goal has been the decreased value of Peace Corps funding due to foreign currency fluctuations.

In a February 27, 1989, letter to me, then-Director Ruppe stated that, due to the falling dollar, $1.5 million was lost in fiscal year 1989. The Peace Corps has recently advised that, in fiscal year 1990, $2.1 million was lost to foreign currency fluctuations and an additional $2.1 million was lost in fiscal year 1991. In order to avoid such losses in the future, section 3 of our bill would establish a foreign currency fluctuations account for the Peace Corps patterned after similar accounts established for the Departments of Defense and State in 10 U.S.C. 2779 and 22 U.S.C. 2696, respectively, and for the American Battle Monuments Commission in 36 U.S.C. 138(c). The bill would authorize appropriations of amounts sufficient to maintain a balance of $5 million in the account. Such a foreign currency fluctuations account would help to ensure that, by stabilizing Peace Corps fiscal support, the congressionally intended levels of program operations are achieved. The account would provide a mechanism for redistributing savings realized in certain years when the value of the dollar rises to offset losses in other years in which the dollar drops.

PEACE CORPS HEALTH CARE SERVICES

Mr. President, section 3 of the bill would require independent evaluations of health care services for Peace Corps volunteers and the submission of reports on such evaluations to the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

The Peace Corps annually provides complete healthcare services to approximately 6,000 volunteers and trainees worldwide. Each Peace Corps country program is required, before volunteers arrive, to establish a medical office, which is staffed by a Peace Corps medical officer and usually one other person. The country director is responsible for recruiting the medical staff, and the Peace Corps' Washington office of medical services provides hiring criteria and advice on the applicants. A degree from a medical or nursing school accredited in the United States is not required of Peace Corps medical officers. Within each Peace Corps country, local healthcare facilities are identified to serve as referral facilities for healthcare problems that the medical officer is not equipped to handle, and, in the cases of severe medical problems or emergencies for which there are not adequate hostcountry facilities, the volunteer is evacuated to either a nearby Peace Corps country or to the United States for care.

Mr. President, a General Accounting Office [GAO] review of the Peace Corps' healthcare system, conducted at the request of Sen. INOUYE and completed in July 1991, found several deficiencies in that system, including inadequate systems to monitor the quality of health services provided to volunteers. Among GAO's recommendations published in its July 1991 report, entitled "Peace Corps: Long-Needed Improvements to Volunteers' Health Care system," was that regular outside reviews of Peace Corps' healthcare system should be conducted. The Peace Corps, in response to that recommendation and at the strong urging of the Senate Appropriations Subcommittee on Foreign Operations and earlier Senate and House passage of this provision, has initiated a process of improving and monitoring its healthcare system and has contracted for a series of independent evaluations as proposed in section 3. I am pleased that the Peace Corps has taken these steps. Section 3 of the bill would ensure that the evaluations are completed and that the responsible congressional committees are fully informed of the results in a timely way.

FEDERAL EMPLOYMENT COMPENSATION CLAIMS

Mr. President, section 4 of our bill would require a report on Peace Corps and Department of Labor activities regarding the claims of disabled former volunteers for Federal workers compensation benefits.

If a Peace Corps volunteer contracts a disease or becomes disabled during Peace Corps service, he or she is eligible for assistance under the Federal Employees' Compensation Act [FECA], administered by the Department of Labor. The FECA applies generally to civilian employees of the United States and, under section 8142 of title 5, United States Code, to Peace Corps volunteers during their term of service and provides, among other benefits, medical and compensation benefits for health problems and injuries sustained in the performance of duty.

Mr. President, although the FECA provides medical coverage to Peace Corps volunteers for their service-related health problems, it appears that many eligible volunteers may not be aware of their eligibility for FECA benefits. GAO found, based on a GAO survey of former volunteers, that from 10 to 30 percent of former volunteers had medical problems related to their Peace Corps service, and about 50 percent of them had not filed a FECA claim. Since the GAO report was issued and this provision was first passed by the Senate last year, the Peace Corps has initiated improvements in both disseminating information regarding FECA benefits and coordinating individual casework with DOL.

Section 4 would require that the Director of the Peace Corps and the Secretary of Labor jointly submit to the Senate Foreign Relations Committee and the House Foreign Affairs Committee a report on these issues. The report would focus on the coordination between the Peace Corps and Department of Labor in providing information to Peace Corp applicants and volunteers regarding the benefits and services to which they may be entitled, or for which they may be eligible, in the event they are injured or become disabled during service and in processing FECA claims filed by volunteers or trainees. The report would also be required to include recommendations to improve the information and services provided to Peace Corps volunteers and trainees in connection with FECA benefits. Requiring the two agencies to examine their coordination in providing information to applicants, trainees, and volunteers may result in improved services from both agencies for those who must pursue benefits under the FECA.

CONCLUSION

Mr. President, this legislation would make needed administrative and programmatic improvements in the Peace Corps' operations, and I urge all of my colleagues to support its passage.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993—CONFERENCE REPORT

Mr. EXON. Mr. President, I submit a report of the committee of conference on H.R. 5095 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 30, 1992.)

Mr. BOREN. Mr. President, the House of Representatives has approved the conference report on H.R. 5095, the Intelligence Authorization Act for fiscal year 1993, and it has now arrived in the Senate for final action.

The conference report, in fact, does not depart significantly from the bill passed by the Senate several days ago. While several minor changes were adopted to title VII on intelligence organization to meet a few lingering concerns of the administration, the bill retains the basic provisions of the Senate bill, which, as I mentioned earlier, represent the most sweeping changes in the statutory framework for intelligence since 1947. It is a considerable achievement to have reached agreement on this measure, both in the Congress and with the administration, and I am very pleased to bring it to this body for final passage in this, my last year as chairman of the Intelligence Committee.

I also want to acknowledge the excellent contribution made by the House Permanent Select Committee on Intelligence in developing the comprehensive restatement of the law governing the CIA Retirement and Disability System, which is also contained in the conference report. Our experts believe it clarifies existing law and brings CIA's Retirement System in line with other Federal retirement programs.

Last, but perhaps most important of all, the conference report achieves a significant reduction in the budget for intelligence without sacrificing real strength or flexibility. We have cut back where it makes sense to cut back, but have preserved the capability we need to cope with a volatile and dramatically changing world. Further cuts may yet be desirable in the future, but I believe this year's bill represents a prudent beginning to downsizing U.S. intelligence capabilities. This process must be gradual and managed carefully, else we may find ourselves in need of lost capabilities which cannot be quickly rebuilt or can be rebuilt only at great cost.

This, then, Mr. President, brings me to what is likely to be my last official act as chairman of the Select Committee on Intelligence, final passage of the conference report on this year's authorization. It has been for me an interesting and rewarding 6 years. I think the committee's record of accomplishment speaks for itself. I thank my colleagues for their support and encouragement, and for allowing me the opportunity to have served in this capacity.

The PRESIDING OFFICER. Without objection, the conference report is agreed to.

So the conference report was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HUMANITARIAN SITUATION IN SUDAN

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 140 submitted earlier today by Senators SIMON, KASSEBAUM, and others, relating to humanitarian relief and the human rights situation in Sudan; that the concurrent resolution be agreed to, the preamble be agreed to; and that the motions to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 140) was agreed to, as follows:

S. CON. RES. 140

Whereas the Government of Sudan engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas Sudanese military forces and the resistance movement, the Sudan Peoples' Liberation Army, are currently engaged in a battle for the southern capital of Juba without regard for the welfare of its civilian population, some 300,000 of whom are existing only on the intermittent provision of relief supplies;

Whereas the Government of Sudan is engaging in gross abuses of human rights elsewhere in the country, including a campaign of forced displacement of tens of thousands of Nuba from their ancestral homes in southern Kordofan Province, the destruction of Nuba villages, and the killing of hundreds of civilians;

Whereas the Government of Sudan has undertaken a cruel campaign to relocate some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city, has announced plans to relocate an additional 250,000 in the coming months, and inhibited many international relief agencies from aiding the displaced;

Whereas the Government of Sudan has systematically harassed international relief agencies and workers whose only objective is to reduce suffering among Sudanese citizens in need;

Whereas the Government of Sudan is engaging in the imprisonment, torture, and execution of suspected dissidents across the country; and

Whereas, in September 1992, the Government of Sudan executed in Juba one and possibly two employees of the United States Agency for International Development after trials in which the victims had no possibility of appropriate counsel or appeal: Now, therefore, be it

Resolved, That the Senate (The House of Representatives concurring)

(1) condemns the egregious human rights abuses by the Government of Sudan and calls upon the Government of Sudan to cease its abuses of internationally recognized human rights and specifically—

(A) to allow free movement for all civilians who wish to leave the southern city of Juba and to cease the human rights abuses, including summary executions, of those civilians held against their will in Juba;

(B) to allow unrestricted and unconditional access for the International Committee of the Red Cross, United States officials, and other relief organizations to all parts of the country, including Juba;

(C) to guarantee the personal safety and security of all relief workers, including Sudanese employees of relief agencies working in Sudan;

(D) to provide a full accounting of the recent deaths of employees of the United States Agency for International Development in Juba;

(E) to cease its violent campaign of forced displacement of the Nuba people of Kordofan Province and the displaced people from Khartoum, to permit a greater number of international relief organizations to attend to their needs, and to initiate a process for just settlement of claims of those who have been relocated and whose homes and belongings have been destroyed;

(F) to permit international human rights groups to visit all areas of Sudan, including places of detention and displaced persons camps; and

(G) to lift the ban on the institutions of independent civil society such as the press and labor unions, and to restore freedom of speech and expression;

(2) calls upon the Sudan Peoples' Liberation Army to end its human rights abuses and interference with relief efforts; and

(3) calls upon the President to work with United Nations Secretary General Boutros Boutros-Ghali to convene a Security Council meeting to discuss the human rights situation in Sudan and to consider further international means, including within the United Nations system, to ameliorate the humanitarian situation in Sudan.

THE HUMANITARIAN SITUATION IN SUDAN

Mr. SIMON. Mr. President, as the preeminent leader of the international community, the United States must take all means at its disposal to highlight the severe human rights abuses now occurring in Sudan. Three hundred thousand innocent civilians are now caught in a vice in the southern Sudanese city of Juba, where they are being used by the Sudanese military as human shields, or hostages, against a siege of the city being mounted by the opposing Sudan Peoples' Liberation Army. Elsewhere in Sudan, the government is conducting an ethnic cleansing operation against an indigenous group, the Nuba. Additionally, for months the Sudanese authorities have been pushing internally displaced people in the city of Khartoum out to woefully inadequate camps in the surrounding desert, virtually casting hundreds of thousands out to cling to life in the desert or die as the case may be. We must do all we can to let the world know of the cruelty and inhumanity of the Sudanese Government before it is too late for countless numbers of suffering people.

Some months ago I warned by colleagues on the Senate floor that while the situation in Bosnia-Hercegovina was indeed tragic, the world could not ignore similar but even more desperate human suffering in Somalia. After 10 months of writing letters, holding hearings, passing resolutions, making calls to the United Nations and to the administration, the international community, including the United States, has finally committed large-scale resources to try to save millions from starvation in Somalia. Without pointing fingers at the guilty parties, it is critical that we learn from our mistakes in Somalia, where sufficient political will to help was absent until literally a few weeks ago. Now, the statistics in Somalia are staggering: perhaps as many as 2,000 people are dying daily, and truly gruesome pictures of human suffering reiterate the need for the United States and the international community to ensure that people are fed and the lives of innocent civilians protected. But because of our delay, even all of the resources committed to Somalia may not save hundreds of thousands of people from starvation.

We must not let such indifference occur again, this time in Sudan. I want to take this opportunity to send a signal to my colleagues, the administration, and the public that just as we are rightly concerned with the issue of ethnic cleansing in Bosnia, we must also focus our attention on similar abuses in Sudan. At the end of 1991, human rights groups and relief workers warned us that the Nuba peoples of southern Kordofan province faced the destruction of their ethnic identity. According to reports of Africa Watch and others, including the State Department, these abuses have worsened in 1992. The Sudan Government appears to have declared a holy war on the Nubians. While outside access to the Nuba Mountains has been tightly restricted, reliable information indicates a campaign of horrifying dimensions, with villages burned, people killed, and forcible relocation of the population from their ancestral homeland to camps in the northern part of the province.

Another disturbing action by the Sudanese officials is the relocation of some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city. There are reports that an additional 250,000 will also be pushed out to the barren camps, where facilities for food, water, and shelter are reportedly wretched and incapable of handling such large numbers. Access to these camps by many international relief agencies has been severely restricted. We do not have a grasp yet of the scope of the suffering, but it is reasonably safe to say that the lives of all those in the camps is in jeopardy.

As if the situation with the displaced in the Khartoum region and among the Nuba were not bad enough, in the southern city of Juba, an additional 300,000 civilians have been forced by the Sudanese army into a small sector of the city to serve as hostages, or shields, against the opposing forces of the Sudan Peoples' Liberation Army, which is besieging the city. All foreign relief workers and missionaries were expelled from Juba in August, and they brought with them credible stories of summary executions conducted by the Sudan army against the captive civilians. In late September, the United States learned that one and possibly two of its local employees of USAID were executed in Juba, reportedly for treason. We do not know precisely who killed the USAID employees, but evidence points to the Sudan military. These two individuals, U.S. Government employees, were among 13 Sudanese nationals working with AID to alleviate suffering among those civilians entrapped in Juba.

The civilian hostages in Juba are fed by intermittent relief flights to Juba. If the relief supplies are cut off, there will be certain and early death for thousands among the captives too frail to endure prolonged suffering, such as children, the ill and the elderly. With a sustained cutoff of relief sources, all of the 300,000 lives are at risk.

The Khartoum displaced, the Nubas and the people of Juba cannot be ignored. We as Americans must lead in an international effort to focus attention on the human rights abuses being perpetrated by the authorities in Khartoum. I am introducing today in the Senate, with cosponsorship from my colleagues, Senators PELL, HELMS and KASSEBAUM, a resolution condemning the Sudan Government for its abuses and calling upon the President to work with the U.N. Secretary General to bring this issue up for debate in the Security Council. The introduction of this resolution on Sudan is but the first step; we must thereafter unite to keep the focus on Sudan, just as we have done in Bosnia and now in Somalia.

NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 4841, a bill granting the consent of the Congress to the New Hampshire-Maine interstate school compact, and that the Senate proceed to its immediate consideration; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4841) was deemed read three times and passed.

NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

Mr. MITCHELL. Mr. President, I rise in support of H.R. 4841, a bill granting formal consent to two towns in Maine and New Hampshire to consider the creation of a unified interstate local school district.

This proposal needs congressional approval because of a Constitutional provision in article I:

> No state shall, without the consent of Congress, * * * enter into any agreement or compact with another state, or with a foreign power * * *.

This bill fulfills that constitutional requirement and allows the compact between Maine and New Hampshire to take effect. With its enactment, the State Education Commissioners can set up a planning committee to explore the possibility of a unified school district.

The movement for education reform and change is a grassroots movement throughout the Nation. Principals and teachers, parents and students alike are searching for innovative ways to improve local schools.

Movements for reform range from curriculum changes and innovative programs to the nuts and bolts of school operations in an effort to stretch scarce resources further, to use resources more efficiently.

One such effort is the one under way in Acton, ME, and Milton, NH, where both communities are exploring the possibility of an interstate unified school district. Such a district could save both communities money and allow a greater share of local resources to be devoted to improved instruction, equipment and curriculum.

The ultimate decision to create such a unified school district will be made by the people of the local communities directly affected, through a referendum.

But in order to hold that referendum, Acton and Milton need the formal consent of the Congress to consider an interstate school district. That legislation, H.R. 4841, is now before us.

It has been approved by the House of Representatives and will pass the Senate today. It will give the people of Acton, ME and the people of Milton, NH, the right to explore a promising avenue for administrative savings that could lead to reform and improvement in the local schools.

I am pleased that we are able to complete action on this measure in the 102d Congress, and I look forward with interest to the conclusions of the communities involved as they debate their unified school district proposal.

Mr. COHEN. Mr. President, I am pleased that the Senate is acting today on legislation to allow the development of a Maine-New Hampshire interstate school compact. This agreement has been negotiated for some time, and I now understand that the local towns and schools boards and the Maine and New Hampshire Departments of Education fully support this project.

Currently, the town of Acton, ME, pays tuition for its secondary students to go to the Wells-Ogunquit Community School District, almost 30 miles away. This arrangement, while perfectly acceptable in terms of the quality of education Acton's students receive at Wells High School, has resulted in long hours of travel and high transportation costs, and has raised obstacles to students' participation in extracurricular activities.

This legislation, which has also been approved by the House of Representatives, will enable the towns of Acton, ME, and Milton, NH, to combine their resources and form school districts if such a combination should prove economically and educationally feasible. Discussions to date indicate that the appropriate local officials from both States are working cooperatively to develop a mutually acceptable plan to educate the area's students in grades 9–12. Such a plan could result in financial savings, as well as a more efficient use of educational resources.

Congressional ratification of the compact is only the first step in forming an interstate school district. Many issues have yet to be resolved, including the development of a curriculum that meets the requirements of both States. What happens from here is rightfully in the hands of the local governments, school boards, parents, and teachers. I am certain that this project will demonstrate why we have traditionally placed such confidence in local control of education, as Acton's and Milton's citizens are the best judges of the students' needs.

Mr. SMITH. Mr. President, I rise today in support of H.R. 4841, a bill to grant the consent of Congress to the New Hampshire-Maine interstate compact. Both States approved the compact in 1969 and have since awaited congressional action. I am pleased that our colleagues in the House have approved this measure, and I hope that we can finally conclude this process.

Some of my constituents have expressed to me their concerns that approval of this compact would mandate participation by communities in an interstate school district. This notion is incorrect; passage of this measure would merely allow those communities that wish to formulate interstate districts to do so.

This compact recognizes the expanded educational opportunities that may be offered by school districts that cross State borders. I believe that this legislation represents an important step for the children of New Hampshire and Maine.

I thank my colleagues for supporting this measure.

NATIVE AMERICAN VETERANS' MEMORIAL ESTABLISHMENT ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 752, S. 3157, a bill to provide for a National Native American Veterans' Memorial; that the committee amendments be agreed to; the bill be deemed read a third time and passed; and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 3157) was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Veterans' Memorial Establishment Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) Native Americans [of various Indian tribes] across the Nation, have a long, proud and distinguished tradition of service in the armed forces of the United States.

(2) Native Americans have historically served in the armed forces of the United States in numbers which far exceed their representation in the population of the United States.

(3) Native Americans have lost their lives in the service of their Nation, and in the cause of peace.

(4) The National Museum of the American Indian was established as a living memorial to Native Americans.

(5) The National Museum of the American Indian is an extraordinary site and is an ideal location to establish a National Native American Veterans' Memorial.

(6) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the armed forces of the United States.

SEC. 3. AUTHORIZATION FOR ESTABLISHMENT OF MEMORIAL.

(a) MEMORIAL.—The Board of Trustees of the National Museum of the American Indian is authorized to design, construct, and maintain a National Native American Veterans' Memorial (hereafter referred to in this section as the "Memorial").

(b) SITE.—The Board of Trustees shall select a suitable site for the Memorial. The site shall be located on a portion of the lands within the boundaries described in section 7(a) of the National Museum of the American Indian Act.

(c) DESIGN AND PLANS.—The Board of Trustees is authorized to hold a competition to select the design of the Memorial [Except as otherwise provided in this Act, the design, location, and construction of the Memorial shall be subject to the Act entitled "An Act to provide standards for replacement of commemorative works on Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).]

(d) DONATIONS.—Notwithstanding any other provision of law, the Board of Trustees many accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of designing, constructing, or maintaining the Memorial.

(e) PAYMENT OF EXPENSES.—The United States Government shall not pay any of the expenses of the establishment of the Memorial other than providing the site on which it is to be located.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "Native American" means an Indian, a Native Hawaiian, and an Alaska Native.

(2) The term "Indian" means a member of an Indian Tribe.

(3) The term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(4) The term "Alaska Native" means any Eskimo, Aleut, or Alaska Indian.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

ADVISORY COUNCIL OF CALIFORNIA INDIAN POLICY ACT OF 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calender No. 753, H.R. 2144, the California tribal status bill.

The Senate proceeded to consider the bill (H.R. 2144) to restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes, which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advisory Council on California Indian Policy Act of 1992".

SEC. 2. FINDINGS.

The Congress has reviewed the social, economic, and political circumstances of California Indians and of governmental policies and programs affecting California Indians and finds that—

(1) the Congress has recognized a special government-to-government relationship with Indian tribes in the United States;

(2) due to the unique historical circumstances of the Indians of California, Federal law and policies have often dealt specifically with California Indians;

(3) there is an urgent need to clarify the eligibility of unrecognized and terminated California Indian tribal groups to be federally acknowledged as Indian tribes with all the rights and powers attendant to that status;

(4) there is among California Indians a continuing social and economic crisis, characterized by, among other things, alcohol and substance abuse, critical health problems, family violence and child abuse, lack of educational and employment opportunities, and significant barriers to tribal economic development;

(5) these conditions exist even though public policies and programs adopted by the Federal Government have been intended to improve the conditions of California Indians; and

(6) California Indian tribes and tribal organizations have expressed a need for a review of the public policies and programs affecting California Indians and to make such policies and programs more effective in accomplishing Federal policy objectives.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "California Indian tribe" means any federally recognized or unacknowledged Indian tribe located in the State of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(4) The term "federally recognized Indian tribe" means any Indian tribe, band, group, or community that—

(A) has been federally recognized or acknowledged by the United States Government through an Act of Congress, a Federal judicial decision, or an administrative decision by the Secretary pursuant to part 83 of title 25, Code of Federal Regulations;

(B) was terminated by an Act of Congress and has been restored through an Act of Congress, a Federal judicial decision, an administrative determination or action by the Secretary; or

(C) is included, as of the date of the enactment of this Act, on the list of federally recognized tribes maintained by the Secretary.

(5) The term "unacknowledged Indian tribe" means any Indian tribe, band, group, or community that is not now federally acknowledged by the United States Government and has not been terminated by an Act of Congress.

(6) The term "terminated Indian tribe" means any Indian tribe, band, or community that has been terminated by an Act of Congress and has not been restored through an Act of Congress, a Federal judicial decision, or an administrative determination or action by the Secretary.

(7) The term "Council" means the Advisory Council on California Indian Policy established pursuant to section 4.

SEC. 4. ESTABLISHMENT OF ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established the Advisory Council on California Indian Policy.

(b) MEMBERS.—The Council shall be composed of 18 members who, other than the members provided for by paragraph (8), shall be appointed by the Secretary not later than 90 days after the date of the enactment of this Act as follows:

(1) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(2) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(3) Three tribal government representatives (or their designees) from the federally recognized Indian tribes located within the central California Agency area of the Bureau, including all field and subagencies.

(4) Three tribal government representatives (or their designees) from the unacknowledged Indian tribes located in the central California Agency area of the Bureau, including all field and subagencies.

(5) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(6) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(7) Two tribal government representatives (or their designees) from the terminated Indian tribes located within the northern, central, or southern California Agency areas of the Bureau, including all field and subagencies.

(8) The Area Director of the California Area Office of the Bureau and the Area Director of the California Area Office of the Indian Health Service who shall serve ex officio and as nonvoting members of the Council.

(c) RECOMMENDATIONS FROM CALIFORNIA INDIAN TRIBES.—In making appointments to the Council under subsection (b), the Secretary shall ensure that the California Indian tribes have been afforded a full and fair opportunity to select by consensus, in accordance with procedures developed by the California Indian tribes, representatives they will recommend to the Secretary for appointment to the Council, consult with the California Indian tribes; and make appointments to the Council from among those recommended or nominated by California Indian tribes.

(d) INITIAL MEETING.—The Council shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Council have been appointed.

(e) VACANCY.—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(f) QUORUM.—Ten voting members shall constitute a quorum for the transaction of business, but a smaller number, as determined by the Council, may conduct hearings.

(g) CHAIRPERSON; VICE CHAIRPERSON.—The Council shall select a Chairperson, a Vice Chairperson, and such other officers as it deems necessary.

(h) COMPENSATION.—No compensation shall be paid to a member of the Council solely for his services on the Council. All members of the Council shall be reimbursed for travel expenses, including per diem in lieu of subsistence, during the performance of duties of the Council while away from home or their regular place of business in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

SEC. 5. DUTIES OF THE COUNCIL.

The Council shall—

(1) develop a comprehensive list of California Indian tribes and the descendency list for each tribe based upon documents held by the Bureau including, but not limited to those specified in section 6;

(2) identify the special problems confronting unacknowledged and terminated Indian tribes and propose reasonable mechanisms to provide for the orderly and fair consideration of requests by such tribes for Federal acknowledgement;

(3) conduct a comprehensive study of—

(A) the social, economic, and political status of California Indians;

(B) the effectiveness of those policies and programs of the United States that affect California Indians; and

(C) the services and facilities being provided to California Indian tribes, compared to those being provided to Indian tribes nationwide;

(4) conduct public hearings on the subjects of such study;

(5) develop recommendations for specific actions that—

(A) will help to ensure that California Indians have life opportunities comparable to other American Indians of federally recognized tribes, while respecting their unique traditions, cultures, and special status as California Indians;

(B) will address, among other things, the needs of California Indians for economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems; and

(C) will respect the important cultural differences which characterize California Indians and California Indian tribes and tribal groups;

(6) submit, by no later than the date that is 18 months after the date of the first meeting of the Council, a report on the study conducted under paragraph (3) together with the proposals and recommendations developed under paragraphs (2) and (5) and such other information obtained pursuant to this section as the Council deems relevant, to the Congress, the Secretary, and the Secretary of Health and Human Services; and

(7) make such report available to California Indian tribes, tribal organizations, and the public.

SEC. 6. ACCESS TO DESCENDENCY LISTS.

The Secretary shall provide to the Council, not later than 30 days after the first meeting of the Council, the following documents:

(1) The rolls of California Indians developed in 1972 pursuant to the distribution of the Indian Claims Commission award of July 20, 1964, including but not limited to dockets Nos. 31, 37, 80, 80–D, and 347, and authorized by the Act of September 21, 1968 (82 Stat. 860).

(2) The rolls of California Indians developed in 1955 pursuant to the distribution of the 1944 United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602), as amended by the Act of June 30, 1948 (62 Stat. 1166), the Act of May 24, 1950 (64 Stat. 189), and the Act of June 8, 1954 (68 Stat. 240).

(3) The rolls of California Indians developed in 1933 pursuant to the distribution of the United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602).

(4) The lists and rolls of California Indians registered as Indian by the Bureau of Indian Affairs developed pursuant to section 19 of the Act of June 18, 1934 (48 Stat. 984).

(5) The lists and rolls of California Indians developed pursuant to the Acts of Congress terminating reservations and rancherias, including distributee rolls developed for the distribution of assets under the Act of August 18, 1958 (72 Stat. 619), the Act of July 10, 1957 (71 Stat. 283), and the Act of March 29, 1956 (70 Stat. 58).

(6) Any other rolls developed for Indian Claims Commission judgment awards covering any California land areas.

(7) Upon the consent of each tribe, the current tribal membership rolls of California Indian tribes, except that, nothing in this paragraph or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by consent of such tribal government to the Council under this Act.

SEC. 7. POWERS OF THE COUNCIL.

(a) STAFF.—(1) Subject to such rules and regulations as may be adopted by the Council, the Chairperson of the Council shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to the number, classification, and General Schedule rates) of an Executive Director of the Council and of such other personnel as the Council deems advisable to assist in the performance of the duties of the Council, at rates not to exceed a rate equal to the maximum rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title.

(2) Service of an individual as a member of the Council shall not be considered as service or em-

ployment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Council, or as an employee of the Council, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(b) ACTIONS.—The Council may hold such hearings and sit and act at such times, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, make such expenditures, and take such other actions, as the Council may deem advisable provided, however, that no such action, contracting arrangement or expenditure be committed beyond the duration of the life of the Council pursuant to section 8. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.

(c) TASK FORCES.—The Council is authorized to establish task forces which include individuals who are not members of the Council only for the purpose of gathering information on specific subjects identified by the Council as requiring the knowledge and expertise of such individuals. Any task force established by the Council shall be chaired by a voting member of the Council who shall preside at any task force hearing authorized by the Council. No compensation (other than compensation and expenses authorized under section 4(h) to a member of the Council) may be paid to a member of a task force solely for his service on the task force, but the Council may authorize the reimbursement of members of a task force for travel expenses, including per diem in lieu of subsistence, during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Council shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Council staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Council.

(d) FUNDING.—The Council is authorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of California, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this title.

(e) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Council.

(f) COOPERATION OF FEDERAL AGENCIES.—(1) The Council is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Council may require to carry out the purposes of this title, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics, directly to the Council, upon request made by the Chairperson of the Council.

(2) Upon the request of the Council, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Council and detail any of the personnel of such department, agency, or instrumentality to the Council, on a nonreimbursable basis, to assist the Council in carrying out its duties under this title.

(3) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(g) NO INFRINGEMENT ON TRIBAL AUTHORITY.—The creation of the Council is not intended to, nor shall it, restrict, preempt or infringe the right of any California Indian tribe to interact or communicate with Congress or other branches of the Federal Government on a government-to-government basis.

SEC. 8. TERMINATION.

The Council shall cease to exist on the date that is 180 days after the date on which the Council submits the report required under section 5(6). All records, documents, and materials of the Council shall be transferred to the National Archives and Records Administration on the date on which the Council ceases to exist.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $700,000 to carry out the provisions of this Act. Such sums shall remain available, without fiscal year limitation, until expended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "An Act to establish the Advisory Council on California Indian Policy, and for other purposes.".

CANCER REGISTRIES AMENDMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3312, a bill introduced earlier today by Senator LEAHY and others dealing with the establishment of a uniform system of statewide cancer registries; that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, 20 years ago Congress and the President declared war on cancer. That started the Nation on an aggressive campaign of research and cancer control efforts aimed at eradicating this dreaded disease.

We have made significant progress. Overall survival rates have improved, especially among children. Yet today, one in three Americans will be diagnosed with cancer. One in five will die of this harsh disease.

It is time to take a fresh look at our National Cancer Program and put together a new plan to carry us into the next century. Today, the Senate will pass legislation that adds a very potent weapon to that plan. It is the Cancer Registries Amendment Act of 1992 which Congressman SANDERS and I introduced earlier this year.

Our bill sets up a national system of cancer registries that will give researchers the information they need to fight this disease. Many of our States lack statewide cancer registries that record data on the incidence, stage and treatment of cancer. This information is precisely what our researchers say they need to better understand the causes of cancer and how to control it.

The Leahy-Sanders cancer registries bill provides $30 million a year to States to establish or upgrade their cancer registry systems. Planning grants are available to States currently without registries.

Mr. President, our bill also takes aim at one particular cancer that has reached epidemic proportions—breast cancer. Every 3 minutes another American woman will be diagnosed with the disease. Every 12 minutes, another woman in this country will die.

For reasons we do not know, breast cancer death rates are higher for women in Vermont and other Northeastern States than in other parts of the country. Our bill launches a 5-year comprehensive study to find out why this is.

Mr. President, the cancer registries bill passed the Senate earlier this year with overwhelming, bipartisan support as part of the National Institutes of Health reauthorization bill. But President Bush vetoed that important legislation because of his unreasonable opposition to fetal tissue research—research that holds great promise for the treatment and cure of diseases like Alzheimer's, Parkinson's, and juvenile diabetes.

That veto was a bitter disappointment to me and millions of Americans across this country because it sent a signal to us that election year politics is more important than people's lives.

I applaud the Senate for passing the Cancer Registries bill today and taking an important step in bolstering our efforts against cancer. Congressman SANDERS and I are working hard to see that the House takes up this legislation, too, and passes it quickly so that we can get it to the President for his signature.

Mr. President, the Cancer Registries bill has been called the cancer weapon America needs most. The families in this country that have been touched by cancer, and the millions more that face it, should not have to wait another day for this help.

Mr. President, I ask unanimous consent that the bill as amended be printed in the RECORD.

So, the bill (S. 3312) was read a third time, and passed as follows:

S. 3312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cancer Registries Amendment Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) cancer control efforts, including prevention and early detection, are best addressed

locally by State health departments that can identify unique needs;

(2) cancer control programs and existing statewide population-based cancer registries have identified cancer incidence and cancer mortality rates that indicate the burden of cancer for Americans is substantial and varies widely by geographic location and by ethnicity;

(3) statewide cancer incidence and cancer mortality data, can be used to identify cancer trends, patterns, and variation for directing cancer control intervention;

(4) the American Association of Central Cancer Registries (AACCR) cites that of the 50 States, approximately 38 have established cancer registries, many are not statewide and 10 have no cancer registry; and

(5) AACCR also cites that of the 50 States, 39 collect data on less than 100 percent of their population, and less than half have adequate resources for insuring minimum standards for quality and for completeness of case information.

(b) PURPOSE.—It is the purpose of this Act to establish a national program of cancer registries.

SEC. 3. NATIONAL PROGRAM OF CANCER REGISTRIES.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART M—NATIONAL PROGRAM OF CANCER REGISTRIES

"SEC. 399H. NATIONAL PROGRAM OF CANCER REGISTRIES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States, or may make grants or enter into contracts with academic or nonprofit organizations designated by the State to operate the State's cancer registry in lieu of making a grant directly to the State, to support the operation of population-based, statewide cancer registries in order to collect, for each form of in-situ and invasive cancer (with the exception of basal cell and squamous cell carcinoma of the skin), data concerning—

"(1) demographic information about each case of cancer;

"(2) information on the industrial or occupational history of the individuals with the cancers, to the extent such information is available from the same record;

"(3) administrative information, including date of diagnosis and source of information;

"(4) pathological data characterizing the cancer, including the cancer site, stage of disease (pursuant to Staging Guide), incidence, and type of treatment; and

"(5) other elements determined appropriate by the Secretary.

"(b) MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State, or the academic or nonprofit private organization designated by the State to operate the cancer registry of the State, involved agrees, with respect to the costs of the program, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs or $1 for every $3 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION; MAINTENANCE OF EFFORT.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) With respect to a State in which the purpose described in subsection (a) is to be carried out, the Secretary, in making a determination of the amount of non-Federal contributions provided under paragraph (1), may include only such contributions as are in excess of the amount of such contributions made by the State toward the collection of data on cancer for the fiscal year preceding the first year for which a grant under subsection (a) is made with respect to the State. The Secretary may decrease the amount of non-Federal contributions that otherwise would have been required by this subsection in those cases in which the State can demonstrate that decreasing such amount is appropriate because of financial hardship.

"(c) ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—No grant shall be made by the Secretary under subsection (a) unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such a manner, and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and in accordance with the requirements of this section, that the application will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a) of this section, and that the applicant will comply with the peer review requirements under sections 491 and 492.

"(2) ASSURANCES.—Each applicant, prior to receiving Federal funds under subsection (a), shall provide assurances satisfactory to the Secretary that the applicant will—

"(A) provide for the establishment of a registry in accordance with subsection (a);

"(B) comply with appropriate standards of completeness, timeliness, and quality of population-based cancer registry data;

"(C) provide for the annual publication of reports of cancer data under subsection (a); and

"(D) provide for the authorization under State law of the statewide cancer registry, including promulgation of regulations providing—

"(i) a means to assure complete reporting of cancer cases (as described in subsection (a)) to the statewide cancer registry by hospitals or other facilities providing screening, diagnostic or therapeutic services to patients with respect to cancer;

"(ii) a means to assure the complete reporting of cancer cases (as defined in subsection (a)) to the statewide cancer registry by physicians, surgeons, and all other health care practitioners diagnosing or providing treatment for cancer patients, except for cases directly referred to or previously admitted to a hospital or other facility providing screening, diagnostic or therapeutic services to patients in that State and reported by those facilities;

"(iii) a means for the statewide cancer registry to access all records of physicians and surgeons, hospitals, outpatient clinics, nursing homes, and all other facilities, individuals, or agencies providing such services to patients which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified patient;

"(iv) for the reporting of cancer case data to the statewide cancer registry in such a format, with such data elements, and in accordance with such standards of quality timeliness and completeness, as may be established by the Secretary;

"(v) for the protection of the confidentiality of all cancer case data reported to the statewide cancer registry, including a prohibition on disclosure to any person of information reported to the statewide cancer registry that identifies, or could lead to the identification of, an individual cancer patient, except for disclosure to other State cancer registries and local and State health officers;

"(vi) for a means by which confidential case data may in accordance with State law be disclosed to cancer researchers for the purposes of cancer prevention, control and research;

"(vii) for the authorization or the conduct, by the statewide cancer registry or other persons and organizations, of studies utilizing statewide cancer registry data, including studies of the sources and causes of cancer, evaluations of the cost, quality, efficacy, and appropriateness of diagnostic, therapeutic, rehabilitative, and preventative services and programs relating to cancer, and any other clinical, epidemiological, or other cancer research; and

"(viii) for protection for individuals complying with the law, including provisions specifying that no person shall be held liable in any civil action with respect to a cancer case report provided to the statewide cancer registry, or with respect to access to cancer case information provided to the statewide cancer registry.

"(d) RELATIONSHIP TO CERTAIN PROGRAMS.—

"(1) IN GENERAL.—This section may not be construed to act as a replacement for or diminishment of the program carried out by the Director of the National Cancer Institute and designated by such Director as the Surveillance, Epidemiology, and End Results Program (SEER).

"(2) SUPPLANTING OF ACTIVITIES.—In areas where both such programs exist, the Secretary shall ensure that SEER support is not supplanted and that any additional activities are consistent with the guidelines provided for in subsection (c)(2)(C) and (D) and are appropriately coordinated with the existing SEER program.

"(3) TRANSFER OF RESPONSIBILITY.—The Secretary may not transfer administration responsibility for such SEER program from such Director.

"(4) COORDINATION.—To encourage the greatest possible efficiency and effectiveness of Federally supported efforts with respect to the activities described in this subsection, the Secretary shall take steps to assure the appropriate coordination of programs supported under this part with existing Federally supported cancer registry programs.

"(e) REQUIREMENT REGARDING CERTAIN STUDY ON BREAST CANCER.—In the case of a grant under subsection (a) to any State specified in section 399K(b), the Secretary may establish such conditions regarding the receipt of the grant as the Secretary determines are necessary to facilitate the collection of data for the study carried out under section 399C.

"SEC. 399I. PLANNING GRANTS REGARDING REGISTRIES.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of developing plans that meet the assurances required by the Secretary under section 399B(c)(2).

"(2) OTHER ENTITIES.—For the purpose described in paragraph (1), the Secretary may make grants to public entities other than States and to nonprofit private entities. Such a grant may be made to an entity only if the State in which the purpose is to be carried out has certified that the State approves the entity as qualified to carry out the purpose.

"(b) APPLICATION.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary, the application contains the certification required in subsection (a)(2) (if the application is for a grant under such subsection), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"SEC. 399J. TECHNICAL ASSISTANCE IN OPERATIONS OF STATEWIDE CANCER REGISTRIES.

"The Secretary, acting through the Director of the Centers for Disease Control, may, directly or through grants and contracts, or both, provide technical assistance to the States in the establishment and operation of statewide registries, including assistance in the development of model legislation for statewide cancer registries and assistance in establishing a computerized reporting and data processing system.

"SEC. 399K. STUDY IN CERTAIN STATES TO DETERMINE THE FACTORS CONTRIBUTING TO THE ELEVATED BREAST CANCER MORTALITY RATES.

"(a) IN GENERAL.—Subject to subsections (c) and (d), the Secretary, acting through the Director of the National Cancer Institute, shall conduct a study for the purpose of determining the factors contributing to the fact that breast cancer mortality rates in the States specified in subsection (b) are elevated compared to rates in other States.

"(b) RELEVANT STATES.—The States referred to in subsection (a) are Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia.

"(c) COOPERATION OF STATE.—The Secretary may conduct the study required in subsection (a) in a State only if the State agrees to cooperate with the Secretary in the conduct of the study, including providing information from any registry operated by the State pursuant to section 399H(a).

"(d) PLANNING, COMMENCEMENT, AND DURATION.—The Secretary shall, during each of the fiscal years 1993 and 1994, develop a plan for conducting the study required in subsection (a). The study shall be initiated by the Secretary not later than fiscal year 1994, and the collection of data under the study may continue through fiscal year 1998.

"(e) REPORT.—Not later than September 30, 1999, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and recommendations made as a result of the study.

"SEC. 399L. AUTHORIZATION OF APPROPRIATIONS.

"(a) REGISTRIES.—For the purpose of carrying out this part, there are authorized to be appropriated $30,000,000 for each of the fiscal years 1993 through 1997. Out of any amounts appropriated for any such fiscal year, the Secretary may obligate not more than 25 percent for carrying out section 399I, and not more than 10 percent may be expended for assessing the accuracy, completeness and quality of data collected, and not more than 10 percent of which is to be expended under subsection 399J.

"(b) BREAST CANCER STUDY.—Of the amounts appropriated for the National Cancer Institute under subpart 1 of part C of title IV for any fiscal year in which the study required in section 399K is being carried out, the Secretary shall expend not less than $1,000,000 for the study.".

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of the following calendar items, Calendar Nos. 627, 765, 766, 768, and 769; that, where appropriate, the committee amendments be agreed to; the resolutions and preambles be agreed to; that the motions to reconsider be laid upon the table en bloc, and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE PEOPLE OF THE PHILIPPINES ON SUCCESSFUL DEMOCRATIC ELECTIONS

The concurrent resolution (S. Con. Res. 134) to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines, was considered, and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 134

Whereas achieving the first peaceful and constitutional succession of elected presidents is one of the most difficult and important steps in the establishment of democratic government;

Whereas the Philippines, under the leadership of President Corazon Aquino, has successfully completed this democratic transition and, thereby, secured the final victory of the 1986 Peoples Power Revolution;

Whereas Fidel Ramos was a key participant in the 1986 Peoples Power Revolution that ended the Marcos Dictatorship, and subsequently played a crucial role in opposing 6 abortive coup attempts that threatened to overthrow the democratically elected government;

Whereas newly-elected President Fidel Ramos will face the important challenge of continuing the difficult economic and political reforms begun by his predecessor;

Whereas despite a series of natural disasters (including earthquakes, typhoons, and volcanic eruption), the Philippine economy has turned from annual contraction under the previous regime to a yearly growth rate of 3 to 4 percent;

Whereas the American people can be proud of the role the United States has played in helping Filipinos succeed in the reestablishment of democracy in their country and in beginning free market economic reforms; and

Whereas despite the withdrawal of United States Armed Forces from Clark Air Field and Subic Bay Naval Station, the United States and the Philippines continue to be bound together by their Mutual Defense Treaty and to share important security interests in the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That in light of the continued strong security and economic interests shared by the United States and the Philippines as well as our deep cultural and historic ties, the Congress—

(1) congratulates Fidel Ramos on his election to the Presidency of the Philippines;

(2) commends the people of the Philippines for institutionalizing democratic government in their country by supporting peaceful and constitutional elections;

(3) urges the President of the United States to support strongly continued economic and political reform by the new Philippine Government; and

(4) believes a new era has begun in the United States-Philippine relations and recommends that a post-bases relationship be built on the cooperative pursuit of mutually beneficial goals.

EXTRADITION OF ALOIS BRUNNER

The resolution (S. Res. 150) expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 150

Whereas Austrian-born Alois Brunner, who joined the Nazi party at the age of nineteen, was the deputy and personal secretary to Adolf Eichmann, who was personally responsible for sending to their deaths more than one hundred and twenty thousand Jews from Austria, Germany, France, Slovakia, and Greece;

Whereas, in 1938, after Kristallnacht, Brunner joined the Nazi Secret Police and subsequently requested a transfer to the Central Office for Jewish Emigration in Vienna, where he began his career in genocide as Eichmann's personal secretary;

Whereas Brunner helped execute Eichmann's plan for the Final Solution;

Whereas Brunner was particularly brutal toward French Jews, sending to their deaths more than two hundred children from Jewish-operated orphanages, including thirty-four children from Louviciennes;

Whereas, in 1954, Brunner was sentenced to death in absentia by French courts in Paris and Marseilles for crimes against humanity;

Whereas, since 1955, Brunner has lived in Damascus, Syria, under the protection of the Syrian Government and Syrian bodyguards and has assumed the name of Dr. Georg Fischer;

Whereas it is well known that Brunner lives in an apartment at 7 Rue Haddad in Damascus;

Whereas the Syrian Government has frequently denied that Brunner lives in Syria; and

Whereas attempts by Austria and Germany to secure Brunner's extradition from Syria have been unsuccessful: Now, therefore, be it

Resolved, That the Senate urges the President to call on the President of Syria to permit the extradition of the fugitive Nazi war criminal Alois Brunner for trial in Germany.

RELATING TO THE CAPTURE OF ABIMAEL GUZMAN

The resolution (S. Res. 346) to express the sense of the Senate regarding the capture on September 12, 1992, of the Peruvian communist and terrorist leader, Abimael Guzman, and for other purposes, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 346

Whereas Abimael Guzman is the leader of the Maoist communist, terrorist group known as Shining Path;

Whereas Shining Path declared war on the Government of Peru in 1980, and, since that time, has been responsible for tremendous economic devastation and terror and contributed to the death of more than twenty five thousand Peruvian men, women, and children;

Whereas nearly two-thirds of the world supply of cocaine is produced from coca leaf growth in Peru;

Whereas Shining Path promotes and profits from the consumption of illicit narcotics in the United States;

Whereas Shining Path provided armed protection for narcotics traffickers in the Upper Huallaga Valley of Peru;

Whereas Abimael Guzman was captured by the members of the Peruvian Counter-Terrorism National Directorate of the Technical Police of the Government of Peru on September 12, 1992;

Whereas the capture of Abimael Guzman resulted from careful intelligence work carried out under hazardous conditions;

Whereas the capture of Abimael Guzman and several of his immediate subordinates represents an important victory for the Government of Peru in the fight of that government against terrorism and international narcotics trafficking;

Whereas the capture of Abimael Guzman is an important step in the fight against violent anti-democratic forces that have undermined constitutional government in Peru;

Whereas the United States Government has been concerned with the April 5, 1992, decision of President Fujimori of Peru to dissolve the Congress and judiciary of the Government of Peru and to rule by decree; and

Whereas the United States Government has encouraged President Fujimori to move expeditiously to restore constitutional democracy in Peru: Now, therefore, be it

Resolved, That the Senate hereby—

(1) supports the Government of Peru in its determination to fight the violent, antidemocratic terrorist group known as Shining Path;

(2) commends and congratulates the members of the Peruvian Counter-Terrorism National Directorate of the Technical Police who conceived and executed the plan to capture Abimael Guzman, the leader of Shining Path, and several of his immediate subordinates;

(3) encourages the people in all sectors of Peruvian society to commit themselves to the long-term process of overcoming the ravaging social effects of the activities of Shining Path and creating the necessary conditions for the maintenance of a viable constitutional democracy and viable economy in Peru;

(4) encourages the Government of Peru to hold free and fair elections for a constituent assembly on November 22, 1992, under international supervision by the Organization of American States; and

(5) encourages the Government of Peru to continue its efforts to fight terrorism and international narcotics trafficking and to establish the rule of law throughout Peru.

PERU AND THE CAPTURE OF ABIMAEL GUZMAN

Mr. COATS. Mr. President, I am pleased to congratulate the Government of Peru for the capture of terrorist leader Abimael Guzman, on September 12, by members of Peru's Counter-Terrorism Directorate.

Abimael Guzman's terrorist group, Sendero Luminoso, or Shining Path as it is known in English, has shaken Peru's fragile democracy, and has instilled fear in every Peruvian. Since 1980, the Shining Path's terror campaign has cost over 25,000 lives and resulted in $20 billion in economic damage.

Today, people throughout the hemisphere are relieved that Abimael Guzman—the leader of Shining Path—is behind bars in a Lima prison, and is standing trial.

Guzman wants to impose a Communist dictatorship on Peru. A Marxist philosophy professor in a province of Peru, Guzman went to China in 1965, just as it was beginning its cultural revolution. There, he was instructed in the people's war doctrine of Mao Tse Dong, and in how to organize clandestine political and terrorist activity.

When Guzman returned to Peru, he became a leader of the pro-Chinese faction of the Communist Party of Peru. By 1970, he had formed the Shining Path on the precept that Peruvian society had to be absolutely razed to the ground, before it could be recreated in his own image.

Shining Path quickly became a cult of mass murderers. In 1976, Guzman's followers were already training with weapons. By 1980, just as President Belaunde was reestablishing democracy in Peru, Shining Path declared war against the Peruvian people.

Five thousand armed guerrillas ultimately came under Guzman's spell. Guzman tells his followers to idolize Stalin and Mao. He teaches them that the Russians, Cubans, and even the People's Republic of China and North Korea are weak and not true Communists. Guzman tells his followers that they have to "cross a river of blood" in order to build Peru's new society and kill over 1 million Peruvians.

Even more alarming, Guzman's aims extend far beyond Peru. Shining Path seeks to reunite the old Inca Empire. Guzman's terrorists threaten not only Peru, but Ecuador, Colombia, and Bolivia as well.

Mr. President, like so many of the Communist terrorist groups which have plagued Latin America, Shining Path, under Guzman's leadership, finances itself with the proceeds from narcotics trafficking—the trade which has destroyed so many of the young people in the United States.

Peru produces over 60 percent of the world's coca supply, and most of that coca is produced in the Upper Huallaga Valley. By 1986, the Shining Path terrorists gained control of much of the Upper Huallaga Valley. Now they charge both the coca growers and the narcotics traffickers in the valley for protection from their guerrillas. In this way, Shining Path now has steady revenue of up to $100 million annually, and it has access to highly sophisticated war materiel and explosives.

Untold massacres by Peru's Shining Path have driven millions of peasants to flee to the shanty towns around Lima and Peru's other major cities. Car bombs have turned many of Lima's buildings into pockmarked shells. In its July 1992 offensive alone, Shining Path made 293 attacks throughout Peru that left 179 people dead and thousands of other people wounded and homeless. Shining Path epitomizes the connection between terrorism and drugs, death and destruction.

For 12 years, many foreign observers believed that the Shining Path terrorists could not be stopped by the Peruvian authorities. When President Fujimori came to power and vowed to end the menace of Shining Path by 1995, many of his critics scoffed.

Mr. President, the tools the Peruvian Government has at its disposal are inadequate. Most of its soldiers have little counterinsurgency training, few bullets for their weapons, and are paid less than $50 a month.

However, President Fujimori has quietly and methodically laid the groundwork for a counterterrorism strategy which has already begun to pay dividends. Fujimori has streamlined the trial and sentencing process. He has toughened sentences for convicted terrorists and drug traffickers. He has taken steps to overhaul the prison system.

Fujimori has stressed strong intelligence and police detective work, and has tried to capture the terrorist leaders. Even before Guzman was captured, Victor Polay, the leader of Peru's other major terrorist group, the Tupac Amaru Revolutionary Movement, was behind bars.

In fact, Guzman's capture was made possible, in part, because of the previous capture of members of the Shining Path's intelligence apparatus. Such notable Shining Path figures as Elena Iparraguirre, Guzman's second in commnd; German Sipian, Shining Path's national coordinator; and Gilberto Iparraguirre, the head of Shining Path's main hit squad in Lima, have been captured in recent weeks and are all behind bars and awaiting trial.

Abimael Guzman is called the Fourth Sword of Marxism and considered infallible by his fanatical followers. Guzman's capture has destroyed this myth and revealed this man for what he is: a narcoterrorist and a petty would-be tyrant. Peru's police authorities have decapitated the leadership of Shining Path, and restored some measure of confidence to the people of Peru.

Mr. President, now comes the true test of the policies which President Fujimori has implemented. Can his government hold Guzman? Can it resist corrupt attempts to buy off officials which allow Guzman to escape? Can the Peruvian Government keep Guzman from operating his narcoterrorism ring from his jail cell? I hope so.

Just as President Fujimori is tackling the Shining Path terrorists, so he is attempting to turn around the country's economy. Every member of this body hopes that President Fujimori will firmly establish democracy in Peru. The Peruvian people appear to overwhelmingly support his efforts, and they have continually expressed their approval of his struggle against the terrorists and the drug traffickers. Peru is now laying the foundation for a free and more democratic society. Hopefully, the Peruvians will celebrate another victory on November 22, when they elect a Constituent Congress and begin their work to restore constitutional democracy.

Mr. President, in Peru, we are watching a brave people struggle against seemingly impossible odds. When they've made mistakes, we've let them know about it. When they've needed help, we've given aid, but the Peruvian people have borne the brunt of Sendero's ferocious onslaught and the world has understood little about the ordeal that they have had to undergo.

But the Peruvians have not given up. Despite all their difficulties, they are still fighting for freedom from the terror of drugs and terrorism. They have earned their tremendous victories against the terrorist Abimael Guzman and his followers.

Mr. President, I believe that it is important that we stand up and support publicly those countries who score successes in the war against drugs and terrorism. That is why I offered this amendment.

I specifically want to thank the senior senator from Connecticut for working with me on this amendment. And I thank my colleagues for their bipartisan support.

COMMENDING THE PEOPLE OF THAILAND

The resolution (S. Res. 351) to commend the people of Thailand for successfully conducting peaceful general elections and to congratulate Thailand's prodemocracy parties on their victory, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 351

Whereas on February 23, 1991, a military coup overthrew the democratically elected Government of the Kingdom of Thailand;

Whereas in May 1992, following general elections, Thai citizens in Bangkok peacefully demonstrated against General Suchinda Kraprayoon's appointment as non-elected Prime Minister;

Whereas these unarmed protesters were suppressed violently by Thai military and police forces, ending with the death of forty eight demonstrators, the injury of hundreds, and the disappearance of as many as two hundred and sixty two;

Whereas the steadfast protests led to the resignation of General Suchinda and the establishment of an interim government charged with holding new free and fair general elections;

Whereas in June 1992 the caretaker government ordered an official investigation into the May violence and later removed four senior military officers found responsible for ordering the use of force against the peaceful demonstrators; and

Whereas new elections were held as scheduled on September 13, 1992, with 62 percent of eligible voters participating: Now, therefore, be it

Resolved, That, the Senate—

(1) commends the people of Thailand for their commitment to civilian democracy by supporting peaceful and constitutional elections;

(2) commends Thailand's interim government on its leadership in investigating the May 1992 violence and upholding its commitment to conducting fair elections;

(3) congratulates Thailand's four pro-democracy parties on their victory;

(4) encourages the new government of Thailand to complete the official investigation in the May 1992 events; and

(5) supports resuming United States foreign economic assistance to Thailand once the newly elected government has taken office.

ONGOING VIOLENCE IN SOUTH AFRICA

The Senate proceeded to consider the resolution (S. Res. 301) relating to ongoing violence connected with apartheid in South Africa, which had been reported from the Committee on Foreign Relations with amendments.

The amendments were agreed to.

The resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble as amended was agreed to.

The resolution, as amended, and the preamble, as amended, are as follows:

S. RES. 301

Whereas more than 11,000 people have died in South Africa as a result of political violence since 1984, and more than one-half of these have died since the release of Nelson Mandela from prison in 1990;

Whereas the negotiations by the Convention for a Democratic South Africa (CODESA) on the formation of a transitional government that will lead to a new constitution and a nonracial, democratic government could be undermined by the continuing violence;

Whereas the terror perpetuated by the ongoing political violence jeopardizes the willingness of South Africans to participate in the transition process and compromises the climate for free political participation by all South Africans; and

Whereas the Goldstone Commission of Inquiry into Public Violence and Intimidation has acknowledged that all parties bear some responsibility for the violence in South Africa.

Whereas credible evidence has been presented to the Goldstone Commission of Inquiry into Public Violence and Intimidation, South African human rights organizations, Amnesty International, and others that members of South African security force units have trained, armed, and funded paramilitary groups involved in committing and instigating violence, and perhaps continue to do so: Now, therefore, be it

Resolved, That (a) the Senate hereby—

(1) notes with dismay the killings in South Africa and condemns this senseless violence; and

(2) urges all political organizations and other signatories of the Peace Accord to take concrete steps to end the violence.

(3) Urges the Government of South Africa to take effective steps to end the violence and protect all South African citizens regardless of race, color, or creed.

(4) Expresses the strong support for the efforts of the Goldstone Commission of Inquiry into Violence and Intimidation, and calls on all parties to adhere to its recommendations.

(b) It is the sense of the Senate that the President should prepare and transmit to the Senate a report on—

(1) the nature of the violence in South Africa and the role that the various participants are playing in the ongoing violence; and

(2) the impact of this violence on South Africa's transition to democracy; and

(3) recommendations for actions to be taken by the U.S. to support the ending of political violence.

INDIAN AGRICULTURAL RESOURCES MANAGEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar 754, S. 2977, the Indian Agricultural Resources Management Act of 1992.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2977) to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Agricultural Resources Management Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS
Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Definitions.
TITLE II—RANGELAND AND FARMLAND ENHANCEMENT
Sec. 201. Management of Indian rangelands and farmlands.
Sec. 202. Indian participation in land management activities.
Sec. 203. Comparative analysis of Indian rangeland and farmland management programs.
Sec. 204. Leasing of Indian rangelands and farmlands.
TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT
Sec. 301. Establishment of Indian and Alaska Native agriculture and natural resources management education assistance program.
Sec. 302. Postgraduation recruitment, education and training programs.
Sec. 303. Cooperative agreement between the Department of the Interior and Indian tribes.
Sec. 304. Obligated service; breach of contract.
TITLE IV—AUTHORIZATION OF APPROPRIATIONS
Sec. 401. Authorizations.
TITLE V—MISCELLANEOUS
Sec. 501. Regulations.
Sec. 502. Severability.
Sec. 503. Trust responsibility.
Sec. 504. Miscellaneous.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

(a) FINDINGS.—The Congress finds and declares that—

(1) Indian rangelands and farmlands are renewable and manageable natural resources that are among the most valuable Indian assets and are vital to the economic and social welfare of individual Indians and Indian tribes.

(2) Increased development and intensive management of Indian rangelands and farmlands will produce increased economic returns, enhance Indian self-determination, promote employment opportunities, and improve the social and economic well-being of Indian and surrounding communities.

(3) The United States has a trust responsibility to protect, conserve and enhance Indian rangelands and farmlands consistent with its fiduciary obligation and its unique relationship with Indian tribes and extends to all Federal agencies.

(4) Existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian rangelands and farmlands.

(5) The Federal investment in, and the management of Indian rangelands and farmlands is significantly below the level of investment in, and management of, rangelands and farmlands under the administration of the Bureau of Lands Management, Bureau of Reclamation, the National Forest Service, and private landowners.

(6) The beneficial use of Indian rangelands and farmlands by Indians is in serious decline throughout Indian country.

(7) Despite the Federal policy of Indian self-determination, Federal laws and policies have limited the authority and ability of tribal governments and Indian communities to develop land-based programs on the basis of local priorities.

SEC. 102. PURPOSES.

The purposes of this Act are to:

(1) Promote and increase and enable the opportunities for Indian use of their own resources so as to use Indian natural and human resources to achieve tribal goals, to decrease idle or underutilized land, reverse the damaging long-term losses in productivity and land values, and increase local employment opportunities, community income, and social stability.

(2) Safeguard the investments made in Indian rangelands and farmlands and agricultural enterprises and provide adequate, stable, and secure authority for the protection, conservation, utilization, and enhancement of Indian rangeland and farmland resources.

(3) Support and improve tribal self-determination by authorizing and facilitating the active tribal participation in the management decision-making processes on the allocation and use of local natural resources.

(4) Improve Indian access to Federal agriculture, rural development and related programs which are available to the American society at large through the various departments of the Federal Government.

(5) Provide for the development and management of Indian rangelands and farmlands at a level at least commensurate with the level of development and management afforded to federally owned or controlled lands.

(6) Meet the trust responsibility of the United States and promote self-determination of Indian tribes by managing Indian rangelands and farmlands and related renewable resources in a manner consistent with identified tribal goals and priorities, and nationally adopted multiple use and sustained yield principles.

(7) Increase the educational and training opportunities available to Indian people and communities in the practical, technical and professional aspects of agriculture, natural resources, and land management to improve local expertise and technical abilities and create a cadre of professional Indian agriculture resource managers who can provide leadership to the tribal, Federal and private sectors on Indian land and resource management issues.

SEC. 103. DEFINITIONS.

For the purposes of this Act:

(1) The term "agricultural land" means Indian land, excluding Indian forest land, that is used for the production of agricultural products, and lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been taken.

(2) The term "agricultural resource" means—

(A) all the primary means of production, including the land, soil, water, air, plant communities, watersheds, climate, human resources, natural physical attributes and man-made developments which together comprise the agricultural community; and

(B) all the benefits derived from agricultural land and enterprises, including cultivated and gathered food products, fibers, horticultural products, dyes, cultural or religious condiments, medicines, water, cultivated fisheries, wildlife, recreation, aesthetic and other traditional values of agriculture and rangelands.

(3) The term "agricultural product" means—

(A) crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;

(B) domestic livestock including cattle, sheep, goats, horses, buffalo, swine, Alaska reindeer, fowl, cultivated fish, or other animals specifically raised and utilized for food, fiber, or as a beast of burden;

(C) forage, hay, fodder, feed grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes;

(D) naturally occurring noncultivated plants and animals gathered for commercial sale, personal use, cultural or religious activities or for other purposes such as use in teas, medicines, as herbs or spices, for decoration, or for traditional purposes; and

(E) other marketable or traditionally used materials authorized for removal from agricultural lands.

(4) The term "land management activity" means all activities, accomplished in support of the management of Indian agricultural land, including but not limited to—

(A) preparation of inventories and management plans;

(B) agricultural land and infrastructure development, and the application of accepted soil or range management techniques to improve or restore the productive capacity of the land;

(C) protection against agricultural pests, including development, implementation, and evaluation of integrated pest management programs to control noxious weeds, undesirable vegetation, vertebrate or invertebrate agricultural pests;

(D) administration and supervision of agricultural leasing and permitting activities, including determination of proper land use and proper stocking rates of livestock, appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts;

(E) technical assistance to individuals and tribes engaged in agricultural production or agribusiness; and

(F) educational assistance in agriculture, natural resources, land management and related fields of study including direct assistance to community, tribal and land grant colleges in developing and implementing curriculum for vocational, technical and professional course work.

(5) The term "farmland" means Indian land, excluding Indian forest land, that is used for production of food, feed, fiber, forage and oil seed crops, or other agricultural products, and may be either dryland or irrigated.

(6) The term "rangeland" means Indian land, excluding Indian forest land, on which the native vegetation is predominantly grasses, grass-like plants, forbs or shrubs suitable for grazing or browsing use, and includes lands revegetated naturally or artificially to provide a forage cover that is managed like native vegetation. Rangelands include natural grasslands, savannahs, shrublands, most deserts, tundra, alpine communities, coastal marshes and wet meadows.

(7) The term "forest land" means Indian forest land as defined in section 304(3) of Public Law 101-630.

(8) The term "Indian" means a Native American or Alaska Native who is a member of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) The term "Indian tribe" means any Indian tribe, band, nation, rancheria, pueblo, or other organized dependent Indian group or community, including any Alaska Native village or regional or village corporation as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(10) The term "Indian land" means land that is—

(A) held in trust by the United States for an Indian or Indian tribe;

(B) owned by an Indian or Indian tribe and is subject to restrictions against alienation; or

(C) dependent Indian communities.

(11) The term "landowner" means the Indian or Indian tribe that—

(A) owns such land, or

(B) is the beneficiary of the trust under which such land is held by the United States.

(12) The term "Secretary" means the Secretary of the Interior, except where otherwise specifically designated.

(13) The term "Indian enterprise" means an enterprise—

(A) which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)), and is entirely owned by Indians, or Indian tribes, that receive 100 percent of the profits of the enterprise; and

(ii) is engaged in any business other than construction and at least 51 percent of the enterprise is owned by Indians, or Indian tribes, that receive not less than 51 percent of the profits of the enterprise; or

(B) which—

(i) is entirely owned by an Indian tribe; or

(ii) has an Indian owner who—

(I) acts as the chief executive officer of the enterprise; and

(II) has the experience and training to manage, and does in fact manage, day-to-day activities of the enterprise.

TITLE II—RANGELAND AND FARMLAND ENHANCEMENT

SEC. 201. MANAGEMENT OF INDIAN RANGELANDS AND FARMLANDS.

(a) MANAGEMENT ACTIVITIES.—Pursuant to existing law, the Secretary shall manage Indian rangelands and farmlands, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (Act of January 4, 1975; Public Law 93-638; 88 Stat. 2204; 25 U.S.C. 450b), or such other legal mechanisms as are appropriate.

(b) MANAGEMENT OBJECTIVES.—Indian rangeland and farmland management activities shall be designed to achieve the following objectives—

(1) to protect, conserve, utilize, and enhance rangelands and farmlands in a perpetually productive state through the application of sound agronomic and economic principles to the planning, development, inventorying, classification, and management of agricultural resources;

(2) to increase production and expand the diversity and availability of agricultural products for subsistence, income, and employment of Indians and Alaska Natives, through the development of agricultural resources;

(3) to manage agricultural resources to protect and enhance other values such as wildlife, fisheries, cultural resources, recreation, and regulate water runoff and minimize soil erosion;

(4) to enable farmers and ranchers to maximize the potential benefits available to them through their land by providing technical assistance, training and education in conservation practices, management and economics of agribusiness, sources and use of credit, marketing of agricultural products, and other applicable subject areas;

(5) to develop Indian rangelands and farmlands and associated value-added industries of Indians and Indian tribes to promote self-sustaining communities, and so that Indians may receive from their trust lands not only lease value, but also the benefit of the labor and profit that such land is capable of producing; and

(6) to assist trust and restricted landowners in leasing their farmland and rangeland for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

(c) MANAGEMENT PLANS.—To achieve the objectives set forth in subsections (a) and (b), the Secretary, with full and active consultation with, and policy direction from, the tribe or tribes to be served and consistent with his trust responsibility, shall immediately embark on a reservation-by-reservation agricultural land resource management planning program encompassing or reflecting the following:

(1) A closed-term three-year effort conducted at the local tribe and agency level working through the governments of the tribes and in public meetings to determine and document the specific agriculture and land resource goals and desires of the local tribe and community.

(2) The defined goals as the basis in creating a ten-year agriculture program and land management plans to attain the goals defined for community lands and reservations by using public meetings, existing surveys, reports, local knowledge of the land and resources available from Federal agencies, tribal community colleges, and land grant institutions.

(3) A mechanism for assuring that the result of this three-year program will be specific, documented agriculture and land management programs, created and approved by the effected tribe or tribes, which address specific community concerns for land use and development. The individual reservation or tribal agricultural management planning documents will provide the direction to the Bureau of Indian Affairs and the tribes in the management and administration of the Indian owned agricultural trust resources. These program documents will also provide the basis for the application of Indian self-determination contracting of Agriculture and Natural Resource Programs under the Indian Self-Determination and Education Assistance Act.

(4) The contract and grant provisions of the Indian Self-Determination and Education Assistance Act shall be applicable to the development of these management plans.

SEC. 202. INDIAN PARTICIPATION IN LAND MANAGEMENT ACTIVITIES.

(a) TRIBAL RECOGNITION.—The Secretary shall recognize tribal governments as the governmental entities with the authority to enact and enforce, for lands under their jurisdiction, land use planning, zoning, and other land use ordinances and shall conduct all land management activities in accordance with tribal goals and objectives as set forth in the land management plans and tribal laws and ordinances.

(b) TRIBAL LAWS.—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal laws pertaining to Indian agricultural lands, including zoning and land use laws, and laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian agricultural lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian agricultural lands; and

(3) upon request of an Indian tribe, an appearance in tribal forums.

(c) WAIVER OF REGULATIONS.—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with or impedes—

(1) meeting the objectives of the management plan provided for in section 201; or

(2) conflicts with a tribal law,

the Secretary shall waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision, or would conflict with his general trust responsibility under Federal law.

SEC. 203. COMPARATIVE ANALYSIS OF INDIAN RANGELAND AND FARMLAND MANAGEMENT PROGRAMS.

(a) COMPARATIVE ANALYSIS.—Within 90 days after the date of enactment of this Act, the Secretary shall assemble a Task Force consisting of appropriate officials of Indian tribal governments, the Bureau of Indian Affairs, the Bureau of Land Management, the United States Park Service, the Inter-Tribal Agriculture Council, the Southwest Inter-Tribal Agriculture Council, and such other nongovernmental persons or entities as the Secretary may deem appropriate to develop a comparative analysis of Federal investment and management efforts for Indian agricultural trust lands as compared to federally owned lands managed by other Federal agencies or instrumentalities. The Secretary shall request the Secretary of Agriculture to make available on a nonreimbursable basis appropriate personnel from the Department of Agriculture to assist in the development of such analysis.

(b) PURPOSES.—The purposes of the comparative analysis and the Survey Instrument shall be—

(1) to establish a comprehensive assessment of the needs for management improvement, funding, and development needs for each reservation with Indian rangeland and farmland;

(2) to establish a comparison of management and funding provided to comparable lands owned or managed by the Federal Government through Federal agencies other than the Bureau of Indian Affairs;

(3) to identify and to recommend mitigation measures for any obstacles to Indian access to Federal or private programs relating to agriculture or related rural development programs available to the American public at large; and

(4) to provide guidance in the development of the management plans required under the provisions of section 201 of this Act.

(c) IMPLEMENTATION.—Within six months from the date of enactment of this Act, the Secretary shall provide the Committee on Interior and Insular Affairs of the House of Representatives and the Select Committee on Indian Affairs of the Senate with a status report on the development of the comparative analysis required by this section, and shall file a final report with the Congress not more than nine months from the date of enactment of this Act.

SEC. 204. LEASING OF INDIAN RANGELANDS AND FARMLANDS.

(a) AUTHORITY OF THE SECRETARY.—The Secretary—

(1) is authorized to approve any agricultural lease or permit with a tenure up to ten years, or a tenure longer than ten years but not to exceed 25 years unless authorized by other Federal law, when, in the opinion of the Secretary, such lease or permit requires substantial investment in development of the lands and/or crops by the lessee and such longer tenure is determined by the Secretary to be in the best interest of the landowners;

(2) is authorized to lease or permit agricultural lands at rates less than the Federal appraisal when such action would be in the best interest of the landowner, and in such instances, when such land has been satisfactorily advertised for lease, the highest responsible bid shall be accepted; and

(3) is authorized to waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary.

(b) AUTHORITY OF THE TRIBE.—When authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary—

(1) shall provide a preference to Indian operators in the issuance and renewal of agriculture leases and permits, so long as the lessor receives fair market value for his property;

(2) shall waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary, provided that nothing in this paragraph shall be construed to restrict the discretion currently vested in the Secretary to waive or modify the bond requirements in the absence of a tribal resolution to the contrary; and

(3) when such tribal resolution sets forth a tribal definition of what constitutes "highly

fractionated undivided heirship lands" and adopts an alternative plan for providing notice to owners, the Secretary is authorized to waive or modify the general notice provisions and negotiate and lease or permit such highly fractionated undivided interest heirship lands in order to prevent waste, reduce idle land acreage and ensure income.

(c) Rights of Individual Land Owners.—(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allotee in the use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.

(2) The owners of a majority interest in any trust or restricted land (meaning an interest greater than 50 percent of the legal or beneficial title) are authorized to enter into an agricultural lease of the surface interest of a trust or restricted allotment, and such lease shall be binding upon the owners of the minority interests in such land, provided that the terms of the lease provide such minority interests with not less than fair market value for such land.

(3) The provisions of subsection (b) shall not be applicable to any parcel of trust or restricted land if the owners of 50 percent of the legal or beneficial interest in such land file with the Secretary a written objection to the application of all or any part of such tribal rules to the leasing of such parcel of land.

TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT

SEC. 301. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE AGRICULTURE AND NATURAL RESOURCES MANAGEMENT EDUCATION ASSISTANCE PROGRAM.

(a) Natural Resources Intern Program.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs or other appropriate office or bureau within the Department of the Interior at least 20 natural resources intern positions in addition to the forestry intern positions authorized in section 314(a) of Public Law 101-630 for Indian and Alaska Native students enrolled in an agriculture or natural resources study program.

(2) For purposes of this subsection, the term—

(A) "natural resources intern" means an Indian or Alaska Native who—

(i) is attending an approved postsecondary school in a full-time agriculture or natural resource related field; and

(ii) is appointed to one of the natural resources intern positions established under paragraph (1);

(B) "natural resources intern program" means positions established pursuant to paragraph (1) for natural resources interns; and

(C) "agriculture or natural resources study program" includes, but is not limited to, agricultural engineering, agricultural economics, animal husbandry, animal science, biological sciences, fishery management, geographic information systems, horticulture, range management, soil science, veterinary science, and wildlife biology.

(3) The Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, fees and living expenses incurred by a natural resources intern while attending an approved postsecondary or graduate school in a full-time natural resources study program.

(4) A natural resources intern shall be required to enter into an obligated service agreement to serve as an employee in a professional natural resources position with the Department of the Interior or other Federal agency, an Indian tribe, or a tribal natural resource related enterprise for one year for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A natural resources intern shall be required to report for service with the Bureau of Indian Affairs or other bureau or agency sponsoring his internship, or to a designated work site, during any break in attendance at school of more than three weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement under paragraph (4).

(b) Cooperative Education Program.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program for the purpose, among other things, of recruiting Indian and Alaska Native students who are enrolled in secondary schools, tribally controlled community colleges, and other postsecondary or graduate schools, for employment in professional natural resource related positions with the Bureau of Indian Affairs or other Federal agency providing Indian natural resource related services, Indian tribal governments, or tribal natural resource related enterprises.

(2) The cooperative educational program under paragraph (1) shall be modeled after, and shall have essentially the same features as, the program in effect on the date of enactment of this Act pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) The cooperative educational program shall include, among others, the following:

(A) The Secretary shall continue the established specific programs in agriculture and natural resources education at Southwestern Indian Polytechnic Institute (SIPI) and at Haskell Indian Junior College.

(B) The Secretary shall develop and maintain a cooperative program with the tribally controlled community colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and SIPI programs can be met through local program work at participating community colleges.

(C) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement an informational and educational program to provide practical training and assistance in creating or maintaining a successful agricultural enterprise, assessing sources of commercial credit, developing markets and other subjects of interest to the rural community.

(D) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement research activities to improve the basis for determining appropriate management measures to apply to Indian resource management.

(4) Under the cooperative agreement program under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement; and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the management of Indian rangelands, farmlands, or other natural resource assets.

(5) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(6) A recipient of assistance under the cooperative education program under this subsection shall be required to enter into an obligated service agreement with the Secretary to serve as a professional in a natural resource related activity with the Bureau of Indian Affairs, or other Federal agency providing natural resource related services to Indians or Indian tribes, an Indian tribe, or a tribal natural resource related enterprise, for one year for each year for which the Secretary pays the recipients educational costs pursuant to paragraph (3).

(c) Scholarship Program.—(1) The Secretary is authorized to grant scholarships to Indians and Alaska Natives enrolled in accredited natural resource related programs for postsecondary and graduate programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's course of study, with—

(A) the Bureau of Indian Affairs or other agency of the Federal Government providing natural resource related services to Indians or Indian tribes;

(B) a natural resource program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination and Education Assistance Act;

(C) an Indian enterprise engaged in a natural resource related business; or

(D) an Indian tribe's natural resource related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited postsecondary or graduate institution.

(d) Educational Outreach.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a natural resource education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of management and careers in Indian natural resources.

(e) Adequacy of Programs.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian natural resource managers to manage the Bureau of Indian Affairs natural resource programs and programs maintained by or for Indian tribes.

SEC. 302. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) Assumption of Loans.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional natural resource technicians who are graduates of a course of postsecondary or graduate education for employment in either the Bureau of Indian Affairs natural resource programs or, subject to the approval of the tribe, in tribal natural resource programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional natural resource technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) Postgraduate Intergovernmental Internships.—For the purposes of training, skill development and orientation of Indian, Alaska Native, and Federal natural resource management personnel, and the enhancement of tribal and Bureau of Indian Affairs natural resource programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian and Alaska Native

natural resource personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian natural resource employees in the natural resource related programs of other agencies of the Department of the Interior; and

(B) provide for the internship of natural resource personnel from the other Department of the Interior agencies within the Bureau of Indian Affairs, and, with the consent of the tribe, within tribal natural resource programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal natural resource program of other natural resource personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native natural resource employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) CONTINUING EDUCATION AND TRAINING.—The Secretary shall maintain a program within the Trust Services Division of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs natural resource personnel in tribal-Federal relations and responsibilities;

(2) continuing technical natural resource education for Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel; and

(3) development training of Indian and Alaska Native personnel in natural resource based enterprises and marketing.

SEC. 303. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS.—

(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training;

(B) develop and publish cooperative environmental education and natural resource planning materials; and

(C) perform land and facility improvements, and other activities related to land and natural resource management and development.

The Secretary may enter into such agreements when the Secretary determines the interest of Indians and Indian tribes will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.

(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.

(c) SAVINGS CLAUSE.—Nothing in this Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

SEC. 304. OBLIGATED SERVICE; BREACH OF CONTRACT.

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, pro rated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

TITLE V—MISCELLANEOUS

SEC. 501. REGULATIONS.

Except as otherwise provided by this Act, the Secretary is directed to promulgate final regulations for the implementation of this Act within eighteen months from the date of enactment of this Act. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the participation of the affected Indian tribes.

SEC. 502. SEVERABILITY.

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this Act shall not be affected thereby.

SEC. 503. TRUST RESPONSIBILITY.

Nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust lands or natural resources, or any legal obligation or remedy resulting therefrom.

SEC. 504. MISCELLANEOUS.

(a) DISCLAIMER.—Nothing in this Act shall be construed to supersede or limit the authority of other Federal, State or local agencies otherwise authorized by law to provide services to Indian landowners.

(b) DISCLAIMER.—Nothing in this Act shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and bylaws or other organizational document of such tribe.

AMENDMENT NO 3393

(Purpose: To clarify certain responsibilities of the Secretary of the Interior)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. MCCAIN, proposes an amendment numbered 3393.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out in the text of amendment subsection (a) of section 201 and insert a new subsection (a) as follows:

(a) MANAGEMENT ACTIVITIES.—The Secretary shall manage or administer the Indian rangeland and farmland programs authorized under existing law, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), or such other legal mechanisms as are appropriate.

Mr. MCCAIN. Mr. President, I rise to offer an amendment to S. 2977, a bill to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands.

S. 2977 was introduced in the Senate on July 2, 1992. A joint hearing on the bill was held by the Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs on September 22, 1992. At that hearing, the Department of the Interior expressed a number of objections to this bill.

Immediately following the hearing, committee staff met with representatives of the Bureau of Indian Affairs and the Solicitor's Office of the Department of the Interior. As a result of this meeting, and a second meeting, a number of amendments were developed and adopted by the committee which, in my opinion, address the concerns of the Department. I believe the Department shares this view.

Nevertheless, one final area of uncertainty remains. This is on the question of the management responsibility of the Secretary for Indian agricultural lands. Section 201(a) of s. 2977, as reported by the committee, provides that "Pursuant to existing law, the Secretary shall manage Indian rangelands and farmlands, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination Assistance Act of 1975 (Public Law 93-638)."

In its testimony before the Select Committee, the witness for the Interior Department testified that as a technical matter, the Department does not manage most of the Indian lands, and expressed concern that this legislation was imposing new management responsibilities on the Secretary. This is not the intention of this legislation.

The Department currently operates or administers a wide array of programs that compliment the very goals that S. 2977 is designed to accomplish. The purpose of the legislation is not to change the responsibilities that are exercised by the Secretary under existing law, but rather to streamline and make more efficient the administration of the programs the Secretary now administers, and to empower the Indian tribes to assume a greater role in the management of these programs.

In order to make clear the intent of this legislation—that it is not intended to impose managerial responsibilities that are not now exercised under existing law—I am offering an amendment to make clear that the legislation will not impose on the Secretary any direct managerial responsibility other than that currently exercised under existing law.

Mr. President, I believe my amendment addresses the final policy concern raised by the administration. With this final amendment, I believe we now have a bill that should reduce, if not eliminate, the administration's strong opposition to S. 2977.

Mr. President, I ask unanimous consent that I be added as a cosponsor to S. 2977.

Mr. DASCHLE. Mr. President, I am pleased that we are here today considering S. 2977, the Indian Agricultural Resource Management Act.

The purpose of this legislation is to provide for the establishment of a viable system for the management or administration of Indian-owned lands; to enhance the capability of Indian ranchers and farmers to produce crops and products from such lands; to provide greater authority to the Indian tribes in the management and regulation of Indian agricultural lands; and to enhance the educational opportunities for Indian students in the management of Indian natural resources. The purpose of this legislation is not to establish new program responsibilities for the Secretary of the Interior. It is to streamline and make more efficient the administration of the programs the Secretary now administers, and to empower the Indian tribes to assume a greater role in the management of these programs.

The trust responsibility of the United States to the tribes and to the individual Indian land owners for protection of property is unquestioned. But the Bureau's Inventory and Production Report for 1992 shows that over 1.1 million acres of Indian trust land lie idle nationwide, and in Oklahoma alone nearly 60,000 acres are not being leased.

Over the past 20 years, the Indian agriculture program maintained by the Bureau of Indian Affairs has fallen into serious decline. Actual dollar funding levels for the program have remained static over the years and through inflation have been reduced to half or less of their former levels; the number of BIA personnel engaged in agricultural or natural resource management activities has decreased dramatically, and only in the past 3 or 4 years have any educational programs been instituted to provide training and educational assistance in the natural resources area.

In 1975 the Bureau of Indian Affairs budget for its Agricultural Resources Program was $22 million. In 1990 the actual dollar funding for this same program was $24 million. In 1975 the BIA employed 91 range conservationists; in 1990 there were 77. In 1975 there were 210 soil conservationists; in 1990 there were only 62—this to protect and manage some 54.5 million acres of trust or restricted land. In 1975 there were some 1,205 persons employed by the BIA in the Agricultural Resources Program. Today the Bureau's budget shows 654 personnel slots for these programs, many of which are apparently unfilled or detailed to other functions.

The need for enhanced educational opportunities for Indian students in the area of natural resources is fully acknowledged and was in fact supported by the Department in its testimony on this legislation before the Select Committee on Indian Affairs. Indeed, the need for increased educational efforts was emphasized in the President's White House Conference on Indian Education in its report filed with the President in May of this year.

Mr. President, this legislation does not impose new management responsibilities on the Secretary of the Interior. It does, however, require studies to determine the resource needs under existing programs to restore Indian Agricultural Programs to a viable standard. It empowers the tribes to conduct and develop management plans for agricultural lands to provide coherent long-term objectives. It recognizes the authority of the tribes to enact ordinances necessary to achieve these land use objectives. It allows tribes to adopt resolutions in support of Indian use of trust lands owned by the tribes or individual Indians while at the same time allowing individual Indians who own a 50-percent interest or more in an individual allotment to exempt his or her property from such Indian preference. Finally, it provides a much-needed educational program to Indian students in the field of natural resources management.

Mr. President, the administration has expressed concerns about the BIA's role under this legislation, and the amendment offered by my esteemed colleague from the State of Arizona has been worked out to address that concern. The amendment is totally consistent with the intent of this bill. While I believe that the bill, as reported by the Select Committee on Indian Affairs, is clear on its face, nevertheless, in order to avoid a strained interpretation by the Department of the Interior, I welcome my colleague's amendment as a means of further clarifying this issue.

Mr. President, I urge my colleagues to support the amendment offered by my esteemed colleague from Arizona and to support the enactment of this legislation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3393) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Agricultural Resources Management Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS
Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Definitions.
TITLE II—RANGELAND AND FARMLAND ENHANCEMENT
Sec. 201. Management of Indian rangelands and farmlands.
Sec. 202. Indian participation in land management activities.
Sec. 203. Comparative analysis of Indian rangeland and farmland management programs.
Sec. 204. Leasing of Indian rangelands and farmlands.
TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT
Sec. 301. Establishment of Indian and Alaska Native agriculture and natural resources management education assistance program.
Sec. 302. Postgraduation recruitment, education and training programs.
Sec. 303. Cooperative agreement between the Department of the Interior and Indian tribes.
Sec. 304. Obligated service; breach of contract.
TITLE IV—AUTHORIZATION OF APPROPRIATIONS
Sec. 401. Authorizations.
TITLE V—MISCELLANEOUS
Sec. 501. Regulations.
Sec. 502. Severability.
Sec. 503. Trust responsibility.
Sec. 504. Miscellaneous.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

(a) FINDINGS.—The Congress finds and declares that—

(1) Indian rangelands and farmlands are renewable and manageable natural resources that are among the most valuable Indian assets and are vital to the economic and social welfare of individual Indians and Indian tribes.

(2) Increased development and intensive management of Indian rangelands and farmlands will produce increased economic returns, enhance Indian self-determination, promote employment opportunities, and improve the social and economic well-being of Indian and surrounding communities.

(3) The United States has a trust responsibility to protect, conserve and enhance In-

dian rangelands and farmlands consistent with its fiduciary obligation and its unique relationship with Indian tribes and extends to all Federal agencies.

(4) Existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian rangelands and farmlands.

(5) The Federal investment in, and the management of Indian rangelands and farmlands is significantly below the level of investment in, and management of, rangelands and farmlands under the administration of the Bureau of Lands Management, Bureau of Reclamation, the National Forest Service, and private landowners.

(6) The beneficial use of Indian rangelands and farmlands by Indians is in serious decline throughout Indian country.

(7) Despite the Federal policy of Indian self-determination, Federal laws and policies have limited the authority and ability of tribal governments and Indian communities to develop land-based programs on the basis of local priorities.

SEC. 102. PURPOSES.

The purposes of this Act are to:

(1) Promote and increase and enable the opportunities for Indian use of their own resources so as to use Indian natural and human resources to achieve tribal goals, to decrease idle or underutilized land, reverse the damaging long-term losses in productivity and land values, and increase local employment opportunities, community income, and social stability.

(2) Safeguard the investments made in Indian rangelands and farmlands and agricultural enterprises and provide adequate, stable, and secure authority for the protection, conservation, utilization, and enhancement of Indian rangeland and farmland resources.

(3) Support and improve tribal self-determination by authorizing and facilitating the active tribal participation in the management decisionmaking processes on the allocation and use of local natural resources.

(4) Improve Indian access to Federal agriculture, rural development and related programs which are available to the American society at large through the various departments of the Federal Government.

(5) Provide for the development and management of Indian rangelands and farmlands at a level at least commensurate with the level of development and management afforded to federally owned or controlled lands.

(6) Meet the trust responsibility of the United States and promote self-determination of Indian tribes by managing Indian rangelands and farmlands and related renewable resources in a manner consistent with identified tribal goals and priorities, and nationally adopted multiple use and sustained yield principles.

(7) Increase the educational and training opportunities available to Indian people and communities in the practical, technical and professional aspects of agriculture, natural resources, and land management to improve local expertise and technical abilities and create a cadre of professional Indian agriculture resource managers who can provide leadership to the tribal, Federal and private sectors on Indian land and resource management issues.

SEC. 103. DEFINITIONS.

For the purposes of this Act:

(1) The term "agricultural land" means Indian land, excluding Indian forest land, that is used for the production of agricultural products, and lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been taken.

(2) The term "agricultural resource" means—

(A) all the primary means of production, including the land, soil, water, air, plant communities, watersheds, climate, human resources, natural physical attributes and man-made developments which together comprise the agricultural community; and

(B) all the benefits derived from agricultural land and enterprises, including cultivated and gathered food products, fibers, horticultural products, dyes, cultural or religious condiments, medicines, water, cultivated fisheries, wildlife, recreation, aesthetic and other traditional values of agriculture and rangelands.

(3) The term "agricultural product" means—

(A) crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;

(B) domestic livestock including cattle, sheep, goats, horses, buffalo, swine, Alaska reindeer, fowl, cultivated fish, or other animals specifically raised and utilized for food, fiber, or as a beast of burden;

(C) forage, hay, fodder, feed grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes;

(D) naturally occurring noncultivated plants and animals gathered for commercial sale, personal use, cultural or religious activities or for other purposes such as use in teas, medicines, as herbs or spices, for decoration, or for traditional purposes; and

(E) other marketable or traditionally used materials authorized for removal from agricultural lands.

(4) The term "land management activity" means all activities, accomplished in support of the management of Indian agricultural land, including but not limited to—

(A) preparation of inventories and management plans;

(B) agricultural land and infrastructure development, and the application of accepted soil or range management techniques to improve or restore the productive capacity of the land;

(C) protection against agricultural pests, including development, implementation, and evaluation of integrated pest management programs to control noxious weeds, undesirable vegetation, vertebrate or invertebrate agricultural pests;

(D) administration and supervision of agricultural leasing and permitting activities, including determination of proper land use and proper stocking rates of livestock, appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts;

(E) technical assistance to individuals and tribes engaged in agricultural production or agribusiness; and

(F) educational assistance in agriculture, natural resources, land management and related fields of study including direct assistance to community, tribal and land grant colleges in developing and implementing curriculum for vocational, technical and professional course work.

(5) The term "farmland" means Indian land, excluding Indian forest land, that is used for production of food, feed, fiber, forage and oil seed crops, or other agricultural products, and may be either dryland or irrigated.

(6) The term "rangeland" means Indian land, excluding Indian forest land, on which the native vegetation is predominantly grasses, grass-like plants, forbs or shrubs suitable for grazing or browsing use, and includes lands revegetated naturally or artificially to provide a forage cover that is managed like native vegetation. Rangelands include natural grasslands, savannahs, shrublands, most deserts, tundra, alpine communities, coastal marshes and wet meadows.

(7) The term "forest land" means Indian forest land as defined in section 304(3) of Public Law 101-630.

(8) The term "Indian" means a Native American or Alaska Native who is a member of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) The term "Indian tribe" means any Indian tribe, band, nation, rancheria, pueblo, or other organized dependent Indian group or community, including any Alaska Native village or regional or village corporation as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(10) The term "Indian land" means land that is—

(A) held in trust by the United States for an Indian or Indian tribe;

(B) owned by an Indian or Indian tribe and is subject to restrictions against alienation; or

(C) dependent Indian communities.

(11) The term "landowner" means the Indian or Indian tribe that—

(A) owns such land, or

(B) is the beneficiary of the trust under which such land is held by the United States.

(12) The term "Secretary" means the Secretary of the Interior, except where otherwise specifically designated.

(13) The term "Indian enterprise" means an enterprise—

(A) which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)), and is entirely owned by Indians, or Indian tribes, that receive 100 percent of the profits of the enterprise; and

(ii) is engaged in any business other than construction and at least 51 percent of the enterprise is owned by Indians, or Indian tribes, that receive not less than 51 percent of the profits of the enterprise; or

(B) which—

(i) is entirely owned by an Indian tribe; or

(ii) has an Indian owner who—

(I) acts as the chief executive officer of the enterprise; and

(II) has the experience and training to manage, and does in fact manage, day-to-day activities of the enterprise.

TITLE II—RANGELAND AND FARMLAND ENHANCEMENT

SEC. 201. MANAGEMENT OF INDIAN RANGELANDS AND FARMLANDS.

(a) MANAGEMENT ACTIVITIES.—The Secretary shall manage or administer the Indian rangeland and farmland programs authorized under existing law, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), or such other legal mechanisms as are appropriate.

(b) MANAGEMENT OBJECTIVES.—Indian rangeland and farmland management activities shall be designed to achieve the following objectives—

(1) to protect, conserve, utilize, and enhance rangelands and farmlands in a perpet-

ually productive state through the application of sound agronomic and economic principles to the planning, development, inventorying, classification, and management of agricultural resources;

(2) to increase production and expand the diversity and availability of agricultural products for subsistence, income, and employment of Indians and Alaska Natives, through the development of agricultural resources;

(3) to manage agricultural resources to protect and enhance other values such as wildlife, fisheries, cultural resources, recreation, and regulate water runoff and minimize soil erosion;

(4) to enable farmers and ranchers to maximize the potential benefits available to them through their land by providing technical assistance, training and education in conservation practices, management and economics of agribusiness, sources and use of credit, marketing of agricultural products, and other applicable subject areas;

(5) to develop Indian rangelands and farmlands and associated value-added industries of Indians and Indian tribes to promote self-sustaining communities, and so that Indians may receive from their trust lands not only lease value, but also the benefit of the labor and profit that such land is capable of producing; and

(6) to assist trust and restricted landowners in leasing their farmland and rangeland for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

(c) MANAGEMENT PLANS.—To achieve the objectives set forth in subsections (a) and (b), the Secretary, with full and active consultation with, and policy direction from, the tribe or tribes to be served and consistent with his trust responsibility, shall immediately embark on a reservation-by-reservation agricultural land resource management planning program encompassing or reflecting the following:

(1) A closed-term three-year effort conducted at the local tribe and agency level working through the governments of the tribes and in public meetings to determine and document the specific agriculture and land resource goals and desires of the local tribe and community.

(2) The defined goals as the basis in creating a ten-year agriculture program and land management plans to attain the goals defined for community lands and reservations by using public meetings, existing surveys, reports, local knowledge of the land and resources available from Federal agencies, tribal community colleges, and land grant institutions.

(3) A mechanism for assuring that the result of this three-year program will be specific, documented agriculture and land management programs, created and approved by the affected tribe or tribes, which address specific community concerns for land use and development. The individual reservation or tribal agricultural management planning documents will provide the direction to the Bureau of Indian Affairs and the tribes in the management and administration of the Indian owned agricultural trust resources. These program documents will also provide the basis for the application of Indian self-determination contracting of Agriculture and Natural Resource Programs under the Indian Self-Determination and Education Assistance Act.

(4) The contract and grant provisions of the Indian Self-Determination and Education Assistance Act shall be applicable to the development of these management plans.

SEC. 202. INDIAN PARTICIPATION IN LAND MANAGEMENT ACTIVITIES.

(a) TRIBAL RECOGNITION.—The Secretary shall recognize tribal governments as the governmental entities with the authority to enact and enforce, for lands under their jurisdiction, land use planning, zoning, and other land use ordinances and shall conduct all land management activities in accordance with tribal goals and objectives as set forth in the land management plans and tribal laws and ordinances.

(b) TRIBAL LAWS.—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal laws pertaining to Indian agricultural lands, including zoning and land use laws, and laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian agricultural lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian agricultural lands; and

(3) upon request of an Indian tribe, an appearance in tribal forums.

(c) WAIVER OF REGULATIONS.—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with or impedes—

(1) meeting the objectives of the management plan provided for in section 201; or

(2) conflicts with a tribal law,

the Secretary shall waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision, or would conflict with his general trust responsibility under Federal law.

SEC. 203. COMPARATIVE ANALYSIS OF INDIAN RANGELAND AND FARMLAND MANAGEMENT PROGRAMS.

(a) COMPARATIVE ANALYSIS.—Within 90 days after the date of enactment of this Act, the Secretary shall assemble a Task Force consisting of appropriate officials of Indian tribal governments, the Bureau of Indian Affairs, the Bureau of Land Management, the United States Park Service, the Inter-Tribal Agriculture Council, the Southwest Inter-Tribal Agriculture Council, and such other nongovernmental persons or entities as the Secretary may deem appropriate to develop a comparative analysis of Federal investment and management efforts for Indian agricultural trust lands as compared to federally owned lands managed by other Federal agencies or instrumentalities. The Secretary shall request the Secretary of Agriculture to make available on a nonreimbursable basis appropriate personnel from the Department of Agriculture to assist in the development of such analysis.

(b) PURPOSES.—The purposes of the comparative analysis and the Survey Instrument shall be—

(1) to establish a comprehensive assessment of the needs for management improvement, funding, and development needs for each reservation with Indian rangeland and farmland;

(2) to establish a comparison of management and funding provided to comparable lands owned or managed by the Federal Government through Federal agencies other than the Bureau of Indian Affairs;

(3) to identify and to recommend mitigation measures for any obstacles to Indian access to Federal or private programs relating to agriculture or related rural development programs available to the American public at large; and

(4) to provide guidance in the development of the management plans required under the provisions of section 201 of this Act.

(c) IMPLEMENTATION.—Within six months from the date of enactment of this Act, the Secretary shall provide the Committee on Interior and Insular Affairs of the House of Representatives and the Select Committee on Indian Affairs of the Senate with a status report on the development of the comparative analysis required by this section, and shall file a final report with the Congress not more than nine months from the date of enactment of this Act.

SEC. 204. LEASING OF INDIAN RANGELANDS AND FARMLANDS.

(a) AUTHORITY OF THE SECRETARY.—The Secretary—

(1) is authorized to approve any agricultural lease or permit with a tenure up to ten years, or a tenure longer than ten years but not to exceed 25 years unless authorized by other Federal law, when, in the opinion of the Secretary, such lease or permit requires substantial investment in development of the lands and/or crops by the lessee and such longer tenure is determined by the Secretary to be in the best interest of the landowners;

(2) is authorized to lease or permit agricultural lands at rates less than the Federal appraisal when such action would be in the best interest of the landowner, and in such instances, when such land has been satisfactorily advertised for lease, the highest responsible bid shall be accepted; and

(3) is authorized to waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary.

(b) AUTHORITY OF THE TRIBE.—When authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary—

(1) shall provide a preference to Indian operators in the issuance and renewal of agriculture leases and permits, so long as the lessor receives fair market value for his property;

(2) shall waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary, provided that nothing in this paragraph shall be construed to restrict the discretion currently vested in the Secretary to waive or modify the bond requirements in the absence of a tribal resolution to the contrary; and

(3) when such tribal resolution sets forth a tribal definition of what constitutes "highly fractionated undivided heirship lands" and adopts an alternative plan for providing notice to owners, the Secretary is authorized to waive or modify the general notice provisions and negotiate and lease or permit such highly fractionated undivided interest heirship lands in order to prevent waste, reduce idle land acreage and ensure income.

(c) RIGHTS OF INDIVIDUAL LAND OWNERS.—(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allotee in the use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.

(2) The owners of a majority interest in any trust or restricted land (meaning an interest greater than 50 percent of the legal or beneficial title) are authorized to enter into an agricultural lease of the surface interest of a trust or restricted allotment, and such lease shall be binding upon the owners of the minority interests in such land, provided

that the terms of the lease provide such minority interests with not less than fair market value for such land.

(3) The provisions of subsection (b) shall not be applicable to any parcel of trust or restricted land if the owners of 50 percent of the legal or beneficial interest in such land filed with the Secretary a written objection to the application of all or any part of such tribal rules to the leasing of such parcel of land.

TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT

SEC. 301. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE AGRICULTURE AND NATURAL RESOURCES MANAGEMENT EDUCATION ASSISTANCE PROGRAM.

(a) NATURAL RESOURCES INTERN PROGRAM.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs or other appropriate office or bureau within the Department of the Interior at least 20 natural resources intern positions in addition to the forestry intern positions authorized in section 314(a) of Public Law 101-630 for Indian and Alaska Native students enrolled in an agriculture or natural resources study program.

(2) For purposes of this subsection, the term—

(A) "natural resources intern" means an Indian or Alaska Native who—

(i) is attending an approved postsecondary school in a full-time agriculture or natural resource related field; and

(ii) is appointed to one of the natural resources intern positions established under paragraph (1);

(B) "natural resources intern program" means positions established pursuant to paragraph (1) for natural resources interns; and

(C) "agriculture or natural resources study program" includes, but is not limited to, agricultural engineering, agricultural economics, animal husbandry, animal science, biological sciences, fishery management, geographic information systems, horticulture, range management, soil science, veterinary science, and wildlife biology.

(3) The Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, fees and living expenses incurred by a natural resources intern while attending an approved postsecondary or graduate school in a full-time natural resources study program.

(4) A natural resources intern shall be required to enter into an obligated service agreement to serve as an employee in a professional natural resources position with the Department of the Interior or other Federal agency, an Indian tribe, or a tribal natural resource related enterprise for one year for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A natural resources intern shall be required to report for service with the Bureau of Indian Affairs or other bureau or agency sponsoring his internship, or to a designated work site, during any break in attendance at school of more than three weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement under paragraph (4).

(b) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program for the purpose, among other things, of recruiting Indian and Alaska Native students who are enrolled in secondary schools, tribally controlled community colleges, and other postsecondary or graduate schools, for employment in professional natural resource related positions with the Bureau of Indian Affairs or other Federal agency providing Indian natural resource related services, Indian tribal governments, or tribal natural resource related enterprises.

(2) The cooperative educational program under paragraph (1) shall be modeled after, and shall have essentially the same features as, the program in effect on the date of enactment of this Act pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) The cooperative educational program shall include, among others, the following:

(A) The Secretary shall continue the established specific programs in agriculture and natural resources education at Southwestern Indian Polytechnic Institute (SIPI) and at Haskell Indian Junior College.

(B) The Secretary shall develop and maintain a cooperative program with the tribally controlled community colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and SIPI programs can be met through local program work at participating community colleges.

(C) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement an informational and educational program to provide practical training and assistance in creating or maintaining a successful agricultural enterprise, assessing sources of commercial credit, developing markets and other subjects of interest to the rural community.

(D) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement research activities to improve the basis for determining appropriate management measures to apply to Indian resource management.

(4) Under the cooperative agreement program under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement; and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the management of Indian rangelands, farmlands, or other natural resource assets.

(5) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(6) A recipient of assistance under the cooperative education program under this subsection shall be required to enter into an obligated service agreement with the Secretary to serve as a professional in a natural resource related activity with the Bureau of Indian Affairs, or other Federal agency providing natural resource related services to Indians or Indian tribes, an Indian tribe, or a tribal natural resource related enterprise, for one year for each year for which the Secretary pays the recipients educational costs pursuant to paragraph (3).

(c) SCHOLARSHIP PROGRAM.—(1) The Secretary is authorized to grant scholarships to Indians and Alaska Natives enrolled in accredited natural resource related programs for postsecondary and graduate programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's course of study, with—

(A) the Bureau of Indian Affairs or other agency of the Federal Government providing natural resource related services to Indians or Indian tribes;

(B) a natural resource program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination and Education Assistance Act;

(C) an Indian enterprise engaged in a natural resource related business; or

(D) an Indian tribe's natural resource related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited postsecondary or graduate institution.

(d) EDUCATIONAL OUTREACH.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a natural resource education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of management and careers in Indian natural resources.

(e) ADEQUACY OF PROGRAMS.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian natural resource managers to manage the Bureau of Indian Affairs natural resource programs and programs maintained by or for Indian tribes.

SEC. 302. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) ASSUMPTION OF LOANS.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional natural resource technicians who are graduates of a course of postsecondary or graduate education for employment in either the Bureau of Indian Affairs natural resource programs or, subject to the approval of the tribe, in tribal natural resource programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional natural resource technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) POSTGRADUATE INTERGOVERNMENTAL INTERNSHIPS.—For the purposes of training, skill development and orientation of Indian, Alaska Native, and Federal natural resource management personnel, and the enhancement of tribal and Bureau of Indian Affairs natural resource programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian and Alaska Native natural resource personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian natural resource employees in the natural resource related programs of other agencies of the Department of the Interior; and

(B) provide for the internship of natural resource personnel from the other Department of the Interior agencies within the Bureau of Indian Affairs, and, with the consent of the tribe, within tribal natural resource programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal natural resource program of other natural resource personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native natural resource employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) CONTINUING EDUCATION AND TRAINING.—The Secretary shall maintain a program within the Trust Services Division of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs natural resource personnel in tribal-Federal relations and responsibilities;

(2) continuing technical natural resource education for Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel; and

(3) development training of Indian and Alaska Native personnel in natural resource based enterprises and marketing.

SEC. 303. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS.—

(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training;

(B) develop and publish cooperative environmental education and natural resource planning materials; and

(C) perform land and facility improvements, and other activities related to land and natural resource management and development.

The Secretary may enter into such agreements when the Secretary determines the interest of Indians and Indian tribes will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.

(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.

(c) SAVINGS CLAUSE.—Nothing in this Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

SEC. 304. OBLIGATED SERVICE; BREACH OF CONTRACT.

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, pro rated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

TITLE V—MISCELLANEOUS

SEC. 501. REGULATIONS.

Except as otherwise provided by this Act, the Secretary is directed to promulgate final regulations for the implementation of this Act within eighteen months from the date of enactment of this Act. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the participation of the affected Indian tribes.

SEC. 502. SEVERABILITY.

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this Act shall not be affected thereby.

SEC. 503. TRUST RESPONSIBILITY.

Nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust lands or natural resources, or any legal obligation or remedy resulting therefrom.

SEC. 504. MISCELLANEOUS.

(a) DISCLAIMER.—Nothing in this Act shall be construed to supersede or limit the authority of other Federal, State or local agencies otherwise authorized by law to provide services to Indian landowners.

(b) DISCLAIMER.—Nothing in this Act shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and bylaws or other organizational document of such tribe.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE REFERRED—SENATE JOINT RESOLUTION 335

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 335, a resolution concerning the overthrow of the Kingdom of Hawaii, and that it then be referred to the Senate Select Committee on Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOVIET SCIENTISTS IMMIGRATION ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives of S. 2201.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2201) entitled "An Act to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States and the Baltic states as employment-based immigrants under the Immigration and Nationality Act, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soviet Scientists Immigration Act of 1992".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Baltic states" means the sovereign nations of Latvia, Lithuania, and Estonia;

(2) the term "independent states of the former Soviet Union" means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(3) the term "eligible independent states and Baltic scientists" means aliens—

(A) who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(B) who are scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or who are working on nuclear, chemical, biological or other high-technology defense projects, as defined by the Attorney General.

SEC. 3. WAIVER OF JOB OFFER REQUIREMENT.

The requirement in section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C 1153(b)(2)(A)) that an alien's services in the sciences, arts, or business be sought by an employer in the United States shall not apply to any eligible independent states or Baltic scientist who is applying for admission to the United States for permanent residence in accordance with that section.

SEC. 4. CLASSIFICATION OF INDEPENDENT STATES SCIENTISTS AS HAVING EXCEPTIONAL ABILITY.

(a) IN GENERAL.—The Attorney General shall designate a class of eligible independent states and Baltic scientists, based on their level of expertise, as aliens who possess "exceptional ability in the sciences", for purposes of section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)), whether or not such scientists possess advanced degrees.

(b) REGULATIONS.—The Attorney General shall prescribe regulations to carry out subsection (a).

(c) LIMITATION.—Not more than 750 eligible independent states and Baltic scientists (excluding spouses and children if accompanying or following to join) within the class designated under subsection (a) may be allotted visas under section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)).

(d) TERMINATION.—The authority of subsection (a) shall terminate 4 years after the date of enactment of this Act.

Amend the title so as to read: "An Act to authorize the admission to the United States of certain scientists of the independent states of the former Soviet Union and the Baltic states as employment-based immigrants under the Immigration and Nationality Act.".

Mr. MITCHELL. I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the motion was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT—PM 287

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1991, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

The Railroad Retirement Board (RRB) serves over 873,000 railroad retirees and their families and almost 283,000 railroad employees who rely on the system for retirement, unemployment, disability, and sickness insurance benefits. Beneficiaries depend on the financial integrity of the pension funds for payment of their benefits.

This report includes the Annual Actuarial Report, which concludes that the railroad retirement system will not experience a cash flow problem in the near future. The Chief Actuary at RRB, however, warns that "the long term viability of the system . . . is still questionable." Based on the report's analysis, if employment trends continue as they have for over a quarter of a century, the trust funds will go broke sometime between 2010 and 2016.

I continue to strongly oppose the permanent diverting of Federal income taxes to the rail pension system. Since 1983 approximately $5.4 billion in taxpayer subsidies have been given to the rail pension fund, $1.72 billion of which were from the diversion of income taxes. The Railroad Retirement Board believes current resources are sufficient to pay benefits, except under the most pessimistic assumptions, thereby rendering Federal subsidies unnecessary. Railroad pensions should be financed solely by rail sector resources.

As I stated last year, I support all equitable reforms to the system, such as privatization and the extension of rules protecting private pensions (Employee Retirement Income Security Act) to the railroad's private pension system.

GEORGE BUSH.

THE WHITE HOUSE, *October 1, 1992.*

MESSAGES FROM THE HOUSE

At 12:40 p.m., a message from the House of Representatives, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. OBEY, Mr. YATES, Mr. MCHUGH, Mr. LEHMAN of Florida, Mr. WILSON, Mr. SMITH of Florida, Mr. VISCLOSKY, Mr. ALEXANDER, Mr. WHITTEN, Mr. EDWARDS of Oklahoma, Mr. PORTER, Mr. GREEN of New York, Mr. LIVINGSTON, and Mr. MCDADE as managers of the conference on the part of the House.

The message further announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for certain employees, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1637. An act to make improvements in the Black Lung Benefits Act.

H.R. 5192. An act to amend title 38, United States Code, to make improvements to veterans health programs.

At 6:03 p.m. a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker makes the following modifications in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11) entitled "An act to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes":

As additional conferees from the Committee on Agriculture, for consideration of sections 7123, 7126 and title VIII of the House bill, and sections 7171 and 7173 and title VIII of the Senate amendment, and modifications committed to conference: Mr. de la GARZA, Mr. TALLON, and Mr. COLEMAN of Missouri.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, and Mr. WYLIE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9212 of the Senate amendment, and modifications committed to conference: Mr. TORRES, Mr. HUBBARD, and Mr. MCCANDLESS.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9232 of the Senate amendment, and modifications committed to conference: Mr. ANNUNZIO, Mr. HUBBARD, and Mr. WYLIE.

As additional conferees from the Committee on Education and Labor, for consideration of sections 7123 and 7125 of the House bill, and sections 2173, 4246, 7102, 7134(c), 7142–7143, 7151, 7171, 7172, and 7176 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS of New York, Mr. PERKINS, Mrs. ROUKEMA, Mr. FAWELL, and Mr. BALLENGER.

As additional conferees from the Committee on Education and Labor, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. GAYDOS, and Mr. GOODLING.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 7104, 7123, 7125, and 7126 of the House bill, and sections 2171–2173, 2175, 2177–2185, 6220, 6231–6251, 7109, 7121, 7136, 7171–7174, 10011(b), 10201, 14111–14140, titles XI, XV, and XVI of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mrs. COLLINS of Illinois, Mr. WAXMAN, Mr. SIKORSKI, Mr. BRUCE, Mr. LENT, Mr. DANNEMEYER, and Mr. BLILEY: Provided, that solely for consideration of sections 10011(b) and 10201 and title XI of the Senate amendment, Mr. MARKEY, Mr. SYNAR, and Mr. BOUCHER are appointed in lieu of Mr. WAXMAN, Mr. SIKORSKI, and Mr. BRUCE; that solely for consideration of sections 2180–2185, 6220, 6231–6241, and 14111–14140 of the Senate amendment, Mr. BILIRAKIS is appointed in lieu of Mr. LENT; that solely for consideration of sections 2173, 2175, 6251, 10011(b), and 10201 of the Senate amendment, Mr. MCMILLAN of North Carolina is appointed in lieu of Mr. BLILEY; and solely for consideration of title XI of the Senate amendment, Mr. RINALDO is appointed in lieu of Mr. BLILEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, and Mr. LENT.

As additional conferees from the Committee on the Judiciary, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. SCHUMER, and Mr. SENSENBRENNER.

As additional conferees from the Committee on the Judiciary, for consideration of section 9204 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, Mr. SYNAR, Mr. BRYANT, Mr. STAGGERS, Mr. FISH, Mr. MOORHEAD, and Mr. SMITH of Texas.

As additional conferees from the Committee on the Judiciary, for consideration of title X of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. SCHUMER, Mr. HUGHES, Mr. BRYANT, Mr. SANGMEISTER, Mr. SENSENBRENNER, Mr. SCHIFF, and Mr. RAMSTAD.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles XII and XIII of the Senate amendment, and modifications committed to conference: Mr. STUDDS, Mr. HUBBARD, Mr. HUGHES, Mr. TAUZIN, Mrs. UNSOELD, Mr. DAVIS, Mr. YOUNG of Alaska, and Mr. FIELDS.

As additional conferees from the Committee on Ways and Means, for consideration of sections 7123, 7125, 7126, and title VIII of the House bill, and sections 2173, 7171, 7173, titles VIII and X of the Senate amendment, and modifications committed to conference: Mr. JACOBS, Mr. FORD of Tennessee, Mr. JENKINS, Mr. DOWNEY, Mr. GUARINI, Mr. RUSSO, Mr. PEASE, Mr. SCHULZE, Mr. GRADISON, Mr. THOMAS of California, and Mr. MCGRATH.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FAZIO, Mr. SMITH of Florida, Mr. OBEY, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. WHITTEN, Mr. LEWIS of California, Mr. PORTER, Mrs. VUCANOVICH, and Mr. MCDADE as managers of the conference on the part of the House.

The message further announced that the House of Representatives having proceeded to reconsider the bill (S. 323) entitled "An act to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved, that said bill do not pass, two-thirds of the House of Representatives agreeing not to pass the same.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 8:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes;

H.R. 3508. An act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes;

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug;

H.R. 5673. An act to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research; and

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War.

The enrolled bills and joint resolution were subsequently signed by [Mr. BYRD].

At 9:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 138. Concurrent resolution to authorize a correction in the enrollment of H.R. 2042.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2042) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FASCELL, Mr. GEJDENSON, Mr. FEIGHAN, Mr. JOHNSTON of Florida, Mr. BROOMFIELD, and Mr. ROTH as managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 1696) to designate certain national forest lands in the State of Montana as wilderness, to release other national forest lands in the State of Montana for multiple use management, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5575. An act to authorize certain additional uses of the Library of Congress Special Facilities Center, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3966. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Soil Conservation Service Report consisting of a Plan for the Town Branch Watershed, Gentry County, Missouri, and an Environmental Impact Statement"; to the Committee on Agriculture, Nutrition and Forestry.

EC–3967. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Soil Conservation Service Plan for the East Yellow Creek Watershed, Sullivan, Linn, and Chariton Counties, Missouri"; to the Committee on Agriculture, Nutrition and Forestry.

EC–3968. A communication from the President of the United States, transmitting, pursuant to law, a request relating to the Fiscal Year 1993 Department of Defense budget and the Junior Reserve Officer Training Corps program; to the Committee on Appropriations.

EC–3969. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–3970. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "National Reconnaissance Office Security Act"; to the Select Committee on Intelligence.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 240. A bill for the relief of Rodgito Keller.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1759. A bill for the relief of James B. Stanley.

H.R. 3590. A bill for the relief of Lloyd B. Gamble.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 5452. A bill granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.

S. 287. A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1174. A bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2013. A bill to amend chpater 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2499. A bill for the relief of Elham Ghandour Cicippio.

S. 2652. A bill to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Brook Hedge, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Lee F. Satterfield, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Shirley Chilton-O'Dell, of California, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 1994:

Stephen Norris, of Virginia, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 1994;

Tony Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority for a term of five years; and

Wayne Arthuir Schley, of Alaska, to be a Commissioner of the Postal Rate Commission for the remainder of the term expiring October 14, 1994.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 3302. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who served in the Armed Forces of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY:

S. 3303. A bill for the relief of Elizabeth Miller Owen and Brian Ross Owen; to the Committee on the Judiciary.

By Mr. LUGAR (for himself and Mr. PRYOR):

S. 3304. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to clarify application of the Act with respect to nitrogen stabilizers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURKOWSKI:

S. 3305. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRYAN:

S. 3306. A bill to amend the Fair Credit Reporting Act to require the inclusion in consumer reports of information provided to consumer reporting agencies regarding the failure of a consumer to pay overdue child support; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON (for himself and Mr. SARBANES):

S. 3307. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3308. A bill to amend the Wild and Scenic Rivers Act by designating certain tributaries of the Maurice River in the State of New Jersey as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 3309. A bill to amend the Peace Corps Act to authorize appropriations for the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes; considered and passed.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BUMPERS, Mr. LEAHY, Mr. DASCHLE, Mr. WELLSTONE, Mr. KASTEN, Mr. HARKIN, Mr. PRYOR, Mr. GLENN, Mr. RIEGLE, Mr. BAUCUS, Mr. EXON, Mr. DURENBERGER, Mr. KOHL, and Mr. BURNS):

S. 3310. A bill to amend the Consolidated Farm and Rural Development Act and Farm Credit Act of 1971 to establish a program to aid beginning farmers and ranchers, to improve the operation of the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. DOLE, Mr. PRYOR, Mr. LUGAR, Mr. HARKIN, Mr. SEYMOUR, Mr. CONRAD, and Mr. DASCHLE):

S. 3311. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to better assist children in homeless shelters, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. ADAMS, Ms. MIKULSKI, Mr. D'AMATO, Mr. DURENBERGER, Mr. SIMON, Mr. HATFIELD, Mr. JEFFORDS, Mr. BINGAMAN, Mr. BIDEN, Mr. INOUYE, Mr. DECONCINI, and Mr. HATCH):

S. 3312. A bill entitled the "Cancer Registries Amendment Act; considered and passed.

By Mr. BREAUX:

S. 3313. A bill to amend the Immigration and Nationality Act to accord nonimmigrant alien status to certain alien crewmen aboard fishing vessels of United States registry; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself, Mr. BOND, Mr. COCHRAN, Mr. SMITH, Mr. SYMMS, Mr. STEVENS, Mr. HATCH, Mr. GARN, Mr. BURNS, Mr. D'AMATO, Mr. EXON, Mr. PRESSLER, Mr. MURKOWSKI, and Mr. JOHNSTON):

S.J. Res. 345. A joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. PELL, Mr. HELMS, Mr. LEVIN, and Mr. BRADLEY):

S. Con. Res. 140. A concurrent resolution relating to humanitarian relief and the human rights situation in Sudan; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3302. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who have served in the Armed Forces of the United States; to the Committee on Banking, Housing, and Urban Affairs.

WOMEN IN THE ARMED FORCES COMMEMORATIVE COIN ACT

Mr. SPECTER. Mr. President, as ranking member of the Committee on Veterans' Affairs, I am pleased to introduce legislation to authorize the Secretary of the Treasury to mint a coin commemorating women who have served in the Armed Forces of the United States.

This bill would help to provide the Women in Military Service Memorial Foundation, a private foundation authorized in 1986 to oversee the creation of a Women In Military Service Memorial, with the additional funds necessary to build their memorial. In enacting legislation to help raise funds for the creation of the memorial, this body has the opportunity to honor the more than 1.8 million women who served or are serving in the Armed Forces since the American Revolution.

Mr. President, last fall the Women in Military Service Memorial foundation was granted a 2-year extension to complete design specifications and to raise funds for the memorial. Thus, it is important that we move as quickly as possible to pass this piece of legislation. Recently, a design team was awarded a contract to build a beautiful monument with views of Arlington National Cemetery and the monuments of Washington. Now we can do our part by enacting this piece of legislation.

The women who served this country deserve no less than a national memorial recognizing their contributions to the Armed Forces. I urge my colleagues to support this important measure.

By Mr. GRASSLEY:

S. 3303. A bill for the relief of Elizabeth Miller Owen and Brian Ross Owen; to the Committee on the Judiciary.

RELIEF OF ELIZABETH MILLER OWEN AND BRIAN ROSS OWEN

• Mr. GRASSLEY. Mr. President, today I am introducing legislation to redress the unfair naturalization circumstances of Mrs. Elizabeth Miller Owen of Centerville, IA, and her husband Brian Ross Owen.

Mrs. Owen was born in West Germany to German parents in 1965. Shortly thereafter she was adopted by Charles and Beatrice Miller. Mr. Miller was a U.S. Army officer at the time, while Mrs. Miller was operating a business in Britain. Elizabeth lived with her mother in London until September 1973, when the family relocated to the United States.

From 1973 to 1986, Mr. Miller was seriously ill with cancer, which required the amputation of both his legs and 11 surgical procedures, and also suffered consequent mental illness. He died in 1986. The family had relied on him to handle the childrens' naturalization, and Mrs. Miller presumed he had gotten Elizabeth naturalized just as he had the three other German children the Millers adopted. Throughout this period Elizabeth attended public schools, held a social security card, paid taxes, and generally lived under the assumption that she was a U.S. citizen.

This assumption was dispelled when, after graduation from Drake University in Des Moines, Elizabeth decided to travel to South Africa to be with her future husband, Brian Owen, who she had met in the United States. She discovered that the only passport she had was German, from her infancy, and that she had apparently never been naturalized by her adoptive parents.

Elizabeth consulted an immigration lawyer in Des Moines before leaving on her overseas journey in 1988. He told her she could leave without getting naturalized, and advised her of the need to get a re-entry permit, but not of the naturalization consequence of staying abroad for more than a year. The consequence is an interruption of the 5-year permanent residency requirement that is prerequisite to naturalization. In South Africa, Elizabeth married Brian Owen, and decided to stay with him beyond 1 year while he settled his affairs so they could relocate to the States. She was improperly advised by the United States Government representative in South Africa that there would be no adverse immigration/naturalization consequences if she stayed in South Africa longer than a year. Relying on this information, Elizabeth stayed in South Africa for 16 months.

In short, after 15 years continuous permanent residence in the United States and a lifetime as the child of U.S. citizens, Elizabeth stayed abroad 4 months too long, interrupting her residence for naturalization purposes. She must therefore reside here another 5 years to be eligible for citizenship.

This unfortunate circumstance would be tolerable if Elizabeth were unmarried and childless. Since she is married to a foreign national, and the mother of a newborn U.S. citizen child, the practical effect of her legal situation is to deny her the possibility of ever becoming a U.S. citizen. For, unless Brian can immigrate to the United States immediately, the Owens will be required to return to South Africa with their child. Elizabeth would then be unable to satisfy the residency requirement for naturalization. If she wants to stay here and satisfy the legal requirements of citizenship, she must wait 2 years before her husband will be allowed in the country as a permanent resident.

The application of the standard rules of law and immigration regulations in this case is entirely unreasonable. Elizabeth Miller Owen, as the adopted child of American citizens, who relied on her late father to process her naturalization papers, should not be penalized for his failure to do so as a consequence of the illness which killed him. She should be able to enjoy all the rights of citizenship, just as she has borne all the obligations of U.S. citizenship her entire life. She should not be denied the consortium and support of her foreign spouse because of her absurd legal situation.

This bill which I am introducing today will rectify the Owen's situation. It will require Elizabeth to be considered to have satisfied the residency requirements of the Immigration and Nationality Act, and allow Brian Ross Owen to be lawfully admitted to the United States as a permanent resident.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF PERIOD OF RESIDENCY REQUIREMENT FOR ELIZABETH MILLER OWEN.

(a) WAIVER.—Elizabeth Miller Owen shall be considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States, and, notwithstanding section 310(d) of that Act, may be naturalized if she is otherwise eligible for naturalization under that Act.

(b) LIMITATION OF WAIVER.—Subsection (a) shall apply only if Elizabeth Miller Owen files an application for naturalization within two years after the date of the enactment of this Act.

SEC. 2. PERMANENT RESIDENCE FOR BRIAN ROSS OWEN.

(a) GRANTING OF STATUS.—In the administration of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Brian Ross Owen shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee.

(b) REDUCTION OF NUMBER OF AVAILABLE VISAS.—Upon the granting of permanent residence to Brian Ross Owen as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under subsection (a) or (b) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153).•

By Mr. LUGAR (for himself and Mr. PRYOR):

S. 3304. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to clarify application of the Act with respect to nitrogen stabilizers; to the Committee on Agriculture, Nutrition, and Forestry.

NITROGEN STABILIZERS AND WATER QUALITY

• Mr. LUGAR. Mr. President, as you and many of my colleagues are aware, agricultural nonpoint source pollution regarding nutrient contamination in surface and ground water is an important concern for agricultural producers in Indiana and across the Nation. Agricultural producers are continually adopting best management practices and seeking new tools to minimize impacts on the environment while maintaining production efficiency.

The use of nitrogen stabliizing ingredients is one tool which seems to show promise in reducing nitrate contamination of ground and surface water from fertilizers, especially in water quality sensitive areas. It has come to my attention that ambiguities in current law have resulted in regulatory uncertainty, limiting the marketing and use of these products. Our laws should promote, not discourage, the development and use environmentally beneficial technologies.

Today, Senator PRYOR and myself are jointly introducing a bill which amends the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA] to clarify the application of the act with respect to nitrogen stabilizers. Our goal is to accelerate the research, registration and use of products designed to improve environmental protection; in this case, water quality. The bill outlines one approach for the regulation of these products. We offer this bill to bring attention to the issue, and for purpose of generating the discussion and dialog necessary for a full debate of these complex issue next year.

It should be noted the provisions of this bill represent more than a year and a half of negotiation and compromise on the part of industry, regulators and agriculture. The language in this bill has been agreed to by the Environmental Protection Agency and the United States Department of Agriculture.

I'd like to thank Senator PRYOR in joining me in this effort and look forward to working with him and others when FIFRA is debated and reauthorized in the next Congress.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. DEFINITIONS.

Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "or dessicant" and inserting "desiccant, or nitrogen stabilizer";

(B) by striking "and" at the end of paragraph (3);

(C) by striking the period at the end of paragraph (4) and inserting "; and "; and

(D) by adding at the end the following new paragraph:

"(5) in the case of a nitrogen stabilizer, an ingredient that will, through action upon soil bacteria, prevent or hinder the process of—

"(A) nitrification;

"(B) denitrification;

"(C) ammonia volitilization; or

"(D) urease production";

(2) in subsection (u)—

(A) by striking "and" before "(2)"; and

(B) by inserting "and (3) any nitrogen stabilizer," after "dessicant,"; and

(3) by adding at the end of the following new subsection:

"(hh) NITROGEN STABILIZER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'nitrogen stabilizer' means any substance or mixture of substances that is intended, through action upon soil bacteria, to prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production.

"(2) EXCLUSION.—The term shall not include any substance or mixture of substances—

"(A) that was not registered pursuant to section 3 prior to January 1, 1992; and

"(B) that was used in a commercial agronomic use prior to January 1, 1992, with respect to which after January 1, 1992, the distributor or seller of the substance or mixture has made no specific claim relating to the prevention of hindering of any of the processes described in paragraph (1), regardless of the actual use or purpose for, or future use or purpose for, the substance or mixture.".

SEC. 2. EXEMPTION.

Section 3(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(f) is amended by adding at the end of the following new paragraph:

"(4) MIXTURES OF NITROGEN STABILIZERS AND FERTILIZER PRODUCTS.—

(A) Any mixture or other combination of—

"(i) one or more nitrogen stabilizers; and

"(ii) one or more fertilizer products, shall not be subject to the requirements of this section or sections 4, 5, 7, 8, 15, and 17(a) (except for the requirements referred to in the conditions described in subparagraph (B)) if the conditions described in subparagraph (B) are met.

"(B) The conditions described in this subparagraph are as follows:

"(i) The mixture or other combination is accompanied by the labeling required under this Act for the nitrogen stabilizer contained in the mixture or other combination.

"(ii) The mixture or other combination is mixed or combined in accordance with the labeling referred to in clause (i).

"(iii) Other than a nitrogen stabilizer, the mixture or other combination does not contain any active ingredient.".

SEC. 3. CONFORMING AMENDMENTS.

The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2 the following new items:

"(hh) Nitrogen stabilizer.

"(1) In general.

"(2) Exclusion.";

and

(2) by adding at the end of the items relating to section 3(f) the following new item:

"(4) Mixtures of nitrogen stabilizers and fertilizer products.".•

• Mr. PRYOR. Mr. President, I am pleased to join with my colleague from Indiana, Senator LUGAR, in introducing a bill that will assist in enhancing agricultural production potential as well as reduce any environmental harm caused by such production.

This legislation proposes to assure that nitrogen stabilizing fertilizers, which reduce nitrate contamination in ground and surface water, are made more readily available for us in agricultural production.

However, it has recently come to my attention that a regulatory logjam has developed between the Department of Agriculture and Environmental Protection Agency over the regulation of nitrogen stabilizers. This regulatory uncertainty is limiting the marketing and use of these environmentally sound products.

Today Senator LUGAR and myself are jointly introducing a bill that works to break that logjam by amending the Federal Insecticide, Rodenticide and Fungicide Act and clarifying how nitrogen stabilizers are to be registered and regulated for future use by farmers. After more than a decade of regulatory stalemate on this issue and after more than a year of work and compromise on the part of industry, regulators and agriculture, EPA and USDA have agreed on the language contained in this bill regarding this important environmental issue.

Nitrogen stabilizers can be important tools for improving water quality and reducing the potential for nitrate ground water contamination. Again, this bill breaks the regulatory logjam between EPA and USDA and, if adopted, will accelerate the research, registration and use of products designed to improve farm production efficiency and environmental protection.

I'd like to thank Senator LUGAR in joining me in this effort and look forward to working with him and others when FIFRA is considered in the next Congress.•

By Mr. MURKOWSKI;

S. 3305. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

CONVEYANCE OF CERTAIN REAL PROPERTY

• Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation which would convey certain property located in the Tongass National Forest to Daniel J. Gross, Sr., and to his brother, Douglas K. Gross.

In the early 1930's Mr. William Lee Gross and his wife Bessie Knickerson Gross homesteaded 160.8 acres of land at Green Point on the Stikine River. The Gross family lived at Green Point for several years and have claimed title to the land since the 1930's. Unfortunately, the legal documents that conveyed title of the land to the Gross family were destroyed when their home burned in Wrangell during the winter of 1935–36.

Mr. President, the Gross family should not be punished because the title to their land was destroyed in a fire. The title to their land was destroyed in 1936, 22 years before Alaska became a State. In 1936, Wrangell, AK, was truly the last frontier. There were no modern conveniences, no computers to store information in the unlikely event of fire.

The Gross family is the victim of a unfortunate accident, and the U.S. Forest Service is turning their back on the family. Imagine the Federal Government telling victims of Hurricane Andrew the Federal Government was reclaiming title to an individuals land because the legal documents were destroyed in a fire caused by the hurricane.

Mr. President, the Gross family deserves better treatment from the Forest Service. They have given to the State of Alaska and to the country. Mr. William Lee Gross was a private in the U.S. Marines during the Spanish-American War. Mrs. Bessie Knickerson Gross was a Tlingit Indian. William and Bessie are no longer living. Douglas and Daniel are the children of William and Bessie Gross. They are very well known in the Wrangell community. Douglas Gross, who is 70-years-old, worked for the Bureau of Indian Affairs for 25 years. Doug was in the Army as a technician 5th grade in chemical warfare. He operated an anti-aircraft gun in WW II. Daniel Gross, who is 72 years old, was a sergeant on a crash boat in the Aleutian Chain. Their older brother, William Lee Gross, Jr., now deceased, was a technical sergeant and also served on crash boats in the Aleutians during the war. Their youngest brother, Harvey B. Gross was a corporal during the Korean war. All four men were honorably discharged.

Mr. President, Dan and Doug Gross are old timers from Alaska who have been seeking title to their land for decades. Despite overwhelming support from the local community, and substantial evidence submitted by the Gross family, the Forest Service has refused to convey title of the land at Green Point to Doug and Dan Gross. For this reason, I am introduction legislation to resolve this issue.

Doug and Dan are seeking help. They don't have insider influence in Washington, DC, no lobbyist, no special interest group, no Political Action Committee. Doug and Dan Gross are ordinary people who have come up against a bureaucracy that threatens to dismiss over 50 years of their family history. I cannot allow this to happen.

As their Senator, I will be working during the coming months to correct this injustice.•

By Mr. SIMON (for himself and Mr. SARBANES):

S. 3307. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA ACT

• Mr. SIMON. Mr. President, I am pleased to be joined by my colleague from Maryland, Senator SARBANES, in introducing the Elementary and Secondary School Library Media Services Act.

The legislation we are introducing today is intended as a discussion piece for the reauthorization of the Elementary and Secondary Education Act [ESEA] next year. We are encouraging elementary and secondary school librarians to take a look at our legislation and provide us with their expertise. It might be good to hear from the students as well.

It is my understanding that in a few weeks the American Association of School Librarians will hold their national conference in my colleague's home State of Maryland. Perhaps this would provide an opportunity for comment and discussion.

The merger of programs in chapter 2 of the ESEA has resulted in a serious decline of funding for elementary and secondary school libraries. Out Nation's school libraries are now dependent upon a core of deteriorating and out-of-date library materials purchased with funding from the original ESEA in 1965. Small and rural school libraries are further disadvantaged because of smaller budgets based on low student enrollments and limited access to resources, services, and personnel.

If we are to prepare our Nation's children for the challenges of the future, as well as keeping our Nation competitive in a global economy with its growing technology, every school in the United States must be equipped with the best and most up-to-date library and information resources.

The legislation I am introducing today would help prepare our Nation's children for the future.

The Elementary and Secondary School Library Media Act would establish a new division of Elementary and Secondary School Library Media Services in the Department of Education to provide information and leadership to school library media programs and personnel nationwide.

In addition, three grant programs are to be established within the new division of Elementary and Secondary Library Media Services. One program would be a direct allocation to the States for the acquisition of library resources, and the other two would be competitive grants to encourage library media specialists and teacher partnerships in innovational instruction and in expanded uses of technology.

The American Library Association has been very active in trying to restore support for elementary and secondary school libraries. To that end, the ALA has published a fact sheet on school library media programs. I ask unanimous consent to have the ALA's fact sheet included in the RECORD after my remarks.

Mr. President, I urge my colleagues to review this important legislation. I also encourage them to talk to their local elementary and secondary school librarians and students. I look forward to working with them next year on improving and moving this legislation forward.

I ask unanimous consent that the text of the bill follow my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elementary and Secondary School Library Media Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in order to prepare our Nation's children for the challenges of the future, as well as keeping our Nation competitive in a global economy, every elementary and secondary school in the United States should be equipped with the best and most up-to-date library resources, certified library media specialists, access to advanced technology, and instruction on the use of library and information resources;

(2) our Nation's elementary and secondary school libraries are primarily dependent on a core of deteriorating and out-of-date library materials purchased with original funding from the Elementary and Secondary Education Act of 1965;

(3) school library media center expenditures, when adjusted for inflation, have declined 16 percent in public schools since 1979; and

(4) small and rural school libraries are further disadvantaged because of small budgets based on low student enrollments, and limited access to resources, services, and personnel.

(b) STATEMENT OF PURPOSES.—It is the purpose of this Act to—

(1) establish within the Department of Education Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide;

(2) provide continued funding for elementary and secondary school library media program improvement, equity, innovation, and technological advancement;

(3) establish a partnership program for elementary and secondary school teachers and school library media specialists to jointly design resource and curriculum-based instructional activities that provide opportunities for students to access a broad diversity of resources and information, and other languages and cultures, including materials that will encourage understanding; and

(4) establish a partnership program for encouraging uses of technology and the sharing of information and access to resources by elementary and secondary school students, school library media specialists, and teachers.

SEC. 3. ESTABLISHMENT AND FUNCTIONS OF THE DIVISION OF ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA SERVICES.

(a) DIVISION ESTABLISHED.—Section 209 of the Department of Education Organization Act (20 U.S.C. 3419) is amended—

(1) by inserting "(a) OFFICE.—" before "There"; and

(2) by adding at the end the following new subsection:

"(b) DIVISION.—There is established within the Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services, to be administered by a Director of such Division.".

(b) FUNCTIONS.—The Division of Elementary and Secondary School Library Media Services established in section 209(b) of the Department of Education Organization Act shall—

(1) provide information and leadership to elementary and secondary school library media specialists, teachers, and school administrators in order to encourage improvement of educational programs, train library personnel, use advanced technology, and develop library resources, including resources that will encourage students to acquire skills in other languages; and

(2) monitor and administer—

(A) the grant programs for elementary and secondary school library media center resource development;

(B) elementary and secondary school library media specialist and teacher partnership grants for innovative education; and

(c) grants for uses of technology in the classroom that are linked to the library media center.

SEC. 4. ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA PROGRAM.

(a) ESTABLISHMENT OF THE ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCE DEVELOPMENT PROGRAM.—The Director shall award grants from allocations under subsection (b) to States for the acquisition of school library media resources for the use of students, library media specialists, and teachers in public elementary and secondary schools.

(b) ALLOCATION TO STATES.—From the amount appropriated pursuant to the authority of subsection (e) in each fiscal year, the Director shall allocate to each State having an approved plan under subsection (c) an amount which bears the same relationship to such funds as the amount such State received under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 bears to the amount all States received under such chapter in each such year.

(c) STATE PLANS.—In order for a State to receive an allocation of funds under subsection (b) for any fiscal year such State shall have in effect for such fiscal year a State plan. Such plan shall—

(1) designate the State educational agency as the State agency responsible for the administration and supervision of the program described in this section; and

(2) set forth a program under which funds paid to the State from its allocation under subsection (b) will be expended solely for—

(A) acquisition of school library media resources, including foreign language resources, for the use of students, school library media specialists, and teachers in elementary and secondary schools in the United States; and

(B) administration of the State plan, including development and revision of standards relating to school library media resources, except that the amount used for administration of the State plan in any fiscal year shall not exceed 5 percent of the amount allocated to such State under subsection (b) for such fiscal year; and

(3) set forth the criteria to be used in allotting funds for school library media resources among the local educational agencies of the State, which allotment shall take into consideration the relative need of the students, school media specialists, and teachers to be served.

(d) DISTRIBUTION OF ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—

(1) DISTRIBUTION RULE.—From the funds allocated to a State under subsection (b) in each fiscal year, such State shall distribute not less than 95 percent of such funds in such year to local educational agencies within such State according to the relative enrollment of students in public elementary and secondary schools within the school districts of such State, adjusted to provide higher per-pupil allotments to local educational agencies that have the greatest number or percentages of students whose education imposes a higher than average cost per child, such as those students——

(A) living in areas with high concentrations of low-income families;

(B) from low-income families; and

(C) living in sparsely populated areas.

(2) CALCULATION OF ENROLLMENT.—The calculation of relative enrollments under paragraph (1) shall be made on the basis of the total number of students enrolled in public schools in the State.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

SEC. 5. ESTABLISHMENT OF THE SCHOOL LIBRARY MEDIA SPECIALIST AND TEACHER PARTNERSHIPS FOR INSTRUCTIONAL INNOVATION PROGRAM.

(a) PROGRAM ESTABLISHED.—The Director shall award grants for projects that—

(1) encourage collaboration between public elementary and secondary school library media specialists and teachers in order to develop units of instruction that enable elementary and secondary school students to use a variety of information resources; and

(2) expand students' information-gathering abilities and cognitive skills of selection, analysis, evaluation, and application.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

SEC. 6. ESTABLISHMENT OF THE USES OF TECHNOLOGY IN THE CLASSROOM PROGRAM.

(a) PROGRAM ESTABLISHED.—

(1) IN GENERAL.—The Director shall award grants to encourage collaborative elementary and secondary school library media specialist and teacher programs designed to—

(A) expand the use of computers and computer networks in the curriculum; and

(B) enable elementary and secondary school library media centers to access information from computerized databases.

(2) COOPERATIVE AGREEMENTS.—The Director may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out this section.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

SEC. 7. CONSTRUCTION.

Nothing in this Act shall be construed to interfere with State and local initiative and responsibility in the conduct and support of school library media services, the administration of school library media centers, or the selection of personnel or library books and materials.

SEC. 8. SUPPLEMENTATION.

Funds provided under this Act shall be used so as to supplement and not supplant other Federal, State, or local funds available to carry out the activities and services assisted under this Act.

SEC. 9. DEFINITIONS.

For the purpose of this Act—

(1) the term "Director" means the Director of the Division of Elementary and Secondary School Library Media Services established pursuant to section 209(b) of the Department of Education Organization Act;

(2) the term "elementary school" has the same meaning given to such term by section 1471(8) of the Elementary and Secondary Education Act of 1965;

(3) the term "local educational agency" has the same meaning given to such term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

(4) the term "secondary school" has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965;

(5) the term "State" means each of the several State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianna Islands, the Republic of the Marshall Islands, the Federated State of Micronesia, and the Republic of Palau; and

(6) the term "State educational agency" has the same meaning given to such term by section 1471(23) of the Elementary and Secondary Education Act of 1965.

AASL FACT SHEET—SCHOOL LIBRARY MEDIA PROGRAMS

BACKGROUND INFORMATION

Most U.S. Schools have been built from 1948–1985.

A vast majority of the approximately 51,000,000 students in public schools come from urban environments. New York City alone has nearly 1,000,000 students.

51 million students attend public schools and 8 million attend private schools.

The average age of most books is in the late 1960's when large amounts of federal, state and local funds were expended on school libraries.

Most schools are wired for television, but not for computer networks.

Most micro-computers in schools are older and only used for student instructional purposes or administrative purposes, but not both.

GENERAL EDUCATION STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Enrollment (K–12), 51,041,000—Public, 8,298,000—Private.

Teachers (K–12) 2,890,000—Public 598,000-Private.

Volunteers (K–12) 38,042,000.

Principals (K–12) 77,890—Public, 25,401—Private.

Largest School Districts (K–12)

1. New York City	930,440
2. Los Angeles Unified	609,746
3. Chicago City	408,442
4. Dade County (FL)	279,420
5. Philadelphia City	189,451
6. Houston City	185,566
7. Detroit City	175,436
8. Hawaii	169,493
9. Broward County (FL)	148,803
10. Fairfax County (VA).	126,790
11. Dallas City	125,897
12. Hillsborough County (FL)	119,811
13. San Diego City	119,314
14. Clark County (NV)	111,460
15. Baltimore City	107,782
16. Prince Georges County (MD)	106,974
17. Duval County (FL)	106,593
18. Memphis City	104,410
19. Montgomery County (MD)	100,261
20. Palm Beach County (FL)	98,705
Total	4,324,794

Note.—Nearly 10 percent of the U.S. students.

LEARNING RESOURCES AND TECHNOLOGY STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Access to information has been widely cited as the key to success in a growing number of endeavors. Thus, how information is made available and to whom become matters of concern.

In fall 1985, almost 94 percent of all public schools and 75 percent of all private schools had libraries or media centers.

During the 1984–85 school year, public school libraries held an average of 7,668 book titles, 34 periodical subscriptions, 353 audio materials, and 540 films and filmstrips.

The number of public schools using microcomputers has risen rapidly in recent years. Between fall 1981 and fall 1986, the proportion of public schools with computers rose 18 percent to 96 percent.

About 36 percent of all American workers used computers on their jobs in October 1989. The percentages ranged from 7 percent for workers who did not complete high school to 58 percent for those with 4 or more years of college. Women who have not completed college were more likely to use computers than men who have not completed college. For men and women who have completed 4 years of college, the percentages using computers were about the same. Computer users with higher levels of education were more likely to use their computers for more diverse applications than those with lower levels of education.

The total computer usage rate of students at school increased from 27.3 percent in October 1984 to 42.7 percent in October 1989. The rate at the pre-kindergarten and kindergarten level increased more than twofold. The rate at the first-through eighth-grade level increased by about two-thirds.

More than half (52 percent) of all elementary school children used computers at school in October 1989. The computer usage rate was 39 percent for students in high school and college. Sizeable percentages of students used them for schoolwork. About 18 percent of elementary school children used computers at home and about 6 percent used them for schoolwork. Students at the high school and undergraduate level were about twice as likely as the elementary school children to use home computers for schoolwork. In general, students in higher income families were more likely to use computers at home and use them for schoolwork than were students from lower income families.

ESEA CHAPTER II BACKGROUND

Because of the merger of programs in Chapter 2 of ESEA, there is now competition for resources among educational programs which should be partners. During the 1960's, Title II of ESEA provided the impetus for establishing libraries in most elementary schools and strengthening secondary school libraries. By the early 70's, many states even had full-time professional librarians managing most of their elementary and secondary libraries. Statistical evaluation indicated that the disparity of library materials and A–V equipment between schools was narrowing. With the advent of ESEA Chapter 2 during the late 70's and 80's, the disparity in library media collections and equipment between schools widened to a near chasm.

DISPARITY OF COLLECTIONS

A good example is: Broward County Schools (Ft. Lauderdale, Florida), where their local paper reported library spending ranging from $1.59 per student in one elementary school to $57.00 per student in another. Middle School and high school disparities are similar. These same reports are echoed nationwide.

EFFECTS ON STUDENT PERFORMANCES AND ACHIEVEMENT

Analyses of schools that have been successful in promoting independent reading suggest that one of the keys is ready access to books. However, fully 15% of the nation's schools do not have libraries. In most of the remaining schools, the collections are small, averaging just over 13 volumes per student.—"Becoming a Nation of Readers," 1985

Schools should maintain well-stocked and managed libraries. Access to interesting and informative books is one of the keys to a successful reading program. As important as an adequate collection of books is a librarian who encourages wide reading and helps match books to children.—"Becoming a Nation of Readers."

SchoolMatch (800–992–5323), in Westerville, Ohio, will send you information on school districts in the area to which you're moving. You fill out a questionnaire listing your priorities and SchoolMatch searches its data base for 15 school systems that come closest to meeting your needs (there are separate questionnaires for private schools). The service, which costs $97.50, sometimes yields surprising results, says company president William Bainbridge, a former superintendent schools. For instance, SchoolMatch research indicates that the most important measures of a school district's success are not its tax base or property values but the education level of parents and the amount of money spent on library and media service.—"Changing Times," August 1990.

SchoolMatch, a company in Ohio which is in the business of providing budget information to school districts, so they can determine where priorities should be placed on spending, or how they compare with other similar or competitive school districts, released the following findings.

Comparative financial information for 15,892 public school systems in the U.S.; 14,856 private schools in the U.S.; and accredited American Schools throughout the world.

Multiple regression and discriminate function analysis was used to analyze the various spending categories in all school system budgets.

There is a stronger correlation between library and media expenditures and student achievement and student performance on scholarship exams than any other expenditure in the school. Of all expenditures that influence a school's effectiveness—including those for facilities, teachers, guidance services, and others—the level of expenditures for library and media services has the highest correlation with student achievement and performance on scholarship exams. The correlation is beyond the traditionally held view that school systems with bright students and parents will spend more money for libraries and media.

In a personal interview, Dr. William L. Bainbridge, the head of the company and a former school superintendent from a conservative state, related that:

"A school System can get 'more bang for the buck' by putting a priority on expenditure for the library media program". He further stated that:

I was personally surprised by the result and would not have believed the findings until I double checked the calculations.—"School Match Report," 1987

A small amount of Chapter 2 funding can make a significant difference in increasing student achievement and success.

Chapter 2 funding improves student's opportunities for learning.

The Chapter 2 program acts as a catalyst for school improvements and creative risk-taking.

School districts praise chapter 2 for enabling local schools to have local control to meet local educational needs.—"Indiana Chapter 2 Evaluation Report" by Dr. Teresa L. Jump, independent educational consultant, 1992

Access to the library media collection is the single best school predictor of student achievement.

The instructional role of the library media specialist affects the library media collection an, in turn, student achievement.

The degree of collaboration between library media specialist and teachers is affected by the ratio of teachers to pupils.—Colorado Study of 221 public schools, 1992

Library media expenditures affect access to the library media program and, in turn, student achievement.—Colorado Study of 221 public schools, 1992

COSTS FOR LIBRARY MEDIA RESOURCES

We need a basic expenditure of at least $20.00 per student, with the federal government sharing 50%, state 25%, and local 25%. Most of our school districts in the U.S. are strapped to the point that 90% of their budgets go for salaries and building operations (heat, cooling, lights, etc.). At $10.00 per student, we are talking about $400,000,000 plus for public schools and $20,000,000 for private schools. In other words, the total Chapter 2 allocation or a new chapter (In 1966–67, $2.00 per student was allocated for Title II).

The Florida Department of Education analyzed the cost factors for purchasing state rights to copy video programs versus individual school districts:

Sample Video Series	A	B	C
Three year State lease	$20,904	$9,373	$8,814
Lease by 67 school districts	174,814	128,520	122,094
Individual copy with no rights	844	1,495	444
67 school districts with no rights	56,601	100,165	29,748

Thus, it would be very cost effective to arrange state leases with copy privileges and let individual districts copy for their own use, those videos they want.—Florida Department of Education, 1991

Nearly half of the nonfiction books on the shelves of most Indiana school libraries are over twenty years old, out-of-date and have misleading information.—"Indiana Legislative Report" by Daniel Callison, 1990

In the area of space exploration, over half of the books on the shelves were written prior to the United States landing a man on the moon.

In the area of civil rights, most of the materials on the shelves were written during the dramatic changes initiated in the 1960s and few reflect the progress in human rights for minorities, the handicapped, and women over the past decade.

In the areas of geography and travel, most of the books on the shelves present a world as it existed twenty to forty years ago showing out-of-date maps and out-of-date political relationships.

In the area of biological science, few books on the shelves of our school libraries discuss the dramatic advances in discoveries related to modern knowledge of genetic structures.

In the area of career education, most of the materials available to our children through school libraries describe career opportunities as they existed over two decades ago. For example, women are often not included as part of the professional arena beyond the careers of teaching and nursing.—Report by Roger

Whayle, Director of Media Services at New Albany-Floyd County Consolidated Schools and Lauralee Foerster, Coordinator of Media Services for the Lafayette School Corporation.

School library media center expenditures, when adjusted for inflation, have declined 16 percent in public schools and 14 percent in private schools since 1978–79.

The median per-pupil expenditure by school libraries in 1989–90 was $5.48—less than half the average cost of a children's book.

The average price of a hardcover book more than doubled from $19 to $40 between 1977 and 1990.

The average price of U.S. periodicals increased about 400 percent over the same period.—"ALA Fact Sheet," by ALA Public Information Office, 1991.

EXAMPLE OF A MODEL LIBRARY MEDIA FACILITY AND RESOURCES

Bonifay High School (500 students) (30 teachers), opened a new building in February 1992. Each classroom has a color monitor computer and a television monitor, connected to the library media center using a local area network (LAN). There are 8 VHS video recorders connected to each classroom, so on any given day, teachers and students can have access to 8 programs directly from the library media center. There will be other recorders on carts, which can be loaned to classrooms, when needed. The card catalog also is available on-line. This school dates back to the 1920's, so they have discarded most of their collection and have purchased 2,500 new books. Teachers can request a videotape using their school-wide intercom/telephone system and can access the school's online library media catalog through their classroom computer network.

A complete television studio is operational, producing a weekly news show and specials. Four students are assigned each period, so 28 students are enrolled in the television production course. Eventually, 4 video laserdisk players and 4 (25") video monitors will be placed on carts, so they can be connected to the classroom computers for interactive video activities. Teachers at that right teaching moment can type into their computer, isosceles triangle, mule deer, etc. and the proper illustration, action segment or picture instantly becomes available.

In June 1992, three interactive CD–ROM's were added to the LAN. An electronic encyclopedia, almanac and SIRS can be accessed simultaneously by up to 40 terminals.

Approximate investment:

36 Television Monitors $400	$14,400
45 Color Monitor Micros $2,500	112,500
8 VHS Video Recorders $400	3,200
3 CD–ROM Players $800	2,400
8-Channel Video System, Computer System, CD–ROM System, wiring and outlets in classrooms	46,000
2,500 Books $20	50,000
Total	228,500

NOTE.—An expenditure of $457 per student.•

• Mr. SARBANES. Mr. President, I am very pleased to join with Senator SIMON in introducing the Elementary and Secondary School Library Media Services Act, to establish within the Department of Education Library Programs a division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide. As the 102d Congress draws to a close, it is my hope that this legislation will serve as a model and useful medium for discussion when we consider the reauthorization of the Elementary and Secondary Education Act [ESEA] next year. I am also hopeful that this proposal will facilitate related discussions when the American Association of School Librarians convenes its national conference in Baltimore later this month.

It is in my view imperative that when we consider the future of our Nation, the need to compete in an international economy, and the importance of moving our country forward, we remember the critical need to educate our future work force. In so doing, we must pay close attention to the information center of the classroom—the library, or school library media center as it is often called today. While my memories, and those of many of my colleagues, may revolve around a favorite book, young people of today may have, in addition to books, videotapes, recordings, computer software, CD-ROM's, magazines, newspapers, government documents, and films. The legislation we are introducing today is designed to ensure that this variety of information is available in an equitable manner in school library media centers across the Nation.

Prior to the merger of many education programs into block grants as proposed by the Reagan-Bush administration in the 1980's, a separate categorical program, ESEA title II, existed for school libraries. Because of this program, many school libraries were able to build up core collections which are still in use today. In fact, many libraries have been unable to make any significant changes to their collections since the merger of programs into block grants—a few preliminary surveys have established that in some States the ages of book collections date back as far as 1965, with one junior-senior high school reporting that 55 percent of its school library collection was printed before the school's senior class was born.

Mr. President, a rapidly changing world has highlighted the need to ensure that school libraries are able to bring their collections up to date. One example of this change is the implosion of the former Soviet Union which rendered obsolete a vast array of world atlases, almanacs, encyclopedias, maps, and history books. It is clear that serious and immediate effort is needed to ensure that school library media centers are able to provide students with accurate and timely resource materials. I urge my colleagues to support the legislation introduced today and related efforts to address the critical needs of our school library media centers.•

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3308. A bill to amend the Wild and Scenic Rivers Act by designating certain tributaries of the Maurice River in the State of New Jersey as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

WILD AND SCENIC RIVERS ACT AMENDMENTS

Mr. BRADLEY. Mr. President, I rise today to introduce the South Jersey Wild and Scenic River Act. I am proud to have Senator LAUTENBERG join me as a cosponsor. This legislation would designate, according to the wishes of the local communities, 14.3 miles of the Manumuskin River and 2.7 miles of Muskee Creek as National Wild and Scenic Rivers. It also encourages the Secretary of the Interior to continue to work with the communities throughout the Maurice River basin that are interested in planning and preserving the river's unique features.

Pristine doesn't capture the beauty of the Maurice and its tributaries: A great deal of this river system is in nearly the same condition as it was when the Dutch sailing ship *Prince Maurice* foundered here almost four centuries ago.

Its natural beauty and ecological value is irreplaceable. This is the last nesting site in New Jersey for the American bald eagle. It's a winter home for bald and golden eagles, peregrine falcons, and an enormous variety of waterfowl. The Maurice pours its clean waters into the Delaware Bay and fosters the growth of crabs and oysters, on which our watermen depend. Near these streams are perhaps the highest concentration of rare, threatened, or endangered species in the State.

We're at a crossroad: Our actions today will determine what these rivers will look like in the future. The natural qualities I've described have always been there. But they will only continue to be here if the citizens of this area decide positively that they commit themselves to a pristine future for the river.

This isn't an easy decision, and there are high stakes for all of us. This is complex, and, unfortunately, many of the options or paths taken cannot be reversed.

For the last 6 years, the river's future has been debated. This has been a trying experience for many. There have been a lot of concerns expressed, fears of a heavy Federal hand, condemnation, new bureaucracy, hardship for private property owners, and so forth. Even though all aren't participating in the endorsement of Wild and Scenic status, all will be able to see its implications and implementation. It will be up to all of us to see that the many fears aren't realized while the enormous promise is.

Given the continued support of the local citizens, I am ready to push forward this legislation that will secure Wild and Scenic River status for these 17 miles of unique and beautiful waterways.

I ask unanimous consent that the text of the legislation be printed following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1)(A) The Maurice River in the State of New Jersey and its tributaries, Menantico Creek, the Manumuskin River, and Muskee Creek, are eligible for designation as components of the National Wild and Scenic Rivers System.

(B) The segments and their classifications are as follows:

(i) The Maurice River, lower segment, from the United States Geological Survey Station at Shellpile to the Route 548 Bridge at Mauricetown, approximately 7.0 miles, as a recreational river.

(ii) The Maurice River, middle segment, from the Route 670 Bridge at Mauricetown upstream to 3.6 miles of the drainage ditch upstream of Fralinger Farm, approximately 3.8 miles, as a scenic river.

(iii) The Maurice River, middle segment, from the drainage ditch upstream of Fralinger Farm to 3.1 miles upstream to ½ mile upstream from the United States Geological Survey Station at Burcham Farm, approximately 3.1 miles, as a recreational river.

(iv) The Maurice River, upper segment, from ½ mile upstream from the United States Geological Survey Station at Burcham Farm to the south side of the Millville sewage treatment plant, approximately 3.6 miles, as a scenic river.

(v) The Menantico Creek, lower segment, from its confluence with the Maurice River to the Route 55 Bridge, approximately 1.4 miles, as a recreational river.

(vi) The Menantico Creek, upper segment, from the Route 55 Bridge to the base of the Impoundment at Menantico Lake, approximately 6.5 miles, as a scenic river.

(vii) The Manumuskin River, lower segment, from its confluence with the Maurice River to 2.0 miles upstream, as a recreational river.

(viii) The Manumuskin River, upper segment, from 2.0 miles upstream from its confluence with the Maurice River to its headwaters, approximately 12.3 miles, as a scenic river.

(2) A resource assessment of the Maurice River and its tributaries shows that the area possesses numerous outstandingly remarkable natural, cultural, scenic, and recreational resources that are significant at the local, regional, and international levels, including rare plant and animal species and critical habitats for birds migrating to and from the Northern and Southern Hemispheres.

(3)(A) A river management plan for the river system that would meet the requirements of section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)) has been developed by the Department of Planning and Development of Cumberland County, New Jersey, and adopted by the City of Millville, by Maurice River Township, and by Commercial Township, New Jersey.

(B) The City of Vineland, New Jersey, has adopted a master plan that calls for river planning and management and, as of the date of enactment of this Act, is in the process of adopting zoning ordinances to implement the plan.

(C) Buena Vista Township in Atlantic County, New Jersey, has adopted a land use plan consistent with the Pinelands Comprehensive Plan that is more restrictive than the Cumberland County local river management plan.

(b) PURPOSES.—The purposes of this Act are to—

(1) declare the importance and irreplaceable resource value of the Maurice River and its tributaries to water quality, human health, traditional economic activities, ecosystem integrity, biotic diversity, fish and wildlife, scenic open space, and recreation;

(2) recognize that the Maurice River system will continue to be threatened by major development and that land use regulations of the individual local political jurisdictions through which the river segments pass cannot alone provide for an adequate balance between conservation of the river's resources and commercial and industrial development; and

(3) recognize that segments of the Maurice River and its tributaries in addition to those designated under this Act are potentially eligible and suitable for designation at some point in the near future.

SEC. 2. DESIGNATIONS.

(a) IN GENERAL.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) MANUMUSKIN RIVER, NEW JERSEY.—(A)(i) From its confluence with the Maurice River to a point 2.0 miles upstream, to be administered by the Secretary of the Interior (referred to in this paragraph as the "Secretary") as a recreational river.

"(ii) From the point 2.0 miles upstream from its confluences with the Maurice River to its headwaters, approximately 12.3 miles, to be administered by the Secretary as a scenic river.

"(B) MUSKEE CREEK, NEW JERSEY.—From its confluence with the Maurice River to the Pennsylvania Seashore Line Railroad Bridge, approximately 2.7 miles, to be administered by the Secretary as a scenic river.

"(C)(i) The Secretary shall administer the river segments designated under this paragraph—

"(I) in association with the political jurisdictions through which the Maurice River and its tributaries pass; and

"(II) in accordance with the local river management plan prepared by the Cumberland County Department of Planning and Development, and plans and ordinances prepared and adopted by the municipal governments of the political jurisdictions referred to in subclause (I).

"(ii) The local river management plan referred to in clause (i)(II) shall be reviewed by the Secretary to ensure that proper implementation of the plan will protect the values for which the segments were designated.

"(iii) The Secretary may—

"(I) provide, on request, planning assistance to the State of New Jersey and to political subdivisions of the State; and

"(II) enter into a memorandum of understanding or a cooperative agreement with another Federal agency or with the State of New Jersey to ensure that Federal and State programs are carried out in a manner that is consistent with the river management plans referred to in clause (i)(II).

"(iv) The Secretary shall review compliance with the locally adopted river management plans referred to in clause (i)(II) on a biennial basis and shall report to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives on a timely basis any deviation from the plans that causes or may result in any diminution of the values for which the segments were designated.

"(D) Section 6(a) shall not apply to the river segments designated by this paragraph.

"(E) For each fiscal year, there are authorized to be appropriated to the Department of the Interior an amount not to exceed $70,000 for planning assistance, biennial review, and reporting for the segments designated by this paragraph, and for negotiating towards possible designation of additional segments of the Maurice River as components of the National Wild and Scenic Rivers System.".

(b) FUTURE DESIGNATIONS.—

(1) CONGRESSIONAL INTENT.—The Secretary of the Interior is encouraged to continue to work with local municipalities to negotiate agreement and support for designating additional eligible segments of the Maurice River and its tributaries as components of the National Wild and Scenic Rivers System.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall issue a report to Congress describing—

(A) the status of the discussions and negotiations with local municipalities referred to in paragraph (1); and

(B) such recommendations concerning the designation of additional river segments in the State of New Jersey as components of the National Wild and Scenic Rivers System as the Secretary of the Interior considers to be appropriate.

Mr. LAUTENBERG. Mr. President, I join with my colleague from New Jersey, Senator BRADLEY, in introducing this legislation to amend the Wild and Scenic Rivers Act to designate certain tributaries of the Maurice River as components of the National Wild and Scenic Rivers System.

In 1987, Senator BRADLEY and I introduced legislation which initiated a study by the National Park Service to evaluate the suitability and feasibility of designating portions of the Maurice River and its tributaries for potential inclusion in the National Wild and Scenic River System. That legislation directed the Park Service to work with the communities to determine which segments of the river and its tributaries were appropriate for designation.

The Park Service recently released a draft study report and I am pleased today to introduce legislation, with Senator BRADLEY, which will enact the Park Service recommendations to designate the Manumuskin River and Muskee Creek as part of the National Wild and Scenic Rivers Program. This legislation respects the individual property owners' rights and the preferences of local governments.

The Wild and Scenic Rivers program aims to bring long-term protection of important natural resources by focusing on local initiative and management. The Wild and Scenic Rivers Act, enacted in 1968, reflected the national recognition of the need to protect our rivers. It was the intent of Congress to protect rivers and their surroundings for their scenic, recreational, historic, and cultural qualities. The Wild and Scenic Rivers program balances the need for development on rivers with the need to preserve those rivers in their natural, free-flowing condition.

New Jersey is the most densely populated State in the Nation. As a result, preservation, enhancement, and enjoyment of our natural resources is of great value to the people of my State.

Recently, Senator BRADLEY and I introduced legislation which would designate portions of the Great Egg Harbor River as Wild and Scenic. I look forward to its eventual addition to the Wild and Scenic System. Inclusion of the Manumuskin River and Muskee Creek within the system would complement our efforts with the Great Egg Harbor River, and enhance protection of these areas by encouraging Federal, State, and local cooperation.

Mr. President, each time I visit this area of my State I am awestruck by its beauty. Last year I was lucky enough to see a bald eagle. Large portions of the Maurice, Manumuskin, and Manantico lie within the boundaries of the Pinelands National Reserve, one of our most valuable natural resources. It's a part of our State that we New Jerseyans are most proud of and it's a side of New Jersey many people do not know exists.

Local efforts to protect these segments of the river are impressive. I am pleased to lend a Federal hand to those efforts. We must ensure that the natural resources of this area continue to be treasured so that future generations will be able to see and enjoy this area. Inclusion of the Manumuskin River and the Muskee Creek in the Wild and Scenic Rivers System will help accomplish this goal.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BUMPERS, Mr. LEAHY, Mr. DASCHLE, Mr. WELLSTONE, Mr. KASTEN, Mr. HARKIN, Mr. PRYOR, Mr. GLENN, Mr. RIEGLE, Mr. BAUCUS, Mr. EXON, Mr. DURENBERGER, Mr. KOHL, and Mr. BURNS):

S. 3310. A bill to amend the Consolidated Farm and Rural Development Act and the Farm Credit Act of 1971 to establish a program to aid beginning farmers and ranchers, to improve the operation of the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL CREDIT AMENDMENTS ACT

Mr. CONRAD. Mr. President, I am pleased to introduce the Agricultural Credit Amendments Act of 1992 along with Senators GRASSLEY, BUMPERS, and others. The core of this bill relates to assistance to beginning farmers and ranchers. I want to recognize Senator GRASSLEY and Senator BUMPERS for their early and continued leadership and assistance on this proposal. I also want to commend Congressman ENGLISH and Congressman PENNY for their invaluable work in developing and moving H.R. 4906, the Agricultural Credit Improvement Act of 1992. Many provisions in the bill we are introducing today are similar to the provisions in H.R. 4906.

I also appreciate the views and assistance provided by many organizations and individuals as we have moved this proposal through the legislative process, and their support for the bill we are introducing today. In particular, I want to thank the Center for Rural Affairs for its excellent work to develop the proposal on which this bill is based, and for its tireless efforts to ensure its passage.

Mr. President, there are a number of pressing problems which Congress needs to address relating to farmers and other rural residents. I think passage of this bill is important to address some of those problems. I am also committed to passage of S. 3119, the USDA National Appeals Division Act of 1992 to address very serious problems in USDA's appeals systems.

There are many obstacles to getting started in farming. Farming requires a significant capital investment. It may be difficult to find suitable land at an affordable price. Lenders are wary of taking a risk on a beginning farmer or rancher who does not have a large asset base. The business of farming itself is risky, and profit margins are very slim and often nonexistent.

This bill attempts to address some of these obstacles. First, it establishes a down payment loan program under the Farmers Home Administration [FmHA]. Under this proposal, a beginning farmer or rancher who wishes to purchase land may receive a 10-year, low-interest FmHA loan for 30 percent of the value of that land if the beginning farmer provides a 10 percent down payment, and a commercial, cooperative or other lender makes a loan for the remaining 60 percent. When the beginning farmer or rancher has repaid the FmHA loan at the end of 10 years, he or she will have at least 40 percent equity in the land, which should provide an adequate asset base on which to obtain future private credit and operate a successful farm operation.

Second, this bill establishes a beginning farmer operating loan program which ensures a borrower a reliable source of FmHA-assisted operating credit for up to 10 years if the borrower develops and meets a long-term operating plan.

Both of these programs employ the borrower training and loan assessment provisions that we enacted in the 1990 farm bill to improve FmHA's credit supervision, and assist borrowers to become financially viable, and graduate to private credit. It is my hope that through all of these programs, we will be able to assist new generations of farmers in assuming the vital agricultural production in this country.

Mr. President, I must point out that credit and farm management programs address only some of the problems that hinder beginning farmers. Another, and I believe larger problem, is farm profit. Many commodity prices are simply so low that many farmers cannot make a decent living. Work on a farm is too hard, and the risks too great, to attract a new generation of family-size farmers unless they can see that the business can be profitable. Congress and the administration simply must acknowledge that it has to ensure a decent return on the sale of commodities, or we will lose our stable, cheap supply of food. I strongly urge my colleagues to address this serious problem.

In addition, funding for these programs, particularly the down payment program, is minuscule. The FmHA direct farm ownership loan program is funded at $67 million for the entire country. That means a little over $1 million per State, which funds only a handful of farm ownership loans. There are currently long waiting lists of applicants for these farm ownership loan funds, which are used to assist both beginning farmers and financially troubled borrowers to purchase land and refinance debt. We are now creating a down payment loan program which will also use this same pool of funds. I have regularly pressed for additional farm ownership loan funds, and I urge my colleagues to do the same, so that we can have a meaningful program of assistance to beginning farmers and ranchers.

Mr. President, this bill also includes a number of other FmHA, Farm Credit System, and Farm Credit Administration provisions which I hope will improve the operation of their existing programs.

I ask my colleagues to support passage of this legislation.

Mr. GRASSLEY. Mr. President, I speak today to alert my colleagues to a growing problem not only in Iowa, but in the rest of the Nation, and I urge my colleagues to move quickly to enact legislation that would stem an alarming new threat to the family farm and America's rural communities.

Mr. President, the House of Representatives recently passed the Beginning Farmer and Rancher Credit Act. This bill would assist young people interested in farming by creating a new downpayment loan option for farm ownership loans. This provision is designed to leverage private financing with limited Farmers Home Administration funds. As I will detail in a moment, with the average age of the farming community continuing to rise at an alarming rate, we desperately need legislation not only to aid the struggling beginning farmer and rancher, but also to encourage our young people to enter the profession. I submit that the transfer of productive agricultural assets with the resulting changing demographics of our rural communities, may be the single most important agriculture issue we will face in the coming years.

I have long been concerned about this trend and have been active in providing incentives that would encourage young people to take up farming. Most notably, I worked hard to get tax-exempt status for State-issued bonds designed to assist beginning farmers to acquire agricultural property.

This has helped thousands, but we need to do more.

And that is why I, in concert with Congressman TIM PENNY, have introduced S. 1835, the Beginning Farmer and Rancher Credit Act. I am pleased that Senator CONRAD has included my bill in a larger agriculture credit package, the Agricultural Credit Amendments Act of 1992. And I sincerely hope that, during these waning days of the 102d Congress, this Chamber supports this measure.

That quick action is needed is demonstrated by 1990 census data and a recent survey conducted by Iowa State University. In Iowa alone, the number of farms dropped by 15,000 between 1980 and 1990, and in fact 32,000 farmers either left the land or found a different primary source of income. During that same time period, the farm population of Iowa declined by 135,000. Many economists believe that steeper declines are expected in the future.

Yet these numbers don't tell the whole story. Census data suggests that the relatively rapid decline in the number of farms during the 1980's was to a large degree due to the dramatic drop in new, beginning farmers. While the numbers of farmers who leave the land have remained relatively stable year in and year out, those who enter farming as a career have dropped off precipitously during the past two decades. The Economic Research Service of the Department of Agriculture confirms this, finding that there has been a 50-percent reduction in the number of farmers under the age of 25, and a 30-percent reduction in the total number of farmers between the ages of 25 and 34. Indeed, the only age group that increased was that of farmers 65 and older. And since most of these farmers are expected to retire in the near future, it is critical to move quickly to encourage young people to get into farming.

To be sure, young people interested in farming face many obstacles: The cost of equipment, seed, livestock, and other inputs means that help with annual operating loans is a necessity. Furthermore, the costs of renting or purchasing farmland has escalated in recent years; and the reduced availability of credit, and cautious lenders, are making it more and more difficult to obtain much-needed credit. Much of the available credit from public and private sources is redirected to existing financially strapped farmers—leaving even less assistance for beginning farmers.

But with the average age of the farmer at 55 years, with many planning to retire in the next 4 years, it is clear that the very foundation of the family farm is being threatened by the barriers to entry that make farming too risky, or too expensive, for young people interested in the profession.

Mr. President, 1 in 4 Iowa farmers will retire in the next 5 years. I have to believe that the numbers for the Nation are comparable. Mr. President, I ask who will take their place? Unless credit is made available for the next generation of farmers, I am afraid that more and more of our agricultural production will be placed in fewer and fewer hands.

A country can ill-afford to ignore its food production, and this Chamber must not miss this opportunity to address the changing face of the American farm. In the past, we have all worked hard to stabilize the farm economy and raise the standard of living of our farmers and ranchers. But to a certain extent our efforts have been primarily reactive. We need the vision to pass this proactive piece of legislation now. We need to ensure that retiring farmers are replaced by aspiring farmers.

Mr. President, I urge my colleagues to put aside any differences that might hinder the enactment of this legislation. Our action during the 102d Congress is crucial not only to the viability of America's family farmers, but also to the future of all of rural America.

Mr. BUMPERS. Mr. President, earlier this year, I introduced legislation that would help provide better direction to USDA's farm credit arm and to make certain that this Nation's beginning farmers will have adqeuate opportunity to meet our food and fiber needs for years to come. Since that time, the House of Representatives has passed legislation, nearly identical to my bill, of which I understand the administration is supportive.

As is appropriate in this body, the Agriculture Committee, the committee of jurisdiction, has reviewed my bill and through a series of discussions within the committee and with representatives of the Department of Agriculture, has approved a package that comes to the floor for introduction today. It is therefore with great pride that I join the distinguished chairman of the Agricultural Credit Subcommittee, Senator CONRAD, and ranking minority member, Senator GRASSLEY, in introducing this important legislation.

When I introduced my Beginning Farmer legislation, I included a statement that outlined the dramatic trend of an aging farm population as well as the increasing costs of farming which have contributed to the barrier which has kept younger generations from entering the farming profession. I will not repeat that accounting of costs or percentages of age groups, but I would like to remind my Senate colleagues of my conclusion: It is little wonder that young men and women are finding it impossible to enter into a life's work in farming even though it is where their hearts or their families' history are strongly attached.

However, I would like to describe a few items that appeared in the September 3, 1992, Wall Street Journal that indicate a few of the reasons why it is difficult for young people to enter farming. Not only is the cost of farming high, credit in rural areas is tight. The ratio of loans to deposits in rural banks is down 20 percent compared to the industry overall, and they are requiring more in terms of downpayments and more in terms of interest rates than might be found in their more urban counterparts.

A certain tenseness about farm credit is understandable. Roughly one-third of the drop in farm debt over the past 7 years—agricultural loans fell by about $55 billion, or 28 percent—can be traced to farm lenders writing off bad debts. The decade of the 1980's witnessed the greatest gut-wrenching in farm country since the Great Depression. During that decade, the tragedy of rural America was portrayed on Hollywood screens and published in weekly farm auction advertisements. In the worst sense of tragedy, the story told of farm suicides, some of which occurred in my home State. As we have grown out of that sad state, the farm lending industry has coated itself with a tough shield of austerity. Given recent history, that is understandable and, to an extent, highly proper. One unfortunate economic outcome, however, is the related hardship on agribusiness. Farmers are now using equipment that should have long been replaced. They can afford little else, but that translates into hard times on Main Street in rural America.

Federal policy must reflect enough caution to avoid a repeat of the 1980's. Federal policy must also contain the will to move into the 1990's and beyond with a dedication to keep farmers on the farm and the farm economy a viable, integral part of our national economy. It always has been so, and to do otherwise today may well result in national economic disaster. We expect farmers to exist and we expect farmers to succeed. I strongly feel the legislation we introduce today will contribute much to both of those expectations.

I would also like to mention an article that appeared in the August 3, 1992, New York Times that described the gradual decline and near extinction of black farmers in this country. According to that article, in 1960, 11 percent of the people operating their own farms were black, which was roughly the same proportion of blacks in the general population. By 1990, that figure had dropped to 1.5 percent or only 69,000 farmers out of a total farm population of 4.5 million. That article quoted Douglas Bachtel, of the University of Georgia's College of Family and Consumer Sciences as stating "black farmers are on their way to extinction."

In my State of Arkansas, this history of a declining black farm population is repeated. Fortunately, there are groups of men and women there who are dedicated to halt this trend through a number of innovative steps to develop alternative crops and other non-traditional methods of rural survival. This year, I am proud to say we were able to finally provide funding for the Socially Disadvantaged Farmer Outreach Program through the agriculture and rural development appropriations bill, some of which I hope will serve those men and women in my State as well as other parts of the country. I believe the legislation we introduce today will highly complement these steps to encourage and enable young farmers, black and white alike, to acquire the tools and resources necessary to farm and to farm successfully.

The legislation we introduce today is not so much a revolution of Federal farm credit policy as it is a long-needed redirection and redefinition of the role Federal farm credit programs should serve to American farmers. The Farmers Home Administration has a long history and has well proven its role in allowing farmers to conduct viable operations by giving them the chance to get on their feet and become productive members of the farming community. It was never designed to be the permanent sole source of credit. The Farmers Home Administration was designed to be the lender of last resort, but not the lender of perpetual resort.

Our legislation is designed to target those beginning farmers who have a true opportunity for success if given that important first chance. Among other things, this bill directs certain portions of funding for Farmers Home lending resources to beginning farmers for operating and eventual farm ownership expenses. The bill also establishes a program in which young farmers can enter into 10-year commitments with Farmers Home so that as long as the farmer meets his or her personal goals, Farmers Home will assist with credit needs. Once a young farmer has proven success, he or she may become eligible for a newly established down payment loan program that goes far in helping purchase a farm that may one day be passed on to their children, young farmers of the next generation.

This legislation not only anticipates farmer success, in a sense it requires it. If farmers are unable to meet their objectives for 2 consecutive years, the Farmers Home commitment may be withdrawn unless the failure is due to circumstances beyond the control of the farmer and will not materially reduce the likelihood of the operation's financial viability. Graduation, the process of moving farmers from federally subsidized credit to commercial credit, has long been the goal of Farmers Home programs and this bill will help make it a reality.

Farmers in my State and elsewhere have experienced difficult times in recent years. Natural disasters, depressed prices, high costs, unfair trade competition, and other factors have all taken their toll. Still, farmers are among the toughest and most dedicated of all our citizens. I am proud to serve them and, through this legislation, to help provide the means for young farmers to succeed. I am equally proud to join with my colleagues in the introduction of this bill as an expression of our thanks to all the generations of farmers who have served this Nation and as a promise of support and expectation for those generations to come.

Mr. LEAHY. Mr. President, I am pleased to cosponsor the Agricultural Credit Amendments Act of 1992. I want to recognize Senator CONRAD, chairman of the Subcommittee on Credit, for his leadership in developing this legislation.

Because of the economics of the past decade, it has become all but impossible for an American farmer to make a decent living, let alone hope that a son or daughter can do the same. We are at risk of losing the family farm—the farm passed down from generation to generation. We must pass this legislation to give young people who want a future in agriculture the opportunity they deserve.

Over the past decade we have witnessed dramatic changes in American agriculture. Nearly one-half of all farmers in 1987 were over the age of 55 and less than 2 percent were under age 25. Farm population is declining at an alarming rate. This year we have only 2.1 million farm families left in the United States. We must act to preserve our rural heritage before it is too late.

The farm recession of the 1980's and policy changes by the Reagan-Bush administrations have restricted the capability of beginning farmers to obtain the credit they need to get started farming.

Given the financial environment today, some restrictions are understandable. This legislation is special because it protects our financial interests—it encourages young people to choose farming as their profession but demands that they make a 10-year commitment and meet their goals. As long as the young farmer keeps his commitment, the Farmers Home Administration will assist with credit.

This program is based on success rather than failure. These young farmers must succeed—if they miss their goals for 2 consecutive years, FmHA can withdraw their commitment. Therefore the program aids in graduating farmers to commercial credit—which has always been an objective of the Farmers Home loan programs. These loan programs were established to provide last resort credit, intended only as a temporary source.

As young farmers face many obstacles, it is appropriate that we have a national policy to assist those young farmers that simply need help getting started.

Enough of the policies of the past decade have hurt rural communities—we have seen much of the progress made combating poverty and unemployment in rural areas reversed. Agriculture plays an essential role in the vitality of rural areas, and losing young farmers will only further add to the struggles of rural America.

We have a proud tradition of agriculture in Vermont and in America. That proud tradition remains on the face of every man and woman, every American farmer that year after year holds on to their farm, is firm in their conviction that U.S. agriculture must remain a world leader, and teaches the value of their land and their farm to their children. This legislation helps ensure that the proud tradition of American agriculture is not lost.

Mr. FOWLER. Mr. President, this legislation is extremely important to the beginning farmers of America and I am pleased to support its passage. However, we have failed to address an important provision expanding the lending authority of the Farm Credit System. I have worked long and hard with the chairman of the Agriculture Committee on this matter and we have come to an agreement which temporarily resolves some of my concerns.

Mr. LEAHY. The Senator from Georgia's interest in this matter is well documented and he should be commended for his commitment to expanding economic development opportunities in rural America.

Mr. FOWLER. I thank my distinguished chairman and want to clarify our agreement. It is my understanding the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on the expansion of the Farm Credit System's lending authority early next year?

Mr. LEAHY. The distinguished Senator from Georgia is correct. The committee will hold a hearing on that matter at the beginning of the 103d Congress early next year.

Mr. FOWLER. It is also my understanding that after the hearing the committee members will examine the testimony to determine if there is interest in moving forward with legislation. If there is significant interest in moving forward with legislation expanding the leading authority of the Farm Credit System, the committee will act accordingly.

Mr. LEAHY. If after the hearing there is a desire by the members of the committee to address the expansion of lending authority, the committee will act accordingly.

Mr. FOWLER. I thank the Senator from Vermont and also want to recognize his continued leadership on the many issues facing rural America.

By Mr. BREAUX:

S. 3313. A bill to amend the Immigration and Nationality Act to accord nonimmigrant alien status to certain alien crewmen aboard fishing vessels of U.S. registry; to the Committee on the Judiciary.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

• Mr. BREAUX. Mr. President, today I am introducing legislation that will correct an unintended, potentially damaging, consequence of U.S. immigration law, which control the activities of alien tuna fishing vessel crewmen who enter ports in this country. Immigration and naturalization law permit parole privileges, under specified procedures, to crewmembers of foreign-flagged fishing boats that enter U.S. ports.

Alien crewmen on foreign-flagged fishing vessels that dock at our ports are able to secure parole privileges to leave these vessels for onshore medical attention, travel to airports for flights home, attend to the boat's business, and work alongside their vessels to repair nets and perform other work-related functions. Mr. President, alien crews on foreign vessels are allowed reasonable and ample parole privileges.

But if these same crewmen sail into American ports 1 month later as members of crews of American-flagged fishing vessels, Mr. President, they are denied parole privileges absolutely. They cannot visit a doctor if they are sick or injured. They cannot repair nets. They are limited in their ability to participate in unloading the catch. And, they certainly cannot travel to airports: they are not allowed to leave the boat, Mr. President.

Mr. President, according to the Justice Department:

> This inequity arises because section 101(a)(15)(D) of the Immigration and Nationality Act forbids classifying nonimmigrants who work on fishing vessels based in the United States as "D" crewmen. This group of nonimmigrants does not fall under any other category specified in the act * * * according to statute and the policy of the Immigration and Naturalization Service, these crewmen are detained on board their vessels.

Please note, Mr. President, that under our law if you are an undocumented alien docked in an American port as a crewmember of a foreign-flagged fishing vessel, you are treated substantially different, than if you are an undocumented alien under the same circumstances except that you are a crewman of an American-flagged fishing vessel.

Such law and policy, Mr. President, can have serious economic consequences. If foreign crews on American vessels cannot leave their vessels, an American fishing vessel is, and has been, hampered in its ability to unload its catch.

A California cannery has felt the impact of this discrimination. As noted by the Fishermen's Union of America, an affiliate of the Seafarers International Union of North America, AFL–CIO, the tuna cannery in the continental United States at Terminal Island, CA, is threatened with closure if U.S. fishing vessels must unload their catches in ports outside of the United States. It is my understanding that this community's economic base is centered on the commercial fishing industry.

My bill would correct this unreasonable discrimination. My bill would amend the statute to give to foreign crews working on American fishing vessels the same parole rights and privileges, no more or no less, Mr. President, as their counterparts who work on foreign-flagged fishing vessels.

I again note, Mr. President, that the off-vessel activities of foreign crews of American fishing vessels that would be sanctioned by my bill are already being practiced by foreign crews of foreign-flagged fishing vessels. Longshore activities of foreign crews of American vessels would be strictly limited to those allowed under Immigrant Act regulations that enforce section 101(a)(15)(D)(i). American-vessel foreign crews would also have to meet the same documentation requirements, and the requirements of all regulations otherwise prescribed by the Immigration and Naturalization Service for the control of undocumented aliens.

This bill will, however, remove the unintended consequence of U.S. law discriminating against American fishing vessels and creating a disadvantage for an American tuna cannery.

Mr. President, I urge my colleagues to join me in supporting and passing this immigrant legislation.•

By Mr. DANFORTH (for himself, Mr. BOND, Mr. COCHRAN, Mr. SMITH, Mr. SYMMS, Mr. STEVENS, Mr. HATCH, Mr. GARN, Mr. BURNS, Mr. D'AMATO, Mr. EXON, Mr. PRESSLER, Mr. MURKOWSKI, and Mr. JOHNSTON):

S.J. Res. 345. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT PROHIBITING THE LAYING OR INCREASING OF TAXES BY THE SUPREME COURT OR ANY INFERIOR COURT OF THE UNITED STATES

• Mr. DANFORTH. Mr. President, I rise to introduce a constitutional amendment confirming the principle that unelected officials cannot raise taxes on the American people. I ask unanimous consent that the text of the amendment follow my remarks. I am surprised that there is a need for this amendment. Yet, in a 5-to-4 decision on April 18, 1990, the Supreme Court upheld a lower court's decision, which increased taxes on the people in my State. The increase in taxes was indirect, but in a sense so narrow as to be meaningless. Although the Court properly held that a court does not have the power to simply levy a tax increase, in the same opinion the Court held that a judge may eliminate State law impediments to higher taxes and then order that the relevant taxes be increased. I agree with the dissent, that "any purported distinction between direct imposition of a tax by the Federal court and an order commanding the school district to impose the tax is but a convenient formalism."

In 1977, a group of Kansas City students filed a complaint against the State of Missouri for operating a segregated school system. The district court found that the school district and the State had violated the Constitution and ordered a magnet school system to remedy the violation. Unlike most orders in which a court requires that a certain remedy be implemented, this court decided to immerse itself in the details of the new magnet school plan. The judge has ordered $1.2 billion spent on building improvements and development of new programs. That cost could reach $2 billion by the year 2000. The liability for this astronomical amount is split 75 percent to the State and 25 percent to the Kansas City School District. Yet, because of joint and several liability, the State ultimately picks up the tab for amounts that cannot be raised by the local government.

This order has placed an incredible burden on Missouri's budget. Last year, the State had to come up with an unexpected $71 million for desegregation costs. The State has already paid out $570.7 million for the Kansas City desegregation program. The court-ordered monitoring committee found the following:

> The attitude has been prevalent throughout the * * * program that money is no object, and the court will provide all that is necessary and no one will take any punitive actions if we are sloppy in our work habits.
>
> * * *

Why extravagance with the public's money? I would argue it is because an unelected individual has ordered higher taxes to fund the plan. The reason our Constitution did not accord the taxing power to unelected officials is because our government must be accountable to the people, and no power is more basic than the power to tax. The public's money must not be spent unless there is some method for turning off the faucet, or passing judgment on the official who is spending the money.

In Missouri versus Jenkins, the Court was wrong. The Constitution never granted courts the power to levy a direct or indirect tax. Article I, section 8 of the Constitution gives Congress the "power to lay and collect taxes, duties, imposts and excises." Article III enumerates the powers of the judicial branch, and nowhere in the text of article III does the word "tax" appear.

Article I, section 7 states that "all bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills." Why do tax bills have to originate in the House? The reason is that the House of Representatives was the part of Congress closest to the people when the Constitution was written. Until 1913, Senators were elected by State legislators, and therefore were considered more removed from the people.

If the language of the Constitution is not clear enough, let's follow the ordinary canons of constitutional interpretation and look at the history of the founding of this country and the drafting of the Constitution. The Revolutionary War was fought over the right of the people to avoid taxation without representation. The Stamp Act Congress in 1765 reflected the views of all the States in stating the following:

> *Resolved:* That it is inseparably essential to the freedom of a people, and the undoubted right of Englishmen, that no taxes be imposed on them but with their own consent, given personally or by their representatives * * * that the only representatives of the people of these colonies are persons chosen therein by themselves, and that no taxes ever have been, or can be constitutionally imposed on them, but by their respective legislatures.

In the Federalist Papers, Alexander Hamilton and James Madison gave us our best insight into the intent of the drafters regarding taxation. In Federalist 48, James Madison said the following: "* * * the legislative department alone has access to the pockets of the people." In Federalist 78, Hamilton argued that the judicial branch would be the least dangerous branch saying in the process that judges would have "no influence over either the sword or the purse."

In my view, the dissenters in Missouri versus Jenkins were correct: the Constitution did not give judges the power of taxation. Because the government cannot exercise powers it doesn't possess, it follows as a matter of obvious necessity that judges cannot tax. If judges can tax, then the government can give itself powers not granted by the people—an idea that is ridiculous on its face.

My amendment is simple. It would restore the understanding which I have always had of the Constitution. It will not hamstring the courts nor prevent its remedies from being enforced. Courts have always had the civil contempt power which, as is evidenced by the housing desegregation order in Yonkers, NY, is no trifling weapon. Courts have always been able to enforce their orders without the need for the taxing power, and this amendment will not alter this balance of power.

This amendment restates our belief that Americans should not and will not be taxed without representation. It is shocking that the law, as it stands, says the opposite: that an unelected official, appointed for life, can raise taxes. There is no more basic principle in America than popular consent to being taxed. When the courts hold otherwise, the courts are wrong, and should be corrected.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the Joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 345

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a State or political subdivision thereof, or an official of such State or political subdivision, to lay or increase taxes."•

SENATE CONCURRENT RESOLUTION 140—RELATING TO HUMANITARIAN RELIEF AND HUMAN RIGHTS IN THE SUDAN

Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. PELL, Mr. HELMS, Mr. LEVIN, and Mr. BRADLEY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 140

Whereas the Government of Sudan engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas Sudanese military forces and the resistance movement, the Sudan Peoples' Liberation Army, are currently engaged in a battle for the southern capital of Juba without regard for the welfare of its civilian population, some 300,000 of whom are existing only on the intermittent provision of relief supplies;

Whereas the Government of Sudan is engaging in gross abuses of human rights elsewhere in the country, including a campaign of forced displacement of tens of thousands of Nuba from their ancestral homes in southern Kordofan Province, the destruction of Nuba villages, and the killing of hundreds of civilians;

Whereas the Government of Sudan has undertaken a cruel campaign to relocate some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city, has announced plans to relocate an additional 250,000 in the coming months, and inhibited many international relief agencies from aiding the displaced;

Whereas the Government of Sudan has systematically harassed international relief agencies and workers whose only objective is to reduce suffering among Sudanese citizens in need;

Whereas the Government of Sudan is engaging in the imprisonment, torture, and execution of suspected dissidents across the country; and

Whereas, in September 1992, the Government of Sudan executed in Juba one and possibly two employees of the United States Agency for International Development after trials in which the victims had no possibility of appropriate counsel or appeal: Now, therefore, be it

Resolved, That the Senate (The House of Representatives Concurring)

(1) condemns the egregious human rights abuses by the Government of Sudan and calls upon the Government of Sudan to cease its abuses of internationally recognized human rights and specifically—

(A) to allow free movement for all civilians who wish to leave the southern city of Juba and to cease the human rights abuses, including summary executions, of those civilians held against their will in Juba;

(B) to allow unrestricted and unconditional access for the International Committee of the Red Cross, United States officials, and other relief organizations to all parts of the country, including Juba;

(C) to guarantee the personal safety and security of all relief workers, including Sudanese employees of relief agencies working in Sudan;

(D) to provide a full accounting of the recent deaths of employees of the United States Agency for International Development in Juba;

(E) to cease its violent campaign of forced displacement of the Nuba people of Kordofan Province and the displaced people from Khartoum, to permit a greater number of international relief organizations to attend to their needs, and to initiate a process for just settlement of claims of those who have been relocated and whose homes and belongings have been destroyed;

(F) to permit international human rights groups to visit all areas of Sudan, including places of detention and displaced persons camps; and

(G) to lift the ban on the institutions of independent civil society such as the press and labor unions, and to restore freedom of speech and expression;

(2) calls upon the Sudan Peoples' Liberation Army to end its human rights abuses and interference with relief efforts; and

(3) calls upon the President to work with United Nations Secretary General Boutros Boutros-Ghali to convene a Security Council meeting to discuss the human rights situation in Sudan and to consider further international means, including within the United Nations system to ameliorate the humanitarian situation in Sudan.

AMENDMENTS SUBMITTED

PUBLIC HEALTH SERVICE ACT AMENDMENTS OF 1992

SMITH AMENDMENT NO. 3373

(Ordered to lie on the table.)

Mr. SMITH submitted an amendment intended to be proposed by him to the bill (S. 2899) to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes, as follows:

At the appropriate place, add the following:

TITLE . CRIME CONTROL

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crime Control Act of 1992".

(b) TABLE OF CONTENTS.—The following is the table of contents for this Act:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.
Sec. 102. Death penalty procedures.
Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.
Sec. 104. Conforming amendment relating to espionage.
Sec. 105. Conforming amendment relating to transporting explosives.
Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 108. Conforming amendment relating to murder.
Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
Sec. 110. Murder by Federal prisoner.
Sec. 111. Conforming amendment relating to kidnapping.
Sec. 112. Conforming amendment relating to hostage taking.
Sec. 113. Conforming amendment relating to mailability of injurious articles.
Sec. 114. Conforming amendment relating to presidential assassination.
Sec. 115. Conforming amendment relating to murder for hire.
Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 117. Conforming amendment relating to wrecking trains.
Sec. 118. Conforming amendment relating to bank robbery.
Sec. 119. Conforming amendment relating to terrorist acts.
Sec. 120. Conforming amendment relating to aircraft hijacking.
Sec. 121. Conforming amendment to Controlled Substances Act.
Sec. 122. Conforming amendment relating to genocide.
Sec. 123. Protection of court officers and jurors.
Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 125. Death penalty for murder of Federal law enforcement officers.
Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
Sec. 127. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
Sec. 128. Amendment to Federal Aviation Act.
Sec. 129. Offenses of violence against maritime navigation or fixed platforms.
Sec. 130. Torture.
Sec. 131. Weapons of mass destruction.
Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 133. Death penalty for civil rights murders.
Sec. 134. Death penalty for murder of Federal witnesses.
Sec. 135. Drive-by shootings.
Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 137. Death penalty for rape and child molestation murders.
Sec. 138. Protection of jurors and witnesses in capital cases.
Sec. 139. Inapplicability to Uniform Code of Military Justice.
Sec. 140. Death penalty for causing death in the sexual exploitation of children.
Sec. 141. Murder by escaped prisoners.
Sec. 142. Death penalty for murders in the District of Columbia.

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

Sec. 201. Short title.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment of Federal Rules of Appellate Procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 211. Short title for subtitle B.
Sec. 212. Death penalty litigation procedures.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Sec. 221. Funding for death penalty prosecutions.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Increased mandatory minimum sentences for criminals using firearms.
Sec. 402. Increased penalty for second offense of using an explosive to commit a felony.
Sec. 403. Smuggling firearms in aid of drug trafficking.
Sec. 404. Prohibition against theft of firearms or explosives.
Sec. 405. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 406. Summary destruction of explosives subject to forfeiture.
Sec. 407. Elimination of outmoded language relating to parole.
Sec. 408. Enhanced penalties for use of a firearm in the commission of counterfeiting or forgery.
Sec. 409. Mandatory penalties for firearms possession by violent felons and serious drug offenders.
Sec. 410. Receipt of firearms by nonresident.
Sec. 411. Prohibition against conspiracy to violate Federal firearms or explosives laws.
Sec. 412. Prohibition against theft of firearms or explosives from licensee.
Sec. 413. Prohibition against disposing of explosives to prohibited persons.
Sec. 414. Increased penalty for interstate gun trafficking.
Sec. 415. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
Sec. 416. Possession of explosives by felons and others.
Sec. 417. Possession of an explosive during the commission of a felony.
Sec. 418. Disposition of forfeited firearms.
Sec. 419. Definition of serious drug offense.
Sec. 420. Definition of burglary under the armed career criminal statute.

TITLE V—JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children To Distribute Drugs Near Schools and Playgrounds

Sec. 501. Strengthened Federal penalties.

Subtitle B—Antigang Provisions

Sec. 511. Grant program.
Sec. 512. Conforming repealer and amendments.
Sec. 513. Criminal street gangs.

Subtitle C—Juvenile Penalties

Sec. 521. Treatment of violent juveniles as adults.
Sec. 522. Serious drug offenses by juveniles as armed career criminal act predicates.
Sec. 523. Certainty of punishment for young offenders.

Subtitle D—Other Provisions

Sec. 531. Bindover system for certain violent juveniles.
Sec. 532. Gang investigation coordination and information collection.
Sec. 533. Clarification of requirement that any prior record of a juvenile be produced before the commencement of juvenile proceedings.

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

Sec. 601. Terrorism civil remedy.
Sec. 602. Providing material support to terrorists.
Sec. 603. Forfeiture of assets used to support terrorists.
Sec. 604. Alien witness cooperation.
Sec. 605. Territorial sea extending to 12 miles included in special maritime and territorial jurisdiction.
Sec. 606. Assimilated crimes in extended territorial sea.
Sec. 607. Jurisdiction over crimes against United States nationals on certain foreign ships.
Sec. 608. Penalties for international terrorist acts.
Sec. 609. Authorization of appropriations.
Sec. 610. Enhanced penalties for certain offenses.
Sec. 611. Sentencing guidelines increase for terrorist crimes.
Sec. 612. Extension of the statute of limitations for certain terrorism offenses.
Sec. 613. International parental kidnapping.
Sec. 614. State court programs regarding interstate and international parental child abduction.
Sec. 615. Foreign murder of United States nationals.

Sec. 616. Extradition.
Sec. 617. Gambling devices on United States ships.
Sec. 618. FBI access to telephone subscriber information.

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

Sec. 701. Definition of sexual act for victims below 16 years of age.
Sec. 702. Increased penalties for recidivist sex offenders.
Sec. 703. Restitution for victims of sex offenses.
Sec. 704. HIV testing and penalty enhancement in sexual abuse cases.
Sec. 705. Payment of cost of HIV testing for victim.

Subtitle B—Victims' Rights

Sec. 711. Restitution amendments.
Sec. 712. Victim's right of allocution in sentencing.
Sec. 713. Right of the victim to an impartial jury.
Sec. 714. Mandatory restitution and other provisions.

Subtitle C—Crime Victims Fund

Sec. 721. Crime victims fund.
Sec. 722. Percentage change in crime victim compensation formula.
Sec. 723. Administrative costs for crime victim compensation.
Sec. 724. Relationship of crime victim compensation to certain Federal programs.
Sec. 725. Use of unspent section 1403 money.
Sec. 726. Underserved victims.
Sec. 727. Grants for demonstration projects.
Sec. 728. Administrative costs for crime victim assistance.
Sec. 729. Change of due date for required report.
Sec. 730. Maintenance of effort.
Sec. 731. Delayed effective date for certain provisions.

Subtitle D—National Child Protection Act

Sec. 741. Short title.
Sec. 742. Findings and purposes.
Sec. 743. Definitions.
Sec. 744. Reporting by the States.
Sec. 745. Background checks.
Sec. 746. Funding for improvement of child abuse crime information.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

Sec. 751. Short title.
Sec. 752. Establishment of program.
Sec. 753. State compliance.

Subtitle F—Domestic Violence

Sec. 761. Domestic violence grants.
Sec. 762. Report on battered women's syndrome.

Subtitle G—Other Provisions

Sec. 771. Inducement of minor to commit an offense.
Sec. 772. Disclosure of records of arrests by campus police.
Sec. 773. National baseline study on campus sexual assault.
Sec. 774. Sense of Congress concerning child custody and visitation rights.

TITLE VIII—EQUAL JUSTICE ACT

Sec. 801. Short title.
Sec. 802. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 803. General safeguards against racial prejudice or bias in the tribunal.
Sec. 804. Federal capital cases.
Sec. 805. Extension of protection of civil rights statutes.

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

Sec. 901. Short title.
Sec. 902. Grants to State and local agencies.
Sec. 903. Continuation of Federal-State funding formula.
Sec. 904. Grants for multi-jurisdictional drug task forces.

Subtitle B—Retired Public Safety Officer Death Benefit

Sec. 911. Retired public safety officer death benefit.

Subtitle C—Study on Police Officers' Rights

Sec. 921. Study on police officers' rights.

Subtitle D—Community Policing

CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

Sec. 931. Short title.
Sec. 932. Purposes.
Sec. 933. Establishment of Office of the Police Corps and Law Enforcement Education.
Sec. 934. Designation of lead agency and submission of State plan.

Subchapter A—Police Corps Program

Sec. 935. Definitions.
Sec. 936. Scholarship assistance.
Sec. 937. Selection of participants.
Sec. 938. Police corps training.
Sec. 939. Service obligation.
Sec. 940. State plan requirements.
Sec. 941. Authorization of appropriations.

Subchapter B—Law Enforcement Scholarship Program

Sec. 942. Short title.
Sec. 943. Definitions.
Sec. 944. Allotment.
Sec. 945. Program established.
Sec. 946. Scholarships.
Sec. 947. Eligibility.
Sec. 948. State application.
Sec. 949. Local application.
Sec. 950. Scholarship agreement.
Sec. 951. Authorization of appropriations.

Subchapter C—Reports

Sec. 952. Reports to Congress.

CHAPTER 2—COP-ON-THE-BEAT GRANTS

Sec. 961. Short title.
Sec. 962. Cop-on-the-beat grants.

Subtitle E—Rural Crime Prevention Strategy

Sec. 971. Findings.
Sec. 972. Strategy to address rural crime.
Sec. 973. National Institute of Justice national assessment.
Sec. 974. Pilot programs.
Sec. 975. Funding.

Subtitle F—National Commission to Support Law Enforcement

Sec. 981. Short title.
Sec. 982. Findings.
Sec. 983. Establishment of commission.
Sec. 984. Duties.
Sec. 985. Membership.
Sec. 986. Experts and consultants.
Sec. 987. Powers of commission.
Sec. 988. Report.
Sec. 989. Termination.
Sec. 989A. Repeals.

Subtitle G—Other Provisions

Sec. 991. Missing Alzheimer's disease patient alert program.
Sec. 992. Authorization of appropriations for Bureau of Justice Assistance discretionary grants.
Sec. 993. Law enforcement family support.
Sec. 994. Mandatory literacy program.
Sec. 995. Trauma centers and crime-related violence.
Sec. 996. Study and assessment of alcohol use and treatment.
Sec. 997. Notice of release of prisoners.

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

Sec. 1001. Drug testing of Federal offenders on post-conviction release.
Sec. 1002. Drug testing in State criminal justice systems.

Subtitle B—Precursor Chemicals

Sec. 1011. Short title.
Sec. 1012. Definition amendments.
Sec. 1013. Registration requirement.
Sec. 1014. Reporting of listed chemical manufacturing.
Sec. 1015. Reports by brokers and traders; criminal penalties.
Sec. 1016. Exemption authority; additional penalties.
Sec. 1017. Amendments to list I.
Sec. 1018. Elimination of regular supplier status and creation of regular importer status.
Sec. 1019. Administrative inspections and authority.
Sec. 1020. Threshold amounts.
Sec. 1021. Management of listed chemicals.
Sec. 1022. Attorney General access to the National Practitioner Data Bank.
Sec. 1023. Regulations and effective date.

Subtitle C—Interdiction

Sec. 1031. Sanctions for failure to land or to bring to.
Sec. 1032. FAA revocation authority.
Sec. 1033. Coast Guard air interdiction authority.
Sec. 1034. Coast Guard civil penalty provisions.
Sec. 1035. Customs orders.
Sec. 1036. Customs civil penalty provisions.
Sec. 1037. Information exchange and assistance.
Sec. 1038. Assistance to foreign governments and international organizations.
Sec. 1039. Amendment to the Mansfield amendment to permit maritime law enforcement operations in archipelagic waters.

Subtitle D—Rural Drug Crime

Sec. 1051. Rural drug enforcement task forces.
Sec. 1052. Cross-designation of Federal officers.
Sec. 1053. Rural drug enforcement training.
Sec. 1054. Authorization of appropriations for rural law enforcement agencies.
Sec. 1055. Rural substance abuse treatment and education grants.
Sec. 1056. Clearinghouse program.

Subtitle E—Grant Programs

Sec. 1061. Drug emergency areas.
Sec. 1062. Department of Justice community substance abuse prevention.
Sec. 1063. Grants for substance abuse treatment.
Sec. 1064. Drug testing upon arrest.

Subtitle F—Other Provisions

Sec. 1071. Strengthened Federal penalties relating to crystalline methamphetamine.
Sec. 1072. Advertisements of controlled substances.
Sec. 1073. Increased penalties for distribution of controlled substances at truck stops and rest areas.

Sec. 1074. Enhancement of penalties for drug trafficking in prisons.
Sec. 1075. Seizure of vehicles with concealed compartments.
Sec. 1076. Closing of loophole for illegal importation of small drug quantities.
Sec. 1077. Undercover operations—churning.
Sec. 1078. Drug paraphernalia amendment.
Sec. 1079. Conforming amendments concerning marijuana.
Sec. 1080. Conforming amendment adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles.
Sec. 1081. Clarification of narcotic or other dangerous drugs under RICO.
Sec. 1082. Conforming amendments to recidivist penalty provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act.
Sec. 1083. Elimination of outmoded language relating to parole.
Sec. 1084. Conforming amendment to provision punishing a second offense of distributing drugs to a minor.
Sec. 1085. Life imprisonment without release for criminals convicted a third time.
Sec. 1086. Longer prison sentences for those who sell illegal drugs to minors or for use of minors in drug trafficking activities.
Sec. 1087. Drug paraphernalia.
Sec. 1088. Mandatory penalties for illegal drug use in Federal prisons.
Sec. 1089. Drug distribution to pregnant women.
Sec. 1090. Drugged or drunk driving child protection.
Sec. 1091. Penalties for drug dealing in public housing authority facilities.
Sec. 1092. Eviction from places maintained for manufacturing, distributing, or using controlled substances.
Sec. 1093. Increased penalties for drug dealing in "drug-free" zones.
Sec. 1094. Anabolic steroids penalties.
Sec. 1095. Program to provide public awareness of the provisions of law that condition portions of a State's Federal highway funding on the State's enactment of legislation requiring the revocation of the driver's licenses of convicted drug abusers.
Sec. 1096. Drug abuse resistance education programs.
Sec. 1097. Misuse of the words "Drug Enforcement Administration" or the initials "DEA".

TITLE XI—PUBLIC CORRUPTION

Sec. 1101. Short title.
Sec. 1102. Public corruption.
Sec. 1103. Interstate commerce.
Sec. 1104. Narcotics-related public corruption.

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

Sec. 1201. Addition of attempted robbery, kidnapping, smuggling, and property damage offenses to eliminate inconsistencies and gaps in coverage.
Sec. 1202. Increase in maximum penalty for assault.
Sec. 1203. Increased maximum penalty for manslaughter.
Sec. 1204. Violent felonies against the elderly.
Sec. 1205. Increased penalty for Travel Act violations.
Sec. 1206. Increased penalty for conspiracy to commit murder for hire.

Subtitle B—Civil Rights Offenses

Sec. 1211. Increased maximum penalties for civil rights violations.

Subtitle C—White Collar and Property Crimes

Sec. 1221. Receipt of proceeds of a postal robbery.
Sec. 1222. Receipt of proceeds of extortion or kidnapping.
Sec. 1223. Conforming addition to obstruction of civil investigative demand statute.
Sec. 1224. Conforming addition of predicate offenses to financial institutions rewards statute.
Sec. 1225. Definition of savings and loan association in bank robbery statute.
Sec. 1226. Conforming definition of "1 year period" in 18 U.S.C. 1516.
Sec. 1227. Professional and amateur sports protection.
Sec. 1228. Criminal sanctions for violation of software copyright.
Sec. 1229. Financial institutions fraud.
Sec. 1230. Wiretaps.
Sec. 1231. Thefts of major art works.
Sec. 1232. Military medals and decorations.
Sec. 1233. Motor Vehicle Theft Prevention Act.
Sec. 1234. Knowledge requirement for stolen or counterfeit property.
Sec. 1235. Mail fraud.
Sec. 1236. Fraud and related activity in connection with access devices.
Sec. 1237. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
Sec. 1238. Increased penalties for trafficking in counterfeit goods and services.
Sec. 1239. Computer Abuse Amendments Act of 1992.
Sec. 1239A. Notification of law enforcement officers of discoveries of controlled substances or large amounts of cash in weapons screening.

Subtitle D—Sentencing and Procedure

Sec. 1241. Imposition of sentence.
Sec. 1242. Technical amendment to mandatory conditions of probation.
Sec. 1243. Revocation of probation.
Sec. 1244. Supervised release after imprisonment.
Sec. 1245. Authorization of probation for petty offenses in certain cases.
Sec. 1246. Trial by a magistrate in petty offense cases.
Sec. 1247. Conforming authority for magistrates to revoke supervised release in addition to probation in misdemeanor cases in which the magistrate imposed sentence.
Sec. 1248. Availability of supervised release for juvenile offenders.
Sec. 1249. Immunity.
Sec. 1250. Extended service of members of the Sentencing Commission.

Subtitle E—Immigration-Related Offenses

Sec. 1251. Exploitation of aliens.
Sec. 1252. Criminal alien identification and removal fund.
Sec. 1253. Aliens convicted of felony drunk driving.

Subtitle F—United States Marshals

Sec. 1261. Short title.
Sec. 1262. Establishment and purpose of association.
Sec. 1263. Board of directors of the association.
Sec. 1264. Membership.
Sec. 1265. Rights and obligations of the association.
Sec. 1266. Administrative services and support.
Sec. 1267. Volunteer status.
Sec. 1268. Restrictions.
Sec. 1269. Audits, report requirements, and petition of Attorney General for equitable relief.
Sec. 1270. Liability of the United States.
Sec. 1271. Nondiscrimination.
Sec. 1272. Acquisition of assets and liabilities of existing association.
Sec. 1273. Amendment and repeal.

Subtitle G—Other Provisions

Sec. 1281. Optional venue for espionage and related offenses.
Sec. 1282. Definition of livestock.
Sec. 1283. Court to be held at Lancaster.
Sec. 1284. Authorization of funds for construction of a United States Attorney's Office in Philadelphia, Pennsylvania.
Sec. 1285. Award of attorney's fees for employees of Department of Justice.
Sec. 1286. Required reporting by criminal court clerks.
Sec. 1287. Audit requirement for State and local law enforcement agencies receiving Federal asset forfeiture funds and report to Congress on administrative expenses.
Sec. 1288. DNA identification.
Sec. 1289. Safe schools.

TITLE XIII—TECHNICAL CORRECTIONS

Sec. 1301. Amendments relating to Federal financial assistance for law enforcement.
Sec. 1302. General title 18 corrections.
Sec. 1303. Corrections of erroneous cross references and misdesignations.
Sec. 1304. Obsolete provisions in title 18.
Sec. 1305. Correction of drafting error in the Foreign Corrupt Practices Act.
Sec. 1306. Elimination of redundant penalty.
Sec. 1307. Corrections of misspellings and grammatical errors.

TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

Sec. 1401. Short title.
Sec. 1402. Authorization of appropriations for Federal law enforcement agencies.

TITLE XV—FEDERAL PRISONS

Sec. 1501. Authorization of appropriations for new prison construction.

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1992".

SEC. 102. DEATH PENALTY PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.

"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.
"3600. Application in Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c) if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(6) any other offense for which a sentence of death is provided if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense or who is mentally retarded.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) NO SIGNIFICANT CRIMINAL HISTORY.—The defendant did not have a significant history of other criminal conduct.

"(5) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339A (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use of attempted or threatened use of a firearm (as defined in section 921), against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3), (4), or (5), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm (as defined in section 921) to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) Return of a Finding Concerning a Sentence of Death.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (2) or (6), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591 (3), (4), or (5), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) Special Precaution To Assure Against Discrimination.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§ 3595. Review of a sentence of death

"(a) Appeal.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) Review.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) Decision and Disposition.—

"(1) Affirmance.—If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal,

it shall affirm the sentence.

"(2) Remand.—In a case in which the sentence is not affirmed under paragraph (1), the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) Statement of Reasons.—The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) In General.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) Special Bars To Execution.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) Employees May Decline To Participate.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) Representation of Indigent Defendants.—This section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) has occurred. This section shall not affect the appointment of counsel and the provision of ancillary legal services under section 408(q) (4), (5), (6), (7), (8), (9), and (10) of the Controlled Substances Act (21 U.S.C. 848 (q) (4), (5), (6), (7), (8), (9), and (10)).

"(b) Representation Before Finality of Judgment.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005. At least 1 counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) Representation After Finality of Judgment.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days after receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

"(1) appointing 1 or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

"(2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation.

Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least 1 counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least 1 counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet the standards prescribed in the 2 preceding sentences, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(c), a motion in the case under section 2255 of title 28 shall be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(c). The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the motion under that section is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of the decision to do so, the defendant waives the right to file a motion under section 2255 of title 28.

"(c) FINALITY OF DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was—

"(A) the result of governmental action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 3600. Application in Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by adding after the item relating to chapter 227 the following new item:

"228. Death penalty procedures .... 3591.".

SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by striking the period at the end and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 that the offense directly concerned—

"(1) nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack;

"(2) war plans;

"(3) communications intelligence or cryptographic information;

"(4) sources or methods of intelligence or counterintelligence operations; or

"(5) any other major weapons system or major element of defense strategy.".

SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.

Section 1111(b) of title 18, United States Code, is amended to read as follows:

"(b) Within the special maritime and territorial jurisdiction of the United States—

"(1) whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life; and

"(2) whoever is guilty of murder in the second degree shall be imprisoned for any term of years or for life".

SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18, United States Code, is amended by striking the comma after "title" and all that follows through "years".

SEC. 110. MURDER BY FEDERAL PRISONER.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) DEFINITIONS.—For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Section 1751(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both, and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The penultimate paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 118. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2332(a)(1) of title 18, United States Code, as redesignated by section 601(b)(2), is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended by striking subsection (c).

SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) (1), (2), and (3), and (r).

SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting "death or imprisonment for life and a fine of not more than $1,000,000".

SEC. 123. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "commissioner" each place it appears and inserting "magistrate judge"; and

(B) by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end the following new subsection:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

SEC. 124. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

SEC. 125. DEATH PENALTY FOR MURDER OF FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", in the case of murder (as defined in section 1111), be punished by death or imprisonment for life, and, in the case of manslaughter (as defined in section 1112), be punished as provided in section 1112, and".

SEC. 126. DEATH PENALTY FOR MURDER OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS ASSISTING FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," after "other statutory authority".

SEC. 127. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at the airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 128. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

SEC. 129. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 2280. Violence against maritime navigation

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of an offense described in paragraph (1), (2), (3), (4), (5), or (6); or

"(8) attempts to commit any act prohibited under paragraph (1), (2), (3), (4), (5), (6), or (7),

shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to commit any act prohibited under subsection (a) (2), (3), or (5), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured, or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) DELIVERY OF PROBABLE OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he or she has on board the ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action the master should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his or her intention to deliver such person and the reason therefor. If the master delivers such person, the master shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) DEFINITIONS.—As used in this section—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship that has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance that is likely to destroy the fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or attempted commission of an offense described in paragraph (1), (2), (3), or (4); or

"(6) attempts to do anything prohibited under paragraphs (1), (2), (3), (4), or (5);

shall be fined under this title, imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to do anything prohibited under subsection (a) (2) or (3), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) DEFINITIONS.—As used in this section—

"(1) 'continental shelf' means the seabed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date on which the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date on which the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 130. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

"113B. Torture .... 2340.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 131. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in the amendment made by subsection (b)) gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, as amended by section 601(b), is amended by adding at the end the following new section:

"§ 2339A. Use of weapons of mass destruction

"(a) OFFENSE.—Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—As used in this section—

"(1) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(A) a destructive device (as defined in section 921);

"(B) poison gas;

"(C) a weapon involving a disease organism; and

"(D) a weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(c), is amended by adding at the end the following new item:

"2339A. Use of weapons of mass destruction.".

SEC. 132. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder (as defined in section 1111(a)), be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113.".

SEC. 133. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting "the death penalty or" before "imprisonment".

SEC. 134. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;".

SEC. 135. DRIVE-BY SHOOTINGS.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 931. Drive-by shootings

"(a) OFFENSE.—Whoever knowingly discharges a firearm at a person—

"(1) in the course of or in furtherance of drug trafficking activity; or

"(2) from a motor vehicle,

shall be punished by imprisonment for not more than 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

"(b) DEFINITION.—As used in this section, the term 'drug trafficking activity' means a drug trafficking crime (as defined in section 929(a)(2)), or a pattern or series of acts involving one or more drug trafficking crimes.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"931. Drive-by shootings.".

SEC. 136. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) Whoever, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

SEC. 137. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§ 2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item relating to section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.

"2246. Definitions for chapter.".

SEC. 138. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by striking the period and inserting: ", except that the list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person.".

SEC. 139. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

SEC. 140. DEATH PENALTY FOR CAUSING DEATH IN THE SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following new sentence: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 141. MURDER BY ESCAPED PRISONERS.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, as amended by section 110, is amended by adding at the end the following new section:

"§ 1119. Murder by escaped prisoners

"(a) OFFENSE.—A person who, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another person, shall be punished as provided in sections 1111 and 1112.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

SEC. 142. DEATH PENALTY FOR MURDERS IN THE DISTRICT OF COLUMBIA.

Title 18 of the United States Code is amended—

(a) by adding the following new section at the end of chapter 51:

"§ 1118. Capital punishment for murders in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is a federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d)–(l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm as defined in section 921 of this title.

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than one year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(i) while such public servant was engaged in the performance of his or her official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) Special Precaution To Assure Against Discrimination.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) Imposition of a Sentence of Death.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) Review of a Sentence of Death.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) Implementation of Sentence of Death.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) Special Bar To Execution.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) Conscientious Objection To Participation in Execution.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) Appointment of Counsel For Indigent Capital Defendants.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) Representation After Finality of Judgment.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) Standards For Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under subsections (q)-(r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least three years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) Claims of Ineffectiveness of Counsel in Collateral Proceedings.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) Time For Collateral Attack on Death Sentence.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) Stay of Execution.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) Finality of the Decision on Review.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning given in section 513 of this title, including the District of Columbia;

"(2) 'Offense', as used in paragraphs (2), (5), and (13) of subsection (e), and in paragraph (5) of this subsection, means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'Drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2) of this title, or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'Robbery' means obtaining the property of another by force or threat of force;

"(5) 'Burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'Sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'Arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'Kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'Pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'Public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of this title.

"(y) When an offense is charged under this section, the government may join any charge under the District of Columbia Code that arises from the same incident."; and

"(b) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in the District of Columbia.".

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1992".

SEC. 202. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 203. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 204. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"*Rule 22. Habeas corpus and section 2255 proceedings*

"(*a*) *Application for an Original Writ of Habeas Corpus.*—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(*b*) *Necessity of Certificate of Probable Cause for Appeal.*—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

SEC. 205. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."; and

(5) by adding at the end the following new subsection:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

SEC. 206. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second paragraph and the penultimate paragraph; and

(2) by adding at the end the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. 211. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1992".

SEC. 212. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) APPLICATION OF CHAPTER.—This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) ESTABLISHMENT OF APPOINTMENT MECHANISM.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) OFFER OF COUNSEL.—Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing 1 or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) PREVIOUS REPRESENTATION.—No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) NO GROUND FOR RELIEF.—The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) STAY.—Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) EXPIRATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) LIMITATION ON FURTHER STAY.—If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) REVIEW OF RECORD; HEARING.—Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) ADJUDICATION.—Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2261. Application to State unitary review procedure

"(a) IN GENERAL.—For purposes of this section, the term 'unitary review procedure' means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) OFFER OF COUNSEL.—A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) APPLICATION OF OTHER SECTIONS.—Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.

"§ 2262. Limitation periods for determining petitions

"(a) IN GENERAL.—The adjudication of any petition under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of the application unless a responsive pleading is required, in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) APPLICATION OF SECTION.—The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) RULE OF CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) NO GROUND FOR RELIEF.—The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) REPORT.—The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§ 2263. Rule of construction

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2256.".

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

SEC. 221. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after section 511 the following new section:

"FUNDING FOR DEATH PENALTY PROSECUTIONS

"SEC. 511A. Notwithstanding any other provision of this part, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 223 of title 28, United States Code, is amended by adding at the end the following new item:

"3509. Admissibility of evidence obtained by search or seizure.".

TITLE IV—FIREARMS AND RELATED AMENDMENTS

SEC. 401. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 10 years;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years; or

"(iii) knowingly uses, carries, or otherwise possesses a firearm that is a machinegun or destructive device, or that is equipped with a firearm silencer or firearm muffler, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 30 years.

"(B)(i) In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years for a violation of subparagraph (A)(i), to imprisonment for 30 years for a violation of subparagraph (A)(ii), and life imprisonment for a violation of subparagraph (A)(iii).

"(ii) In the case of a third or subsequent conviction under this subsection, or a conviction for a violation of subparagraph (A)(ii) that results in the death of another person, a person shall be sentenced to life imprisonment.

"(C) Notwithstanding any other law, a term of imprisonment under this subsection shall run concurrently with any other term of imprisonment imposed for the underlying crime.

"(D) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.".

SEC. 402. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "20".

SEC. 403. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 136, is amended by adding at the end the following new subsection:

"(j) Whoever, with the intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 404. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 403, is amended by adding at the end the following new subsection:

"(k) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

SEC. 405. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

SEC. 406. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Any"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 407. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1) by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

SEC. 408. ENHANCED PENALTIES FOR USE OF A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, as amended by section 401, is amended in subparagraph (A) by inserting "or during and in relation to any felony punishable under chapter 25" after "United States,".

SEC. 409. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) ONE PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2) (A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 5 years" before the period.

(b) TWO PRIOR CONVICTIONS.—Section 924 of title 18, United States Code, as amended by section 404, is amended by adding at the end the following new subsection:

"(l)(1) Notwithstanding subsection (a)(2), any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) with respect to the conviction under section 922(g).".

SEC. 410. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)(C) by striking "and";

(2) in paragraph (8)(C) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 411. PROHIBITION AGAINST CONSPIRACY TO VIOLATE FEDERAL FIREARMS OR EXPLOSIVES LAWS.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 409(b), is amended by adding at the end the following new subsection:

"(m) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 404(b), is amended by adding at the end the following new subsection:

"(l) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 412. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 411(a), is amended by adding at the end the following new subsection:

"(n) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 411(b), is amended by adding at the end the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

SEC. 413. PROHIBITION AGAINST DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 414. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 412(a), is amended by adding at the end the following new subsection:

"(o) Whoever, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 415. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 416. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 417. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

Section 844(h) of title 18, United States Code, is amended—

(1) by striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) by striking "used or carried" and inserting "used, carried, or possessed".

SEC. 418. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel or rare or because of its association with some historical figure, period, or event, the Secretary may sell the firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed or pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 419. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by adding "or" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) an offense under State law that, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) as that Act provided at the time of the offense, would have been punishable by a maximum term of 10 years or more;".

SEC. 420. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the term 'burglary' means a crime that—

"(i) consists of entering or remaining surreptitiously within a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year.".

TITLE V—JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 501. STRENGTHENED FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

Subtitle B—Antigang Provisions

SEC. 511. GRANT PROGRAM.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs";

and

(2) by adding at the end the following new subpart:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) PARTICULAR PURPOSES.—The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary-schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(10) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"(c) USE OF FUNDS.—Of the funds made available to each State under this section in any fiscal year, 50 percent shall be used for juvenile drug supply reduction programs and 50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) PURPOSE.—(1) The purpose of this section is to—

"(A) provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs;

"(B) replicate and demonstrate such programs to serve as national, regional, or local models that could be used, in whole or in part, by other public and private juvenile justice programs; and

"(C) provide technical assistance and training to public or private organizations to implement similar programs.

"(2) In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) PURPOSE.—The purpose of this section is to—

"(1) provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime-, drug-, and alcohol-related challenges faced by juveniles residing at or near ports of entry into the United States and in other international border communities, including rural localities;

"(2) replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) provide technical assistance and training to public and private organizations to implement similar programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles residing at or near ports of entry into the United States or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 5 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 234. There are authorized to be appropriated $100,000,000 for fiscal year 1992 and such sums as are necessary for fiscal year 1993 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 235. Of the amounts appropriated for this subpart for any fiscal year, the amount remaining after setting aside the amounts required to be reserved to carry out sections 232 and 233 shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States.

"(2) Of the funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 236. (a) IN GENERAL.—Each State applying for a grant under section 231 and each public or private entity applying for grants under section 232 or 233 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.

"(c) COORDINATION OF ASSISTANCE.—Each application described in subsection (a) shall include a detailed description of how the funds received under this subpart will be coordinated with assistance provided under subpart I of this part and part C of this title and assistance provided by the Bureau of Justice Assistance under the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Programs (42 U.S.C. 3750 et seq.).

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755 and 3758) relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 512. CONFORMING REPEALER AND AMENDMENTS.

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

SEC. 513. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.

"521. Criminal street gangs.

"§ 521. Criminal street gangs

"(a) ENHANCED PENALTY.—Whoever, under the circumstances described in subsection (c), commits an offense described in subsection (b), shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. A sentence of imprisonment imposed under this subsection shall run consecutively to any other sentence that is imposed.

"(b) OFFENSES.—The offenses referred to in subsection (a) are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(2) a Federal felony crime of violence;

"(3) a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.); and

"(4) a conspiracy to commit an offense described in paragraph (1), (2), or (3).

"(c) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(1) that the offense described in subsection (b) was committed by a member of, on behalf of, or in association with a criminal street gang; and

"(2) within 5 years prior to the date of the offense, the offender had been convicted of—

"(A) an offense described in subsection (b);

"(B) a State offense that—

"(i) involves a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(ii) is a crime of violence for which the maximum penalty is more than 1 year's imprisonment;

"(C) a Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'criminal street gang' means a group, club, organization, or association of 5 or more persons—

"(A) whose members engage, or have engaged within the past 5 years, in a continuing series of any of the offenses described in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent felony or controlled substances felony.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

"26. Criminal street gangs .... 521".

Subtitle C—Juvenile Penalties

SEC. 521 TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh undesignated paragraphs as subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as designated by subsection (a), is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as designated by subsection (a), is amended to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), a juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless the juvenile has requested in writing upon advice of counsel to be proceeded against as an adult.

"(2) With respect to a juvenile 15 years and older alleged to have committed an act after his or her 15th birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 924 (b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that such a transfer would be in the interest of justice.

"(3) A juvenile who is alleged to have committed an act after his or her 16th birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844 (d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), and (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as designated by subsection (a), is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following new paragraph:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

SEC. 522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, as amended by section 422, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking "and" at the end of clause (iii) and inserting "or"; and

(3) by adding at the end the following new clause:

"(iv) any act of juvenile delinquency that, if it were committed by an adult, would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 523. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1601. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 1602. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1603. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1601(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1604. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

"SEC. 1605. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated for this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders in the State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State for the purposes specified under section 1601 the portion of those funds that bears the same ratio to the aggregate amount of those funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified under section 1601.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for the fiscal year will not be used by the State or that a State is not eligible to receive funds under section 1601, the Director shall award such funds to units of local government in the State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1606. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Allocation and distribution of funds.
"Sec. 1606. Evaluation.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(24) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1054(a), is amended by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part P.".

Subtitle D—Other Provisions

SEC. 531. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code.".

SEC. 532. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by July 1, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1992 such sums as are necessary to carry out this section.

SEC. 533. CLARIFICATION OF REQUIREMENT THAT ANY PRIOR RECORD OF A JUVENILE BE PRODUCED BEFORE THE COMMENCEMENT OF JUVENILE PROCEEDINGS.

Section 5032(j) of title 18, United States Code, as designated by section 521(a), is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 until".

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

SEC. 601. TERRORISM CIVIL REMEDY.

(a) REINSTATEMENT OF LAW.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin;

"(2) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act; and

"(4) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated, the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) Convenience of the Forum.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) In General.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) Calculation of Period.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of the defendant's whereabouts, shall not be counted for the purposes of the period of limitation prescribed by subsection (a).

"§ 2336. Other limitations

"(a) Acts of War.—No action shall be maintained under section 2333 for injury or loss by reason of an act of war.

"(b) Limitation on Discovery.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the attorney for the Government may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any objections raised by the Government in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(c) Stay of Action for Civil Remedies.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§ 2337. Suits against Government officials

"No action shall be maintained under section 2333 against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within the officer's or employee's official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within the officer's or employee's official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.".

(c) Technical Amendments.—(1) The chapter analysis for chapter 113A of title 18, United States Code is amended to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(2) The item relating to chapter 113A in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"113A. Terrorism .... 2331".

(d) Effective Date.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

SEC. 602. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) Offense.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2339. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than 10 years, or both. For purposes of this section, material support or resources includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) Technical Amendment.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(b)(1), is amended by adding at the end the following new item:

"2339. Providing material support to terrorists.".

SEC. 603. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

(a) Civil Forfeiture.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal—

"(i) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(ii) constituting or derived from the gross profits or other proceeds obtained from,

a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

(b) Criminal Forfeiture.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) Any property, real or personal—

"(A) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(B) constituting or derived from the gross profits or other proceeds obtained from,

a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

SEC. 604. ALIEN WITNESS COOPERATION.

(a) Amendment of Chapter 224 of Title 18.—Chapter 224 of title 18, United States Code, is amended—

(1) by redesignating section 3528 as section 3529; and

(2) by inserting after section 3527 the following new section:

"§ 3528. Aliens; waiver of admission requirements

"(a) In General.—Upon authorizing protection to any alien under this chapter, the United States shall provide the alien with appropriate immigration visas and allow the alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) Alien With Felony Convictions.—Notwithstanding any other provision of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of 2 years. Upon a showing that the alien is still being provided protection, or that protection remains available to the alien in accordance with this chapter, or that the alien is still cooperating with the Government and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions unless the Attorney General determines, pursuant to regulations which shall be prescribed by the Attorney General, that granting permanent residence status to the alien is necessary in the interests of justice and comports with safety of the community.

"(c) Limit on Number of Aliens.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.

"(d) Definitions.—As used in this section, the terms 'alien' and 'United States' have the meanings stated in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 224 of title 18, United States Code, is amended by striking the item relating to section 3528 and inserting the following:

"3528. Aliens; waiver of admission requirements.

"3529. Definition.".

SEC. 605. TERRITORIAL SEA EXTENDING TO 12 MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 606. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code is amended—

(1) in subsection (a), by inserting after "title" the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, territory, possession, or district"; and

(2) by inserting at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of the State, territory, possession, or district within which it would lie if the boundaries of the State, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 607. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code, is amended by inserting at the end the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 608. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2332 of title 18, United States Code, as redesignated by section 601(a)(2), is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "20"; and

(B) in paragraph (3) by striking "three" and inserting "10"; and

(2) in subsection (c) by striking "five" and inserting "10".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in each of the fiscal years 1992, 1993, and 1994, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco, and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000; and

(7) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

SEC. 610. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) INTERNATIONAL ECONOMIC EMERGENCY POWERS ACT.—(1) Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(2) Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1541 OF TITLE 18.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "5 years".

(c) CHAPTER 75 OF TITLE 18.—Sections 1542, 1543, 1544, and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "10 years".

(d) SECTION 1545 OF TITLE 18.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "10 years".

SEC. 611. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than 3 levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 612. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32, 36, 112, 351, 1116, 1203, 1361, 1751, 2280, 2281, 2332, 2339A, or 2340A of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1572 (i), (j), (k), (l), and (n)), unless the indictment is found or the information is instituted within 10 years next after such offense shall have been committed.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 613. INTERNATIONAL PARENTAL KIDNAPING.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1204. International parental kidnaping

"(a) OFFENSE.—Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title, imprisoned not more than 3 years, or both.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) RULE OF CONSTRUCTION.—This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1204. International parental kidnapping.".

SEC. 614. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

SEC. 615. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 141(a), is amended by adding at the end the following new section:

"§ 1120. Foreign murder of United States nationals

"(a) OFFENSE.—Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(b) APPROVAL OF PROSECUTION.—No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) CRITERIA FOR APPROVAL.—No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) ASSISTANCE FROM OTHER AGENCIES.—In the course of the enforcement of this section and notwithstanding any other law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1120".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by

section 141(b), is amended by adding at the end the following new item:

"1120. Foreign murder of United States nationals.".

SEC. 616. EXTRADITION.

(a) Scope.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a) In General.—" before "The provisions of this chapter"; and

(2) by adding at the end the following new subsections:

"(b) Surrender Without Regard to Existence of Extradition Treaty.—This chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies in writing that—

"(1) evidence has been presented by the foreign government that indicates that, if the offenses had been committed in the United States, they would constitute crimes of violence (as defined under section 16); and

"(2) the offenses charged are not of a political nature.

"(c) Definition.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) Fugitives.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

SEC. 617. GAMBLING DEVICES ON UNITED STATES SHIPS.

Section 5 of the Act of January 2, 1951 (commonly known as the "Johnson Act") (15 U.S.C. 1175), is amended—

(1) by inserting "(a) In General.—" before "It shall be unlawful"; and

(2) by adding at the end the following new subsection:

"(b) Application of Subsection (a).—

"(1) Exception.—Except as provided in paragraph (2), subsection (a) does not apply to the repair, transportation, use, or possession of a gambling device on a vessel documented under chapter 121 of title 46, United States Code, when the vessel is on a voyage—

"(A) on the high seas; or

"(B) on waters that are within the admiralty and maritime jurisdiction of the United States but out of the jurisdiction of any State.

"(2) Voyages and segments beginning and ending in the same State or possession.—The exception stated in paragraph (1) does not apply to the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or segment of a voyage—

"(A) that begins and ends in the same State or possession of the United States,

"(B) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country,

if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute that prohibits such repair, transportation, possession, or use.".

SEC. 618. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) Required Certification.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) Required Certification.—

"(1) Name, address, and length of service only.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, and length of service of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of the provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section) under circumstances giving reason to believe that the communication concerned international terrorism (as defined in that section) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

"(2) Name, address, length of service, and toll billing records.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, length of service, and toll billing records of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section).".

(b) Report to Judiciary Committees.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

SEC. 701. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16 YEARS OF AGE.

Section 2246(2) of title 18, United States Code, as redesignated by section 137(a)(1), is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "and" at the end of subparagraph (C) and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or to arouse or gratify the sexual desire of, any person;".

SEC. 702. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) Penalty.—Chapter 109A of title 18, United States Code, as amended by section 137(a), is amended—

(1) by redesignating section 2246 as section 2247; and

(2) by inserting after section 2245 the following new section:

"§ 2246. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) Technical Amendment.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 137(b), is amended by striking the item relating to section 2246 and inserting the following:

"2246. Penalties for subsequent offenses.
"2247. Definitions for chapter.".

SEC. 703. RESTITUTION FOR VICTIMS OF SEX OFFENSES.

Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim".

SEC. 704. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) In General.—Chapter 109A of title 18, United States Code, as amended by section 702(a), is amended—

(1) by redesignating section 2247 as section 2248; and

(2) by inserting after section 2246 the following new section:

"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) Testing at Time of Pre-Trial Release Determination.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as is feasible. The person shall not be released from custody until the test is performed.

"(b) Testing at Later Time.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend the sentencing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 702(b), is amended by striking the item relating to section 2247 and inserting the following:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.

"2248. Definitions for chapter.".

SEC. 705. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by inserting before the period at the end "and the cost of up to 2 tests of the victim for the human immunodeficiency virus during the 12 months following the assault".

Subtitle B—Victims' Rights

SEC. 711. RESTITUTION AMENDMENTS.

Section 3663(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) SUSPENSION OF FEDERAL BENEFITS.—Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 712. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of 18 years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.".

SEC. 713. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

SEC. 714. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (h), and (i), as redesignated by section 711(b)(1);

(6) by redesignating subsection (g), as added by section 711(b)(2), as subsection (d); and

(7) by adding at the end the following new subsections:

"(e)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3)(b) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(f) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(g) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(h)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(i) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(j) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(k) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(l) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive restitution, in the same manner as a judgment in a civil action.

"(m) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

Subtitle C—Crime Victims Fund

SEC. 721. CRIME VICTIMS FUND.

(a) ELIMINATION OF FUND CEILINGS AND SUNSET PROVISION.—Section 1402 (c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is repealed.

(b) ALLOCATIONS.—

(1) GENERALLY.—Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the total deposited in the Fund during a particular fiscal year—

"(i) the first $10,000,000 shall be available for grants under section 1404A;

"(ii) the next sums deposited, up to the reserved portion (as described in subparagraph (C)), shall be made available to the judicial branch for administrative costs to carry out the functions of that branch under sections 3611 and 3612 of title 18, United States Code; and

"(iii) of the sums remaining after the allocations under clauses (i) and (ii)—

"(I) 4 percent shall be available for grants under section 1404(c)(1); and

"(II) 96 percent shall be available in equal amounts for grants under sections 1403 and 1404(a).

"(B) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000.

"(C) The reserved portion referred to in subparagraph (A) is $6,200,000 in each of fiscal years 1992 through 1995 and $3,000,000 in each fiscal year thereafter.".

(2) CONFORMING CROSS-REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(iv)" and inserting "(i)".

(c) AMOUNTS AWARDED AND UNSPENT.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Except as provided in paragraph (2), any" and inserting "Any";

(B) by striking "succeeding fiscal year" and inserting "2 succeeding fiscal years";

(C) by striking "which year" and inserting "which period"; and

(D) by striking "the general fund of the Treasury" and inserting "the Fund"; and

(2) by striking paragraph (2).

SEC. 722. PERCENTAGE CHANGE IN CRIME VICTIM COMPENSATION FORMULA.

Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "40 percent" and inserting "45 percent".

SEC. 723. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The last sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) The Director may permit not more than 5 percent of a grant made under this section to be used for the administration of the crime victim compensation program receiving the grant.".

SEC. 724. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 725. USE OF UNSPENT SECTION 1403 MONEY.

Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1)) is amended—

(1) by striking "or for the purpose of grants under section 1403 but not used for that purpose,"; and

(2) by adding at the end the following: "The Director, in the Director's discretion, may use amounts made available under section 1402(d)(2) for the purposes of grants under section 1403 but not used for that purpose, for grants under this subsection, either in the year such amounts are not so used, or the next year.".

SEC. 726. UNDERSERVED VICTIMS.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following new paragraph:

"(6) In making the certification required by paragraph (2)(B), the chief executive shall give particular attention to children who are victims of violent street crime.".

SEC. 727. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 728. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(A)), as amended by section 726, is amended—

(1) in paragraph (1) by inserting ", except as provided in paragraph (7)" after "programs"; and

(2) by adding at the end the following new paragraph:

"(7) The Director may permit not more than 5 percent of sums provided under this subsection to be used by the chief executive of each State for the administration of such sums.".

SEC. 729. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended—

(1) by striking "December 31, 1990" and inserting "May 31, 1993"; and

(2) by striking "December 31" the second place it appears and inserting "May 31".

SEC. 730. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 731. DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.

Sections 721(b), 722, 723, and 728, and the amendments made by those sections, shall take effect with respect to the first fiscal year that begins after the date of enactment of this Act for which the Director certifies that there are sufficient sums in the Victim Assistance Fund and the Victims Compensation Fund, as of the end of the previous fiscal year, to make the allocations required under such sections and amendments without reducing the then current funding levels of programs supported by such Funds.

Subtitle D—National Child Protection Act

SEC. 741. SHORT TITLE.

This subtitle may be cited as the "National Child Protection Act of 1992".

SEC. 742. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) more than 2,500,000 reports of suspected child abuse and neglect are made each year, and increases have occurred in recent years in the abuse of children by persons who have previously committed crimes of child abuse or other serious crimes;

(2) although the great majority of child care providers are caring and dedicated professionals, child abusers and others who harm or prey on children frequently seek employment in or volunteer for positions that give them access to children;

(3) nearly 6,000,000 children received day care in 1990, and this total is growing rapidly to an estimated 8,000,000 children by 1995;

(4) exposure to child abusers and others who harm or prey on children is harmful to the physical and emotional well-being of children;

(5) there is no reliable, centralized national source through which child care organizations may obtain the benefit of a nationwide criminal background check on persons who provide or seek to provide child care;

(6) some States maintain automated criminal background files and provide criminal history information to child care organizations on persons who provide or seek to provide child care; and

(7) because State and national criminal justice databases are inadequate to permit effective national background checks, persons convicted of crimes of child abuse or other serious crimes may gain employment at a child care organization.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 743. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this Act;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, legal residence address, a brief description of the child abuse crime or offenses for which the person is under indictment or has been convicted, and any other information that the Attorney General determines may be useful in identifying persons under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system of information and identification relating to convicted and accused child abuse offenders that is maintained by the Attorney General under this subtitle;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 744. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized agency of a State shall report child abuse crime information to the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS TO THE NATIONAL CRIMINAL BACK-

GROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis to the national criminal background check system;

(B) establish guidelines for the reporting of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this subtitle; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of child abuse crime case dispositions in computerized criminal history files for all child abuse crime cases in which there has been an entry of activity within the last 5 years; and

(B) continue to maintain such a system.

(c) EXCHANGE OF INFORMATION.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of information and technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim of a crime.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 743, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 745. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and other criminal justice recordkeeping systems and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), including procedures for carrying out the purposes of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime;

(ii) is not certain to include arrest information; and

(iii) should not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a)—

(i) at a minimum, state whether the background check information set forth in the identification document required under subparagraph (A) is complete and accurate; and

(ii) be limited to the information reasonably required to accomplish the purposes of this subtitle;

(F) that no qualified entity may take action adverse to a provider, except that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care, on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge;

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the providers;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this subtitle, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this subtitle and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) RECORDS EXCHANGE.—The Attorney General may exchange Federal Bureau of Investigation identification records with authorized agencies for purposes of background checks under subsection (a) and may by regulation authorize further dissemination of such records by authorized agencies for such purposes.

(e) REGULATIONS.—(1) The Attorney General shall by regulation prescribe such other measures as may be required to carry out the purposes of this subtitle, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 746. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 744 of the National Child Protection Act of 1992 with the Attorney General for the purpose of implementing the National Child Protection Act of 1992.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history records in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 744 of this Act.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

SEC. 751. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 752. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months' imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 753. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Subtitle F—Domestic Violence

SEC. 761. DOMESTIC VIOLENCE GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(a), is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following new part:

"Part Q—Domestic Violence Intervention

"SEC. 1701. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance may make grants to 10 States for the purpose of assisting States in implementing a civil and criminal response to domestic violence.

"SEC. 1702. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to encourage increased prosecutions for domestic violence crimes;

"(2) to report more accurately the incidences of domestic violence;

"(3) to facilitate arrests and aggressive prosecution policies;

"(4) to provide legal advocacy services for victims of domestic violence; and

"(5) to improve the knowledge of health professionals regarding domestic violence and facilitate cooperation between health professionals, social service providers, and law enforcement personnel to better assist victims of domestic violence.".

"SEC. 1703. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 1702;

"(2) a description of the programs already in place to combat domestic violence;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information, if available, in such form and containing such information that the Director may require regarding domestic violence within that State.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the domestic violence problem within the State targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the State to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill those gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce domestic violence.

"SEC. 1704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) STATE MAXIMUM.—No State shall receive more than $2,500,000 under this part for any fiscal year.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 1703(c).

"SEC. 1705. AWARD OF GRANTS.

"The Director shall consider the following factors in awarding grants to States and shall give preference to States that have—

"(1) a law or policy that requires the arrest of a person who police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated a civil protection order;

"(2) a law or policy that discourages dual arrests;

"(3) laws or statewide prosecution policies that authorize and encourage prosecutors to pursue domestic violence cases in which a criminal case can be proved, including proceeding without the active involvement of the victim if necessary;

"(4) statewide guidelines for judges that—

"(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only 1 spouse has sought a restraining or protective order;

"(B) require any history of abuse against a child or against a parent to be considered when making child custody determinations; and

"(C) require judicial training on domestic violence and related civil and criminal court issues;

"(5) policies that provide for the coordination of court and legal victim advocacy services; and

"(6) policies that make existing remedies to domestic violence easily available to victims of domestic violence, including elimination of court fees and the provision of simple court forms.

"SEC. 1706. REPORTS.

"(a) REPORT TO DIRECTOR.—Each State that receives funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 1703(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 1703(b)(4); and

"(3) an evaluation of programs established under this part.

"SEC. 1707. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'domestic violence' means any act or threatened act of violence, including any forceful detention of an individual, that—

"(A) results or threatens to result in physical injury; and

"(B) is committed by an individual against another individual (including an elderly individual) to whom the individual is or was related by blood or marriage or otherwise legally related or with whom the individual is or was lawfully residing.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(b), is amended by striking the matter relating to part Q and inserting the following:

"PART Q—DOMESTIC VIOLENCE INTERVENTION

"Sec. 1701. Grant authorization.
"Sec. 1702. Use of funds.
"Sec. 1703. Applications.
"Sec. 1704. Allocation of funds; limitations on grants.
"Sec. 1705. Award of grants.
"Sec. 1706. Reports.
"Sec. 1707. Definitions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 523(d), is amended by adding at the end the following new paragraph:

"(11) There are authorized to be appropriated $25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out projects under part Q.".

SEC. 762. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of battered women's syndrome and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

Subtitle G—Other Provisions

SEC. 771. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) FINDINGS.—The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use America's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 21. Inducement of minor to commit an offense

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—In the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Inducement of minor to commit an offense.".

SEC. 772. DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

SEC. 773. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Education, shall, by contract with an appropriate entity with expertise in college campus security, provide for a national baseline study to research the effectiveness of campus sexual assault policies for institutions of postsecondary education.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of sexual assault occurring on college and university campuses, and to whom the allegations are reported (including campus authorities, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to campus authorities which are reported to criminal authorities;

(3) the percentage of campus sexual assault allegations compared to noncampus sexual assault allegations which result in eventual criminal prosecution;

(4) State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of campus policies and practices in protecting the legal rights and interests of sexual assault victims and the accused, including consideration of—

(A) practices that might discourage the reporting of sexual assaults to local criminal authorities, or result in any form of obstruction of justice, and thus undermine the public interest in prosecuting perpetrators of sexual assault; and

(B) the ability of campus disciplinary hearings to properly address allegations of sexual assault;

(6) whether colleges and universities take adequate measures to ensure that victims are free of unwanted contact with alleged assailants;

(7) the grounds on which colleges and universities are sued in civil court regarding sexual assaults, the resolution of these cases, and measures that can be taken to prevent future lawsuits;

(8) the ways in which colleges and universities respond to allegations of sexual assault, including an assessment of which programs work the best;

(9) recommendations to redress concerns raised in the report; and

(10) any other issues or questions the Attorney General, with the concurrence of the Secretary of Education, deems to be appropriate to the study.

(c) REPORT.—The Secretary of Education shall review the results of the research required by this section and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate by September 1, 1995, coordinating that report with the report and dissemination required under section 485(f)(4) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(4)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 for the contract required by subsection (a).

SEC. 774. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE VIII—EQUAL JUSTICE ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Equal Justice Act".

SEC. 802. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) GENERAL RULE.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this title—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning given in section 513 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 803. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 804. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

SEC. 805. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) SECTION 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in", and by striking "such inhabitant" and inserting "such person".

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1992".

SEC. 902. GRANTS TO STATE AND LOCAL AGENCIES.

Section 1001(a)(5) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 903. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1991" and inserting "1992".

SEC. 904. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by striking "No" and inserting "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

Subtitle B—Retired Public Safety Officer Death Benefit

SEC. 911. RETIRED PUBLIC SAFETY OFFICER DEATH BENEFIT.

(a) PAYMENTS.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsection (a) by inserting "or a retired public safety officer has died as the direct and proximate result of a personal injury sustained while responding to a fire, rescue, or police emergency" after "line of duty";

(2) in subsection (b) by inserting "or a retired public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained while responding to a fire, rescue, or police emergency" after "line of duty"; and

(3) in subsections (c), (i), and (j) by inserting "or a retired public safety officer" after "public safety officer" each place it appears.

(b) LIMITATIONS.—Section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) is amended—

(1) in paragraph (1) by striking "the public safety officer or by such officer's intention" and inserting "the public safety officer or the retired public safety officer who had the intention";

(2) in paragraph (2) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer"; and

(3) in paragraph (3) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer".

(c) NATIONAL PROGRAM.—Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a-1) is amended by inserting before the period "or retired public safety officers who have died while responding to a fire, rescue, or police emergency".

(d) DEFINITIONS.—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by striking "and" after paragraph (6);

(2) by inserting "; and" at the end of paragraph (7); and

(3) by adding at the end the following new paragraph:

"(8) 'retired public safety officer' means a former public safety officer who has served a sufficient period of time in such capacity to become vested in the retirement system of a public agency with which the officer was employed and who retired from such agency in good standing.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to death or injuries occurring after the date of enactment of this Act.

(f) IRWIN RUTMAN PROGRAM.—Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by inserting before section 1201 the following new section:

"NAME OF PROGRAM

"SEC. 1200. The program established under this part shall be known as the 'Irwin Rutman Retired Safety Officer's Benefit Program'.".

Subtitle C—Study on Police Officers' Rights

SEC. 921. STUDY ON POLICE OFFICERS' RIGHTS.

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

Subtitle D—Community Policing

CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 931. SHORT TITLE.

This chapter may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 932. PURPOSES.

The purposes of this chapter are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 933. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subchapter A and the Law Enforcement Scholarship program established in subchapter B and shall have authority to promulgate regulations to implement this subtitle.

SEC. 934. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subchapter A or the Law Enforcement Scholarship program under subchapter B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this chapter;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subchapter A, meet the requirements of section 940; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subchapter B, meet the requirements of section 948.

Subchapter A—Police Corps Program

SEC. 935. DEFINITIONS.

For the purposes of this subchapter—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 937;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 940.

SEC. 936. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to pay educational expenses incurred while in attendance at an institution of higher education—

(1) in a course of education leading to the award of a baccalaureate degree, including attendance at such an institution that does not itself award such a degree if the courses taken there are acceptable for credit toward a degree at an institution that does award such a degree, and including, in the discretion of the Director, such expenses incurred prior to enrollment in the Police Corps program; and

(2) for graduate and professional study.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 938, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 938; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (C) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 938.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section, the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 937. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to the State Police Corps plan, including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 939, and such a participant shall be subject to the same benefits and obligations under this chapter as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 939, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subchapter that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, an institution of higher education—

(A) as a full-time student in an undergraduate program leading to the award of a baccalaureate degree; or

(B) for purposes of taking a graduate or professional course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 938. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subchapter.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective

maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 940 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 939. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 938 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 936, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 936(d)(1)(C) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 936, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 936(d)(1)(C) shall not apply.

SEC. 940. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 937;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 941. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subchapter $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subchapter B—Law Enforcement Scholarship Program

SEC. 942. SHORT TITLE.

This subchapter may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 943. DEFINITIONS.

As used in this subchapter—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 944. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 951, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this chapter in the State compared to the shortage of law enforcement personnel and the need for assistance under this subchapter in all States.

SEC. 945. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 944 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 944 the Federal share of the cost of the activities described in the application submitted pursuant to section 948.

(2) Federal Share.—The Federal share shall not exceed 60 percent.

(3) Non-federal Share.—The non-Federal share of the cost of scholarships and student employment provided under this subchapter shall be supplied from sources other than the Federal Government.

(c) Lead Agency.—Each State receiving an allotment under section 944 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subchapter.

(d) Responsibilities of Director.—The Director shall be responsible for the administration of the programs conducted pursuant to this subchapter and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subchapter.

(e) Administrative Expenses.—Each State receiving an allotment under section 944 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) Special Rule.—Each State receiving an allotment under section 944 shall ensure that each scholarship recipient under this subchapter be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) Supplementation of Funding.—Funds received under this subchapter shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 946. SCHOLARSHIPS.

(a) Period of Award.—Scholarships awarded under this chapter shall be for a period of one academic year.

(b) Use of Scholarships.—Each individual awarded a scholarship under this subchapter may use such scholarship for educational expenses at any institution of higher education.

SEC. 947. ELIGIBILITY.

(a) Scholarships.—An individual shall be eligible to receive a scholarship under this subchapter if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) Ineligibility for Student Employment.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subchapter.

SEC. 948. STATE APPLICATION.

Each State desiring an allotment under section 944 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subchapter is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subchapter;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subchapter and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subchapter;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subchapter;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 949. LOCAL APPLICATION.

(a) In General.—Each individual who desires a scholarship or employment under this subchapter shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) Priority.—In awarding scholarships and providing student employment under this subchapter, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 950. SCHOLARSHIP AGREEMENT.

(a) In General.—Each individual who receives a scholarship under this subchapter shall enter into an agreement with the Director.

(b) Contents.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this chapter in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this chapter may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subchapter.

(c) Service Obligation.—

(1) In general.—Except as provided in paragraph (2), each individual awarded a scholarship under this subchapter shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) Special rule.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subchapter shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 951. AUTHORIZATION OF APPROPRIATIONS.

(a) General Authorization of Appropriations.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subchapter.

(b) Uses of Funds.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 945(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 945(a)(1)(B) and (2).

Subchapter C—Reports

SEC. 952. REPORTS TO CONGRESS.

(a) Annual Reports.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subchapter A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subchapter B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subchapter B; and

(5) describe the progress of the programs authorized by this chapter and make recommendations for changes in the programs.

(b) Special Report.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subchapter B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

CHAPTER 2—COP-ON-THE-BEAT GRANTS

SEC. 961. SHORT TITLE.

This chapter may be cited as "The Cop-on-the-Beat Act of 1992".

SEC. 962. COP-ON-THE-BEAT GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 761(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following new part:

"PART R—COP-ON-THE-BEAT GRANTS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities that have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in the community.

"SEC. 1802. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In an application under paragraph (1), a single office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1801;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1803. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1802(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1804. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1802(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 1805. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1802(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients; and

"(2) an evaluation of projects established under this part.

"SEC. 1806. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 761(b), is amended by striking the matter relating to part R and inserting the following new part:

"PART R—COP-ON-THE-BEAT GRANTS

"Sec. 1801. Grant authorization.
"Sec. 1802. Application.
"Sec. 1803. Allocation of funds; limitation on grants.
"Sec. 1804. Award of grants.
"Sec. 1805. Reports.
"Sec. 1806. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 761(c), is amended by adding at the end the following new paragraph:

"(12) There are authorized to be appropriated $150,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out projects under part R.".

Subtitle E—Rural Crime Prevention Strategy

SEC. 971. FINDINGS.

The Congress makes the following findings:

(1) The traditional supportive roles of the family, church, school, and community have declined in importance as a positive social factor influencing the prevention and control of crime in rural areas. As a result in recent years rural areas have experienced a marked increase in crime rates. This increase is taking its toll on rural law enforcement practitioners who are already encumbered by numerous characteristics that are unique to their rural circumstances.

(2) Compounding the increase in crime rates, rural police unlike their urban counterparts, are likely to encounter a multitude of nontraditional police tasks such as fire and railroad emergencies, search and rescue missions, animal control problems, livestock theft, wildlife enforcement, illegal distilleries, illegal crop farming and drug manufacturing, rural drug trafficking, and toxic dumping.

(3) These problems are further exacerbated by the rural officer's distinct disadvantage with respect to the lack of adequate training to manage these varied assignments, the low degree of specialization of job tasks, unique job stress factors, and inadequate data resources. Inadequate rural crime statistics and data analysis capabilities further frustrate the rural police organization's ability

to cope with the nature, extent, and trends of rural crime.

(4) Rural law enforcement agencies are at a critical juncture, and strategic planning and action are imperative. The Domestic Chemical Action Group convened by the National Institute of Justice in October 1990 has recommended that rural police receive training in various safety issues related to the identification, investigation, and seizure of illicit drug and chemical laboratories located in rural areas. Without such specialized training officials will face a high probability of explosions endangering police personnel and the community. National Institute of Justice sponsored research of environmental crime in major urban areas, including Los Angeles, has revealed the lack of police training in the identification, investigation, and clean-up of toxic and hazardous waste areas. It can be said with certainty that this recognized need for hazardous materials training is equally critical for rural police organizations.

SEC. 972. STRATEGY TO ADDRESS RURAL CRIME.

The purpose of this subtitle is to address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in rural areas throughout the country in implementing specific programs and strategies which offer a high probability of improving the functioning of their criminal justice systems.

SEC. 973. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this subtitle as the "Director") shall conduct a national assessment of the nature and extent of rural crime in the United States, the needs of law enforcement and criminal justice professionals in rural States and communities, and promising strategies to respond effectively to those challenges, including—

(1) the problem of clandestine drug laboratories; changing patterns in their location and operation; safety and liability issues for both law enforcement officers and the community in the identification, investigation, seizure, and clean-up of clandestine laboratories;

(2) other environmental crimes, such as the dumping of hazardous and toxic wastes; the pollution of streams, rivers, and ground water; and access of rural communities to the expertise necessary to successfully identify, investigate, and prosecute such crimes;

(3) the cultivation of illegal crops, such as marijuana, including changing patterns in location and techniques for identification, investigation, and destruction;

(4) the problems of drug and alcohol abuse in rural communities, including law enforcement and criminal justice response and access to treatment services;

(5) the problems of family violence and child abuse, including law enforcement and criminal justice response and access to services for victims of such crimes;

(6) the problems of juvenile delinquency and vandalism as they affect rural communities;

(7) the access of law enforcement and criminal justice professionals in rural communities to the services of crime laboratories, the Automated Fingerprint Identification System, and other technological support;

(8) the access of law enforcement and criminal justice professionals in rural communities to professional training and development and the identification of models for the delivery of such training; and

(9) the special problems of drug abuse in jurisdictions with populations of 50,000 or less.

(b) FINAL REPORT.—The Director shall submit the national assessment to the President and Congress not later than 12 months after the date of enactment of this Act.

(c) DISSEMINATION OF REPORT.—Based on the results of the national assessment and analysis of successful and promising strategies in these areas, the Director shall disseminate the results not only through reports, publications, and clearinghouse services, but also through programs of training and technical assistance, designed to address the realities and challenges of rural law enforcement.

SEC. 974. PILOT PROGRAMS.

(a) IN GENERAL.—The Director may make grants to local law enforcement agencies for pilot programs and field tests of particularly promising strategies and models, which could then serve as the basis for demonstration and education programs under the Bureau of Justice Assistance Discretionary Grant Program.

(b) TYPES OF PROGRAMS.—Pilot programs funded under this section may include—

(1) programs to develop and demonstrate new or improved approaches or techniques for rural criminal justice systems;

(2) programs of training and technical assistance to meet the needs of rural law enforcement and criminal justice professionals including safety;

(3) a rural initiative to study and improve the response to traffic safety problems and drug interdiction;

(4) an ongoing program to assist law enforcement professionals in dealing with the hazards of clandestine drug laboratories;

(5) victim assistance information to assist departments in beginning and maintaining strong programs to assist victims and witnesses of crime;

(6) emergency preparedness information for community groups concerned about disaster preparedness on the family and community level; and

(7) a program targeted at communities of less than 50,000 stressing the need for production of public safety through extensive partnership efforts between law enforcement, other local government agencies, businesses, schools, community and social organizations, and citizens.

SEC. 975. FUNDING.

There are authorized to be appropriated $5,000,000 to carry out the national assessment and pilot programs required by this subtitle.

Subtitle F—National Commission to Support Law Enforcement

SEC. 981. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act.".

SEC. 982. FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 983. ESTABLISHMENT OF COMMISSION.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

SEC. 984. DUTIES.

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 985. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from among national law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) One shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 986. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this subtitle.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 987. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this subtitle, hold hearings, sit and act at the time and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this subtitle. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 988. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 989. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 988.

SEC. 989A. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (42 U.S.C. 3721 note) and section 211(B) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (42 U.S.C. 3721 note; 104 Stat. 2122) are repealed.

Subtitle G—Other Provisions

SEC. 991. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, aggressive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1992, 1993, and 1994.

SEC. 992. AUTHORIZATION OF APPROPRIATIONS FOR BUREAU OF JUSTICE ASSISTANCE DISCRETIONARY GRANTS.

Section 1001(a)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(6)), as amended by section 1054, is amended to read as follows:

"(7) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 993. LAW ENFORCEMENT FAMILY SUPPORT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 962(a), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as 2001; and

(3) by inserting after part R the following new part:

"PART S—FAMILY SUPPORT

"SEC. 1901. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 1902. GENERAL AUTHORIZATION.

"The Director is authorized to make grants to States and local law enforcement agencies to provide family support services to law enforcement personnel.

"SEC. 1903. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency that receives a grant under this part shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency that receives funds under this part may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"SEC. 1904. APPLICATIONS.

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part.

"SEC. 1905. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

"SEC. 1906. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 1907. REPORTS.

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency that receives a grant under this part shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) A report under paragraph (1) shall contain—

"(A) a description of the types of projects developed or improved through funds received under this part;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) a statement of the number of individuals served in each location and throughout the country.

"SEC. 1908. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 962(b), is amended by striking the matter relating to part S and inserting the following:

"PART S—FAMILY SUPPORT

"Sec. 1901. Duties of director.
"Sec. 1902. General authorization.
"Sec. 1903. Uses of funds.
"Sec. 1904. Applications.
"Sec. 1905. Award of grants; limitation.
"Sec. 1906. Discretionary research grants.
"Sec. 1907. Reports.
"Sec. 1908. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALS

"Sec. 2001. Continuation of rules, authorities, and privileges.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 962(c), is amended by adding at the end the following new paragraph:

"(13) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out part S, of which not more than 20 percent may be used to accomplish the duties of the Director under section 1901, including administrative costs, research, and training programs.".

SEC. 994. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration or systemwide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a systemwide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies that elect to establish a program described in subsection (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General may make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section, the term "life skills" includes self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, and stress and anger management.

SEC. 995. TRAUMA CENTERS AND CRIME-RELATED VIOLENCE.

(a) AMENDMENT OF PUBLIC HEALTH SERVICE ACT.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—REIMBURSEMENT FOR UNCOMPENSATED TRAUMA CARE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence due to crime. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the trauma center demonstrates a significant incidence of uncompensated care debt as a result of treating a population of patients that has been served by the center for the period specified in subparagraph (B) for trauma, including a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 5-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the two fiscal years immediately succeeding the fiscal year for which a grant is received;

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A); and

"(3) the center will establish a trauma registry not later than 6 months from the date on which the grant is received that shall include such information as the Secretary shall require.

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) LIMITATION ON AMOUNT OF GRANT.—The Secretary may not make a grant to any single trauma center in an amount that exceeds $2,000,000 in any fiscal year.

"(d) CONSULTATION.—Grants shall be awarded under section 1241(a) only after the Secretary has consulted with the state official responsible for emergency medical services, or another appropriate state official, in the State of the prospective grantee.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

(b) TECHNICAL AMENDMENTS.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

SEC. 996. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State; and

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

SEC. 997. NOTICE OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) Application of Section.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1)—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1), the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b)."; and

(5) by inserting after subsection (a), as designated by paragraph (1), the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime (as defined in section 924(c)(2)); or

"(B) a crime of violence (as defined in section 924(c)(3)).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

(b) APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.—In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

SEC. 1001. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE.

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4).".

(2) The chapter analysis for chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) DRUG TESTING CONDITION FOR PROBATION.—

(1) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(A) in paragraph (2) by striking "and";

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of the controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. In addition, the Court may decline to impose this condition for any individual defendant, if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant. A defendant who tests positive may be detained pending verification of a drug test result.".

(2) DRUG TESTING FOR SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4), the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court), for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(3) DRUG TESTING IN CONNECTION WITH PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4), the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(c) REVOCATION OF PAROLE.—Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

SEC. 1002. DRUG TESTING IN STATE CRIMINAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751 et seq.) is amended by adding at the end the following new section:

"DRUG TESTING PROGRAMS

"SEC. 523. (a) PROGRAM REQUIRED.—It is a condition of eligibility for funding under this part that a State formulate and implement a drug testing program for targeted classes of persons confined in, or subject to supervision in, the criminal justice systems of the State. Such a program must meet criteria specified in regulations promulgated by the Attorney General under subsection (b). Notwithstanding the preceding sentence, no State shall be required to expend an amount for drug testing pursuant to this section in excess of 10 percent of the minimum amount that the State is eligible to receive under subpart 1.

"(b) REGULATIONS.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall promulgate regulations to implement this section to ensure reliability and accuracy of drug testing programs. The regulations shall include such other guidelines for drug testing programs in State criminal justice systems as the Attorney General determines are appropriate, and shall include provisions by which a State may apply to the Attorney General for a waiver of the requirements imposed by this section, on grounds that compliance would impose excessive financial or other burdens on such State or would otherwise be impracticable or contrary to State policy.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State at a time specified by the Attorney General, but not earlier than the promulgation of the regulations required under subsection (b).".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 522 the following new item:

"Sec. 523. Drug testing programs.".

Subtitle B—Precursor Chemicals

SEC. 1011. SHORT TITLE.

This subtitle may be cited as "The Chemical Control and Environmental Responsibility Act of 1992".

SEC. 1012. DEFINITION AMENDMENTS.

(a) REFERENCES TO LISTED CHEMICALS IN SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and inserting "list I chemical" and by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting "list II chemical" and by striking "that is used as a solvent, reagent or catalyst" and inserting ", which is not a list I chemical, that is used"; and

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and inserting "list I chemical or a list II chemical" both places it appears.

(b) REFERENCES TO LISTED CHEMICALS IN SECTION 310.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)(A) by striking "precursor chemical" and inserting "list I chemical";

(2) in subsection (a)(1)(B) by striking "an essential chemical" and inserting "a list II chemical"; and

(3) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

(c) OTHER AMENDMENTS TO SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine";

(3) in paragraph (39)(A) by striking "or exportation" and inserting ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semicolon and inserting "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding at the end the following new paragraph:

"(42) The terms 'broker' and 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing together a buyer and a seller, or a buyer or seller and a transporter.".

SEC. 1013. REGISTRATION REQUIREMENT.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemicals" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES ACT.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that the registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels.

"(2) Compliance with applicable Federal, State and local law.

"(3) Prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law.

"(4) Past experience in the manufacture and distribution of chemicals.

"(5) Such other factors as may be relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by striking "(c) The" and inserting "(c)(1) The"; and

(B) by adding at the end the following new paragraph:

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in section 303(h) shall be considered.";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting ", 827, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) in the case of a person who is a regulated person, to distribute, import, or export a list I chemical without the registration required by this title.".

SEC. 1014. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by striking "(b) Each regulated person" and inserting "(b)(1) Each regulated person";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person.".

SEC. 1015. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, REPORTING, RECORDKEEPING, AND OTHER REQUIREMENTS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and by title II.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title;

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 10 years, or both.".

SEC. 1016. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) ADVANCE NOTICE.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1015(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day advance notice requirement of subsection (a) apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as regular customers if the Attorney General finds that the action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day advance notice requirement for exports of specific listed chemicals to specified countries if the Attorney General determines that the advance notice is not required for effective chemical control. If the advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day advance notice requirement for the importation of specific listed chemicals if the Attorney General determines that the requirement is not necessary for effective chemical control. If the advance notice requirement is waived, importers of such listed chemicals shall be required to submit either reports of individual importations or periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 1015(b), is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the comma at the end of paragraph (4) and inserting "; or"; and

(3) by adding after paragraph (4) the following new paragraph:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 1018(d) (1) or (2) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported,".

SEC. 1017. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended:

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P), (Q), (R), (S), (T), (V), (X), and (Y) as subparagraphs (O), (P), (Q), (R), (S), (T), (U), and (X), respectively;

(3) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane."; and

(4) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)".

SEC. 1018. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)(1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer";

(2) in subsection (b)(2)—

(A) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(B) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 1019. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where a person registered under section 303 (or exempt from such registration under section 302(d) or by regulation of the Attorney General) or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such an activity are maintained.".

SEC. 1020. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 1012, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

SEC. 1021. MANAGEMENT OF LISTED CHEMICALS.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, or less than 10 years in the case of a willful violation.

"(4) The court may order that all or a portion of the earnings from work performed by a convicted offender in prison be withheld for payment of costs assessed under paragraph (2).

"(c) SHARING OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) AMENDMENT OF TITLE 11, UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 1022. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

SEC. 1023. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—The amendments made by this subtitle shall become effective on the date that is 120 days after the date of enactment of this Act.

Subtitle C—Interdiction

SEC. 1031. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2237. Order to land or bring to

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(2) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state;

"(3) the term 'Federal law enforcement officer' has the meaning stated in section 115; and

"(4) the terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings stated in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

"(b) FAILURE TO LAND AIRCRAFT.—(1) It is unlawful for the pilot, operator, or person in charge of an aircraft that has crossed the border of the United States or an aircraft subject to the jurisdiction of the United States that is being operated outside the United States to refuse to obey the order to land made by an authorized Federal law enforcement officer who is enforcing—

"(A) the laws of the United States relating to controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(B) chapter 27 or section 1956 or 1957 of this title.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, after consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated by Federal law enforcement officers to the pilot, operator, or person in charge of an aircraft.

"(c) FAILURE TO BRING VESSEL TO.—It is unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring the vessel to on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(d) RULE OF CONSTRUCTION.—This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or any other law that the Customs Service enforces or administers or the authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(e) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement by the United States of its laws under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(f) Penalty.—A person who intentionally violates this section shall be fined under this title, imprisoned not more than 3 years, or both.

"(g) Forfeiture.—Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred or alleged to have been incurred under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine or civil penalty imposed under this section.

"(h) Delegation of Authority.—The Secretary of the Treasury and the Secretary of Transportation may delegate Federal law enforcement officer seizure and forfeiture responsibilities under this section to other law enforcement officers.".

(b) Technical Amendment.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land or to bring to.".

SEC. 1032. FAA REVOCATION AUTHORITY.

(a) Immediate Revocation of Registration.—Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The registration of the aircraft shall be immediately revoked upon the failure of the operator of the aircraft to follow the order of a Federal law enforcement officer to land an aircraft as provided in section 2237 of title 18, United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for the aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A); or

"(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

(b) Revocation of Airman Certificate.—Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(e)) is amended by adding at the end the following new subsection:

"(d)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that—

"(A) the person, while acting as the operator of an aircraft, failed to follow the order of a law enforcement officer to land the aircraft as provided in section 2237 of title 18, United States Code; and

"(B) the person knew or had reason to know that the person had been ordered to land the aircraft.

"(2) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, paragraph (1) shall not apply.

"(3) Subsection (c)(3) shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

SEC. 1033. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) Air Interdiction Authority.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States over the high seas and waters over which the United States has jurisdiction. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18.".

(b) Technical Amendment.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following new item:

"96. Air interdiction authority.".

SEC. 1034. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) Civil Penalty.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 667. Civil penalty for failure to comply with a lawful boarding or order to land

"(a) Intentional Failure To Comply.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) Negligent Failure To Comply.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) Liability In Rem.—A vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable in rem for a civil penalty assessed under this section.".

(b) Technical Amendment.—The chapter analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 1035. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following new subsection:

"(i) As used in this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act or regulations issued thereunder or section 2237 of title 18, United States Code, any location outside the United States, including a foreign country location at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 1036. CUSTOMS CIVIL PENALTY PROVISIONS.

The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by inserting after section 590 the following new section:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND OR TO BRING TO.

"(a) Intentional Failure To Comply.—The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $25,000, which may be assessed by the appropriate customs officer.

"(b) Negligent Failure To Comply.—The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

SEC. 1037. INFORMATION EXCHANGE AND ASSISTANCE.

Section 142 of title 14, United States Code, is amended—

(1) by inserting "(a) Exchange of Information.—" before "The";

(2) in subsection (a), as designated by paragraph (1)—

(A) by inserting "and international organizations" after "with foreign governments"; and

(B) by inserting "maritime law enforcement, maritime environmental protection, and" after "matters dealing with"; and

(3) by adding at the end the following new subsection:

"(b) Use of Personnel and Facilities.—The Coast Guard may, when so requested by the Secretary of State, use its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are especially qualified.".

SEC. 1038. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

(a) In General.—Section 149 of title 14, United States Code is amended to read as follows:

"§ 149. Assistance to foreign governments and international organizations

"(a) In General.—The President may, upon application from the foreign governments or international organizations concerned, and whenever in the President's discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance.

"(b) Detail of Personnel.—(1) Utilization of members may include the detail of such members.

"(2) Arrangements may be made by the Secretary with countries to which such officers and enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions.

"(3) While detailed under this subsection, officers and enlisted members of the Coast Guard shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 7 of title 14, United States Code, is amended by amending the item relating to section 149 to read as follows:

"149. Assistance to foreign governments and international organizations.".

SEC. 1039. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 481(c)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c)(4)) is amended by inserting ", and archipelagic waters" after "territorial sea".

Subtitle D—Rural Drug Crime

SEC. 1051. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, may establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1052. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1051(b)(5) with jurisdiction to enforce the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this subtitle.

SEC. 1053. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993, and 1994 to carry out subsection (a).

SEC. 1054. AUTHORIZATION OF APPROPRIATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating paragraph (6), relating to part N of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as paragraph (8) and removing it to follow paragraph (7), relating to part M of that title I; and

(2) by redesignating paragraph (7), relating to part O of that title, as paragraph (9) and amending the paragraph to read as follows:

"(9) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O.".

(b) AMENDMENT OF BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(a)(2)(A)) is amended by striking "$100,000" and inserting "$250,000".

SEC. 1055. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section, a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section, the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetrpolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period of not to exceed 3 years, except that the Director may establish a procedure for the renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1056. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle E—Grant Programs

SEC. 1061. DRUG EMERGENCY AREAS.

Section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(c)) is amended by striking subsection (c) and inserting the following new subsection:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) If a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare the State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or by any other law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, to protect property and public health, and to promote safety.

"(2) PROCEDURE FOR DECLARATION.—(A) A request for a declaration by the President designating an area to be a drug emergency area shall be made in writing by the Governor of a State or the chief executive officer of a local government and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) A request under subparagraph (A) shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that Federal assistance is necessary for an effective response to save lives, protect property and public health, and promote safety.

"(C) The President shall not limit declarations under this subsection to highly populated centers of drug trafficking, drug use or drug-related violence, but shall consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor or chief executive officer shall—

"(i) take appropriate responsive action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (quantitative goals, where possible) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review a request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving the application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) Federal Monetary Assistance.—(A) The President may make grants to State or local governments of up to $50,000,000 in the aggregate for any single major drug-related emergency.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year, except that the President, on application of a Governor of a State or chief executive officer of a local government, and, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) A State or local government that receives Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) Nonmonetary Assistance.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) Issuance of Implementing Regulations.—Not later than 90 days after the date of enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) Audit by Comptroller General.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of the assistance based on the goals contained in the application for assistance.

"(7) Authorization of Appropriations.—There are authorized to be appropriated for each of fiscal years 1992, 1993, 1994, 1995, and 1996 $300,000,000 to carry out this subsection.".

SEC. 1062. DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION.

(a) Community Partnerships.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new subpart:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"Sec. 531. (a) Definition.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that includes—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) Grant Program.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) Community Participation.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) Application.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such an application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan described in subsection (b)(5) and to report on the plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) Priority.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) Review.—(1) Each coalition that receives Federal funds under this section shall submit an annual report to the Attorney General and the appropriate State agency that evaluates the effectiveness of the plan described in subsection (b)(5) and contains such additional information as the Attorney General or the appropriate State agency may prescribe.

"(2)(A) The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

"(B) The review described in subparagraph (A) shall—

"(i) evaluate the grant program established in this section to determine its effectiveness;

"(ii) implement necessary changes to the program that can be done by the Attorney General; and

"(iii) recommend any statutory changes that are necessary.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new item:

"Subpart 4—Community Coalition on Substance Abuse".

SEC. 1063. GRANTS FOR SUBSTANCE ABUSE TREATMENT.

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"SEC. 2001. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

"SEC. 2002. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 2002; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2003. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 2001 to carry out the projects described in the application submitted under section 2002 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 2002 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2002 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2005. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Review of State applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 523(c), is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(25) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 993(c), is amended by adding at the end the following new paragraph:

"(14) There are authorized to be appropriated $100,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

SEC. 1064. DRUG TESTING UPON ARREST.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

"PART U—GRANTS FOR DRUG TESTING UPON ARREST

"SEC. 2101. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

"SEC. 2102. STATE APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) CENTRAL OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2103. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2102(c).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested in the application.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 2101 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 2104. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in the State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State the portion of such funds that bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified in the State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for a fiscal year will not be used by the State or that a State is not eligible to receive funds under section 2101, the Director shall award the funds to units of local government in the State, giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2102 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 2105. REPORT.

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year in which funds are received under this part regarding the effectiveness of the drug testing project.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(b), is amended by striking the matter relating to part U and inserting the following:

"PART U—DRUG TESTING FOR INDIVIDUALS ARRESTED

"Sec. 2101. Grant authorization.
"Sec. 2102. State applications.
"Sec. 2103. Local applications.
"Sec. 2104. Allocation and distribution of funds.
"Sec. 2105. Report.

"PART V—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1063(d), is amended by adding at the end the following new paragraph:

"(15) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out projects under part U.".

Subtitle F—Other Provisions

SEC. 1071. STRENGTHENED FEDERAL PENALTIES RELATING TO CRYSTALLINE METHAMPHETAMINE.

(a) LARGE AMOUNT.—The first sentence of section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—The first sentence of section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

SEC. 1072. ADVERTISEMENTS OF CONTROLLED SUBSTANCES.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance, but does not include material that—

"(1) merely advocates the use of a similar material or advocates a position or practice; and

"(2) does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

SEC. 1073. INCREASED PENALTIES FOR DISTRIBUTION OF CONTROLLED SUBSTANCES AT TRUCK STOPS AND REST AREAS.

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 1 year.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of—

"(A) a term of imprisonment of not less than 3 years and not more than life imprisonment; or

"(B) a term of imprisonment of up to 3 times that authorized by section 401(b) for a first offense, or a fine up to 3 times that authorized by section 401(b) for a first offense, or both; and

"(2) at least 3 times any term of supervised release authorized by section 401(b) for a first offense.

"(c) Probation shall not be granted in the case of a sentence imposed under subsection (b).

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning stated in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) with the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716(6))) operating in commerce (as defined in section 12019(3) of that Act (49 U.S.C. App. 2716(3)) and located adjacent to or within 2,500 feet of a highway on the National System of Interstate and Defense Highways or the Federal-aid primary system.".

(b) TECHNICAL AMENDMENTS.—(1) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(2) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by inserting after the item relating to section 408 the following new item:

"Sec. 409. Transportation safety offenses.".

(c) Sentencing Commission Guidelines.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (a), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 2 levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(d) Implementation of Subsection (c).—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

(e) Offenses That Could Be Subject to Multiple Enhancements.—The guidelines referred to in subsection (d), as promulgated or amended under that subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to that subsection is subject to not more than 1 such enhancement.

SEC. 1074. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791(c) of title 18, United States Code, is amended—

(1) in subsection (c) by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A) by inserting "or a controlled substance in Schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C)" after "a firearm or destructive device";

(3) in subsection (d)(1)(B) by inserting "marijuana or a controlled substance in Schedule III, other than a controlled substance referred to in subparagraph (C)," before "ammunition,";

(4) in subsection (d)(1)(C) by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,"; and

(5) in subsection (d)(1)(D) by inserting "(A), (B), or" before "(C)".

SEC. 1075. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

(a) Heading for Section 3.—The Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended by inserting the following new heading for section 3:

"SEIZURE AND FORFEITURE OF VESSELS, VEHICLES AND OTHER CONVEYANCES".

(b) Amendment of Section 3.—Section 3 of the Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended—

(1) by striking "(a) Whenever" and inserting "(a) Vessels, Vehicles, and Other Conveyances Subject to Seizure and Forfeiture.—Whenever";

(2) by striking "(b) Every" and inserting "(b) Vessels, Vehicles and Other Conveyances, Defined.—Every";

(3) in subsections (a) and (b) by inserting ", vehicle, or other conveyance" after "vessel" each place it appears; and

(4) by amending subsection (c) to read as follows:

"(c) Acts Constituting Prima Facie Evidence of Vessel, Vehicle, or Other Conveyance Engaged in Smuggling.—For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, has been, or is being attempting to be employed in smuggling or to be employed to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, that a vessel has become subject to pursuit under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or is a hovering vessel, or that a vessel fails at any place within the customs waters of the United States or within a customs-enforcement area to display lights as required by law; and

"(2) in the case of a vehicle or other conveyance, that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

SEC. 1076. CLOSING OF LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 1077. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (26 U.S.C. 7608 note) is amended to read as follows:

"(3) Effective date.—The amendments made by this subsection shall take effect on the date of enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 1078. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) Civil Enforcement.—The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 1079. CONFORMING AMENDMENTS CONCERNING MARIJUANA.

(a) Less Than 50 Kilograms.—(1) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by striking "less than 50 kilograms of marihuana" and inserting "less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(2) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "with respect to less than 50 kilograms of marihuana" and inserting "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(b) 100 or More Plants.—Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "except in the case of 100 or more marihuana plants" and inserting "except in the case of 50 or more marihuana plants".

SEC. 1080. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Subsections (d) and (f) of section 5038 of title 18, United States Code, are amended by striking "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), and (3)).".

SEC. 1081. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

SEC. 1082. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) Section 401(b)(1) (B), (C), and (D) of the Controlled Substances Act.—Subparagraphs (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) Section 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act.—Paragraphs (1), (2), and (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(c) Section 1012(b) of the Controlled Import and Export Act.—Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony drug offense have become final".

(d) Section 401(b)(1)(A) of the Controlled Substances Act.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For the purposes of this subparagraph, the term 'felony drug offense' means".

(e) Section 102 of the controlled substances Act.—Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended by section 1012(c)(7), is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than 1 year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 1083. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Section 401(b)(1) of the Controlled Substances Act.—Subparagraphs (A) and (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.".

(b) SECTION 1010(b) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1) and (2) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) are amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.".

(c) SECTION 419(d) OF THE CONTROLLED SUBSTANCES ACT.—Section 419(d) of the Controlled Substances Act (21 U.S.C. 860(c)), as redesignated by section 501(1), is amended by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(d) SECTION 420(e) OF THE CONTROLLED SUBSTANCES ACT.—Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section.".

SEC. 1084. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting "3 years".

SEC. 1085. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

SEC. 1086. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 1087. DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title, including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(2) kits designed for use or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances designed for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips (that is, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

SEC. 1088. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding at the end the following new paragraph:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph.

SEC. 1089. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Subsections (a) and (b) of section 418 of the Controlled Substances Act (21 U.S.C. 859 (a) and (b)) are amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age".

SEC. 1090. DRUGGED OR DRUNK DRIVING CHILD PROTECTION.

(a) APPLICATION OF STATE LAW IN AREAS WITHIN FEDERAL JURISDICTION.—Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, commonwealth, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

(b) COMMON CARRIERS.—Section 342 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following new subsection:

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

SEC. 1091. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 1092. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:

"(c) The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 1093. INCREASED PENALTIES FOR DRUG DEALING IN "DRUG-FREE" ZONES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "one year" and inserting "3 years"; and

(2) in subsection (b) by striking "three years" each place it appears and inserting "5 years".

SEC. 1094. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Whoever, being a physical trainer or adviser to a person, attempts to persuade or induce the person to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, imprisoned not more than 2 years (or if the person attempted to be persuaded or induced was less than 18 years of age at the time of the offense, 5 years), or both.

"(2) As used in this subsection, the term 'physical trainer or adviser' means a professional or amateur coach, manager, trainer, instructor, or other such person who provides athletic or physical instruction, training, advice, assistance, or any other such service to any person.".

SEC. 1095. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISIONS OF LAW THAT CONDITION PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THE STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of section 333 of Public Law 101-516 (104 Stat. 2184) and section 104(a)(3) of title 23, United States Code, which shall notify the Governors and State Representatives of the requirements of those sections.

SEC. 1096. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

Section 5122(c) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(c)) is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

SEC. 1097. MISUSE OF THE WORDS "DRUG ENFORCEMENT ADMINISTRATION" OR THE INITIALS "DEA".

Section 709 of title 18, United States Code, is amended by inserting the following new paragraph before the paragraph beginning "Shall be punished":

"Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration,".

TITLE XI—PUBLIC CORRUPTION

SEC. 1101. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1992".

SEC. 1102. PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 226. Public corruption

"(a) STATE AND LOCAL GOVERNMENT.—

"(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(A) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(D) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned not more than 10 years, or both.

"(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing to be sent or delivered by the Postal Service, or takes or receives therefrom any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(ii) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(iii) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(iv) uses or causes the use of any facility of interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce; or

"(C) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(b) FEDERAL GOVERNMENT.—Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) OFFENSE BY AN OFFICIAL AGAINST AN EMPLOYEE OR OFFICIAL.—

"(1) CRIMINAL OFFENSE.—Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) CIVIL ACTION.—(A) Any employee or official of the United States or of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and obtain all relief necessary to make the employee or official whole, including—

"(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

"(ii) 3 times the amount of backpay;

"(iii) interest on the backpay; and

"(iv) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

"(B) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

"(C)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

"(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that he or she will be so nominated, appointed, or selected;

"(2) the term 'person acting or pretending to act under color of official authority' includes a person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official;

"(3) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and also include any person acting or pretending to act under color of official authority;

"(4) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

(b) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 1103. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 1104. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) OFFENSE BY PUBLIC OFFICIAL.—A public official who, in a circumstance described in subsection (c), directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State,

shall be guilty of a class B felony.

"(b) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—A person who, in a circumstance described in subsection (c), directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence the public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence the public official to do or to omit to do any act in violation of the official's lawful duty,

shall be guilty of a class B felony.

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption.".

TITLE XII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

SEC. 1201. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 1202. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title, imprisoned not more than 1 year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "10"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "6".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," each place it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 1203. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "6".

SEC. 1204. VIOLENT FELONIES AGAINST THE ELDERLY.

(a) OFFENSE.—Subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3587. Mandatory sentence for felony against individual of age 65 or over

"(a) PENALTY.—Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of the crime is an individual who had attained age 65 on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for the crime under this title, in the case of a first offense to which this section applies; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for the crime under this title, in the case of a second or subsequent offense to which this section applies.

"(b) TERMS OF PUNISHMENT.—Notwithstanding any other law, with respect to a sentence imposed under subsection (a)—

"(1) the court shall not give the defendant a probationary sentence;

"(2) the sentence shall be served consecutively to any other sentence imposed under this title; and

"(3) the court shall reject any plea agreement that would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) in connection with any charged offense.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'crime of violence' means—

"(A) a felony that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) the term 'victim' means an individual against whom an offense has been or is being committed.".

(b) TECHNICAL AMENDMENTS.—(1) The subchapter analysis for subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3587. Mandatory sentence for felony against individual of age 65 or over.".

(2)(A) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(i) by adding at the end of the first paragraph in paragraph (1) (after "record.") the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

(ii) in paragraph (2)(D) by inserting "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed" after "offense".

(B) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking "*In General.*—The" and inserting "*In General.*—Except as provided in title 18, United States Code, section 3581, the".

SEC. 1205. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

SEC. 1206. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

Subtitle B—Civil Rights Offenses

SEC. 1211. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results"; and

(3) by inserting "and may be fined under this title, or both" before the period.

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(4) by inserting "and may be fined under this title, or both" before the period.

(c) FEDERALLY PROTECTED ACTIVITIES.—The first sentence of section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(5) by inserting "and may be fined under this title, or both" before the period.

(d) Damage to Religious Property.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) Fair Housing Act.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) by striking "not more than $1,000," and inserting "under title 18, United States Code,";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(3) by striking "not more than $10,000," and inserting "under title 18, United States Code,";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under title 18, United States Code, or imprisoned"; and

(6) by inserting ", or both" after "life".

Subtitle C—White Collar and Property Crimes

SEC. 1221. RECEIPT OF PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) Robbery.—Whoever"; and

(2) by adding at the end the following new subsection:

"(b) Receipt of Proceeds.—Whoever receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 1222. RECEIPT OF PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) Extortion.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receipt of proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property that was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the chapter analysis, by adding at the end the following new item:

"880. Receipt of proceeds of extortion.".

(b) Kidnapping.—Section 1202 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) Violation of Section 1201.—Whoever"; and

(2) by adding at the end the following new subsections:

"(b) Violation of State Law.—Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) Definition.—For purposes of this section, the term 'State' has the meaning stated in section 245(d).".

SEC. 1223. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code, or" before "the Antitrust Civil Process Act".

SEC. 1224. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 1225. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

SEC. 1226. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

SEC. 1227. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) In General.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

"§ 3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A);

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization, including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5)), that has governmental authority within the territorial boundaries of the United States, including lands described in section 4(4) of such Act (25 U.S.C. 2703(4));

"(3) the term 'person' has the meaning given that term in section 1 of title 1;

"(4) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which 1 or more professional athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A); and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§ 3702. Unlawful sports gambling

"It is unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact; or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on 1 or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on 1 or more performances of such athletes in such games.

"§ 3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of the violation.

"§ 3704. Applicability

"(a) Exceptions.—Section 3702 does not apply to—

"(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme actually was conducted by that State or other governmental entity prior to August 31, 1990;

"(2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity if—

"(A) the scheme is authorized by law; and

"(B) a scheme described in section 3702 (other than parimutuel animal racing or jai alai) actually was conducted in that State or other governmental entity during the period beginning September 1, 1989, and ending August 31, 1990, pursuant to the law of the State or other governmental entity; or

"(3) parimutuel animal racing or jai alai.

"(b) Indian Lands.—Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) Technical Amendments.—The part analysis for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure .... 3001";

and

(2) by adding at the end the following new item:

"178. Professional and Amateur Sports Protection .... 3701".

SEC. 1228. CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); or"; and

(4) in subparagraph (D), as redesignated by paragraph (2)—

(A) by striking "or" after "recording,"; and

(B) by inserting ", or a computer program" before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A) by striking "or" after the semicolon;

(2) in subparagraph (B) by striking "and" at the end and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(c) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) the term 'computer program' has the meaning stated in section 101 of title 17, United States Code.".

SEC. 1229. FINANCIAL INSTITUTIONS FRAUD.

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 19(a)(2)(A)(i)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(2)(A)(i)(I)) is amended by striking "or 1956" and inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(c) CRIME CONTROL ACT OF 1990.—Section 2546 of the Crime Control Act of 1990 (28 U.S.C. 522 note; 104 Stat. 4885) is amended by adding at the end the following new subsection:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

SEC. 1230. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by adding "or" at the end of paragraph (d); and

(3) by inserting after paragraph (d) the following new paragraph:

"(e) intentionally uses, discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511 (b) and (c), 2511(e), 2516, and 2518, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, having obtained or received the information in connection with a criminal investigation, with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 1231. THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 668. Theft of a major art work

"(a) THEFT FROM MUSEUM.—Whoever steals or obtains by fraud any object of cultural heritage held in a museum commits a class C felony.

"(b) EXHIBITION OR STORAGE BY MUSEUM.—A museum that exhibits to the public or holds in storage any stolen object of cultural heritage knowing that such object is stolen commits a class C felony.

"(c) LIMITATIONS.—Notwithstanding section 3282, the statute of limitations for an offense under this section is 20 years.

"(d) FORFEITURE.—The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, that owns and utilizes tangible objects, cares for them, and exhibits them to the public during a regularly scheduled period; and

"(2) the term 'stolen object of cultural heritage' means a stolen object that is—

"(A) registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry; and

"(B) reported to law enforcement authorities as having been stolen.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of a major art work.".

SEC. 1232. MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by striking "not more than $250" and inserting "under this title"; and

(2) by adding at the end "For the purposes of this section, the term 'sells' includes trades, barters, or exchanges for anything of value.".

SEC. 1233. MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such a person that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner or with the consent of the owner.

"(2) MORE THAN 1 SET OF CONDITIONS.—The Attorney General may establish more than 1 set of conditions under which participating motor vehicles may be stopped. If more than 1 set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality shall agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following new item:

"160. Motor vehicle theft prevention program.".

(c) ALTERATION OR REMOVAL OF MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Section 511(a) of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to section 160 of title 23 shall be fined not more than $10,000, imprisoned not more than 5 years, or both.".

(2) EXCEPTED PERSONS.—Section 511(b)(2) of title 18, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to section 160 of title 23 if that person is the owner of the motor vehicle or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or the owner's authorized agent;

"(ii) State or local law; or

"(iii) regulations promulgated by the Attorney General to implement section 160 of title 23.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d) For purposes of subsection (a), the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to section 160 of title 23 for the purpose of obstructing its visibility.".

(4) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(A) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 511 the following new section:

"§ 511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, without authorization under section 160 of title 23 shall be fined not more than $5,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to section 160 of title 23.".

(B) TECHNICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item for section 511 the following new item:

"511A. Unauthorized application of theft prevention decal or device.".

SEC. 1234. KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 771(b), is amended by adding at the end the following new section:

"§ 22. Stolen or counterfeit nature of property for certain crimes defined

"(a) ESTABLISHMENT OF ELEMENT OF OFFENSE.—Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, the element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) DEFINITION.—For purposes of this section, the term 'official representation' means a representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 771(c), is amended by adding at the end thereof the following new item:

"22. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1235. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to

be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 1236. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly, and with intent to defraud, effects transactions, with 1 or more access devices issued to another person, to receive anything of value aggregating $1,000 or more during any 1-year period;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 1237. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) OFFENSES.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new sections:

"§1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a) FALSE STATEMENT OR REPORT.—(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and, with the intent to deceive, knowingly makes any false material statement or report or willfully overvalues any land, property or security—

"(A) in connection with reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person; and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b) MISUSE OF MONEY.—(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined under this title, imprisoned not more than 1 year, or both.

"(c) FALSE ENTRY OF FACT.—(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business; or

"(B) deceive any officer, employee, or agent of such person engaged in the business of insurance, insurance regulatory official or agency, or agent or examiner appointed by such official or agency to examine the affairs of such person,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years.

"(d) INFLUENCING, OBSTRUCTING, OR IMPEDING ADMINISTRATION OF LAW.—Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined under this title, imprisoned not more than 10 years, or both.

"(e) ENGAGING IN INSURANCE BUSINESS AFTER CONVICTION.—(1)(A) A person who has been convicted of an offense under this section, or of a felony involving dishonesty or a breach of trust, who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if the person has the written consent of an insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance; or

"(B) the reinsuring of risks underwritten by insurance companies,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who are or who act as officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia or any territory or possession of the United States;

"(B) commerce between any point in a State and any point outside the State;

"(C) commerce between points within a State through any place outside the State; and

"(D) all other commerce over which the United States has jurisdiction;

"(3) the term 'insurer' means—

"(A) a business that is organized as an insurance company under the laws of a State, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the insurance official or agency of a State; or

"(B) a receiver or similar official or any liquidating agent for such a company, in his or her capacity as such,

and includes any person who is or acts as an officer, director, agent, or employee of that business; and

"(4) the term 'State' includes a State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"§1034. Civil penalties and injunctions for violations of section 1033

"(a) CIVIL PENALTY.—The Attorney General may bring a civil action in an appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation that the person received or offered for the prohibited conduct, whichever amount is greater. If the offense contributed to the insolvency of an insurer that has been placed under the control of a State insurance regulatory agency or official, such penalty shall be remitted to the regulatory official of the insurer's State of domicile for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the United States or any other person.

"(b) INJUNCTION.—If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy that is available by law to the United States or any other person.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—

(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293(1) of title 18, United States Code, is amended by inserting "1033," after "1014,".

(3) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person of the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

SEC. 1238. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000, imprisoned not more than 10 years"; and

(B) by striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000, imprisoned not more than 20 years"; and

(B) by striking "not more than $5,000,000" and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

SEC. 1239. COMPUTER ABUSE AMENDMENTS ACT OF 1992.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1992".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) a fine under this title, imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) A person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless the action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, as amended by subsection (d), is amended by adding at the end the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under subsection (a)(5).".

(f) DEFINITION.—Section 1030(e)(1) of title 18 United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

SEC. 1239A. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE AMOUNTS OF CASH IN WEAPONS SCREENING.

Section 315 of the Federal Aviation act of 1958 (49 U.S.C. App. 1356) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring employees and agents described in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers—

"(1) a controlled substance the possession of which may be a violation of Federal or State law; or

"(2) an amount of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.".

Subtitle D—Sentencing and Procedure

SEC. 1241. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 1242. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 1243. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COOPERATE IN DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 1244. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place it appears and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm (as defined in section 921) in violation of Federal law or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

SEC. 1245. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) PETTY OFFENSES.—Subsection (a)(3) does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 1246. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403.".

SEC. 1247. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

SEC. 1248. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in the second sentence by striking "place him on probation, or commit him to official detention" and inserting "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)";

(2) by redesignating subsection (d) as subsection (e); and

(3) by adding after subsection (c) the following new subsection:

"(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than 18 years old, beyond the earlier of—

"(A) the date on which the juvenile becomes 21 years old; or

"(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between 18 and 21 years old—

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond 5 years; or

"(B) in any other case beyond the lesser of—

"(i) 3 years; or

"(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

SEC. 1249. IMMUNITY.

Section 6003(b) of title 18, United States Code, is amended—

(1) by striking "or" before "Deputy Assistant Attorney General" and inserting a comma; and

(2) by inserting "or one other officer or employee of the Criminal Division designated by the Attorney General" after "Deputy Assistant Attorney General,".

SEC. 1250. EXTENDED SERVICE OF MEMBERS OF THE SENTENCING COMMISSION.

Section 992(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraph (2)—

"(A) no voting member of the Commission may serve more than 2 full terms; and

"(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of that term.

"(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.".

Subtitle E—Immigration-Related Offenses

SEC. 1251. EXPLOITATION OF ALIENS.

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 1234(a), is amended by adding at the end the following new section:

"§ 23. Exploitation of aliens

"(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the

Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

"(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought by the Attorney General in a civil action before a United States district court.

"(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 1234(b), is amended by adding at the end the following new item:

"23. Exploitation of aliens.".

SEC. 1252. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 1251 shall be covered into the Fund and shall be used for the purposes of this section.

(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into the Fund in any fiscal year may be used by the Attorney General—

(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony; and

(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 (104 Stat. 5052) that have not been funded.

(2) Ten percent of the monies covered into the Fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)); and

(B) modifying a plan described in section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1330) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

SEC. 1253. ALIENS CONVICTED OF FELONY DRUNK DRIVING.

Section 241(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)) is amended—

(1) by redesignating clause (iv) as clause (v);

(2) by inserting after clause (iii) the following new clause:

"(iv) DRIVING UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An alien who is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party is deportable."; and

(3) in clause (v), as redesignated by paragraph (1), by striking "and (iii)" and inserting "(iii), and (iv)".

Subtitle F—United States Marshals

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "United States Marshals Association Establishment Act".

SEC. 1262. ESTABLISHMENT AND PURPOSE OF ASSOCIATION.

(a) ESTABLISHMENT.—There is established the United States Marshals Association (referred to in this subtitle as the "Association"). The Association is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Association are—

(1) to elevate and strengthen public knowledge of law enforcement in general, and the United States Marshals Service in particular;

(2) to promote the exchange of information among private and public institutions and individuals about law enforcement and justice systems issues;

(3) to organize symposia, studies, and research in carrying out paragraphs (1) and (2);

(4) to study the history of law enforcement;

(5) to produce, sell, and distribute educational materials on law enforcement and justice systems issues;

(6) to accept and administer private gifts or property for the benefit of, or in connection with, the activities and services of the United States Marshals Service; and

(7) to promote law enforcement.

SEC. 1263. BOARD OF DIRECTORS OF THE ASSOCIATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (referred to in this subtitle as the "Board"), which shall consist of not less than 3 nor more than 20 members, each of whom shall be a United States citizen and be knowledgeable or experienced in law enforcement matters. The Director of the United States Marshals Service shall be a nonvoting member of the Board, ex officio. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—

(1) INITIAL APPOINTMENT.—The members of the Board first appointed shall be appointed by the United States Marshals Association, a nonprofit corporation in existence before the enactment of this Act, which is organized under the laws of the State of Virginia.

(2) SUBSEQUENT APPOINTMENT.—The members of the Board appointed after the appointment of Directors under paragraph (1) shall be appointed in the manner provided in the bylaws of the Association.

(3) ADVICE OF DIRECTOR.—A member of the Board may be appointed with the advice of the Director of the United States Marshals Service (referred to in this subtitle as the "Director").

(4) TERMS.—The members of the Board shall be appointed for terms of 4 years. A vacancy on the Board shall be filled in the manner in which the original appointment was made. No person may serve for more than 2 consecutive terms as a member of the Board.

(c) CHAIR.—The chair of the Board shall be elected by the Board from its members to a 2-year term.

(d) QUORUM.—A majority of the membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the chair at least twice each year. If a member of the Board misses 3 consecutive regularly scheduled meetings, the member may be removed from the Board as provided in the bylaws of the Association, and that vacancy may be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Association.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Association by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Association and the provisions of this subtitle; and

(C) carrying out such other actions as may be necessary to carry out this subtitle.

(2) The following limitations apply with respect to the appointment of officers and employees of the Association:

(A) Officers and employees may not be appointed until the Association has sufficient funds to pay them for their services. Officers and employees of the Association shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum rate of pay payable under section 5376 of title 5, United States Code, for a position classified above grade GS-15 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board, who—

(i) shall serve, at the direction of the Board, as its chief operating officer; and

(ii) shall be knowledgeable and experienced in matters relating to law enforcement.

(h) ADVISORY COUNCIL.—The chair of the Board may appoint an Advisory Council of up to 15 members to advise the Association on its activities under this subtitle. Members of the advisory council have no vote in matters before the Association.

SEC. 1264. MEMBERSHIP.

(a) ELIGIBILITY.—Eligibility for membership in the Association shall be limited to persons and organizations demonstrating support of the stated purpose, goals, and functions of the Association. Categories of membership shall be as follows:

(1) Regular member, which shall be limited to individuals actively or formerly employed in the United States Marshals Service.

(2) Associate member, which shall be limited to individuals who are qualified by training or experience in Federal, State, local, or foreign law enforcement.

(3) Honorary member, which shall be limited to individuals who have an outstanding record of service in the public or private sector.

(4) Corporate member, which shall be limited to nongovernmental public, private, or

nonprofit organizations which support the purposes of the United States Marshals Association.

(5) Sponsoring member, which shall be limited to Federal or State government entities.

(b) APPLICATION.—Persons may apply or be nominated for membership in the Association. Any such application shall be made in writing on the form provided by the Association.

(c) SPONSORSHIP.—Applicants or nominees for membership in any category except that of sponsoring member must be proposed by a regular member. Acceptance of applicants or nominees for membership shall be determined by a majority vote of the Board.

(d) DUES FOR MEMBERS.—Membership dues shall be established by the Board. Dues must accompany a prospective member's application. No dues shall be required in the case of honorary members or sponsoring members.

(e) VOTING.—A member may vote in matters for which the vote of the Association is required, and may serve on the Board.

(f) SUSPENSION OR EXPULSION OF MEMBERS.—A member of the Association may be suspended or expelled for nonpayment of dues in arrears for at least 60 days, for good cause, or for other reasons by a vote of two-thirds of the Board in accordance with procedures prescribed in Robert's Rules of Order. No member who has been suspended or expelled from the Association may be readmitted to membership for a period of 1 year, and readmission thereafter shall require the consent of two-thirds of the Board.

SEC. 1265. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.

(a) IN GENERAL.—The Association—

(1) shall have perpetual existence;

(2) may conduct business throughout the States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Virginia or such other place as may be determined by the Board; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Association.

(b) SERVICE OF PROCESS.—Service of process on the agent required under subsection (a)(4) or the mailing of process to the business address of the agent shall constitute service on the Association.

(c) SEAL.—The Association may use the seal, insignia, or badge of the United States Marshals Service, and other materials unique to the United States Marshals Service, only with the express written permission of the Director.

(d) POWERS.—To carry out its purposes under section 1262, the Association shall have, in addition to the powers otherwise given it under this subtitle, the usual powers of a corporation acting as a trustee in the State of Virginia or wherever else the Association is incorporated. The Association shall have the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Association.

(e) ACCEPTANCE OF GIFTS.—A gift, devise, or bequest may be accepted by the Association even though it is encumbered, restricted, or subject to the beneficial interests of private persons if any current or future interest therein is for the benefit of the Association.

SEC. 1266. ADMINISTRATIVE SERVICES AND SUPPORT.

The Director may provide personnel, facilities, and other administrative services to the Association, including reimbursement of expenses under section 1262, not to exceed the then current Federal Government per diem rates, until the date that is 5 years after the date of the enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 1267. VOLUNTEER STATUS.

The Director may, notwithstanding section 1342 of title 31, United States Code, accept voluntary services of the Association in the performance of the functions of the Association under this subtitle.

SEC. 1268. RESTRICTIONS.

(a) FINANCIAL INTERESTS.—No part of the income or assets of the Association shall inure to any member or officer of the Association or member of the Board or be distributed to any such person. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers or the Association or reimbursement for actual necessary expenses in amounts approved by the Board.

(b) PROHIBITION ON LOANS.—The Association shall not make any loan to any member of the Board or to any officer or employee of the Association.

(c) PROHIBITION ON STOCK.—The Association shall have no power to issue any shares of stock or to declare or pay any dividends.

SEC. 1269. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101 et seq.), the Association shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during the year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN ASSOCIATION ACTS OR FAILURES TO ACT.—If the Association—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 1262(b); or

(2) refuses, fails, or neglects to discharge its obligations under this subtitle, or threatens to do so,

the Attorney General of the United States may petition the appropriate court for such equitable relief as may be necessary or appropriate.

SEC. 1270. LIABILITY OF THE UNITED STATES.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Association, nor shall the full faith and credit of the United States extend to any obligation of the Association.

SEC. 1271. NONDISCRIMINATION.

(a) EMPLOYMENT PRACTICES.—Notwithstanding section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)) or section 101(5)(B) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12111(5)(B)), the Association and any agent of the Association shall be considered to be an employer for purposes of title VII of the Civil Rights Act of 1964 and the Americans With Disabilities Act of 1990 if the Association is engaged in an industry affecting commerce and meets the minimum employee requirements set forth in those Acts.

(b) MEMBERSHIP PRACTICES.—

(1) PROHIBITED PRACTICES.—It shall be unlawful for the Association, on the basis of the race, color, religion, sex, national origin, age, or disability of an individual, to—

(A) fail or refuse to accept the individual into membership;

(B) expel the individual from membership;

(C) suspend the membership of the individual; or

(D) discriminate against the individual with respect to any of the benefits or obligations of membership.

(2) ENFORCEMENT.—

(A) RIGHT OF ACTION.—Any person may bring a civil action to enforce paragraph (1) in any appropriate United States district court. Any such action may be dismissed for just cause.

(B) INJUNCTIVE RELIEF.—In any civil action brought under this paragraph, the court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

SEC. 1272. ACQUISITION OF ASSETS AND LIABILITIES OF EXISTING ASSOCIATION.

The Association may acquire the assets of the United States Marshals Association, a nonprofit organization organized under the laws of the State of Virginia before the enactment of this Act.

SEC. 1273. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this subtitle at any time.

Subtitle G—Other Provisions

SEC. 1281. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4 (b) or (c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) and (c)),

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 211 of title 18, United States Code, is amended by inserting after the item relating to section 3238 the following new item:

"3239. Optional venue for espionage and related offense.".

SEC. 1282. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, and the carcasses thereof;".

SEC. 1283. COURT TO BE HELD AT LANCASTER.

Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

SEC. 1284. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES ATTORNEY'S OFFICE IN PHILADELPHIA, PENNSYLVANIA.

(a) AUTHORIZATION.—There is authorized to be appropriated $35,000,000, to remain available until expended, to plan, acquire a site for, design, construct, build out, equip, and prepare for use an office building to house the United States Attorney's Office in Philadelphia, Pennsylvania, notwithstanding any other law.

(b) SITE SELECTION.—The site of the office building constructed pursuant to subsection (a) shall be at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center and shall be approved by the Attorney General after notification submitted to the Congress as required by law.

SEC. 1285. AWARD OF ATTORNEY'S FEES FOR EMPLOYEES OF DEPARTMENT OF JUSTICE.

Section 519 of title 28, United States Code, is amended—

(1) by striking "Except" and inserting "(a) IN GENERAL.—Except"; and

(2) by adding at the end the following new subsection:

"(b) AWARD OF FEES.—

"(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

"(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as a result of such investigation.

"(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such an inquiry, the Attorney General shall consider—

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for legal services in the community in which the investigation took place.".

SEC. 1286. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000; and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of this section—

(1) the term "criminal offense" means—

(A) any Federal criminal offense involving a controlled substance;

(B) racketeering;

(C) money laundering; and

(D) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs;

(2) the term "money laundering" means an offense under section 1956 or 1957 of title 18, United States Code; and

(3) the term "racketeering" means an offense under section 1951, 1952, or 1955 of title 18, United States Code.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney; and

(2) the office of the local prosecuting attorney,

for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary to implement this section within 90 days after the date of enactment of this Act.

(e) EFFECTIVE DATE.—This section shall become effective on the date that is 60 days after the date of the promulgation of regulations under subsection (d).

SEC. 1287. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS AND REPORT TO CONGRESS ON ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) REPORT TO CONGRESS.—Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", which report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under paragraph (7)(B)."; and

(3) by adding at the end the following new subparagraph:

"(D) a report for the fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 1288. DNA IDENTIFICATION.

(a) FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.—

(1) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)), as amended by section 531, is amended—

(A) by striking "and" at the end of paragraph (21);

(B) by striking the period at the end of paragraph (22) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(23) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (referred to in this title as 'DNA') for identification purposes.".

(2) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

"(B) DNA samples obtained by and DNA analyses performed at the laboratory will be made available only—

"(i) to criminal justice agencies, for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; and

"(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) the laboratory and each analyst performing DNA analyses at the laboratory will undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992.".

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1992, 1993, 1994, 1995, and 1996 there are authorized to be appropriated $10,000,000 for grants to the States for DNA analysis.

(b) QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—

(1) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appro-

priate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(B) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(C) The standards described in subparagraphs (A) and (B) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(D) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(2) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under paragraph (1) shall be considered to be an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date that is 5 years after the date on which initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may establish an index of—

(A) DNA identification records of persons convicted of crimes;

(B) analyses of DNA samples recovered from crime scenes; and

(C) analyses of DNA samples recovered from unidentified human remains.

(2) CONTENTS.—The index established under paragraph (1) shall include only information on DNA identification records and DNA analyses that are—

(A) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

(B) prepared by laboratories and DNA analysts that undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992; and

(C) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(i) to criminal justice agencies, for law enforcement identification purposes;

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) FAILURE TO MEET REQUIREMENTS.—The exchange of records authorized by this subsection is subject to cancellation if the quality control and privacy requirements described in paragraph (2) are not met.

(d) FEDERAL BUREAU OF INVESTIGATION.—

(1) PROFICIENCY TESTING REQUIREMENTS.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under subsection (b). Not later than 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this subparagraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(B) For each of the 5 years following the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate an annual report on the results of each of the tests described in subparagraph (A).

(2) PRIVACY PROTECTION STANDARDS.—(A) Except as provided in subparagraph (B), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(i) to criminal justice agencies for law enforcement identification purposes; or

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged.

(B) If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) CRIMINAL PENALTIES.—(A) Whoever—

(i) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(ii) willfully discloses such information in any manner to any person or agency not entitled to receive it,

shall be fined not more than $100,000.

(B) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsections (b), (c), and (d).

SEC. 1289. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1064(a), is amended—

(1) by redesignating part V as part W;

(2) by redesignating section 2201 as section 2301; and

(3) by inserting after part U the following new part:

"PART V—SAFE SCHOOLS ASSISTANCE

"SEC. 2201. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 2202. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 2203. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2202;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within the schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce crime problems.

"SEC. 2204. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2203(c).

"SEC. 2205. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 2203(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 2203(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 2206. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2203(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part, which report shall contain—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 2203(b)(4); and

"(3) an evaluation of programs established under this part.

"SEC. 2207. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1064(b), is amended by striking the matter relating to part V and inserting the following:

"PART V—SAFE SCHOOLS ASSISTANCE

"Sec. 2201. Grant authorization.
"Sec. 2202. Use of funds.
"Sec. 2203. Applications.
"Sec. 2204. Allocation of funds; limitations on grants.
"Sec. 2205. Award of grants.
"Sec. 2206. Reports.
"Sec. 2207. Definitions.

"PART W—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2301. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1064(c), is amended by adding at the end the following new paragraph:

"(16) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part V.".

TITLE XIII—TECHNICAL CORRECTIONS

SEC. 1301. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) TESTING OF CERTAIN SEX OFFENDERS FOR HUMAN IMMUNE DEFICIENCY VIRUS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a(b)) is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "subsection (a) (1) and (2)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "section 515(a) (1) or (3)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)), as amended by section 902, is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M.," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(3)) is amended by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) (42 U.S.C. 3796b(3)) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) (42 U.S.C. 3722(c)(2)(E)) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) (42 U.S.C. 3732(c)) by striking the period at the end and inserting a semicolon;

(3) in section 602(a)(1) (42 U.S.C. 3769a(a)(1)) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) (42 U.S.C. 3769b(a)(6)) by striking "605" and inserting "606";

(5) in section 605 (42 U.S.C. 3769c) by striking "this section" and inserting "this part";

(6) in section 606(b) (42 U.S.C. 3769d(b)) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b) (42 U.S.C. 3782(b))—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) (42 U.S.C. 3783(b)) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) (42 U.S.C. 3785(b)) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 (42 U.S.C. 3789) by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) (42 U.S.C. 3789d(c)(2)(H)) by striking "805" and inserting "804";

(12) in section 811(e) (42 U.S.C. 3789f(e)) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) (42 U.S.C. 3791(a)(3)) by striking "and," and inserting ", and"; and

(14) in section 1001(c) (42 U.S.C. 3793(c)) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance

Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 1302. GENERAL TITLE 18 CORRECTIONS.

(a) Section 1031.—Section 1031 of title 18, United States Code, is amended—

(1) by redesignating subsection (g), as added by Public Law 101-123, as subsection (h) and removing it to the end of the section; and

(2) in subsection (h), as redesignated by paragraph (1), by striking "a government" and inserting "a Government".

(b) Section 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) Section 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) Section 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) Elimination of Obsolete Cross Reference.—Section 3293(1) of title 18, United States Code, is amended by striking "1008,".

(f) Part I Part Analysis.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

SEC. 1303. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) Contraband in Prison.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) Money Laundering.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) Requirements for Governmental Access.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) Programs Receiving Federal Funds.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) Offenders With Mental Disease or Defect.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "section 4241(e), 4243(f), 4244(e), 4245(e), or 4246(e),".

(f) Continuing Criminal Enterprises.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) Sentencing Commission.—Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) Firearms.—Section 924(e)(2)(A)(i) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(i) Erroneous Citation in Crime Control Act of 1990.—Section 2596(d) of the Crime Control Act of 1990 (104 Stat. 4908) is amended, effective as of the date of enactment of that Act, by striking "951(c)(1)" and inserting "951(c)(2)".

SEC. 1304. OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and by striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analyses for chapters 105 and 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking subsections (f) and (g) that were enacted by Public Law 100-690 (102 Stat. 4488);

(15) in section 3113 by striking the third paragraph; and

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 1305. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)(3)) is amended by striking "issuer" and inserting "domestic concern".

SEC. 1306. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

SEC. 1307. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking the quotation marks; and

(B) in subsection (d) by striking "provider for" and inserting "provider of"; and

(4) in section 3731, in the second undesignated paragraph, by striking "order of a district courts" and inserting "order of a district court".

TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1401. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1992".

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated $345,500,000 for fiscal year 1992 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include—

(A) not to exceed $45,000,000 to hire, equip, and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of State and local overtime, equipment, and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip, and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations.

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train, and equip no fewer than 500 full-time equivalent Border Patrol officer positions.

(B) $20,000,000 to hire, train, and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses.

(5) For the United States Marshals Service, $10,000,000.

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip, and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs.

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel, and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title.

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

TITLE XV—FEDERAL PRISONS

SEC. 1501. AUTHORIZATION OF APPROPRIATIONS FOR NEW PRISON CONSTRUCTION.

There is authorized to be appropriated for fiscal year 1993 to the buildings and facilities account, Federal Prison System, Department of Justice, $500,000,000 for the planning of, acquisition of sites for, and the construction of new penal and correctional facilities, such appropriations to be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for that fiscal year.

SMITH AMENDMENTS NOS. 3374 THROUGH 3389

(Ordered to lie on the table.)

Mr. SMITH submitted 16 amendments intended to be proposed to the bill S. 2899, supra, as follows:

AMENDMENT NO. 3374

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion in which the mother was not required to wait for 24 hours prior to the performance of the abortion."

AMENDMENT NO. 3375

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured solely on the basis of the sex of the fetus."

AMENDMENT NO. 3376

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion in which the fetus was born alive."

AMENDMENT NO. 3377

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the first month of development."

AMENDMENT NO. 3378

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the second month of development."

AMENDMENT NO. 3379

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the third month of development."

AMENDMENT NO. 3380

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the fourth month of development."

AMENDMENT NO. 3381

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the fifth month development."

AMENDMENT NO. 3382

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the sixth month of development."

AMENDMENT NO. 3383

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the seventh month of development."

AMENDMENT NO. 3384

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the eighth month of development."

AMENDMENT NO. 3385

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the ninth month of development."

AMENDMENT NO. 3386

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion performed on a minor without notification of the parent of that minor."

AMENDMENT NO. 3387

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion performed on a minor without the consent of the parent of such minor."

AMENDMENT NO. 3388

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured solely on the basis of the sex of the fetus."

AMENDMENT NO. 3389

At the appropriate place, add the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

NATIONAL ADVANCED TECHNICIAN TRAINING ACT

MIKULSKI (AND COCHRAN) AMENDMENT NO. 3390

Mr. EXON (for Ms. MIKULSKI for herself and Mr. COCHRAN) proposed an amendment to the bill (S. 1146) to establish a national advanced technician training program, utilizing the resources of the Nation's 2-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Scientific and Advanced-Technology Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the work force of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the work force (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this partnership shall, at a minimum—

(i) counsel students, including students who have been in the work force (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distribution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (2)(c) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATION AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

NATIONAL INDIAN POLICY RESEARCH INSTITUTE

INOUYE AMENDMENT NO. 3391

Mr. EXON (for Mr. INOUYE) proposed an amendment to the bill (S. 3155), to establish the National Indian Policy Research Institute, as follows:

Beginning on page 8, line 16, delete all through line 23;

On page 17, line 6, delete "Council—" and insert in lieu thereof "Council, which is advisory only and exercises no executive authority—";

On page 17, line 20, delete "shall" and insert in lieu thereof "may"; and

On page 20, line 17, delete "with, and make grants to—" and insert in lieu thereof "with—".

CASH MANAGEMENT IMPROVEMENT ACT AMENDMENTS

GLENN AMENDMENT N0. 3392

Mr. EXON (for Mr. GLENN) proposed an amendment to the bill (S. 2970) to amend the Cash Management Improvement Act of 1990, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.

The Cash Management Improvement Act of 1990 (Public Law 101–453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four and inserting "Five".

SEC. 3. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.

Section 3720A of title 31, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "to obtain payment of such debt." and inserting in lieu thereof "(determined on a government-wide basis) to obtain payment of such debt; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

SEC. 4. EXTENSION OF THE PRIVATE COUNSEL PILOT.

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States." approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

(d) CONTRACT EXTENSION.—The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.

SEC. 5. AUDIT BY INSPECTOR GENERAL.

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

SEC. 6. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

SEC. 7. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall take effect on the date of enactment of this Act, except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.

INDIAN AGRICULTURAL RESOURCES MANAGEMENT ACT OF 1992

MCCAIN AMENDMENT NO. 3393

Mr. GARN (for Mr. MCCAIN) proposed an amendment to the bill S. 2977 to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes; as follows:

Strike out in the text of the amendment subsection (a) of section 201 and insert a new subsection (a) as follows:

(a) MANAGEMENT ACTIVITIES.—The Secretary shall manage or administer the Indian rangeland and farmland programs authorized under existing law, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), or such other legal mechanisms as are appropriate.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a Business Meeting on Saturday, October 3, 1992, on Senate Joint Resolution 335, a resolution acknowledging the 100th anniversary of the overthrow of the Kingdom of Hawaii and to offer an apology to the native Hawaiian people.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. EXON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Friday, October 2, at 9:30 a.m. for a hearing on the nomination of Wayne Arthur Schley to be a Commissioner of the Postal Rate Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Friday, October 2, 1992, at 4:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ENGLISH ONLY TREND ISN'T THE AMERICAN WAY

• Mr. SIMON. Mr. President, there is an unhealthy English only movement that is making the rounds in our country.

Ironically, many of those who push the English only approach to our problems are the same people who vote against appropriations for people who want to get into classes to learn English. In Los Angeles, for example, there are about 25,000 on the waiting list to get into classes to learn English, and in San Francisco about 15,000.

There is also an exaggerated fear of what all this means. That is not new in our history.

During World War I there were steps to remove foreign language teaching from our schools, and at least two States passed legislation to move in that direction, but the U.S. Supreme Court ruled that unconstitutional.

Recently, I read a column by Richard Roeper in the Chicago Sun-Times that lends common sense to this area where there is so much hysteria.

Let me add one other point. Recently, I read that there is a smaller percentage of Americans today whose mother tongue is not English than at any point in our Nation's history. I don't know if that is accurate or not, but it would not be surprising.

The antiforeign thrust that is so much a part of our history has never been a good part of our history.

I hope, as we legislate, we will use common sense.

At this point, I ask to insert into the RECORD the column by Richard Roeper, and I urge my colleagues in the House and the Senate to read his sensible column.

The column follows:

[From the Chicago Sun-Times, Aug. 31, 1992]

"ENGLISH ONLY" TREND ISN'T THE AMERICAN WAY

(By Richard Roeper)

The waiter is coldly polite as he listens to my complaint about a cigarette and its foul smoke appearing in the No Smoking section. He solves the problem, I thank him for the effort, and he replies with a curt, "You're welcome, sir."

Later in the evening, I'm on my way to the men's room when I encounter that same waiter, who is with a co-worker near the entrance to the kitchen. Looks like they might be on break.

I nod and make a lame, friendly joke; he gives a little laugh and says, "Really." But as I walk past, he switches from English to Greek and says something to his buddy—something that causes the two of them to erupt in hearty and seemingly derisive laughter. Suddenly I feel a little foolish.

Was it rude of him to erect that language barrier? Well, I don't even know what he said—he might not have been talking about me at all—but yeah, there was something off-putting about it. Judging from the tone of their voices and the nature of their laughter, I'd be willing to bet they were sharing a laugh at my expense.

Episodes like that occur all the time in public service arenas: You're at a convenience store or a hotel or an auto repair shop, and the employee who had been speaking to you in English turns to a colleague and initiates an exchange in another language. Suddenly you feel isolated, maybe even insulted. Maybe they're talking about you, more likely they're not, but in either case it has the same effect as if they had started whispering in front of you.

Mildly annoying? Sure—but no big deal. Although I was irked by the incident in the Greek restaurant, I got over it in a fingersnap. It's not like I sought out the manager and complained about his employees using a language shield to insult the customers. To do so would have turned me into the quintessentially paranoid ugly American, in essence demanding, "They're in the United States now, they should speak English!" After all, if we're not the world's melting pot, we're at least its mixing bowl, and thriving multiculturalism is what the good old U.S.A. is all about, right? Ahem, Right?

Well, maybe not, considering the recent flurry of "English Only" policies cropping up in places of business. From medical centers to radio stations to meat packing plants, companies have instituted rules barring workers from using any language but English while on duty—and some employees have actually lost their jobs for not following these policies to the letter.

Jordania Reed, for example. She was fired from Driftwood Convalescent Hospital in Gilroy, Calif., for violating the nursing home's strict English-only rule. She didn't address a patient in Spanish, but when she was overheard talking to a co-worker in her native tongue—boom! She was out of a job.

Whether this was legal is open to debate. The director of the nursing home says he was following federal health regulations that say patients should be cared for in their own language, but it seem like a mighty stretch of those regulations to say that a short exchange in another language between coworkers in the hallway or the cafeteria is detrimental to a patient's health. Where is the neglect?

Guidelines established by the Equal Employment Opportunity Commission say English-only rules can be imposed only in cases of "business necessity," whatever that means. Court cases have further muddled the issue. In some instances, such as the Puerto Rican warehouse worker in New York City who lost his job when a supervisor overheard him talking in Spanish about ordering a pizza, the worker was reinstated. In other cases—e.g., the Filipino nurse who challenged an English-only policy at the Pomona Valley Hospital Medical Center—the judge ruled in favor of the company.

So which is it? Obviously, an employer should have the right to tell workers they have to be able to communicate with the customers in a language everyone understands. But for someone to lose a job for saying "Que pasa?" instead of "How are you?" is ludicrous—and downright un-American.•

COMMENDING THE POLYCYSTIC KIDNEY RESEARCH FOUNDATION

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a remarkable organization which is devoted to research leading to a cure for polycystic kidney disease, known as PKD. I am speaking of the Polycystic Kidney Research Foundation.

The PKR Foundation was founded in 1982 by Joseph H. Bruening. PKD is a hereditary disease and there is no cure. The PKR Foundation first identified and then targeted investigators with innovative ideas and provided them with funds to develop new clinical treatment approaches and to set the groundwork for a genetic cure. Resources devoted to PKD research has significantly improved over the last 10 years. In 1982 only $100,000 a year was spent on PKD research. Now, more than $3 million is invested in PKD research.

Over the years PKD treatment has improved tremendously. There have been improved diagnosis and treatment of PKD. We have discovered better ways of controlling high blood pressure caused by PKD and improved care of children with the disease. The PKR Foundation is dedicated to determining the cause, improving clinical treatment, and discovering a cure for polycystic kidney disease.

Mr. President, I would like to extend my sincere congratulations to the Polycystic Kidney Research Foundation and commend them for their leadership and vision on this very important issue and I request that the Kansas City Star article on the PKR Foundation be printed in the RECORD.

The article follows:

COMMENDING THE POLYCYSTIC KIDNEY RESEARCH FOUNDATION

It happens almost every time strangers sally into Jared Grantham's old ground-floor laboratory. They spy the grotesque specimen bottled on his shelf, blistered and as big as a melon.

"What is that thing?"

"It's a kidney," Grantham replies.

"What's wrong with it?" they ask.

"Polycystic kidney disease," the University of Kansas Medical Center physician replies kindly but a bit sadly. Because he knows what they'll say next.

"Never heard of it."

Such is the frustration of Grantham, a world-leading researcher in what arguably is the Rodney Dangerfield of genetic diseases.

Mention muscular dystrophy, cystic fibrosis, sickle-cell anemia or Huntington's disease, and people nod. Sure, they've heard of them.

But talk about PKD—the most common lethal inherited illness in the United States, dwarfing all those other illnesses—and you get blank stares.

"It's our biggest problem," Grantham said. "People don't know anything about it."

The people who do know, however, are waging a slowly growing international campaign centered in Kansas City to make the public aware. Kansas City might be considered PKD Central. And a big reason is the late Allene Bruening's kidneys.

"The family was just riddled with it," said developer Joseph Bruening, Allene's husband.

So the Bruenings knew well what to expect.

"I wanted to do something," he said.

GETTING AS BIG AS A FOOTBALL

About 600,000 Americans are believed to have the disease—costing taxpayers $300 million a year in Medicare dialysis and transplant costs—but research money is meager.

Half of all people who inherit PKD never have serious problems. For the other half, though, the disease is slow and methodical, probably causing high blood pressure, but mostly going unnoticed for years.

Deep inside the smooth organs, the kidney's normally wire-thin nephrons—tubes that filter urine and other fluids—are growing bubblelike cysts.

Thousands of these fluid-filled blisters—some pin-size, others grapefruit-size—eventually may consume the kidneys in a repulsive froth.

The kidneys become huge and puckered, sometimes growing from the size of a large pear, about 5 inches long, to the size of a football. People with the severe disease often look fat or pregnant. If the kidneys fail, people can die. Most, like Bruening, keep their bodies free of poisons with proper diet, medication or years of dialysis. Still others get kidney transplants.

So in 1982 when Joseph Bruening read an article in The Kansas City Star about Grantham's work on PKD and the fact that virtually no research was going on, Bruening contacted Grantham.

"I wasn't just going to sit there," Bruening said. "I figured I wasn't going to spend the rest of my life wringing my hands."

The Polycystic Kidney Disease Research Foundation was started with Bruening's financial backing several months later as the only organization in the country dedicated to the disease.

In 1982, about $100,000 was spent on PKD research. Today more than $3 million is spent. Thirteen PKD support groups have been formed in other cities.

"In 1982, there were perhaps two or three, maybe four, well-known researchers doing work in PKD," said foundation President Julian Dyke. Now there are more than 100.

Although it's still too early to say research in the area is booming—the Muscular Dystrophy Association, by contrast, spent $21 million supporting 500 researchers last year—the foundation sure is making a loud pop.

"It has played a major role in the understanding of the disease," said Vincente E. Torres, PKD researcher at the Mayo Clinic in Rochester, Minn.

THE GENETICS OF PKD

Most important is how scientists are zeroing in on the genetics of PKD. Researchers in 1985 found the general location of one gene that probably plays a significant role in causing PKD. Now they're working to isolate it, unravel its molecular sequence, so maybe it can be cloned, deciphered, even manipulated. The hope is that all this would lead to a greater understanding of how PKD works and maybe to treatments.

But because only half of the people who inherit the PKD gene ever suffer kidney failure, scientists surmise there's more afoot than genes.

At KU Medical Center, a small tear of PKD scientists are delving into PKD's biolchemistry, particularly how cysts form.

Some of their work, for example, suggests that one or more unknown proteins, growth factors, may be spurring the cysts to grow like a cancer. This very analogy is prompting still others at KU Medical Center to probe whether cancer-causing genes may be involved in PKD.

Beyond that, rats and mice with the disease soon may help answer mysteries about the role of diet and environment.

"I can take 10 patients with PKD, but the genes will be expressed at different times and in different circumstances." Grantham said. "It could be different environments, the food they eat, the drugs they take that will be a factor. That's what we can pursue now with the rats."

At places such as Yale University, the Mayo Clinic and laboratories in Japan, Australia and Germany, scientists are churning out an impressive body of work, almost all started in the last decade.

At the Oregon Health Sciences University in Portland, one foundation-supported researcher is working on new ways to drain the fluid from large painful cysts.

'NOT A SEXY DISEASE'

So much is happening, in fact, that in June more than 200 international PKD scientists flew to Kansas City for a symposium to unveil their work.

"It was fantastic," Dyke said.

Only no one covered it. Not the newspapers. Not television.

Dyke and Grantham simply shake their heads.

"I guess it's not a sexy disease," Grantham said.

Dyke suggests that PKD may go unnoticed simply because of the subject. Unlike the heart—the perceived center of life—or the brain—the center of intellect—the kidneys don't carry such emotional appeal.

The fact that many people with PKD don't get symptoms until a later age, say 50 or so, also doesn't help. The misperception is that old people are falling apart anyway.

Lawrence Elzinga, a PKD researcher in Oregon, suggests that PKD's image might suffer the stigma of being a genetic disease and, again, the wrong conclusion that "there's very little you can do about it."

Whatever the reason, PKD boosters want it changed. Right now they're looking to recruit a high-profile spokesman, maybe an athlete or actor, to champion their cause. They were happy to get a public service announcement from Paul Newman while he was in town filming "Mr. and Mrs. Bridge."

To tug on America's heart strings and purse strings, they also are focusing more on a rare and deadly childhood form of the disease. Infants born with the recessive form of PKD, as opposed to the genetically dominant adult form, often die in infancy or early childhood.

"It hits them out of the blue," Grantham said.

A child is featured on the front flap of one of the foundation's latest brochures. But that's about it for marketing moves.

But once the medical break-through comes—mainly through genetic research—PKD's time will come. It's the science that will sell, foundation officials say, just as it did with cystic fibrosis about a decade ago.

So until then, they plan on creeping forward—lobbying Congress, supporting research—even if, for now, few people hear them.

"It would be an understatement to say it (PKD) is not well-known," Dyke said. "But our day will come."

AGRICULTURAL EMBARGOES

• Mr. KERREY. Mr. President, last month Vice President QUAYLE went to South Dakota in an attempt to draw distinctions between Republicans and Democrats on the subject of agriculture. On at least one issue—that of grain embargoes—it appears that the Vice President covered about as much ground as a young colt on the end of a long line.

I can understand the Bush campaign's reluctance to give the Vice President free rein on such matters, so I thought that perhaps a more complete examination of the record was in order.

There have been four major agricultural embargoes over the past 20 years. Three were imposed by Republican administrations, and one by a Democratic administration.

On June 27, 1973, President Nixon embargoed the export of soybeans and cottonseed, and the meal, cake, and oils made from those commodities.

On October 4, 1974, President Ford imposed sales moratoria suspending both corn and wheat sales to the Soviet Union. Three days later, USDA announced a prior-approval system that ultimately restricted the export of corn, wheat, soybeans, grain sorghum, barley, oats, and related products.

The Ford administration imposed a similar sales moratorium again in 1975. On August 11 of that year, the Secretary of Agriculture called on the major grain companies to withhold further sales to the Soviet Union. On September 9, President Ford extended this moratorium through mid-October. The next day, the suspension was broadened to include Poland as well.

On January 4, 1980, President Carter announced an embargo against the Soviet Union, restricting United States sales of corn, wheat, soybeans, meat, dairy products, and related exports to that country. The partial embargo affected those quantities of grain in excess of the maximum guaranteed purchase levels specified by the bilateral United State-Soviet agreement in effect at that time.

According to a November 1986 publication by the U.S. Department of Agriculture entitled "Embargoes, Surplus Disposal, and U.S. Agriculture," "Unlike the trade interruptions of the mid-1970's, imposed to ensure adequacy of domestic supplies and to calm dramatic price movements, the 1980 embargo had little domestic basis." Indeed, the Carter embargo was imposed 1 week after the Soviet's invasion of Afghanistan. President Carter cited the threat to national security as the basis for the embargo. In my judgment, this reason didn't make that embargo correct, but it did make that action distinct, in a fundamental way, from the three Republican embargoes that preceded it.

For example, President Nixon embargoes oilseeds in 1973 because of tightening supplies and escalating prices for high-protein meal products. Similarly, President Ford's moratoria on grain sales in both 1974 and 1975 were driven by the administration's concern about short grain supplies and high commodity prices.

In other words, Mr. President, the three Republican grain embargoes had a common thread: They were all motivated by a desire to thwart market forces and artificially restrain the prices received by farmers. I guess the lesson here is that Republicans really believe their platform rhetoric on agriculture and the free market—to a point. And that point seems to be when farm prices get a little too high.

Finally, I might say, Mr. President, that it is understandable that the Vice President would spend so much time talking about the 1980 embargo, to the exclusion of previous embargoes. Such a narrow discussion gives him political advantage. It is also a subject on which he presumably is well-versed, since the acknowledged architect of that embargo, former National Security Adviser Zbigniew Brezinski, has served as adviser to the Bush-Quayle campaign.●

TELEVISION VIOLENCE

● Mr. SIMON. Mr. President, to the credit to TV Guide, that publication has been focusing attention recently on the whole question of television violence and what it does in our society.

In a free society we have to have answers for this problem that are short of censorship. Anthea Disney, editor in chief of TV Guide, had an op-ed piece in the Los Angeles Times that I ask unanimous consent to insert into the RECORD at the end of my remarks.

TV Guide had sponsored a discussion of this and a special publication on the question of television violence, as well as the article in TV Guide.

I ask unanimous consent to insert these in the RECORD, also, and I urge my colleagues and staff members here on Capitol Hill to read both.

We're at the halfway point of the law, which authorizes the television industry to get together, without violation of the antitrust laws, to establish standards.

I hope something happens on a voluntary basis.

Mr. President, at this point, I ask to insert the articles into the RECORD.

The articles follow:

[From TV Guide]

IN ONE DAY IN ONE CITY, 1,846 ACTS OF TV VIOLENCE—THAT'S ENTERTAINMENT?

(By Anthea Disney)

Imagine the following label affixed to your television set: Warning—Watching Television May Be Hazardous to Your Children's Health.

If that sounds radical, consider the studies that convincingly demonstrate a correlation between the frequent viewing of violence and aggressive behavior in youngsters.

A new study commissioned by TV Guide shows that there's more violence entering our homes than ever before. It's coming from many more sources—home video, pay-per-view and cable, as well as from broadcast networks and local stations. The primary offenders are music videos, reality shows, cartoons and promos for violent theatrical movies.

In a single, random day (April 2) of television programming tracked in Washington for TV Guide, 1,846 individual acts of violence were observed. (We defined violence as "any deliberate act involving physical force or the use of a weapon in an attempt to achieve a goal, further a cause, stop the action of another, act out an angry impulse, defend oneself from attack, secure a material reward, or intimidate others.")

Of the programming monitored, cartoons were the most violent category, with 471 violent scenes in just one day.

21% of all the violence—389 scenes—involved a life-threatening assault 362 scenes involved gunplay.

Cable networks averaged three times as much violence as the "Big Three" commercial networks. Specifically, music videos proved to be a greater source of televised violence than previously imagined. MTV showed as much violence as the three commercial networks combined.

It has been estimated that by the time a child graduates from elementary school, he or she will have witnessed at least 8,000 murders and more than 100,000 acts of violence on television. In her book, "Deadly Consequences," Dr. Deborah Prothrow-Stith, assistant dean of government and community programs at the Harvard School of Public Health, points out that inner-city children may be more vulnerable to the effects of violence on television. These kids not only watch more TV because they spend more time indoors—the streets are dangerous and there are few other recreational choices; they also have fewer male role models countering the TV super-hero who's solving problems with violence.

So what can we do, short of censorship but beyond hand-wringing?

Why not treat TV violence as a public health issue, as we do already with cigarette smoking and drunken driving? Think how much those campaigns have changed people's attitudes and behavior and, most important, saved lives. to take the same approach with TV programming would involve an intensive public education campaign and strenuous encouragement of the television industry to be sensitive to the problem and deglamorize physical force and the people who resort to it.

As Peggy Charren, president of Action for Children's Television, said to us, "You have to help parents understand that that box in the living room is not always a friend of the family."

It's up to parents to make the effort to watch what their children are watching so that they can screen out overly violent programs and discuss what the make-believe acts of violence would mean in real life. Kids often don't seem to understand the true repercussions of a violent act; on TV, there frequently are no repercussions.

This fall, a number of popular shows will have the Los Angeles riots in their plot lines. If the new season reflects TV at its best, episodes on the riots will illuminate the conditions that led to the violence, not trivialize them and sensationalize the effect in images that may again become reality.

Many programmers and producers do really care about the results of the shows they air. But they live by the "overnights"—the Nielsen ratings, which define a success or a failure in television terms—and under that kind of pressure, the slope from relevance to sensationalism is a slippery one. But if, through education and the proper treatment by the industry, TV violence becomes viewed as distasteful and inappropriate, hopefully any meaningless violent act will end up with the same inglorious appeal as a drunk killing people on the highway.

[From TV Guide, Aug. 22-28, 1992]

IS TV VIOLENCE BATTERING OUR KIDS?—NEW STUDY, NEW ANSWERS

SUMMING UP: WHAT WE CAN DO

The American Psychological Associaton suggests four steps parents can take:

(1) Watch at least one episode of programs the child watches to know how violent they are.

(2) When viewing together, discuss the violence with the child: why the violence happened and how painful it is. Ask the child how the conflict could have been solved without violence.

(3) Explain to the child how violence in entertainment is "faked" and not real.

(4) Encourage children to watch programs with the characters that cooperate, help, and care for each other. These programs have been shown to influence children in a positive way.

Other possible steps

Urge the broadcast, cable, and home video industries to adopt a unified ratings system of advisories to parents, labeling programs and movies as to their violence content.

Urge TV and cable industry executives to take full advantage of The Television Violence Act, permitting them to work collectively toward reducing media violence.

Make TV violence part of the public health agenda (as with smoking and drunk driving), publicizing—through a vigorous public information campaign in all information media—its perils and effects.

Establish courses in "critical viewing skills" as a regular aspect of school curricula, to help young people become more discriminating viewers.

Inquire of elected officials their views and policies on televised violence; and then vote accordingly in November.

Promote passage of a law requiring that, eventually, all new television sets be manufactured with built-in time-channel lock circuitry allowing parents to "lock out" channels and programs containing high levels of violence.

Support the resolution of the American Psychological Association urging the broadcast and cable industries "to take a responsible attitude in reducing direct, imitatable violence" in live-action children's shows and "violent incidents on cartoons."

[From TV Guide, Aug. 22-28, 1992]

HOW MUCH VIOLENCE?

(By Neil Hickey)

More televised violence than at any time in the medium's history is flowing into

American homes. It's coming from many more sources than ever before—home video, pay-per-view, and cable, as well as from the broadcast networks and stations. The overwhelming weight of scientific opinion now holds that televised violence is indeed responsible for a percentage of the real violence in our society. What is new is that psychologists, child experts, and the medical community are just now beginning to treat televised violence as a serious public health issue—like smoking and drunk driving—about which the public needs to be educated for its own safety and well-being.

How much violence is there on American television? How is it more virulent now than in recent years? Where is it coming from? What are its effects? What can parents, educators, the industry, and public officials do about it?

To attack those questions systematically, we commissioned a study of one-day in the life of TV—and convened an expert panel whose comments begin on page 12.

To snap our day-in-the-life-of-TV photo, we enlisted the Center for Media and Public Affairs, a nonprofit monitoring company whose business is fashioning statistical portraits of how American society is depicted in the media. We asked for and received a nonjudgmental, bias-neutral content analysis of one typical day of American television.

During 18 hours (6 A.M.-midnight) on April 2, 1992, in Washington, D.C., the center taped, tabulated, computerized, and analyzed the programs on 10 channels, the affiliates of ABC, CBS, NBC, Fox and PBS, one non-affiliated station, WDCA, plus the cable channels WTBS, the USA Network, MTV, and HBO. The program schedules, it turned out, were notable only for their ordinariness; no untypically violent movies like "Rambo" or "Scarface" were shown; even the news on that date was light on violent events such as wars, civil disorders, and local crime. The results of the study were an eye-opener. In those 180 hours of programming, we observed:

A total of 1,846 individual acts of violence; 175 scenes in which violence resulted in one or more fatalities; 389 scenes depicting serious assaults; 362 scenes involving gunplay; 673 depictions of punching, pushing, slapping, dragging, and other physically hostile acts; 226 scenes of menacing threats with a weapon.

Newer program forms like music videos and reality shows, it turns out, are significantly increasing the amount of violence on our screens. And commercials for violent theatrical movies and TV series have become a major source of televised violence.

News broadcasts, in their heightened competitive fervor, are peddling strong doses of murder, muggings, and mayhem as ratings-getters.

In fictional programming alone, we found more than 100 violent scenes per hour across the 10 outlets studied. Well over a third of all the violence (751 scenes) involved some sort of life-threatening assault. Cartoons were the most violent program form, with 471 scenes.

(A note: child experts agree that violent cartoons are inadvisable for very young children, 2 to 5, who may not distinguish between animated violence and the real thing, so they were included in our tabulations. Also, our study shows a glut of super-hero-style cartoons that feature more "human" characters than earlier Tom & Jerry type fare; these realistic cartoons may have an even stronger influence on children.)

Promos for television shows were next (265), then movies (221), toy commercials (188), music videos (123), ads for theatrical films (121), TV dramas (69), news (62), reality shows like "Top Cops" and "Hard Copy" (58), sitcoms (52), and soap operas (34).

The outlet purveying the most violence on that particular spring day was the unaffiliated station: 376 scenes, or one every three minutes. The rest of the list:

WTBS—321 scenes (18 per hour).
HBO-257 scenes (14 per hour).
USA Network—209 scenes (12 per hour).
MTV—202 scenes (11 per hour).
Fox—182 scenes (10 per hour).
CBS—175 scenes (10 per hour).
ABC—48 scenes (three per hour).
NBC—39 scenes (two per hour).
PBS—37 scenes (two per hour).

(WTBS's high total is partly explained by a high incidence of Tom & Jerry-type cartoons and old movies and TV series.)

Unmeasured in our survey, of course, were the many hundreds of hours of VCR-watching that went on in that city on that day—much of it devoted to theatrical films with violent content.

Thus, the study's conclusion: violence remains a pervasive, major feature of contemporary television programming and it's coming from more sources and in greater volume than ever before.

CAUSE

There's no shortage of major studies on the effects of televised violence. Among them: the National Commission on the Causes and Prevention of Violence (1968); the Surgeon General's Report (1972); the National Institute of Mental Health's (1982); and the U.S. Attorney General's Task Force on Family Violence (1984). The NIMH states the consensus: "Violence on television does lead to aggressive behavior by children and teenagers who watch the programs. . . ."

One of the most ambitious and conclusive studies (conducted by Dr. Leonard D. Eron and others) examined a group at ages 8, 19, and 30 in a semirural county of New York State. The findings: the more frequently the participants watched TV at age 8, the more serious were the crimes they were convicted of by age 30; the more aggressive was their behavior when drinking; and the harsher was the punishment they inflicted on their own children. Essentially the same results emerged when the researchers examined another large group of youths for three years in a suburb of Chicago.

And when they replicated the experiment in Australia, Finland, Israel, and Poland, the outcome was unchanged: as Dr. Eron states it, "There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socioeconomic levels, and all levels of intelligence."

[From TV Guide, Aug. 22-28, 1992]

VIOLENCE ON TELEVISION: HOW MUCH VIOLENCE IS THERE?

(By Neil Hickey)

More televised violence than at any time in the medium's history is flowing into American homes. It's coming from many more sources than ever before—home video, pay-per-view, and cable, as well as from broadcast networks and stations. The overwhelming weight of scientific opinion now holds that televised violence is indeed responsible for a percentage of the real violence in our society. What is new is that psychologists, child experts, and the medical community are just now beginning to treat televised violence as a serious public health issue—like smoking and drunk driving—about which the public needs to be educated for its own safety and well-being.

How much violence is there on American television? Is it more virulent now than in recent years? Where is it coming from? What are its effects? What can parents, educators, the industry, and public officials do about it?

To attack those questions systematically, we commissioned a study of one day in the life of television. We also mustered the best experts we could find for a symposium—titled "The New Face of Television Violence"—to explore the import and the seriousness of what seems a burgeoning crisis. To snap our day-in-the-life-of-TV photo, we enlisted the Center for Media and Public Affairs, a nonprofit monitoring company whose business is fashioning statistical portraits of how American society is depicted in the media. We asked for and received a nonjudgmental, bias-neutral content analysis of one typical day. Thursday, April 2, 1992, was chosen for several reasons: Thursday is a heavily-viewed night of television by a wide cross section of America; the prime-time shows on that evening tend to be popular, well-known series. We wanted a weekday rather than a weekend, to avoid sporting events. And April is not a sweeps month.

Thus, during 18 hours (6 A.M.-midnight) on that day in Washington, D.C., the Center taped, tabulated, computerized, and analyzed the programs on 10 channels: the affiliates of ABC, CBS, NBC, Fox, and PBS; one non-affiliated station, WDCA; plus the cable channels WTBS, the USA Network, MTV, and HBO. The program schedules, it turned out, were notable only for their ordinariness: no untypically violent movies like "Rambo" or "Scarface" were shown; even the news on that date was light on violent events such as wars, civil disorders, and local crime.

The results of the study were an eye-opener. In those 180 hours of programming, we observed:

1846 individual acts of violence—purposeful, overt, deliberate behavior involving physical force against other individuals.

175 scenes in which violence resulted in one or more fatalities.

389 scenes depicting serious assaults.

362 scenes involving gunplay.

673 depictions of punching, pushing, slapping, dragging, and other physically hostile acts.

226 scenes of menacing threats with a weapon.

Newer program forms, such as music videos and reality shows, we discovered, are significantly increasing the amount of violence on our screens. And commercials for violent theatrical movies and TV series have become a major source of televised violence. News broadcasts, in their heightened competitive fervor, are peddling strong doses of murder, muggings, and mayhem as ratings-getters. In fictional programming alone—which accounted for 95 percent of the total—we found an average of 185 scenes of violence per channel. That works out to more than 100 per hour across the 10 channels we monitored.

Well over a third of all the violence (751 scenes) involved some sort of life-threatening assaults. Many scenes showed attacks with knives, clubs, bombs, and other weapons. Victims were terrorized and traumatized by all manner of assailants. And violence came in a wide variety of program forms. Cartoons were the most violent, with 471 scenes. (A note: child experts agree that violent cartoons are inadvisable for children 2 to 5, who may not distinguish between animated violence and the real thing, so they were included in our tabulations. Also, our study shows a glut of superhero-style cartoons that feature more "human" characters that earlier Tom & Jerry-type fare; these realistic cartoons may have an even stronger influence on children.) Promos for TV shows were next (265); then movies (221); toy commercials (188); music videos (123); commercials for theatrical movies (121); TV dramas (69); news (62); reality shows like "Top Cops" and "Hard Copy" (58); sitcoms (52); and soap operas (34). The outlet purveying the most violence that particular spring day was the unaffiliated station: 376 scenes, or one every three minutes.

The rest: WTBS—321 scenes (18 per hour); HBO—257 scenes (14 per hour); USA Network—209 scenes (12 per hour); MTV—202 scenes (11 per hour); Fox—182 scenes (10 per hour); CBS—175 scenes (10 per hour); ABC—48 scenes (3 per hour); NBC—39 scenes (2 per hour); PBS—37 scenes (2 per hour). (WTBS's high total is partly explained by a high incidence of Tom & Jerry-type cartoons and old movies and TV series.) HBO showed "Paint It Black," "To Sleep with Anger," "Tales from the Crypt," and other films.

An important finding of the study is that music videos are a far more fecund source of TV violence than previously imagined. The 144 videos that MTV showed in those 18 hours bore as much violence as the Big Three commercial networks combined, and they came from such youth heroes as Guns N" Roses ("Live and Let Die," "Don't Cry"), Jon Bon Jovi ("Blaze of Glory"), Bruce Springsteen ("Human Touch"), Aerosmith ("Janie's Got a Gun"), Van Halen ("Right Now"), Ugly Kid Joe ("Everything About You"), and Metallica ("Enter Sandman").

CBS was the most violent of the major networks—much of the difference between it and the other two coming from "Top Cops," with its re-creations of violent crimes. An afternoon slate of cartoons and an unusually violent string of prime-time plot lines in series such as "Drexell's Class" and "Beverly Hills," 90210 boosted Fox's total. By far, more violent incidents took place in fiction rather than non-fiction shows, but newer program forms such as reality-based series are now beginning to contribute significantly to television's freight of violence. "Top Cops," "Street Stories," "Inside Edition," "Hard Copy" and "A Current Affair" accounted for 58 violent moments; the news programs added 62 more.

The makers of commercials and promotional announcements for theatrical movies and TV shows, it now appears, have clearly adopted the tactic of utilizing the most action-packed moments of their entertainments to grab viewers' attention. Thus, we observed 386 scenes—containing violence—in ads for movies such as "Thunderheart," "The Power of One," "McBain." "Newsies," and "The People Under the Stairs," and in promos for TV series like "The Commish," "Columbo," "Knots Landing," "Mann & Machine," "Hunter," "Mystery," "MacGyver," "Counterstrike," and "Dallas." Serious forms of violence topped the list of the most frequently presented modes of violent behavior.

	Number of scenes	Percent of total
Serious assaults (excluding use of guns)	389	21
Gunplay	362	20
Isolated punches	273	15
Pushing/dragging	272	15
Menacing threat with weapon	226	12
Slaps	128	7
Deliberate property destruction	95	5
Simple assaults	73	4
All other types	28	1
Total	1,846	100

Since most of the programming in our one-day snapshot of television went out nationally via broadcast and cable networks, we deem it generally representative of what the country as a whole saw on that day. One reason for conducting the study on District Cablevision in Washington, D.C.: it's the hometown TV supplier to such major lobbying groups as the National Association of Broadcasters, the National Cable Television Association, the Association of Independent Television Stations, and the Radio-Television News Directors Association, as well as the Corporation for Public Broadcasting, the Federal Communications Commission, Congress, and the White House. We now have a fair and documented idea of the violence quotient that those influentials are seeing every day on their TV screens.

Unmeasured in our survey, of course, were the many hundreds of hours of VCR-watching that went on in that city on that day—much of it devoted to the theatrical films with violent content. Thus, the study's conclusion: Violence remains a pervasive, major feature of contemporary television programming; and it's coming from more sources and in greater volume than ever before.

DOES TV VIOLENCE CAUSE REAL VIOLENCE?

There's no shortage of major studies on the effects of televised violence. Among them: the National Commission on the Causes and Prevention of Violence (1968); the Surgeon General's Report (1972); the National Institute of Mental Health's (1982); and the U.S. Attorney General's Task Force on Family Violence (1984). The NIMH states the consensus: "Violence on television does lead to aggressive behavior by children and teenagers who watch the programs. . . ."

One of the most ambitious and conclusive studies (conducted by Dr. Leonard D. Eron and others) examined a group at ages 8, 19, and 30 in a semirural county of New York state. The findings: the more frequently the participants watched TV at age 8, the more serious were the crimes of which they were convicted by age 30; the more aggressive was their behavior when drinking; and the harsher was the punishment they inflicted on their own children. Essentially the same results emerged when the researchers examined another large group of youths for three years in a suburb of Chicago. And when they replicated the experiment in Australia, Finland, Israel, and Poland the outcome was unchanged: as Dr. Eron states it, "There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socioeconomic levels and all levels of intelligence."

[From TV Guide, Aug. 22–28, 1992]

THE EXPERTS SPEAK OUT

To learn the latest, the best, and most authoritative thinking on the subject of violence on television, TV Guide invited a blue-ribbon panel of experts (see opposite page) to convene in New York before an invited audience in the auditorium of the Center for Communication, a nonprofit media forum that cosponsored the event.

Neil Hickey, senior editor of TV Guide, was the moderator. A transcript of the panel's remarks, edited for space, follows:

TVG. The subject of medial violence is one that's suddenly brand-new again. Very little research exists on the ramifications of the televised violence that's arriving on home screens from such relatively new sources as home video, pay-per-view, direct broadcast satellites, premium channels, and others.

According to the U.S. Justice Department's most recent crime report, the United States has one murder every 22 minutes, one violent crime every 17 seconds. France, to take just one example, has two homicides per 100,000 population. The United States has 9.4. The U.S. murder rate quadruples that of Europe's and is 11 times higher than Japan's. CBS News once delivered a anecdotal piece of evidence about how our society changed in one 40-year period: "In 1940, the seven top problems in public schools as identified by the teachers were: talking out of turn, chewing gum, making noise, running in halls, cutting in line, dress-code infractions, and littering. In 1980, the top seven problems in public schools were: suicide, assault, robbery, rape, drug abuse, alcohol abuse, and pregnancy.

Let's start our discussion with a brief quote from a 1992 survey by the American Psychological Association called "Big World, Small Screen." It says: "Since 1955, about 1000 studies, reports, and commentaries concerning the impact of television violence have been published. . . . The accumulated research clearly demonstrates a correlation between viewing violence and aggressive behavior—that is, heavy viewers behave more aggressively than light viewers. Children and adults who watch a large number of aggressive programs also tend to hold attitudes and values that favor the use of aggression to solve conflicts. These correlations are solid." Any comment on that?

SLABY. Yes, the research really shows that television violence is a contributing cause to violence in our society. Years of research evidence have gone into establishing television violence as a contributing cause, and the word "cause" is not used lightly by scientists. It's now used strongly by almost all the professional groups that have examined the research evidence.

TVG. Then, thank heavens, we don't have to plow through all those 1000 studies to make the point here that a well-established link exists between violence on television and aggression behave in real life.

GERBNER. There's no question that the cult of violence makes a contribution that occasionally triggers violent behavior. Television, in my opinion, is one of the factors, but to attribute the violence in our society to television alone is a form of scapegoating—considering that we have an undeclared civil war in our cities, growing joblessness into which our young people are graduating, all of which has a direct relationship to the sense of anger and frustration that many people feel; all of which relates to our using violence as a solution to problems by people who otherwise cannot get ahead or get attention.

Also, television trains us to be victims. Our studies, as confirmed by many independent investigators, show that the most pervasive, long-term consequence of growing up in a media cult of violence is a sense of pervasive insecurity, what we call "the mean-world syndrome." It's a sense of feeling vulnerable, of dependence, of needing protection. So you have most people feeling dependent and victimized, and others whose best, or sometimes only, opportunity to get attention or get ahead is to commit violence.

TVG. Senator John Glenn, during hearings on violence prevention in March of this year, said, "The United States is the most violent 'civilized' country in the world." In 1991, we had 26,250 murders, an all-time high. Let me also quote briefly from Dr. Prothrow-Stith's book *Deadly Consquences:* "Just as our nation has more violent crime than any other industrialized nation. so too is our popular culture more violent than that of other countries. Our movies, our broadcast talk, our television drama, our children's TV, our toys, our sports, our music for adolescents, our broadcast news are awash in violent words and violent pictures. In the media world, brutality is portrayed as ordinary and amusing."

PROTHROW-STICH. I think that the impact of television violence is small on most of us, but it's quite large on some of us. And I agree that it's one of the factors, particularly among urban poor children who don't have male role models countering the TV superhero who's solving problems with violence. I think for some it is a significant factor and I thing the impact is pretty direct.

TVG. Just a bit more quotation before we push on. Dr. Leonard Eron of the University of Illinois is chairman of the Commission on Violence and Youth of the American Psychological Association. In testimony before Congress this year, he said that there is no longer any doubt that viewing a lot of televised violence is one of the causes of aggressive behavior, which may lead to crime and violence in the society. He also said that television violence has an effect on young people irrespective of age, gender, class, or intelligence level. He added: "The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country. . . . The casual effect of television violence on aggression, even though it is not very large, exists. It cannot be denied, or explained away. . . . We have come to believe that a vicious circle exists in which television violence makes children more aggressive, and these more aggressive children turn to watching more violence to justify their own behaviors. . . . Practically, it means that if media violence is reduced, the level of interpersonal aggression in our society will be reduced eventually. . . ." He estimates that fully 10 percent of the actual violence in our society is attributable to the viewing of violence on television. It's also been estimated, by others, that by the time a child graduates from elementary school, he will have witnessed at least 8,000 murders and more than 100,000 acts of violence on television.

SLABY. Recently, we've begun to look at several different types of effects: there's the "aggressor" effect, which may increase the likelihood that someone will become aggressive. But also there's the "victim" effect, as Dr. Gerbner has pointed out—the idea that you become fearful and see the world as a mean place, and perhaps take up arms to protect yourself and thus become involved in violence. A third is the "bystander" effect—being a passive accepter of violence, or actively cheering it on, or becoming emotionally or otherwise desensitized to it. And there's a fourth effect that's now being identified: namely, that watching violent television sometimes leads to an increased appetite for more violent activities—joining gangs or otherwise involving oneself in violence.

WEINMAN. I think the first thing we need to do, before we can continue to talk about TV and violence, is define what we mean by "television." We're accustomed to having a box-like thing that we call the television set. For years, it basically brought us programs mostly from ABC, CBS, and NBC, plus some independent stations and PBS. But now what we have, I believe, is gigantic confusion. The same box also delivers cable programs, plus shows from new networks like Fox.

TVG. This symposium, for a good reason, is called "The New Face of Television Violence." And we're defining "television" as anything and everything that comes through the television screen into the home, from whatever source: the networks, local stations, cable, premium channels like HBO and Showtime, pay-per-view channels, direct broadcast satellites, laser disc players, videocassette players. There's more violence streaming through the television set just in the last few years—because several of these sources are, effectively, brand-new—than ever before in television's history. Local news programs, to attract ratings, continue to traffic in homicide, bloodshed, gun battles, riots, arson, assault. Music videos on networks like MTV show heavy-metal groups engaging in brutal acts, and rap groups formenting violence. The new courtroom television channel televises live the trial of Jeffrey Dahmer, with the most lurid descriptions of his bestial acts.

WOLF. I hate to be the fly in the ointment here, but I've seen a lot of research over the last 15 years, and to say that the case is closed on the effects of TV violence is incredibly misleading.

WEINMAN. That's right, there isn't really a consensus. I mean there's a giant amount of questions about whether there's a correlation, whether there's causation, whether if there's a causation it's imitative or desensitizing, which direction it's in, and above and beyond that, what are the specific programs researchers are looking at.

When you look at last year's TV landscape, for example, the programs that children were watching were things like Full House—very simple sitcoms. There's actually very little violence on the networks according to operational definitions of television.

CHARREN. How about cable?

WEINMAN. Cable is a different subject.

TVG. Let's point out here that ABC, CBS, and NBC have standards and practices departments, headed by people like Dr. Weinman, which give a certain level of protection for the viewer against egregiously violent scenes. But premium-cable channels, pay-per-view channels, and many basic-cable channels do not, and certainly the home-video industry does not. So a lot of violent programming is pouring through those sources, completely unedited in most cases. Dr. Althea Huston, who is co-director of the Center for Research on the Influence of Television on Children, at the University of Kansas, testified before Congress that ". . . cable and videotape recorders . . . have altered our television experience drastically . . . Children and adults have easy access to R- and X-rated films, many of which contain very graphic, explicit violence. Children aged 10 and 11 regularly watch films, such as 'Friday the 13th' and 'The Texas Chainsaw Massacre,' that are intended for an older audience." She went on to say, "I do not mean to suggest that violence on broadcast television is no longer a problem. It is . . . But cable and commercial videotapes have introduced a new level of more serious violence, often with sexual overtones, that makes this issue more pressing than ever . . . " And, of course, there is practically no research yet into how these new levels of violence on cable and home-video are affecting us.

CHARREN. I wanted to say that whether or not TV violence has an effect is irrelevant, really, in terms of strategies. Even if you can prove that it has an effect on causing you to be more aggressive, what are you going to do? I have taken the position for 24 years that, yes, it has an effect, but in a democracy you still shouldn't censor it. So not being a researcher, I don't care whether it has an effect or not.

GERBNER. Well, I do. And not only do I care whether it has an effect, but I care about trying to characterize accurately this new age into which our children are born. There has never been a situation like this. They are born into homes in which the TV set is on seven hours a day. They start as infants. Most of the stories they hear are not told by the parents, the school, the church, or neighbors. They are told by a handful of conglomerates who have something to sell.

That has a powerful effect. An average of six to eight acts of violence—physical, overt violence, hurting or killing people—per hour in prime time. Two entertaining murders a night. And children's television programming on the weekend is saturated with violence. The number of cartoon programs has increased over the last three years from 31 to 40, and the number of violent acts per hour has risen from 25.5 in 1988 to 32 last year—an all-time high. It's all supposed to be funny. But humor is the sugar-coating that hides the pill of power, of how to put people in their place. There has never been anything like this. They may have been some more bloodthirsty years, but after hearing the figures, I doubt it.

But there's never been the type of expertly choreographed brutality, images of violence, that we have at the present time. It surrounds us from infancy. This has never happened before. There's no question it influences the way in which we've been socialized into our roles. It has an atmosphere, an environmental effect. This is a symbolic environment. And what we're dealing with is a kind of pollution, the byproducts of an industrial civilization that we have to understand and take care of, and let's not deny it.

LEONARD. I'd like to make one point. I agree with a great deal of what Dr. Gerbner is saying. But look, this particular culture has always been extremely violent compared to European nations. Before there was ever any television, our kill ratio was much higher than England's. The way we dealt with our labor problems was a lot more violent. The Ku Klux Klan was a lot more violent. The cult of the gun has been extremely important for our pulp fiction from the very beginnings of the country. The cult of the frontier, the cult of the superhero, have been part of our popular literature. The old-time cowboy movies, which you can now see almost every night of the week on TBS, are one shooting after another.

Do we have more explicit violence, and is that better or worse? I don't care; I really don't care, because I don't think it's nearly as important as the other things going on in this society that encourage violence. I'd like to point out that the only country in the world that watches more television than the United States is Japan. The programs are surprisingly violent. It is samurai, it is the science-fiction, Godzilla thing. Japanese popular culture is full of the vilest pornographic comic books that you have ever seen—unlike anything we could find here, even behind the counter. The Japanese movie industry is the major distributor throughout Asia of rape and snuff films.

And yet all this watching of television and all this emphasis on violence doesn't have the effect of murder and mayhem in the culture at large that it does in our country. And I think you have to look for the causes. It's not TV that's killing people. It's guns. It's a drug epidemic, and it's the fact that since 1980 we've cut more than 60 percent of our federal aid to big cities and we've allowed our public school system to degenerate into overcrowding and inadequate teaching. We've thrown away whole portions of this society, and that they should respond violently makes sense.

I noticed the week after all that violence in Los Angeles that for the first time I was seeing very interesting and heretofore unknown black people on my TV screen talking about aspects of the society that I'd never heard about. Violence did one thing. It got those people onto the TV screen for the first time that I've seen them! And I was very glad for it.

GERBNER. We did a comparative study and found that Japanese violence, unlike ours, is not happy violence; it's painful, it's awful, and it teaches a very different lesson.

WOLF. I just want to put something in perspective here, because again we seem to be devolving into knee-jerking reactions about this. Violence as entertainment has been around as long as we have. The ancient Greeks—if you look at the myth of Medusa, it wouldn't be allowed on prime-time television. There's nothing more violent in the history of literature than when Perseus took his mirror and looked on the face of Medusa so that he would be protected from actually experiencing the violence.

Now we can get into all kinds of psychological claptrap about why people enjoy watching drama or melodrama that has life-and-death effects. I am not claiming that fictional violence is what's happening in the world, but in reality, it is. And people have wanted it from the Middle Ages, from the Greeks to the Romans to Milton, Shakespeare, and everybody else. "Hamlet" is one of the most violent stories ever conceived. But people have wanted to see this and they will continue to want to see it.

The real problem here is—I have an 8-year-old and a 5-year-old child. They've never seen any of the shows I've ever produced. They shouldn't be watching them. They're not allowed to watch Saturday morning cartoons.

PROTHROW-STITH. Why not?

WOLF. Why not? Because they're extremely violent.

PROTHROW-STITH. Do you think it has an impact on them?

WOLF. I don't know. But I don't think that 5-year-old little girls should be watching superheroes beat the crap out of people.

PROTHROW-STITH. Should little boys?

WOLF. The issue here is, when are you going to stop blaming the media and start looking at the home environment, and the fact that parents are supposed to monitor what their children are watching?

PROTHROW-STITH. It's not an either/or. It's not guns or media or parents or poverty.

WOLF. No, but when you blame television in a society that is the most violent on earth, that has taken the six-shooter and made it an object of erotic desire for a hundred and fifty years, to claim now that it's television that is setting people on this course from the time they were born is unrealistic.

GERBNER. This is argument by setting up straw men to knock them down. We were very careful to point out that we are not blaming television alone. Television is, at best, a contributing factor. Let me offer the Gerbner theory of the three-legged stool. You cannot ask which leg of a three-legged stool makes it stand up. It takes all three legs. You remove any one of the legs and the stool will collapse. We're dealing with a syndrome to which there are many contributing factors. We happen to be talking about just one of them, but let us not assume it's the only one, or, under all circumstances, the primary one. To make it the only one is, I agree, an evasion of our responsibility for the condition of our cities. Equally harmful is to say that it makes no contribution. It's one of the legs of the three-legged stool. But the notion that, sure, there is violence in fairy tales, there is violence in Shakespeare, and therefore we shouldn't be concerned about it, is a powerfully misleading notion.

We have to make a distinction between violence that is selectively used, violence that is handcrafted to show its tragic consequences, to show the pain and to show the suffering and the tragedy that follows. That's not what we're talking about. We're talking about mass-produced, cheap, industrial violence that's injected into every home whether they like it or not, for children to grow up on and to condition their view of the world. That is an entirely new phenomenon. It's not like Shakespeare, it's not like fairy tales. It's not even like Westerns. And that, I think, is the critical, or at least the most troublesome, aspect of the situation.

CHARREN. Let me say, please: here, I am the child activist. Let me say that this is a price you pay for freedom of speech. What we have in this country now is a diverse system of getting programming into the home. We have cable, we have home-video, we have fiber optics coming with 200 channels. When you have that kind of diversity of sources, you're going to get some stuff that's terrible. The fact is that, for adults, the top 10 programs on network television always look kind of benign to me.

The fact that children are attracted to ghastly programs is true. When you let them, they will rent from the video store the worst bloody stuff that ever hit the market. And that diversity is where we're at now. And it's all very well and good to talk about this incredibly violent culture that we have, but I don't know how we can make all of this stuff coming onto our screen completely benign. You have a lot of new sources feeding us, some of which are bad, some of which, like CNN and C-SPAN, are very good.

WEINMAN. I just want to piggyback on something said earlier. There are many sociologists in this country who have pointed out that what we're really seeing is a culture in despair, an underclass that doesn't feel they'll ever have the satisfaction of buying a lovely home, of having the fabulous paycheck, the lovely office, and everything that goes with that. So picking up a gun is not simply a solution to a problem. It's a quick mechanism to some level of satisfaction. And that is a terrible tragedy in our culture. That's a much larger tragedy than the issue of television. We could all shut off our TV sets for a year and see if the violence disappears.

One of the easy ways that kids used to feel adult-like years ago was simply the first cigarette. Unfortunately, when adulthood appears that it's going to come without a job, many youngsters are picking up the gun, are engaging in violent activities—not as a solution to any particular problem, but as the way into adulthood.

SLABY. Well, beyond all else, television is a teacher. We know that because advertisers pay several billion dollars a year in order to get the teaching effect and to sell their products. So it's undeniable that it's a very powerful, pervasive, and effective teacher, particularly of young children. That's not to say that there aren't other lessons that children learn in society, in their homes, from their peers, and so on. But we can't deny that television does have this power and this effect. The real question here is, what could television be doing that it isn't doing? And the tragedy, I think, is that it is such an effective and powerful teacher, and it's teaching the wrong message to young children.

TVG. In that connection, Dr. Carole Lieberman, who is chairperson of The National Coalition on Television Violence, has pointed out that since everybody agrees that *Sesame Street* can teach the alphabet, why don't TV people admit that children can learn the ABC's of murder and mayhem from gratuitously violent entertainment? "Violence sells," she says. "So does crack cocaine. Does that make it OK?"

GERBNER. I want to use what Peggy Charren said as a springboard, because—although it hurts me, and because I advocate the same premises of freedom and diversity—I come to the directly opposite conclusion. First of all, most of the highly-rated dramatic programs are nonviolent. Then why is violence produced? I'll tell you why it's produced. Because income doesn't come from popularity. Television income comes from cost-per-thousand. If you can cheapen the product, you don't need to have the most popular programs and you can still make money.

So violence is a cheap, industrial ingredient. It reduces time for writing. You talk about the proliferation of channels as diversity. Well, what if most of these channels program the same cheap type of fare? You find that the actual content has been reduced in diversity. And what they're getting is not the most popular product.

TVG. In the June 10, 1992, issue of the Journal of the American Medical Association, a doctor named Brandon S. Centerwall says that since television "is in the business of selling audiences to advertisers," they're mostly interested in attracting big audiences, and matters of social responsibility are not high on their list of priorities. "And there is no formula more tried and true than violence," he writes, "for reliably generating large audiences that can be sold to advertisers."

Senator Paul Simon of Illinois has claimed that the competitive pressures on broadcasters have "spawned an 'arms race' in TV violence from which none will retreat for fear of losing ratings points. As in all arms races, the public is the loser."

WOLF. I don't know who Dr. Gerbner has been speaking to, but what he's saying is absolutely fallacious. The most expensive form of entertainment ever devised is the one-hour television drama. If he is talking about the reality shows, and people doing those cheaply, that is a different discussion. they are news-oriented, reality-based. But to say that people who make fictional dramas are putting violence in because it's cheaper is just untrue!

GERBNER. I recognize that some fictional dramas and motion pictures can be very expensive. What I'm saying is——

WOLF. There are no cheap hour dramas on television.

GERBNER. Well, cheaper per capita.

WOLF. Well, that's incorrect, Doctor!

GERBNER. It's very cheap per capita. It's a good investment and that's why it's so profitable. It's profitable to put on violence instead of other, more diversified, creative solutions to problems that require more talent, more time, and more money. Violence is a formula that's relatively cheap to inject into programs.

WOLF. That is incorrect, and I think that's a very simplistic statement!

GERBNER. Then it seems we disagree, right?

LEONARD. Writers are cheap, but the exploding cars, they're very expensive.

CHARREN. It may be the most expensive, but it's certainly some of the most profitable.

WOLF. Excuse me, that's also incorrect.

WEINMAN. That's absolutely incorrect.

WOLF. The most profitable shows on television are situation comedies and reality shows, not the hour dramas. I do these shows, I know what the costs are.

PROTHROW-STITH. Don't tell me you're producing things that are not profitable. Miami Vice?

WOLF. Miami Vice has been off the air for three years. I used to do it.

PROTHROW-STITH. Was it profitable?

WOLF. No, it is not profitable. Excuse me, it is not profitable.

PROTHROW-STITH. When it was on the air, it wasn't profitable?

WOLF. It made profits for the network. I work at Universal. I worked on that show.

PROTHROW-STITH. What are we saying here, it made profits for the network?

WOLF. I don't know. You're throwing out statements here that have no . . .

GERBNER. Did it make money for you?

WOLF. No. I made a salary, but I certainly have never seen a penny of profits.

PROTHROW-STITH. Well, that's money. But somebody profited from Miami Vice being on television.

WOLF. The network. And it made not as much as Cosby or any of the other sitcoms.

PROTHROW-STITH. Let me move to another aspect—to the different way we think of sex in the media versus violence in the media. Do we know that a 5-year-old watching intercourse is going to be harmed in some way? No, we don't know that. There are no casual relationships established. Yet we make sure, as best we can, that sex is not portrayed to our children. We don't do that with violence. People are making money off of violence and are callous about it, and I think we need to start calling some people to task.

It's helpful for me to have a public health perspective on this problem, because I can look at media violence as a risk factor. It's not the only risk factor. Poverty is a risk factor, and poor children watch more television. But I wouldn't be surprised if we found out that it's the four hours or more per day of television-watching that poor children are doing that's a significant part of the problem of violence. So I think we've got a big issue here. I use smoking, and the effort to prevent smoking, as an analogy. We went from thinking it was the most glamorous thing in the world to finding it offensive and unhealthy. I think we can do that with violence. I like the question, what can television do?

WEINMAN. Well, first of all, we can't continue on this premise that the reason we see violence on television is money. There are responsible people at all three networks who are not callous. That's why we have in place a set of guidelines that deal not only with sex, but, very specifically, with violence. One of the seminal, important issues we deal with every day is, how do you find a balance between sanitizing violence and sensationalizing it? We come from a very responsible point of view.

And I think we need to understand that the only TV outlets that have people in very tough jobs every day making informed and yet subjective decisions about violence are the three networks. That is the only place where viewers can depend on any level of comfort. I'm not saying complete comfort, but they know that what is coming through that tube from ABC, CBS, and NBC has been screened by people with a moral point of view. Do we make mistakes? Yes.

The bigger issue is that 6-year-olds are going in to see "Terminator 2" and no one is stopping them; that 13-year-olds are renting slasher movies. Critics are not coming down on the kinds of productions that Mr. Wolf makes. They're talking about slasher movies that kids are renting in the local video store, and that kids are able to hit the pay-per-view button and get similar material.

You bring up Miami Vice. The USA Network has shown one episode of Miami Vice that we never put on the air. We lost $900,000 because we thought, for a whole bunch of reasons, that the content was not handled well and we did not want to take responsibility for it. And that appeared unedited on the USA Network. HBO movies are uncut. At 8 at night there are R-rated movies. I don't want to appear too defensive, but when you talk about the TV landscape—about bombs and R-rated movies—it gets back to the question: where are the responsible people who have guidelines and are trying to do the right thing? Only NBC, CBS, and ABC.

TVG. There's a little booklet called Program Standards, published by NBC, and I know the other networks have similar ones. It says, in part: "Violence should not be depicted as glamorous or shown as an acceptable solution to problems. The negative consequences of violence should be stressed. To mitigate violence, action sequences should emphasize unrealistic settings, fantasy weapons, and superhuman feats . . . Particular care must be taken in scenes where sex is coupled with violence. Rape must be portrayed as an act of violence, not a sexual act." In view of those guidelines, I'd like to know how the interaction works between Dr. Weinman and Mr. Wolf. Dr. Weinman's job is to review Mr. Wolf's scripts for objectable content before they get on the air. Now, he is a producer of very, very successful television programs. In effect, he's an 800-pound gorilla.

WEINMAN. Nine hundred, this year.

TVG. OK, nine hundred. So he comes to you and says, "Look, if you take this violent scene out, you'll ruin my show! I'm going to have you fired!" What happens then?

WOLF. Let me answer, because it's very interesting. I think that what's instructive is that Roz and I have never failed to reach agreement, that there have obviously been spirited discussions.

WEINMAN. Very late at night.

WOLF. Very late at night, very early in the morning. It goes on and on. And some episodes have taken literally weeks to get into shape for broadcast approval. My feeling is, if you're going to show someone being shot, then show them writhing on the ground in pain, see them in a hospital three days later, still writhing in pain. Don't make it glamorous. Don't have people get shot and then seemingly wake up the next morning and their arm isn't even in a sling. The cops on Law & Order will go five years without ever firing a gun. We deal with the effects of guns on that show. If anybody thinks the networks are allowing producers to put anything and everything on television—that's fallacious. It's a 150-channel universe now, and it's wrong to tar the Big Three networks, who are, I believe, the only ones acting responsibly.

GERBNER. Let us take a few seconds to pay our respects to producers and creative people, the ones on the front lines of television practices, for the wonderful work they are doing. They represent the conscience of the networks and they often do magnificent programming. But let us not let the system itself off the hook. Don't forget that most American television series and motion pictures are produced for the global market. More than half of total revenue comes from outside the United States. And in the trade, the slogan is, "Violence travels well, humor doesn't." Humor is culture-bound; it needs translation. But violence doesn't need much explanation. It has some kind of inner relevance to human interests, and therefore from the point of view of global marketing, is an excellent commodity and highly profitable.

SLABY. There's a prior question here that I'd like to come back to. It's all well and good to hear about Roz and Dick's midnight talks about what is edited out and what is not edited out. But the prior question is, who controls the airwaves? One little-known fact is that the American people own the airwaves and they don't know it.

The networks sometimes try to foster the notion that they're giving people just what they want, and that television is the greatest democratic ballot box in the United States. The fact of the matter is, this is a myth. It's a myth that we control the airwaves by turning off our set or switching channels. It's a myth because we're not all Nielsen families. It's a myth that every vote counts equally because what really counts are the demographics of the viewers. Poor viewers don't count. Children don't count, except on Saturday mornings.

TVG. Dr. Prothrow-Stith, you mentioned in your book Deadly Consequences that children in inner cities watch more television because they have little money to do anything else, the streets are dangerous, and there are fewer recreational opportunities.

PROTHROW-STITH. I think one of the things that came through quite clearly in the Los Angeles revolt was that revenge was seen as necessary and anger was justified. They were basically teens who have learned that if you think you are on the side of right and have a cause to justify, violence is the way to do that.

WEINMAN. Where did they learn that from?

PROTHROW-STITH. That's what characters like Rambo do. When they get angry, they blow people away. I'm thinking specifically of the Rambo movie where his daughter was kidnapped and he blew away close to 300 people getting his daughter back.

SLABY. That was "Commando," not "Rambo."

LEONARD. Are you saying they did that because they had seen movies like "Rambo"?

PROTHROW-STITH. What I'm saying is, that they have learned that violence is the way to solve problems. And the challenge I would put to the TV industry is to show, in an appealing way, how people can solve their problems and achieve success nonviolently.

TVG. That rarely happens these days in the big-hit theatrical movies, which everybody agrees are the most violent in the history of the film industry. A New York Times movie critic counted 74 dead in "Total Recall," 81 dead in "Robocop 2," 106 dead in "Rambo III," and 264 dead in "Die Hard 2." [In early August 1992, an accused serial killer of six women in New York state said he was copying scenes in "Robocop 2."] All those movies show up in home video. All five of the Oscar-nominated films this year had scenes of violence, some of them extraordinarily vivid: "The Silence of the Lambs," "Bugsy," "JFK," "The Prince of Tides." And "Beauty and the Beast" was by no means a nonviolent movie. Those, too, are starting to appear in video stores.

Gerbner. But let's go back to the Los Angeles situation. I think Ted Koppel was right, for once, anyway, when he said that live, unedited telecasting of the riots spread the virus from one part of the city to another. I think it was done in a reprehensible way. I think it's done for ratings. I think it's something they have to think about very seriously. The riot took place in the context of a cult of violence, of a civil war in our inner cities; and the lesson for broadcasters in such situations is to be very careful about live, unedited, real-time telecasting because it makes people react instantly in ways that can be exploited.

Wolf. It's chilling what you're suggesting. This is out and out censorship.

Charren. There's a point to be made about the looting that went on in Los Angeles and how that relates to television. The advertising that interrupts most TV programs conveys the message that everybody can afford these products. But most of those inner-city people can't. And a lot of those people who left their houses and looted stores were not reacting to the Rodney King tape, but were saying, "Now I can get mine. Where is it written that I can't have all these things that television tells me I need, but which I can't afford?"

Weinman. But how much power does television really have? I, for one, don't believe it has as much power as our academic colleagues would like us to believe. I wish it did, because some of our advertisers would be a hell of a lot happier than they are.

Wolf. Commercial television exists as a life-support system for commercials. That's why it's called commercial television. The desire for objects advertised on television is much more destructive to children and adolescents than it is for adults. Adults do have some discriminatory ability. We see a Rolls-Royce advertised on television, but we're not going to go racing out and buy one.

But the bulk-loading of commercials in children's programs is an enormous problem. And maybe this is paddling my own oar, but I think that's much more destructive to children than violence on TV late at night. The children's shows on Saturday morning are a different issue. They are too violent, and that's something that has to be corrected, but I don't know how you do it. Not legislatively, because that's censorship.

TVG: Speaking of cartoons, somebody has suggested that the Rodney King jury may have watched too many "Tom & Jerry" cartons as kids, and as a result they didn't think that bashing somebody with a stick really hurts. So they acquitted the police. There's also a feeling that Rodney King may have seen so many Burt Reynolds movies and The Streets of San Francisco episodes that he thought car chases with cops are fun.

But I want to ask Dr. Weinman about the NBC series I Witness Video. There are something like 16 million camcorders in consumers' hands right now, and some of that amateur tape shows up on local and national television, and some of it is quite violent. It's a whole new source of TV violence. When I Witness Video came on NBC last February, it showed a replay of murders that had been captured on tape by amateur camcorder operators. We wrote about it in TV Guide at the time, saying, "For the first time in TV history, a major network started programming death as entertainment." How about that, Dr. Weinman?

Weinman. It doesn't relate to my department. That's a program that is produced under the NBC News rubric, with journalists making judgment calls on what they think is solid programming. I think the whole question about tabloid, reality-based programs is a whole other issue.

TVG. Yes, and they are a new and extemely popular program form, which very often show vivid scenes of violence. Series like America's Most Wanted, Unsolved Mysteries, Top Cops, Inside Edition, A Current Affair, Hard Copy.

Weinman. I think so, but the only good news, I think, is that there are very few kids watching those kinds of programs.

TVG. What does it tell you that, except for 60 Minutes, the most popular programs in the 1991–92 television season were all sitcoms and thus almost completely nonviolent? Roseanne, Murphy Brown, Cheers, Home Improvement, Designing Women, Coach, Full House. Since comedy is so popular, why telecast violence at all?

Leonard. As much as I have my doubts as to how important television violence is to violence in the culture at large, I have my doubts as to how important television is to the culture at large. I'd like to see Dr. Gerbner do a study—similar to his violence profiles—on how much hugging there is on television. Because I think that hugs are all over prime time, perhaps far more than they are in our own families.

I would like to see a study made of nonviolent conflict-resolution programs like M*A*S*H, obviously one of the most successful programs in the history of television. It's on twice a day, every day, everywhere in the country. And yet, we're not the least bit more pacifistic in the culture, as far as I can tell.

So if we're talking about what happens on television and how it influences the culture, we have to talk about all the things that are on television. We surf, we pick and choose. We want to laugh sometimes, we want violence and quick and easy solutions at other times. We want news, or we want the greatest of all violence, a hockey game.

TVG. Yet another source of TV violence, and a fairly recent one, are music videos of the sort played on MTV by groups like Guns N' Roses and N.W.A. Dr. Prothrow-Stith has written that "the subjects of heavy-metal songs are sex, violence, death, Satan, and alienation. The creators of heavy metal and rap are the first generation nurtured on television's steady diet of fictional and non-fictional mayhem." She adds that "in rap song after rap song, young black men brag about owning guns, using guns and killing" and that "sex, violence, and black pride are the most common subjects of rap" songs. "As in heavy metal," she says, "women are sex objects and the objects of rage." There aren't any studies showing cause-and-effect with music videos, but what do you advise?

Prothrow-Stith. My favorite strategy is the strategy of making that sort of thing unpopular. If I didn't have the smoking, the cholesterol, and other public-health successes in mind, it would seem unrealistic. I think about our efforts around drunk driving. It was a grass-roots effort, saying, not only is this not funny, we want the TV industry to help through sitcoms and other shows to teach our children that this is bad and dangerous behavior.

So I think we can make violent music videos unpopular. People recognize that the music itself is nice, upbeat, kind of bopping music. The lyrics, though, are often horrible.

TVG. What about Michael Jackson's video in which he bashes and destroys a car with a crowbar for no apparent reason?

Prothrow-Stith. Wasn't there a public outcry about that that caused them to edit the video?

Wolf. No, it was his grabbing his crotch, not destroying the car.

Charren. Yes, the public did scream bloody murder about it. They're more concerned about their Jaguars than their children.

TVG. I happen to know the answer to this question, but is there anybody on this panel who favors formal censorship of TV programs to minimize violence?

Gerbner. The only censor we should really speak to is Dr. Weinman.

Weinman. I don't want to become pedantic, but I don't think that what I do is censorship. It's not dissimilar from what happens in the publishing industry every day, and that relates to taste. We are running a commercial business in which we are trying to be responsive to our audience. Fortunately, it's a fairly easy thing to do in some ways, because every morning you get the ratings and you know how many people watched your shows and whether or not they liked them.

There is no question that if we were simply trying, in a crude way, to put on whatever the marketplace would bear, that we would air very different sorts of programs. We're in the business of making certain that, with the knowledge we have, we're putting forth programming that we believe to be responsible. That's very different from government censorship, and censorship of news.

Wolf. Three years ago, several producers, myself among them, were approached by a network—specifically. NBC—and asked whether we wanted them to do away with the standards and practices department. I was quite vehement about it. No, I didn't want that, because, for better or worse, I don't want that responsibility. I don't want the blame. And I don't consider it censorship. I consider it a business decision, and a way to make sure that the product has the most chance of staying on the air. There is a difference between governmental intrusion into the broadcast process and broadcasters making sure that their own house is in order for business reasons.

TVG. But is everything with regard to the violence issue done merely for a business reason? Is there a moral issue involved here, or is everything just economics and money?

Wolf. I think that most producers of shows that have survived have a kind of internal moral gyroscope, so that they are not just catering to the basest instincts of the audience. This isn't bread and circuses.

Charren. The thing is, censorship would be terrific if I made all the decisions about what goes on and is taken off.

TVG. Peggy Charren, you were one of the people principally responsible for the Children's Television Act of 1990, which requires that TV stations, as a condition of their license renewal, report what positive steps they've taken to air worthwhile children's programs. Can that new law be used to reduce violence in children's programming?

CHARREN. No, the Act cannot be used to be content-sensitive. That's not the kind of law I would have tried to put in place through Action for Children's Television. It's too much a question of judgment. You know—which program passes and which program doesn't. I think that you can't have the government making content-sensitive regulation, and that's what it would be.

On the other hand, there are things we can do to educate parents to be more careful about what their children watch. I'm trying to put through—and I think it may even work—a media-literacy merit badge for the Boy Scouts and Girl Scouts. It's a way to teach kids that the violence you see on television is not the solution to problems.

GERBNER. Well, there is another law on the books, which may or may not provide an opportunity, and that's Senator Paul Simon's bill, formally called the Television Violence Act. What it does is provide an exemption for the networks and cable companies, for a period of three years, from any prosecution under the antitrust laws if they agree to some kind of self-regulatory mechanism pertaining to violence. We're halfway through that three-year period, and I think that this fall, the networks and cable companies are going to make some kind of a progress report. It's a toothless law, but it provides an opportunity for some progress on the question of media violence.

TVG. Yes, but Senator Simon made a speech on the Senate floor on June 30 lambasting the networks for not taking advantage of the Television Violence Act. He said he wasn't sure if they were "just making motions so it looks like they are doing something so we do not pay any attention in Congress to what is occurring." And he said that he continues to get statements from TV-industry people insisting that television violence doesn't do any harm.

WEINMAN. There are lots of food items that really are not good for children. Does that mean that parents should not be allowed, by law, to purchase those foods for their children; or that children should be forbidden by law to snack before dinnertime? It's a frightening prospect.

CHARREN. Sounds like a great idea.

GERBNER. We have that now. Children aren't supposed to be sold alcohol and tobacco.

LEONARD. I don't want to see a three-year exemption so that the networks can get together and decide how they're going to handle these problems. I don't want anything more that looks to me like censorship, no matter whether you call it business decisions or whether you call it taste. I speak as the kind of First-Amendment absolutist that I know Peggy Charren is, too. I think that violence and sex and political dissent are all in bed together, and if you start messing with one, you end up messing with the rest of them. We already have on television right now too many gentlemen's agreements that have, in effect, wiped out political dissent.

PROTHROW-STITH. Why is violence the only area where we're not doing that?

LEONARD. Well, we are. We're doing it all the way along the line in little things. But let me finish. This is what happens when people get together and decide what the country needs to be protected from. It is exactly the thing that I think is wrong with political correctness on too many college campuses. I think there should be offensive speech. I think there should be trouble. I think that obscenity should be allowed to us just as much as subversion should be allowed to us! And I don't think anybody should get together and say, here's how we can work it out!

WEINMAN. We do have to pose a question here, and I do it with all due respect to my academic colleagues. Who on this panel would like to tell me what specific, currently running programs you find too violent? I think some of the comments being made here about violence would have been valid in 1980, but we've learned a lot. You just don't see a television landscape across the networks with violent programming. You just don't. We don't have a proliferation of violence, we don't allow programs that glorify violence. If anything, we could probably be criticized for making it too sanitized. We don't show programs that are graphic and in which the heroes are the bad guys.

PROTHROW-STITH. There's MacGyver, there's In the Heat of the Night, there are detective shows over and over.

TVG. The National Coalition on Television Violence puts out a monitoring report occasionally, and the most recent one says that the most violent network shows—for the spring of 1991—in order, were: Young Riders, The Flash, In the Heat of the Night, Black Jack Savage, Top Cops, MacGyver, America's Most Wanted, American Detective, DEA, Hunter, and Unsolved Mysteries. All of those had 20 or more violent acts per hour, and Young Riders had 55.

GERBNER. Excuse me, let me say something here. It's ironic and very curious that Dr. Weinman, who is really the only censor we have . . .

CHARREN. What about [Senator] Jesse Helms?

GERBNER. Excuse me, Jesse Helms is not running a network. He's a legislator. Let's not mix up a lot of things that don't belong. But here we have NBC, a private corporation that has total control, total censorship—some of it highly desirable, some of it perhaps ineffective. But what is ironic is that it's John Leonard who says that's OK, let's not mess with it. And some people applaud.

LEONARD. I did not say that!

GERBNER. In effect, you said, let's not get into the act. Let's not mess with it. And First Amendment absolutists applaud that as an extension of the First Amendment. I think that's defeat of the First Amendment! It's using the First Amendment as a shield for censorship!

LEONARD. I don't know what on earth you're talking about. I don't like Dr. Weinman's censorship! I don't like any censorship! That's exactly what I said and I tried to say it as clearly as possible.

GERBNER. Well, OK, if I made a mistake, correct me.

LEONARD. I have corrected you!

GERBNER. You said, let us not get into the act, in respect to something that is a public trust. Keep the public out of the public trust. That's the position you've taken. I think that's a wrong position!

TVG. All right, let's get right down to it. Should anything be done to lessen gratuitous brutality, murder, and mayhem on television, from whatever source: networks, cable, home video? Do the broadcasters' rights of free speech on the public-owned airwaves supersede the public's right—and desire—for some modicum of protection from gratuitous violence coming into the home?

PROTHROW-STITH. Well, censorship is not the only possible solution.

TVG. Some very simple things that parents can do are suggested by the American Psychological Association. First, watch at least one episode of the programs the child watches to know how violent they are. Also, when viewing TV together, discuss the violence with the child. Talk about why the violence happened and how painful it is. Ask the child how conflict can be solved without violence. And explain to the child how violence in entertainment is "faked."

CHARREN. There are a number of ways to educate. We can educate children, we can educate parents. We can have seminars like this. You can try to help parents understand something that this panel has tried to articulate: namely, that it's important for parents to pay attention to what their children watch on television.

I sometimes tell parents: suppose a complete stranger came into your home carrying two bags—one containing a lot of products for sale, and the other a lot of stories. And he said to you, "Look, you look tired. Why don't you just leave, and I'll talk to your kids here on the couch." How many of us would say "Go right ahead?"

You have to help parents understand that that box in the living room is not always a friend of the family. And there are a million ways we can do that, which we're not presently doing. And the media can help.

TVG. Is there any use that might be made of the Motion Picture Association of America ratings system, to call attention to movies with inordinate violence when they're shown on television?

CHARREN. Yes, they could use words instead of letters like PG-13 and R. Why don't they say, "some violence," "some sex," "some sex and violence"?

SLABY. As a matter of fact, TV Guide does that in its listings for the premium-cable channels like HBO and Showtime. It uses the simple term "violence," and that can help parents decide which movies to watch and which not.

GERBNER. That's good for highly educated, upper-middle-class parents who control the set. Most parents not only don't control the set, but depend on its as a baby sitter. Most children are left alone much of the time. It's their parents who set the style in the home, and most parents do not look at either ratings or advisories.

SLABY. It's only a start to have truth in labeling, but it is a start.

GERBNER. Yes.

SLABY. In fact, when I looked at the cable programs listed this last week in TV Guide, and did a quick count, I saw that among those that were rated, more than half of them had violent content. So we're talking about the really new look, the new face of media violence. We need to include cable and VCRs in this. We hear Dr. Weinman talking about what the networks have done, and they have done a great deal recently, but in addition, we need to bring in what cable can do and what filmmakers can do, and get them together so they're not just pointing their finger at everyone else and saying, "My house is in order, the next guy's isn't."

GERBNER. Yes, education is very important, but it's like saying there are problems in our environment, so let's teach children to wear gas masks, and maybe not to breathe too much. It's not enough.

CHARREN. The best place to handle how kids relate to that television screen is at the ballot box in November, by putting people in power who care about our kids.

LEONARD. Or you feed everybody; then they will actually be able to pay attention in school and they'll grow up to have a more interesting imagination.

PROTHROW-STITH. Stop, stop, stop! You're both right! It's not an either/or thing. You're got to have policy that protects people, and you're got to have education to help people deal with the situation. Once again, it's helpful for me to take a public-health look at this problem and ask, what changed our attitude about smoking? How did we do that? It was education in the classroom. It was working with the media. We banned the advertising of cigarettes on television.

PROTHROW-STITH. We have to use health education, relating to violence, in the classroom—the same way we did with smoking. We have to use the media to deglamorize violence, to show the reality of it, and to show that nonviolence can be productive.

Another strategy is liability, and I know that's opening up a can of worms. In the case of smoking, no suit has yet been brought successfully against that industry.

GVG. How would liability work with regard to television violence? You mean that if a specific crime were proven to be inspired by a specific television program, the network and the producer could be taken to court and have to pay damages?

GERBNER. It's a very tricky question.

WEINMAN. It is tricky.

PROTHROW-STITH. It's the notion of copycat—if a causal relationship can be established in a particular case.

TVG. That was attempted in 1974, after three teenage girls attacked a 9-year-old and raped her with a bottle. They'd seen something similar on an NBC drama called "Born Innocent." The mother of the victim brought an $11 million suite against NBC, but the U.S. Supreme Court dismissed it, saying that networks can't be held responsible for TV-inspired violence unless they incited it deliberately.

There was some data published in the New England Journal of Medicine that seemed to prove that depictions of suicide on television are often followed by a significant rise in teenage suicides. And there was the situation where 35 males, between ages 8 and 31, killed themselves playing Russian roulette—imitating a scene in "The Deer Hunter," which they'd seen on television.

PROTHROW-STITH. I think that the media can expect that the public may come around to demanding the same regulations for television as are in place for other professions. Most professions have a self-policing mechanism. In medicine we have peer review, and there is also a government component. You wouldn't want doctors and hospitals to be unlicensed and unregulated. And I think that people are going to want the same controls for the TV industry.

CHARREN. But the potential for closing down free speech in this country from ideas like this—liability for speech—is so horrendous that I'd rather put up with the violence on television.

PROTHROW-STITH. Well, there is a middle ground, and if we reach it without censorship, we'll be in a lot better shape. And I would love the initiative to come from the media.

WOLF. But you know, what's amazing is that we're sitting here and we're giving the viewing public absolutely no credit at all. None. And you know, what I've found over the years is that the audience is the best measure of a successful or an unsuccessful idea. And the notion that there ought to be a group of people who would get together and lay down guidelines, or groups that would regulate in some amorphous way. . . . You're just opening the door. I agree with John Leonard one thousand percent. There is no partial censorship.

GERBNER. But there is such a group of people. The only difference is that they're anonymous, unselected.

WOLF. Who are these people? Who do you think they are? Do you think there is a cabal out there deciding what we're going to watch?

GERBNER. No, not a cabal. They are called network vice-presidents, and they meet all the time.

WOLF. Who meets? Excuse me, sir, who meets? Do you think that the heads of the networks get together and decide what shows they're going to put on?

GERBNER. Not necessarily with each other. They know what they're doing.

WOLF. What are you talking about? Oh, that's ridiculous! If you wrote a book that said that, sir, you were completely misinformed!

GERBNER. Anybody who thinks that large, national corporations work with no direction is even more naive than I think.

WOLF. As a working member of this industry, I can tell you that's patently ludicrous! It is the most competitive business environment in the world. They will kill for a ratings point. And if people were dissatisfied, they wouldn't watch.

GERBNER. Wrong. People in every country watch whether they're dissatisfied or not.

CHARREN. There's almost no information-based programming for kids on commercial television in this country, and it's the biggest blot on the landscape of American broadcasting that ever was.

TVG. What does that have to do with the problem of violence on television?

CHARREN. It relates because we could use that kind of program to help kids understand what televised violence really is—and about the place of media in the world and in their lives. The kinds of things you expect a communications system to do in a democratic society, and which it does for adults but does not do for its children. And that is outrageous and disturbing and very sad.

TVG. The aforementioned APA passed a resolution that says, "Whereas, the great majority of research studies have found a relationship between televised violence and behaving aggressively . . . be it resolved that the American Psychological Association: one, encourages parents to monitor and to control television viewing by children; two, requests industry representatives to take a responsible attitude in reducing direct, imitatable violence in 'real-life' fictional children's programming or violent incidents on cartoons and in providing more programming for children designed to mitigate possible effects of television violence, consistent with the guarantees of the First Amendment; and, three, urges industry, governmental, and private foundations to support relevant research activities aimed at the amelioration of the effects of high levels of televised violence on children's attitudes and behavior."

SLABY. I think that public education is the missing ingredient. All of us at this table could agree that major things about media violence could be done on television in all of its forms regarding public education about violence prevention—informational programming, educational programming that is entertaining and teaches critical viewing skills, programming that is consistent with the mandates of the Children's Television Act. There's a great deal that's known about media violence. And there are very good suggestions about what might be done to teach the public about guns, alcohol, drugs, and their relation to violence. And the media can play a major role in that area, consistent with what we've already found in other public-health areas. Public-health campaigns are very successful when television is used as a springboard.

LEONARD. I need to say something here, as somebody who actually watches a lot of television. And that is that prime-time commercial television has been more responsible than any other part of this culture on precisely these matters. It's been the miniseries and the TV-movies about date rape, about child abuse, about alcoholism and drunk driving, AIDS, marital rape, abortion. It's been television, not the movies, not the newspapers, not the magazines, not the schools, and not the parent-teacher associations. It has been television—perhaps out of some vestigial liberal conscience—that has devoted two, sometimes three, sometimes four television movies, week after week, to just these issues. And it is amazing

CHARREN. There's one little, tiny thing that television can do that won't hurt anybody's income and will make a lot of parents much happier. And that is to stop putting on the air as promotional announcements the most violent 30 seconds of upcoming movies and miniseries. And running those promos adjacent to children's shows. It's an industry problem.

TVG: It appears that you're perfectly right about that. In our content analysis of a day-in-the-life of television, we found that commercials for theatrical films and upcoming TV-movies and miniseries were second only to cartoons in the amount of violence they purvey.

PROTHROW-STITH. NBC was going to show a movie called "Street War" a week after the Los Angeles riots. They pulled that, and instead put on "Kindergarten Cop." Now, I'm assuming they pulled it because the newspapers said it would be insensitive to show kids burning things in the streets right after the L.A. event. But "Kindergarten Cop" is no mild movie. I mean, the hero solves a problem violently. And there are many, many times in that script where they could have solved that problem differently.

GERBNER. You asked about practical and logical things that can be done. I'd like to add two or three more. First, we should urge parents not to use television as a form of punishment or reward, because that teaches indiscriminate viewing. I think we should urge parents to participate in children's viewing, so that they know something about the programs they criticize, so that they can tell children: that's not the only way to look at life. I think that teaching critical viewing and analytical viewing should be a central task in our schools. It's fresh approach to the liberal arts. Working on these fronts can make a significant contribution to a more reasoned and broader perspective from which to assess not just television violence, but the particular role it plays in industry policy.

TVG. As part of those viewing skills, shouldn't it be taught that violence can really hurt, that there's no such thing as violence without consequences? In your book, Dr. Prothrow-Stith, you accuse the mass media of lying about the physical and emotional realities of violence. In "real life," you write, "the impact of a moment of violence reverberates through time. Years later, parents are still mourning the lose of a child. . . . On film or videotape, violence begins and ends in a moment. 'Bang, bang, you're dead.' Then the death is over." Then you question whether the 12-and 14-year-olds "who are shooting each other to death in Los Angeles, Chicago, and Washington, D.C., really understand that death is permanent unalterable, final, tragic?" And you conclude, "Television certainly is not telling them so."

PROTHROW-STITH. We had a young man in the emergency room at Boston City Hospital who was surprised that his gunshot wound hurt. And I thought, boy, he's really stupid, anybody knows that if you get shot, it's going to hurt. But it dawned on me that what he sees on television is what when the superhero gets shot in the arm, he uses that arm to hold onto a truck going 85 miles an hour around a corner. He overcomes the driver and shoots a couple of hundred people while he's at it.

It's important, I think, to differentiate the kind of violence you see in a movies like "Boyz N the Hood," "Glory," or "The Killing Fields," where you are saddened by it, and where the pain is obvious, where there are consequences to the violence. In "Lethal Weapon 3," on the other hand, you are excited and happy and applauding as the mayhem goes on.

SLABY. Exactly.

WOLF. I agree with you. I'd go further. Dr. Weinman and I occasionally have arguments because when I depict violence on a show, my desire is always to show it much worse than the network or the advertiser have any desire to see it. If somebody gets shot—and I've seen people who were shot—they should be writhing on the ground screaming in pain, with gallons of blood running out of them. We're not allowed to show that. I agree that if you show violence, show it the way it is, do not glamorize it.

TVG. Another miscarriage seems to be that women are too often the victims in TV scenes of violence—so much so that many youths think that sexual violence is permissible, since they see so much of it on television. That's the conclusions of Dr. Edward Donnerstein of the University of California at Santa Barbara. Violent TV and film material, he points out, is written almost exclusively by white males. And it's men—not women—who want violent entertainment. And it's men who commit most crime.

GERBNER. I ask my students to watch three hours of prime-time programming and to write down who it is who commits violence—how many men, how many women, who is the victim. You discover that you are entering a world in which there is an unwritten policy that is very consistent, that is unfair, that is unjust, that is highly prejudiced, that encourages violence and encourages victimization on a very unequal scale, showing certain people, mostly women and minorities, that they are more vulnerable.

WEINMAN. I don't want to get too nitpicky, but I would question your particular three hours.

GERBNER. Any three hours.

WOLF. I find that hard to believe. I've never seen statistics like that.

GERBNER. But that's what the public sees.

WOLF. You're cooking the books! You're throwing out statistics that are meaningless!

GERBNER. Not to the American people. They are meaningless to those who are paid by the industry!

WEINMAN. Excuse me, I had the floor! We cannot expect any cultural appendage, including television, to look different from the rest of society. It is a reflection. It is a mirror image. Hopefully, there are times when we actually put programs on that enlighten and do more than entertain, for example, "The Burning Bed." By and large, what you see on television and in the movies is basically what people are interested in watching, and these are cultural reflections. So, for example, the fact that women are victimized more on television than men unfortunately is a truth in the world we live in.

Is television perfect? Absolutely not. It is more of a reflection of the entire culture in which we live. Still, we have responsibilities, which is why we have guidelines, a standards and practices department; which is why we work closely with the producers to monitor what goes on the air.

I can tell you that most producers who have successful programs on television come to it with a giant amount of intelligence and, in most cases, integrity. And when you point out to them that perhaps they are trying to put on something that may be too violent or too sexual, they are reasonable, sensible people who have their own children and are not interested in living in a world where violence is a daily occurrence.

PROTHROW-STITH. But we treat violence and sex very differently. We have no evidence that watching sex does any damage to children, and yet we go on and on about the sexual content of television and movies, and about regulations relating to sex. And I would just appreciate it if we treated violence the same way we treat sex.

GERBNER. Styles change, but I must tell you that when you talk about the main elements of television storytelling, including violence, it's been extremely consistent. In this last season that we have studied, the 1991–92 season, prime-time violence on the three major networks appears to have declined slightly for the first time in 25 years. Children's weekend programming, however, has become more saturated with violence.

This is not a temporary aberration. This is a question of policy, and the policy has to be addressed ultimately. Sooner or later, as with other environmental policies, we have to realize for the first time that we are in a new age. It's no longer a selective medium. Children are born into it. We have a responsibility for enriching that climate in which they live, learn, and grow.

PROTHROW-STITH. We protect our children from a variety of things via regulatory mechanisms, and I think we need to do some protection in the area of violence—particularly of those children whose parents aren't able to, or don't, do it. And I think that if the industry, particularly the networks, continues to be as sensitive as they have been to this problem, and if that spills over into the movie industry, we'll be successful. When it's unpopular, it won't make money. And when it won't make money, we won't have this panel.

GERBNER. Many years of study have led me to the conclusion that broadcasting policy is held very tightly by a handful of men imposing rather strict controls. If there is only one thing I would say to do, it is—hire more women, both on-screen and off. And the minute you do that, the world will begin to change and be more fair, more just and less violent.

LEONARD. Theodore Sturgeon was once told that 90 percent of science fiction was crap. He said, yes, 90 percent of everything was crap. Ninety percent of television is crap. And we have more crap coming. We have lots more channels, but it sometimes seems it's just like a credit card that allows you to multiply your opportunities for disappointment.

I think that the proliferation of cable channels has been, on the whole, more nonviolent than violent, except for the premium-cable channels and, of course, the VCR stuff that you bring into your home. For the 10 percent of television that isn't crap, I would like to see it more brilliantly educational. But the best kind of education on television isn't going to do any good if it's going into a broken home in a bombed-out neighborhood where there aren't any schools and there aren't any parents and there isn't any food and there isn't any expectation of a decent future. Whom are these images out there in the ether to help? We begin, as always, with providing bread and jobs, and then a culture begins to create grander cultures in its imaginary forms. That's where I would begin.

SLABY. I was going to say that one thing that resonates with me is the rather sad commentary that Dick Wolf says his children aren't allowed to watch any of the programs he has made, or even any of the Saturday morning programs. I think television could be on the side of solving the violence problem, and doing it in a variety of ways—not only programming like "The Burning Bed," which sensationalizes at the same time that it teaches, but informational and educational programming as well.

I think that we American citizens would like to be proud of our programs, and would like to see the industry pull together with researchers, and all of us get together and solve this problem once and for all. Certainly, Congress is calling for the industry to solve it. And I think the American people are calling for us to solve it as well. And the crime, if there is a crime, is that television has such potential that it's not using to try to solve this problem of violence. And I would like to see that happen in the next decade.•

[From TV Guide, Aug. 22–28, 1992]

A MESSAGE FROM SENATOR PAUL SIMON, CHIEF SPONSOR, TELEVISION VIOLENCE ACT

I checked into a motel room late one night a few years ago after a long day of appointments in Illinois. I flipped on the room's TV set, hoping to catch the late news. Instead, I saw an actor being sawed in half with a chain saw, in vivid color.

The scene unsettled me that night. I wondered what it would do to a 10-year-old or to a 14-year-old. When I returned to Washington, I asked my staff to gather studies on television violence. They discovered nearly 3000 scholarly articles and studies on the harmful effects of television violence on children and adults.

On the other side, many in the television industry argue that TV violence does no harm. They are essentially claiming that exposure to violence in a 25-minute program has no impact, while exposure to a 30-second commercial has great impact. The obvious answer is that TV is a powerful sales medium, whether the product is soap or violence.

As I dug deeper, I found, first, a remarkable consensus in several research fields about the harm excessive TV violence does to children and adults; second, confirmation that our television is more violent than ever before and may be the most violent of any industrialized society; and third, that self-regulation not long ago was an accepted practice in the American television industry, but it was made illegal through new interpretations of the antitrust laws.

As the problem became clearer, the question then became: in a free society like ours—one that shuns government censorship and has a commercial television industry—are we powerless to protect ourselves and our children from the harm caused by excessive TV violence? I believe the answer was partially found in the Television Violence Act, a bill I introduced that cleared Congress and was signed into law by the President at the end of 1990.

The Television Violence Act provides a limited three-year antitrust exemption so that members of the industry (covering all aspects of TV—broadcast and cable—from the creative side to programming decisions) can discuss and develop voluntary, industry-wide guidelines to reduce the amount of violence on TV.

Use of this legal leeway is voluntary, not mandatory, so it will need people in the industry to spark this process to life. To date, while we've seen some action quite frankly, there hasn't been as much as I'd hoped for. Industry members have been able to come up with creative reasons to explain why they aren't using this law. Let's be honest; if television executives wanted to make it work, they could. The cable industry may turn out to be a surprising exception. The National Cable Television Association has commissioned an extensive study of TV violence in cable programming, due later this year. But the rest of the industry seems to be in a test pattern, hoping the law will lapse before the public notices.

We're midway through the three-year exemption period; the clock runs out on the new law next year. Public discussions like this one; sponsored by TV Guide, are exactly what's needed now to give this issue the attention it deserves, while there's still time for the industry to act.

Television can appeal to the best in us or to our worst instincts. This law makes it easier for television to appeal to the best in us.

[From TV Guide, Aug. 22-28, 1992]

SUMMING UP: WHAT WE CAN DO

The American Psychological Association suggests four steps parents can take:

(1) Watch at least one episode of programs the child watches to know how violent they are.

(2) When viewing together, discuss the violence with the child: why the violence happened and how painful it is. Ask the child how the conflict could have been solved without violence.

(3) Explain to the child how violence in entertainment is "faked" and not real.

(4) Encourage children to watch programs with characters that cooperate, help, and care for each other. These programs have been shown to influence children in a positive way.

OTHER POSSIBLE STEPS

Urge the broadcast, cable, and home-video industries to adopt a unified ratings system of advisories to parents, labeling programs and movies as to their violence content.

Urge TV and cable-industry executives to take full advantage of the Television Violence Act, permitting them to work collectively toward reducing media violence.

Make TV violence part of the public-health agenda (as with smoking and drunk driving), publicizing—through a vigorous public information campaign in all informational media—its perils and effects.

Establish courses in "critical viewing skills" as a regular aspect of school curricula, to help young people become more discriminating viewers.

Inquire of elected officials their views and policies on televised violence; then vote accordingly in November.

Promote passage of a law requiring that, eventually, all new television sets be manufactured with built-in time-channel lock circuitry, allowing parents to "lock out" channels and programs containing levels of violence they consider objectionable.

Support the resolution of the American Psychological Association urging the broadcast and cable industries "to take a responsible attitude in reducing direct, imitatable violence" in live-action children's shows and "violent incidents on cartoons."•

THE 65TH ANNIVERSARY OF THE JEWISH COMMUNITY CENTER OF ATLANTIC COUNTY

• Mr. LAUTENBERG. Mr. President, I rise today to honor the Jewish Community Center of Atlantic County which is celebrating its 65th anniversary this year.

In 1927, a group of dedicated individuals realized that there was a need for a recreational facility for the surrounding area and founded the JCC which was housed in Atlantic City until 1963. It was then moved to Margate to better serve its members in nearby communities.

The JCC serves all ages with various programs to help meet the need of families and individuals in the community. For example, working parents enroll their infants in the child care program. Children from ages 3 through 5 enjoy preschool in a caring environment. Senior citizens find comfort within its walls by meeting with friends for social outings and functions. Additionally, JCC has offered a latchkey program for 6 years which provides a place for children to go after school when their parents are not home.

Mr. President, in its 65 years, the Jewish Community Center of Atlantic County has played an important role helping people with everyday pressure and problems and in strengthening and bringing families closer. I commend the JCC and all its staff and volunteers for their efforts to meet the changing needs of community residents. I congratulate the JCC as it celebrates this significant milestone. May it continue to serve the citizens of Atlantic County for years to come.•

CONTEMPT FOR THE CONSTITUTION

• Mr. SIMON. Mr. President, for too short a period, the Chairman of the National Endowment for the Arts was John Frohnmayer, an appointee of a Republican administration, who handled a very difficult job with a sensitivity and a delicacy that I appreciate.

But he was unwilling to compromise on the basic issues of free speech. And that cost him his position.

Recently, I read in the Los Angeles Times his comments about the Republican platform and its relevance to the Constitution.

There will be those who say "sour grapes."

My own feeling is that it takes an appreciable amount of courage for someone in John Frohnmayer's position to stand up and write what he has written.

I urge my colleagues in the Senate and House to read his comments, not simply for whatever political response they may cause in this election, but to cause all of us to be more sensitive to basic constitutional principles in the future.

I ask to insert his article in the CONGRESSIONAL RECORD at this point.

The article follows:

[From the Los Angeles Times, Sept. 16, 1992]

PERSPECTIVE ON POLITICS: CONTEMPT FOR THE CONSTITUTION

(By John E. Frohnmayer)

The Republican platform is now available in print for public scrutiny, which it richly deserves, for it is a document worthy of the convention that spawned it—a dismal and bloodless exercise in name-calling and blame-shifting. But most dismaying to those of us who would like to feel a part of the Republican Party, it juxtaposes patriotic rhetoric with utter contempt for our Constitution. Consider just seven examples:

The First Amendment says, "Congress shall make no law respecting an establishment of religion . . . . " The Republican platform says, "We believe our laws should reflect what makes our nation prosperous and wholesome: faith in God . . . . " How could the First Amendment be more directly contradicted and rejected? Martin Mayer, president of the Christian Action Network, said, "If I didn't know any better, I would assume the platform was written by the religious right." The Rev. Pat Robertson's group bragged that it controlled 28 of the 100-plus delegates to the platform committee. It shows.

The platform calls for control of blasphemy, in particular through the projects funded by the National Endowment for the Arts. Leave aside that the art the platform's authors consider blasphemous might be interpreted differently by others of equal faith. Both the free-exercise clause and the establishment clause of the First Amendment prohibit such laws. To punish a blasphemer, one must first define the religious dogma that the law would protect. Obviously, that cannot be done in fealty to the Constitution.

The religious infiltration of the Republican platform, and thus Republican politics, is hardly isolated. The President excoriated the Democratic Party for not including God in its platform. Prayer in schools and aid to parochial schools (promoted as school choice) restate the theme in the platform. Aside from the constitutional invasion (a significant aside, indeed) this surrender of politics to religion is deeply troubling. If you think that unifying religion and politics is a good idea, just look at countries like Iran where thousands of citizens were killed in the process of government doing just this.

On to the fourth example of the platform's excesses: The Constitution, and particularly the Bill of Rights, protects the dissenter, the unpopular idea. The platform, a cleansed and starched ideal of monolithic family values, is as American as the Playboy centerfold—airbrushed, stapled and sexless. Appreciation of individual freedom is a major theme, but the platform disclaims, in the same breath, divergent lifestyles (read: homosexuality), abortion and those "waging guerrilla war against American values." As Justice Robert H. Jackson said in 1945: "Freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order." When Republicans so surely "know" what is right and wrong (and that phrase appears repeatedly), the rest of us, including those Republicans who are so thoroughly disenfranchised by this platform, deserve to be uncomfortable.

The Republicans' attempt to prohibit abortion constitutes such an absolute in their hierarchy of values that they don't even want it mentioned in schools. What ever happened to free speech? Rust vs. Sullivan, the abortion counseling case, was used by a high-ranking member of the Administration's Justice Department to justify government license to determine which books could be shelved in a federally supported library.

Further: The line-item veto sought by President Bush and supported in the platform is a direct attack on the doctrine of separation of powers. A line-item veto cedes legislative power to the executive, diminishing the checks and balances so carefully preserved by the Constitution.

Example No. 7: The platform cries that the legacy of liberalism has elevated criminal rights above victim rights. "Criminal rights"—the right to confront one's accuser, to have a jury of one's peers, the right to legal counsel, the protection against self-incrimination—are not "criminal rights" at all, but rights of all citizens. Nobody is for criminals; but intelligent people certainly are for the Constitution and its guarantees against abuses by the government.

I just can't resist two more howlers. Protection of private property rights is a hot topic that appears at least four times in the platform. "Every rule that reduces the value of private property is what our Constitution calls a "taking,' " it proclaims. Who says? What about zoning and comprehensive land-use planning? Those are just a couple of instances in which reduction of value—or an owner's expectation of value—are not "takings" at all. And the second howler: "Protection of environmentally sensitive wetlands must not come at the price of disparaging landowners' property rights." In other words, the government shouldn't be able to preserve the environment (for all of us) if a landowner objects. The Fifth Amendment doesn't say that the government can't pursue the greater good. It only requires due process and payment if property is taken.

Religious zealots did write this platform—zealots who have forgotten that the Kingdom of God on Earth is spiritual, not political. Religion is allegiance to the unenforceable, a moral code that results from faith, not a morality that is crammed down our throats by the muscle of the government. The framers of our Constitution understood this distinction. The Republican Party has lost it entirely.

The Republican platform is a grim reminder of this Administration's willingness to accommodate, indeed to embrace, the hard right. George Bush has bought this line completely, and if he wins, it will be his mandate.

This platform sets out a choice for those of us who are moderate Republicans: Support the party or support the Constitution. It's not a hard choice. I will vote for Bill Clinton.•

UNION TOWNSHIP COMMUNITY ACTION ORGANIZATION'S 25TH ANNIVERSARY

• Mr. LAUTENBERG. Mr. President, I rise today to recognize the Union Township Community Action Organization [UTCAO] which will be celebrating its 25th anniversary with a banquet on October 23, 1992. UTCAO has grown from a small service agency to a successful, multiservice private nonprofit community action organization. Serving the Vauxhall and Union Township community, the services it provides makes a difference in the live's of our inner city residents every day.

UTCAO was founded in October 1967 by a group of concerned citizens in order to resolve many of the social problems experienced by community residents. Today, UTCAO provides various important services including Head Start, infant/toddler, and day care programs, senior citizen programs, and summer youth employment.

Mr. President, at the banquet, the UTCAO will be recognizing some of the caring individuals who serve as role models for all. I also congratulate these outstanding, dedicated individuals who have donated much time and effort to help people. They are an inspiration to many.

I commend these recipients as well as the entire staff at UTCAO for their commitment and continuing effort to the Vauxhall/Union Township community. Without their help and the ongoing support and contributions made to UTCAO by business, industry, and the community at large, many individuals and families would be at a great loss.

Congratulations to Union Township Community Action Organization, Inc., as it celebrates this significant milestone.•

WAR'S TOLL DOESN'T END WITH LAST BOMB

• Mr. SIMON. Mr. President, one of the most effective writers in America today is Chicago Tribune columnist, Mike Royko.

How he comes up with consistently good columns day after day after day, I do not know, and I say that as one who has done a fair amount of writing in my lifetime.

Frequently, he is simply entertaining, but more frequently, he is both entertaining and insightful, prodding our conscience in the process. Then, occasionally, what he has to say is simply sobering.

Recently, he had a column about the children of Iraq. One of the things that disturbed me throughout Desert Storm was our insensitivity to casualties on the other side.

Compare the speech that George Bush gave to the Nation—when he launched the attack on Iraq's forces after their indefensible invasion if Kuwait—with its total lack of concern for the other side, with Abraham Lincoln's second inaugural address, with its great sensitivity for the casualties and the suffering on the other side.

I urge my colleagues to read the Mike Royko column, and I ask to insert it into the RECORD at this point.

The column follows:

[From Chicago Tribune, Sept. 25, 1992]

WAR'S TOLL DOESN'T END WITH LAST BOMB

(By Mike Royko)

There was this squib of a news story that came over the wires the other day. It wasn't much longer than a baseball box score or an interview with a rock star about his next tour. It said:

"Boston (AP)—The death rate among Iraqi children rose dramatically in the months after the gulf war, largely because of an outbreak of diarrhea caused by disabled water and sewage systems, researchers reported today.

"In the first seven months of 1991, about 46,900 more children died than would have been expected, according to a study in the New England Journal of Medicine.

"It said the death rate for children under 5 was triple that before the war.

"The study was conducted by Dr. Alberto Ascherio of the Harvard School of Public Health and other researchers from the United States, England, New Guinea and Jordan. It was paid for by the United Nations Children's Fund.

"The researchers said they worked independently of the Iraqi government."

That's it. About 15 lines of type.

But then, it's old news. The war has been over for a year and a half. The parades have ended, the yellow ribbons have been taken down, and the last proud, chest-thumping speech has been made.

Still, if you like numbers, 46,900 is an interesting figure. And you can play with it in different ways.

For example, there are baseball and football stadiums that have a seating capacity of about 46,900.

So we might try picturing one of these stadiums with every seat occupied by a child 5 years or younger.

Try it. Close your eyes and imagine Comiskey Park in Chicago or Shea Stadium in New York with a little kid in every seat.

That's a lot of noisy kids.

Now, imagine that somebody pulls a switch and sends a jolt of electricity into the seats and every one of those 46,900 noisy kids dies.

That would be a lot of dead kids. So you'd better open your eyes, since it isn't a pleasant thing to imagine.

Or we can look at it another way. The biggest hotel in the world is in Las Vegas. It has 4,000 rooms.

So if you put 11 kids in each room, you'd have stuffed the place with 44,000 kids. Put the extra 2,900 in the grand ballroom.

Let's imagine that someone pushes down on a plunger, setting off a huge explosion that blows the hotel away, really flattens it.

Now that would rate more than a squib of a story. It would be front-page headlines all over the world: "Hotel explodes killing 46,900 children."

Which just shows that bad water leading to diarrhea and other intestinal disorders, doesn't have the same dramatic impact of an explosion, although the results are the same.

Or we can play with the number another way.

The average daily attendance at Disney World is 72,233.

Of course, all 72,233 people aren't there at the same time. Some come in the morning and are gone by mid-afternoon. Some come in the afternoon and leave when the big parade is over.

So let's take a guess and say that at about 2 o'clock on an average afternoon, there are about 46,900 people there, many of them children.

And a terrible thing happens. A giant meteor comes roaring out of space and lands smack dab on Disney World, leaving nothing but a giant crater. (Scientists say something like that could happen, but it's a zillion-to-1 shot, so don't change your vacation plans.)

Now that would be a super-big story. It would stun the world and would go down in history as one of the greatest disasters.

Which shows that if you want to make history, get hit by a meteor instead of stomach cramps.

Which also shows that there is more to modern wars than that which the Pentagon allows us to see on CNN.

What we see on TV is kind of fun, all those videos from high above of targets far below suddenly blossoming like tiny flowers when a bomb lands. The graphics are not yet as good as Super Mario 4, but maybe by the next war, they'll catch up.

And we see the parades, the strutting politicians, and the cheering sports bars that have become cheering war bars.

But what we don't see is described in the full report by the doctors who made this study:

"The destruction of the supply of electric power at the beginning of the war, with the subsequent disruption of the electricity-dependent water and sewage systems, was probably responsible for the reported epidemics of gastrointestinal and other infections.

"These epidemics were worsened by the reduced accessibility of health services and decreased ability to treat severely ill children."

In other words, we don't see those invisible but deadly killers in the water or the children screaming because their stomaches hurt and their fevers are raging. And we don't see them weaken, fade, then die.

But who would want to see a doctor like that, anyway?

In a classic understatement, the doctors concluded: "War is never good for health. But the full effect of war and economic sanctions on morbidity and mortality is difficult to assess, and the number of civilian casualties caused indirectly is likely to be underestimated.

"* * * During the gulf war, it was suggested that by using high-precision weapons with strategic targets, the Allied forces were producing only limited damage to the civilian population.

"The results of our study contradict this claim and confirm that the casualties of war extend far beyond those caused directly by warfare."

Forty-six thousand nine hundred kids. Give or take a few tots.

So what color ribbon do we wear for that triumph?•

JOSEPH D. KIMBREW, AN OUTSTANDING HOOSIER

• Mr. LUGAR. Mr. President, it is with great pride that I salute Joseph D. Kimbrew, an outstanding Hoosier who, for the past 36 years, has served with distinction the city of Indianapolis as a firefighter. In 1987, he became the first African-American fire chief for Indianapolis.

Born in Indianapolis, Chief Kimbrew attended IPS 42 and graduated from Crispus Attucks High School. Prior to his firefighting career, Joe served in the Army and later worked at Fort Benjamin Harrison Finance Center in accounting. He credits his father with instilling in him the qualities that led to his success. Joe Kimbrew rose through the ranks of chauffeur, lieutenant, captain, district chief, and deputy chief of service, and administration.

Chief Kimbrew has served on the board of directors of the Greater Indianapolis Firefighters Federal Credit Union for the past 10 years. He holds a lifetime membership in the NAACP.

In 1968, Joe Kimbrew became the first firefighter to receive the Firefighter of the Year Award, which was presented by the business community. He is a member of the Red Cross Hall of Fame for heroism and was just recently designated a "Distinguished Hoosier" by the Governor of Indiana.

On February 1, 1992, a tribute was paid to honor this great Hoosier, who in his 36 years of service never had an absence due to illness, for his contributions to expanding emergency medical services and providing leadership to firefighters of Indianapolis. His loyal wife, Carolyn; son, Joseph, Jr.; and daughter, Tracey, were present to offer their accolades to the career of this fine man. I ask my colleagues to join me in saluting this great Hoosier.•

COLUMBUS DAY CELEBRATION

• Mr. D'AMATO. Mr. President, I rise today to honor the great explorer Christopher Columbus on the occasion of the quincentenary of his first voyage to the New World from Palos, Spain. To many of us, this seminal voyage is the most important event in recorded history. In honor of this pivotal event, Columbus Day is widely celebrated in cities and towns throughout the country with church ceremonies, festive parades, fireworks, and other educational and cultural events. Mr. President I wish to add my jubilant voice in celebration of this great day for all Americans.

In his age, Columbus stood as a pioneer of progress and achievement. He battled great odds with remarkable determination in order to reach the New World. Wave after wave of immigrants from many nations have displayed similar courage and determination in finding freedom and opportunity in America.

Each year people all over America reaffirm their faith in the future and declare their willingness to face unknown tomorrows with confidence and determination on Columbus Day. On that day people take a break from work and celebrate five completed centuries of American life.

The numerous observances of Columbus Day are only part of the tribute our Nation pays to this great explorer. Statues honoring Christopher Columbus adorn many localities, and many cities and towns are named in his honor. Many other memorials exist throughout our country and the world honoring Christopher Columbus, including commemorative stamps and coins. He is also the hero of numerous plays, operas, novels, and poems.

The celebrations for the quin- centenary thus far have been rather elaborate and include the Columbian World's Fair in Seville, the International Specialized Exhibition in Genoa, and the summer Olympic games in Barcelona. Columbus, OH, hosts the centerpiece of U.S. celebrations, AmeriFlora '92. The month of July found the greatest assemblage of tall ships in both the New York and Boston harbors in honor of Columbus' quincentenary. Each year the Knights of Columbus sponsors a wreath-laying ceremony at the Columbus Fountain at Union Station in Washington, DC.

Every city in the Nation will pay tribute to Christopher Columbus and the quincentenary of his discovery of America and remember the part of our heritage that includes the great Age of Discovery. It is my hope that October 12, Columbus Day, will be properly celebrated all over my great State of New York, the entire country, and the whole world.•

10TH ANNIVERSARY OF NEWTON'S APPLE

• Mr. WELLSTONE. Mr. President, I rise today to speak on behalf of the public broadcasting television program "Newton's Apple." This season marks the 10th anniversary of this award-winning science program.

In October 1983, "Newton's Apple" began it's first season of introducing children and their parents to the varied disciplines of science. Through the past 10 years this educational-science show has successfully interested both kids and adults in all types of science—household science, backyard science, and laboratory science.

On "Newton's Apple" science is more than a topic from a textbook—it is a fun activity. Working scientists and respected professors chat with host David Heil, and naturalist, Nancy Gibson. Topics covered in the past have included a segment which asked "What does it feel like to step in quicksand?", and last year field reporter Peggy Knapp took a tour of a domed stadium to learn just how it is kept domed.

The program has been recognized on numerous occasions for its presentation of both complex and simple scientific information in an interesting and understandable fashion. "Newton's Apple" has received awards from the American Association for the Advancement of Science, the National Society of Professional Engineers, Parent's Choice Awards, and the American Academy of Family Physicians Journalism Awards. In addition, "Newton's Apple" has been nominated twice for an Emmy, receiving the award in the children's category in 1989.

I think "Newton's Apple" is a wonderful example of public television at it's best. Public television programming such as this provides important educational informational programming to adults and children in their homes.

All Minnesotans can take pride in the accomplishments of this program. "Newton's Apple" is produced by Twin Cities Public Television and KTCA-TV, in St. Paul-Minnesota, through a grant from the Minnesota-based 3M Corp.

On behalf of myself and all of my colleagues in the Senate, I commend those involved in "Newton's Apple," particularly host David Heil, who is also associate director of the Oregon Museum of Science and Industry, field reporter Peggy Knapp, naturalist Nancy Gibson, executive producer Richard Hudson, series producer Kathryn Scott, and vice president for national and cultural production Gerald Richman. I congratulate them all on this, the 10th anniversary of the show.•

WOMEN IN THE SCIENCE AND ENGINEERING WORK FORCES

• Mr. SIMON. Mr. President, on September 29, the House passed H.R. 3476, the Advancement of Women in Science and Engineering Work Forces Act, by Congresswoman CONNIE MORELLA. I hope my colleagues will join me in supporting swift passage of this important measure in the Senate.

This bill would establish a commission, modeled on the Glass Ceiling Commission, to research and evaluate the recruitment, retention, and advancement of women in science and engineering professions. It would analyze the roadblocks that prevent women from advancing in these fields and disseminate its findings to educators and employers to use to recruit and retain women in these fields.

The data on women in science are alarming. Only 24 percent of scientists are women, and only 8 percent of engineers are women. There are only 4 tenured professors in the top 10 math departments. Only 6 percent of the scientists listed in "American Men and Women in Science" are women. We need to ensure that women have the opportunity to advance in these fields.

I am pleased that the cost of the bill will be nominal, with the primary cost being to disseminate the information.

I have been working with Congresswoman MORELLA's office and the congressional women's caucus in an effort to ensure that this important bill is passed before we adjourn. I am pleased that my colleague from Tennessee, Senator GORE, who has a strong interest and record on this issue and chairs the Commerce Subcommittee to which the bill was referred, has joined us in working for passage of this bill.

I hope our colleagues will join us in supporting this important legislation.•

COMMENDING THE SAMUEL U. RODGERS COMMUNITY HEALTH CENTER

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a health care provider whose service is matched by few. I am speaking of the Samuel U. Rodgers Community Health Center and its fine staff.

Samuel U. Rodgers Community Health Center tirelessly provides the best health care possible to the less fortunate underserved segment of the Kansas City, MO, community. I have worked very closely with Dr. Rodgers and his impressive staff to expand Federal resources for the quality care they provide. The Rodgers Center is to be looked upon as a model for community health centers nationwide.

The care and concern that Samuel Rodgers pays to the children of Kansas City is especially commendable; it is vital to get children proper immunizations. The Rodgers staff provides nutritional programs, preventive care, early identification programs, adolescent pregnancy counseling, and programs to address child abuse and neglect and substance abuse. I am impressed with the broad range of services the Rodgers' staff has dedicated itself to providing in order for children to live healthy and productive lives.

The Rodgers Center has set October 5 aside to celebrate its first annual children's day in observance of the National Child Health Day. Samuel U. Rodgers Community Health Center symbolizes the importance of this day.

Mr. President, please join with me to honor the dedicated health care providers, support staff, and volunteers of the Rodgers Community Health Care Center. We salute those whose enthusiasm and deeds bring good to the community in ever-increasing measure. When we give of ourselves, we experience the renewing power of life.•

TRUTH IN LABELING ON ESTONIA

• Mr. DECONCINI. Mr. President, all of us are aware of the tragedy of Bosnia-Hercegovina, and the policy of ethnic cleansing being undertaken by Serbian forces to drive non-Serbians out of Bosnia. The term ethnic cleansing has become synonymous in Bosnia with a gruesome campaign of slaughter and atrocities reminiscent of the horrors of World War II.

That is why I was extremely disturbed to note a recent report that a Russian Foreign Ministry press spokesman, Mr. Yastrzhembsky, had warned Estonia and Latvia against policies that could lead to "sliding down the slope to the practice of ethnic cleansing."

Mr. President, no doubt animosities exist on the part of some Estonians and Latvians toward their respective Russian communities.

But ethnic cleansing? Are we to believe that these two tiny nations with a long tradition of tolerance and peaceful relations between their ethnic minorities are about to embark on a policy of ethnic cleansing against their Russian minorities, with the huge Russian nation on their eastern borders?

How gullible does Mr. Yastrzhembsky believe world opinion is? Or is Mr. Yastrzhembsky simply trying to get the Russian peoples' minds off their own problems by trying to create an enemy next door?

Mr. President, a staff delegation of the Helsinki Commission, of which I serve as cochairman, recently visited several cities in Estonia's heavily Russian-populated northeast region to gauge the mood of the population, to discuss the issue of human rights with Russian-ethnic officials there, and to observe the September 20 elections. I would take this opportunity to say that the delegation was ably assisted by Ambassador Frasure and his staff at our Embassy in Tallinn.

In any event, I would like to quote from some of the findings of the staff delegation:

> Some Russians deeply resented being unable to vote, and Russians generally would have preferred to receive the option of automatic citizenship. At the same time, most Russians are clearly more focused on economic issues. They were more worried about possible unemployment and rising prices than voting in this election.

And further:

> Commission staff members were also struck by the widely held belief among Estonia's Russians—both ordinary people and the local political elite—that they and their concerns were being manipulated by politicians in the Russian capital.

I wish to emphasize that none of the Russians interviewed indicated that they feared physical violence at the hands of the Estonians. Nor did the delegation find any evidence that the Estonian Government was planning to forcibly deport Russians. Tallinn certainly has other ways to employ its limited resources.

Now I do not want to create the impression that voting rights are not important as a matter of principle, regardless of what other concerns may be on the minds of the citizenry. Arguments can be made that the Estonian Government should have approached the citizenship and voting issue differently. And certainly the Estonian Government will now, having freely elected a President and National Assembly, have to deal directly and forthrightly with all the issues, economic and political, that concern the Russian minority.

But to charge that Estonia, and its neighbor Latvia might slip down the slope to ethnic cleansing, is irresponsible, and hardly conducive toward solving the genuine problems that both Balts and Russians face in their newly independent countries.●

HOOSIERS HONORED BY LIVING LEGENDS IN BLACK

● Mr. LUGAR. Mr. President, I would like to take this opportunity to recognize 12 outstanding Hoosiers, recently honored by the Living Legends in Black, Inc., for their numerous contributions to the Indianapolis community. The following Hoosiers were acknowledged at the Living Legends in Black annual banquet:

Rev. Dr. T. Garrott Benjamin, Jr.: Reverend Benjamin is the senior pastor, of the Light of the World Christian Church, in Indianapolis, IN. He is also the founder and president of Heaven on Earth Ministries, Inc., which produces the "Benjamin" television broadcast aired on the national LeSea Network and the Armed Forces Network to provide ministry outreach via satellite to military bases and naval ships around the world.

Rev. Fr. Boniface Hardin, O.S.B.: Reverend Hardin is the founder and president of Martin University, in Indianapolis, IN, the first and only African-American university in the State of Indiana.

Sam H. Jones: As the president of the Indianapolis Urban League and a 34-year veteran of the Urban League movement, Mr. Jones is an active professional, social, civic, and education advocate within the Indianapolis community.

George H. Rawls, M.D.: A highly respected clinical surgeon, Mr. Rawls is an active volunteer in numerous social and community affairs and an authority in the field of clinical surgery and medical treatment.

Lehman D. Adams, D.D.S., F.A.G.D.: As a recognized leader in the field of oral surgery, Adams is an active participant in various community and social causes for the continued empowerment within the African-American community.

Willard B. Ransom: A highly respected Indianapolis attorney, Mr. Ransom is a long-term participant in the civil rights and African-American economic development movements with extensive experience in drafting and lobbying for civil rights and other legislation in the Indiana General Assembly since 1946. He has played a major role in the passage of all significant civil rights legislation in Indiana.

Landon Montel Turner: Former Indiana University basketball star, Mr. Turner demonstrated inner strength and courage following a paralyzing car accident. The Indianapolis native is currently a motivational speaker uplifting audiences across the country with his message of overcoming life obstacles.

Rev. Dr. Andrew J. Brown: Known as the father of the Indiana civil rights movement, Mr. Brown initiated and orchestrated many social and racial awareness campaigns. Mr. Brown is the founder of the Indiana Black Expo, currently recognized as the largest African-American cultural event in the country.

William "Bill" A. Crawford: A member of the Indiana General Assembly, House of Representatives, since 1972, Mr. Crawford has been instrumental in the increased social and political awareness within the African-American community. He is active in various activities addressing school desegregation, education equity, penal reform, prisoners' rights, unemployment, community revitalization, community economic development, civil, and human rights issues.

Joseph Taylor: A professor emeritus of sociology, special assistant to the vice president, Indiana University Purdue University at Indianapolis [IUPUI], Mr. Taylor instituted the desegregation plan ordered for the Indianapolis Public Schools [IPS] system in 1973. A longstanding community, social and educational leader, Taylor is an active participant in various educational, civic, and social causes.

Woodrow Augustus Myers, Jr., M.D.: Senior vice president and corporate medical director, the Associated Group, Indianapolis, IN, Myers is an active state and national advocate for the prevention and treatment of acquired immune deficiency syndrome [AIDS], minority health, and public health.

Linda Clemons: Founder and president of such national community recognition programs as Living Legends in Black, the National Association of Women of the Rainbow, and the National Association of African-American Entrepreneurs, Clemons is an active community leader and motivational speaker concerned with the increased social, educational and economic empowerment of African-Americans across the country.

I ask my colleagues to join me in saluting these fine citizens for making Indianapolis, IN, a great city to live in.●

FAIRMONT STATE COLLEGE'S 125TH ANNIVERSARY

● Mr. ROCKEFELLER. Mr. President, today, I want to express my sincere congratulations to Fairmont State College, as the school celebrates its 125th year of higher education.

This educational institution, in Fairmont, WV, was first a teachers' school, established in 1865. It began in classrooms occupied in the basement of the Methodist Protestant Church and was known as the Fairmont State Normal School. The school sought to provide the community with qualified primary and secondary teachers since there was a shortage of teachers at that time. Staffed by only a principal and a teacher, the school enrolled 83 students in its first year.

In 1867, the institution was renamed Fairmont State College and a university curriculum was added to the teaching school. After relocating several times, the college found a home at its present campus in 1916, and 4 years later was transformed into a true college from its secondary status. In 1931, the name was changed to Fairmont State Teacher's College, concentrating once again on the principles and goals upon which the school was founded. During World War II, in 1943, the administration decided to concentrate fully on general purpose education and became accredited to offer bachelor of science and bachelor of arts degrees. The name was changed back to Fairmont State College, and it remains so named today.

Fairmont State College is the largest college, in West Virginia, currently educating over 6,500 students—including its community college enrollment. A broadened curriculum has attracted many nontraditional students, among them those who are the first member of their family to complete a college education and adults seeking to complete higher education degrees. This is an extraodinary achievement for the individual students, a tribute to Fairmont State College's leadership, and a genuine contribution to the community and the State of West Virginia.

The current president of the college, Dr. Rob Dillman, has pushed to provide greater academic opportunities at the school by implementing an honors program and revising the general education requirements that contribute to a well-rounded education. In 1993, the college will open their Mid-Atlantic Aviation Training and Education Center, which will educate and train students in aviation maintenance. This is but one example of how Fairmont State College is preparing students for today's increasingly competitive marketplace.

Fairmont State College is dedicated to its goal of stimulating the cultural, intellectual, and economic development of north central West Virginia. The college is actively involved in the community, and the students benefit from the close ties that have ensued.

I have a longstanding commitment to higher education, as does Fairmont State College. Education is one of the pillars of our society. Through education we have the opportunity to teach our children to become the leaders of tomorrow. It gives me great pleasure to commend Fairmont State College for its outstanding achievements in educating the people of West Virginia, and wish this fine institution continued success.●

TRIBUTE TO JEAN W. STIMPHIL

• Mr. D'AMATO. Mr. President, it is my pleasure to rise today to pay tribute to an exceptional New Yorker who has been a role model for minority small business owners for years. Mr. Jean W. Stimphil, president and chief executive officer of Armrest Security Patrol, Inc., in Brooklyn, NY who has been named region II Minority Small Business Person of the Year.

In the competitive field of security guard and patrol agencies, it's common for only the larger firms to survive. Yet one small, minority firm, Armrest, is decidedly challenging that notion as it prepares to celebrate a decade of service with expected annual sales of almost $3 million. This, from a firm that began as a dream and grew to where it now employs 148 full-time workers.

With Jean Stimphil at the helm, Armrest continues to provide the public and private sectors with uniformed or plainclothed officers for services that include area patrols, armed or unarmed guards, bodyguards, or other more routine alarm responses.

Armrest, which has been enrolled in the U.S. Small Business Administration's [SBA] business development program since 1987, owes its success in part, because of its commitment to intensive employee training. Developing skills such as report writing, crowd control, first aid, and security and firearm handling, all contribute to create productive employees. This training helps prepare these individuals for the rigors of guard duty or other pursuits outside the firm.

This is a minority firm that ensures at each opportunity that other historically underutilized businesses, whether they sell uniforms, beepers, radios, or cars, benefit from their good fortune. Armrest continually relies on other minority suppliers for much of their supplemental needs.

Even with his sizable business demands, Mr. Stimphil is also active in his community. With memberships in such organizations as the Brooklyn Chamber of Commerce, the Minority Purchasing Council of New York and New Jersey, the Caribbean Business Exchange, the Caribbean Action Lobby, and the Caribbean Chamber of Commerce. Mr. Stimphil has consistently shown himself as a leader of his community.

Mr. President, during these days of economic hardships, small business has a hero. New York is very proud of Mr. Stimphil as he sets a great example of how minority small businesses can lead the way to economic growth.

President Bush has designated the week of September 27–October 3, 1992, as "MED Week" to honor America's minority entrepreneurs for their contributions to the Nation's economy. I ask my colleagues to join me in congratulating Mr. Stimphil, as he accepts this prestigious award and wish him luck as he continues to make New York proud.•

TRIBUTE TO STANLEY STRADER

• Mr. LUGAR. Mr. President, I would like to take this opportunity to honor Mr. Stanley Strader for his service to the Indianapolis southside community on the city-county council.

Stan Strader served with distinction for 12 years from the 23d District. He was chairman of the Community Affairs Committee and a member of the Housing Task Force, where he was outspoken for the inclusion of the poor. He is a straight shooter, an excellent debater, and a committed public servant.

Many will remember him as a member of the Wa-To-To-Wa-Simbas, Young Lions, and the impact they had on the southside of Indianapolis. In each instance, he was creating a positive atmosphere for others to prosper and grow.

During his tenure on the council, he held the first hearings regarding the infant mortality issue which his committee tackled with vigor; he worked extensively with the Barrington area on the development of the clinic and health center. He was responsible for over $20 million going into the 23d District, which enhanced the way of life for many citizens. He sat on the Community and Economic Development Policy Committee for the National League of Cities. He has raised moneys for the Indianapolis Urban League annual Bowl-A-Thon for 4 years.

Stan has spoken to numerous organizations in several States utilizing his own brand of logic and wisdom. The Indianapolis Star termed him to be one of the outstanding black role models in the city of Indianapolis.

His ability, his leadership, and his humor will be missed by those who have worked closely with him. I join all of the citizens of the Indianapolis in saluting this great Hoosier, while wishing Stan and his wife Diane the best as he starts his new career.•

SENATE VETERANS AFFAIRS COMMITTEE ROOM

• Mr. SPECTER. Mr. President, an article by Mr. Mark Bowden of the Philadelphia Inquirer on September 27, 1992, contains a poetic description of the Senate Veterans' Affairs Committee room which, I think, my colleagues will find interesting and worthy of note in the CONGRESSIONAL RECORD:

> * * * marbled walls rise to a high white ceiling sketched with gold inlay, from which is suspended an intricate and enormous colonial chandelier with a cascade of dazzling prisms and frosted glass bowls to soften the glare from its flame-shaped bulbs, which illuminate three long gleaming mahogany tables arranged in a U on a rich blue rug flecked with tiny tan diamonds, all framed and reflected by a mirror the size of Montana in a baroque bronzed frame, large enough to reflect the egos of the 11 assembled members of Congress, aging white men all, well-tanned, tailored and tonsorially top-notch United States senators, members of the Senate Veterans Affairs Committee, who are posing for their annual portrait.•

DEADBEAT DADS

• Mr. D'AMATO. Mr. President, today I rise to urge my colleagues to support legislation that will provide an incentive for deadbeat dads to keep current on their child support payments. Deadbeat dads will finally get the credit they deserve—no credit at all.

This legislation, the Ted Weiss Child Support Enforcement Act of 1992 (H.R. 6022) requires credit reporting bureaus to include information on delinquent child support payments by deadbeat dads.

Right now, some States—including New York, allow child support enforcement agencies to report information about delinquent child support payments to credit reporting bureaus. Simply allowing child support enforcement agencies to report delinquent child support payments leaves open the possibility that delinquent dads may escape detection if this information is not reported to the credit bureau.

That is just not good enough. Dads who don't pay up should have their credit turned down. This bill would ensure that once a deadbeat dad was a total of $1,000 behind in child support payments, the delinquency would become a part of his credit history.

Most divorced women depend on child support payments in order to survive. Dads need to take this obligation to provide child support seriously. If dads cannot find it in their hearts to help their kids, they may change their minds when they find a hole in their pocket.

Mr. President, the economic security of children of divorced parents is an issue that is extremely important to me. I was the first original cosponsor of legislation that would make it a Federal crime to engage in interstate flight to avoid paying child support. Fathers who deliberately neglect their responsibilities would face fines or prison sentences under this bill. This bill, S. 1002, has passed the Senate and awaits action in the House of Representatives.

Deadbeat dads will certainly think twice about ducking their child support obligation knowing that this information will become part of their credit history. Mr. President, this legislation has widespread support—among mothers who are struggling to make ends meet as well as the credit bureaus that will be required to provide this information.

I urge my colleagues to pass this important legislation to make deadbeat dads who do not care enough to financially support their children feel it where it hurts—in the pocketbook.•

INTRODUCING A NEW PUBLIC TELEVISION SERIES ENTITLED "THE WEST"

• Mr. DECONCINI. Mr. President, I rise today in support of a promising public television documentary whose mission is as grand in scale and scope as the land itself: the documentary is titled "The West." With rich history and book-like detail, this seven-part series will begin with the first European encounters with Native Americans and end with the birth of Hollywood in the early 1990's. This epic period in American history will unfold in living rooms—and later schoolrooms—across the country, illuminating the trials and tribulations of a cast of fascinating people.

WETA-TV channel 26, Washington's flagship public television station, is coproducing the series with Ken Burns and Stephen Ives, the highly qualified team who produced the acclaimed PBS series "The Civil War." General Motors, who sponsored the "Civil War," is again taking the corporate lead and helping to fund "The West."

"The West" promises a compelling account of what life as it was experienced by European explorers, the Indian Nations, American frontiersmen, cowboys, lawmen, and women and children. We will watch in awe as one historical event takes place after another before an unparalleled backdrop of the beautiful western landscape; the Great Plains, the rugged Rockies, and Sierra Nevada Mountains, the vast Sonoran and California deserts, table mesas and canyons, and the Pacific coast.

The first three episodes are titled "Rendezvous," "Yearly Multiplying Millions," and "Eureka!" During this time span of 70 years, beginning with the arrival of Anglo-Saxon explorers and their first encounters with native Americans, we will learn about an array of characters that, over time, animate the West. We will hear testimony from a narrator describing Francisco Vasquez de Coronado, the first white man to set eyes on the majestic Grand Canyon.

The explorers, Lewis and Clark, opened up the wild frontier for millions of settlers to move across in search for new opportunities. And the famous triumphant discovery of gold by John Sutter at his saw mill in Northern California marks the beginning of yet another migration to the West.

The last four episodes take us from 1861 through the dawn of the 20th century and the Hollywood era. Their titles are: "A Good Time To Go To War," "Fight No More Forever," "A World Destroyed," and "Oh Give Me A Home." These episodes explore the bold effort to tame and conquer the challenges of the West. The Civil War dominated the early part of this period, 1861 through 1865, and the war's significance had a profound effect on the development of the West, as the divisive nature of the era was continued by the seemingly endless conflicts between and among settlers and the Indian nations.

Ranchers like Granville Stuart and cowboys like Teddy "Blue" Abbott will capture our imaginations about what it was like to live in the Wild West through personal and unique biographies. With the continuing onslaught of new settlers, the land and its resources became exploited as axes fell on forests and mountains and rivers were harvested in the search for coal and other minerals.

Mr. President, I believe that "The West" will be a compelling public television event for all Americans, whether or not they are native westerners. Without a doubt, "The West" will enrich our understanding of an epic period that defines American history, and I am looking forward to watching it. •

EMBARGOES

• Mr. KERREY. Mr. President, earlier last month, Vice President QUAYLE went to South Dakota in an attempt to draw distinctions between Republicans and Democrats on the subject of agriculture. On at least one issue—that of grain embargoes—it appears that the Vice President covered about as much ground as a young colt on the end of a longe line.

I can understand the Bush campaign's reluctance to give the Vice President free rein on such matters, so I thought that perhaps a more complete examination of the record was in order.

There have been four major agricultural embargoes over the past 20 years. Three were imposed by Republican administrations, and one by a Democratic administration.

On June 27, 1973, President Nixon embargoed the export of soybeans and cottonseed, and the meal, cake, and oils made from those commodities.

On October 4, 1974, President Ford imposed sales moratoria suspending both corn and wheat sales to the Soviet Union. Three days later, USDA announced a prior-approval system that ultimately restricted the export of corn, wheat, soybeans, grain sorghum, barley, oats, and related products.

The Ford administration imposed a similar sales moratorium again in 1975. On August 11 of that year, the Secretary of Agriculture called on the major grain companies to withhold further sales to the Soviet Union. On September 9, President Ford extended this moratorium through mid-October. The next day, the suspension was broadened to include Poland as well.

On January 4, 1980, President Carter announced an embargo against the Soviet Union, restricting United States sales of corn, wheat, soybeans, meat, dairy products, and related exports to that country. The partial embargo affected those quantities of grain in excess of the maximum guaranteed purchase levels specified by the bilateral United States-Soviet agreement in effect at that time.

According to a November 1986, publication by the U.S. Department of Agriculture entitled "Embargoes, Surplus Disposal, and U.S. Agriculture," "Unlike the trade interruptions of the mid-1970's, imposed to ensure adequacy of domestic supplies and to calm dramatic price movements, the 1980 embargo had little domestic basis." Indeed, the Carter embargo was imposed one week after the Soviet's invasion of Afghanistan. President Carter cited the threat to national security as the basis for the embargo. In my judgment, this reason didn't make that embargo correct, but it did make that action distinct, in a fundamental way, from the three Republican embargoes that preceded it.

For example, President Nixon embargoed oilseeds in 1973 because of tightening supplies and escalating prices for high-protein meal products. Similarly, President Ford's moratoria on grain sales in both 1974 and 1975 were driven by the administration's concern about short grain supplies and high commodity prices.

In other words, Mr. President, the three Republican grain embargoes had a common thread: They were all motivated by a desire to thwart market forces and artificially restrain the prices received by farmers. I guess the lesson here is that Republicans really believe their platform rhetoric on agriculture and the free market—to a point. And that point seems to be when farm prices get a little too high.

Finally, I might say, Mr. President, that it's understandable that the Vice President would spend so much time talking about the 1980 embargo, to the exclusion of previous embargoes. Such a narrow discussion gives him political advantage. It's also a subject on which he presumably is well-versed, since the acknowledged architect of that embargo, former National Security Adviser Zbigniew Brezinski, has served as adviser to the Bush-Quayle campaign.•

TRIBUTE TO MAJ. GEN. CHARLES C. ROGERS

• Mr. ROCKEFELLER. Mr. President, I rise today to speak about a great man, a true hero of our time, and a role model in every sense of the word. Maj. Gen. Charles C. Rogers, a native of Claremont, WV, a graduate of West Virginia State College, and two-star general, was the highest ranking African-American ever to receive the eminently regarded Medal of Honor.

As commanding officer of an infantry battalion in Vietnam near the Cambodian border, then Lieutenant Colonel Rogers won the Nation's highest medal by leading his outnumbered and heavily bombarded troops to withstand a vicious assault. Although seriously wounded, he refused to withdraw. Rogers was awarded the Medal of Honor following this noble display of all that the medal embodies: leadership, courage, strength of will, and of course—honor—all of which crystallized in this one man.

Charles Rogers' career was punctuated by many honors and merits; he was decorated with the Legion of Merit with Oak Leaf Cluster, Distinguished Flying Cross, Bronze Star with V Device and Three Oak Leaf Clusters, Purple Heart, and Parachutist Badge. The Medal of Honor, however, was the crowning glory of his exemplary 33-year career in active military service, and a perfect symbol of his uncommon valor and distinction, as a man, and as a soldier.

And while Major General Rogers did not prove victorious in his most recent, and final battle—with cancer—his struggle was equally as valiant and his glory surely remains undiminished.

In tribute to his timeless courage and heroism, I have taken part in dedicating the Cotton Hill Bridge in West Virginia to our fine West Virginian son, as a symbol of his constancy and stalwartness, and to ensure that Charles Rogers' essence remains a special part of the State of his birth, and that his spirit dwells in that niche of our hearts and minds that we carve out for remembrances of the noble and true.

Maj. Gen. Charles Rogers has been, and will continue to be, a role model and an inspiration to countless numbers of individuals, young and old, in and out of the military, and of all ethnicities, who are warmed by his courage and who recognize his heroism as something rare and beautiful.•

A TRIBUTE TO DANIEL B. GRADY

• Mr. CRANSTON. Mr. President, I would like to take the opportunity to recognize an individual from my State whose life work has contributed greatly to a goal shared by all members of this body—a decent home for all Americans. Daniel B. Grady has dedicated his life to making this goal a reality. The homeless and disadvantaged, the thousands of families that struggle to get by—all have been empowered through his efforts to provide and maintain suitable living environments across this country. Dan Grady has championed this cause. He is a man of vision and foresight.

An MIT graduate, naval architect and marine engineer, Dan Grady transfered his brilliant technological skills from sea to land after World War II. In the 1950's, his concept of mass produced prefabricated housing components became a national standard for cost effective multifamily housing. But Dan has more than technical skill—he also has a keen political mind. He has provided affordable housing through the effective and responsible use of government programs. This is government working at its best and Dan deserves our praise.

I owe a particular debt of gratitude to Dan for his advice and good counsel through the years. As the Housing Subcommittee chairman, I've looked to Dan for his wisdom and action on many, many occasions. Dan has been committed to providing adequate housing to all Americans, especially those of low- and moderate-income. And I'm proud to have been part of that commitment.

Mr. President, I've asked for this time today not only to call attention to the accomplishments of this man but to extend to Dan and his family our best wishes and prayers. As I speak today, Dan Grady is at home fighting the greatest fight of all, the fight for life. Less than 6 months ago, he was here in Washington to receive the highest honor that can be bestowed upon a builder—induction into the Hall of Fame of the National Association of Homebuilders—and today he is at his home in La Jolla fighting what I truly hope will be a winning battle against cancer.

I've known and worked with Dan professionally, but our relationship is more than that—he is a trusted friend. When I faced my own bout with cancer, Dan was behind me, giving me the strength to survive and surmount the illness. I now hope to do the same for him.

God willing Dan will win this fight and return to help us in our ongoing efforts to solve the unmet housing needs of this country. When individuals like Dan Grady are among us, our own lives are ennobled. Today I ask the members of this body to honor Dan for what he has given to this Nation as a dedicated housing professional and for what he, in his life's work and deeds, represents. On behalf of Dan, his family, friends and colleagues, I thank you for this time.•

UNEMPLOYMENT COMPENSATION

• Mr. BRADLEY. Mr. President, today's unemployment figures suggest that the precipitous third dip of this recession may have leveled off, but they offer little hope to Americans who are still seeking work after 10, 12, or 16 months out of a job. An unemployment rate that is virtually unchanged means that the economy is not creating new jobs for all those who have lost jobs month after month over the last 2 years. And while the jobless rate stagnates, actual jobs are being lost, not created, at a rate of 57,000 in September and twice that the previous month.

With all the attention that the media pays to minute changes in these statistics, I rise today to call our attention to a group of Americans we are in danger of forgetting: Those people who have been working, almost full-time, for many months, at finding a job. Many have steadily dropped their expectations for salary, for interesting work that uses their education, for full-time work, or for a job near home. They have done everything right, they are willing to do anything, and yet they are no closer to finding work than when the recession first knocked them onto the jobless rolls in 1990 or 1991. In my office 2 weeks ago, I met a young woman from New Jersey, well-spoken and well-qualified, who showed me a 10-page computer printout, in the tiniest typeface, listing every job she had applied for, with no luck. I admire her and those in the same situation for their amazing diligence, but after 2 years, this long recession is putting inevitable stresses on their families, their pride, and their sense of the future.

For a while, and despite the numerous hurdles put in the way by President Bush, we were at least able to hold these families together, fed and sheltered, by extended unemployment insurance, 33 weeks in my State on top of the regular benefit of 26 weeks and a small extension paid for by the State. But the most recent emergency extension we passed, in order to minimize the cost and avoid another Presidential veto, simply extended the 33 week extension to people who exhausted their regular State benefits after July. It did not extend benefits for those who could not find work after exhausting all their State and Federal benefits.

Thus those who had been out of work longest began, for the first time, to lose unemployment benefits altogether. The largest number lost their benefits on July 4, a date that many of them consider a particularly cruel joke given what the American dream has meant for them in the 1990's. In New Jersey, more than 40,000 long-term unemployed lost all their benefits in July. Nationwide, more than a quarter of a million workers lost their benefits. Both today's statistics and these workers' experience makes clear that our economy is not creating enough jobs to absorb them back into the work force.

I rise today to commend my colleagues from Massachusetts, Senators KENNEDY and KERRY, for calling our attention to this problem and putting forth a remedy. They have introduced a bill, S. 3053, which would provide those who have lost all their benefits with an additional 13 weeks of unemployment assistance. Thirteen weeks to tide those who have been out of work the longest over for another 4 months, by which time I hope we will see a real turnaround, is very little to ask. Yet the magnitude of the problem is clear from the cost of this modest measure: about $5 billion. Under current budget rules, even though there are enough funds saved as intended in the Federal trust fund to provide these benefits, we will need to find a tax increase or entitlement cut elsewhere in the budget to offset this cost.

Last week, the Senate passed a tax bill that raised $30 billion in new taxes, and sent $25 billion right back out the door in tax breaks for special interests. I fought to take $4 billion of the revenues raised and use it for the urban economic recovery that the bill was supposed to promote, but my view did not prevail. By the same token, we could have used just $5 billion of the new revenues for continued unemployment benefits rather than special-interest tax breaks, but we do not seem to have our priorities straight.

We will not have another chance before January to do the right thing for the unemployed. Today's numbers provide no hope that things will steadily improve after we adjourn. I would like to take this opportunity to ask Senator BENTSEN and the Finance Committee staff to work together with Senator KENNEDY to find an offset for this extension that is both good policy and acceptable to the Senate. If they can find it in the last days of this session so that we can tide people over while we are out, that would be ideal. More realistically, I suggest we use the recess to look at ways to pay for this extension so that if the job market remains stagnant in January, we can act promptly to get more assistance to those who have been out of work the longest.

I applaud Senators KENNEDY and KERRY for putting forth this proposal. I would prefer that it included a way to pay for itself, so that it would not risk increasing the deficit that is itself dragging our economy down. I hope that we can work together and with the Finance Committee in the coming days or weeks to turn it into a bill that is fully paid for so that it can be enacted quickly.•

CONFERENCE COMMITTEE AGREEMENT ON S. 2, THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

• Mr. DURENBERGER. Mr. President, I regret that a longstanding previous commitment required me to be absent from today's vote on the motion to end debate and to move to a vote on the conference committee agreement on S. 2. Had I been present, I would have voted to oppose that motion.

Because of my strong interest and involvement in this legislation in the Labor Committee and on the floor, I also wanted to take this opportunity to place on the record my reasons for this position and my intention to oppose the conference committee's report should it come to a vote.

At the same time, Mr. President, I wanted to take this opportunity to renew my commitment to working with the President, with Secretary Alexander, and with my colleagues on both sides of the aisle to design a positive and effective National Government role in support of education improvement and education reform.

Before I do that, however, I would like to thank our chairman, the distinguished Senator from Massachusetts, for his vision and for his leadership on this legislation over the last 18 months.

He and I have worked very hard over this past year to make this legislation a bipartisan vehicle that helps promote real and meaningful change—a vehicle that recognizes the essential role that States can and must play in initiating real education reform.

We were joined by others on this side of the aisle in this effort—including Senator LIEBERMAN, Senator KERREY, and Senator NUNN, and by many others on this side, as well.

So, when this bill passed the Senate last January, it was a bipartisan bill I could easily support.

The Senate's version of S. 2 included explicit authority for States to use Federal funds to help start new schools, including new charter schools like those now emerging in Minnesota.

And, when it last left this body, S. 2 explicitly recognized a role for States in expanding parent choices and in promoting real reform in how we teach and learn in our Nation's public schools.

Unfortunately, Mr. President, the Democratic majority in the House of Representatives did not share that vision for real reform in American education.

The House majority refused to explicitly recognize a State role in starting new schools or encouraging new ways of organizing and managing public schools outside the traditional local education agency monopoly.

The House Democratic leadership would not allow the word "choice" to be even included in the bill—not even the more limited extension of choice among public schools and between public school districts that the vast majority of Americans now either has or is eagerly demanding.

In fairness, Mr. President, I must acknowledge that this failure to acknowledge the importance of States in promoting school choice and new schools is not attributable only to the House Democratic leadership.

The Bush administration has also contributed its share of rigid lines drawn in the sand. In particular, the administration's insistence on premising its education reform initiative on a traditional and outdated definition of public and private education has also helped preclude passage of meaningful education reform legislation in this session of Congress.

REWARDING THE STATUS QUO

Beyond the politics and polarization, Mr. President, a quick reading of this bill identifies my single biggest concern with the conference committee's agreement on S. 2.

At least $8 out of every $10 authorized by this legislation, must go to existing public schools through local public school boards and administrators. That was a condition insisted on by the House majority. Unfortunately, it is not a formula for promoting real education reform.

In fact, this insistence on rewarding the status quo is a 180 degree turn from the direction that real education reform is now taking in virtually every State in this Nation.

This doomed strategy for reform also ignores the leadership and the initiatives we have seen from President Bush and Secretary Alexander over much of the past 4 years.

And, finally, this conference committee agreement reflects a degree of election year partisanship that has no place in crafting legislation so important to the future of America's children, and to the economic future of this Nation.

In considering this legislation, Mr. President, I believe it is important to point out this is not an affirmative statement of Federal support for education reform.

This legislation was crafted as a direct challenge to the American 2000 initiative launched by President Bush 18 months ago. It has been described in negative, more than positive, terms—by what it doesn't include, rather than what value it will add to our Nation's schools.

There is no question that some good could come from individual school initiatives funded by this piece of legislation.

But, to those most strongly supporting this bill I would only ask, "Is this where you would put the next $800 million in new Federal funding to improve the quality of education in this country?"

I don't think the answer to that question would be "yes."

And, so, Mr. President, I cannot in good conscious support this conference committee agreement. I take this position with great sadness and considerable reluctance. But, I believe we can and must do better.

We will have that opportunity to do better in next year's reauthorization of the Elementary and Secondary Education Act. I intend to be deeply involved in that reauthorization—a process which must also take place in a less partisan and more productive environment.

LEGISLATION IGNORES BUSH INITIATIVES

Mr. President, as a way of reinforcing the importance of using Federal policy to support State level education initiatives, I want to use this opportunity to comment briefly on several aspects of Minnesota's education reform agenda.

But first, I would like to remind all of us that, regardless of our disagreements about means—the underlying goals of this legislation must be traced to the Charlottesville summit and to the leadership we've seen on education from President Bush and Education Secretary Lamar Alexander over much of the past 4 years.

By drawing together the chief executives of the 50 States, and by clearly articulating 6 national goals for education, President Bush placed a new focus on the Nation's interest in improved quality through real education reform.

And, by launching the America 2000 initiative 18 months ago in St. Paul, MN, President Bush challenged all of us in the Congress to join with him, and with the Governors and legislatures of our States, in a new Federal-State partnership to help achieve those goals by the end of this century.

I wish there had been more recognition of that leadership in this bill, Mr. President. In particular, I wish there had been more explicit authority in this legislation for States to help start new schools and to help facilitate parent choice among schools.

Because of the importance of these two types of innovations, I would like to take a few minutes to offer just two examples of how they are being implemented in Minnesota—with growing interest in the first of those two innovations in a number of other States, as well.

SCHOOL CHOICE AND CHARTER SCHOOLS

Mr. President, Members of this body who follow education issues closely know that I have spoken a number of times over the past 2 years on the merits of Minnesota's leadership in allowing school choice and in encouraging the development of more—and more diverse—school choices.

I honestly believe that, had we more closely followed the lead being taken by Minnesota and a number of States, we would have made much more progress this year in reaching consensus on this bill, and in reaching consensus on a new national government role in encouraging education reform.

That lack of consensus is most obvious in the legislative logjam we've experienced this year over public and private school choice—a logjam that has left me and many other supporters of education reform at the national level deeply disappointed.

My own strategy to break that logjam has been to try to get past the conventional thinking, to get past the partisanship, and to change the focus of the debate.

One premise I've adopted in accepting that challenge is that we'll never agree on a new national government role in education unless we're first willing to redefine what we mean by American public education.

I also believe it's unwise to raise expectations about new break the mold schools funded at the national level—whether they're funded by Federal tax dollars or by private donations or private investors—unless there's also a legal and financial infrastructure out there in the States that can sustain and replicate new schools on an ongoing basis.

Fortunately, we're starting to see developments in the States that make me optimistic that we can refocus the debate and that we can redefine what we mean by American public education.

In Minnesota, we're gradually learning that public education should be defined by outcomes—and by principles and values—not by rigid and imput oriented mandates and rules.

As long as publicly defined outcomes are met—and as long as core principles and values are not violated—we're learning that public education can be delivered in an amazing number of ways.

Minnesotans are also coming to realize that the list of core values and principles we've traditionally associated with public education really isn't all that long or complicated.

Public education does not charge tuition and is universally available.

Public education is nonsectarian.

Public education does not discriminate on the basis of race, or sex, or physical or academic ability.

And, public education is accountable to both taxpayers and the electorate.

Public education is not defined by how many hours there are in the day, or by how many school days there are in the school year, or by who hires the teachers, or by who owns the buildings.

Once we're willing to redefine public education, a lot of what's been holding up the education reform debate here in Washington doesn't really need to be an issue.

Under this broader definition of public education, parents and teachers and community groups should be able to own and run new public schools.

Each school can be tailored to meet the differing needs of the kids it serves.

Accountability can be maintained through contracts that define outcomes—contracts that don't get renewed if those outcomes don't get met.

And, finally, public education can serve the interests of kids—of student/learners—and, not be overly preoccupied with the interests or convenience of adults.

One way to implement this broader definition of public education is through charter schools.

Under a new law passed just 16 months ago, Minnesota's charter schools must be authorized by a local school board and the State board of education. They must employ certified teachers and may not teach religion or charge tuition.

Minnesota's charter schools may not discriminate on any basis in admitting students. And, they must have a outcomes-based contract with their sponsoring school district—a contract that may be terminated if the agreed upon outcomes aren't met.

Once they meet these conditions, Minnesota's charter schools are exempt from all other rules and mandates except health and safety regulations. And, they receive the same combination of State, local, and Federal aid that they'd receive as a traditional public school.

Proposals for new charter schools are emerging throughout Minnesota. They're all different.

And, despite continued resistance on the part of some parts of the education establishment, four Minnesota charter schools have now been approved to begin operations during the next year.

The first of those schools, called the City Academy, was authorized by the St. Paul School Board. It began operations on September 8 and will focus on dropouts and other hard to reach learners between the ages of 13 and 21.

City Academy will be run year round from a community center in an innercity neighborhood. Students participated in the development of the proposal, which has received substantial startup funding from the Northern States Power Co., the Twin Cites principal privately owned electrical utility. Initial enrollment will be limited to about 30 students.

Three other Minnesota charter schools have also been approved by local school boards and by the State board of education.

They include a Montessori elementary school in Winona, an environmentally oriented K–12 school in the northeastern Minnesota communities of Toivola and Meadowlands, and a specialized middle school for deaf students to be located in the Twin Cities area.

At least a dozen other charter proposals are at various stages of consideration, including several that have been denied approval by their local school boards or the State board of education.

Minnesota's charter school movement could also get a major boost under a New American Schools Development Corporation grant that will help start as many as 10 new schools in the next year, with at least some of those schools likely to use Minnesota's charter schools law.

Although it has the first such law, Minnesota isn't the only State using charter schools to help redefine what we mean by public education.

Just last week, Gov. Pete Wilson signed a bill allowing the startup of 100 new charter schools in California.

Credible charter school proposals have also been offered in Connecticut, Michigan, Massachusetts, and several other States as part of broader education reform initiatives.

And, Detroit's board of education is taking a slightly different approach by allowing individual schools to opt-out of direct management by the district's central administration.

These reform proposals are all different. But, the objectives behind them are all the same, to maximize the choices that students have by empowering parents, teachers, and communities to start and run less regulated, outcome oriented public schools.

In moving ahead to implement these objectives, we have a lot to learn. But, charter schools offer one promising way to meet all those objectives within the parameters of a new and broader definition of "public education."

And, at both ends of the current logjam over public and private school choice we would be wise to listen and learn from what's going on—out there—in the States we all represent here in Washington.

SCHOOL CHOICE SHOULD BE INFORMED CHOICE

Mr. President, Minnesota has the well-deserved reputation of doing more than any other State to give parents the right to choose the public school that their children attend.

Minnesota was the first State to allow high school juniors and seniors to take college courses at State expense.

Minnesota was the first State to offer interdistrict school choices to every student under Minnesota's open enrollment program.

And, with charter schools, alternative learning centers, and contract programs with private, nonsectarian schools, Minnesota has made it possible to better tailor learning environments to the diverse learning needs of today's students.

With this much choice and diversity in place, it's only natural that attention is now focusing on how to assist parents and students make wise choices. Without good consumer information, any program designed to use the marketplace to achieve desired objectives cannot fully succeed. And, the important investment we are making in the educational future of this Nation's young people makes choosing right an absolute necessity.

MINNESOTA'S SCHOOL CHOICE ADVISOR

That's why one important part of Minnesota's ongoing school choice strategy is to begin establishing a statewide system of student assessment and parent information and referral networks that will help parents and educators match students and schools.

As Minnesota Education Commissioner Gene Mammenga has said, "Although we were first to enact and implement statewide parent choice in selecting schools, we must now empower parents further by ensuring that the essential information is available for making informed choices."

Minnesota's answer to that challenge—called School Choice Advisor—is actually a public/private venture being developed by the Minnesota Department of Education, School House magazine and PeakSolutions, a computer software and data base development company.

School Choice Advisor is designed to be an educational tool for both parents and schools. Like information and referral programs for other public services, it involves collecting and processing information on characteristics and programs in each of the State's schools.

But, it also will interview both parents and students to determine their interests and needs and the kind of programs they want and will benefit from.

Parents and students will benefit from a program like this by being able to make better informed school choices. And, Minnesota Department of Education officials are making special efforts to involve low income parents in this program by making it easily accessible and free of charge.

Schools will also be able to use the parent/student assessment information being gathered to help assess what they have available and to adapt and add programs that parents and students want and need. The information be very helpful to the State department of education and State policymakers in planning and evaluating the needs and capabilities of the State's schools.

OPPORTUNITIES IN NEXT YEAR'S REAUTHORIZATION

Finally, Mr. President, I would prefer to think of today's vote, not as an end, but as the beginning of a commitment by this body to define a positive and effective role for the National Government in supporting real education reform.

With that objective in mind, let me take a moment to briefly look ahead to next year's reauthorization of the Elementary and Secondary Education Act, and the opportunity that reauthorization represents as we continue to work toward a national consensus on education improvement and education reform.

I'm personally hoping, Mr. President, that next year's reauthorization won't simply be an exercise in fixing and fine tuning existing Federal education programs. Nor do I hope that next year's reauthorization will focus only on the size of the Federal Government's financial commitment to education or only on an endless debate over how that commitment is distributed fairly among the States.

My hope is that next year's reauthorization will help develop the new consensus on the National Government's role in education reform that was so sadly lacking in the conference committee report we are considering here today.

For my part, I'd like to suggest several goals for the reauthorization—goals that I personally intend to involve Minnesotans from all parts of the State in refining and translating into sound legislative proposals.

The first of those goals, Mr. President, is that we work to remove impediments to State and local reform initiatives that are now part of Federal law and Federal regulations. That may be our most important goal—to get out of the way of states and local schools that are on the cutting edge of change.

A second goal is to give further Federal support to States that are promoting school choice, through support for programs like Minnesota's school Choice Advisor and by allowing funds for chapter I and other Federal categorical programs to more easily follow whatever parent choices are authorized by State law.

A third goal, Mr. President, is to more explicitly assist States that are encouraging the emergence of more—and more diverse—school choices through startup funding for new schools, including charter schools and other innovative State programs that empower teachers, parents, and community groups to start and run new schools.

A fourth goal for next year's reauthorization is to encourage the entire community to assume more responsibility for organizing and financing the delivery of health and social services through schools. There are many important issues to be weighed in tackling this goal, Mr. President. But, I believe we must take on that challenge if we are to both focus our education resources where they belong and address the myriad of social problems that inhibit learning and that we've all too willingly dumped—without adequate support—or our schools.

A fifth goal, Mr. President, is to elevate the Federal Government's role in researching and evaluating the hundreds of education policy innovations we are seeing around the country. In particular, we need to assist the move we're now seeing toward defining, monitoring, and measuring educational achievement based on outcomes.

Mr. President, a sixth goal for next year's reauthorization is encouraging grassroots community support for motivating students and helping them and their families meet the rising cost of going to college. Later this week, I intend to introduce a bipartisan proposal to help achieve that goal through a national organization based in Minnesota called dollars for scholars.

And, finally, Mr. President, a seventh goal for this coming Congress is to further encourage a concept known as service learning. We can do that not only through the Elementary and Secondary Education Act, but also as we improve and reauthorize the National and Community Service Act we passed just 2 years ago. Many of our States are now discovering the value of practical volunteer experience in the community as part of an academic curriculum. We can and must do more to support those initiatives and we will have that opportunity through both these important reauthorizations next year.

Mr. President, this is not meant to be an all-inclusive listing of goals for next year's reauthorization of the Elementary and Secondary Education Act. But, this listing is intended to affirm my own strong commitment to using that reauthorization to continue moving toward a national and bipartisan consensus on the Federal Government's role in support of the education reform efforts now going on around the country.

We need to be active and positive participants in shaping that consensus, in the interest of both this Nation and its future. We have neither the time—nor the minds—to waste.●

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time between the recess of the Senate this evening and reconvening on Saturday, October 3, be counted against the 30-hour time limitation of postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12:30 p.m. on Saturday, October 3; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that immediately following the Chair's announcement, the Senate then proceed to the consideration of the conference report accompanying H.R. 5677, the Labor-HHS Appropriations bill under the conditions and limitations of the previous unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, it had been my hope that at this point I would be able to announce to Senators that there would be no rollcall votes tomorrow. We will, under a previous agreement, take up the Labor-HHS appropriations bill at 12:30 p.m., or as soon thereafter as the measure is received from the House.

It is my understanding that there has been no request for a recorded vote on that measure. There is an agreement limiting the time on the measure, and I expect that to pass without a recorded vote.

Following that, it is my intention to exercise the authority granted to me under a previous unanimous-consent agreement to proceed to consideration of the Department of Defense authorization bill. There has been no request for a recorded vote on that measure, and it is my hope that we will be able to complete on that measure within the time limitations in the agreement and that we will complete action on that measure without the necessity for a recorded vote.

Throughout the evening, negotiations have been underway regarding the substance and process for handling the pending National Institutes of Health authorization bill. Although the Senate has voted by an overwhelming margin to proceed to consideration of that bill, 85 Senators voting in the affirmative, 12 in the negative, under the rules of the Senate, the 12 opponents, although they constitute a very tiny minority of the Senate, are able to prevent action on the bill by further delays. That is what is occurring. I regret that very much.

The time is running on postcloture, and we will resume discussion of the matter tomorrow. I am unable to state at this time what the outcome of those discussions will be or what will occur with respect to that measure tomorrow. I regret this very much.

I accept the fact that under the rules of the Senate, 12 or 6 or 1 Senator can hold up the overwhelming majority of other Senators. I think that is especially regrettable in view of the importance of this legislation. But that will be the subject for debate possibly tomorrow, possibly later during the weekend.

I will, following consultation with the Republican leader, make a further announcement with respect to the schedule after tomorrow at this time. But as of now, we are going to deal with the two bills to which I previously referred. We will continue to be proceeding postcloture on the National Institutes of Health authorization bill. It is my hope that that matter can be resolved but if not, why, we will proceed under the rules as appropriate.

Mr. SIMPSON. Mr. President, I thank the majority leader, and indeed he has tried diligently to resolve this matter, and I want the majority leader to know that we have tried diligently on this side to assist him. We are ready and did present a proposal which was very near to acceptance and has to do not with the NIH issue here—that will be resolved as the Senate rules will determine—but it has to do with the energy bill and the possibility of objections with regard to that.

So I then assume and ask the majority leader that the time will continue to run on the issue of the motion to proceed here. It will expire approximately 8:30, 8:45 tomorrow evening.

Mr. MITCHELL. Mr. President, I have not calculated the time precisely. It will be 30 hours after cloture was invoked. But it will be sometime during the day tomorrow.

Mr. SIMPSON. And then is it the Senator's intent—and we will be very pleased to assist on this side of the aisle processing the conference committee reports—not to have a Sunday session?

Mr. MITCHELL. I had made no decision in that regard. It is my hope not to have a Sunday session, but if it proves to be necessary to advance the National Institutes for Health authorization bill, that may be necessary. It depends in part upon the progress of that matter. We will have to wait and see what happens tomorrow.

Mr. SIMPSON. And at any time that takes place, then there will be a cloture motion filed with regard to the bill itself?

Mr. MITCHELL. That is correct.

Mr. SIMPSON. And we will go to a vote on that, a rollcall vote, and if cloture is obtained, which is likely in view of the previous vote, we will go forward with the 30 hours and be able to then work out an agreement to process conference committee reports?

Mr. MITCHELL. That is my hope.

Mr. SIMPSON. I thank the leader.

RECESS UNTIL 12:30 P.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 10:24 p.m., recessed until Saturday, October 3, 1992, at 12:30 p.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 1992:

DEPARTMENT OF DEFENSE

SEAN CHARLES O'KEEFE, OF VIRGINIA, TO BE SECRETARY OF THE NAVY, VICE H. LAWRENCE GARRETT, III, RESIGNED.

THE JUDICIARY

WILLIAM P. DIMITROULEAS, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE JAMES C. PAINE, RETIRED.

HENRY W. SAAD, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN VICE HORACE W. GILMORE, RETIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JENI BROWN NORRIS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MARY SHANNON BRUNETTE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (SELECTEE) DOUGLAS J. KATZ, U.S. NAVY, [redacted]

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) IN THE COMPETITIVE CATEGORY OF ENGINEERING DUTY OFFICER OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR TO AS PROVIDED BY LAW:

ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (LH) EDWARD STILLMAN MCGINLEY, II, [redacted] U.S. NAVY.

HOUSE OF REPRESENTATIVES—*Friday, October 2, 1992*

The House met at 9:30 a.m.

The Reverend Monsignor Michael J. Bransfield, director, Basilica of the National Shrine of the Immaculate Conception, Washington, DC, offered the following prayer:

Let us place ourselves within the presence of God. We pray, Lord, that You will give us the strength to influence our world with Your grace and You in mind. We ask, Lord, for greater insights and strong convictions to do what is right and avoid evil in our own lives. We hope, Lord, that we will be instruments in Your hand and to bring harmony and peace in our homes and on our streets. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from West Virginia [Mr. WISE] please come forward and lead the House in the Pledge of Allegiance.

Mr. WISE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive up to 15 requests on each side for 1-minute statements.

PASS CAMPAIGN FINANCE REFORM SO THE VOICE OF THE PEOPLE CAN BE HEARD

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, tons of newsprint and gallons of ink will be spread on the record trying to explain the Perot phenomenon. Let me try one explanation of my own.

I think that Mr. Perot represents millions of Americans who feel that Government does not represent them, does not hear their pleas, and does not answer those pleas, because of static created by large political action committees and large special interests.

I would refer to a Federal Election Commission report of last month analyzing the first 18 months of the 1992 election cycle; $103 million has been donated by political action committees to candidates; 90 percent of that, over $90 million, has gone to incumbents. In my case I do not take political action funds, and I find that that promotes a very strong grassroots effort.

Let me say that if Mr. Perot rearranges the chairs in a way that the President loses in November, I think that the President's very unwise and unnecessary veto of the campaign finance reform bill will be at the heart of it. I believe, furthermore, if we can pass campaign finance reform, then I think those millions of Americans will believe again that their Government represents them.

FAREWELL ADDRESS OF MEMBER TO HIS COLLEAGUES

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, when I came to this House 11 months ago, I came with a mission: To fight for the working taxpayers of Virginia and the Nation.

And when I held up my hand to take the oath of office, I brought with me a set of principles to guide my goals, ideas, and plans for my service here. I held no grand illusions as to how this body operates and certainly knew that there was much room for improvement. Indeed, a basic tenet of my campaign was the need for a change in the way Congress operates.

Sadly, the operation of the Federal Government is worse than I had anticipated. This House and the Federal Government continues to lack proper discipline and accountability. Congress must change the way it operates and learn to say "no" to excessive spending and incessant meddling into prerogatives of the States and the people.

While I have had the privilege of presenting my ideas and the ideas of Virginians to this body, I regret that there was not time to accomplish more. Thanks to redistricting, I was not able to seek reelection, Mr. Speaker. But the fact that I will not be here on January 3, 1993 does not alter my belief that the fight must continue. Ideas are far more important than any individual.

As I delivered my maiden speech to the House, I quoted Thomas Jefferson and a passage from his 1801 Inaugural Address: "Government should not take from the mouths of labor the bread it has earned," he said.

Not only does this Government have an appetite for the hard earned wages of our workers, it continues to spend far more than the enormous amount of revenue it takes in. Indeed, the greatest scandal in our Government was not the House bank. Instead, it is uncontrolled deficit spending. We need a constitutionally required balanced budget and line-item veto authority for the President so that we do not load future generations with perpetual debt. This is not merely a political issue, as you and the majority party have treated it, Mr. Speaker. It is an issue which requires immediate action and I urge you and my colleagues to make tough decisions about reducing wasteful spending and cutting the deficit before it is too late. While I know that when some of us who vote against appropriations bills which increase spending are chastised, we must muster a majority to take a stand and not be bought by a trinket or two included for our own district.

As you reduce the burden on working taxpayers, so should the Congress cut the number of regulations imposed on businesses which provide jobs for our citizens. We need to give people an incentive to invest. We can have a country whose prosperity knows no bounds, if only we are brave enough to allow that opportunity for prosperity to occur. Employers must not be enslaved by the shackles of oppressive taxation, Government interference and overregulation. And to remind Congress what the real, human impact is of this type of nannyism, Congress must have the courage to subject themselves to—and not exempt themselves from—the laws and regulations they impose on individuals and businesses.

While Congress is in the process of internal reform, it must make a number of other changes as well. The number of legislative select committees, which are nothing more than costly window dressing gimmicks, should be reduced and eliminated. Standing committees with similar jurisdictions should be merged to cut costs. Frivolous congressional perks and privileges must end and Members, as leaders, should not become entrenched, out of touch Representatives. A set time limit for Congress to meet should be established with a permanent adjournment date. And pay should be withheld from Congressmen if the budget is not enacted on time.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Most importantly, Members ought to spend more time in their districts, listening to the real concerns of their constituents. And, at the same time, Members should communicate with and inform constituents about the issues and questions facing Congress. There is no way our leaders can have all of the answers, Mr. Speaker. But I have found that my constituents have a tremendous amount of knowledge, wisdom, and ideas to share about how their Government should operate. Their guidance has been critical to my decisionmaking process while I have served here.

Mr. Speaker, I have had a rare opportunity this year—one that only a few Americans have known. When I was sworn in last November, I said that I stood before my colleagues with great honor and with a tremendous sense of duty to the people of the Seventh District of Virginia. And so it has been.

But I also said that I did not intend to be a stump and would roll up my sleeves and get right to work. Even though my time here was short, I can truthfully say that I don't think I disappointed too many of my colleagues after that speech. I have tried hard to do my duty for my constituents in Virginia with the same energy and dedication which they expect and which they well deserve.

The same commitment and determination which burned in me when I decided to run for Congress still burns in me today. I expect to continue my work, not to reinvent Government, but to return to the purposes for which the Government was created by the people: to protect life, liberty and property, and not to be an oppressive enemy or meddlesome nanny.

And I know that this same commitment and determination still burns in many of my friends and colleagues who will return next year and hopefully in some of the new Members who will come in with them. We are outnumbered now. But to those warriors who, in the months and years ahead, want to, and have the ability to, change the direction of our country and this Congress for the better, I offer two words of encouragement: "keep fighting."

A NATIONAL HEALTH CARE PLAN TO KEEP AMERICANS WORKING

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, the House is going to adjourn for good in a few days. My greatest regret is that Congress and the President have not yet acted on a national health care plan.

Several months ago I presented the case of the McPeak family in the eastern panhandle of West Virginia and the difficulties they were having in trying to get treatment for their two sons, Anthony and Thomas, both of whom have hemophilia. I reported to the Members that both parents were working but neither could get insurance. Let me give an update on what has happened with the McPeaks.

Today neither one is working. One son needs an operation. The treatments cost as much as $900 a day for one of the boys, so they did the only thing they know how to do, which was to go on public assistance so they could get a medical card. That is what they have come to.

Since that time, trying to meet their medical obligations, they have lost their home, their truck has been repossessed, and they are now seeking bankruptcy.

Mr. Speaker, when does this country recognize the need for affordable access to health care for everyone? I hope as this Congress adjourns and when it comes back in January the McPeaks will be on all of our minds, and the 60,000 West Virginians who signed petitions urging that this Congress act; that it will remember the McPeaks and vow that their travail, their anguish, hopefully will be addressed soon.

MAKING IN ORDER ON SATURDAY, OCTOBER 3, 1992, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT, AMENDMENTS IN DISAGREEMENT, AND MOTIONS TO H.R. 5677, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause (2) of rule XXVIII, that it be in order at any time on Saturday, October 3, 1992, or any day thereafter, to consider the conference report, amendments in disagreement, and motions to dispose of amendments in disagreement, to the bill H.R. 5677, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, and that the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee on conference to dispose of amendments in disagreement be considered as read when called up for consideration.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

BAD DECISION IN THE MIDDLE OF THE NIGHT

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, in the middle of the night on Wednesday conferees made a bad decision—they chose expediency over efficiency. In my view, this decision was made in the interest of bringing an energy bill—any energy bill—to the floor for a vote before we leave town. The House bill included language banning future oil drilling in the eastern Gulf of Mexico until the year 2002. This language was designed to create a decade-long cushion to rationally study the need, the risks and the alternatives involved with drilling for oil in that region. That makes infinitely more sense than the annual scramble under current law to postpone drilling for at least 1 more year. The current system makes no one happy—it is uncertain and it is expensive and it focuses our energies on short-term plans rather than a much-needed long-term approach. Instead, the conferees, caught up in the rush to adjourn, allowed election-year anxiety to win out over the wise management of our natural coastal resources. Ignoring the challenge doesn't make it go away. Would it not make more sense to take the time to do this right the first time, so we would not have to come back and do it again?

A ONE-ISSUE CAMPAIGN: JOBS FOR AMERICAN WORKERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Bush is quoting Truman, Clinton is quoting Kennedy, and Perot is quoting Perot. The problems in America have really produced this carnival. Think about it. After 40 years of sending American jobs overseas, America is bankrupt. In fact, I predict the next President will preside over an official depression.

America was once known for steel and automobiles. Now America is known for hamburgers and junk bonds. There is but one issue in this campaign. It is jobs for American workers. The White House is not going to create any new jobs by blasting Arsenio Hall. I think they should look at the policies, and Clinton, Bush, and Perot should all start thinking about jobs for Americans.

INTRODUCING THE AMERICAN CONSUMERS HEALTH CARE REFORM ACT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, today I am introducing the American Consumers Health Care Reform Act, my own version of what we ought to do to attack the massive problems of health care in our country. This comes as a direct result of being in touch with the people back home. First, a questionnaire that we circulated to all our constituents through the procedure that we have established indicates that a substantial majority of our constituents oppose the Federal Government taking over and imposing its will on a national health care system. That is an important point.

□ 0940

Second, the concerns expressed in that questionnaire and in seminars that we held thoughout the district indicate concern about primary care physicians and the lack thereof. We address that in this bill.

About Medicaid and where it reaches and how it reaches the people who need care the most, we address that in this bill. And malpractice costs, and all of the other problems that we have seen that have affected our ability to meet our health care problems in this country.

The American Consumers' Health Care Reform Act will go a long way in the debate that is to come next year in providing a new system.

EXTENDING UNEMPLOYMENT BENEFITS

(Mr. DOWNEY asked and was given permission to address the House for 1 minute.)

Mr. DOWNEY. Mr. Speaker, the unemployment numbers today offer cold comfort to the tens of thousands of workers in the United States, and especially on Long Island who are out of work and are in the process of exhausting their unemployment insurance. The reality is that with today's unemployment numbers there are fewer people working in the private sector than ever before, cold comfort to a President who has ignored the problem of jobless Americans for too long.

But, Mr. Speaker, we have the opportunity in the waning days of this session to do something for the people who are exhausting their unemployment benefits. I have introduced legislation that would extend their benefits for 13 additional weeks. We need to do that because those folks have no other alternative but to either go on welfare or collect cans along the side of the road to keep their families together.

We have the time in the next couple of days. What we need is the political will and the wisdom to help these people by extending their benefits for 13 additional weeks.

TAXING RIDICULOUSLY HIGH SALARIES

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, when I was growing up, I was batboy for several years for the Knoxville Smokies minor league baseball team.

I sold programs, and popcorn, and cokes at the University of Tennessee football and basketball games, and programs at the Knoxville Knights hockey games.

I was a big sports fan, and still am.

However I thought it had gotten ridiculous—even sickening—to read about baseball players being paid $5 and $6 million a season.

Now, though, things have really gotten out of whack.

Magic Johnson yesterday signed a one-season contract for $14.6 million—to play basketball.

Nobody can earn, or really deserve, that kind of money.

And when we are paying it to someone to play a game, well I think that is just pitiful.

I feel sorry for anyone who has a serious illness, and I have nothing against Mr. Johnson personally.

But something bad is wrong when a basketball player is given over $14 million for one season, and most men and women work hard all year long and are lucky to earn even $1 million in their entire lives.

I have been a strong opponent of higher taxes for many reasons—but I think the time has come to lower the taxes on the middle class and place a greater burden on those athletes, movie stars, and CEO's who earn such ridiculously high salaries.

ADMINISTRATION AID TO SADDAM HUSSEIN

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, some of our colleagues in the other body are uneasy with AL GORE'S historical review of the administration's failures in dealing with Saddam Hussein and coddling Saddam Hussein and aiding and abetting his military buildup and giving him the $5 billion in loan guarantees that helped Saddam build his army and invade Kuwait.

Mr. Speaker, if my colleagues in the other body are uneasy with AL GORE'S accurate review of history, maybe they should call on the administration to declassify April Glaspie's cables and discussions with Saddam Hussein. If the administration feels that they sent Saddam Hussein a message weeks before the invasion, let them show the American people. Declassify the cables from April Glaspie and tell the American people what was said to Saddam Hussein as he moved on Kuwait.

CAN WE AFFORD THE DEMOCRATS?

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, can America afford the Democrats?

The last time the Democrats controlled both the Congress and the Presidency, the answer was no.

You remember the malaise of the late seventies with Jimmie Carter. Taxes went up, inflation went up, unemployment went up, and our economy went down.

If Bill Clinton wins in November, this is what the Democrats have already promised to give the American people: Higher taxes, mandated leave, and socialized health care.

Who knows what other tricks they might have up their sleeve?

Mr. Speaker, history teaches us that the Democrats' radical agenda will destroy small- and medium-sized businesses. It will increase the presence of the Federal Government in our lives. And it will kill our competitive edge.

In November, the American people should remember this fact. While their rhetoric is nice, we simply cannot afford the Democrats.

AMERICAN HEALTH CARE ACCESS AND IMPROVEMENTS ACT OF 1992

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, although America has the best health care system in the world, it is also the most expensive. We must find a way to preserve the quality of our system while making it more affordable to the poor, and more accessible to people in rural areas such as some parts of the Fifth District.

There is now a proposal that will both preserve the quality of our current health care and make it accessible to more people. It is called the American Health Care Access and Improvements Act of 1992.

The best part of the bill is that it will not add to the national debt. Yet, it will make it possible for all Americans to have basic health insurance and coverage against a catastrophe.

This bill incorporates several provisions already introduced and several new provisions, making it one of the most comprehensive reform bills in existence.

This bill will reform medical malpractice laws; it will increase the self-employed health care deduction to 100 percent; and it will standardize claims forms. These steps alone will hold costs down enormously—in the billions of dollars. As a cosponsor of this bill, I urge you to support it.

INTRODUCTION OF WELFARE EMPLOYMENT AND FLEXIBILITY AMENDMENTS OF 1992

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I am pleased to introduce the Welfare Employment and Flexibility Amendments of 1992. This is one of four welfare reform bills I and several of my colleagues will introduce today that were authored by President Bush, and which represent important steps we could take right now to help reduce welfare dependency and improve opportunities for those on assistance.

This first bill promotes work among families on welfare. It will expand the ability of States to involve AFDC recipients in workfare programs that require work to be performed as a condition of receiving assistance; it will allow States to expand emphasis on job search in their welfare-to-work programs, and finally, it will improve child support enforcement by requiring AFDC parents to provide all information necessary for establishing paternity of their children.

Mr. Speaker, these changes get at the heart of real welfare reform: Finding ways to get welfare families into the working world. President Bush has put together an excellent collection of proposals here, and we would do well to adopt these changes a soon as possible.

OVERREGULATION AND LACK OF INCENTIVES FOR SMALL BUSINESS

(Mr. THOMAS of Wyoming asked and was given permission to address the House.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise today to talk about problems that have plagued our country for far too long—overregulation and lack of incentives for small businesses. Small businesses provide the backbone for our Nation's economy; overregulation has had a devastating effect on the competitiveness of the American private sector. Our role should be to create an environment conducive to competition in a global economy—one balancing regulation and free market forces.

In trying to solve some of this Nation's social problems, Government has too often mandated solutions which unfairly burden small businesses. What this body must realize is that if the private sector gets back on its feet, many of our other problems will take care of themselves. In fact, the best solution to many of these problems is quality job opportunities. We cannot solve the problems that persist in our country—the deficit, the economy, et cetera—without having a healthy private sector.

Another way to facilitate the growth of American small businesses is to create incentives to train and educate our work force. A fundamental need exists for this investment; more incentives of this nature are necessary in order for the private sector to compete in the emerging global economy.

Unfortunately, some in Congress have done just the opposite; they have tried to solve the Nation's problems at the expense of small businesses. Government must mend its ways; the results speak for themselves. America wants and needs a fundamental change of direction and it is our job to provide it.

H.R. 5096, ANTITRUST REFORM ACT OF 1992

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, I rise today in the hopes of encouraging the House to avoid what I believe would be a serious misjudgment.

I am speaking of the possibility that H.R. 5096, the Antitrust Reform Act, might be considered in this Chamber during the few remaining days in this 102d Congress.

As anyone who has had the opportunity to review the legislation in question can attest—H.R. 5096 is far from a simple bill. Issues contained in the legislation involve not only the historical precedents of the modified final judgment and the subsequent review of this judgment by Judge Green—but indeed—the future of telecommunications policy in this country.

The Energy and Commerce Committee—on which I serve has taken thousands of hours of testimony regarding the subject of this legislation. We have reviewed several bills to modify the MFJ and substantively affect competitive relationships. This effort can and must continue.

If we rush H.R. 5096 to the floor in the waning hours of the 102d Congress, I believe we do a serious disservice to this institution. Without a companion Senate bill, this action will probably not result in new law, but serve only vested political interests. Our Nation deserves far more than that from its elected representatives.

Our Nation's economic competitiveness is tied to its telecommunications future. This future deserves far more than a cursory glance and a pressured vote; let us act, but act in the sober light of day, when every Member of Congress may fairly weigh that alternative policies which are advocated.

□ 0950

GOVERNOR CLINTON'S ACTIONS SPEAK LOUDER THAN WORDS

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, over the past few weeks we have seen the liberal Democratic press try to explain away Governor Bill Clinton's avoiding the draft.

Despite the growing number of conflicting stories Mr. Clinton tells about when and how he slickly avoided service, his underlying excuse is the same: He opposed the Vietnam war, so his draft dodging is OK.

But, the draft was not exclusively for Vietnam. During the Vietnam war, almost 9 million Americans served their country. Only 3.3 million went anywhere in or near Southeast Asia. Many of those—like our pilots over Hanoi—were not draftees. Over a million draftees never went to Vietnam. They served as a deterrent against communism in Western Europe, South Korea, Japan, the Philippines, and right here at home. Was Clinton also opposed to NATO and freedom in Korea? If not, then why did he not serve?

President Bush volunteered to defend his country. So, too, did Vice President QUAYLE. Bill Clinton did not. His actions speak louder than any words.

TRIBUTE TO CONFEREES ON HHS BILL

(Mr. EARLY asked and was given permission to address the House for 1 minute.)

Mr. EARLY. Mr. Speaker, I would like to just take this 1 minute to congratulate the gentleman from Kentucky [Mr. NATCHER] and the ranking member, the gentleman from Michigan [Mr. PURSELL].

Mr. Speaker, in the conference yesterday, when we marked up the HHS bill which was the most difficult bill we have had in 18 years, which the numbers, the moneys, were just not available for the people programs that we would like to put into them, but Chairman NATCHER and the gentleman from Michigan [Mr. PURSELL], speaking of them as the representatives of all the Republicans and all the Democrats, saw to it that people programs, the fuel assistance, that the $1,500,000,000 will be allowed to them for this upcoming year, and they went into NIH, and, Mr. Speaker, this is the first time in my 18 years on this subcommittee that the House report will be less than the amount recommended by the President of the United States.

But they put the money into the institutes by what the testimony was. They went specifically to the Institute on General Medical Science, which has no constituency. It addresses all basic biomedical research and all diseases, but they put the money in there for that institute which has had more U.S. Nobel laureates than any other institute, and more than 50 percent of the U.S. Nobel laureates have come out of that institute.

The gentleman from Kentucky [Mr. NATCHER], the chairman, the gentleman from Michigan [Mr. PURSELL], who is leaving, and the gentleman from California [Mr. ROYBAL], who is also leaving, they did this country a tremendous service here yesterday when they marked up the bill and put the money where the people wanted the money.

WHO WILL PAY MORE TAXES?

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, in an excellent column this morning by Paul Craig Roberts, he reports that the IRS has said that the richest 1 percent pay more than one-fourth of the Federal income taxes. The richest 5 percent pay almost half. The richest 25 percent pay 77.4 percent of the Nation's income tax revenue, and the richest 50 percent pay 94.4 percent.

What this tells us is that when Bill Clinton says he wants to tax the rich, what he is really talking about, if you have a job in America, you are, in the definition of Mr. Clinton, a rich person.

To send Bill Clinton to the White House, or as a Californian, Dianne Feinstein or BARBARA BOXER to the Senate of the United States to do something about controlling runaway Federal spending makes as much sense as sending a fire truck to a fire with its water tanks filled with gasoline.

PEOPLE AROUND CLINTON: BIG SPENDERS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. STEARNS. Mr. Speaker, Gov. Bill Clinton says he's for change. Well, that may be so, but Americans have to ask themselves "What kind of change?"

Judging by the people closest to Bill Clinton, I don't think the American people want the kind of change Bill Clinton will bring.

For Vice President, he has chosen a man who has spent his entire career in Congress. A man who has never run a business or met a payroll—who was rated one of the biggest spenders in the Senate by the National Taxpayers Union.

Bill Clinton's communications director is also from Congress. He made a lot of money last year working for the Democratic majority leader. His boss, the majority leader, was also rated one of the biggest spenders in Congress by the National Taxpayers' Union.

Bill Clinton's decision to hire these men should tell the American people something. If you want the same people who run Congress to run the White House, vote for Bill Clinton. If you believe in more government, more taxes and more spending—go ahead, vote for Bill Clinton.

Would it be a change? Yes, but not the kind of change America deserves.

TIME TO PASS THE TORCH

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, President Bush's experience should be a plus for America, but he has proved that it also can be a detriment.

You know, he likens himself to Harry Truman. But let me tell you that when Harry Truman was President right after World War II, here is what he did: established minimum wage, unemployment compensation, fair employment practices for all people, tax reform, Federal aid to housing, redeveloping America's slum areas, and of all things, a national health insurance policy. Now, George Bush would have vetoed all of these.

The difference is that Harry Truman was less rhetorical and more decisive. George Bush is more rhetorical and less decisive.

I think it is time the torch was turned to a new generation.

CLINTONOMICS: FORMULA FOR DISASTER

(Mr. JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Texas. Mr. Speaker, if you thought the recent hurricanes were devastating, let me tell you about "Clintonomics"—the worst 4-year disaster to hit American workers in years.

Clinton says he is progrowth—but just listen to his whirlwind of ideas:

Democrat tax proposals that would cost businesses $120 billion a year. Health insurance that would inflate small business premiums by 90 percent, destroying 12 to 26 percent of all smart businesses in America.

Instead of creating jobs, 1.8 million Americans would be thrown out on the streets the first year, increasing unemployment by 1.5 percent.

You know, Clinton calls his plan—"putting people first" * * * but one has to ask, where is he putting them? Certainly not to work. Americans do not want, do not need, and do not deserve Clintonomics, a formula for disaster.

CLINTON: TAXATION WITHOUT HESITATION

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, taxation without hesitation, that is what we have been promised by Bill Clinton. He says he will raise taxes by $150 billion. We know that he wants to raise more than that.

He says he wants to tax only the rich, but we know that he really means by that the middle-class wage earners.

He wants to raise more taxes to fund more spending programs, it is very apparent, and Bill Clinton is very, very good at raising taxes, Mr. Speaker. He is in the Arkansas Tax Hall of Shame. He is the largest taxer in Arkansas history.

We cannot trust Bill Clinton with an awful lot, but we know, Mr. Speaker, that we can trust him with this campaign promise. He clearly will give us taxation without hesitation.

Can we really afford a Clinton tax increase? Can we really afford the Democrat majority that is in the House?

The American people should keep these important questions in mind when they go to the polls 4 weeks from Tuesday.

□ 1000

REPORT ON THE NORTH AMERICAN FREE-TRADE AGREEMENT

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, Congress' Office of Technology Assessment recently issued a report on the North American Free-Trade Agreement. Unfortunately the report makes several false assertions, and before Members wave this report around on the campaign trail, they should be armed with the facts about NAFTA.

The OTA asserts that Mexican wages will remain low and therefore attract United States transplants. Not. Wages alone do not justify relocating a plant. In any event, NAFTA creates no new incentives for locating in Mexico that do not already exist.

The OTA report claims that NAFTA would tend to increase illegal immigration from Mexico. Not. The opposite will happen as NAFTA succeeds. Better jobs at better wages will be created in Mexico, that decreases the incentive for illegal immigration. A study done at UCLA predicts the agreement will decrease illegal immigration by 1.6 million. President Salinas has repeatedly said "We want to export goods, not people."

Finally, the OTA claims that NAFTA will hurt the environment. Not. A free trade with Mexico will help, not hurt, the environment. Mexico is devoting a large share of national resources to environmental protection, and President Bush has proposed spending $250 million for new binational border environmental initiatives. This Congress has proven its irresponsibility and hypocrisy by axing the funds for border environmental initiatives while accusing the President of ignoring the problem.

Mr. Speaker, the OTA needs to go back to the drawing board. NAFTA will help the economy and the environment on both sides of the border—and it is time those facts were heard in this body.

AFTER 4 YEARS WE ARE NOT BETTER OFF AS A NATION

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, since last night and all of this morning, my colleagues on the Republican side of the aisle have used this House to campaign for the President of the United States and against Bill Clinton. And I have to say a couple of them even mentioned my name, and I am quite honored that I would rate in their remarks.

But I want to say this: You can stand up here all you want, minutes, hours, days, and try to trash Bill Clinton, but the basic argument that you cannot answer is why George Bush deserves to be reelected when so many Americans are suffering, when we have no economic strategy, when we are falling behind in the global marketplace, when our education system is now ranked No. 21, and we have slipped to No. 5 in competitiveness.

Mr. Speaker, we are not better off as a nation than we were when George Bush took office. He promised 30 million new jobs; he has got 29 million to go.

Time is running out, and what you are hearing from my colleagues—and they are friends—is desperation.

REQUEST FOR A 1-MINUTE

Mr. ROHRABACHER. Mr. Speaker, I would ask unanimous consent to proceed with a 1-minute.

The SPEAKER pro tempore. (Mr. MAZZOLI). The Chair could not recognize the gentleman at this point. The Speaker earlier this morning announced there would be 15 Members from both sides of the aisle taken on 1-minutes. Later in the day——

Mr. ROHRABACHER. Mr. Speaker, I am asking for a unanimous consent of those present.

The SPEAKER pro tempore. The Chair has to, again, explain to the gentleman at this point the Chair is unable under the Speaker's guideline to recognize the gentleman to make that unanimous consent request. Later in the day the gentleman could seek recognition.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 5095, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 587 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 587

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 587 is the rule providing for consideration of the conference report on H.R. 5095, the Intelligence Authorization Act for Fiscal Year 1993.

The rule waives all points of order against the conference report and against its consideration and provides that the conference report will be considered as read. The rules waived include those dealing with the 3-day layover period for filing of conference reports, for scope, and germaneness.

Both the chairman of the Intelligence Committee, Mr. MCCURDY, and the ranking minority member, Mr. SHUSTER, testified in support of the requests embodied in this rule.

Mr. Speaker, H.R. 5095 is the authorization for fiscal year 1993 of U.S. intelligence and intelligence-related activities, including those of the CIA. The National Security Act mandates that expenditures on intelligence activities be specifically authorized, so it is imperative that the House approve this measure before adjournment.

Mr. Speaker, the gentleman from Oklahoma [Mr. MCCURDY], and the gentleman from Pennsylvania [Mr. SHUSTER, are to be commended for their diligence and good work in this very sensitive area. I urge my colleagues to grant these waivers as they requested and approve the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

(Mr. ROHRABACHER was allowed to proceed out of order.)

WHY PRESIDENT BUSH SHOULD BE REELECTED

Mr. ROHRABACHER. Mr. Speaker, we were just challenged to explain why the President should be reelected by a lady who did not have the courage to make that challenge when we had the chance to reply. So I appreciate my colleague giving me this opportunity. I hope the voters in California noticed that BARBARA BOXER, who issued this challenge and then ran away, has been running away from a debate that her opponent in California. Why—oh, now, she is back on the floor. I hope your side——

Mrs. BOXER. Will the gentleman yield?

Mr. ROHRABACHER. No, I will not.

Mrs. BOXER. Well, the gentleman is——

Mr. ROHRABACHER. You have had your 1 minute.

Mrs. BOXER. The gentleman is telling untruths. I have debated my opponent twice.

Mr. ROHRABACHER. Mr. Speaker, I have the floor——

The SPEAKER pro tempore. The gentleman from Ohio yielded to the gentleman from California.

Mr. ROHRABACHER. We were asked exactly why people are unemployed in California and throughout the Nation, why people should vote for President Bush. That is because President Bush will do a better job in putting people back to work. That is because if President Bush would have had his chance to have his policies go through this Congress and not stopped by people like my colleague from California who is now running for the U.S. Senate, there would be more jobs in California and elsewhere. Instead, what we have had is a tax-and-spend Congress that has thwarted President Bush every time he has tried to put forward a policy of economic growth.

Mrs. BOXER. Will the gentleman yield?

Mr. ROHRABACHER. Not yet. I have not had my minute yet.

When the President put forward a policy of rationally reducing, reducing defense spending as it should be in a postcold war world, what we have instead on the other side is a policy of irrationally slashing defense, which will leave California workers unemployed and out of luck. And because Mr. Clinton may offer more welfare and Clinton may offer other social service jobs, we are interested, in California, in jobs in the aerospace industry, which will disappear and have disappeared because of the liberal policies espoused on the other side of the aisle, especially by my colleague who is now running for the U.S. Senate.

I would suggest that if people are disturbed that some of us are attacking

Clinton, that they stop thrashing Bush like they have for the last 4 years.

Mr. McEWEN. Mr. Speaker, I yield myself that time which I may consume.

I rise in support of the rule for the consideration of the conference report on H.R. 5095, the Intelligence Authorization Act for fiscal year 1993. House Resolution 587 provides for consideration of one of the most important pieces of legislation that the House of Representatives must pass each year—the bill authorizing all appropriations for the intelligence and intelligence-related activities of the United States.

As explained by the gentleman from California [Mr. BEILENSON], who served with distinction as chairman of the Intelligence Committee during my years of service on that committee, this rule waives all points of order against the conference report.

The chairman of the Select Intelligence Committee, Mr. McCURDY from Oklahoma, and the ranking member, a gentleman for whom I have the highest degree of respect, Mr. SHUSTER of Pennsylvania, came before the Rules Committee and together asked for this rule.

These two gentlemen do an outstanding job of directing our intelligence efforts. Once again, I repeat, this Intelligence Authorization Act is one of the most important bills brought to this floor. It often involves life or death matters for freedom's friends around the globe, and also our Nation's national security interests in the coming years.

The chairman and ranking member came to the Rules Committees and brought a bill to the floor under an open rule. Their conference report now requires points of order to be waived regarding the 3-day layover for conference report, and for a number of technical matters, including the scope of the provisions dealing with the National Security Education Program.

Mr. Speaker, I share the concerns that Mr. SHUSTER expressed before the Committee on Rules yesterday. This bill underfunds some of our most important intelligence programs. A capable intelligence system is not something that can be built and stockpiled like tanks and missiles—if you need more intelligence at some future date, you cannot turn some assembly line back on having killed your sources.

We saw the tragedy of that in the 1970's and have made tremendous strides in the 1980's. Now we are perilously on the edge of returning to the mistakes of the Turner years. We must nurture and support our intelligence system. To do anything less is irresponsible to our highest calling, keeping the Nation safe and free.

Mr. Speaker, I again thank the gentleman from Oklahoma and my friend from Pennsylvania for their dedication and for their leadership to our country. They certainly do their best protecting our Nation's intelligence secrets and interests. It is a pleasure to join with the gentleman from California [Mr. BEILENSON] in urging support for this rule so that we can consider the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, we have no requests for time on this side.

Mr. McEWEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

☐ 1010

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

When I first was appointed to the Select Committee on Intelligence in January 1991, we were thrust into the middle of Desert Shield and Desert Storm. I received an instant lesson on the capacity and the dedication and the service of the intelligence community of our country, not only in national security matters per se, but in all things touching upon our Nation and what it means in the global community.

Since that time we have heard many people question whether or not we need an intelligence community any longer. Since the cold war is over, why do we have to watch what the Soviet Union, our arch enemy of the past, might or might not do? But events since then have shown that not only do we need an intelligence community to stay pat and to do its work in the intelligence gathering function for which it was formed, the need may be greater than ever.

The breakup of the Soviet Union presents problems of its own which our intelligence community must produce results in human and other types of intelligence so that we can be alerted as to what might happen in the Ukraine, in the Latvia and Estonia sectors of the former Soviet Union and, of course, in Yugoslavia. Is it not necessary for us to be on top of things in Yugoslavia and in Africa, in Somalia and in South Africa?

You name the spot and we still have a national security interest to project wherever trouble may arise in the entire world.

The Intelligence Committee on which I am proud to serve must be reauthorized.

Mr. Speaker, I will support the rule and the bill to follow.

Mr. McEWEN. Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McEWEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 399, nays 2, not voting 31, as follows:

[Roll No. 451]

YEAS—399

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fawell
Fazio
Fields
Fish
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCurdy

McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—2

Crane
Washington

NOT VOTING—31

Annunzio
Barnard
Blackwell
Bustamante
Chandler
Clay
Dixon
Dymally
Edwards (OK)
Fascell
Feighan
Flake
Foglietta
Gaydos
Gingrich
Guarini
Hall (OH)
Huckaby
Kaptur
Kleczka
Kolter
Lipinski
Mavroules
McCrery
Perkins
Savage
Sensenbrenner
Staggers
Towns
Traxler
Young (AK)

□ 1034

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 5318) "An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes," returned by the President of the United States with his objections, to the House, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was resolved that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate having proceeded to reconsider the bill (S. 323) entitled "An act to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate had passed without amendment a bill, a joint resolution, and a concurrent resolution of the House of the following titles:

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes;

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War; and

H. Con. Res. 366. Concurrent resolution requesting the President to return the enrolled bill (H.R. 3379) with respect to the authorities of the Administrative Conference, and providing for its reenrollment with technical corrections.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5488) "An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1993, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5518) "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 20, 27, 28, 33, 34, 44, 45, 58, 62, 80, 90, 92, 99, 100, 149, 151, 156, 157, 158, 160, 162, 165, 167, 172, 174, 185, 186, 194, 195, 196, 197, 198, 199, 200, 201, 202, 204, 205, 206, 207, 208, 209, 210, 212, 214, 215, 216, 217, 218, 220, 221, 222, 223, 224, 225, 226, 227, 228, 230, and 233, to the above-entitled bill.

CONFERENCE REPORT ON H.R. 5095, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. McCURDY. Mr. Speaker, pursuant to House Resolution 587, I call up the conference report on the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of House Resolution 587, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, October 1, 1992, at page 29560.)

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Oklahoma [Mr. McCURDY] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. McCURDY].

Mr. McCURDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to accompany H.R. 5095, the intelligence authorization bill for fiscal year 1993. As is customary, the conference report contains classified, as well as unclassified, elements. A classified schedule of authorizations, which is incorporated by reference in the conference report, sets forth the funding levels agreed to by the conferees. The schedule of authorizations is described in detail in a classified annex to the joint explanatory statement of the committee of conference. Both of these classified documents may be reviewed by Members in the offices of the Intelligence Committee. I urge Members to take the time to examine these documents.

This conference report underscores the fact that intelligence programs cannot be immune from the spending reductions necessary if our Nation's fiscal ills are to be addressed. As passed by the House 3 months ago, this measure contained a 5-percent cut in the authorization levels for the activities, known collectively as the National Foreign Intelligence Program [NFIP] which provide intelligence to policymakers such as the President and Cabinet officers. The Senate made reductions which were similar in the aggregate to those made by the House.

In conference we were able to cut more than had been cut by either the House or the Senate. Under the conference report, national intelligence programs—those undertaken by the Central Intelligence Agency, Defense Intelligence Agency, and the National Security Agency, among others—are reduced by nearly 6 percent from the levels requested by the President. This is a substantial reduction in funding, but I believe it can be accommodated by the intelligence community without any loss in essential intelligence capabilities.

Our intelligence agencies are at a critical juncture. The collapse of the primary reason for their creation and growth—the threat posed by the Soviet Union and its allies—has left them without a clear focus for their activities. Efforts by the agencies to reorient themselves away from their traditional targets have collided with the reality that the Federal deficit ensures that the competition among national security programs for a share of shrinking budgetary resources will be fierce for the foreseeable future.

I believe our response to this situation must seek to avoid two mistakes. First, we must resist the temptation to mindlessly slash intelligence budgets in the mistaken belief that the end of the cold war means the end of our need for reliable and timely intelligence about the challenges we will continue to face as a Nation. As a result, this conference report targets its reductions in programs the conferees believed to be outdated, ineffective, or redundant, while making investments for the future in new technologies and expanded capabilities.

The second mistake we must avoid is to try to shelter the intelligence budget from any meaningful reductions on the theory that the post-cold-war intelligence community must necessarily look, at least from a resource standpoint, like its predecessor. We must not allow intelligence activities to be justified by their ability to absorb available resources rather than by their importance to the national security. The reductions contained in this conference report are a first step in an effort to match roles and missions for intelligence with the money that can be spent on them. Our goal is an intelligence community that is the right size for the future. This conference report takes us toward that goal, but we have much more work to do before the goal is attained. The definition of roles and missions will be among the committee's most important tasks next year, and I hope that we can work cooperatively with the next administration in this important undertaking.

The conference report also recognizes that the changed world situation, and declining budgets, need to be reflected in the size of the intelligence community's work force. The conferees are proposing a plan that will reduce intelligence personnel levels by nearly 18 percent by 1997, while retaining sufficient flexibility to allow agencies to maintain the infusion of new talent necessary to ensure that they do not calcify. We must strike a balance between personnel levels and investment in new technologies and equipment. The implementation of sensible, phased reductions in personnel levels will be essential to achieving that balance.

In addition to the budgetary provisions, the conference report contains a number of legislative items which will be explained in more detail by the chairwoman of our Subcommittee on Legislation, Congresswoman KENNELLY. The presence of many of these items in the conference report was the result of cooperative efforts between the Intelligence Committee and other committees of jurisdiction, including the Armed Services, Judiciary, Post Office, and Civil Service, Government Operations, and Education and Labor Committees. The assistance of the members and staff of these committees is most appreciated. At the conclusion of my remarks, I would like to include in the RECORD an exchange of letters between myself and Chairman FORD of the Education and Labor Committee which reflects the mutual interest of the two committees in one of the provisions in this conference report.

Earlier this year, the chairman of the Senate Intelligence Committee, Senator BOREN, and I, introduced legislation to reorganize the U.S. intelligence community, which has grown in an uncoordinated fashion over the last 47 years. We had useful hearings in both committees on these bills. The Director of Central Intelligence [DCI] Gates, much to his credit, decided to implement administratively a number of structural changes that were similar to some of the suggestions in our legislation. I also believe that the recent decision by the administration to publicly acknowledge the existence of the National Reconnaissance Office reflects the spirit of change that was a part of these bills.

We were advised, however, that the amendment views as its exclusive prerogative the determination of the organization of the executive branch. This is an issue that we leave unresolved for now. We will monitor the performance of the DCI's changes, and continue to make suggestions for improvement. If legislation is determined to be necessary to eliminate duplication of effort, clarify lines of authority, and consolidate functions for more effective management, I will not hesitate to propose it.

The conference report does contain, in title VII, a codification of the duties and responsibilities of certain officials within the intelligence community, and a codification of the relationship between various components of the intelligence community. While affirming the situation that has long been assumed to exist both with the respect to these duties and responsibilities, and the organizational relationships, the codification does provide a useful and appropriate measure of clarity and certainty. In addition, one of the provisions in title VII will enhance the ability of the DCI to move funds and personnel between elements of the national foreign intelligence program. This kind of enhancement will assist in the effective discharge of the DCI's responsibilities as head of the intelligence community, as was recommended in my reorganization bill.

Before closing, I want to note the contribution made to the work of the committee by six members whose service will end at the conclusion of this session of Congress. The committee's ranking Republican, BUD SHUSTER, and I have forged a very good working relationship during a time of considerable change in the intelligence community. He has encouraged, and at times prodded, the community to play a more effective role in areas like counternarcotics and he has achieved considerable success. It has been a privilege and a pleasure to work cooperatively with him in a way that enabled the committee to adopt bipartisan positions on most of the issues which have come before it.

In addition to Mr. SHUSTER, the committee will lose the services of two of its subcommittee chairs, CHARLIE WILSON and BARBARA KENNELLY, as well as STEVE SOLARZ and WAYNE OWENS on the Democratic side and DAVID O'B. MARTIN on the Republican. These members have brought varied perspectives on national security issues to the committee and made important contributions to our work.

Mr. Speaker, the conference report on H.R. 5095 has, I believe, support on both sides of the aisle. It is good legislation for an intelligence community in transition, and I urge its adoption by the House.

Mr. Speaker, the letters referred to follow:

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, September 25, 1992.

Hon. DAVE MCCURDY,
Chairman, Permanent Select Committee on Intelligence, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning H.R. 5095, the Intelligence Authorization Act for Fiscal Year 1993, and the Senate amendment thereto.

Section 304 of the Senate amendment contains several amendments to the National Security Education Act of 1991 which, under clause 1. (g) of Rule X of the Rules of the House of Representatives, are within the jurisdiction of the Committee on Education and Labor. As you will recall, during the 1st Session of this Congress, Members of this Committee were appointed conferees for those provisions of the fiscal year 1992 intelligence authorization act (H.R. 2038) which established the National Security Education Act.

Because of this Committee's jurisdictional interests, typically I would ask that some of its Members be appointed as conferees on

H.R. 5095. In this instance, however, our staffs have discussed the provisions in question and their proposed resolution in conference. Based on these discussions, I do not believe it is necessary for me to request the appointment of conferees.

I would appreciate, however, a letter acknowledging this Committee's jurisdictional interest in section 304 and ask that you insert our exchange of letters in the RECORD during debate on the conference report.

With kind regards,

Sincerely,

WILLIAM D. FORD,
Chairman.

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE,
Washington, DC, September 25, 1992.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 5095, the Intelligence Authorization Act for Fiscal Year 1993, and the Senate amendment thereto.

I appreciate your committee's jurisdictional interest in the National Security Education Act of 1991. Last year, our committees shared jurisdiction over the creation of the Act. I am pleased that our staffs were able to agree on the final form of the relatively minor changes to the Act included in the Senate amendment to the fiscal year 1993 intelligence authorization bill. I appreciate your forbearance on the question of the appointment of conferees, which will greatly facilitate the completion of our conference.

Our exchange of letters will be included in the RECORD as a part of the debate on the conference report.

Sincerely,

DAVE MCCURDY,
Chairman.

Mr. Speaker, I reserve the balance of my time.

□ 1050

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I want to thank our distinguished chairman for his very kind words. I wish to emphasize to the body that he has quite accurately described the conference report before us today.

I rise in support of this conference report, even though it certainly is not perfect. There are many good provisions in it, however. Most importantly, perhaps, we have preserved the core intelligence programs for the intelligence community serving the national security of our Nation. We have also restored very significant FBI funding, and we have restored the CIA imagery analysis office.

I am concerned, Mr. Speaker, frankly, about the size of the funding cut. Certainly some reduction is advisable, but we have cut deeper than either the chairman or I have proposed. This is of great concern. The details for all of this, of course, are in the classified annex.

We face a changing world, but although it is a changing world, it continues to be a very dangerous world and intelligence is clearly described as a force multiplier, an early warning system for the very dangerous world in which we live.

There are other shortcomings in this conference report that I believe are worth noting. One area where I took special exception pertains to providing more funds entirely from the intelligence budget for the National Security Education Act, a program for language and area studies scholarships and fellowships. There is absolutely no guarantee that the beneficiaries of this program will make any contribution whatsoever to filling the needs of the intelligence community. In my view it simply does not make good fiscal sense to authorize another $30 million for this new trust fund when the intelligence budget is under its severest constraints in many, many years.

Also, Mr. Speaker, the intelligence authorization reorganization title in the Senate bill which caused the administration so much concern has, after much negotiation, been much watered down in the conference report. Many of the original provisions to rewrite the National Security Act of 1947 were viewed as needlessly threatening the President's necessary flexibility to structure the intelligence community for the most effective conduct of intelligence activities.

The conference report, however, adopts reorganization provisions which are largely harmless and minor nuisances. In short, this particular reorganization provision might be described as being from the Tammie Fay Baker school of legislative cosmetology: rather harmless.

The reorganization title does, however, include a modest but useful expansion of the authorities of the Director of Central Intelligence to transfer funds and personnel between the programs of the National Foreign Intelligence Program, and once again this year, the conference report includes a Senate provision, I underline, a Senate provision, not a House provision, expressing the sense of Congress that the overall intelligence budget totals should be publicly disclosed each year.

This is a recycled canard which will not provide the American people with any meaningful understanding of the relative costs versus benefits of funding intelligence activities. I am very thankful that the provision is not written into the law itself.

There are other shortcomings in the conference report worth noting. I believe I have covered the various most important shortcomings, in my judgment, Mr. Speaker.

Before I close, Mr. Speaker, I would like to say that as I conclude my 6 years on this committee, I certainly want to salute our distinguished chairman, who has made and is making an enormous contribution to the well-being and national security of our country, as well as every member of the committee on both sides of the aisle and the extraordinary staff which we have supporting us on both sides of the aisle.

While it is necessary that so much of what we do be highly classified, in one respect it is too bad that it is so highly classified, because some of the most important things we do simply can never be discussed. The Permanent Select Committee on Intelligence has made a significant difference over these past years, Mr. Speaker. I refer specifically to Desert Storm. It can be said categorically that American lives were saved in Desert Storm because of programs that not only were supported by the Permanent Select Committee on Intelligence, but were initiated and championed by the Permanent Select Committee on Intelligence.

Indeed, it can also be said categorically that some of the most extraordinary successes in our war against drugs, against illegal narcotics around the world, some of those most extraordinary successes took place as a result of programs initiated and supported by the Permanent Select Committee on Intelligence. People are freer around the world today because of the support of Members on both sides of the aisle of the Permanent Select Committee on Intelligence.

I wish we could talk in detail about the successes. We obviously cannot, because they are classified, but it can be stated categorically that these kinds of extraordinary accomplishments were made possible because of the dedication and the patriotism of the Democrats and the Republicans who worked together on a bipartisan basis on this very important committee.

Over my years in the Congress, Mr. Speaker, I have had the privilege of serving on the Committee on Public Works and Transportation, the Committee on the Budget, the Committee on Education and Labor, the Committee on the District of Columbia, and the Permanent Select Committee on Intelligence. I can say without hesitation that the Permanent Select Committee on Intelligence provides us with the opportunity to make an unparalleled contribution to the well-being of our country. America is more secure today because of the dedicated men and women who serve on this extraordinary committee.

From the bottom of my heart I am thankful for the privilege of having been able to give this service to the Congress and my country.

Mr. Speaker, I reserve the balance of my time.

Mr. MCCURDY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY], the chairwoman of the Subcommittee on Legislation of the Permanent Select Committee on Intelligence.

Mrs. KENNELLY. Mr. Speaker, I rise in support of the conference report on

H.R. 5095, the Intelligence Authorization Act for fiscal year 1993. This legislation is an important step in reordering the Nation's intelligence community to reflect the new realities of the post-cold-war era. The reductions in funding and personnel levels contained in the conference report, and the legislative provisions pertaining to the community's organization, have been ably described by Chairman MCCURDY.

In addition, the conference report includes many legislative measures this year. All of the legislative provisions in the House-passed bill were included in the conference report without significant change, although the restatement of the Central Intelligence Agency Retirement Act includes more specific language spelling out how the Agency is to treat the right of a qualified former spouse of a participant in the Federal Employees' Retirement System [FERS] to a share of the thrift savings plan account. In short, the qualified former spouse is entitled to 50 percent of the amount that accrued in the account during the marriage, payable in a lump sum, upon receipt by the Director of Central Intelligence of proper documentation following divorce. We expect the Director to take steps to protect the rights of qualified former spouses to their share of these funds prior to the date payment is made.

The conferees also adopted all but one of the legislative provisions included in the Senate amendment. The conference report includes several technical amendments to the National Security Education Act [NSEA] of 1991, renamed by this measure in honor of Senator DAVID L. BOREN, who has championed the program. Among other measures, the conference report increases the trust fund authorized under the NSEA Program by $30 million and expands the membership of the National Security Education Board to include the chairperson of the National Endowment for the Humanities and two more education experts from outside the Federal Government. In addition, the conference report strikes the requirement that the program be administered by the Secretary of Defense through the Defense Intelligence College, which had proven to be impractical. In response to administration objections, we did not include the Senate's language that the Secretary establish an independent center for international studies to administer the program. Nevertheless, it should be emphasized that it is the Board with its broad membership including educational and nonintelligence Government viewpoints which establishes policies governing the criteria and qualifications for making awards. In addition, the law prohibits any person who receives assistance under the act from being used for intelligence purposes under any circumstances while pursuing his or her education.

As a supporter of the goals of the NSEA, I see it as a program of tremendous potential. Unfortunately, we are not near the point of realizing that potential. I am disappointed the administration has not managed to send to the Senate for confirmation its appointments to the National Security Education Board on a timely basis. This failure will prevent the Board from convening and setting forth the regulatory foundation that must be in place before scholarships, fellowships, and grants are awarded, for at least another 4 months, and may mean there will not be awards for the 1993–94 academic year. Furthermore, although I am aware that there are difficult administrative questions underlying this program, I remain concerned that there be an emphasis on keeping the administrative costs and complexities to a minimum so there is maximum benefit to students and scholars pursuing foreign languages and area studies. I am hopeful this can be done and I will continue to monitor implementation of the NSEA.

Finally, I would like to thank you, Mr. Speaker, for granting me the honor of serving on the Intelligence Committee over the past 6 years. I have been a member during difficult and challenging times. The issues facing the committee have been complex, but they promise to be no less so in the future as we struggle as a nation to define what we mean by national security.

□ 1100

And I would like to thank the gentleman from Pennsylvania [Mr. SHUSTER], the ranking member for his courtesy in always being willing to discuss issues with me as a Member. And obviously I would like to give great thanks to the chairman, the gentleman from Oklahoma [Mr. MCCURDY], who has given so much of his time through the years as a Member of the Congress of the United States to this committee, sitting in that room at the top of the Capitol and giving an effort and an ability to understand these very complex problems, and being willing to continue as its chairman and its leader.

I also would like to state today that I have been incredibly impressed by the intelligence, the dedication and professionalism of the staff of the Intelligence Committee. These are very difficult matters that we address for a person like myself who was never able to have the opportunity or the privilege to serve in the armed services, and to be able to serve on this committee and yet be backed up with a supportive professional staff so that I can make known the feelings of the persons outside in the community concerning our intelligence community, and I thank the staff for that. It has been an honor and a privilege to serve on the Intelligence Committee, and I would say to my fellow colleagues, as next year comes about, give some thought to giving some time to your country by serving on this committee.

Mr. SCHULZE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I appreciate the gentleman yielding me the time. I certainly want to rise in support of this conference agreement, Mr. Speaker, but I do want to wholeheartedly endorse the reservations that were expressed by the gentleman from Pennsylvania on some of the areas of funding and cutbacks. But I think this is probably reflective of a lot of hard work that did restore some of the things that had concerned us earlier.

The main reason that I wanted to take the opportunity to take just a moment was to bid farewell from this committee to a gentleman that I have had an opportunity to work with for 4 years, and it has been a true delight. This has been I think, maybe one of the most or somewhat most difficult, and maybe equally challenging times to go through with the world moving out of a cold war. Certainly the chairman and the ranking member have done a wonderful job in moving through a tremendous reorganizational effort of the intelligence community. This bill is much better because of the very personal, hands-on approach by the gentleman from Pennsylvania, and the people who strongly believe in a strong intelligence community owe a tremendous amount of gratitude to him. If it had not been for that perseverance and persistence, I think many of the things which we were able to win in this bill would not have come about, and the gentleman I think should have tremendous commendation for that, because he has done a phenomenal job. And it has been a pleasure, and I assure you that the committee and the community will sorely miss his leadership and his guidance. He has left a mark that will be well remembered into the years to come.

Mr. MCCURDY. Mr. Speaker, I just want to yield myself a couple of minutes here to conclude.

Mr. Speaker, I want to identify with the remarks of the gentleman from Texas [Mr. COMBEST], again in stating the belief of Members of both sides of the aisle that the gentleman from Pennsylvania [Mr. SCHULZE] will be missed, and we certainly have appreciated his service on the committee.

Mr. Speaker, I want to take a moment as well to express my desire to be working with the gentleman from Texas [Mr. COMBEST], who will be the ranking member in the next Congress, and I look forward to that association. I guess it is a true mark of the bipartisanship of this committee when we have two Members that face off on opposite sides of the Red River being able to work as well as we have been able to do.

Mr. Speaker, none of us could work and be effective without strong committee staff, and of all of the committees in the Congress we were the one that reduced our operating budget this year voluntarily. But I want to make it clear that we have I think, as professional and as high quality a staff as any committee in the Congress. They are truly dedicated, intelligent, and provide great service to us.

Also, Mr. Speaker, because of the jurisdiction, we work very closely with the committee members and staffs of the House Armed Services Committee, and also the House Appropriations Committee. And I also want to take a moment just to note their professionalism and our strong working relationship that we have, and we obviously appreciate that fact.

Mr. Speaker, earlier today we had you in the chair, and we had the gentleman from California [Mr. BEILENSON], handling the rule, and the gentleman from Ohio [Mr. MCEWEN] handling the rule, and all three of you have likewise served on the committee. I think it is important to note that again it is not something that people send press releases back to the district on, but it was nice to have those Members in the chair and managing the rule that had experience as you had, and I think it is important that we note that as well.

Mr. Speaker, it has been a tough 2 years, and a lot has happened with the gulf war, the collapse of communism, and the Warsaw Pact. But I can assure Members that there are many, many serious challenges out there and great instability in many places around the globe. The Bosnias of the world are going to be numerous in the future, and it takes quality intelligence in order to serve our Government well. We believe that this committee is important and plays an important role, and we believe that the intelligence community is doing a good job.

Mr. SCHULZE. Mr. Speaker, I yield back the balance of my time.

Mr. MCCURDY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCCURDY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

ANNUAL REPORT OF RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce and the Committee on Ways and Means:

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1991, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

The Railroad Retirement Board (RRB) serves over 873,000 railroad retirees and their families and almost 283,000 railroad employees who rely on the system for retirement, unemployment, disability, and sickness insurance benefits. Beneficiaries depend on the financial integrity of the pension funds for payment of their benefits.

This report includes the Annual Actuarial Report, which concludes that the railroad retirement system will not experience a cash flow problem in the near future. The Chief Actuary at RRB, however, warns that "the long term viability of the system * * * is still questionable." Based on the report's analysis, if employment trends continue as they have for over a quarter of a century, the trust funds will go broke sometime between 2010 and 2016.

I continue to strongly oppose the permanent diverting of Federal income taxes to the rail pension system. Since 1983 approximately $5.4 billion in taxpayer subsidies have been given to the rail pension fund, $1.72 billion of which were from the diversion of income taxes. The Railroad Retirement Board believes current resources are sufficient to pay benefits, except under the most pessimistic assumptions, thereby rendering Federal subsidies unnecessary. Railroad pensions should be financed solely by rail sector resources.

As I stated last year, I support all equitable reforms to the system, such as privatization and the extension of rules protecting private pensions (Employee Retirement Income Security Act) to the railroad's private pension system.

GEORGE BUSH.

The White House, *October 1, 1992.*

☐ 1110

THE VETO OVERRIDE ON THE GAG RULE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, I am pleased to say the next vote, I think, is going to be one of the most important votes people will cast this year, because we are going to be dealing with the veto override on the gag rule.

I cannot tell people how strongly I feel about this, and, I think, most American women feel about this. This is an issue about whether or not the Federal Government is going to treat over half its population as adults, as adults. This is a fundamental.

In other words, if the gag rule is not overturned and we do not override this veto, what we are going to be saying to American women is we are going to be mandating malpractice for them, that even if a medical health professional thinks that that would be in their best interest, they will be unable to act upon that or tell them that because of the Federal Government. That is not the America I signed up for, Mr. Speaker.

I hope today this House stands with the other body and says that is not the America we know. This is one Nation, indivisible, and we are going to treat men and women alike, and we are going to make sure they have all the options laid in front of them.

I salute the wonderful committee that is bringing this to the floor and the chairman, the gentleman from California [Mr. WAXMAN], who has done such a fabulous job. I hope the House shall override today.

THE FAMILY-PLANNING CLINIC REGULATIONS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the gentleman from California [Mr. DANNEMEYER] is recognized for 1 minute.

There was no objection.

Mr. DANNEMEYER. Mr. Speaker, my colleague, the gentlewoman from Colorado [Mrs. SCHROEDER], could not be more mistaken in what she has just said to the House relative to what the status of the regulation is and what the House will be considering.

The regulation specifically authorizes, and I will quote from it:

> Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.

The guidance goes on to say:

> Section 59(5)(b)(1) of the regulation requires the physician to refer a pregnant woman with a health problem to medical care appropriate to her particular health problem, even if that referral ultimately results in an abortion.

That is the regulation. It authorizes a physician, working in a family-planning clinic, to do just what that regulation says.

What the regulation goes on to say is the vast majority of the counselors working in these family-planning clinics who have no training whatsoever are precluded from talking about abortion as a part of the overall function of family planning. That is what this dispute is all about.

FAMILY PLANNING AMENDMENTS ACT OF 1992—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States:

To the Senate of the United States:

I am returning herewith without my approval S. 323, the "Family Planning Amendments Act of 1992." This legislation would extend and amend the federal family planning program under title X of the Public Health Service Act.

If the scope of S. 323 were limited to family planning, I would approve it. My Administration has an excellent record in support of family planning. About this there can be no question. Our approach to reauthorizing title X was embodied in a bill transmitted to the Congress on February 25, 1991. We need a family planning program to deliver preventive, pre-pregnancy services.

Unfortunately, S. 323 is unacceptable because it would override current regulations that are designed to maintain the title X program's integrity as a pre-pregnancy family planning program. The bill would require projects supported by title X family planning funds to counsel pregnant women on, and refer them for, abortions. Such a requirement is totally alien to the purpose of the title X program. Title X is a quality health care program that provides pre-pregnancy family planning information and services and refers pregnant women to health care providers who can ensure continuity of care.

Under current regulations, upheld by the United States Supreme Court, pregnant women who seek services from clinics funded by title X would be referred to qualified providers for prenatal care and other social services, including counseling. Moreover, nothing in these regulations prevents a woman from receiving complete medical information about her condition from a physician. The Supreme Court specifically found that the regulations regarding the title X program in no way violated free speech rights.

In a memorandum to Department of Health and Human Services Secretary Louis Sullivan on November 5, 1991, I reiterated my commitment to preserving the confidentiality of the doctor/patient relationship. In that memorandum, I also repeated my commitment to ensuring that the operation of the title X family planning program is compatible with free speech and the highest standards of medical care. My memorandum makes clear that there is no "gag rule" to interfere with the doctor/patient relationship. There can be no doubt that my Administration is committed to the protection of free speech.

I have repeatedly informed the Congress that I would disapprove any legislation that would transform this program into a vehicle for the promotion of abortion. Unfortunately, the Congress has seen fit to entangle this family planning program in the politics of abortion.

I believe that the title X family planning program should be reauthorized. I now urge the Congress to adopt a bill that promotes true family planning rather than requiring Federal tax dollars to be used in a manner that promotes abortion as a method of birth control.

GEORGE BUSH.

The White House, *September 25, 1992*.

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

The question is, Will the House, on reconsideration, pass the Senate bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from California [Mr. WAXMAN] for 1 hour.

Mr. WAXMAN. Mr. Speaker, as is customary, I yield ½ hour to the gentleman from California [Mr. DANNEMEYER].

Mr. Speaker, for debate purposes only, I yield myself such time as I may consume.

Mr. Speaker, this veto is callous and cynical. The veto is callous to the needs of poor women around the Nation. And it is cynical in its pandering to the extreme right, while ignoring the mainstream of America.

The vote in the other body yesterday, a vote of 73 to 26, demonstrates that this is not a partisan debate. This is not about Republicans and Democrats. This is not about pro-choice or pro-life.

This is about free speech. This is about basic medical care. This is about the doctor/patient relationship.

We all know that poor people get very little medical care in this country. Most of that is the result of a lack of money to pay.

But in the case of this gag rule, we are talking about depriving poor people of medical advice, not because of money, but because of politics. There are good doctors, nurses, and counselors in the Federal family planning program. We are paying them to give good advice. But this gag rule will take the advice and counsel of these professionals away from poor women, women who have no place else to go.

And this gag rule is extreme: Family planning clinics have never provided abortion services. This gag rule stops doctors from warning diabetic women about the dangers of stroke and pregnancy. It stops nurses from answering point-blank questions from rape victims. It stops counselors from giving referrals even to women who ask with their husbands and families.

The gag rule is wrong. It is bad medicine. It is bad law. It is bad policy. And today I hope we can show that it is bad politics.

For the free speech of doctors and nurses, for the basic health of poor women, and for doctor/patient relationship, I ask my colleagues to override this veto.

Let me describe the basic provisions of the legislation that we are discussing. This conference report is to reauthorize the Federal family planning program, to overturn the gag rule on health professionals in family planning clinics, and to require that these clinics comply with State law that is in force regarding parental notification or consent for minors seeking privately funded abortion services.

REAUTHORIZATION IS IMPORTANT

The Federal family planning program is a key element in the Nation's effort to improve maternal and child health, lower infant mortality, and lower the rates of unwanted pregnancy and abortion in the United States. Over the years, expert review and medical research have always arrived at the same commonsense conclusion: The best solution to unwanted pregnancy is to prevent the pregnancy.

Unfortunately, this program has been held hostage in the abortion debate for a very long time. The program has been proposed for repeals, block grants, freezes, and restrictions. It has not been reauthorized since 1985 and has not had significant funding increases since its last authorization. In fact, in constant dollars adjusted for inflation, the funding of the program and its ability to provide services to poor women have declined by more than half.

The tragic result is that routine contraception services have been limited over the last decade, and that has meant unwanted pregnancy and, in turn, unnecessarily high rates of both low-birth weight babies and abortions.

With this legislation, I hope that we can expand these services and move beyond the abortion debate to the health debate. The continued use of the family planning program as a pawn in the abortion debate is self-defeating, leaving poor women with fewer and fewer ways to prevent pregnancy.

THE GAG RULE IS WRONG

We should also move to eliminate restrictions on the ability of poor women to get the best medical advice of the health professionals who provide them services. The administration has proposed regulations to limit the ability of doctors and nurses to counsel and refer patients or even to answer point-blank questions with truthful responses.

This regulation—which is known as the gag rule—is bad medicine, bad law, and bad precedent. Title X patients—most of them poor—will not get medical advice about their pregnancy but political advice. They will not get informed consent; they will be told what to do.

This is not right. The Supreme Court may say that it is constitutional, but it is not right.

This legislation would reverse the gag rule and replace it with a codification of the guidelines that were issued by the Reagan administration on how a family planning clinic should deal with a pregnant woman. This is a simple approach: If a patient requests information on pregnancy options, she should be given that information. It should be non-directive, it should be complete, and it should be true.

This has been the practice of the program practically from the time that then-Congressman Bush first spoke in favor of it and voted for it. It was formalized by the Reagan administration. It is supported by all health provider groups, including the American Medical Association and the American Nurses Association. It should continue to be the policy of the program.

STATE LAW SHOULD GOVERN ON PARENTAL NOTIFICATION FOR MINORS SEEKING PRIVATELY FUNDED ABORTION SERVICES

Finally, this legislation contains a House amendment to require that clinics receiving funds under this program comply with any State law in force that provides for parental notification or consent for minors seeking abortions.

The first thing that I want to make explicit is that title X funds cannot be used to perform abortions. Nothing in this report changes that policy. This provision affects only title X clinics that provide abortions with totally separate, non-Federal funds.

The amendment requires that these clinics comply with State law that is in force on parental notification and consent. Like the House, the conferees took this approach because of the widely varying provisions of State parental involvement law. Some States require it, some States do not. Some States make exceptions for medical emergencies. Some States allow notification to grandparents. Some States allow counseling by clergy instead.

Rather than superseding this variety of laws, the conferees chose to recognize these laws in a States' rights manner. It would be inappropriate to override State laws in this extremely complex area through a small grants program.

SUPPORT THE CONFERENCE REPORT

In closing, I would simply reemphasize that the Federal family planning program is our best hope to achieve many maternal and child health goals. To reduce unwanted pregnancy we should make family planning widely available. To lower abortion rates we should give women the ability to prevent pregnancy. Family planning is not the problem. It is the solution.

□ 1120

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I stand in awe at the persistence of those who think abortion ought to be a legitimate option in a family planning clinic. They seek to advance the cause of abortion by using tax-supported family planning clinics as steering centers for abortion clinics.

Now, I have heard the term "right-wing extremists," "the extreme right-wing." I suppose that includes Governor Casey of Pennsylvania, I suppose that includes a lot of people, millions of people who oppose abortion because it kills a defenseless, vulnerable, innocent human life once it has begun.

This fetus is not a goldfish, it is not a pollywog; it is a tiny, microscopic member of the human family. And when you kill that little member of the human family, using the euphemism reproductive rights or choice, it is abortion you are talking about. When you kill that tiny baby, you kill a member of the human family, you kill his or her progeny generation after generation.

But, no, you want to do that and you want the taxpayers to pay for it.

Gag rule? What about the blindfold rule? What about your refusal to tolerate informed consent? You did not bring up the Freedom of Choice Act here because you are afraid that the Members will put an informed-consent amendment which would tell a woman when she goes in that she is talked to by a doctor. Abortions are surgery, surgery; it is not piercing an earlobe. And it can involve perforated uteruses, infections, it can involve scar tissue. I do not want a counselor, who is usually a volunteer, I do not want a receptionist advising a woman who wants information about abortion. Let the doctor do that. It is medical advice, and the doctor, only, should give it. No, you are for a blindfold rule.

The Supreme Court, in Rust versus Sullivan, has said it is perfectly constitutional for Congress to pay for family planning, which is to keep you from getting pregnant or to help you get pregnant but has nothing to do with abortion. All you have to do is look in the yellow pages and you can find abortion clinics all over. But abortion is killing. It offends a lot of people who do not want their tax dollars spent for it. And we are not members of the extreme rightwing.

Can we not have a debate on this issue without demeaning and insulting each other? I do not call you the extreme leftwing.

Mr. WAXMAN. I yield myself such time as I may consume.

Mr. Speaker, family planning programs do not provide abortion services, and no one is seeking them to provide these services. But this gag rule will not even allow a doctor in a family planning clinic to explain to a woman that an abortion is an option for her to consider. And there are times when that is an appropriate consideration.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. I thank the gentleman for yielding.

Let me say one more time what the gentleman just said: There is not 1 Federal cent going to abortion, not 1 Federal cent. This is about a family planning clinic where a woman goes in and may be pregnant, and that can be a life-threatening condition for many women.

Pregnancy can be very dangerous for many women. And what this says is, if that clinic gets Federal money, a nurse or a physician assistant or any health professional cannot tell her her rights. Yes, a physician, supposedly, can. But let me tell you, physicians' assistants and nurses and everyone else are gagged.

The President wanted to gag physicians, too; he only backed off of that because he decided they were too powerful an interest group.

Mr. WAXMAN. If the gentlewoman would yield, I just want to, I must point out, that physicians are in fact gagged. This administration tried to make it seem that physicians could counsel women and refer them to an appropriate place where they can get abortion services because these clinics do not provide those services. But if they want to know where to go to get them, they ought to be able to tell them. A doctor cannot do it. Under this regulation, a doctor could only say, "Here is a list of the places where you can get prenatal care." They may provide abortion services. A woman might say, "Doctor, I want an abortion. Which of these may I go to for an abortion?" The doctor cannot even talk to the woman and tell her where she can get that service. A physician cannot even give her that information. It is outrageous.

Mrs. SCHROEDER. A physician has half the gag in his mouth, but a physician's assistant, nurse, or anyone else has a total gag in their mouth.

Mr. WAXMAN. That is right.

Mr. DANNEMEYER. Mr. Speaker, I yield myself 2 minutes.

I want to say to my colleague, the gentleman from California [Mr. WAXMAN], maybe he did not hear the previous comment, but the regulation that we are talking about, and I will quote it again:

Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.

And section 59.5(b)(1) of the regulation requires the physician to refer a pregnant woman with a health problem to medical care appropriate to her particular health problem even if that referral ultimately results in an abortion. There is no gag rule on a physician by that language. A physician is at liberty to use the full gamut of his or her professional services with respect to that refusal.

Now let me relate back, if I may, for just a moment as to how family planning started in 1970.

None of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning.

And in the debate of the Committee on Energy and Commerce in 1970 which considered this, section 1008, and I am quoting from the committee report:

The committee members clearly intend that abortion is not to be encouraged or promoted in any way through this legislation.

That is what this law said from the very beginning.

You keep referring back to something in the Bush or the Reagan administration, and it is true that in the Reagan administration a regulation came into existence because family planning clinics around the country were violating the express prohibition in the law that was debated and clearly understood in 1970. That is why this regulation came along. The regulation, as I say, permits the physician to give all the advice that is necessary and the restriction on advice relates to those voluntary counselors, some 500, who have no training in this issue at all.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. SCHEUER], one of the original authors of the family planning program from the Congress of 1970.

Mr. SCHEUER. I thank the chairman.

Mr. Speaker, I want to make it clear that the doctors of America consider that the gag rule applies to them. Let me give you a statement that they made; that is, the American Medical Association:

The AMA strongly urges your firm commitment to S. 323. The gag rule—

Now this is doctors speaking—

The gag rule prohibits free and full exchange of complete medical information between patients and health professionals. The regulations compel physicians to violate their legal and ethical duties to provide complete and objective followup referrals.

Now, that is doctors speaking.

Mr. Speaker, the Family Planning Services and Population Research Act, which Senator Joe Tydings and I proposed in 1970, is a hallmark piece of legislation benefiting women and young couples. Its purpose then and its purpose now was to make family planning available to the 5 million or more American women who were lacking these services. No one can question the enormous value and benefits of the program, and I am proud to have been one of its two principal original sponsors.

□ 1130

Now, here 22 years later when the entire civilized world, the entire developed world, affords free and unfettered family planning advice to its women, the United States alone is holding back and is limiting what doctors, nurses, counselors and other health professionals can advise their women.

We are faced now with monumental problems among women, of runaway teenage out-of-wedlock pregnancy rates, runaway high instances of sexually transmitted diseases, and of course, something that was not known 20 years ago, the pitiful, tragic, heartrending AIDS epidemic. I cannot imagine what the statistics would be if there were no family planning clinics to which low-income women could go for checkups and for family planning counseling and services.

Twenty-two years later, the Federal Family Program has been gagged by the discriminatory practices that restrict a women's access to her constitutional right to an abortion and denies a physician's and counselor's right to free speech.

The doctors consider that they have been gagged. Yesterday the threat of a gag rule became a reality. Now title I doctors are forced to gag themselves and refrain from providing women with information about pregnancy options, women who now must be told that in effect their options only truly begin once the child has been carried to full term.

Many family planning clinics around the world refuse to be gagged. As a result they are being forced either to cut back services or to raise prices for those services. Either of these options would be a tragedy.

Those who are forced to rely on government for health care, including family planning services, are being denied comprehensive pregnancy counseling.

The President said a few weeks ago that he would respect his granddaughter's decision to terminate an unwanted pregnancy. If he can accept her decision, how in the world in good conscience can he deny this basic, fundamental right to those women, who like his granddaughter, wish to exercise their option.

I strongly urge my colleagues to override the President's veto of this vital piece of legislation. It is the power to restore fairness to family planning services and to give information to women absolutely necessary, uniquely necessary, to make complete, informed, and responsible family planning decisions.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Speaker, the long, tortured history of this debate really is frustrating to those of us who have tried since the mid-1980's to build a wall of separation between family planning and abortion, so that we may maintain a consensus in this country in support of public funding for family planning. That consensus will be shattered if and when we ever destroy the wall that separates it from abortion.

The history of the opposition to these regulations, which are eminently reasonable and based on sound evidence and analysis of practices that took place in these clinics prior to the implementation of the regulations has been truly astounding.

First, the opponents said they are unconstitutional. The courts made it clear that is not the case.

Then they said it would stop doctors from giving basic and necessary medical advice to women. The President clarified that through the regulations to make sure that everybody understood there was no chance of that.

Then, of course, the opponents said, "We're going to still seek to overturn it legislatively." They have failed so far down that avenue.

Now the opponents are again back in court saying the regulators need to be overturned. Why? Precisely because the President clarified the role of the doctor, and the argument is, well, we need to relitigate the entire thing, based on these new regulations.

And to make the matter more appalling, yesterday as the regulations went into effect, we find clinics across the country saying simply:

We don't care what has happened legislatively. We don't care what has happened in court. We don't care what the regulations say. We are simply going to disobey the law.

The effort to make sure that the Federal Government subsidizes abortion counseling and referral has truly been remarkable, Mr. Speaker. Indeed, its success would be tragic. There does exist in this country today a consensus that we should support family planning. It does not exist if you say family planning means advising people on getting abortions, and that is exactly what this issue is about in its bottom line.

The gentleman from New York made the point. He said we are the only Nation in the world that does not provide advice to people about all their options, not information, advice. That is precisely what we are seeking to prevent. We are seeking to prevent personnel who are not doctors, counselors, nurse, and others, from advising people to have abortions.

As long as we can keep that out of title X, the American people support family planning. Once we tear that wall down and put the Federal Government in the business not just of allowing, not just of funding, but of promoting, advising and encouraging abortions, you are going to see the consensus for family planning that exists in this country collapse.

I hope that does not happen. I hope the House will sustain the title X regulations, which are well-conceived, sound, and if allowed to work will not be proven to have the dire effect that the opponents have indicated.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, the reason the fact that the previous speaker talked about are true is because, yes, family planning is very much a part of the fabric of this country. Now that we have got into this situation, the reason first and foremost why we are having the argument is because it is about first amendment rights.

By vetoing this legislation, the President has told low-income women who use family planning situations that they do not have the same rights as those across this country who are better off.

We have told health providers by this veto that they cannot follow their true medical and clinical judgment in counseling.

This bill is important. It is about family planning. It seems to me it is so strange that it is vetoed by a man who stood on this very floor as a Member of this body and was one of the strongest advocates for family planning, so I find this veto very disingenuous, very worrisome.

The second thing that this whole situation today is about the veto. Vetoes are not leadership. It is time for us to say that to the President, as the Senate said it yesterday very loud and very clear in its override.

I urge my colleagues to do the same. Let us relegate the gag rule to the asterisk in history where it belongs and put things back on track.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I would like to make three points this morning.

First of all, at Family Planning Clinics nobody urges anybody to have abortions. If you have ever dealt with a woman, who is pregnant, you would never put yourself into the position of making a decision for that person about what to do about the pregnancy. It is far too big a decision, and one with lifelong consequences for any of us ever to want to influence.

Furthermore there is literally no evidence that has been presented by those who oppose these regulations that our family planning clinics are influencing or promoting the option of abortion. All these clinics are doing is giving women full information as to their options. They can have prenatal and well-child care to carry that child to term and care for it the rest of their lives, they can put it up for adoption, or they can terminate the pregnancy. All these clinics do is present the three options, usually by providing lists of providers who can advise in each case.

Women in a free society have a right to know what their legal choices are and how to pursue the course of action of their choice.

Second, there is a very big problem with these regulations, as written because they say that doctors only can provide this information. The reality is that the people who use these clinics have no insurance, and therefore no access to a doctor. These clinics for the most part do not have doctors on site. So there is a certain hyprocrisy in saying, "We don't mind if you have the information. You just have to get it from a doctor, a source that you don't have access to."

In a free society, there is a difference between knowledge and action. All we are talking about in the legislation is assuring women having knowledge, the information they need to empower them to make the decision that is best for them in their lives, a decision that is in harmony with their most fundamental beliefs. That is what we are talking about here, freedom to have the information, the knowledge, the power that you need over your own life.

Those who oppose this bill oppose it because they disagree with the actions that some women might take. I understand that disagreement. It is a very big issue in our society. But this legislation does not fund abortion and does not encourage abortion. It only assures women full knowledge of their pregnancy and choices.

Beyond that, in a democracy, women must be trusted to make morally responsible decisions.

The gag rule regulations are a disgrace to free America. I urge your support of overriding the President's veto.

But opposing the action is an entirely different matter than opposing knowledge and the free flow of information in a free society. That is a constitutional issue.

Mr. Speaker, I urge my colleagues to support override.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, for more than a year now we have been fighting the administration's attempt to infringe on our fundamental rights. The gag rule violates the right to free speech, the relationship between doctor and patient, and the fundamental respect this country owes to women.

The gap rule creates a two-tier medical system in which poor women are denied access to the same information available to those with private health insurance. This is a betrayal of democratic principles and a betrayal of family values.

The gap rule shows that this administration is more concerned about pandering to political pressures than providing equal treatment to women or protecting freedom of speech.

Earlier this week, we failed to override the President's veto of family and medical leave. If we do not act today to override the President's veto, we are allowing censorship to become law.

My hope for the future is that we have a President who will truly be pro-family and help erase the Reagan-Bush legacy of political expediency and family neglect. Until that time, we have no other option. We must vote to override the President's veto.

Mr. DANNEMEYER. Mr. President, I yield 2½ minutes to our distinguished colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, it is amazing listening to this debate—the kinds of misleading statements we are hearing, the shrinking from what we know to be the truth. When we ask the proponents of abortion if they are for abortion on demand with no restrictions, they run and hide from that. When we demonstrate that they are for abortion, abortion without restrictions so that it may be used as a birth control device, they also run from that.

They just said here on the floor that family planning clinics do not promote or perform abortions. We know that is not the case. The leading provider of abortions in the United States is the Planned Parenthood organization.

They say no one pushes abortion. Well, let me tell my colleagues this. I am going to present a very slick piece put out by Planned Parenthood of Houston and southeast Texas and just go through a couple of their statements. They are quite misleading; for instance, when they push for title X moneys to be used to counsel for abortions, they say:

"Unfortunately title X has been attacked by groups and individuals opposed to Federal support for contraception as well as abortion."

No one here is saying that we are against contraception, so they even mislead in their own brochures. They work very actively to promote that title X moneys be used for abortion. In their own piece it says:

"Moreover, the proposal would violate a woman's right to choose abortion."

They want to promote abortion and that abortions be performed in their clinics. They blatantly promote abortion in their piece. It says:

"The decision to have an abortion is an intensely personal decision which is best made by the woman involved, without government restrictions. No woman should be denied abortion services solely because of her age or her economic circumstances."

Then they say:

"Planned Parenthood is committed to a pro-choice position. We believe that a woman must have access to all reproductive health options."

What they are talking about is that they want to use abortion as a birth control device because they listed contraception, prenatal care, abortion and adoption as options. They are blatantly promoting abortion.

And it was said earlier that no one pushes abortion in these clinics. Well, I have got a quote here from a GAO report which describes how a woman was pushed and coerced into having an abortion by a family planning clinic. She says too many people are literally encouraged to use abortion as a birth control device because of its availability. She also says it was the only solution offered.

Vote to sustain the President's veto.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise today in strong support of S. 323, the Family Planning Amendments Act which overturns the gag rule, and urge my colleagues to override the President's veto of this bill.

Title X is a primary health care program intended to make family planning services available to low-income women.

This bill is not about abortion—title X funds may not be used to perform abortions. Rather this bill is about the Federal Government telling health care professionals what they can and cannot tell patients about their health care options. Health care professionals must be free to provide information to low-income women that can be obtained by women who can afford the services of a private physician.

This is also a free speech issue. To gag health care professionals is to compromise the health and rights of women.

Let us not forget that this bill also provides resources for family planning programs which serve women seeking to avoid unplanned pregnancies.

Let us check our political agendas at the door and vote for a bill that ensures women both access to health care and the ability to make informed health care decisions.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. For a woman with an unintended pregnancy, Mr. Speaker, any decision to terminate the pregnancy, to carry the child to term, to raise the child herself, to give up the child for adoption, has enormous implications in that woman's life. With this veto George Bush tells poor women to use guesswork to make those decisions. He is telling poor women they cannot expect the informed information from nurses and social workers in title X clinics as women do who can pay for those services in fancy clinics.

My colleagues, a vote to override is a vote to stop making poor woman the victims of medical censorship. It is as simple as that, and for those reasons we ought to override George Hebert Walker Bush's veto today.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I rise in strong support of overriding the veto of the family planning reauthorization.

Members of the House, this is it. The override vote is the last opportunity we have to repeal this deplorable regulation before it becomes permanent.

This is not a pro-life, pro-choice issue. Rather it is one of gender, income, and free speech.

In a few short minutes, each and every one of you will determine the fate of 4 million low-income women who depend on the Federal Government for their health care.

As a woman, I find it offensive that this House is struggling so hard to pass legislation that simply enables women to make informed decisions about their reproductive lives.

But even beyond that, every one of us should be up in arms over this flagrant abuse of regulatory power. By prohibiting certain information, the gag rule eliminates low-income women's options and controls their choices. Congress cannot condone policies that censor the medical information received by people who are dependent on the government. We should not accept or tolerate in this body the Federal Government dictating our medical treatment of our women in this country under the pretense of moral correctness.

Furthermore, perhaps someone could tell me why a woman's right to pregnancy counseling should be determined by a group of individuals in Congress, none of whom will ever see the inside of a family planning clinic.

Members of the House, it is time to put to rest the gag rule debate. Let's get the facts straight. Title X clinics do provide family planning information and gynecological exams to approximately 4 million low-income women. Title X clinics do not use Federal funds for abortion services.

Why is it that this Congress continually struggles to pass bills designed to aid the health of women and families?

Nationwide, women will watch to see today who votes for them and who votes against them. And trust me, in 4 weeks they will not forget. We refuse to allow the Federal Government to blatantly violate basic principles of freedom and equity in our Nation.

□ 1150

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, as of yesterday thousands of women in the Commonwealth of Virginia will no longer be able to get complete, accurate, confidential medical information because for that medical information they are wholly dependent upon the 118 family planning clinics operated throughout the State, but because of economic necessity those family planning clinics had to decide that it was necessary to compromise the rights of their patients and the integrity of their medical care professionals.

The White House tells us, "It doesn't matter. We haven't gagged doctors." How duplicitous, how disingenuous to say that, when they know that 98 percent of the services in these family planning clinics cannot be provided by doctors because we cannot afford to have doctors providing these services. Ninety-eight percent of the services are provided by medical care professionals with extensive experience, fully capable of providing that information but now gagged from doing so.

Mr. Speaker, there is a human face to this issue. It is of a very young woman living in poverty with at least one child who is wholly dependent upon these services and who cannot go to any private physician's office. It is not fair what we are doing to her.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, beginning yesterday, in order to receive Federal funding, family planning clinics must comply with regulations designed to keep Federal dollars out of the abortion business. Today, the House is trying to gut those same regulations, for the fifth time in a little over 1 year.

Four times we have stood on the floor of the House and voted on this issue. Each time, abortion supporters have tried to cast this debate as one of free speech, or as one of doctor-patient relationships, or as one of family planning. This vote is not about free speech: Under this regulation, pregnant women may be referred to facilities that perform abortions, such as hospitals or community health centers, as long as their primary business is not abortion. This vote is not about the doctor-patient relationship: Under the regulations, a doctor is required to provide a woman with complete medical information about her condition. And this vote is not about family planning. The Federal Government will spend $461 million this year in direct family planning services and another $164 in family planning research, even without this particular pro-abortion bill. This vote is about abortion, and abortion is not family planning. Abortion is family cancellation.

The regulations only prohibit clinic staff from referring a pregnant woman to an entity whose primary business is abortion. The bill that the President vetoed isn't about the best interest of women's health; this bill is about spending taxpayer's dollars to drum up business for the multimillion dollar abortion business in this country. Vote to sustain the President's veto, and keep taxpayer dollars out of the abortion business.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair wishes to advise the gallery, you are welcome to be here. We are happy to have you as our guests, but it is against the rules of the House to demonstrate regarding something that is occurring on the floor.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I thank the gentleman for yielding time to me.

Yes, Mr. Speaker, we have had to come to this well several times this year to try to prevent this administration from taking the action that it did this week.

"Keep government off our backs"—we have heard that pitched by this administration over and over again. But when it comes to women, and particularly poor women, this administration has decided that it is just fine and dandy to demand Government intrusion and control. Starting this week, yesterday in fact, the gag rule began to force the Government into every consulting room of every title X clinic and to limit the medical advice health care professionals can give their pregnant patients.

Not only does this regulation restrict free speech, regardless of what the opponents claim, it widens the growing gap between rich and poor. It establishes a medical system where one's chance of learning one's full range of options depends on the size of one's paycheck. For shame. We must keep up the fight.

Mr. WAXMAN. Mr. Speaker, will the gentlewoman yield to me?

Mrs. UNSOELD. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I would just like to point something out.

Once the Government tells family planning clinics they cannot talk about abortion because they do not want women to know about abortion for fear they may choose that legal option, how far off are we from Government telling doctors not to tell elderly people under Medicare about heart bypass surgeries because it will cost a lot of money and Government may not want to spend all that money on medical care for elderly people?

Government can start telling doctors what to do and keep people ignorant of their options. Keeping people ignorant of their options and keeping them from obtaining information is a matter of life and death in many circumstances. We must let people have an opportunity to know all the facts. The medical people must be able to discuss openly and freely with patients all that they need to know.

Mrs. UNSOELD. Mr. Speaker, I thank the gentleman for making that point.

Mr. DANNEMEYER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, we must override the veto of S. 323, the family planning reauthorization. This bill is critical not only because it reauthorizes title X family planning programs, but because it overturns the outrageous restrictions of the gag rule.

The gag rule went into effect yesterday, beginning a policy that will lead to defensive medicine, will create a class system for women's health, and is a clear violation of the first amendment. Women who can afford private physician care will have complete information and access to these health services, while low-income women will be denied the same services, even when they are the victims of rape, incest, or life-threatening illnesses.

The gag rule is discriminatory and patronizing to women and it must be repealed. This is a critical vote for women, and I urge my colleagues to override the veto.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I urge this House to override the veto on this family planning bill.

President Bush says, "Read my lips." Today his lips say, "No information to poor women about abortion." I believe this is the first time in our Nation's history that poor people are being treated differently in the health area.

I cannot believe that there are really any women in America who do not know that abortion is legal and available. That is not the issue. What we are saying in imposing this gag rule is that poor women coming into a family planning clinic cannot even ask a question of a person there about abortion. There are probably poor women who want to know, how is it done? What are the different methods? Is it safe? Is it too late for me?

There is a whole host of other questions that are real and meaningful to this woman that need to be answered but cannot be answered because of this gag rule.

□ 1200

Not to be able to provide this information to poor women who ask these simplest questions I believe is Government-sanctioned malpractice. Not to be able to answer a woman's question about her options is Government-sanctioned censorship, which could severely endanger her life.

This needs to be focused. Not one single Federal penny is being spent on abortion, so that is not even the issue. To prevent needed information from being imparted to a woman about her health, not to ordinary women, but only to poor women, is an unconscionable policy.

Mr. Speaker, if we fail to override this veto, what we are saying in our country is there are two classes of people in our society, one of whom is poor people who cannot take advantage of all the information that America has to safeguard her health, to provide her options in terms of what she should do with her own body.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I hate to see the day that the gentleman from California [Mr. DANNEMEYER] leaves this House, because the gentleman has been a very important person in this body to answer some of the statements by the other side.

Mr. Speaker, I am so tired of this. Gag rule, gag rule, gag rule, gag rule. What is a gag rule? I mean, do you go to the VA hospital to see the staff, or do you go to see your doctor? Do you go to a lawyer's office to see the staff, or do you wait around for hours waiting to see the lawyer? Who are you there to see?

Does not the doctor have the right to advise you on your rights and what can happen with you? Where does the gag rule come in on this? What is the issue before us today?

Mr. Speaker, it is a liberal issue that you insist on hammering a President that is going to stand firm and who is right in standing firm, but we have got to continue to say gag rule, gag rule, gag rule.

There is no gag rule here. There is nothing to stop the doctor from standing up for what is right and telling you what your rights are as an American and as a woman are.

So let us forget about the gag rule and talk about the issues that are before us. To me that is for the right of unborn children and for the right of women to know what is right for them, for the terrible doctor who performs the abortion who can live with himself, for the person that recommends a person to go forward for it, that they have to live with themselves.

The first amendment, we want to say it is a first amendment right here. Well, it is not. The first amendment question was answered and addressed finally by the Supreme Court in the Rust decision. In the Rust decision that was handed down by the Court not friendly to the pro-life cause, they are not friendly to the unborn, and they are not friendly to the mother, but on the contrary, two of the members of the majority in Rust, Associate Justice Kennedy and Associate Justice Souter, sided this year with the majority in the case to sustain and reinforce the central holdings of Roe versus Wade and the so-called right to an abortion.

So despite the shouting by those groups, which have spent millions of dollars and 4 years trying to overturn the regulation, this is not a free speech issue. It is not a gag rule issue. The fact is they have that right, and what are we here arguing about? To say that they do not recommend it, that the staff does not recommend abortions? That is garbage. We know that is garbage, so why do we not get to the issue itself, and that is what right here.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise in strong support of this important legislation. We must override the President's veto, and we must preserve the integrity of our Nation's family planning programs.

Mr. Speaker, the previous gentleman said that we are sick and tired. He is right. The women of American are sick and tired.

This is not about abortion. It's about freedom of speech. It's about trusting American women with the information to make decisions for themselves. And it's about providing decent health care to American women.

Clinics around the Nation are as a matter of principle refusing Federal funds rather than accept Government censorship. But these clinics will be forced to reduce their services, and the women of American will suffer.

Think about it: In the midst of a national health care crisis, this veto will leave more Americans without vital health care services. That makes absolutely no sense whatsoever. At a time when we are trying to keep medical costs down, to not allow health care practitioners to give these vital services just does not make sense. As we know, the health care practitioners are providing essential services in all the clinics throughout this country. To not allow them to do it makes no sense and will raise health care costs in this country.

I urge my colleagues to vote to keep politics out of the examining room. The fundamental rights of women and health care providers are on the line today. We must do the responsible thing by overriding this veto and removing the gag from family planning clinics.

Mr. DANNEMEYER. Mr. Speaker, may I inquire what is the division of time remaining?

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from California [Mr. WAXMAN] has 12 minutes remaining, and the gentleman from California [Mr. DANNEMEYER] has 11 minutes remaining.

Mr. DANNEMEYER. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, one of the pages is going to put up a chart here. It will not be legible to anybody who follows the proceedings of this House on C-SPAN or to our guests in the gallery or to the Members on the floor, so I have a perfect facsimile of the letter from George Bush that gives the lie to what some of my distinguished colleagues have said about gagging doctors.

The chairman knows, I think he is a fair legislator and a very hard-working chairman, that all this talk about doctors being gagged is ridiculous. HENRY, it is all right here in writing. I will just read two of the four major provisions in this letter.

"Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician." That is simple English, a declarative sentence.

"Title X projects are to provide necessary referrals to appropriate health care facilities when medically indicated." Simple.

Third: "If a woman is found to be pregnant and to have a medical problem, she should be referred for complete medical care, even—" the word even is underlined in the President's actual text, though not on the chart—"even if the ultimate result may be the termination of her pregnancy," which the President and this Member feels is the destruction of a human life with a soul.

Fourth: "Referrals may be made to title X programs to full service health care providers," that incidentally perform abortions, "but not to providers whose principal activity is providing abortion services."

These grisly mills that the gentleman from Oregon heard me refer to before skim money and cheat on their 1040's. They have no purpose other than to abort, abort, abort.

Now, family planning is family planning. A pregnant women is past the point of family planning, unless she wants to kill her child for gender selection or for convenience or for a new 1993 Mustang. Once a woman is pregnant, family planning becomes moot. A doctor can tell her to go to a full service clinic, but he cannot, under the rules of this Congress and the President, refer her to an abortuary mill that does nothing else but kill human beings and send souls back to God.

Now, look at Moses up there and Mimonides, Saint Innocent III, and Saint Edward the Confessor and Saint Alphonse X and Saint Gregory and the great Saint Louis. Look at Justinian, who was well-named. Do you think any of these people on our judgment day are going to tell us, "Don't worry, you are home free. Abortion, killing children that God ordained into existence is OK."

We had 33 Members sitting up here in the northwest corner of the gallery from the people's—not—Republic—not—of China. It is the most populous country in the world. The United States is 255 million, China is 1,255,000,000. Only India is more populous.

After the dissolution of the properly named evil empire, the Soviet Union, we became the third most populous nation in the world. And we are inching, inching inexorably toward the policies of China. And if Clinton keeps his gap and survives because 20 percent of America do not know about the character issue he will have veto-proof Houses and we are going to become as abortion-oriented as Russia and all of those so-called republics under Russia.

□ 1210

We have not yet reached the point of China. And think of this simple, logical observation. In China, the word "brother" is illegal. In China the word "sister" is illegal. Almost every one of us has a brother or sister or both. In China, however, a person cannot, if they have a child, create a brother or a sister for that child. It is illegal. That country is five times bigger than we are.

I wonder what stories those 33 people from the People's—not—Republic—not—of China, Mainland China, are going to take back. They may tell their colleagues to hang on, we kill second children here in forced, coercive abortions, but America is coming our direction.

Only Romania, where the ego maniacal trip of Ceausescu outlawed abortions after they had been legal for a quarter of a century, only there among all the Communist, Godless countries was abortion looked at as something other than a medical procedure. And it is unfortunate that Romania has given the anti-abortion movement a real name among many not so well informed about this stain on our country.

Family planning is not abortion.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the chairman for yielding time to me and I thank him for his great leadership on this important issue.

Following the former speaker, I would like to bring us back to America. This is America, and we have the greatest Constitution in all the world.

And all the countries in the world that are seeking democracy have sent for our Constitution. So I think it would be really fitting to just read a little bit from that Constitution, from the great Preamble that says in part:

> We, the people of the United States, in order to form a more perfect union and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Then if we go further into the first amendment, we see "Congress shall make no law abridging the freedom of speech."

These words are beautiful words: "liberty, freedom."

Today we should be loyal to our Constitution and to those very important concepts of liberty and freedom of speech. We should overturn this gag rule, which slashes at those fundamental freedoms.

Liberty means the right to say the truth, and it also means the right to hear the truth. And freedom of speech, that is the right to talk to someone and tell them words that one thinks are important for them to hear. It is important that health care workers be free and be able to speak freely.

So this argument is not about shouting, as some of our colleagues on the other side of the aisle have said. It is about speaking, speaking the truth to our people.

The President of the United States and Members of this House who want to outlaw abortion have not succeeded in their fight. And let me tell my colleagues the reason they have not succeeded in their fight. It is because the people disagree with them. People want to see Roe versus Wade be made the law of the land, and they do not want to outlaw a woman's right to choose.

So what the President and his allies here in Congress are trying to do is stop abortion through the back door or, actually, through the front door of health care clinics. That is wrong, my colleagues. That is wrong.

When we debate whether abortion should be legal or not, when we vote on the Freedom of Choice Act, then we will vote up or down on that question. But to put a gag around health care workers, to stop them from telling the truth, to force many clinics to turn away needed Federal funds that they need desperately to provide health care in this Nation, where already the health care system is breaking down, that is wrong.

Let us overturn this gag rule. Let us stand up for liberty and freedom of speech. Let us trust our people. Vote to override.

Mr. DANNEMEYER. Mr. Speaker, I yield one and one-half minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I am very pleased to respond to my dear friend, the gentlewoman from California. She cited the first amendment. "Congress shall make no law abridging freedom of speech." But subsidy is not censorship. Unless one is able to make distinctions like this, then I think we are in great difficulty.

Freedom of speech does not require the Government to buy a typewriter or a megaphone for everybody who wishes to exercise this right. What this family planning program is is a family planning program. It is not for abortion. It is not for prenatal or postnatal care.

Abortion is not a part of family planning. So we are getting what we paid for. The same Court that just upheld Roe versus Wade, a decision that I am sure the gentlewoman thinks is a landmark in our judicial history, is the same Court that upheld Rust versus Sullivan concerning this title X issue. It is not an abridgement of the first amendment for the taxpayers not to pay for abortion advice.

We are not setting up an abortion program. This is a program of family planning. Therefore, I hope we will sustain the President's veto.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I rise to urge support for the override.

Mr. Speaker, once again, supporters of the gag rule have come out on the floor and worked to say that those in the family planning clinics are pushing abortions, urging abortions, encouraging abortions.

I would say to my colleagues, before they vote, I would ask that they look at page 2 of the bill. Page 2 of the bill says very specifically all that can be offered is nondirected counseling and information, nondirected, a program that does what so many of the supporters of the gag rule say is happening. Encouraging abortion, they lose their grant. That is it.

That is why millions of Americans join those on the floor of this Congress urging that this veto be overridden and that medical censorship be kept out of the doctors' offices. The American Medical Association has made it very clear, and our colleagues have heard an effort to distort their position. They believe that the gag rule disrupts the doctor-patient relationship. So here we have a chance to be on the side of sensible medical practice, which is to get all access to relevant medical information and ensure that none of our citizens, none, are relegated to second-class medical status.

I urge the support of my colleagues to override the veto.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding time to me.

By supporting the gag rule, Mr. Bush has decided that the women of America should not even talk about their legal options in family planning clinics. Instead he wants them to read his lips as he imposes the gag rule.

When a frightened, pregnant teenager seeks help and advice and medical information in the only place that she can get it, Mr. Bush wants her to read his lips, as he closes off access to good quality medical relevant information that she needs with his gag rule.

And when the rape victim finds herself in the most difficult of quandaries, that of being impregnated by the rapist, he would have her read his lips and deny her, the victim, of sound medical advice because of this gag rule.

Mr. Speaker, the President wants us to fund counseling agencies but he does not want them to counsel. Like a character from an Orwellian novel, he would have us support agencies which would only pretend to help.

I would urge my colleagues to vote to override this unfortunate veto.

□ 1220

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I rise today with no small amount of concern and anxiety about the position I find myself in. My President is not supportive of my formal position on the specific proposal before us, but I am reminded of the fact that my President, when he was a Member of the House, became a leader for family planning in this country. He took a second place to no one in proposing family planning effects that would work for all Americans.

It is with that in mind that I rise today to urge my colleagues to consider a yes vote. I do so simply because this pro-life Member feels very strongly that life is protected best by making sure that information is available to those who need it most.

I would use one personal illustration. A relative living with my wife and I, told my wife that she was pregnant and was going to have an abortion. After serious conversation, Arlene referred that relative to a title 10 clinic locally. After counseling, finally she said to me, "JERRY, as a result of the counseling I received at the clinic I have decided I am going to have my child."

Just a short time ago I had the opportunity to talk with that 6-year-old girl in Sacramento, CA. She would not have been there if it had not been for the availability of adequate and comprehensive title X counseling. It is very important, if we are pro-life and concerned about life in and out of the womb, that we are willing to recognize that there needs to be counseling available to all Americans in a fashion that is timely, and that provides them with the information needed to make a balanced judgment.

Mr. DANNEMEYER. Mr. Speaker, I yield 5 minutes to my colleague, the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding time to me.

Mr. Speaker, it is truly a pity and a disgrace, really, that the lives of millions of innocent unborn baby girls and boys of all races and colors have so few friends in the major media and in the 102d Congress. It seems to me to be a tragedy with few parallels in modern times, that so many of the most gifted men and women of our day, including colleagues that I like and respect, are unwilling or perhaps are politically unable, or so they think, to look beyond the ultraslick propaganda that so cleverly sanitizes the butchery of abortion.

We all know in our heart of hearts, Mr. Speaker, that the easy sophistry of choice is merely a smokescreen, an artful dodge, designed to absolve us of our responsibility to the innocent child in the womb and to his or her mother, both of whom need compassion and tangible assistance. We myopically wash our hands of the responsibility to protect vulnerable babies from suction machines, from sharp knives, and chemical poisons, and think we have done a noble thing and a good day's work.

Of course, the slick propagandists applaud and smile over the apparent success of their deception, while all the while their focus groups and pollsters suggest new and exciting ways to frame the issue in order to avoid the issue, so we get more clever and misleading terms and euphemisms like "the gag rule."

Of course, somewhere along the line, Mr. Speaker, that which is truthful, honorable, and right falls by the wayside and millions of children die needlessly while we play word games. Along the way, Mr. Speaker, children, God's most precious gift, are systematically dehumanized, devalued, trivialized, slandered, and turned into objects and throwaways.

Unborn babies' fragile bodies are cut like tumors, their skulls crushed like walnuts in a nutcracker. Poisons, including high concentrated salt solutions, are injected into babies, resulting in chemical burns, extreme agony, pain, and ultimately death. This we euphemistically call choice.

When attempts are made to end taxpayer funding for counseling and referrals for abortion on demand by nonphysicians, the issue is framed as the gag rule. Mr. Speaker, a pro-life remnant comprised of Democrats and Republicans in the House will stand tall today. Members on both sides of the aisle will join our courageous President, George Bush, in preserving the new title X regulations, regulations that are prochild, promother, and profamily planning.

I concede it is not an easy vote, because it so easily lends itself to demagoguery from certain individuals in our respective congressional districts. What else is new? By sustaining the President's veto, however, this is the right vote.

By sustaining the veto, the Members will say yes to family planning, not to abortion as a method of family planning, a position even the polls say Americans overwhelmingly back.

By sustaining the veto, Members can say yes to prenatal care.

Do not forget that the Bush regulations require a referral of an expectant mom to a provider of prenatal care. Prenatal care is the very antithesis of abortion. Parental care nurtures life, abortion destroys it.

By sustaining the veto, Mr. Speaker, we say loud and clear that pregnancy is not a disease, the baby not a cancer or a cyst to be cured by destruction.

By sustaining the veto we recognize the fact that counseling and referring teenaged mothers to abortion mills by the tens of thousands, often without parents' knowledge or consent, is a cop out of our responsibility to the welfare of the young women of this Nation.

By now the Members know that Planned Parenthood, a major recipient of title X funds, performs, counsels, and refers for over 200,000 abortions per year, and many of those abortions are on teenaged mothers.

Finally, Mr. Speaker, by sustaining the veto, we offer this organization and others, the choice: Either you are abortionists or you are family planners. Title X, Mr. Speaker, was intended to be a family planning program, not a program that facilitates the demise of America's most vulnerable minority, unborn children.

The SPEAKER pro tempore (Mr. MAZZOLI). All time has expired for the time controlled by the gentleman from California [Mr. DANNEMEYER].

Mr. WAXMAN. Mr. Speaker, I had planned to close the debate, and I will, but first, I yield 1 minute of my 4 minutes remaining to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I thank the gentleman for yielding time to me, and I appreciate my colleagues acceding to that request.

Mr. Speaker, I am not here to disagree with the arguments advanced on our side of the aisle relative to abortion. Let us make this clear what this debate is about. It is about the oath we took when we were allowed the great honor of representing people in the United States. It is about the oath we took in this well together when we raised our hands and swore that we would uphold the laws of the land. The law of the land today, like it or not, is that abortion is legal in America.

If the Members disagree with the laws, they are mandated, I believe they believe they are morally authorized to change that law, but they cannot in this country ignore that law, thwart that law, try and unfund that law. That is a direct violation of everything we stand for, of the oath that we took, of our future, and if we begin now we begin a long road to breaking that promise to the American people.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] has 3 minutes remaining to end debate.

Mr. WAXMAN. Mr. Speaker, I listened to the debate and to those who are strongly against abortion arguing that we should not overturn the President's veto because they do not want abortions in this country. I respect what they have to say and the sincerity in which they say it, but this bill is not about providing abortions or paying for abortions. It is about giving women the information that they need to make a decision for themselves.

There are some people against abortions under any circumstances. There are others that say they think that abortion ought to be performed under some circumstances, such as rape or incest. If a poor woman who has been raped comes into a family planning clinic and she wants to talk to a doctor or nurse-practitioner about the options available to her, she cannot even discuss that, even get an answer to a question about terminating the pregnancy.

□ 1230

The law had been that a family planning clinic could give a woman the three options: prenatal care, abortion, or termination of the pregnancy, but not to urge any of those options. Under the Bush administration's proposal with this gag rule, they could talk about prenatal care or adoption, but they cannot even mention the word "abortion." That seems to me unrealistic, and it is to deny people information.

The law already denies the family planning clinics the opportunity to provide abortions. That is not the issue. What this gag rule keeps from happening in a family planning clinic is a doctor or nurse or other counselor from freely, openly answering questions, maybe even answering questions that will lead a woman into changing her mind and to avoid an abortion and carry a baby to term because of the adoption option. But we should not gag the discussion and keep people from discussing all of these options.

I urge my colleagues to reject this veto, pass the bill that reauthorizes the family planning clinics, and allows all options to be discussed, and let us get on with the opportunity to avoid pregnancies through contraception and contraception counseling so that we can avoid the reason for abortions themselves which are unintended, unwanted pregnancies that may be avoided.

Mr. Speaker, I urge the passage of this legislation.

Mr. VENTO. Mr. Speaker, I rise in support of an override of the President's veto of S. 323, which reauthorizes title X, the federally funded family planning program and overturns the gag rule on federally funded family planning clinics. The President's opposition to the free flow of information in family planning clinics is typical of his administration's indifference to the needs of women, particularly low-income women who use such clinics.

The central purpose of the title X program is the provision of family planning services, but for many women a title X funded health professional is their only source of primary health care. To over 4 million women, the title X program provides important medical services, such as screening for breast and cervical cancers, sexually transmitted diseases, and maternal and prenatal health advice. The gag rule will obstruct many low-income women from gaining access to primary and preventive health care services. At a time when our country is experiencing a health care crisis, high unemployment, and a weak economy, when millions of people have no health care insurance, we must not limit or qualify the availability of primary health care services and the important flow of objective information that they provide.

The gag rule interferes with a patient's ability to get confidential advice and information from health professionals. Preventing these clinics from providing information on all options deprives a woman of the opportunity to make an informed decision about her pregnancy and other health conditions.

People have a right to know their legal options whether President Bush agrees or disagrees with such options. Counselors in family planning clinics must be able to talk about prenatal care, adoption, and about another legal option, abortion. Certainly, that doesn't mean they promote it. The administration does not trust women to make decisions for themselves. President Bush does not trust women enough to allow them access to information. This is not a question of whether or not you support the right to have an abortion. It is a question of whether or not you trust women to think for themselves. The Bush administration policy in effect would remove the discussion and knowledge concerning pregnancy to the dark ages. This is clearly irresponsible and an example of ideological polarization interfering with explaining the facts of law and legal policies.

Political ideologues need to get out of the way and let women make their own decisions. The issues of repealing the gag rule is not to allow federally funded family planning personnel to encourage women to have an abortion. This hasn't been a problem in the past and it isn't a problem today. The General Accounting Office [GAO] has reported that there is no evidence of this happening to date. The Bush administration gag rule denies women access to information, interfering with a woman's ability to make a very difficult personal decision. It ignores the fact that abortion is a legal option and confuses the knowledge of a legal option with the decision to exercise that option. Decisions concerning pregnancy are some of the most difficult and personal decisions that a woman faces. Women need the information, all the information and support that is available, not a strained version of the facts censored by a politically ideological President or Members of Congress.

Mr. FAZIO. Mr. Speaker, I rise in support of the veto override of S. 323, the family planning reauthorization bill—the bill that reauthorizes funding for the Federal family planning, or title X, program.

The scope of S. 323 goes far beyond family planning, however. The title X program also provides other preventive health care services to approximately 4 million low-income women and teenagers at 4,000 clinics across America. It also provides infertility services, as well as counseling, screening, and referral for basic gynecologic care, breast and cervical cancer, hypertension, diabetes, anemia, kidney dysfunction, sexually transmitted diseases, and HIV. Without title X, millions of American women would have no other accessible, affordable source for quality, comprehensive health care services. It is the only source of health care for 83 percent of its clients and for many of them it is the single entry point into the entire health care system.

California has received title X funds since the Public Health Services Act was passed in 1970. Last year, California clinics used these funds to provide services to approximately 450,000 clients. Twenty-six percent of these clients are under 20 years of age, and 58 percent are aged 20 to 29. This year, California family planning clinics will receive approximately $11 million in title X funds.

When we support contraceptive services—both care and supplies—we thwart pregnancies and, ultimately, the need for abortion. For example, according to the California Family Planning Council, an estimated 138,000 unintended pregnancies are averted in California every year as a result of publicly funded contraception. Each client seen at a title X funded clinic costs the Federal Government approximately $35 annually. And, every one of these dollars spent on family planning programs in California saves $11.20 in public costs associated with unintended pregnancy—such as Medi-Cal delivery and continuing maternity and infant care, Medi-Cal abortions, aid to families with dependent children, food stamps, and other social service costs. But the annual costs of unintended pregnancies for clients eligible for Medi-Cal coverage for maternity and infant care, AFDC, WIC, and food stamps average $9,383 for those women who carry their pregnancies to term.

S. 323 continues to prohibit the use of its funds for abortion and additionally requires that all clinics that receive funding comply with their State laws when it comes to requiring the consent or notification of a parent for minors who are seeking privately funded abortions.

However, controversy surrounds S. 323 because it contains a provision that the administration's oppressive gag rule and, by doing so, allows us to return to a policy that permits doctors, nurses, and other health care personnel to answer all of a patient's questions about her pregnancy. The gag rule, on the other hand, prevents health care providers in federally supported family planning clinics from simply informing a pregnant woman of all her options. Even if a women has been raped, is a victim of incest, or her health is seriously threatened by her pregnancy, her health care provider would not be able to tell her the truth about her choices.

This restraint is even more alarming because it goes beyond interference with a woman's reproductive health care. This burdensome regulation is a direct assault on our first amendment right to freedom of speech. The gag rule is unprecedented Government interference with the confidential doctor-patient relationship, and has been denounced by every major medical group. The gag rule dictates to our Nation's medical community what they can and cannot talk about with their own patients. The gag rule prevents women from knowing about their legal medical options.

After holding the threat of gag rule implementation over the heads of our family planning clinics for nearly 5 years, the administration has finally decided to lower the boom. It has mandated that the gag rule go into effect immediately. And, adding salt to the wound, the administration has failed to provide clinics with guidance for implementation. As a result, clinics around the country are spinning their wheels trying to figure out how to comply with this abominable mandate. They are truly in a lose-lose situation. They must choose between possibly violating State laws by not informing patients of their options, and losing their funding for not complying with this unreasonable regulation.

But S. 323 clarifies the authority of family planning clinics to provide information and counseling regarding family planning. It requires them to provide a patient with complete, nondirective information about her pregnancy, if she asks for it. And S. 323 also contains a conscience clause—a provision that says that anyone who has a moral or religious objection to discussing a patient's options regarding her pregnancy does not have to.

S. 323 has the support of all major medical groups, including the American Medical Association, the American Nurses Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association. How can we here in this Congress not support and defend a woman's right to complete, accurate information about all of her health care options?

If we truly care about the health and welfare of our people, we have no choice but to support this reauthorization of America's family planning program. Mr. Speaker, I urge my colleagues on both sides of the aisle to support the veto override.

Mr. PORTER. Mr. Speaker, given the demographic makeup of the Nation and the way districts are drawn it is probable that most Members of this body do not represent large numbers of the poor. As a result, it is likely that many Members have not heard a great hue and cry from those impoverished Americans who are most severely affected by the administration's gag rule regulation. Thus, many Members may not truly appreciate just how profoundly troubling and discriminatory this regulation is.

This issue transcends the concerns of any one interest group, of any single political philosophy or, for that matter, of any particular position on the question of abortion. At issue is the proper nature of the relationship between citizens and their government in the world's greatest democracy.

The Supreme Court's ruling in Roe versus Wade is nearly 20 years old. Since that time, and despite unrelenting efforts to pack the Court with justices who would overturn Roe, the decision has been repeatedly reaffirmed. Most recently, in the Casey decision, Justices Souter, Kennedy, and O'Connor—in an act of profound personal courage and in the face of overwhelming pressure—concluded as a matter of law that the decision to abort a fetus prior to viability remains with the woman.

At any time, the Constitution is what the Supreme Court of the United States says it is. This is the rule of law. This is how we have chosen to live as a people and how we have, in fact, lived for over 200 years. Not just as a lawyer, but as a citizen of this great Republic, I believe we must live according to the law whether we agree with that law or not. Of course, we retain the right to work to change the law through constitutionally protected means. But in the meantime, we must live in accordance with the law of the land. Roe versus Wade is the law and there is no right to misuse the organs and agencies of government to deny to the most vulnerable and unprotected among us the knowledge of the law and their rights under it.

Mr. Speaker, we cannot tolerate in this country a government that won't tell the truth to its people. Yet this is precisely what the Department of Health and Human Services has said we must do. This regulation requires that the collective teaching of our highest court over the past 20 years be ignored—that poor women not be told the truth.

This is an enduring strain that the administration has chosen to leave on its record. History will always remember that this administration was willing to tread on a most fundamental belief—that in this democracy we never allow the Government to undermine the bond of faith that must exist between the governed and their government. We should never allow this regulation to come into effect. Never should our Government be supporting the dissemination of misleading and untruthful information to the people. It is contrary to our collective values as Americans ever to do so.

I urge the Members to override this unwise veto.

Mr. MARLENEE. Mr. Speaker, today we are engaged in another political sham to embarrass the President.

I have no problem with true family planning programs. I wish that we could approve a bill that left the whole abortion issue out of the debate. Why can't my colleagues understand that abortion is not family planning?

Why must my colleagues insist on funding programs which the vast majority of the American people do not support? Why should we increase the deficit and increase the rate of abortions by funding programs which indirectly and, in some cases, directly encourage and promote abortion?

I find this particular debate very ironic. The same day these rules went into effect, directors of family planning clinics around Montana issued a press release saying that they will continue to provide information about abortion by using private funds. Please see the enclosed news articles as printed in the Billings Gazette on September 30, and the Great Falls Tribune on October 1.

What a revelation. This has been my point the whole time. You can talk about abortion, but don't use precious tax dollars to promote your pro-choice agenda.

Their decision last Wednesday proves that the dire predictions about the fate of these pro-choice family planning clinics have not come to pass. The sky has not fallen. They're just using their own money now instead of relying on taxpayers to push their agenda. And, that's not a radical right position—that's just plain, simple Montana common sense.

[From the Great Falls Tribune, Oct. 1, 1992]

STATE'S CLINICS NOT FAZED BY GAG RULE

HELENA (AP).—Montana family planning clinics say they won't be deterred by the Bush Administration's "gag rule" prohibiting health care professionals who receive federal family planning funds from mentioning abortion.

The rules, effective today, affects over 4,000 clinics.

"We want our clients to know that we will continue to provide complete counseling and referral services," said Mary Ellen Holverson, program manager at Helena Family Planning.

Joan McCracken, executive director of Intermountain Planned Parenthood, said clinics in Billings, Great Falls and Helena also will use non-Title 10 funds to give patients full information about reproductive health care.

"We find gagging professionals abhorrent," she said in a statement. "The gag rule is a direct violation of Planned Parenthood's policy of giving complete information so women can make good decisions."

McCracken said that since Title 10 funds are essential for limited income women, the clinics will use the funds for cancer screening, treatment of sexually transmitted diseases and birth control

---

[From the Billings Gazette, Sept. 30, 1992]

CLINICS WILL CONTINUE ABORTION COUNSELING

Directors of family-planning clinics in Helena, Billings and Great Falls issued a press release Tuesday saying they will continue providing information about abortion despite a "gag rule" to go into effect Thursday.

The rule prohibits clinics that receive Title 10 family planning funds from mentioning abortion.

"We want our clients to know we will continue to provide complete counseling and referral services," said Mary Ellen Holverson, program manager at Helena Family Planning.

She said the clinic will replace the federal funds with other funds, including private donations.

Joan McCracken, executive director of Intermountain Planned Parenthood in Billings, Great Falls and Helena, said her clinics also will use non-Title 10 funds to provide full information to patients.

"We find gagging professionals abhorrent," she said. "The gag rule is a direct violation of Planned Parenthood's policy of giving complete information so women can make good decisions."

She said that because Title 10 funds are essential for limited-income women, "we will use those funds, within the constraints of the new regulations, to provide cancer screening, treatment of sexually transmitted diseases and birth control."

Nurse-practitioner Julie Groepper said Helena Family Planning doesn't perform or finance abortions, but "we do provide counseling that enables the woman to make an informed choice, free from coercion from others."

Lynne Bryant, also a nurse-practitioner, said most of the clinic's patients are lower-income people who can't afford to seek health care elsewhere.

"It's not fair for affluent women, who can afford private clinics, to secure complete services while those services are denied to poor people," she said. "As nurses and doctors, we are ethically obligated to provide the same information to all citizens."

Mr. SKAGGS. Mr. Speaker, with the implementation of the gag rule, the administration has managed to set in place one of the most contradictory and dangerous health care policies I have ever seen. In its zeal to restrict a woman's constitutional right to an abortion, President Bush has decided to restrict the ability of medical professionals to do their job.

Let it be very clear—the gag rule has more to do with the availability of comprehensive and accurate medical advice than about the issue of abortion.

The authors of the gag rule believe that abortions should not be legal—and so they decided that medical professionals should be prevented from providing information or advice to patients about abortion when the government provides funds for health care. But the fact is abortion is still a legal medical procedure.

Gagging health care professionals and restricting the type of medical information they can provide places them in an untenable situation: Uphold the law and lie, possibly endangering your patient, perhaps committing malpractice; or reject the law, serve the patient's best interest, and face possible criminal charges.

When people go to a clinic, they are seeking medical treatment and unbiased professional consultation. They want, need, and deserve the best possible treatment, information, and advice. Some government official's opinion about politically correct medical choices is not only irrelevant, it's dangerous.

As is tragically so often the case with a policy intended to oppose abortion, the major victims of the gag rule are among the most vulnerable of people—low-income women, who have no health care alternative to a government-funded clinic. If the gag rule keeps health care professionals from giving them comprehensive and accurate medical advice, the patients are left in the dark. Some may end up seeking abortions in a back alley. And some of them may die from the poor medical treatment they receive in those back alleys.

In the gag rule, we face the subtle tyranny of an ideology, a tyranny being exerted over science, medicine, and freedom of speech. I respect the right of those who subscribe to that ideology to do so, but they have no right to impose it on others. We must overturn this dangerous rule.

Mr. FAZIO. Mr. Speaker, the gag rule is a violation of the patient-provider relationship—a roadblock to a patient's right to know all of her reproductive health options.

As we speak, clinics around the country are spinning their wheels trying to figure out how to comply with this abominable regulation. They are truly in a catch-22 situation—they must choose between possibly violating State law by not informing patients of their options, or losing their funding for not complying with this mandate.

This is just another one of the President's campaign gimmicks.

We have got to stop this atrocious regulation—this yoke around the necks of title X providers which provide family planning and preventive health care services to approximately 4 million low-income women and teenagers at 4,000 clinics across America.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of the vote to override the President's veto of S. 323, the conference report reauthorizing title X, the Nation's family planning program. I would like to commend Chairman WAXMAN for his hard work and commitment to this important issue. This conference report reauthorizes funding for title X clinics through 1997 and overturns the administration's gag rule regulations which prohibit abortion counseling in federally funded clinics.

The gag rule regulations went into effect yesterday. Congress can minimize the damage done by following the Senate vote of 73 to 26 and vote to override the President's veto of this bill.

Approximately 4 million women are served by title X clinics in the United States per year. That is an average of over 10,000 women a day. The only access to health care for many of these women is the title X programs. Since yesterday, the administration's gag rule could mean that up to 20,000 women have already been denied their constitutional right to freedom of speech

With the gag rule regulations, the administration has completely mandated what some women are permitted to hear from medical personnel and what they can discuss. The issue here is fairness. Poor women are denied their rights solely because they cannot afford to go to a private doctor.

Mr. Speaker, I urge my colleagues to support this conference report and vote to override the President's vote and protect a woman's right to freedom of speech.

The SPEAKER pro tempore (Mr. MAZZOLI). All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objection of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 266, nays 148, not voting 19, a follows:

[Roll No. 452]

YEAS—266

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Bonior
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones
Jontz
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Markey
Martin
Martinez
Matsui
McCandless
McCloskey
McCurdy
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Porter
Price
Pursell
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Riggs
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Spratt
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Zeliff
Zimmer

NAYS—148

Allard
Annunzio
Applegate
Archer
Armey
Baker
Barrett
Barton
Bateman
Bennett
Bilirakis
Bliley
Boehner
Borski
Broomfield
Bunning
Burton
Callahan
Camp
Coble
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
de la Garza
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fields
Gallegly
Gaydos
Gillmor
Gingrich
Goodling
Goss
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Holloway
Hopkins
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Kildee
Kyl
LaFalce
Lagomarsino
Lent
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Luken
Manton
Marlenee
Mazzoli
McCollum
McDade
McEwen
McGrath
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nowak
Nussle
Oakar
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Perkins
Peterson (MN)
Petri
Poshard
Quillen
Rahall
Ray
Rhodes
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Shaw
Shuster
Skelton
Smith (NJ)
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—19

Barnard
Blackwell
Bustamante
Conyers
Davis
Dymally
Flake
Foglietta
Guarini
Hall (OH)
Huckaby
Kaptur
Kolter
Lipinski
Mavroules
McCrery
Sensenbrenner
Staggers
Towns

□ 1254

The Clerk announced the following pairs:

On the vote:

Mr. Guarini for, with Mr. Sensenbrenner against.

Ms. Kaptur, Mr. Towns, and Mr. Flake for, with Mr. McCrery against.

Mr. ORTON changed his vote from "yea" to "nay."

Mr. DINGELL and Mr. DICKINSON changed their vote from "nay" to "yea."

So, two-thirds not having voted in favor thereof, the bill was not passed, the veto of the President was sustained and the bill was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MAZZOLI). The Clerk will notify the Senate of the action of the House.

APPOINTMENT OF CONFEREES ON H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1993

Mr. FAZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

MOTION TO INSTRUCT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. LEWIS moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 5427 be instructed to agree to the amendment of the Senate numbered 36.

The SPEAKER pro tempore. The gentleman from California [Mr. LEWIS] will be recognized for 30 minutes, and the gentleman from California [Mr. FAZIO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

My colleagues, the motion that I have presented to the desk is a motion to instruct our conferees relative to the bill that I have the responsibility of overseeing from the Republican point of view.

The legislative branch appropriations bill which passed the House on June 24, 1992, was the reflection of months and months of work on behalf of my chairman and myself. It was an attempt to make some real sense out of the direction of legislative appropriations.

The bill that we had presented to the House was approximately 5.6 percent below the 1992 spending levels. The House-passed bill is a very fiscally sound bill, an effort to constrain the spending of the House.

Mr. Speaker, I made the decision in the last couple of days to go forward with this motion to instruct our conferees because of my growing disappointment in the apparent commitment of the other body to consistently move in the direction of restraining the growth of the legislative branch.

As I indicated earlier, the appropriations work on this side was attempting to draw a line that committed the House as well as the Senate to a pattern that would retract the growth of spending in the legislative branch.

In the Senate, following their committee action, on the floor, my colleague from California, Senator SEYMOUR, presented an amendment that would reflect the very attitude that was the work of this House. I must say it is important that we express one more time our commitment to cutting back and restraining the spending within the appropriations of the legislative branch.

☐ 1300

For that reason, my motion to instruct would have our conferees take with them to the conference with the Senate the House's commitment to reducing the growth of spending within the appropriations of the legislative branch.

This motion to instruct would commit us to a real dollar reduction of approximately 5 percent the first year and from there, potentially over a period of 3 years ongoing reduction in the pattern of growth for appropriations in this area.

It is very important, Mr. Speaker, as we go out on the campaign trail and talk about our desire to cut back the growth of government, that the legislative branch provide the lead in that connection. So this motion to instruct essentially would have our conferees follow that direction and communicate with the Senate our intention to be very, very tough, as far as appropriations are concerned for the legislative branch.

Mr. FAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to associate myself with much of what my colleague, the gentleman from California [Mr. LEWIS] has said.

Ironically, I have just completed a study before we go to conference during the decade or so that I have been chairman as to what the increases enacted by the Senate and the House have been. It is interesting, and I have not had a chance to tell my colleague, the ranking member this, but the Senate's own budget has gone up during that period of 10 years or so about 210 percent. The House budget is half that.

So as we provide comity to the other body in allowing their requests of us essentially to go unamended and unreduced, we have in effect built up a higher and higher Senate budget in proportion to that of the House.

I think the motivation of our colleagues here is clear. We fought very diligently to reduce this budget to the lowest point of any of the appropriation bills this year. We have reached an outlay figure in the House that was unprecedented. We actually have for 2 years running reduced our outlays in the legislative branch.

So I certainly think we have the spirit of the occasion and I look forward to working with my colleagues in conference to come back with something that would make us all proud.

Mr. LEWIS of California. Mr. Speaker, I yield back the balance of my time.

Mr. FAZIO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California [Mr. LEWIS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LEWIS of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 402, nays 1, not voting 29, as follows:

[Roll No. 453]

YEAS—402

Abercrombie
Ackerman
Allard
Allen
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins

Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—1

Washington

NOT VOTING—29

Alexander
Anderson
Barnard
Blackwell
Bustamante
Chandler
Davis
Dymally
Edwards (OK)
Flake
Foglietta
Ford (MI)
Gephardt
Guarini
Hall (OH)
Hayes (LA)
Henry
Holloway
Huckaby
Hyde
Kaptur
Lipinski
Lowery (CA)
McCrery
Savage
Sensenbrenner
Serrano
Staggers
Traxler

□ 1324

Mr. FAWELL changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the Chair appoints the following conferees: Messrs. FAZIO, SMITH of Florida, OBEY, MURTHA, TRAXLER, LEHMAN of Florida, WHITTEN, LEWIS of California, and PORTER, Mrs. VUCANOVICH, and Mr. MCDADE.

There was no objection.

MODIFICATIONS IN APPOINTMENT OF CONFEREES ON H.R. 11, REVENUE ACT OF 1992

The SPEAKER pro tempore. Pursuant to the authority granted on September 30, the Chair, without objection, announces the following modifications in the appointment of conferees on the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

As additional conferees from the Committee on Agriculture, for consideration of sections 7123, 7126, and title VIII of the House bill, and sections 7171 and 7173 of title VIII of the Senate amendment, and modifications committed to conference: Messrs. DE LA GARZA, TALLON, and COLEMAN of Missouri.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, and Mr. WYLIE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9212 of the Senate amendment, and modifications committed to conference: Messrs. TORRES, HUBBARD, and MCCANDLESS.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9232 of the Senate amendment, and modifications committed to conference: Messrs. ANNUNZIO, HUBBARD, and WYLIE.

As additional conferees from the Committee on Education and Labor, for consideration of sections 7123 and 7125 of the House bill, and sections 2173, 4246, 7102, 7134(c), 7142–43, 7151, 7171, 7172, and 7176 of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, WILLIAMS, MARTINEZ, OWENS of New York, and PERKINS, Mrs. ROUKEMA, Mr. FAWELL, and Mr. BALLENGER.

As additional conferees from the Committee on Education and Labor, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, GAYDOS, and GOODLING.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 7104, 7123, 7125, and 7126 of the House bill, and sections 2171–73, 2175, 2177–85, 6220, 6231–51, 7109, 7121, 7136, 7171–74, 10011(b), 10201, 14111–40, titles XI, XV, and XVI of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mrs. COLLINS of Illinois, and Messrs. WAXMAN, SIKORSKI, BRUCE, LENT, DANNEMEYER, and BLILEY.

Provided, That solely for consideration of sections 10011(b) and 10201 and title XI of the Senate amendment, Messrs. MARKEY, SYNAR, and BOUCHER are appointed in lieu of Messrs. WAXMAN, SIKORSKI, and BRUCE;

That solely for consideration of sections 2180–85, 6220, 6231–41, and 14111–40 of the Senate amendment, Mr. BILIRAKIS is appointed in lieu of Mr. LENT;

That solely for consideration of sections 2173, 2175, 6251, 10011(b), and 10201 of the Senate amendment, Mr. MCMILLAN of North Carolina is appointed in lieu of Mr. BLILEY; and

That solely for consideration of title XI of the Senate amendment, Mr. RINALDO is appointed in lieu of Mr. BLILEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, and LENT.

As additional conferees from the Committee on the Judiciary, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, SCHUMER, and SENSENBRENNER.

As additional conferees from the Committee on the Judiciary, for consideration of section 9204 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, SYNAR, BRYANT, STAGGERS, FISH, MOORHEAD, and SMITH of Texas.

As additional conferees from the Committee on the Judiciary, for consideration of title X of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, SCHUMER, HUGHES, BRYANT, SANGMEISTER, SENSENBRENNER, SCHIFF, and RAMSTAD.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles XII and XIII of the Senate amendment, and modifications committed to conference: Messrs. STUDDS, HUBBARD, HUGHES, and TAUZIN, Mrs. UNSOELD, and Messrs. DAVIS, YOUNG of Alaska, and FIELDS.

As additional conferees from the Committee on Ways and Means, for consideration of sections 7123, 7125, 7126, and title VIII of the House bill, and sections 2173, 7171, 7173, titles VIII and X of the Senate amendment, and modifications committed to conference: Messrs. JACOBS, FORD of Tennessee, JENKINS, DOWNEY, GUARINI, RUSSO, PEASE, SCHULZE, GRADISON, THOMAS of California, and MCGRATH.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senator of the change in conferees.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 939. An act to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes.

H.R. 1578. An act to amend title 38, United States Code, with respect to employment and reemployment rights of veterans and other members of the uniformed services.

H.R. 3665. An act to establish the Little Canyon National Preserve in the State of Alabama.

H.R. 5686. An act to make technical amendments to certain Federal Indian statutes.

The message also announced that the Senate agrees to the report of the committee on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2532) an act entitled The Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act."

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 20. An act to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes.

S. 1664. An act to establish the Keweenaw National Historical Park, and for other purposes.

S. 1704. An act to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1893. An act to adjust the boundaries of the Targhee National Forest, to authorize a land exchange involving the Kaniksu National Forest, and for other purposes.

S. 2890. An act to provide for the establishment of the Brown v. Board of Education National Historic Site in the State of Kansas, and for other purposes.

S. 2973. An act to amend title 38, United States Code, to improve the care and services furnished to women veterans who have experienced sexual trauma while on active duty, to study the needs of such veterans, to expand and improve other Department of Veterans' Affairs programs that provide care and services to women veterans, and for other purposes.

S. 2974. An act to amend title 38, United States Code, to revise certain administrative provisions relating to the United States Court of Veterans Appeals, and for other purposes.

S. 3100. An act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes.

S. 3134. An act to exapnd the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to impove school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes.

S. Con. Res. 138. Concurrent resolution to authorize a correction in the enrollment of H.R. 2042.

S. Con. Res. 139. Concurrent resolution to authorize a correction in the enrollment of H.R. 1628.

□1330

WAIVING CERTAIN REQUIREMENTS AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 591 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 591

Resolved, That the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is hereby waived with respect to any resolution reported from that committee for the remainder of the second session of the One Hundred Second Congress to provide for the consideration or disposition of: (1) a general appropriation bill, an amendment thereto, or a conference report thereon; (2) a conference report and any amendment reported in disagreement therewith; or (3) a joint resolution making continuing appropriations for the fiscal year 1993, an amendment thereto, or a conference report thereon.

SEC. 2. Notwithstanding the provisions of clause 2 of rule XXVIII and clause 8 of rule XXI, it shall be in order at any time for the remainder of the second session of the One Hundred Second Congress to consider a conference report and any amendments reported from conference in disagreement on the same day reported or any day thereafter if copies of the conference report and accompanying statement, together with the text of any amendment reported from conference in disagreement, have been available to Members for at least two hours before the beginning of such consideration. Such a conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement shall be considered as read.

SEC. 3. It shall be in order at any time for the remainder of the second session of the One Hundred Second Congress for the Speaker to entertain motions to suspend the rules, provided that the object of any such motion is announced from the floor at least two hours prior to its consideration.

SEC. 4. It shall be in order at any time for the remainder of the second session of the One Hundred Second Congress for the Speaker to declare recesses subject to the call of the Chair.

SEC. 5. Prior to the scheduling of any legislation under the special authorities provided for in this resolution, the Speaker or his designee shall consult with the Minority Leader or his designee.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] for the purpose of debate only, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the last days of the session are upon us. House Resolution 591 is the end-of-session, antigridlock resolution, also known as the recess express.

The resolution waives Clause 4(b) of rule XI. Clause 4(b) requires a two-thirds vote in order to consider a rule on the same day it is reported from the Rules Committee. The waiver applies to any resolution reported from the Rules Committee for the remainder of the session if it provides for the consideration of a general appropriation bill, or a joint resolution making continuing appropriations for fiscal year 1993, or to dispose of amendments, or any conference report.

For the remainder of this session, it will be in order to consider any conference report and any amendments in disagreement on the same day they are reported. However, copies of the conference report, accompanying statement, and any amendments in disagreement must be available to Members at least 2 hours before consideration.

Clause 2 of rule XXVIII and clause 8 of rule XXI are waived against consideration of conference reports and amendments in disagreement that meet the 2-hour availability requirement.

The rule grants the Speaker authority to entertain motions to suspend the rules—subject to a 2-hour notice requirement—and to declare recesses at any time for the remainder of the session.

Finally, the rule requires the Speaker or his designee to consult with the minority leader or his designee before scheduling legislation under the special authorities provided under this resolution.

Mr. Speaker, this is a fair resolution. It incorporates a number of suggestions from the minority. Mr. SOLOMON offered an amendment to the resolution which the committee adopted.

It is time to finish the business of the 102d Congress. This resolution makes it possible to complete our work.

I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with some ambivalence that I rise on this special authorities resolution, or martial law rule, as it has sometimes been euphemistically referred to in the past.

On the one hand, I am very sympathetic with the need to expedite our business in the waning hours of this Congress. We no longer have the luxury of 3-day layovers or 1-day layovers for bills, conference reports and order of business resolutions, if we are to adjourn in the next few days. And I think all of us want to get out of here in the next few days.

On the other hand, I am very leery about the potential abuses that could occur when we allow for legislation to be rushed to the floor under very short notice, with Members not having the opportunity to know just what it is they are being asked to vote on.

I think we have a perfect example right here. Here is the HHS conference report, which weighs about 6 pounds.

Someone once said that laws are like sausages: People should not see how they are made. And that is especially true in the waning hours of this session when we are rushing to get out of here, and all sorts of legislative atrocities are committed, have been committed in the past—both intentionally and unintentionally.

Our Cloakroom phone recording, which announces the daily legislative program, often carries the message during the final days that "cats and dogs may be brought up at any time." And that is an apt description of the variety of small bills that are often called up on a moment's notice. And that can obviously make for even worse sausage in the final mix.

Having said all that, Mr. Speaker, I am reluctantly going to support this rule because we Republicans were able to get two provisions in here which otherwise would not have been included. Section 3 of the legislation allows for measures to be brought up under suspension of the rules on any of the remaining days of the session.

I would point out that House rule XXVII, the rule that is currently in effect, already provides that bills can be brought up under suspension during the last 6 days of a session. But that rule is not now in effect because we have not yet adopted an adjournment resolution, so we really do not know for sure what the last 6 days will be. We hope we are in the last 6 days right now.

At the suggestion of our staff, the majority revised section 3 to require that 2-hours notice be given prior to any measure being considered under suspension. And I want to make clear right now that I expect that notice to be made by oral announcement to the House and provided to our Cloakrooms in writing as well; that is, both Cloakrooms.

Another change that the Rules Committee accepted was my amendment to add a new section 5 that requires the Speaker or a designee to consult with the minority leader or his designee prior to scheduling any legislation under the special authorities provided for in this resolution.

That is ordinarily done anyway, but I think it is especially important that the practice be rigidly followed during these final days of this 102d Congress.

So I am grateful to the Rules Committee majority for accepting these two changes.

Mr. Speaker, there are two other provisions in this resolution which I would like to explain just briefly.

□ 1340

Section 1 of the resolution permits the same-day consideration of order of business resolutions from the Rules Committee without the two-thirds vote otherwise required under our rules. This same-day consideration of rules only applies in three situations:

First, to general appropriations bills, amendments thereto, or conference reports thereon;

Second, other conference reports and any amendments reported in disagreement; and

Third, any continuing appropriations resolution, amendment, or conference report thereon.

Mr. Speaker, I would again point out that under existing House rules, the two-thirds vote required for the same day consideration of special rules is automatically suspended on any matter during the last 3 days of a session.

But again, that rule cannot take effect until we have adopted an adjournment resolution, since we otherwise don't know which days are the last three.

This special authorities resolution is narrower than the House rule provision, since it does not apply to rules for the initial consideration of legislation.

Section 2 of this resolution provides that it will be in order to consider any conference report or amendment reported from conference in disagreement on the same day as reported, or any day thereafter, provided copies are available for at least, and this is a critical thing for Members on our side of the isle to note, for at least 2 hours before consideration.

Moreover, the rule provides that the conference reports and amendments in disagreement shall be considered as read.

Under House rule XXVIII, the 3-day layover requirement is suspended for conference reports and amendments in disagreement during the last 6 days of a session provided they are available 2 hours prior to consideration.

But again, we cannot take advantage of that rule until an adjournment resolution has been adopted, since we don't know which are the final six days of the session.

Mr. Speaker, the point I am trying to make about these special provisions is that they are not, and again, I would ask the Republican Members back in their offices to listen to this, they are not a radical departure from the existing House rules, which already recognize the impracticality of 1-day and 3-day layover requirements for various matters at the close of a session.

In conclusion, Mr. Speaker, while I realize that the minority has traditionally opposed these special authorities or martial law rules because of our apprehension about potential abuses, I am going to support this rule.

I do so because the majority has been willing to accede to our suggestions for special consultation and notice requirements on matters brought up under these expedited procedures.

I think with these minimal safeguards, and the expectation that the majority will operate in good faith and not try to pull any fast ones, and I do not think they will, we can bring this 102d Congress to a successful and expeditious conclusion.

So putting a lot of trust in my good friend, the gentleman from Massachusetts [Mr. MOAKLEY], as I always do, and in respect to the Speaker, I am going to support this rule and hope the rest of the membership will too.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER], the deputy minority whip.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I must rise with certain apprehension about this particular rule. I think the gentleman from New York has described it well, and did the House a real service with some of the new features that he has in this rule as compared to martial rules in the past. It is clear to me that we will have more notification, and we will have an opportunity to understand better some of the legislation coming to the floor. I must say that that is a help, not only to the minority but, it seems to me, to the majority.

The worst thing that can happen to this Congress is to have a lot of legislation flying onto the floor that no one knows the content of, and yet we are being asked to act on it. Whatever amount of notification we can get gives all of us a better chance to understand what it is that is going to be voted upon.

Within the regular processes, this rule certainly is an improvement over some past measures that we have had of a similar nature. I must say, I still have some apprehensions, however, because these kinds of rules do in fact point to both our failure and to our need to do our work better. The fact is that we have now gotten used to the pattern that if we hold legislation long enough, that ultimately it will come down to the last few days, and the chances are that it will not receive as much examination in the last few days or the last few hours of a session as it would otherwise.

Ultimately, what we get on the floor is a series of bills that have been negotiated under a very stiff deadline that may not have been looked at very carefully by the people who are examining the bills within the conference committees or in other forums, and then they are rushed onto the floor in a way that they cannot be examined with the same degree of diligence that would normally be given to these measures. That bothers me, and every time we pass one of these martial law rules we in fact encourage that process to happen in another session and in another Congress, so I express some concerns about that as a vehicle for legislating.

Second, I think we do get into fairly dangerous ground here when we have a situation where we know that measure after measure is going to come to the floor with very little understanding, either by the subject matter committees, by the Committee on Rules, or ultimately, by the full membership, and it seems to me we are setting up a pattern for that to happen.

The other thing which compounds this is that in addition to the regular processes which this particular rule intends to cover, we also are going to have a series of bills brought out here under suspension of the rules. We will have long suspension calendars over the next couple of days that will further complicate the process, and then, in addition, there are going to be a number of unanimous consent types of bills brought to the floor.

I would like to talk about those for just a second, because that is the other part of the process that it seems to me breaks down at the end of a session. That is when a whole series of bills either cannot get before the Committee on Rules, cannot get on the suspension calendar, but begin to come to the floor under unanimous consent requests.

It is the intention of a few of us on the Republican side, and hopefully we might even be joined by a couple on the majority side, to begin to examine those unanimous consent requests and hold them to particular standards, that there would have to be wide agreement among the leadership to bring the bills onto the floor, and then when we get to the last few hours of the session that they ought to be limited to bills that are of minimal consequence in terms of taxpayer involvement.

Mr. Frenzel, who served in the last Congress, and I came to the floor and we set a standard of saying, "No bill of more than $1 million will be considered under unanimous consent in the last few hours of a session." My guess is that is probably the standard we are going to want to set this time, too, that some of us are going to want to look at these bills. If they come out under unanimous consent, if they cost more than $1 million, they simply will not be eligible for consideration or they will be objected to, kind of regardless of their merits.

Obviously there is a chance for leadership and so on to get involved in all of that, and there were modifications made. In general, having a rule like this that does tend to lower the numbers of bills coming to the floor, and I would hope that maybe we could operate under that standard as before. We ought not to have a bunch of bills going through here that cost lots of money that no one knows what is in them.

Mr. SOLOMON. I would say to the gentleman, he makes some very cogent points. He brings up the concerns that we really do have. But I think we ought to support the rule.

The gentleman is going to be a member of the Hamilton-Gradison joint committee on organization.

The gentleman from Pennsylvania has been one of the leaders in trying to reform this House. I would just point out that Republican leaders have appointed their Members to the bipartisan Joint Committee on Organization. Hopefully the Speaker and the majority leader of the other body will appoint their Members so we could get down to the business of trying to reform Congress. I appreciate the gentleman's comments.

Mr. WALKER. If the gentleman will continue to yield, I think the gentleman makes a good point. This is the kind of thing that ought to be looked at as part of the reform effort, as well. If we can get all Members appointed so we can begin to think about these things as we come into the end of the session, one of the things that really ought to be looked at is this pattern of too much legislation being held to the end of the session and then not getting the kind of consideration it probably deserves.

Hopefully part of the Hamilton-Gradison effort might be to make the legislative process a little more effective and efficient so we do not end up with this kind of a pattern.

Mr. SOLOMON. Mr. Speaker, I urge support for the resolution, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 316, nays 93, not voting 23, as follows:

[Roll No. 454]

YEAS—316

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barrett
Bateman
Beilenson
Bennett
Berman
Bevill
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Byron
Camp
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clement
Clinger
Coble
Coleman (TX)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (TX)
Solarz
Solomon
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weldon
Wheat
Whitten

Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—93

Allard
Allen
Archer
Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilbray
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Carr
Coleman (MO)
Conyers
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dooley
Doolittle
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gillmor
Goodling
Goss
Grandy
Hammerschmidt
Hancock
Hastert
Hefley
Herger
Hopkins
Hunter
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Kyl
Lagomarsino
Lehman (CA)
Lewis (FL)
Marlenee
McEwen
Miller (OH)
Moorhead
Myers
Neal (NC)
Nichols
Nussle
Oxley
Packard
Paxon
Ramstad
Riggs
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Schaefer
Schiff
Schulze
Shaw
Smith (NJ)
Smith (OR)
Snowe
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Young (FL)
Zeliff
Zimmer

NOT VOTING—23

Barnard
Blackwell
Bustamante
Chandler
Collins (IL)
Coughlin
Dymally
Flake
Foglietta
Hall (OH)
Henry
Holloway
Huckaby
Kaptur
Klug
Lipinski
McCrery
Nowak
Russo
Savage
Sensenbrenner
Smith (FL)
Staggers

☐ 1410

Mr. DOOLEY and Mr. PAXON changed their vote from "yea" to "nay."

Mr. SKEEN and Mr. TAYLOR of Mississippi changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MONTANA NATIONAL FOREST MANAGEMENT ACT OF 1992

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 590 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H.R. 590

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (S. 1696) to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI or clause 7 of rule XIII are waived. General debate shall be confined to the bill and shall not exceed one hour, with forty-five minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and fifteen minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and fifteen minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed, may be offered only by the the named proponent or a designee, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against amendments printed in the report are waived. If more than one of the amendments is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion expect one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time, I yield the customary 30 minutes for the purpose of debate only to the gentleman from California, [Mr. DREIER]. Pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 590 provides for the consideration of S. 1696, the Montana National Forest Management Act of 1992. The rule provides for 1 hour of general debate, with 45 minutes to be equally divided and controlled by the chairman and ranking minority member of the Interior and Insular Affairs Committee, and 15 minutes to be equally divided and controlled by the chairman and ranking minority member of the Merchant Marine and Fisheries Committee.

The rule waives clause 2(l)(6) of rule XI and clause 7 of rule XIII against consideration of the bill.

The rule makes in order the Interior Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment. The substitute will be considered as read. Clause 7 of rule XVI is waived against the substitute.

The rule makes in order no other amendments except those printed in the report to accompany the rule, to be considered in the order and manner specified in the report.

The amendments in the report are the Marlenee and Kostmayer substitutes. They will be considered in that order under the king-of-the-hill procedure. If more than one amendment is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House.

All points of order are waived against the amendments in the report and are not subject to amendment. Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, this rule provides for the consideration of three separate alternative plans which will designate as wilderness certain land in the State of Montana.

The history of the effort to designate land in Montana as wilderness is long and complex. Most recently, in 1988, the House and Senate passed wilderness legislation, but the bill was pocket vetoed by President Reagan.

Earlier this Congress the Senate passed S. 1696. The House Interior and Insular Affairs Committee reported out a bill which was similar to the legislation which was vetoed in 1988, but different from S. 1696. The House Agriculture Committee, which had joint jurisdiction over the legislation, reported out a version which is identical to the Senate-passed bill.

House Resolution 590 provides the House with a choice between three separate and distinct plans: The Interior Committee bill, the Marlenee substitute, and the Kostmayer substitute.

I urge my colleagues to adopt the resolution.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a restrictive rule. I should say that up in the Committee on Rules we did not push for an open rule last night because the rule does make in order all the substitute amendments that were presented to our committee.

My major regret in not pushing for a rule—Mr. Speaker, I would like to respond to the heckling from the floor that came from the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, Mr. GONZALEZ. His concern over an open rule is justified, and I have to say that my concern on this rule itself is that we are clearly breaking this wonderful record that has been established by my fellow Californian, the distinguished chairman of the Committee on Interior and Insular Affairs, a man to whom I refer as "Mr. Open Rule," along with Chairman GONZALEZ, that gentleman being the gentleman from California, GEORGE MILLER, chairman of the Committee on Interior and Insular Affairs.

I hope very much as we move into the 103d Congress that Chairman MILLER realizes that his work is cut out for him to once again attain that title of "Mr. Open Rule." I should say, Mr. Speaker, I am pleased that the rule does make in order the Marlenee substitute, which is identical to the Senate version of this legislation. I point out that adoption of the Marlenee amendment is the one way to ensure enactment of a Montana wilderness bill this year.

I would also like to point to a letter that came to the Committee on Rules from the Senate sponsor of the legislation, which states that passage of the Marlenee amendment "would be in the best interest of Montana and the entire Nation." That letter came from Senator MAX BAUCUS, and I include it and the statement of administration policy.

STATEMENT OF ADMINISTRATION POLICY

The Administration opposes House passage of S. 1696, as reported by the House Interior and Insular Affairs Committee. The Administration supports S. 1696, as passed by the Senate. During further Congressional consideration of the bill, the Administration will seek the following amendments:

Eliminate the Federal reservation of water rights for wilderness purposes.

Strengthen the provision to "release" for multiple-use management those roadless areas not designated as wilderness under the Forest Service's management plan. This would exclude from judicial review the initial decisions in the Forest Plans to recommend certain areas for wilderness designation and allocate others for multiple-use management. Such release language would be consistent with S. 1696, as passed by the Senate.

Modify certain wilderness areas to be more consistent with S. 1696, as passed by the Senate.

U.S. SENATE,
Washington, DC, October 1, 1992.

Hon. JOE MOAKLEY,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that the House Rules Committee will be considering a rule for S. 1696, the Montana National Forest Management Act.

Given the importance of this legislation to my State, I respectfully ask that you and your committee carefully consider the version of S. 1696 that passed the Senate and the House Agriculture Committee. I support this legislation and believe its passage would be in the best interest of Montana and the entire nation. Particularly when it comes to the areas of release language and water rights, I believe this version of S. 1696 is by far preferable to that reported by the House Interior Committee.

However, I also want to make it clear that the agreement between Senator Burns and myself did not involve either of Montana's Congressmen. From the beginning of our agreement, Senator Burns and I recognized that both Congressmen Williams and Marlenee were free to propose changes to the Senate bill. As it turned out, they both worked to change the Senate bill as it made its way through the House Interior Committee. That is clearly their prerogative.

As a former member of the House, I have great esteem for the independence and judgment of your institution. For this reason, I recognize and respect the House's right to work its own will on S. 1696. Whatever the final decision of your committee and the full House is, I will work in good faith to fairly resolve any differences between the House- and Senate-passed bills.

Thank you for your consideration. I appreciate the time and attention you have devoted to this important matter for Montana.

With best personal regards, I am

Sincerely,

MAX BAUCUS.

Mr. DREIER of California. Mr. Speaker, I reserve the balance of my time.

□ 1420

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of the rule for S. 1696. This is a fair rule that gives both sides of the Montana wilderness issue the opportunity to present their proposals to address the controversy over the management of 6 million acres of national forest roadless lands in Montana.

The rule makes the House Interior Committee version of S. 1696 the vehicle for floor action. This is appropriate. The House Interior vehicle represents years of work on the part of the committee. Furthermore, the Interior Committee has the lead and has primary jurisdiction to designate national forest lands as wilderness, particularly in the West. We have worked closely with Representative WILLIAMS to achieve the vehicle that the Interior Committee adopted.

It is also appropriate in this instance that only two amendments be offered and that these both be substitutes. There are those, such as my friend, Representative KOSTMAYER, who want more Montana national forest land placed in protected status. Others, such as Representative MARLENEE, want the Senate-passed bill with much less wilderness, no Federal reserved water right and roadless lands released without judicial review. This rule would allow each side to offer their package of what they believe the Montana wilderness bill should look like. At the same time, it prevents endless amendments on boundaries and single rifle shot options that would kill the process. This rule provides deliberate consideration of this issue and avoids confusing and drawn out amendments more intended to frustrate the process than to resolve the Montana wilderness issue. And at this juncture and late date in the session, this is imperative if we are to carry out the will of the House.

I urge my colleagues to support the rule and help us get on with the process of resolving a contentious issue that has divided Montanans for 10 years.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Mr. Speaker, I rise only to thank the Rules Committee for agreeing to give this bill a rule at this late hour in this congressional session, and also thank them for complying with the request that was made by both members of the Montana delegation, that the primary players in this legislation have a full and open opportunity to offer the substitutes which we all requested. So I am very grateful to the Rules Committee and I thank them for this opportunity.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Montana [Mr. MARLENEE], the very able author of the one of the important substitutes in this bill.

Mr. MARLENEE. Mr. Speaker, I thank my colleague, the gentleman from California, for yielding me this time.

I wish to extend my thanks to the Rules Committee for making in order my particular substitute to the Montana wilderness bill; however, it is not my substitute, but it is, as a matter of fact, a compromise crafted by many Montanans, by the two Members from the other body who have hammered out an agreement and would have liked to have seen that agreement move forward in this body as the vehicle to eventually be signed by the President. As a matter of fact, it may be the only opportunity that this body has to complete a Montana wilderness bill in this particular session of Congress.

I would have hoped that we could have come to an agreement, that we could have put this Senate compromise into the House, passed it expeditiously, at which point the President would have signed it and we would have ended the conflict. We would have ended the controversy. We would have allowed for professional management to continue in Montana.

I do not know if that is possible at this particular juncture with the kind of rule we have.

I would hope that we could pass the Senate compromise, which will be my amendment. If not, the prospect that we face is to go to the Senate for a conference committee and then return after hammering out the many differences between the House version and the Senate version.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I am happy to yield to the gentleman from Missouri, the chairman of the Subcommittee on Forests, Family Farms, and Energy, of the Committee on Agriculture.

Mr. VOLKMER. Mr. Speaker, may I ask, is the gentleman's substitute the same or identical to the bill that was reported out of our subcommittee and of the full Committee on Agriculture?

Mr. MARLENEE. It is exactly the same.

Mr. VOLKMER. As the gentleman knows, we worked with both the gentleman from Montana [Mr. MARLENEE] and the other gentleman from Montana [Mr. WILLIAMS] to keep this process moving, and we are happy that we are here today.

I have some disagreement with the Interior Committee as to the release language which is in the jurisdiction of the Agriculture Committee, as well as the Interior Committee.

Hopefully if their version does prevail today, that they will be able to work that out with the two Senators from Montana and we can complete the action on this wilderness bill, which I know all the people from Montana have worked very hard on for these many years.

Mr. MARLENEE. Reclaiming my time, Mr. Speaker, I thank the gentleman, my chairman of the Forests Subcommittee.

I want to thank the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA] for helping us to expeditiously move the process forward, as I had promised that I would do.

So now we are at the fork in the road, the juncture, if you will, as to which one of these will pass, go to conference and has the potential of being completed in time before this session ends.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Speaker, I thank the gentleman from Tennessee for yielding this time to me.

Mr. Speaker, I regret that we are considering this bill today under a rule which will provide for the consideration only of two substitutes.

I agree with the argument that we should not be considering a multitude of rifle shot amendments to make adjustments to individual boundary lines in individual areas; but unfortunately, this rule will prevent consideration of some very fundamental issues which should be before the House as we deal with this bill.

Traditionally, wilderness bills have been land allocation bills. That is what we see before us today, a bill which protects a certain amount of varied wilderness, sets aside additional areas for study and which releases areas beyond that.

Unfortunately, our understanding of how forests and natural systems function today has far outstripped the means by which we make these decisions. I am sorry that we will not have the opportunity today to consider legislation which takes more of an ecosystem approach and looks at these forests and these natural areas from the perspective of what is necessary for us to do to sustain their productivity and to sustain their existence over some period of time.

Regrettably, we have no guarantee in passing this wilderness bill or any of the options before us that we are achieving that most fundamental purpose of ensuring that the productivity of these forests and the related lands will be perpetuated for the benefit of not just our generation, but many generations to come.

We need to be looking at this issue, not from the standpoint of the traditional means of allocating lands in a different category, but are putting into place an independent scientific study of what is necessary to sustain these natural systems, to preserve them from the standpoint of their productivity and their benefits. That is a fundamental issue which needs to be debated in this legislation today.

I also regret that we will not have the opportunity to consider today another fundamental issue relating to the forests of Montana, and that is the issue of low-cost timber sales. When lands are released under this legislation, they will go into the timber base for sale of timber under the various timber plans.

Unfortunately, this will not be a good thing for the taxpayers of our country. There are 10 national forests in Montana. According to the Wilderness Society, all of them lost money this last year on timber sales, a total of some $27 million.

The Forest Service itself admits that 9 out of the 10 forests, based on their calculations, are losing money somewhere in the vicinity of $15 million.

We should not be proceeding with timber sales from these forests which are such big money losers for the taxpayers of the United States.

Just to take one example, the Bitter Root National Forest Treasury receipts, $215,000.

Treasury cost, $3.7 million, for a net loss to the taxpayers of the United States of $3.5 million.

□ 1430

Mr. Speaker, those are figures according to the Wilderness Society. The Forest Service would show losses somewhat less than that, but losses nonethesame.

We should not be maintaining the policy of selling this timber below cost; that is an issue that should be coming before the House today. I regret that we will not have the chance to offer that issue.

Mr. Speaker, these issues will not go away. They will be addressed again on this floor at a future date. I am sorry they will not be addressed today.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I, too, have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 590 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 1696.

□ 1431

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 1696) to designate certain national forest lands in the State of Montana as wilderness, to release other national forest lands in the State of Montana for multiple use management, and for other purposes, with Mr. DONNELLY in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the Senate bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 22½ minutes, the gentleman from Montana [Mr. MARLENEE] will be recognized for 22½ minutes, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 7½ minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 7½ minutes.

PARLIAMENTARY INQUIRIES

Mr. MARLENEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MARLENEE. Would the chairman outline for me the procedure under which the amendments will come before the full House?

The CHAIRMAN. The Chair will read the statement at the end of general debate, but, if the gentleman from Montana [Mr. MARLENEE] asks unanimous consent to have it read at this time, the Chair would be willing to read it at this point in the RECORD.

Mr. MARLENEE. A further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MARLENEE. How much time are we allotted on this side?

The CHAIRMAN. The gentleman from Montana will be recognized for 22½ minutes.

Mr. MARLENEE. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, S. 1696, as reported by the Committee on Interior and Insular Affairs, addresses the controversy over 6 million acres of national forest roadless lands in Montana. The committee's bill is an important conservation measure that deserves the support of the House.

S. 1696 as passed by the Senate did not adequately protect the wilderness resources that exist in the national forests in the State of Montana. The Senate-passed measure left out key areas that would be valuable additions to the National Wilderness Preservation System. The Senate bill failed to give designated wilderness a reserved water right; a difficult issue, but one that must be satisfactorily resolved. The Senate-passed measure also had release language that restricts the public's ability to challenge Forest Service actions in court and allowed commercial timber harvesting and mining in national recreation areas. These flawed provisions made the Senate version of the bill unacceptable. As a result, the Interior Committee has amended S. 1696 to correct these problems and it is this amended version that is before us today.

Most aspects of the Montana wilderness issue are of national importance and transcend that individual State. I have had thousands of Minnesota constituents, as well as others from around the country write, call or otherwise contact me to express their concerns with the Senate-passed Montana measure. Rarely has this type of response and interest occurred with regards to wilderness measures. Many are so concerned that they want us to drop the entire effort and start out next year with a much broader wilderness measure.

Over this past summer, Congressman WILLIAMS, myself, and others worked on an appropriate response to address many concerns raised about the Montana wilderness issue—concerns that I voiced and concerns voiced by the people of Montana. The bill we bring before you today reflects these concerns and is the direct result of Congressman WILLIAMS' help and support. The boundary changes and other provisions in the bill the Interior Committee adopted were offered by Mr. WILLIAMS. Except on the question of water rights and release language, he and I are in agreement on all the provisions of the amended bill.

The Interior Committee version of S. 1696 improves the Senate-passed bill in several significant ways. It places at least 300,000 more acres into protected status; guarantees a reserved water right for wilderness consistent with past wilderness bills that the House has passed and that have been enacted into law; it uses an updated version of the standard release language that we have used in past wilderness bills; and leaves wilderness study areas in protected status until Congress acts. As a result, this legislation would now designate 1.4 million acres of wilderness, 150,000 acres of special management areas and 262,000 acres of new wilderness study areas added to the 700,000 acres already in wilderness study status. This bill is appropriately stronger in environmental protection than the bill that passed both Houses in the 100th Congress and was vetoed by President Reagan. We know more today and are appropriately acting on such data. This is a sound bill and a good work product.

In all the controversy surrounding Montana wilderness, let's not forget why we must protect Montana's national forest wildlands. These lands include not only some of the Nation's most spectacular scenery, but also an irreplaceable wildlife and fish resource, including threatened and endangered species such as the wolf and grizzly bear. The wild places of Montana are truly a resource of national importance and a heritage that Montanans are justly proud to preserve.

It is important that we resolve the Montana roadless issue in this session of Congress. We already have spent 10 years trying to find a resolution. In 1988, Congress was able to pass a Montana wilderness bill, only to have it vetoed by President Reagan. The first and only National Forest Service wilderness measure vetoed in 20 years since the enactment of the basic wilderness law. As the years go by, 6 million acres of unprotected national forest roadless lands are becoming increasingly vulnerable to development. Further delay could lead to specific rifle shot actions—at the very least, action that results in road construction, mining, and timber harvesting in the heart of Montana's most scenic wildlands—at the worst, an unprecedented action that the Forest Service may decide to just protect its own recommendations in the forest plans and the congressionally designated wilderness study areas and go ahead on its own and release 4.8 million acres to general forest management. It has the legal authority to do this. Thus, it would be irresponsible for us to stop the legislative process and leave these lands threatened. The only way to truly protect wilderness is to act and to pass wilderness bills. Abandoning the legislative process at this point would seriously harm public policy—not help protect wilderness.

I urge my colleagues to support this bill which is a significant addition to the National Wilderness Preservation System and protects some of the most spectacular wildlands in America.

Mr. Chairman, I reserve the balance of my time.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are about to consider a piece of legislation that will impact Montana's future for years to come. It will impact, in effect, our ability to provide the funding for the infrastructure of the State of Montana. The Williams-Vento bill, the way it is drawn, indeed does have many errors. It has some real abuses to providing funding for the infrastructure and should be rejected in favor of a piece of legislation that was hammered out, by the two Members of the other body. We call it the Burns-Baucus compromise. It was drafted with the help of many interest groups in the State of Montana. The Vento-Williams bill, if enacted, will preclude the collection of $1 billion in taxes over the life of a potential oil field on the Rocky Mountain front in Montana; $500 million, of those taxes over the 10-year life of the field would go to support our schools and universities in the State of Montana. That in itself is reason enough to reject the Vento-Williams bill.

In addition to that, Mr. Chairman, we have private property that has been included, if I may have the attention of the chairman of the subcommittee, the gentleman from Montana [Mr. VENTO], in that wilderness private land. I have here a letter with the heading of the Montana State Senate written to me by Lorents Grosfield, and I submit that letter for the RECORD.

MONTANA STATE SENATE,
Helena, MT, October 2, 1992.

Representative RON MARLENEE,
Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE MARLENEE: I am writing regarding the Minnesota-Williams version of the Montana Wilderness Bill that apparently is likely to pass the House today. I write for three primary reasons.

First and foremost, the release language is not adequate in this version, and express federal water rights language is inappropriate. I am confident that federal water rights needs will be adequately addressed in the Montana Reserved Water Rights Compact Commission process. I serve as a member of that Commission.

Second, the Crazy Mountains additions are also inappropriate. The designated Crazy Mountains Wilderness area contains private lands, some roads, some recently logged-off areas, and indeed a hunting lodge on one of the private sections. This addition was obviously hastily drawn and should not be designated wilderness. Perhaps the land consolidation study is appropriate, though I don't sense local support for it—instead of designating a wilderness area here, that area too should be the subject of land consolidation study, as well as wilderness suitability study. To my knowledge, there has never been a wilderness suitability study of the Crazies. (I own four sections within the wilderness study area in this bill.)

Third, there is no local support in either of the affected counties that I have heard of at this point. In fact, local people are quite upset that this can happen so quickly to our area, with very little chance for input, and they are opposed to it. Although the Montana Wilderness Association is currently sponsoring a pro-wilderness ad on local radio, neither they nor anyone else has asked the local area for their input on this issue. I have yet to hear the first local person express support for what is happening here.

I urge you to stand firm in your opposition to this bill.

Sincerely,

LORENTS GROSFIELD.

☐ 1440

This is from Senator Lorents Grosfield of the Big Timber area.

Mr. Chairman, the Williams-Vento substitute to this bill should be defeated and the Senate compromise passed so that we may proceed with the business of professional management of our public lands in Montana.

Mr. VENTO. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. MILLER], the distinguished chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, first of all, I want to commend all of the members of the Committee on Interior and Insular Affairs who have spent many hours in hearings, debate, and negotiations over this legislation. This has not been an easy piece of legislation. But like most of the legislation that deals with the issues surrounding the designation of wilderness, it has been difficult, it has been troublesome, it has been painful, and there has had to be give and take on all sides.

Mr. Chairman, for many years the Interior Committee has been bringing before the House wilderness bills much like the Montana wilderness bill we consider today. By that I mean a bill that meets our obligation to protect the remants of the magnificent wilderness that is at the heart of our natural heritage, while fairly and responsibly recognizing the legitimate interests and concerns of local residents.

For more than a decade, it has been the House and the House Interior Committee that has set the standard for achieving that kind of balance. When all the dust of competing proposals and amendments has settled, the record will show that the wilderness designations and the management provisions crafted by the House and the Interior Committee have been the basis for laws signed by both Republican and Democratic Presidents.

Today, you will hear this bill attacked from the left and from the right. You will hear that the bill locks up too many resources, that it does not treat lands not designated as wilderness in the same way as in the past and that it violates Montana's rights to control its water. But as the gentleman from Montana [Mr. WILLIAMS] will tell you, we have worked long and hard with Montanans to draw the boundaries and select the wilderness areas that meet their concerns. At the same time, the release and water rights language represent positions that the House has taken time and time again.

From the other side, you will hear that the Interior Committee bill is inadequate, even that it is a sellout of Montana's remaining wildlands. I sympathize with those who have watched our forests mismanaged, our old growth cut down and our wilderness roaded and who warn us that we are approaching a real crisis.

But to characterize the Interior Committee bill as anything less than a strong statement for protection of Montana wilderness is just plain wrong. We have added more than 300,000 acres to the Senate bill, removed the ability to cut timber and build roads in more than 150,000 acres of special management areas, removed the Senate's 5-year sunset on wilderness study areas, added standard House water rights language and, perhaps most importantly, eliminated the Senate's unacceptable release language that would have placed more than 3 million acres of lands not designated as wilderness in jeopardy of inappropriate development by restricting judicial review of Forest Service decisions.

Despite all the criticism, Mr. Chairman, I know that any honest and dispassionate analysis would conclude that this bill is cut from the same cloth as Forest Service wilderness bills—now law—for Washington and Oregon, for California, for Arizona and New Mexico, for Utah, Nevada, Colorado, and Wyoming and many other States. They are all bills that sprung from this House and they are all laws of which this Congress and this Nation are justifiably proud.

The House has a responsibility to exercise its own considered judgment with regard to which areas should be designated wilderness, how the Federal rights to protect wilderness water resources should be exercised and how lands not designated should be managed.

I am confident that the Interior Committee has done so in a responsible and reasonable manner under extremely difficult circumstances and I urge my colleagues to support it.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, this map I think gives us an idea of what is up with respect to what I call this Federal Grab Act of 1992, at this time directed toward our friends from the State of Montana.

Mr. Chairman, one can see from this map the blue is current ownership of Federal lands in America. The Federal Government owns most of the land in the Western States of America. In my State of California they own about half of it. In the State of Montana, the percentage is roughly one-third in Federal ownership today.

Mr. Chairman, I therefore have a question for the gentleman from Minnesota [Mr. VENTO], and I mean this sincerely. How much is enough? When will this preservationist movement moving across this country to take into public ownership land after land, when is enough? How much?

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the measure before us does not acquire any new Federal land. We are designating and classifying how existing Federal land is used. We have 6 million acres of national lands in this bill. We are going to release to general use about 3.5 million acres of national forest land and retain in conservation designation about 2½ million acres.

Mr. DANNEMEYER. Mr. Chairman, reclaiming my time, I will tell Members who I took the time to come down on the floor and debate this issue. I am from California, I am not from Montana. But I have watched over the years the methodology of what is taking place in this country through the good auspices of the subcommittee the gentleman from Minnesota [Mr. VENTO] chairs, and the committee chaired by my good friend from California [Mr. MILLER].

Mr. Chairman, I mean nothing personal toward either of the gentlemen, because they are the spear carriers of a movement called preservationism in America.

☐ 1450

Dixy Lee Ray, in her book "Trashing the Planet," has written eloquently about this movement.

I am not necessarily including the gentlemen as being willing participants in this movement. I think they are being carried along.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, I want to admit to being a willing carrier of the spears of preserving and conserving our natural resources. I am pleased that the gentleman would have a proper response here that I am a willing carrier of these environmental spears.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I, too, would like to plead guilty.

Mr. DANNEMEYER. Mr. Chairman, the gentleman pleads guilty to that as well.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I could say that I probably have observed that my colleague, my good friend from Minnesota is a spear carrier for that particular movement, but he has got the spear aimed at the heart of the State of Montana and he does not have to live with the unemployment and the displacement of the communities from the spotted owl or from the creation of wilderness. That is the problem with the bill today.

Mr. DANNEMEYER. Let me just say, this is what Dixy Lee ray wrote in her book "Trashing the Planet." She says, in part:

> The great majority of those who make up the membership of the Audubon Society, Sierra Club, National Wildlife Federation, Wilderness Society, Nature Conservancy, and countless other groups are fine, decent citizens. They are honest, honorable supporters of a good, clean environment and responsible human actions. However, the leaders of some of their organizations, such as the Natural Resources Defense Council, Friends of the Earth, Earth First, Greenpeace, Government Accountability Project, Institute for Policy Studies, and many others, are determinedly leftist, radical, and dedicated to blocking industrial progress and unraveling industrial society.

Some of these people, and I quote from page 165 of Dixy Lee Ray's book, by the way, she is a member of the Democrat Party, former Governor of the State of Washington, former Chairman of the Nuclear Regulatory Commission:

> They also tend to believe that nature is sacred and that technology is a sacrilege. Some preservationists appear to be in favor of taking mankind back to pantheism or animism.

One of their prophets, Thomas Lovejoy, tropical biologist and Assistant Secretary of the Smithsonian Institution, says:

> The planet is about to break out with fever, indeed it may already have, and we human beings are the disease. We should be at war with ourselves and our lifestyles.

Paul Ehrlich, a Stanford University biologist:

> We have already had too much economic growth in the United States. Economic growth in rich countries like ours is the disease, not the cure.

Kenneth Boulding, originator of the "Spaceship Earth" concept:

> The right to have children should be a marketable commodity, bought and traded by individuals but absolutely limited by the State.

And just one more, David Brower, Friends of the Earth:

> Child bearing should be a punishable crime against society, unless the parents hold a government license. All potential parents should be required to use contraceptive chemicals, the government issuing antidotes to citizens chosen for child bearing.

Nice people. One would think, who is really impressed with this group of zealots that I have described here?

Do not underestimate their political clout in the Congress of the United States, because this movement that I have described, my colleagues, is controlling what this Congress will be doing in terms of energy and environmental policy in the United States today. And that is the sad, tragic result for all of us.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, is the gentleman inferring that when Whoopi Goldberg, Goldie Hawn, Robert Redford, and that crew of people come up here and tell us what kind of a Montana wilderness bill we should have within the State of Montana, that they are involved in that type of activity?

Mr. DANNEMEYER. Mr. Chairman, the gentleman really knows that the tweaking of the social consciousness of these paragons of virtue, who have tremendous earning power as a result of being leaders in the entertainment industry, has caused some of them to have pangs of conscience whereby they feel a duty to save America from ourselves. And they are being unwittingly used, in my judgment, by people across this land to carry the message of this preservationists movement that sadly for all of us is controlling in the Congress of the United States, because I have witnessed the game.

Each year, without exception, the Committee on Interior and Insular Affairs, led by the gentleman from California [Mr. MILLER] will bring to the floor the designation of a wilderness area on the idea, when the Members come in to vote, well, it is not my State, it is not my congressional district, maybe they will pick on somebody else next time. And so we all have a tendency to say, in this instance, I am going to vote for the preservationists and get a good chit on their side. Maybe they will not pick on my district next Congress or next year. That is the game.

We should understand, Mr. Chairman, that this movement called the preservationists movement has a claimed membership, and this is from the records of the Federal Elections Commission, of some 25 organizations comprising almost 6 million people. And they are not underfunded. They claim that their annual budgets total some $544 million a year.

There is nothing illegal about this. They have the right, in a free country, to organize, to petition the Government. But the power that they have today is so awesome that at a time when we are spending $50 billion a year in a negative trade balance to buy oil from around the world to fund the way we live, this measure, if adopted, is going to lock up 2 to 3 trillion cubic feet of natural gas as part of this wilderness.

Now, will somebody please explain to me the logic of why the Congress is now considering a major energy bill passing through the House, and I am a conferee on that energy bill, whereby we are short of energy, natural gas and oil, and we are going to lock up a resource containing 2 to 3 trillion cubic feet of natural gas?

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, let me just say to those who are listening that in the last 300 years in North America, we have destroyed 95 percent of our forests. We have about 5 percent left.

Mr. DANNEMEYER. Mr. Chairman, reclaiming my time, Dixy Lee Ray, right here in this book, has said that today we have more trees growing in America than we did in Revolutionary Days. That is because of the good stewardship, not all the time, but this good stewardship of the people managing the timber resources of this country.

I think the prudent thing for the House to do is to recognize that this Nation not only has a need for the energy in this wilderness area but we should have a sensitivity and concern for what we are about to do to our friends in the State of Montana.

The sensible thing to do is to vote down this Federal land grab act of 1992.

Mr. MARLENEE. Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS], a sponsor of this legislation.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding time to me.

I am in support of this legislation. I hope for some improvement in the final negotiated legislation.

No issue, has been more heatedly debated or considered at more length by Montanans than has this issue before the U.S. House of Representatives. This ritual has become a tragic pastime for the congressional delegation and in spite of everyone's agreement that the task must be accomplished we have yet to reach that goal. Such it seems is the fate of these pieces of legislation that become political footballs with more worth to some as political fodder than as solutions to real, difficult problems.

In 1988 President Reagan took the ultimately cynical position and vetoed the Congress' work to resolve this issue. Montana jobs, livelihoods, lifestyles, and economic stability were sacrificed for political gain. Montana has been left to twist in the winds of litigation, uncertainty, and economic loss.

This Montana wilderness bill and the 10 which have unsuccessfully preceded it have been debated, discussed, argued about, fought over, considered, amended, researched, analyzed, dissected, repaired, and tragically—finally rejected.

This legislation represents a triumph 15 years of consideration and public participation. Not since Statehood have so many Montanans involved themselves in the consideration of an issue before the U.S. Congress.

Twenty or more hearings spanning 13 years, 120 hours of direct testimony, 3 consecutive days of hearings in Montana with 21½ hours of testimony and 7 additional days of hearings, also held in our state.

No one has been left out of this important process of deciding the use and management of Montana's last great wild lands.

The process, frankly, has taken too long, and was more divisive and partisan than was good for our State.

But we are, hopefully, almost finished. Only passage through this House, compromise with the Senate and the Presidential signature remains.

Let me make this point clear—this is a jobs bill as much as it is a wilderness bill. Organized timber workers in my district support our efforts here today because they are intimately aware of what inaction has done to them and their fellow workers. Some people involved in this debate seek only political advantage, some seek to only secure short term profit, some seek to only express aloof philosophical concepts. The timber workers are in it for one reason, long term protection of their jobs and stability for their communities. I believe we should listen to them.

I have during the past several months appreciated very much the efforts of my colleagues who worked with us to bring forward this legislation. I want to make this point very clear: The areas and boundaries in this legislation are the ones I supported. For that reason I offered the substitute in full committee.

Virtually all Montanans who were involved in reviewing the Senate's work recognized the need for some changes. I want everyone to understand that Montana's two Senators have endorsed changes, such as, adjustments for folks in the Beaverhead along the West Big Hole, adjustments for the Maverick Mountain Ski hill, for mining companies and mining jobs in Camas, and the addition of wilderness in the North Big Hole, and there are others.

I brought changes to the Committee from many Montanans who opposed the Senate legislation. Montanans have worked hard in looking closely at the Senate bill and making reasonable recommendations for changes. I have spent most of this year meeting with Montanans: with industry folks, conservationists, sportsmen, recreationists—including motorized recreationists—people concerned about water rights—a whole year. For the most part the Interior passed bill reflects the wishes of Montanans.

There is something for all of them here. There are areas opened for motorized recreation that were closed by the Senate bill, in places like Lionhead, the Sapphires, and the West Big Hole. There are mining proposals that the Senate would preempt in places like Axolotl Lakes and Camas. And there are areas added to wilderness that Montana hunters and anglers identified as critical to maintaining Montana's hunting and fishing opportunities. These additions for our wildlife and our big game herds are made in places like the Crazy Mountains, Trout Creek, Cowboy's Heaven, the Rocky Mountain Front, and the Yaak. One can not hunt if there is nothing to shoot at and we can't fish if streams are polluted and the spawning grounds ruined. These additions assure Montanans will continue to be good stewards of the last best place.

Many of the provisions in this legislation come directly from Montanans. In the Northwest miners and conservationists sat down and compromised the Scotchman Peak wilderness. A young handicapped woman's observations at a public meeting are in this bill in the form of the Ross Creek Cedars National Recreation Area. There is special considerations for help given to miners in Virginia City and loggers in the Gallatin.

There are the clear marks of the folks along the Rocky Mountain Front in this legislation and the signs of careful consideration of the timber base all across the State. It is hard to estimate the number of Montanans who took time to place their imprint on this bill and it would be even harder to count the countless hours of meeting, discussion and compromising that has taken place these past 13 years. If every issue we considered in the Congress received the attention this bill has then I believe we would make far fewer mistakes.

This bill is a fine tuned work of compromise and it deserves both passage here today and the pride of all the folks across Montana who worked to make it possible.

As I observed earlier there will be many things about this legislation asserted here today. Here are a few of the facts about this legislation.

First, what this legislation accomplishes:

This legislation designates 1.44 million acres of wilderness in the State of Montana. This is about 200,000 more acres than were passed by the Senate. Half this acreage is additions to existing wilderness areas.

This legislation creates 150,000 acres of new National Recreation Areas, designated for the preservation of all types of outdoor recreation, particularly motorized.

This legislation sets aside 988,000 acres of land that require particular attention in my State before the areas can receive proper management and be released the regular forest plans. These areas have problems with longstanding Indian treaty rights, extensive checkerboard ownership problems, or contentious access and recreation issues.

This legislation releases from court challenge 3.8 million acres of Federal land that will be moved into the completed Montana forest plans and managed for multiple-use purposes, including more than 300 million board feet of timber planned for harvest in the next decade.

This legislation promotes mining in Montana by recognizing 100 percent of all patented mining claims in Montana, stopping RARE II appeals on mining operations, and freeing up active mining claims in a BLM wilderness study area and Senate proposed wilderness which otherwise would be precluded from development.

This legislation promotes timber harvest by releasing for potential harvest 61 times more timber than it restricts from harvest by wilderness designation.

This legislation promotes recreation by designating areas solely for development of wild land recreational opportunities. This legislation is also carefully drafted not to interfere with ongoing motorized recreation. For example, not one inch of 2,500 miles of groomed snowmobile trails in Montana is restricted by this legislation, and the Montana Snowmobile Association was granted protection of 100 percent of the areas it believed were important.

This legislation is critical to Montana's wildlife populations because of its protection of roadless lands habitats, critical watersheds, and calving grounds. This legislation completes the Bob Marshall designations along the Rocky Mountain Front and thereby assures the protection of this Nation's largest herds of big horn sheep and mountain goats, and this Nation's second largest elk herd. This area along the eastern front of the divide represents the largest game recovery effort in the lower 48 States, and this bill assures that the Federal Government will continue to contribute to this effort.

Second, what this legislation does not do:

This legislation does not remove timber suitable for harvest from the federal inventory. The Forest Service plans show that the wilderness considerations in this bill remove 2 percent of the suitable timber base identified by the Montana Forest Plans.

This bill ends the uncertainty on much of the land that is now subject to unnecessary appeal and litigation. Because of congressional failure to pass a mountain wilderness bill, the Forest Service is experiencing planning chaos—in effect, the forests of Montana are virtually under the jurisdiction of the courts which have a 100-percent loss record before the ninth circuit court.

This bill does not stop current mining operations in Montana. In fact, the Montana mining industry worked closely with the delegation on this bill, and the Montana Mining Association has never produced one mine or proposed operation impacted by this legislation. Just the opposite, some mining operations will not be able to go forward without this bill.

This legislation does not remove motorized recreational opportunities. In fact, the legislation recognizes hundreds of thousands of acres of national recreation areas that are set aside for all types of uses.

I want to draw particular attention to a proposal which I have incorporated in this legislation: an Economics and Ecosystem Study Commission. This may be the most farsighted and important part of this legislation. This bill presents through this commission a way that citizens of the northern Rockies can ask the hard economic questions about the future, and ask them before we are faced with the "either or" decisions that have come to face our neighbors in the States of Oregon and Washington to our West. This review will ask the questions of natural resource sustainability that assure jobs in our resources industries far into the future, and will provide an independent look at how we can maintain our world class wildlife populations.

This review and analysis can hopefully serve as a way to move toward assuring small business opportunity in value added wood product manufacturing and wild lands recreational uses. Montanans have the rare opportunity, lost to many in this country, of having a sustainable resource economy, and diversity of wild area and the animals who call those lands home. This study is aimed at assuring good jobs and clean places to hunt and fish. This type of study has been suggested by both timber workers and wildlife biologists and I believe is critical to mapping the way to a future of long-term jobs and environmental protection.

Finally, and critically this legislation contains the Gallatin land exchanges. That is a goal that has been pursued by the public since 1925. Private land owners and conservation organizations and the Forest Service joined in this negotiation and reached an agreement and the result is in this bill: one of the most significant land consolidations ever accomplished in the United States.

The House/Interior bill deserves to be passed and I urge my colleagues to join me in moving toward an acceptable resolution of our long-standing problems.

☐ 1500

The CHAIRMAN. The Chair will announce that each side has 7 minutes remaining.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, let me just say in reference to what we heard a moment ago, so that people here and people who may be listening across the country, that was the industry talking: that was the timber industry, that was the gas industry, that was the coal industry, that was the oil industry.

Over the last 300 years in North America we have cut down 95 percent of our forests. We have 5 percent left. We have cut down far more than the Brazilians. Of the 5 percent left, the proposal which I offer today will save only 1 percent.

America's last original forests are being logged at the rate of 1 million acres per year, or three times the annual harvest at the peak of the postwar building boom, and much faster than the rate of cutting in Brazil. Original forests in the United States are still being clearcut at the rate of three football fields every minute, 3 square miles every week. We are destroying our national forests.

In the State of Montana alone last year, because of below-cost timber sales, the taxpayers of this country lost $40 million, because our tax dollars built the roads free of charge for the timber companies to enter those forests and cut down the timber.

What we are talking about on the floor of the House today in an effort to save a little bit of America's wilderness which has not yet been destroyed.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my colleague, the gentleman from Montana [Mr. WILLIAMS], is correct. He is correct. There are those that would use this legislation for political purposes. Of course there are. They include the Sierra Club, the League of Conservation Voters, Earth First, Friends of the Animals; let's see, who else, the Audubon Society; even Liz Clairborne, who my friend knows well.

I shall offer today the Senate bill as a substitute because of Montana's outrage to the Vento-Williams bill, a bill that was aided and abetted by those wealthy out-of-State interests. As the Members can see, the support here was very visible for that Vento-Williams substitute. We have 2,600 people protesting in the streets of Montana when the Vento-Williams bill passed the committee. Yes, it passed all right, for wealthy out-of-State interests. The Williams-Vento bill was born out of a shell game, and its authors know full well that the effort to expand wilderness and create a Federal reserve water right is doomed to failure.

The Vento-Williams bill is doomed to failure because the committee has, one, capitulated to out-of-State interests, and it will not be accepted in the State of Montana. My colleague, Representative WILLIAMS, whom I have a good relationship with, and whom I know intimately well, after 2 long years and 14 in the House, has capitulated to the wishes of the majority side, led by the chairman of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs. It is Chairman VENTO whose goal has been to expand every wilderness bill that has come before that committee.

☐ 1520

Yes, the Hollywood celebrities are moving it in their direction.

Some people will contend that this bill is not significantly different from the Senate-passed version. They maintain the Vento-Williams bill simply corrects technical details. But the differences are indeed extensive and fundamental.

The bill establishes an unquantified Federal reserve water right for wilderness which the legal community advises me that they can argue about for years to come, and Montana will probably have forfeited its rights to adjudicate the water within its water courts. But some are willing to gamble. They are willing to gamble with Montana water rights, just like this Congress gambled with the National Endowment for the Arts when the good upstanding people of the community challenged obscenity in court and lost, and had spent their money in doing so.

Some may ask what are the answers to these questions. Will there be more timber mills, timber for mills in Montana, and the answer is no. Will there be more roads and trails open to Montana recreationists? The answer is no. Will forest plans and timber sales be appealed less frequently? The answer is no.

The painful answer is that is bill contains no real release of nonwilderness lands to multiple use management by the professionals of the Forest Service. It does not resolve the conflict with the appeals. It does not sunset the wilderness areas.

Today another hollow shell game to surrender the future of Montana to interests alien to Montana is being played out before our very eyes. These advocates are embodied and represented by those who do not want to consider the Senate version, S. 1696. They do not want to consider that because they know that bill could pass this House in a heartbeat, then be signed by the President, and the conflict would be over.

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO], a member of the subcommittee and one who has worked closely on land issues with me.

Mr. DEFAZIO. Mr. Chairman, I am very familiar with the conflict over natural resources in the Western United States. I represent the most public timber-dependent district in the Union. And the gentleman from Montana [Mr. MARLENEE] was right. There has been some heavy-duty lobbying for this legislation. The stars, yes, they came to my office, the national environmental groups, they came to my office and the industry and labor came to my office.

This bill before us today is not the bill of the national environmentalist groups or the stars, nor is it the bill demanded by the timber industry. It is a fair balance. It is a tough decision. When we are dealing with public lands, when we are dealing with the disposition of those lands, protecting our precious natural resources, defining truly what is a sustainable resource, so we will have forests today and jobs today and forests tomorrow and jobs tomorrow, and by God, PAT WILLIAMS of Montana did a masterful job doing that, and I will not see anybody bend this to their petty political ends like I heard the previous gentleman saying is being done. It is not being done by PAT WILLIAMS.

Mr. VENTO. Mr. Chairman, I reserve the balance of my time.

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I thank my colleague for yielding the time, and I would like to ask the gentleman from Montana [Mr. WILLIAMS], a question on my time.

The gentleman made reference in his comments about the Ninth Circuit Court of Appeals being involved in timber issues relating to the State of Montana. My question is: Who created the law that caused this litigation to find its way to the ninth circuit, not the person, but what entity created the law?

Mr. WILLIAMS. If the gentleman will yield, the Congress of the United States has created a good many laws. The reason that the laws are being challenged is because of the inability of the Congress to pass a Montana wilderness bill. And when we did pass it, President Reagan vetoed it. That has created such uncertainty on the land management in Montana that the courts are determining or planning the process for us.

Mr. DANNEMEYER. I thank the gentleman for his response.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS] for further debate.

Mr. WILLIAMS. Mr. Chairman, I want to tell my colleagues that no one in the Montana delegation, including myself, is entirely satisfied with the water language that is in the bill before us. However, I do want my colleagues to know that I offered amendments which were accepted that accomplished two things with regard to the water language in the bill.

First, we have assured in the bill before us that adjudicated Montana water rights are senior to any Federal rights in Montana with regard to water. Second, we have assured, because of the language in the bill before us, that all litigation against Montana's water rights must be brought to the State of Montana water courts.

Even with those two rock-ribbed, very good assurances, the entire delegation from Montana, Congressman MARLENEE, Senator BURNS and Senator BAUCUS, and myself are still hopeful that in negotiations between the House and the Senate we can improve this language even further to assure absolute protection well into the future for Montana water rights.

Mr. MARLENEE. Mr. Speaker, I yield myself the remaining time to point out to my colleague that this is indeed a shell game, that the chairman of the Public Lands Subcommittee has stated unequivocally, as quoted from the newspapers, that he will veto a Montana wilderness bill, and he was speaking, of course, with reference to the Baucus-Burns compromise.

That being the case, if we go to a conference committee, and we attain some change and moderation from the expansion of the Federal reserve water rights, and bring it back to the floor of the House, I presume the chairman of the Public Lands Subcommittee, Mr. VENTO, will reject it and this body will not pass a Montana wilderness bill.

So I see this exercise as futile, an exercise in futility, and a shell game to achieve the ends, the well-meaning ends I might add, of the chairman of the Public Lands Subcommittee.

Mr. VENTO. Mr. Chairman, I yield myself the balance of whatever time I have, which I believe is a minute, to respond to my friend from Montana who serves as the ranking member on my subcommittee by saying that we have successfully dealt with water language in Nevada and California, and virtually on all of the other recently passed wilderness bill. I assure him of my good faith in working out a final solution. We are working very hard right now on Colorado water language. So I would hope the gentleman would not presume that I would not presume that I would be so unyielding as not to continue to work on this. I can tell him that whatever the disposition is here, it is my goal, and I think his and the gentleman from Montana, to resolve this issue. So I give him my pledge of good faith to work on this and to resolve this issue. Notwithstanding many other comments which are extraneous, some people ought to get an A for reading Dixie Lee Ray's book.

□ 1520

The fact of the matter is they do not read minds very well, Mr. Chairman.

I hope we can return to the issue before us in terms of the designations here and the differences that we have to resolve this issue and send this bill to the President this year.

Mr. SMITH of Oregon. Mr. Chairman, I rise in opposition to the amendment from the gentleman from Pennsylvania [Mr. KOSTMAYER].

This amendment establishes a committee to provide a plan for protecting the so-called Northern Rockies ecosystem in five States. It has nothing to do with a Montana wilderness bill.

I can't speak for the other States affected by this amendment, but I can tell you that the people of the State of Oregon don't want any part of it. We finished the Oregon wilderness bill in 1984, which established 2.2 million acres of wilderness. That issue is closed.

But now we have someone who represents a district 3,000 miles from Oregon trying to reopen this debate, and frankly we resent it.

This amendment is based on flawed science—it ignores the fact that we have 3 billion board feet of dead and dying timber in eastern Oregon because of insects and disease problems. In some cases 75 percent of these national forests are dead.

The Forest Service will need to salvage these dead trees or these insects will continue to spread to other forests throughout the Rockies. In fact, Idaho is already experiencing severe forest health problems. Insects like the spruce budworm will love this amendment because it will allow them a free run to devastate our forests.

Among other things, this amendment will prohibit salvage logging in some of these areas while this so-called ecosystem study is underway. It will tie the hands of our land management agencies to the point that all they will be able to do is watch more and more trees die.

So by offering this amendment the gentleman from Pennsylvania is actually destroying the same national forests he is trying to protect.

Aside from that, this amendment will also cost jobs. Salvage logging in the area in eastern Oregon that Mr. KOSTMAYER wants to lock up translates into 8,000 jobs. But it doesn't stop there.

This amendment is just a condensed version of Mr. KOSTMAYER's Northern Rockies Protection Act, which would lock up 14 million acres of Forest Service land and envisions a new national park in my district in what is now the Hells Canyon National Recreation Area.

The gentleman did not check with me about creating a Hells Canyon National Park, but if he would have I would have told him it has no local support whatsoever.

And it's easy to see why—it will cost 2 counties in my district $420,000 in funds for schools that they now receive from the Federal Government from forest receipts. This doesn't mean much until you realize that half of the operating budget from Enterprise School District No. 21 will be taken away if we create a national park.

One thing is certain—I will never introduce any legislation that will shut down schools in Pennsylvania.

While I realize this language is not in this amendment, I think it's worth talking about because it shows the ultimate intent of the sponsors of this amendment.

They want to take all this land out of multiple-use and put it into wilderness or national parks, but they have no idea of the impacts and they don't care.

I guess if you want dead ecosystems in the Rocky Mountains and less jobs in the Western United States you should support this amendment. If you want diverse, healthy forests and a healthy economy you should reject the Kostmayer amendment.

The CHAIRMAN (Mr. DONNELLY). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

S. 1696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Montana National Forest Management Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wild land for the benefit of the American people.

(2) The existing Department of Agriculture Land and Resource Management Plans for Forest System lands in the State of Montana have identified areas which, on the basis of their land form, ecosystem, associated wildlife, and location will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System.

(3) The existing Department of Agriculture Land and Resource Management Plans for National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas that do not possess outstanding wilderness attributes or possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values. Such areas should not be designated as components of the National Wilderness Preservation System but should be available for multiple uses under the land management planning process and other applicable law.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, and physical and mental challenge; and

(2) ensure that certain other National Forest System lands in the State of Montana will be managed under the national forest land and resource management plans.

SEC. 3. WILDERNESS DESIGNATIONS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, the following lands in the State of Montana are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, which comprise approximately 31,660 acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated September 1992, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(2) Certain lands in the Beaverhead National Forest, which comprise approximately 25,000 acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated September 1992, and which shall be known as the Italian Peaks Unit of the Great Divide Wilderness.

(3) Certain lands in the Beaverhead National Forest, which comprise approximately 80,500 acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed", dated September 1992, and which shall be known as the East Pioneer Wilderness.

(4) Certain lands in the Beaverhead National Forest, Montana, comprising approximately 35,000 acres, as generally depicted on a map entitled "West Big Hole Wilderness—Proposed", dated September 1992, and which shall be known as the West Big Hole Unit of the Great Divide Wilderness.

(5) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, which comprise approximately 64,800 acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated September 1992, and which shall be known as the Stony Mountain Wilderness.

(6) Certain lands in the Bitterroot and Lolo National Forests, which comprise approximately 55,600 acres, as generally depicted on maps entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated September 1992, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness.

(7) Certain lands in the Custer National Forest, which comprise approximately 8,000 acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed", dated September 1992, and which shall be known as the Lost Water Canyon Wilderness.

(8) Certain lands in the Custer National Forest, which comprise approximately 6,000 acres, as generally depicted on a map entitled "Custer Absaroka Beartooth Wilderness Additions—Proposed" (Burnt Mountain, Timberline Creek, Stateline and Mystic Lake), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(9) Certain lands in the Deerlodge and Helena National Forests, which comprise approximately 19,000 acres, as generally depicted on a map entitled "Blackfoot Meadow-Electric Peak Wilderness—Proposed", dated September 1992, and which shall be known as the Blackfoot Meadow Unit of the Great Divide Wilderness.

(10) Certain lands in the Flathead and Kootenai National Forests, which comprise approximately 118,000 acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck, Thompson-Seton, and Mount Hefty)", dated September 1992, and which shall be known as the North Fork Wilderness.

(11) Certain lands in the Flathead, Helena, Lolo, and Lewis and Clark National Forests, which comprise approximately 232,980 acres, as generally depicted on maps entitled "Arnold Bolle Additions to the Bob Marshall Wilderness—Proposed" (Silver King-Falls Creek, Renshaw, Clearwater-Monture, Deep Creek, Teton High Peak, Volcano Reef, Slippery Bill, Limestone Cave, Choteau Mountain, and Crown Mountain), dated September 1992, which shall be known as the Arnold Bolle-Bob Marshall Wilderness Additions and are incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness.

(12) Certain lands in the Flathead National Forest, which comprise approximately 960 acres, as generally depicted on a map entitled "Mission Mountains Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Mission Mountain Wilderness.

(13) Certain lands in the Flathead and Lolo National Forests, comprising approximately 173,500 acres, as generally depicted on maps entitled "Jewel Basin/Swan Wilderness—Proposed", dated September 1992. Those lands contiguous to the west slope of the Bob Marshall Wilderness referred to in this paragraph are hereby incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness, while the remaining lands shall be known as the Swan Crest Wilderness.

(14) Certain lands in the Gallatin National Forest, which comprise approximately 14,440 acres, as generally depicted on a map entitled "Gallatin Absaroka Beartooth Wilderness Additions—Proposed" (Dexter Point Tie Creek and Mt. Rae), dated September 1992, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(15) Certain lands in the Gallatin and Beaverhead National Forests, which comprise approximately 20,100 acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated September 1992, and which are hereby incorporated in and shall be deemed to be a part of the Lee Metcalf Wilderness.

(16) Certain lands in the Gallatin National Forest, which comprise approximately 19,440 acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1992, and which shall be known as the Earthquake Unit of the Great Divide Wilderness.

(17) Certain lands in the Helena National Forest, which comprise approximately 24,000 acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1992, and which shall be known as the Camas Creek Wilderness.

(18) Certain lands in the Helena National Forest, which comprise approximately 15,000 acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1991, and which shall be known as the Mount Baldy Wilderness.

(19) Certain lands in the Helena National Forest, Montana, which comprise approximately 10,500 acres, as generally depicted on a map entitled "Gates of the Mountains Wilderness Additions—Proposed" (Big Log), dated September 1992, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(20) Certain lands in the Helena National Forest, which comprise approximately 8,500 acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated September 1992, and which shall be known as the Black Mountain Unit of the Great Divide Wilderness.

(21) Certain lands in the Kootenai National Forest, which comprise approximately 34,840 acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated September 1992, and which are hereby incorporated in and shall be deemed to be part of the Cabinet Mountains Wilderness.

(22) Certain lands in the Kaniksu and Kootenai National Forest, which comprise approximately 50,000 acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated September 1991, which

shall be known as the Scotchman Peaks Wilderness.

(23) Certain lands in the Kootenai National Forest which comprise approximately 22,000 acres, as generally depicted on a map entitled "Yaak Wilderness-Proposed" (Roderick Mountain), dated September 1992, which shall be known as the Yaak Wilderness.

(24) Certain lands in the Kootenai and Lolo National Forests, which comprise approximately 17,900 acres, as generally depicted on a map entitled "Catarack Peak Wilderness—Proposed", dated September 1991, which shall be known as the Cataract Peak Wilderness.

(25) Certain lands in the Lolo National Forest, which comprise approximately 19,900 acres, as generally depicted on a map entitled "Cube Iron/Mount Silcox Wilderness—Proposed", dated September 1992, which shall be known as the Cube Iron/Mount Silcox Wilderness.

(26) Certain lands in the Lolo National Forest, which comprise approximately 94,700 acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated September 1991, which shall be known as the Great Burn Wilderness.

(27) Certain lands in the Lolo National Forest, which comprise approximately 60,100 acres, as generally depicted on a map entitled "Quigg Peak Wilderness—Proposed", dated September 1991, which shall be known as the Quigg Peak Wilderness.

(28) Certain lands in the Lewis and Clark National Forest, which comprise approximately 40,000 acres, as generally depicted on a map entitled "Crazy Mountain Wilderness—Proposed", dated September 1992, and which shall be known as the Crazy Mountain Wilderness.

(29) Certain lands in the Kootenai National Forest, which comprise approximately 25,000 acres, as generally depicted on a map entitled "Trout Creek Wilderness—Proposed", dated September 1992, and which shall be known as the Trout Creek Wilderness.

(30) Certain lands in the Deerlodge National Forest, which comprise approximately 40,300 acres, as generally depicted on a map entitled "Flint Creek Wilderness—Proposed", dated September 1992, and which shall be known as the Flint Creek Wilderness.

(31) Certain lands in the Helena National Forest, which comprise approximately 19,000 acres, as generally depicted on a map entitled "Nevada Mountain Wilderness—Proposed", dated September 1992, and which shall be known as the Nevada Mountain Unit of the Great Divide Wilderness.

(32) Certain lands in the Helena National Forest, which comprise approximately 60,000 acres, as generally depicted on a map entitled "Elkhorn Wilderness—Proposed", dated September 1992, and which shall be known as the Elkhorn Wilderness.

(33) Certain lands in the Gallatin National Forest, which comprise approximately 500 acres, as generally depicted on a map entitled "North Absaroka Wilderness Addition—Proposed (Republic Mountain)", dated September 1992, and which are hereby incorporated in and shall be deemed a part of the North Absaroka Wilderness.

(b) MAPS AND LEGAL DESCRIPTIONS.—(1) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in this section and legal descriptions of each wilderness area designated by this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act.

(2) The Secretary may correct clerical and typographical errors in the maps and the legal descriptions submitted pursuant to this section.

(3) Each map and legal description referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, D.C. and at the office of the Regional Forester of the Northern Region.

(c) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated by this section shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964, except that, with respect to any area designated in this section, any reference to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) WILDERNESS AREA PERIMETERS.—Congress does not intend that the designation of wilderness areas in this section will lead to the creation of protective perimeters or buffer zones around such areas. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) GRAZING.—The grazing of livestock, where established prior to the date of enactment of this Act, in wilderness areas designated in this section shall be administered in accordance with section 4(d)(4) of the Wilderness Act of 1964 and section 108 of an Act entitled "An Act to designate certain National Forest System Lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes" (94 Stat. 3271; 16 U.S.C. 1133 note).

(f) STATE FISH AND GAME AUTHORITY.—In accordance with section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Montana with respect to wildlife and fish in the national forests of Montana.

(g) HUNTING.—Nothing in this Act or the Wilderness Act of 1964 shall be construed to prohibit hunting within the wilderness areas designated in this section.

(h) COLLECTION DEVICES.—(1) Within the wilderness areas designated in this section, the installation and maintenance of essential hydrological, meteorological, or climatological collection devices and ancillary facilities is permitted, subject to such conditions as the Secretary deems desirable.

(2) Access to the devices and facilities described in paragraph (1) shall be by the means historically used, if that method is the least intrusive practicable means available. Access, installation, and maintenance shall be compatible with the provisions of the Wilderness Act.

SEC. 4. WATER.

(a) RESERVATION.—With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes for which such area is designated. The priority date of such reserved rights shall be the date of enactment of this act.

(b) IMPLEMENTATION.—The Secretary of Agriculture, and all other officers of the United States shall take all steps necessary to protect the rights reserved by subsection (a), including the filing of claims for quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of Montana in which the United States has been or is hereafter properly joined in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 5460; 43 U.S.C. 666), commonly referred to as the "McCarran Amendment".

(c) CONSTRUCTION.—(1) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved, appropriated, or otherwise secured by the United States in the State of Montana on or before the date of enactment of this Act.

(2) Nothing in this Act shall be construed as establishing a precedent with regard to any future designations, including designations of wilderness, or as constituting an interpretation of any other Act or designations made pursuant thereto.

SEC. 5. SPECIAL MANAGEMENT AREAS.

(a) DESIGNATIONS.—For the purposes of conserving, protecting and enhancing the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made:

(1) The Mount Helena National Education and Recreation Area located in the Helena National Forest, comprising approximately 5,120 acres, as generally depicted on a map entitled "Mount Helena National Education and Recreation Area—Proposed", dated September 1992.

(2) The Hyalite National Education and Recreation Area located in the Gallatin National Forest, comprising approximately 18,900 acres, as generally depicted on a map entitled "Hyalite National Education and Recreation Area—Proposed", dated September 1992.

(3) The Northwest Peak National Recreation Area located in the Kaniksu and Kootenai National Forests, comprising approximately 16,700 acres, as generally depicted on a map entitled "Northwest Peak National Recreation and Scenic Area—Proposed", dated September 1991.

(4) The Buckhorn Ridge National Recreation Area located in the Kaniksu and Kootenai National Forests, comprising approximately 20,000 acres, as generally depicted on a map entitled "Buckhorn Ridge National Recreation Area—Proposed", dated September 1991.

(5) The West Big Hole National Recreation Area located in the Beaverhead National Forest, comprising approximately 90,000 acres, as generally depicted on a map entitled "West Big Hole National Recreation Area—Proposed", dated September 1992, and which shall be known as the West Big Hole National Recreation Area.

(b) MAPS.—The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the office of the Regional Forester of the Northern Region.

(c) MANAGEMENT.—(1) Except as otherwise may be provided in this subsection, the Secretary shall administer the areas designated in subsection (a) so as to achieve the purposes of their designation and in accordance with the laws and regulations applicable to the National Forest System.

(2) Subject to valid existing rights, all federally owned lands within the areas designated in subsection (a) are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(3) Commercial timber harvesting is prohibited in the areas designated by this section with the following exceptions:

(A) Nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(B) Fuel wood, post and pole gathering may be permitted.

(C) Commercial timber harvesting may be permitted in the Hyalite National Recreation and Education Area, but must be compatible with the purposes of its designation.

(4) Where the Secretary determines that such use is compatible with the purposes for which an area is designated, the use of motorized equipment may be permitted in the areas subject to applicable law and applicable land and resource management plans.

(5) The grazing of livestock, where established prior to the date of enactment of this Act may be permitted to continue subject to applicable law and regulations of the Secretary.

(d) NATIONAL RECREATION AREAS.—The Secretary shall manage the Mount Helena and Hyalite National Education and Recreation Areas with a focus on education. All management activities shall be conducted in a manner that provides the public with an opportunity to become better informed about natural resource protection and management.

(e) LAND AND RESOURCE MANAGEMENT PLANS.—Those areas established pursuant to subsection (a) shall be administered as components of the national forests wherein they are located. Land and resource management plans for the affected national forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall achieve the purposes for which the areas are designated. The provisions of the national forest land and resource management plan, relating to each area designated by this section, shall also be available to the public in a document separate from the rest of the forest plan.

SEC. 6. WILDERNESS STUDY AREAS.

(a) DESIGNATION.—The following areas are hereby designated as wilderness study areas and shall be managed in accordance with the provisions of this section:

(1) Certain lands in the Custer National Forest, comprising approximately 22,000 acres, as generally depicted on a map entitled "Line Creek Plateau Wilderness Study Area—Proposed", dated September 1992.

(2) Certain lands on the Gallatin National Forest, comprising approximately 21,500 acres, as generally depicted on a map entitled "Sawtooth Mountain Wilderness Study Area—Proposed", dated September 1992.

(3) Certain lands in the Lolo National Forest which comprise approximately 22,000 acres, as generally depicted on a map entitled "Sheep Mountain Wilderness Study Area—Proposed", dated November 1991.

(4) Certain lands in the Lewis and Clark and Gallatin National Forests, which comprise approximately 75,000 acres, as generally depicted on a map entitled "Crazy Mountain Wilderness Study Area—Proposed", dated September 1992. The Forest Service shall complete a study of public and private land consolidation alternatives for this area which shall be submitted to the appropriate committees of Congress 2 years after the date of the enactment of this Act.

(5) Certain lands in the Gallatin National Forest, which comprise approximately 4,500 acres, as generally depicted on a map entitled "South Cottonwood Wilderness Study Area—Proposed," dated September, 1992, and shall be managed as part of the Gallatin Wilderness Study Area in accordance with Public Law 95-150.

(b) REPORT.—When the forest plans are revised, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives containing recommendations as to whether the areas designated in subsection (a) should be added as components of the National Wilderness Preservation System.

(c) MANAGEMENT.—Subject to valid existing rights, the wilderness study areas designated in subsection (a) shall be managed to protect their suitability for inclusion in the National Wilderness Preservation System.

(d) MAPS.—The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, United States House of Representatives, and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the Regional Forester of the Northern Region.

(e) ADJUSTMENT.—Certain lands in the Beaverhead National Forest, which comprise approximately 700 acres, as generally depicted on a map entitled "The West Pioneers Boundary Adjustment-Proposed," dated September 1992, shall be deleted from the West Pioneers Wilderness Study Area and shall no longer be subject to the provisions of Public Law 95-150.

SEC. 7. BADGER-TWO MEDICINE AREA.

(a) WITHDRAWAL.—(1) Subject to valid existing rights including rights held by the Blackfeet nation under existing treaties and statute, all federally owned lands as depicted on a map entitled "Badger-Two Medicine Area", dated September 1991, comprising approximately 116,600 acres, are withdrawn from all forms of entry, appropriation, and disposal under the mining and public land laws and from disposition under the geothermal and mineral leasing laws. Until otherwise directed by Congress, the Secretary shall manage this area so as to protect its wilderness qualities.

(2) Nothing in this section shall preclude the gathering of timber by the Blackfeet Tribe (the "Tribe") in exercise of valid treaty rights within the Badger-Two Medicine Area.

(3)(A) With respect to oil and gas leases on Federal lands within the Badger-Two Medicine Area, no surface disturbance shall be permitted pursuant to such leases until Congress determines otherwise.

(B) Notwithstanding any other law, the term of any oil and gas lease subject to the limitations imposed by this section shall be extended for a period of time equal to the term that such limitation remains in effect.

(b) REVIEW.—The Secretary shall conduct a review of the area referred to in subsection (a) in accordance with the Wilderness Act of 1964 and the provisions of this subsection. Not later than 5 years after the date of enactment of this Act, the Secretary shall report to Congress. In conducting this review:

(1) The Secretary shall establish a committee composed of 1 representative each from the Blackfeet Tribal Business Council, the Blackfeet Tribal traditionalists, and the National Park Service, as well as at least one representative of various concerned user groups, including proportional representation for environmental groups and industry groups. The Committee shall not exceed eleven members. The Blackfeet Tribal Business Council shall choose the 2 Tribal representatives. The Blackfeet Tribal Business Council shall conduct a public meeting to receive recommendations of the community regarding the selection of these members. The committee shall regularly advise the Secretary during the preparation of the report required in this subsection and submit its findings to Congress concurrently with those of the Secretary.

(2) Special consideration shall be given to the religious, wilderness and wildlife uses of the area, taking into account any treaties the United States has entered into with the Blackfeet Nation.

(3) In consultation with the committee, the Secretary shall establish a process to provide information to the Tribe and interested public about options for future designation of the Badger-Two Medicine Area.

(c) RIGHTS.—Nothing in this section shall be construed to diminish, prejudice, add to, or otherwise affect the treaty rights of the Blackfeet Tribe or the rights of the United States.

SEC. 8. SEVERED MINERALS EXCHANGE.

(a) FINDINGS.—The Congress finds that—

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Incorporated (hereinafter collectively referred to in this section as the "company");

(2) there are federally owned minerals underlying privately owned lands lying outside those areas;

(3) the company has agreed in principle with the Department of Agriculture to an exchange of mineral rights to consolidate Federal surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable that an exchange be completed within 2 years after the date of enactment of this Act.

(b) DESCRIPTION OF MINERAL INTERESTS.—(1) Pursuant to an exchange agreement between the Secretary and the company, the Secretary may acquire mineral interests owned by the company underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to those areas.

(2) In exchange for the mineral interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary and the company may agree upon.

(c) EQUAL VALUE.—(1) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information.

(2) To ensure that the wilderness or other natural values of the areas are not affected, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, but the Secretary and the company shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) IDENTIFICATION OF FEDERALLY OWNED MINERAL INTERESTS.—(1) Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which were owned by the company or its predecessor on September 16, 1987.

(2) If there are not sufficient federally owned mineral interests of approximately equal value underlying the lands identified in paragraph (1), the Secretary and the Secretary of the Interior may identify for exchange any other federally owned mineral interest in land in the State of Montana of which the surface estate is in private ownership.

(e) CONSULTATION WITH THE DEPARTMENT OF THE INTERIOR.—(1) The Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision calling for the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) Notwithstanding any other law, the Secretary of the Interior shall convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and the company.

(f) DEFINITION.—For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) ENVIRONMENTAL LAW.—The execution and performance of an exchange agreement and the taking of other actions pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment within the meaning of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), nor shall they require the preparation of an environmental assessment under this Act.

SEC. 9. LANDS ADMINISTERED BY BUREAU OF LAND MANAGEMENT.

(a) FINDING.—The Congress has reviewed the suitability of a portion of the Axolotl Lakes Wilderness Study Area (MT–076–069, BLM Wilderness Study Number) as generally depicted on a map entitled "Released portion of Axolotl Lakes WSA", dated September 1992, for wilderness designation and finds that this portion has been sufficiently studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) DIRECTION.—The area described in subsection (a) shall no longer be subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to management in a manner that does not impair suitability for preservation as wilderness.

(c) ADMINISTRATIVE JURISDICTION.—Those lands designated as wilderness pursuant to paragraphs (3) and (27) of section 3(a) of this Act, which, as of the date of enactment of this Act, are administered by the Secretary of the Interior as public lands (as defined in the Federal Land Policy and Management Act of 1976), are hereby transferred to the jurisdiction of the Secretary of Agriculture, and shall be added to and managed as part of the National Forest System, and the boundaries of the adjacent National Forests are hereby modified to include such lands.

(d) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of affected National Forests, as modified by this section, shall be considered to be the boundaries of such National Forests as if they were the boundaries of the National Forests as of January 1, 1965. Money appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands, waters, and interests therein in furtherance of the purposes of this Act.

SEC. 10. NORTHERN ROCKIES ECOSYSTEM AND ECONOMICS STUDY.

(a) PURPOSE.—The purpose of this section is to protect and enhance ecological values of the Northern Rockies Ecosystem and to assure that disruptions to communities and local economies are minimized through the sustainable use of the natural resources in the Northern Rockies. To accomplish the purpose, the Secretary shall—

(1) assess current environmental and economic conditions in the Northern Rockies ecosystem;

(2) evaluate the recent and likely trends in those conditions under current management;

(3) determine sustainable environmental conditions and economies dependent thereon; and

(4) identify opportunities and requirements to achieve and improve sustainability of the natural resources and the economy.

(b) STUDY.—(1) The Secretary of Agriculture, acting through the Forest Service Research Branch, shall undertake a Northern Rockies Ecosystem and Economics Study ("Study"). In conducting the study, the Forest Service shall draw from expertise throughout the Research Branch and cooperate with other Federal agencies, relevant State agencies, local governments, Tribal governments, and the relevant departments (such as biology, ecology, forestry, range, wildlife and fish, recreation, business, economics, law, etc.) of public universities in the Northern Rockies.

(2) The Secretary of Agriculture shall establish an Advisory Panel consistent with the Federal Advisory Committee Act to meet to review and comment on: (A) the study plan; (B) contractor, background, and interim reports, if any; and (C) the final report. The Advisory Panel shall represent a balance of groups and individuals interested in or affected by natural resource management, and shall represent regional interests and the national concerns in an equitable manner.

(3) The Study shall address the following topics:

(A) The current ecological trends and conditions, environmental sustainability of the Northern Rockies Ecosystem, including but not limited to—

(i) air and water quality;

(ii) timber quantity, quality, and growth;

(iii) rangeland quality;

(iv) riparian areas;

(v) diversity of native plant and animal species;

(vi) connectivity among isolated ecosystems;

(vii) uncommon, rare, threatened, and endangered species;

(viii) populations of animals for consumptive and nonconsumptive uses;

(ix) wilderness areas;

(x) dispersed recreation opportunities; and

(xi) developed recreation facilities.

(B) The current contribution of commodity and non-commodity uses and output of natural resources to the local and regional economies, including, but not limited to—

(i) distinguishing among the various resource uses and outputs;

(ii) examining the distribution of resource-related economic activities among local communities; and

(iii) distinguishing the contributions from each landowner class: Federal, State, Tribal, other government, forest industry, other major private corporations, and other private (non-industrial) landowners.

(C) The sustainable contribution of commodity and non-commodity uses and outputs of natural resources, using the same distinctions specified in subparagraph (B), and assuming:

(i) achievement of State air and water quality standards; and

(ii) maintenance of or increase in the quality of natural resources in the region, including: the timber available; range lands grazed by livestock; riparian areas; the diversity of plant and animal species; connectivity among isolated ecosystems; uncommon, rare, threatened, and endangered native species; populations of animals for consumptive and nonconsumptive uses; wilderness areas; dispersed recreation opportunities and developed recreation facilities.

(D) Opportunities to improve environmental conditions that could permit an expansion of the sustainable contribution of commodity and non-commodity uses and outputs of natural resources. The assessment shall identify the financial and non-financial costs for the various opportunities, and the likely or possible incidence of those costs. Opportunities shall include each of the following:

(i) Increasing desirable natural vegetative growth including: reforestation with native species, thinning and other timber stand modifications, prescribed burning, and seeding or planting native grasses, forbs, and shrubs.

(ii) Improving the quality of other biological resources (such as species diversity and animal populations), including: habitat restoration, extended timber rotations, alternative timber harvesting systems and grazing regimes, reserves to protect and improve connectivity among isolated ecosystems, and different standards and methods for road construction, maintenance, closure, and eradication.

(iii) Enhancing the quality of non-biological resources (such as recreation trails and facilities, wilderness areas, and watersheds and streams), including: site restoration and rehabilitation, demand management (user regulation and enforcement, marketing to shift timing and location of uses, etc.) and different standards and methods for road construction, maintenance, closure, and eradication.

(E) Recommendations on investments and practices for agencies responsible for natural resource management.

(c) SCHEDULE.—(1) The study plan shall be ready for review by the Advisory Panel within one year after the enactment of this Act.

(2) Contractor, background, and interim reports shall be presented to the Advisory Panel as they are completed.

(3) The draft report shall be ready for review by the Advisory Panel within 2 years after the Panel's meeting to review the study plan. With Advisory Committee input, the Secretary shall arrange peer review of the draft report among appropriate independent experts in the relevant fields.

(4) The final report shall be presented to the Committee on Interior and Insular Affairs of the United States House of Representatives, the Committee on Energy and Natural Resources of the United States Senate, to the Chief of the Forest Service, and to the heads of other Federal and State agencies who have jurisdiction over wild land management or are responsible for regulating management practices or impacts in the Northern Rockies Ecosystem Area.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) REDESIGNATION.—Those lands comprising the Rattlesnake National Recreation Area and Wilderness, as designated in Public Law 96–476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(b) WITHDRAWAL.—Those lands comprising approximately 24,000 acres, as generally depicted on a map entitled "Gibson Reservoir Mineral Withdrawal Area—Proposed", dated November 1991, are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(c) ACREAGES.—All acreages cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

(d) ACCESS.—It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

(e) SCAPEGOAT AND GREAT BEAR WILDERNESS NAMES.—In order to consolidate existing contiguous wilderness areas, those lands comprising the Great Bear Wilderness Area designated by Public Law 95-946 and any amendments thereto and the Scapegoat Wilderness Area designated by Public Law 92–395 and any amendments thereto are hereby incorporated in and deemed to be a part of the Bob Marshall Wilderness. The designations of the Great Bear Wilderness and Scapegoat Wilderness shall refer to units within the Bob Marshall Wilderness.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) such sums as are necessary for the development of a wilderness education and ranger training complex at the Ninemile Ranger Station, Lolo National Forest, Montana; and

(2) such sums as are necessary to carry out this Act.

SEC. 13. WILDERNESS REVIEW.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has studied the suitability of roadless areas for inclusion in the National Wilderness Preservation System; and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Montana and the environmental impacts associated with alternative allocations of such areas.

(b) RELEASE.—Those National Forest System lands in the State of Montana which were not designated as wilderness, special management, national recreation, or wilderness study areas by this Act shall be managed for multiple use in accordance with land and resource management plans developed pursuant to section 6 of the forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, and those areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the land and resource management plans.

(c) PLAN REVISIONS.—In the event that revised land management plans in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation, need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation.

(d) FURTHER REVIEW.—Unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(e) PREVIOUS PLANS.—Except as specifically provided in sections 3, 5, 6, and 7 of this Act and in Public Law 95-150, with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture under Public Law 94-557, the unit plans that were in effect prior to completion of RARE II, the 1978 Forest Plan for the Beaverhead National Forest, that such reviews shall be deemed an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the Land and Resource Management Plans.

(f) REVISIONS.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Foreign Management Act, the term "revision" shall not include an amendment to a land and resource management plan.

(g) SIZE.—The provisions of this section shall apply to those National Forest System roadless lands in the State of Montana which are less than 5,000 acres in size.

SEC. 14. PLUM CREEK LAND EXCHANGE—GALLATIN AREA.

(a) IN GENERAL.—The Secretary shall, subject to the provisions of section 15 and section 16 and, notwithstanding any other law, acquire by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (referred to in this sectin as the "company") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b)(1) DESCRIPTION OF LANDS.—If the company offers to the United States the fee title, including mineral interests, to approximately 37,752 and 15/100 acres of land owned by the company which is availalble for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, recommend that the Secretary of the Interior convey, subject to valid existing rights, by patent the fee title to approximately 12,414 and 6/100 acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 40389, 53670, 40215, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary of Agriculture and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the country wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section—

(1) in consideration of the easements conveyed by the company as provided in paragraph 2 of this subsection, the Secretary of Agriculture shall, under authority of the National Forest Roads and Trails Act of October 13, 1964, or the Federal Land Policy and Management Act of 1976, execute and deliver to the company such easements and authorizations over federally owned lands included in this exchange as may be agreed to by the Secretary and the company in the exchange agreement.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States such easements and authorizations across company-owned lands included in this exchange as may be agreed to by the Secretary and the company in the exchange agreement.

(d) MAPS.—The maps referred to in subsection (b) are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representativesof any corrections made pursuant to the subsection.

(e) TIMING OF TRANSACTION.—It is the intent of Congress that the conveyances authorized by this section be completed within 90 days after the date of enactment of an Act making the appropriation authorized by subsection (g).

(f) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the sum $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

(h) QUALITY OF TITLE.—Title to the properties referenced in this section and sections 15, 16, and 17 to be offered to the United States by Big Sky Lumber Company, its assignees or successors in interest, shall be inclusive of the entire surface and subsurface estates without reservation or exception. The owner shall be required to reacquire any outstanding interest in mineral or mineral rights, timber or timber rights, water or water rights, or any other outstanding interest in the property, except reservations by the United States or the State of Montana by patent, in order to assure that title to the property is transferred as described in this section and sections 15, 16, and 17. The agreement shall clearly evidence that the owners have the legal capacity to accomplish the foregoing requirements. Title standards for acquisition shall otherwise be in compliance with Forest Service policies and procedures.

(h) REFERENCES.—The reference and authorities of this section referring to Plum Creek Timber Company, L.P., shall also refer to its successors.

SEC. 15. LAND CONSOLIDATION; PORCUPINE AREA.

(a) IN GENERAL.—The exchange described in section 14 of this Act shall not be consummated by the Secretary until the conditions of this section are met.

(b) CONDITIONS.—The Secretary or a qualified section 501(c)(3) conservation entity, acting on its behalf for later disposition to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Porcupine property for its fair market value, determined at the time of acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser acceptable to the Secretary and the owner. Any appraisal for exchange purposes shall be conducted by the same parties, utilizing the same standards noted above.

(c) DESCRIPTION OF LANDS.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Porcupine Area", dated September, 1992.

(d) LAND ACQUISITION AUTHORITIES.—Acquisitions pursuant to this section shall be under existing authorities available to the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.

(f) AUTHORIZATION OF EXCHANGE.—The Secretary is authorized to offer the lands and interests described on a map entitled "Porcupine Exchange Lands", dated September, 1992, to Big Sky Lumber Company, its assignee or successors in interest to fulfill the purposes of this section: Provided, That the lands shall not transfer to the company until the provisions of this section and section 16 are met.

(g) EQUAL VALUE.—Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.

(h) REFERENCES.—The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors.

SEC. 16. LAND CONSOLIDATION—TAYLOR FORK AREA.

(a) IN GENERAL.—The exchange described in section 14 of this Act shall not be consummated

by the Secretary until the conditions of this section are met.

(b) CONDITIONS.*—The Secretary or a qualified section 501(c)(3) conservation entity, acting on its behalf for later disposition to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Taylor Fork property for its fair market value, determined at the time of acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser acceptable to the Secretary and the owner. Any appraisal for exchange purposes shall be conducted by the same parties, utilizing the same standards noted above.*

(c) DIRECTION.*—The Secretary is directed to provide Congress, within 2 years, recommendations designed to acquire by purchase or exchange Taylor Fork Area lands owned by Big Sky Timber Company: Provided, That such recommendations are agreed to by Big Sky Lumber Company: Provided further, That nothing in this section limits the Secretary's authority to acquire or purchase said lands.*

(d) DESCRIPTION OF LANDS.*—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Taylor Fork Area", dated September, 1992.*

(e) LAND ACQUISITION AUTHORITIES.*—Acquisition pursuant to this section shall be under existing authorities available to the Secretary: Provided, That notwithstanding any other law, exchanges authorized in this section shall not be restricted within the same State.*

(f) AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.*

(g) EQUAL VALUE.*—Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.*

(h) REFERENCES.*—The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors.*

(i) REPORTS TO CONGRESS.*—For a period of 2 years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.*

SEC. 17. LAND CONSOLIDATION—GALLATIN AREA.

(a) IN GENERAL.*—The Secretary shall work diligently to assure all lands within what is generally known as the Gallatin Range owned by Big Sky Lumber Company, its assignee or successors in interest, not acquired, purchased or exchanged pursuant to sections 14 and 15 of this Act are acquired by the United States through exchange or purchase.*

(b) DIRECTION.*—The Secretary is directed to provide Congress, within 3 years, recommendations designed to acquire by purchase or exchange Gallatin Area lands owned by Big Sky Timber Company: Provided, That such recommendations are agreed to by Big Sky Lumber Company: Provided further, That nothing in this section limits the Secretary's authority to acquire or purchase said lands.*

(c) DESCRIPTION OF LANDS.*—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Gallatin Area", dated September, 1992.*

(d) LAND ACQUISITION AUTHORITIES.*—Acquisitions pursuant to this section shall be under existing authorities available to the Secretary: Provided, That notwithstanding any other law, exchanges authorized in this section shall not be restricted within the same State.*

(e) AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.*

(f) EQUAL VALUE.*—Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.*

(g) REFERENCES.*—The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors.*

(i) REPORTS TO CONGRESS.*—For a period of 3 years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.*

The CHAIRMAN. No amendment to the substitute is in order except those amendments printed in House Report 102-970. Each amendment shall be considered in the order printed, may be offered only by the named proponent or a designee, shall be considered as read, and shall not be subject to amendment. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

If more than one of the amendments is adopted, only the last amendment is considered as finally adopted.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer an amendment in the nature of a substitute which has been made in order pursuant to the rule, which is essentially a compromise for S. 1696 and which has been printed in the report accompanying House Resolution 590, the rule on S. 1696.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The test of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. MARLENEE: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Montana National Forest Management Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wild land for the benefit of the American people.

(2) The existing Department of Agriculture Land and Resource Management Plans for Forest System lands in the State of Montana have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System.

(3) The existing Department of Agriculture Land and Resource Management Plans for National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas that do not possess outstanding wilderness attributes or possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values. Such areas should not be designated as components of the National Wilderness Preservation System but should be available for non-wilderness multiple uses under the land management planning process and other applicable law.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, and physical and mental challenge; and

(2) ensure that certain other National Forest System lands in the State of Montana be available for nonwilderness uses.

SEC. 3. WILDERNESS DESIGNATIONS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, the following lands in the State of Montana are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, which comprise approximately twenty-nine thousand one hundred acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(2) Certain lands in the Beaverhead National Forest, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated September 1991, and which shall be known as the Italian Peaks Wilderness.

(3) Certain lands in the Beaverhead National Forest, which comprise approximately seventy-nine thousand five hundred acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed", dated September 1991, and which shall be known as the East Pioneer Wilderness.

(4) Certain lands in the Beaverhead National Forest, Montana, comprising approximately seventy-six thousand six hundred acres, as generally depicted on a map entitled "West Big Hole Wilderness—Proposed", dated September 1991, and which shall be known as the West Big Hole Wilderness.

(5) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, which comprise approximately sixty-four thousand eight hundred acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated November 1991, and which shall be known as the Stony Mountain Wilderness.

(6) Certain lands in the Bitterroot and Lolo National Forests, which comprise approximately fifty-five thousand six hundred acres, as generally depicted on maps entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness. The use of motorized equipment shall be prohibited on those lands surrounding High Lake which are excluded from the area designated as wilderness by this para-

graph, except for such equipment (including access by helicopter) as the Secretary determines to be necessary to allow for the operation and maintenance of the impoundment located on High Lake.

(7) Certain lands in the Custer National Forest, which comprise approximately five thousand eight hundred acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Lost Water Canyon Wilderness.

(8) Certain lands in the Custer National Forest, which comprise approximately six thousand acres, as generally depicted on a map entitled "Absaroka Beartooth Wilderness Additions—Proposed" (Burnt Mountain, Timberline Creek, Stateline and Mystic Lake), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(9) Certain lands in the Deerlodge and Helena National Forests, which comprise approximately nineteen thousand acres, as generally depicted on a map entitled "Blackfoot Meadow-Electric Peak Wilderness—Proposed", dated September 1991, and which shall be known as the Blackfoot Meadow Wilderness.

(10) Certain lands in the Deerlodge and Bitterroot National Forests, which comprise approximately fifty-six thousand acres, as generally depicted on a map entitled "Sapphires Wilderness—Proposed", dated November 1991, and which shall be known as the Sapphires Wilderness.

(11) Certain lands in the Flathead National Forest, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck and Mount Hefty)", dated November 1991, and which shall be known as the North Fork Wilderness.

(12) Certain lands in the Flathead, Helena, Lolo, and Lewis and Clark National Forests, which comprise approximately two hundred fifteen thousand seven hundred acres, as generally depicted on maps entitled "Arnold Bolle Additions to the Bob Marshall Wilderness—Proposed" (Silver King-Falls Creek, Renshaw, Clearwater-Monture, Deep Creek, Teton High Peak, Volcano Reef, Slippery Bill, Limestone Cave, and Crown Mountain), dated November 1991, which shall be known as the Arnold Bolle-Bob Marshall Wilderness Additions and are incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness.

(13) Certain lands in the Flathead National Forest, which comprise approximately nine hundred and sixty acres, as generally depicted on a map entitled "North Mission Mountain Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the North Mission Mountain Wilderness.

(14) Certain lands in the Flathead and Lolo National Forests, comprising approximately one hundred and fifty-nine thousand five hundred acres, as generally depicted on maps entitled "Jewel Basin/Swan Wilderness—Proposed", dated November 1991. Those lands contiguous to the west slope of the Bob Marshall Wilderness referred to in this paragraph are hereby incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness, while the remaining lands shall be known as the Swan Crest Wilderness.

(15) Certain lands in the Gallatin National Forest, which comprise approximately five thousand five hundred acres, as generally depicted on a map entitled "North Absaroka Wilderness Additions—Proposed" Republic Mountain and Dexter Point), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the North Absaroka Wilderness.

(16) Certain lands in the Gallatin National Forest, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Lee Metcalf Wilderness.

(17) Certain lands in the Gallatin National Forest, which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1991, and which shall be known as the Earthquake Wilderness.

(18) Certain lands in the Helena National Forest, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1991, and which shall be known as the Camas Creek Wilderness.

(19) Certain lands in the Helena National Forest, which comprise approximately fifteen thousand acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1991, and which shall be known as the Mount Baldy Wilderness.

(20) Certain lands in the Helena National Forest, Montana, which comprise approximately ten thousand five hundred acres, as generally depicted on a map entitled "Gates of the Mountain Wilderness Additions—Proposed" (Big Log), dated September 1991, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(21) Certain lands in the Helena National Forest, which comprise approximately eight thousand five hundred acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated September 1991, and which shall be known as the Black Mountain Wilderness. The Secretary of Agriculture, using existing statutory authority, shall give special attention to the acquisition of non-federally owned lands within the Black Mountain Wilderness.

(22) Certain lands in the Kootenai National Forest, which comprise approximately thirty-one thousand acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated November 1991, and which are hereby incorporated in and shall be deemed to be part of the Cabinet Mountains Wilderness.

(23) Certain lands in the Kootenai National Forest, which comprise approximately fifty thousand acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated September 1991, which shall be known as the Scotchman Peaks Wilderness.

(24) Certain lands in the Kootenai and Lolo National Forests, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cateract Peak Wilderness—Proposed", dated September 1991, which shall be known as the Cateract Peak Wilderness.

(25) Certain lands in the Lolo and Kootenai National Forests, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cube Iron/Mount Silcox Wilderness—Proposed", dated November 1991, which shall be known as the Cube Iron/Mount Silcox Wilderness.

(26) Certain lands in the Lolo National Forest, which comprise approximately ninety-four thousand seven hundred acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated September 1991, which shall be known as the Great Burn Wilderness.

(27) Certain lands in the Lolo National Forest, which comprise approximately sixty thousand one hundred acres, as generally depicted on a map entitled "Quigg Peak Wilderness—Proposed", dated September 1991, which shall be known as the Quigg Peak Wilderness.

(b) MAPS AND LEGAL DESCRIPTIONS.—(1) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in this section and legal descriptions of each wilderness area designated by this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act.

(2) The Secretary may correct clerical and typographical errors in the maps and the legal descriptions submitted pursuant to this section.

(3) Each map and legal description referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, D.C. and at the office of the Region I Forester, Missoula, Montana.

(c) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated by this section shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964, except that, with respect to any area designated in this section, any reference to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) WILDERNESS AREA PERIMETERS.—Congress does not intend that the designation of wilderness areas in this section will lead to the creation of protective perimeters or buffer zones around such areas. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) GRAZING.—The grazing of livestock, where established prior to the date of enactment of this Act, in wilderness areas designated in this section shall be administered in accordance with section 4(d)(4) of the Wilderness Act of 1964 and section 108 of an Act entitled "An Act to designate certain National Forest System Lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes" (94 Stat. 3271; 16 U.S.C. 1133 note).

(f) STATE FISH AND GAME AUTHORITY.—In accordance with section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Montana with respect to wildlife and fish in the national forests of Montana.

(g) HUNTING.—Subject to applicable law, Congress recognizes hunting as a legitimate and beneficial activity within wilderness areas designated in this section. Nothing in this Act or the Wilderness Act of 1964 shall be construed to prohibit hunting in such areas.

(h) COLLECTION DEVICES.—(1) Within the wilderness areas designated in this section, neither the Wilderness Act of 1964 or this Act shall be construed to prevent the installation and maintenance of hydrological, meteorological, or climatological collection devices and ancillary facilities subject to such conditions as the Secretary deems desirable, where such facilities or access are essential to flood warning, flood control, and water reservoir operation purposes.

(2) Access to the devices and facilities described in paragraph (1) shall be by the means historically used, if that method is the least intrusive practicable means available.

SEC. 4. WATER RIGHTS.

(a) Finding.—The Congress finds that the waters within the wilderness areas designated by section 3 of this Act are headwaters, and accordingly, this Act has no effect on the appropriation or adjudication of waters within the State of Montana under applicable law.

(b) Rules of Construction.—Nothing in this Act is intended or shall be construed:

(1) to affect the downstream appropriation or adjudication of water;

(2) to affect existing water rights as provided under Montana state law;

(3) to affect the determination of express or implied reserved water rights as determined under other laws;

(4) as establishing a precedent with regard to any future wilderness designations or any interpretation of any other Act or wilderness designation.

SEC. 5. RELEASE TO NONWILDERNESS MULTIPLE USE.

(a) Findings.—The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 94–557;

(2) the Land and Resource Management Plans and associated Environmental Impact Statements (hereinafter referred to as "Land and Resource Management Plans") for all the National Forests in the State of Montana have been completed as required by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976;

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the environmental and economic impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress determines and directs that—

(1) without otherwise passing on the question of the legal and factual sufficiency of the Land and Resource Management Plans and their associated environmental impact statements for National Forest System lands in the State of Montana completed prior to the enactment of this Act, prior to the revision of such Plans, decisions to allocate roadless areas to wilderness or nonwilderness categories, and the environmental analyses directly related to such allocations shall not be subject to judicial review:

(A) *Provided, however*, That, except for decisions allocating lands to wilderness and nonwilderness categories, nothing in this section shall preclude judicial review of Department of Agriculture decisions implementing such Plans or decisions made concerning the management of National Forest lands subsequent to their allocation to wilderness and nonwilderness categories:

(B) *Provided further*, That, except for decisions allocating lands to wilderness and nonwilderness categories, nothing in this section shall preclude judicial review of Forest Service regional guides and other departmental policies of general applicability, nor prevent a court from invalidating forest planning decisions which fail to comply with applicable law;

(2) except as specifically provided in sections 3, 6, 7, 8, and 9 of this Act and in Public Law 95–150, with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture under Public Law 94–557, the unit plans that were in effect prior to completion of RARE II, the 1978 Forest Plan for the Beaverhead National Forest, and the Land and Resource Management Plans, that such reviews shall be deemed an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the Land and Resource Management Plans, but shall review the wilderness option when such plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to that time the Secretary finds that conditions in a unit have significantly changed;

(3) those National Forest System lands in the State of Montana referred to in paragraph (2) of this subsection which were not designated as wilderness, special management, national recreation or wilderness study areas by this Act shall be managed for multiple use in accordance with land and resource management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, and those areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial Land and Resource Management Plans;

(4) if revised Land and Resource Management Plans for the National Forest System lands in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for purposes of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Foreign Management Act, the term "revision" shall not include an amendment to a land and resource management plan.

(d) Except as where specifically provided elsewhere in this Act, the provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less than five thousand acres in size.

(e) Notwithstanding the provisions of paragraph (b)(2) of this section, the requirements of Public Law 95–150 are deemed to be satisfied with respect to the Sapphire and Middle Fork of the Judith Wilderness study areas.

SEC. 6. SPECIAL MANAGEMENT AREAS.

(a) For the purposes of conserving, protecting and enhancing the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made:

(1) The Mount Helena National Education and Recreation Area located in the Helena National Forest, comprising approximately three thousand nine hundred acres, as generally depicted on a map entitled "Mount Helena National Education and Recreation Area—Proposed", dated September 1991.

(2) The Hyalite National Education and Recreation Area located in the Gallatin National Forest, comprising approximately eighteen thousand nine hundred acres, as generally depicted on a map entitled "Hyalite National Recreation and Education Area—Proposed", dated September 1991.

(3) The Northwest Peak National Recreation and Scenic area located in the Kootenai National Forest, comprising approximately sixteen thousand seven hundred acres, as generally depicted on a map entitled "Northwest Peak National Recreation and Scenic Area—Proposed", dated September 1991.

(4) The Buckhorn Ridge National Recreation Area located in the Kootenai National Forest, comprising approximately twenty thousand acres, as generally depicted on a map entitled "Buckhorn Ridge National Recreation Area—Proposed", dated September 1991.

(5) The Tenderfoot/Deep Creek National Recreation Area located in the Lewis and Clark National Forest, comprising approximately fifty thousand acres, as generally depicted on a map entitled "Tenderfoot/Deep Creek National Recreation Area—Proposed", dated November 1991.

(b) The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the office of the Region I Forester.

(c)(1) Except as otherwise may be provided in this subsection, the Secretary shall administer the areas designated in subsection (a) so as to achieve the purposes of their designation as national recreation areas in accordance with the laws and regulations applicable to the National Forest System.

(2)(A) Except as provided in subparagraph (B), all federally owned lands within the areas designated in subsection (a) are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(B) The Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the areas designated in subsection (a) in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such dispostiion would not have significant adverse effects on the administration of the recreation areas.

(C) Nothing in this subsection shall affect valid existing rights within the areas designated in subsection (a).

(3) Management activities may be permitted by the Secretary if compatible with the purposes for which the areas are designated: *Provided*, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(4) Where the Secretary determines that such use is compatible with the purposes for which an area is designated, the use of motorized equipment shall be permitted in the areas subject to applicable law and applicable land and resource management plans.

(5) The grazing of livestock, where established prior to the date of enactment of this Act shall be permitted to continue subject to applicable law and regulations of the Secretary.

(d) The Secretary shall manage the Mount Helena and Hyalite National Education and Recreation Areas with a focus on education. All management activities shall be conducted in a manner that provides the public with an opportunity to become better informed about natural resource protection and management.

(e) Those areas established pursuant to subsection (a) shall be administered as components of the national forests wherein they are located. Land and resource management plans for the affected national forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall emphasize achieving the purposes for which the areas are designated.

SEC. 7. ELKHORNS NATIONAL RECREATION AND WILDLIFE AREA.

(a)(1) The area of the Helena and Deerlodge National Forests comprising approximately one hundred seventy-five thousand seven hundred acres, as generally depicted on a map entitled "Elkhorns National Recreation and Wildlife Area—Proposed", dated September 1991, is hereby designated as a national recreation and wildlife area and shall hereafter be managed as a national recreation area that emphasizes enhancement of big game habitat. Except as otherwise provided in this section, the Secretary shall administer the area so as to achieve the purposes of its designation as a national recreation and wildlife area. Where compatible with such emphasis, and consistent with applicable law and applicable land and resource management plans, management also shall provide for recreational opportunities (including, but not limited to, opportunities for motorized recreation) and the maintenance and enhancement of habitat for nongame species. Hunting shall be permitted within the area subject to applicable State and Federal law.

(2) Those lands within the Elkhorns National Recreation and Wildlife Area designated as "Elkhorns-2" on the map referenced in paragraph (1) shall, notwithstanding any other provision of this section, remain roadless. Motorized equipment may be used by the Secretary, or other public agencies with the approval of the Secretary, after public notice and opportunity for comment and a finding by the Secretary that such use is required for habitat improvement for fish and wildlife. Any area disturbed by such motorized equipment shall be restored to contour and revegetated with appropriate native plant species as expeditiously as possible.

(b) The Secretary shall file the map referred to in this section with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives, and the map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, all federally owned lands within the area designed as "Elkhorns-2" are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(d) Management activities may be permitted by the Secretary if compatible with the purposes for which the Elkhorns National Recreation and Wildlife Area is designated: *Provided*, That nothing in this section shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(e) The Elkhorns National Recreation and Wildlife Area established pursuant to this section shall be administered as a component of the Helena and Deerlodge National Forests. Land and resource management plans for these National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall emphasize achieving the purposes for which the area is designated.

SEC. 8. WILDERNESS STUDY AREAS.

(a) DESIGNATION.—The following areas are hereby designated as wilderness study areas and shall be managed in accordance with the provisions of this section:

(1) Certain lands in the Custer National Forest, comprising approximately seventeen thousand acres, as generally depicted on a map entitled "Line Creek Plateau Wilderness Study Area—Proposed", dated September 1991.

(2) Certain lands on the Gallatin National Forest, comprising approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "Sawtooth Mountain Wilderness Study Area—Proposed", dated September 1991.

(3) Certain lands in the Lolo National Forest which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Sheep Mountain Wilderness Study Area—Proposed", dated November 1991.

(4) Certain lands in the Flathead National Forest which comprise approximately thirty eight thousand acres, as generally depicted on a map entitled "Thompson-Seton Wilderness Study Area—Proposed", dated November 1991.

(b) Not later than five years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives containing recommendations as to whether the areas designated in subsection (a) should be added as components of the National Wilderness Preservation System.

(c)(1) Subject to valid existing rights and except as provided in paragraph (2), the wilderness study areas designated in subsection (a) shall be managed to protect their suitability for inclusion in the National Wilderness Preservation System for a period of seven years from the date of enactment of this Act. At the end of such seven-year period, the areas shall be managed, subject to valid existing rights, in accordance with the applicable land and resource management plans.

(2) Subject to valid existing rights, the Thompson-Seton Wilderness study area shall be managed to protect its suitability for inclusion in the National Wilderness Preservation System until Congress determines otherwise.

(d) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, United States House of Representatives, and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the Region I Forester.

SEC. 9. BADGER-TWO MEDICINE AREA.

(a)(1) Subject to valid existing rights, all federally owned lands as depicted on a map entitled "Badger-Two Medicine Area", dated September 1991, comprising approximately one hundred sixteen thousand six hundred acres, are withdrawn from all forms of entry, appropriation, and disposal under the mining and public land laws and from disposition under the geothermal and mineral leasing laws. Until otherwise directed by Congress, the Secretary shall manage this area so as to protect its currently existing wilderness qualities.

(2) Nothing in this section shall preclude the gathering of timber by the Blackfeet Tribe (the "Tribe") in exercise of valid treaty rights within the Badger-Two Medicine Area.

(3)(A) With respect to oil and gas leases on Federal lands within the Badger-Two Medicine Area, no surface disturbance shall be permitted pursuant to such leases until Congress determines otherwise.

(B) Notwithstanding any other law, the term of any oil and gas lease subject to the limitations imposed by this section shall be extended for a period of time equal to the term that such limitation remains in effect.

(b) The Secretary shall conduct a review of this area in accordance with the Wilderness Act of 1964 and the following provisions. Not later than five years after the date of enactment of this Act, the Secretary shall report his findings to Congress. In conducting this review:

(1) The Secretary shall establish a committee composed of representatives of the Blackfeet Tribal Business Council, the Blackfeet Tribal traditionalists, the National Park Service, and representatives of the user public including environmental groups and representatives of user industry groups (the "committee"). The committee shall regularly advise the Secretary during the preparation of the report required in subsection (b) and submit its findings to Congress concurrently with those of the Secretary.

(2) Special consideration shall be given to the religious, wilderness and wildlife uses of the area, taking into account any treaties the United States has entered into with the Blackfeet Nation.

(3) In consultation with the committee, the Secretary shall establish a process to provide information to the Tribe and interested public about options for future designation of the Badger-Two Medicine Area.

SEC. 10. PLUM CREEK LAND EXCHANGE—PORCUPINE AREA.

(a) In General.—The Secretary shall, notwithstanding any other law, exchange lands and interests in lands with Plum Creek Timber, L.P. (referred to in this section as the "company") in accordance with this section.

(b) Description of Lands.—(1) If the company offers to the United States the fee title to approximately eight thousand one hundred thirty and sixty-seven one-hundredths acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Porcupine Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately nine thousand one hundred eighty-one and seventy-four one-hundredths acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals as required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1980 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal oil and gas lease numbers 49432, 32843 and 55325; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary and the company.

(2) Upon termination or relinquishment of the leases referred to in paragraph (1)(B), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) Easements.—At closing on the conveyances authorized by this section:

(1) In consideration of the easements conveyed by the company as provided in paragraph (2) of this subsection, the Secretary of Agriculture shall execute and deliver to the company easements over federally owned lands for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States easements over company-owned lands for such existing or future roads as are needed to provide the United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Road Right-of-Way Construction and Use Agreements.

(d) Revocation of Order of Withdrawal.—The order of withdrawal contained in Executive Order No. 30-Montana 7-Phosphate Reserve, dated October 9, 1917 (960 acres, more or less), insofar as it applies to the lands conveyed by the United States in the transactions authorized by this section, is revoked.

(e) Maps.—The maps referred to in subsection (b) shall be subject to such minor corrections as may be agreed to by the Secretary and the company. The Secretary of Agriculture shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any correction made pursuant to this subsection.

(f) Timing of Transaction.—It is the intent of Congress that the conveyances authorized by this section be completed not later than ninety days after the date of the enactment of this Act.

(g) Forest Lands.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

SEC. 11. PLUM CREEK LAND EXCHANGE—GALLATIN AREA.

(a) In General.—The Secretary shall, notwithstanding any other law, acquire by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (referred to in this section as the "company") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b)(1) Description of Lands.—If the company offers to the United States the fee title to approximately thirty-seven thousand seven hundred fifty-two and fifteen one-hundredths acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately twelve thousand four hundred-fourteen and six one-hundredths acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 23290, 29230, 40389, 53670, 40215, 38678, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary of Agriculture and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the country wherein the leased lands are situated.

(c) Easements.—At closing on the conveyances authorized by this section:

"(1) In consideration of the easements conveyed by the company as provided in paragraph (2), the Secretary shall execute and deliver to the company easements for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States easements over company-owned lands for such existing or future rights-of-way as are needed to provide the United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Road Right-of-Way Construction and Use Agreements.

(d) Maps.—The maps referred to in subsection (b) are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any corrections made pursuant to the subsection.

(e) Timing of Transaction.—It is the intent of Congress that the conveyances authorized by this section be completed within ninety days after the date of enactment of an Act making the appropriation authorized by subsection (g).

(f) Forest Lands.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

(g) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section the sum of $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

SEC. 12. SEVERED MINERALS EXCHANGE.

(a) Findings.—The Congress finds that—

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Incorporated (referred to in this section as the "company");

(2) there are federally owned minerals underlying lands of the company lying outside those areas;

(3) the company has agreed in principle with the Department of Agriculture to an exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable that an exchange be completed within two years after the date of enactment of this Act.

(b) Description of Mineral Interests.—(1) Pursuant to an exchange agreement between the Secretary and the company, the Secretary may acquire mineral interests owned by the company or an affiliate of the company thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to those areas.

(2) In exchange for the mineral interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary and the company may agree upon.

(c) EQUAL VALUE.—(1) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information.

(2) To ensure that the wilderness or other natural values of the areas are not affected, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, but the Secretary and the company shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) IDENTIFICATION OF FEDERALLY OWNED MINERAL INTERESTS.—(1) Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which are owned by the company.

(2) If there are not sufficient federally owned mineral interests of approximately equal value underlying company lands, the Secretary and the Secretary of the Interior may identify for exchange any other federally owned mineral interest in land in the State of Montana of which the surface estate is in private ownership.

(e) CONSULTATION WITH THE DEPARTMENT OF THE INTERIOR.—(1) The Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision calling for the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) Notwithstanding any other law, the Secretary of the Interior shall convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and the company and its affiliates.

(f) DEFINITION.—For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) ENVIRONMENTAL LAW.—The execution and performance of an exchange agreement and the taking of other actions pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment within the meaning of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), nor shall they require the preparation of an environmental assessment under this Act.

SEC. 13. LANDS ADMINISTERED BY BUREAU OF LAND MANAGEMENT.

(a) FINDING.—The Congress has reviewed the suitability of the Bitter Creek Wilderness Study Area (MT-064-356, BLM Wilderness Study Number) and approximately two thousand five hundred acres of the Axolotl Lakes Wilderness Study Area (MT-076-069, BLM Wilderness Study Number) as generally depicted on a map entitled "Axolotl Lakes WSA", dated March 1990, for wilderness designation and finds that those lands have been sufficiently studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) DIRECTION.—The areas described in subsection (a) shall no longer be subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to management in a manner that does not impair suitability for preservation as wilderness.

(c) Administrative jurisdiction over those lands designated as wilderness pursuant to paragraphs (3) and (26) of section 3(a) of this Act, and which, as of the date of enactment of this Act, are administered by the Bureau of Land Management, is hereby transferred to the Forest Service.

SEC. 14. MISCELLANEOUS PROVISIONS.

(a) Those lands comprising the Rattlesnake National Recreation Area and Wilderness, as designated in Public Law 96-476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(b) Those lands comprising approximately twenty four thousand acres, as generally depicted on a map entitled "Gibson Reservoir Withdrawal Area—Proposed", dated November 1991, are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(c) All acreages cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

(d) It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) such sums as are necessary for the development of a wilderness education and ranger training complex at the Ninemile Ranger Station, Lolo National Forest, Montana; and

(2) such sums as are necessary to carry out this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Montana [Mr. MARLENEE] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is identical to the Senate-passed Baucus-Burns bill. If it is passed by the House today, the process is greatly expedited. We have no conference. we have no problem in ironing out the differences. We have a law as soon as the President signs the bill.

Any other version of this bill, such as the Vento-Williams, would be sent to conference and would kill the Montana wilderness bill effort. Although I pledge myself to attend the conferences necessary, because the differences in these versions cannot be settled in the 3 days that are left, it is my sincere feeling that we will, in fact, be unable to pass the bill. The passage of any other version but the one that I offer today spells the death knell and moves Montana wilderness legislation one step closer to the grave.

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would just suggest that the gentleman from Montana in general debate referred to me as being unyielding, uncompromising, and unwilling to work on things. I would suggest that his opening comments introducing the measure that he has and has a right to do, and I respect his right to do so, did not sound like an offer of good will or a willingness to compromise and to work out whatever differences that might exist. I regret that, and I hope that that is not actually the result.

Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS], in opposition to the Marlenee amendment.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the Montana wilderness bill as reported by the Senate is replete with mistakes. In one section the Senate Marlenee bill adds lands to a wilderness area that does not exist; in another section the Senate bill adds lands in Montana to a wilderness area located in Wyoming; in another section of the bill management of Bureau of Land Management lands that do not exist are transferred to Forest Service, television towers are placed in wilderness in other Senate sections.

If this were not enough, the Senate Marlenee bill, because it did not go through even 1 minute of public hearings directly on its proposals, does not include critical adjustments in area designations crucial to both jobs and continued recreational opportunities. These adjustments were made by the House Interior version of this bill because we listened to those Montanans who testified not once but twice in the House. Let me share just a few examples with you:

The Senate bill does not protect recreation. In fact the House version of the wilderness bill closes fewer motorized recreation trails than does the Senate bill. In just one area in Montana the Senate bill closes as many as 17 motorized access trails in an area called the West Bighole. Folks from Beaverhead County including the county commissioners, local ranchers, and local conservationists were stunned to find that the Senate had ignored a longstanding agreement that set aside the West Bighole area as a combination of wilderness and recreation area. The House Interior bill recognizes that agreement and opens those trails and still protects critical elk habitat as wilderness.

In a small area just above the town of West Yellowstone, close to the western entrance to Yellowstone Park, the Senate bill included, in wilderness, lands in the earthquake area that the West Yellowstone Chamber of Commerce, local businesses, and the mayor and city council asked not be designated because of the area's critical importance to local snowmobilers. The House bill deletes those lands and still designates a significant portion of the area as wilderness.

In a beautiful pristine area just outside of Hamilton, MT, there is a range of mountains called the Sapphires which were set aside in 1976 by then Senator Lee Metcalf in a management category that preserved the areas wilderness characteristics but still allowed motorized activites to continue. The Senate bill placed wilderness in this area in a way that satisfied neither the conservationists nor the motorized uses, the House bill returns that area to its current status.

I could go on, but instead lets look at the Senate bill's protection of jobs.

It has been the longstanding policy of the Montana delegation not to place wilderness designations over patented mining claims. The Senate bill mistakenly places mining claims in wilderness.

Just before the House considered the Senate bill I concluded land trade negotiations with the current owners of a significant amount of checkerboard land all along the Gallatin Mountain range just north of Yellowstone Park. Since 1925, it has been the desire of local conservationists, the land owner, and the Federal Government to, because of the critical importance of these lands to the wildlife of Yellowstone Park, consolidate the lands in the Gallatin range into Federal ownership and find lands elsewhere suitable for harvest to allow the continued operation of the local mill in Belgrade, MT. In fact if a land trade is not accomplished the local mill is sure to close or be forced into taking timber from these critical wildlife areas. The Senate bill does not contain the new agreement, but the House Interior bill does.

The owner of the Maverick Mountain Ski Hill testified that if there was not an adjustment to the boundary of an existing wilderness study area then he would not be able to continue the operation of his local ski hill. He worked with local conservationists to come up with a solution to his problem, and the Senate Marlenee bill does not enact that solution, the House bill does.

Now that it is clear that the Senate bill does not protect jobs or recreation, let's examine if it protects Montana water rights.

Recently the Federal courts have found that lands designated under the 1964 Wilderness Act carry with that designation a Federal water right for the purposes for which the area was set aside. My colleague has made a great deal about how he wants to protect Montana water users from the designation of a Federal water right in wilderness. Does the Senate bill repeal the current court action? No. Does it make clear what rights Montanans have in regard to this Federal right? No. What it does do is sidestep the issue and leave the determination of Montanans rights to the whim of the Federal courts. The House bill while leaving in place the Federal water right for wilderness specifically declares that the Federal right is junior to all existing Montana rights and any dispute about those rights must be settled in Montana's water courts. The House Interior bill clearly protects Montana's water users better than the Senate bill.

There is one other area in which the House bill is superior to the Senate and this is in an area that my colleagues from the other side of the aisle do not mention much. This is in the protection of the last of our great wild lands and critical game habitat. The Senate bill omitted from wilderness designation areas that have for years been advocated for protection due to their beauty and importance. Areas like the Whitefish Range adjacent to Glacier National Park, Roderick Mountain in the remote Yaak Valley, Charlie Russell country in the Judith Basin, and Indian sacred ground and wildlife habitat in the Crazy Mountains. The Senate bill also paid little attention to those lands that hunters have for decades advocated for protection because of their importance to the survival of our great game herd. Montana currently has the longest and best elk hunting seasons in the world. Without protection of areas important to winter range, calving areas, and remaining cover what is in store for Montanans is less opportunity and eventually the same type of hunting lottery system all other States now experience.

Lands along the game ranges of the Rocky Mountains front, along the Continental Divide in places like Nevada Mountain, in the critical areas of places like Cowboys Heaven and Trout Creek, the Senate bill simply ignored the findings of game managers and hunters.

The Senate protection of critical fisheries and spawning areas, important river drainages, and essential headwaters was not much better and the House heard from anglers from across Montana who called for the protection of areas like Whale Creek and the Flints.

I believe I have made my point. It is simply the act of political expediency for those who are calling for enactment of the Senate bill without amendments. This cannot be done, it should not be done. It is also tiresome to hear those who called for the last RARE II veto to idly threaten another one. There is only one way to resolve these issues and avoid the need for a veto and that is to pitch in, compromise, and do your homework. I am only sorry that my colleague from Montana has chosen to date to demagogue, divide, frighten, and demand solutions that are neither farsighted nor practical.

I urge that we get on with passage of the House Interior bill and set aside the posturing for 30 second spots and political advantage.

□ 1530

Mr. MARLENEE. Mr. Chairman, well, again it is time to move the shells to see what is under them. That is what I shall attempt to do.

The chairman of the Subcommittee on Public Lands said "we are not going to have it, we are not going to have the Montana wilderness bill compromise, I am going to see to that in committee." Obviously, my colleague, Pat Williams, has agreed with that.

But I think he has made a misstatement when he has said that every group that has spoken on the bill has opposed it. Groups like the Montana Stock Growers, Montana Farm Bureau, and this letter to the editor that appeared in most major Western newspapers that has some 60 different groups in it.

The letter referred to is as follows:

Wilderness Is a Montana Issue, Open Letter to Montana's Congressional Delegation

No issue is more vital to Montana's future than reasonable access to our natural resources. That includes how much federal land is placed in wilderness.

This is a critical time. The elected officials of Montana must protect access to those resources for the benefit of working families and the businesses—small and large—that employ them.

Montana cannot afford to have its natural resources "nationalized" through unreasonable increases in wilderness acreage. Remember, we already have 3.4 million acres set aside.

Long before anyone heard of national organizations like the Audubon Society, the Sierra Club, the National Wildlife Federation, the Wilderness Society, and movie and television celebrities, Montanans were building homes, businesses and communities.

Montana loggers, miners, oilmen, ranchers and farmers, retail and wholesale people were building Montana when these modern day "discoverers" didn't know we existed. Montana workers and businesses paid the taxes that built the streets, the parks, the communications and transportation infrastructure, the water storage facilities and the schools and universities that educated us all and helped make Montana the "last best place". They still do.

We are all Montanans. We do not feel guilty about harvesting trees, extracting minerals, using water, and raising livestock and grains. We respect our relationship with nature when we hunt, fish, and ride our snowmobiles, trailbikes and 4 x 4's.

Wilderness designation isn't just saying NO to logging, mining, oil and gas extraction and grazing. Wilderness means saying goodbye to snowmobiling, mountain biking, trail bike riding, wheelchairs, motorized hunting access—any mechanized function whatsoever.

The Forest Service has recommended only 806,000 acres of new wilderness compared to the 1.2 million already proposed. The LAST thing Montana needs is for Congress to add more acres to the Baucus-Burns Wilderness bill.

Our Congressional delegation must stand up for Montana's working people and Montana's businesses. The Eastern Montana College and the Montana Chamber of Commerce polls reflect one opinion: 71.9% of Montanans believe there is already enough or too much wilderness in our state.

WHAT ELSE DO MONTANANS WANT?

No more wilderness studies. We want an end to the wilderness debate.

To protect Montana's water rights. To be sure that all Montana waters are adjudicated under Montana law, not by Congress.

At least a ten year interval before the Forest Service is required to provide new wilderness recommendations. Otherwise some Montana forests will be stampeded into drafting new wilderness recommendations as soon as next year.

The ability to manage our public resources * * * not lock them up.

Consideration of local government needs and concerns in making land use decisions that impact the economic stability of communities.

We the undersigned, recognize that there will be more wilderness. But we don't need crippling acreage increases and legislation that satisfies a Hollywood agenda. We need a truly Montana wilderness bill.

This message is not new. It is a message our elected officials have heard time and time again. Some have listened. Some have not.

It's 1992. It's time to listen.

Those 2,600 people that you saw on the poster who are demonstrating in the streets said, "We don't want Vento-Williams." Are we listening?

Maybe there is a reason that it has taken 12 years to try to resolve that question about wilderness in the State of Montana. Maybe that reason is the fact that Montanans think that we have had enough wilderness unless we could end the conflict, unless we can end the conflict and go back to the professional management whereby we provide for recreation and jobs.

My colleague, PAT WILLIAMS, said he was going to protect one of the beautiful areas and that he had in fact included it in wilderness, and that was the Roderick Mountain area of Lincoln County that he lists in the Vento-Williams bill.

Eighty-five percent, 21,200 acres are suitable for timber harvesting in this area, according to the U.S. Forest Service. With 20 percent unemployment in Lincoln County, tell them that you need to protect this area even if it means the loss of those jobs. Stumpage value of this timber at today's prices, are nearly $28 million. That is enough to keep roughly 300 people employed for 2 years. It would provide $4 million to $5 million for county roads, and $2 million to $3 million for the school systems in that particular area.

Now let us move to Sanders County. There it eliminates critical revenue again for schools and roads. Designation of Trout Creek in Vento-Williams would cut off from harvest 24,200 acres of suitable timber, 219 million board feet, according to the Forest Service. This timber has stumpage value of $44 million at today's prices. That is enought to provide 700 jobs in Sanders County for 2 years, according to the University of Montana.

Well, 700 jobs here, 300 jobs there, and 500 jobs somewhere else, does that matter to Liz Claiborne and Whoppie Goldberg and those people who want to expand the Montana wilderness? I think they are pretty secure in their haven. They can come to Montana and make it a playground. But those people in the mills and in the hills, they have to depend on the policies that we put out of this U.S. Congress. That is unfortunate because this Congress is loaded and steamed with those who want to lock Montana up without balance.

Federal timber receipts for that area in Sanders County, on this harvest, would mean $7.3 million for county government and $3 million for schools.

We have just had a great debate in the State of Montana at the State legislature on how we are going to fund our school system and infrastructure within the State. Do we increase taxes? No, they do not want to increase taxes. Do we want to cut services? No, they do not want to cut services. But right here in this body, on that side of the aisle, and the environmentalists are saying, "But we can't use those resources for education, for jobs, for the economy."

Mr. Chairman, I received a letter just now from the executive office of the President, Office of Management and Budget. The administration opposes House passage of S. 1696 as reported by the House Interior and Insular Affairs Committee. The administration supports S. 1606 as passed by the Senate.

The statement of administration policy follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration opposes House passage of S. 1696, as reported by the House Interior and Insular Affairs Committee. The Administration supports S. 1696, as passed by the Senate. During further congressional consideration of the bill, the Administration will seek the following amendments:

Eliminate the Federal reservation of water rights for wilderness purposes.

Strengthen the provision to "release" for multiple-use management those roadless areas not designated as wilderness under the Forest Service's management plan. This would exclude from judicial review the initial decisions in the Forest Plans to recommend certain areas for wilderness designation and allocate others for multiple-use management. Such release language would be consistent with S. 1696, as passed by the Senate.

Modify certain wilderness areas to be more consistent with S. 1696, as passed by the Senate.

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in opposition to this amendment. It is flawed in four critical ways:

First, it leaves out hundreds of thousands of acres of Montana's wildlands allowing these very scenic and ecologically sensitive areas to be developed. The Big Sky country would become the Small Sky country based on this approach. Areas that the Interior Committee bill protects that the Marlenee amendment would delete include Cowboy's Heaven, the Crazy Mountains, the Rocky Mountain Front, Nevada Mountain, Flint Creek, and the Yaak. This amendment also contains the flawed release language passed by the Senate which prohibits judicial review of Forest Service management. Citizens would be prevented from appealing forest service decisions to the courts.

The Marlenee substitute seeks to have the House adopt the flawed Senate water rights language which does not give wilderness a Federal reserved water right. All recent wilderness bills passed by Congress have included expressly giving wilderness a Federal reserved water right. This amendment is inconsistent with these other wilderness bills which have been signed into law and would make Montana wilderness areas second class areas with less protection than wilderness areas in other States. Wilderness needs water. The trees, vegetation, wildlife, and fish of the wilderness ecosystem obviously cannot exist without it. To deny the ecosystem's right to have water is to deny the ecosystem's right to exist.

□ 1540

Giving wilderness water does not threaten in any way existing water users in Montana. It would be junior to the rights of existing users and, it would be adjudicated in the State of Montana.

The wilderness areas in this bill are headwaters and are a nonconsumptive use. In other words, water will continue to flow out of the wilderness to downstream users. In fact, designating these areas as wilderness ensures that this water comes to Montana users in a clean, high quality state. Furthermore, the wilderness water right will be junior to that of all existing water right holders who, thus, will have precedence over wilderness in any water disputes.

This amendment also sunsets wilderness study areas. It would open congressionally designated wilderness study areas to development long before Congress has acted to determine how they should be managed. In this bill, we maintain some 900,000 acres of land as study areas because we have been unable to resolve the final disposition of these lands. Opening them up to development simply because there has not been action because the previous wilderness bill was vetoed, would put the premium on stalling legislation.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I will yield to the gentleman from Montana briefly.

Mr. MARLENEE. Yes, Mr. Chairman, we have had study areas and we have had some of those study areas since Lee Metcalf passed the first bill and they are still in this proposal, the gentleman's proposal.

Does the gentleman propose to sunset those so we have a date certain when the finality of that occur?

Mr. VENTO. Reclaiming my time, Mr. Chairman, my concern is that we have been unable to resolve those issues. I think the Congress has to come back and address those. I understand the gentleman's frustration with that, but we are releasing 3½ million acres in the bill.

Mr. Chairman, the Marlenee amendment is just a rehash of the flawed Senate measure that has been roundly criticized by the public and which has been rejected by the Interior Committee. I hope the House will reject it.

We cannot rubber stamp the Senate's work when they have done such a flawed job.

In fact, the gentleman from Montana [Mr. WILLIAMS] helped me tailor our bill to respond to numerous concerns that arose after the measure passed the Senate. We minimized the impact. While the acreage numbers increased, the conflicts went down. This is good policy and good work, deliberate, careful, and thorough. The Senate measure has serious flaws. They tried, and I will give them credit for that, and credit to my colleague, the gentleman from Montana [Mr. MARLENEE], but today let us support the better product, the Williams substitute, and vote "no" on the eclipsed Senate version. We have a better plan, a better policy.

Vote "no" on this substitute.

Mr. MARLENEE. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Alaska [Mr. YOUNG], the ranking member of the subcommittee, whom I greatly respect, and who has dealt with extensive wilderness and fish and wildlife areas.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding me this time.

I have been listening to this debate from both sides of the aisle now in my office watching the television. I know by the rules we are not to mention the television audience, but in reality there are about 17 million Americans watching it today.

I would like to suggest that this issue is even beyond Montana. The issue, as the gentleman from California [Mr. DANNEMEYER] has brought forth, is a battle between philosophies in America and opportunities for the future of Americans.

It is those on that side of the aisle primarily that carry the spear for the environmental groups. They carry the spear for the elitists, the Ted Turners, for Montana, for Whoopi Goldberg, Liz Claiborne, those that have the money and the wealth derived from inundating industries, that go out and have their little niche in the great State of Montana, without any consideration for those people who are weather beaten and face the elements, and yes, their forefathers fought the enemies and established themselves there; no consideration at all for those people, to make Montana into a wilderness area supposedly for the future generations.

Damn the people here now. We don't care. We're only thinking about the future generations.

That deeply disturbs me, because in my State I watched the same body set aside 147 million acres of land, supposedly for the future generations.

By the way, it has the most oil, the most minerals, the most timber and all those other good things; set it aside—and for whom? Again these same elitists, those with money in their pockets, not the guy that has to work and ride that horse and herd the cattle, not the person who has to cut the trees down and provide the money for the shoes and braces for his children's teeth, not those people, but for the elitists.

It is ironic to me today, we watch and we hail the great collapse of the Soviet Empire. I just read in the paper today they are issuing stock to privatize Russia.

And what are we doing in this body, especially from that side of the aisle, the liberal Democrats, by the way, led by the chairman, the gentleman from Minnesota [Mr. VENTO] in the Congress, in the Interior Committee of which I am the ranking member.

Every bill that comes before it takes jobs away from Americans, takes jobs away from the people in those States, and he says to me, he says to you, "Yes, we have received thousands of letters to take and expand the bill beyond what we have today. This is a compromise."

Nonsense. Who are those letters from? Sierra Club, Friends of the Earth, trustees, Audubon Society, all these other groups of people that absolutely do not represent the working people of America.

I think, fellow Americans, you had better wake up. There is an elitist movement in this country to take away the availability of opportunity for Americans who do work.

I know the gentleman from California [Mr. DANNEMEYER] showed a map over here. We own more land as the United States of America today than any other country other than China and Russia by the Federal Government, that produces nothing.

I have to remind you, the owner of land in the government produces no taxes, produces no jobs. It does nothing. It does produce control for the elitist groups.

Now, we are talking about the substitute by the gentleman from Montana [Mr. MARLENEE]. If you want a wilderness bill, I am going to suggest to my colleagues that you support his proposal that passed the Senate with two Senators.

I am not happy with that proposal, to be very honest with you, but you certainly do not support the Vento-Williams bill, no way.

This is probably the worst piece of legislation, and by the way, for those people in Montana, remind yourselves, if you think this solves the problem, you have got another thought coming, because I heard that same argument when they locked up 147 million acres of land in Alaska in 1980. "We have solved the problem. We're going forward. We will no longer revisit this issue."

This gentleman from Minnesota revisited it again and took an additional 5½ million acres into wilderness and took away, by the way, over 5,000 jobs.

Jobs. We keep hearing the Presidential candidate, Mr. Clinton, talking about jobs. We are going to train people and put them back to work—on and doing what? Selling hamburgers?

This country has not faced up to the fact that we have stopped producing.

It is ironic to me, the same bleeding heart liberals on that side of the aisle, the Democrat side of the aisle, talk about we have got to house the poor. We have to take and give housing to the poor. We have to make housing affordable, and then they turn around and say, "Can't take any trees down, can't find any iron to make steel."

What are we going to build them out of, plastics? We cannot drill any oil.

I am saying, what a hypocrisy to have a group of people say that we are going to solve the problems of Montana by passing the Vento-Williams bill. All you are doing, you will be back here 2 years from now with another bill to add more wilderness for Ted Turner, not for the people of Montana.

I say let us vote for the Marlenee substitute. If that goes down, let us vote against this whole turkey. Let us send it back where it belongs, back into the committee and recognize the rights of the people of Montana who need work and jobs and the right to make their decisions, not somebody from Minnesota or somebody from Pennsylvania that talks about we have cut 95 percent of our trees. Nonsense. We have more trees today than we had in 1900. That is nonsense. If you went into Pennsylvania and Indiana and Ohio, yes; but the West has protected their timber. We have done the job right.

Mr. VENTO. Mr. Chairman, I yield 4 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. Williams. Mr. Speaker, we have heard a lot, at least from two people on the other side, about all the out-of-State interference with this bill. The two gentlemen whose political adrenalin appears to be the most flammable on out-of-staters interfering in the Montana wilderness process are the gentleman from California and the gentleman from Alaska.

□ 1550

Mr. Chairman, I am from Montana. As I said, almost all of the designations in this bill are in the congressional district which I am pleased to represent, and the underlying bill here is my bill. The areas that are so designated as either wilderness, or national recreation, or other were put in this bill at my urging, and I did it on behalf of, not some out-of-stater from Alaska, or California, or New York, or anywhere else, but on behalf of Montanans.

Let me note, my colleagues, that not only is the Senate bill flawed, not only does it contain both technical and substantial mistakes which must be corrected, but the sponsor of that bill here in the House, the gentleman from Montana [Mr. MARLENEE], has made statements which on their very face are incorrect and, I think, deserve a correction.

For example, just a few minutes ago he mentioned that there were 219 million board feet of timber in an area out our way called Trout Creek. There are not 219 million acres of board feet. There are 219 million acres of standing timber. It is very different, and we simply need to be accurate when we in this form try to convince our colleagues of the facts.

My colleague, the gentleman from Montana [Mr. MARLENEE], also entered into the RECORD the letter from a Montanan named Mr. Grosfield. I can understand that some Montanans, faced with the task of trying to figure out what is in this bill, quickly might not fully understand it. But I want to assure my colleague, Mr. MARLENEE, as well as Mr. Grosfield who wrote to him, his constituent, that the contents of Mr. Grosfield's letter are incorrect, at least as Congressman MARLENEE has stated them. Mr. Grosfield's private property is not surrounded by wilderness in the bill before us. No private land in this bill is surrounded by wilderness.

The gentleman from Montana [Mr. MARLENEE] went on to say, not quoting Mr. Grosfield, but rather laying his own thoughts before the House, that there was no support for putting the Crazy Mountains, which is the area in question here, close to where Mr. Grosfield lives, that there was no support for putting it in wilderness.

The Cree Indian Tribe in Montana supports formally putting it in wilderness, as we have done. The Billings Rod and Gun Club, for the purpose of protecting big game habitat, was encouraging me to declare wilderness area in the Crazies in the place where I live. Hundreds of people that live near the Crazies on the western side around a city called Livingston have petitioned to have wilderness designations in the Crazy Mountains.

The gentleman from Montana [Mr. MARLENEE] has placed an ad in the RECORD here today, or at least referred to a newspaper ad. That was an ad that a coalition of people in Montana paid for and had presented in the Montana newspapers. Every single member of that coalition has testified or written in opposition to the very bill that the gentleman from Montana [Mr. MARLENEE] brings today.

Mr. MARLENEE. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in support of the Marlenee substitute, not because I am particularly involved with what is done in Montana, but because what is done in Montana sets precedent for what we do in the Western States with regard to wilderness.

Let me say again how important it is, how these policies are developed in our State.

More than 50 percent of the land belongs to the Federal Government. The decisions that are made by public land managers, that are made by this body and carried out by public land managers, affect, of course, the future of our States, affects the economy of our States.

I support wilderness. I think wilderness is a great idea for those areas that are uniquely fitted to wilderness. I am a little disappointed when I hear people speak as if, if it is not put in wilderness, it suddenly is developed and paved over. That is not the case. We have forests that surround all of the wilderness that are in multiple use that are not developed, but indeed, the resources there are compatibly used multiply. I think that is very important.

I am particularly interested and supportive of the Marlenee language because, No. 1, it recognizes the water language that I think is consistent with the States and the State constitutions when we entered into this federation and the States were given control over water. I think that is as it should be. It really should not be a problem. In wilderness the water rises to the top of wilderness areas. By definition water is not withdrawn in wilderness areas, water is not consumed in wilderness areas, so the notion that we have to have a reserved water right is not consistent with the facts, and this has been a struggle all along.

I say to my colleagues, "If you really want this bill passed in the Senate, then you really need the Marlenee substitute to do this."

The other is release language. The question is: "When you have a study area, you decide to put certain parts of it into wilderness; what do you do with the rest?" Unless there is specific release language that says the remainder will be managed in multiple use, then we go on with a gridlock in the future as to what can be done with it, and the fact is it becomes de facto wilderness because we have not put in the proper language.

Finally, Mr. Chairman, in the Vento language there is a study that is designed to be developed in the northern Rockies. I am not sure we know what the northern Rockies is. But I am not at all excited about Wyoming being included in a study designed in a Montana wilderness bill without any discussion or decisions on the part of Wyoming as to how that ought to be done.

So, Mr. Chairman, I simply rise to say that wilderness is an important aspect. There are some keys to it. One of them is the recognition of States rights in water. The other is the release language.

Mr. VENTO. Mr. Chairman, I reserve the balance of my time.

Mr. MARLENEE. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, my friends from Montana, I have been listening intently to this debate. It takes me back to 1984 when the issue before this House was the Oregon wilderness bill, and I recall many of the same arguments have been made today, and I want to reflect for a moment because of the same arguments that actually happened in Oregon.

Mr. Chairman, in that case the question was under the additional million acres of wilderness, and, if we did that, we are going to release 3 million acres for multiple use. The result of all of that has simply been, my colleagues, that there is no carrot on the stick of those who say they are going to release anything in Montana or in Oregon.

The result simply was this: We have an additional million acres in Oregon. That gives us 2 million acres of wilderness which is locked up forever. Of the 3 million left, with the advent of the spotted owl, with the intense interests from every State in the Union outside the West, we have literally locked up 3 million acres of land.

We are out of jobs in Oregon. There is no timber being harvested on the west side, most forests inside of our State, and we cannot even salvage timber on the east side where we have 3 million board feet of dead timber standing because preservationist groups say that is the way nature intended it.

I say to my colleagues, "Don't fall for the carrot on this stick. The water rights issue is an imperative, interesting and very difficult issue; no question about that. However I can guarantee you that, if you have a Federal prescribed water right at the headwaters of the Montana mountains, you will forever give up any kind of expansion, any kind of development, in the lower reaches and the valleys of Montana because that's simply the way it operates."

I listened to this question of compromise, and it seems to me that, if two Senators from Montana, one Democrat and one Republican, and a gentleman from Montana [Mr. MARLENEE] have agreed to an issue, that seems like a compromise to me. That is three out of four Members of the delegation. I am not sure any group of people in any State could get three-quarters of their delegation to agree upon one position. Obviously Mr. MARLENEE has compromised with the Senate, and that issue is before us.

☐ 1600

Beyond that, I have heard about the yearnings of passing something because Montana has been in this difficult debate, which it has been for so many years, and it seems to me that if we are going to pass anything in the late days of this session, we ought to do it without having to go to conference. It seems to me with the ending days of the session coming on the chance for a conference committee on this issue is probably impossible. It surely will be impossible to pass this bill if the President is going to veto the Vento-Williams version. That means we are going to continue this difficulty that everybody expresses and frustration into another session and on into the future, continuing to provide confusion in the State of Montana.

Mr. Chairman, all of those together would seem to me to allow us to support the gentleman from Montana [Mr. MARLENEE] in his effort. Let us put the Montana wilderness behind us. Let us go with the compromise with the Senate.

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would urge opposition to the Marlenee amendment. As I think it has been pointed out, this version is flawed. The House has provided a better product, one that I think is more artfully crafted.

The fact is I think we really have an opportunity here to have a House voice in this particular process. I do not think anyone want to rubber stamp what the Senate has done based on the problems in their bill.

As I have said, the differences, while they may seem small to some in terms of the acreage involved for these conservation areas, it is absolutely essential we oppose this amendment because of the flawed sunset language for wilderness study areas, the inappropriate water language, dangerous release language.

I think we have a better product here. We have been deliberate and careful. I think the gentleman from Montana [Mr. WILLIAMS] has done careful work on this with his staff and with others in terms of this process.

Clearly all of us have a voice in the National Wilderness Preservation System. Today nearly one out of six acres of national forest lands are designated as wilderness. This is a very important classification. We have but two States remaining that have not had Statewide national forest wilderness bills passed since the RARE II study process began. One of these is Montana and 10 years has elapsed. Obviously the issue has become polarized, but I think we are close to completing this and doing it in the right way.

The other State is Idaho, which I hope we can work on in he next Congress.

Mr. Chairman, I would urge Members to advance this process and not rubber stamp the Senate proposal, especially with the flaws that have been pointed out in it.

Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I do, as we move now to close debate on the Senate-Marlenee amendment, wish to make a couple of points for my colleague.

The first is that Montanans themselves want changes in the Senate bill. If they did not, if they had accepted that bill, then I would have gladly accepted it here in the House, because I tell my colleagues, and all who hear me will know what I am talking about, political expediency encouraged me to simply accept the Senate bill and be done with it. But for 6 months Montanans have, including the gentleman from Montana [Mr. MARLENEE], objected over and over again to parts of the Senate bill.

So we are trying to do here in this House today what Montanans overwhelmingly have asked us to do, and that is to change the bill.

Mr. Chairman, I also want my colleagues to understand this: both Senators have sent people to my office asking them to come and convince me to make changes in the bill that came from the Senate. I could delineate if time permitted what those changes are.

So the notion that three out of four people in the Montana delegation do not want changes is simply and factually inaccurate. Senator BAUCUS is somewhat more open about the changes that he wants. He has applauded this process in the House and said he recognizes the tradition and history of the Congress allowing each body to work its will on a bill. No wilderness bill, without exception, that has come from one body to the other has been accepted without some changes.

So we worked today in the best interests of Montanans and in the best of the history and tradition of this House, which says that this House and the Members of it have both the right and the duty to work their will on any legislation, particularly legislation of this importance.

Mr. Chairman, I want to thank again the gentleman from Minnesota [Mr. VENTO], and particularly my colleagues on both sides of the aisle, Republicans as well as Democrats, who have joined in this debate on the Marlenee substitute here this afternoon.

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, reclaiming my time, I would say this is a national issue. Obviously whenever we make decisions it is not surprising to me that our good friend, the lone Member from Alaska, would like to just have the Member from Alaska unilaterally decide the decisions and/or others that represent the States that have significant acreage of national lands in them. I think we need to be careful stewards. We need to be very careful in terms of our treatment of our colleagues, the people specifically in these areas.

As my colleague from Montana indicated, we have had hearings in these areas and listened to people. We do not always agree with every local interest or every national or international interest with regard to these issues.

I would point out for those who are concerned that it has not been made clear that we have letters from the conservation groups in this country that have taken it upon themselves, the growth of which movement I think is unique to our Nation, and something I hope and think is being emulated on a global basis. But we have support from the president of the Montana Wildlife Federation, the representative from that State on the Sierra Club, the National Audubon Society, the Montana Wilderness Association, the Wilderness Society, the National Wildlife Federation president, and, of course, the Greater Yellowstone Ecosystem Conservation Organization is located in that area. I will later put those in the RECORD.

As much as possible, Mr. Chairman, these demonstrate the conservation support for the Committee on Interior and Insular Affairs product and their opposition to all amendments, including this amendment to the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I would like to carry on with my dialog I had with the gentleman from Montana [Mr. WILLIAMS] earlier.

Mr. Chairman, when the gentleman responded that the reason that the ninth circuit is so interested in what is going on in Montana, it is because, as the gentleman correctly answered, the law that caused the litigation to come into existence was created by the Congress of the United States. The law that we have created, among others, desperately needs to be changed.

I will mention just two areas. One deals with how we harvest timber that is standing after a fire in a region. The current law of this country permits anybody without any standing to file an objection to a proposed harvesting of a tree that is standing as after a fire. The people that know a lot about the logging industry in my State say you have got about a year after an area is burned to get that tree out of there. Otherwise the insects and the bugs destroy it.

Would you believe, my friend, that our system today by a law passed by Congress is such that we cannot administratively get the paperwork done in order to authorize these trees to be harvested as part of productive timber before they are rendered useless for all us?

That is nonsense. This Congress should fix that. It cannot fix it because the people on that side, in my humble opinion, do not want it fixed.

Another law that needs changing badly is the Endangered Species Act. Because contrary to what most people in America believe, Congress has done the amazing thing of repealing Genesis.

□ 1610

Genesis 1 says that God created the world, created man in his own image and given man a mandate to take charge of the world and the things of the world and take dominion over all earthly things.

The Endangered Species Act of 1973, which Congress adopted, has reversed that. Animals today are more important than people. That is nonsense; this law has to be changed so we can get some balance into the use of our resources and create jobs for the American people.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I just wanted to respond to my friend from California. The law that Congress is not responsible for is Genesis, which the gentleman referred to. However, we are responsible for laws with regard to land planning.

The gentleman is correct that the Congress writes the laws that the ninth circuit court, where the Forest Service has a 100-percent record of loss, then has to apply.

The reason that the Forest Service is losing in the ninth circuit court is because ever since former President Reagan and former Interior Secretary Jim Watt and various secretaries of the Department of Agriculture, the administration has often not complied with the law that the Congress has written. They constantly obfuscate it, end run it, try to slam dunk around it, and the ninth circuit court of course, finds they are not in compliance.

If we had an administration that followed the law, they would not have a 100-percent record of loss before the ninth circuit court.

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I say to my friend from Montana, Mr. WILLIAMS, he has got the cart before the horse. The defect in the system is not what the administration of Reagan and Bush has been trying to do, to give balance to the use of our resources and create jobs for the American people, the defect is in the law that prevents that from taking place.

In my State of California, we are witnessing, my colleagues wonder why a Californian is in this debate on Montana, the answer is the Endangered Species Act has just about destroyed the timber industry in northern California with the loss of 80,000 jobs. I do not know how anyone cannot justify this pardon. Working our hands about unemployment and yet pursue a policy to add to unemployment. Whole communities in northern California are going to disappear, if we do not change this law.

And the timber, it is not just the timber industry, the agriculture industry in the Central Valley is threatened over the chinook salmon. We need to change this basic law.

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] has 8 minutes remaining.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

I do not like to take issue with my colleague with regard to a tangent issue, but every time the administration tries to carry out the intent of the law, if it is not carried out stringently enough, if they do not do everything on the side of the preservationists, the chairman of these committees in the U.S. Congress call those administrators up before their committee and proceed to beat up on them and make the kind of publicity that has the political impact desired to put the extremists and the environmental and green community on their side.

My colleague has made, I believe, some mischaracterizations about what I said. I am perfectly willing and capable of speaking for myself and feel that it would be the height of arrogance for someone to presume to speak for me. So let me correct what he may have said or interpreted that I said in that I wanted changes in the law.

I wanted no more wilderness, and I made that clear from the outset in this particular debate. But in an effort to facilitate the process, I had promised the people of Montana that I would not stand in the way of progress. But neither will I stand for having the rights of the people of Montana trampled by the chairman of the committee or by a legislative process that plays a shell game or by celebrities from out of State or environmental activists.

Jobs in the State of Montana and our economic well-being is too important. My colleague from Montana has said that both Senators have sent emissaries to his office to seek changes. However, in questioning Senator BURNS, I find that neither Senator BURNS nor any of his staff has, in fact, visited with the gentleman from Montana, PAT WILLIAMS, in his office about changes they might seek for the legislation.

Let me tell my colleagues what Vento-Williams does, in concluding this debate. In Lincoln County, where they put into that legislation that particular piece that my friend has referred to as Roderick Mountain, the suitable timber harvest of this area out of production with his bill. Three hundred people would have been employed in Lincoln County by this timber.

In Sanders County, timber for 700 jobs lost by designation of Trout Creek as wilderness. I would not be proud of that.

Also, it puts off limits a potential $500 million in revenue receipts that could go to support our schools coming from oil and gas development on the Rocky Mountain Front which borders well over a million acres of wilderness already.

This legislation is opposed by the NCA, National Cattleman's Association. I have a letter here that says that the water language of the Vento-Williams bill provides for "unquantified Federal reserve of water rights within the wilderness area and is strongly opposed by the National Cattleman's Association."

There is private property within the boundaries, according to the letter of the NCA, some of the boundaries are drawn. They are private property. "We particularly oppose the inclusion of the Crazy Mountains in that area."

I shall go on and requote what the Senator who represents that area said. In spite of what my colleague says, as my misrepresentation, I get this from the Senator who lives there and who should know. Unless, of course, one had drawn the map so quickly in order to expand the wilderness areas that one gives no consideration to its impacts. The Senator who lives there should know. He said:

> It contains private land, some roads, some recently logged-off areas and, indeed, a hunting lodge on one of the private sections. This addition was obviously hastily drawn and should not be designated wilderness.

This legislation proposed by Vento-Williams is opposed by the administration for the same reasons that I have outlined before. It creates an expansion of wilderness that, as I said, may be characterized by some as not a lot, but maybe it is like the city coming along and saying, "We only want a part of your sidewalk, but it is the part right next to your door."

We only want a little bit more wilderness, but it is like a pimple on the end of a nose, it is in the wrong place. And it is going to cost Montanans jobs and revenue.

In a poll done by Eastern Montana College, 71.9 percent of the people in the State of Montana believe there is enough or too much wilderness in the State of Montana.

☐ 1620

That is the basic argument about what we are doing here today, and it is no wonder that we have been 12 years, 12 years, in arriving at a Montana wilderness bill, when really they did not want a lot more wilderness. This bill gives us too much. It is too much for Montanans to accept and abide by. That is exemplified by 2,600 people demonstrating in the streets.

One more thing. The characterization of the paid ad by my colleague from Montana, the characterization of this paid ad as these people testifying in favor of the bill or wanting changes in the bill, this came about and was placed in the papers the day that we voted in the subcommittee on the Vento-Williams legislation.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] has 30 seconds remaining, and the gentleman from Minnesota [Mr. VENTO] has 3 minutes remaining, and he has the right to close debate.

Mr. MARLENEE. Mr. Chairman, I have no further speakers. If the gentleman wishes to close debate, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I yield the remaining 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I urge all my colleagues to oppose the Marlenee amendment, oppose his legislation. It is replete with errors and is flawed, both technically and substantively.

The Marlenee amendment closes more motorized recreational trails than does the Williams bill before us here today. It is the Marlenee amendment and only the Marlenee amendment that surrounds private lands with wilderness. It does that in an area called the Sawtooth. It also surrounds, with wilderness, patented mining claims. It does that in an area called the Camus.

It is the Marlenee amendment that would completely prevent at least one planned mining operation in Montana from going ahead. It is the Marlenee legislation which would leave Montana's water users to the whims of Federal courts. It is the Marlenee amendment that would lose the safeguards of specified junior water rights, and Montana water court preeminence assured by my legislation.

Finally, Mr. Chairman, Montana is indeed the last best place. The wild lands of Montana need protection beyond what the Marlenee legislation will provide. Montanans, in the majority, have a visceral understanding of the importance of our final remaining wild lands, and the majority of them are absolutely, ironclad, copper-riveted committed to protect the last best place, and the Marlenee amendment does not do that.

I urge my colleagues to vote no on it.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Montana [Mr. MARLENEE].

The amendment in the nature of a substitute was rejected.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. KOSTMAYER: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Montana Sector of the Northern Rockies Ecosystem Protection Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that:

(1) Many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high values as wilderness, parks, and wild and scenic rivers, and will, if properly preserved, contribute as an enduring resource of wilderness, wild land areas, and biodiversity for the benefit of the American people.

(2) The bioregion of the Northern Rockies contains the most diverse array of wild lands remaining south of Canada, providing sanctuary for a host of species listed as threatened or endangered under the Endangered Species Act of 1973. These national interest public lands are among the most popular wild lands in the Nation, embracing major ecosystems and national treasures such as the Greater Yellowstone, Greater Glacier/Continental Divide, Hells Canyon, and Greater Salmon ecosystems. The headwaters for nearly two-thirds of North America originate in the Northern Rockies, sending waters to three oceans and providing critical supplies of clean water for wildlife and other users.

(3) The wildlife treasures of the Northern Rockies are of international significance with a remarkably intact large mammalian fauna and rare and unique plant life.

(4) However, wildlife habitat fragmentation due to roadbuilding, timber harvest, mining, oil and gas exploration, lack of interagency cooperation, and other activities has severe effects on the wildlife populations and their habitat, including those listed as threatened or endangered under the Endangered Species Act of 1973, the water quality, ancient forests, and greater ecosystems of the Northern Rockies Bioregion. Continued fragmentation and development of the remaining roadless and essentially roadless ecosystems and biological connectors of the Northern Rockies would cause a loss to the Nation of an entire wild land region, and the only remaining areas south of Canada still pristine enough to support populations of caribou, gray wolves, grizzly bears, anadromous fish, and numerous other rare and endangered plant and animal life all in one intact bioregion.

(5) Since the 1936 roadless area inventory completed by Bob Marshall, millions of acres of roadless wild lands have been developed in the Northern Rockies. Extensive fragmentation of wild lands and wildlife habitat has resulted in the listing of several species as threatened or endangered and reduced the numbers and range of many others, including anadromous fish.

(6) A review of the current situation in the Northern Rockies has revealed the urgent need for an ecological reserve system for the Northern Rockies Bioregion which includes core ecosystem reserve areas and biological connecting corridors necessary to ensure wildlife movements and genetic interchange between the core reserve areas.

(7) The economic value to the Nation of most of these undeveloped areas left in their natural state, greatly exceeds any potential return to the United States Treasury from timber harvest and development. If current Federal land management in the Northern Rockies continues to result in the development of roadless areas, the American public will pay with tax dollars for permanent reductions in wilderness, water quality, fish and wildlife habitat, as well as species and biological diversity.

(8) The congressional review of roadless areas within National Forest System lands in the State of Montana has identified areas which, on the basis of their land form, ecosystem, associated fish and wildlife, economic value, and location will help to fulfill the role of the United States Forest Service to ensure a quality National Wilderness Preservation System. This review has identified other areas which may contain outstanding values as national park and preserves and wild and scenic rivers. This review has also identified areas which may not possess outstanding wilderness attributes and should not now be designated as components of the National Wilderness Preservation System, but which should be studied to determine their role in maintaining biological diversity in the Northern Rockies.

(9) Many areas of National Forest System lands have been damaged and their productivity reduced by unwise development practices which have also impaired ecosystem function and biological diversity. The Island Park area adjacent to Yellowstone National Park contains large clear-cut areas right up to the park boundary. Efforts should be made to return these areas to their former ecological health and native diversity by designating them as National Wildland Restoration and Recovery areas. These efforts seek to ensure that vital ecosystem components are restored, especially in areas where wildlife travel corridors and native fish and wildlife populations have been damaged or eliminated, and restoration efforts will seek to ensure and maintain genetic interchange, biological diversity, and restoration of native species diversity throughout the Northern Rockies Bioregion.

(10) Federal agencies entrusted with managing the Bioregion's natural resources operate under contradictory Congressional mandates, and thus are in dissension over management policies which involve common resources and major ecosystems.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System in order to—

(A) promote, perpetuate, and preserve the wilderness character of the land,

(B) protect watersheds and wildlife habitat, including that of species protected under the Endangered Species Act of 1973,

(C) protect the ecological integrity and contiguity of major wild land ecosystems and their interconnecting corridors identified by the United States Fish and Wildlife Service, and other sources,

(D) protect and maintain biological and native species diversity,

(E) promote and ensure interagency cooperation in the implementation of integrated, holistic ecosystem management and protection of the ecosystems and corridors covered by this Act,

(F) preserve scenic, historic, and cultural resources,

(G) promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, and

(H) avoid the misinvestment of scarce capital in lands of marginal timber value;

(2) designate certain National Forest System lands in the State of Montana as a national park and preserve study area;

(3) designate certain National Forest System lands and watercourses in the State of Montana as Wild and Scenic River study areas;

(4) establish a pilot system of National Wildland Restoration and Recovery Areas and a Wildlands Recovery Corps to help restore biological diversity and native species; and

(5) establish a system of biological connecting corridors between the core ecosystems in the region.

SEC. 3. WILDERNESS.

(a) DESIGNATION AS WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131–1136), the following lands in the State of Montana are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) GREATER YELLOWSTONE ECOSYSTEM.—Certain lands in the Gallatin, Custer, and Beaverhead National Forests which comprise approximately 581,208 acres, as generally depicted on a map entitled "Greater Yellowstone Ecosystem", dated September 10, 1992, including each of the following areas: (A) North Absaroka (159,259 acres), (B) Republic Mountain (700 acres), (C) Chico Peak (10,855 acres), (D) Beartooth (4,720 acres), (E) Lionhead (32,780 acres), (F) Gallatin Range (135,885 acres), (G) Lee Metcalf Additions (143,389 acres), (H) Lost Water Canyon (9,800 acres), (I) Red Lodge-Hellroaring (14,760 acres), (J) Burnt Mountain (9,320 acres), (K) Fishtail Saddleback (16,560 acres), (L) North Absaroka (22,500 acres), and (M) Line Creek Plateau (20,680 acres).

(2) GREATER GLACIER-CONTINENTAL DIVIDE ECOSYSTEM.—Certain lands in the Flathead, Lewis and Clark, Helena, and Lolo National Forests which comprise approximately 956,634 acres, as generally depicted on a map entitled "Greater Glacier-Continental Divide Ecosystem", dated September 10, 1992, including each of the following areas: (A) Swan Crest (89,402 acres), (B) Swan Front (145,133 acres), (C) South Fork (53,779 acres), (D) Middle Fork (41,339 acres), (E) Limestone Caves/Lost Jack (57,640 acres), (F) LeBeau (6,289 acres), (G) Choteau Mountain/Teton (65,433 acres), (H) Deep Creek (49,322 acres), (I) Renshaw (57,591 acres), (J) Sawtooth (15,195 acres), (K) Silver King/Falls Creek (43,192 acres), (L) Monture Creek (121,786 acres), (M) Stonewall Mountain (54,238 acres), (N) Lincoln Gulch (8,286 acres), (O) Anaconda Hill (19,212 acres), (P) Specimen Creek (13,267 acres), (Q) Crater Mountain (9,985 acres), (R) Ogden Mountain (12,418 acres), (S) Nevada Mountain (49,464 acres), and (T) Ten Lakes (43,663 acres).

(3) GREATER CABINET-YAAK ECOSYSTEM.—Certain lands in the Kootenai National Forest which comprise approximately 219,577 acres, as generally depicted on a map entitled "Greater Cabinet-Yaak Ecosystem", dated September 10, 1992, including each of the following areas: (A) Cabinet additions (68,297 acres), (B) Cube Iron-Silcox (38,085 acres), (C) Mt. Henry (21,000 acres), (D) Buckhorn Ridge (21,809 acres), (E) Northwest Peak (20,330 acres), (F) Grizzly Peak (4,890 acres), (G) Willard/Estelle (16,162 acres), (H) Gold Hill West (10,200 acres), (I) Gold Hill East (10,700 acres), and (J) McNeeley (8,104 acres).

(4) GREATER SALMON ECOSYSTEM.—Certain lands in the Bitterroot and Lolo National Forests which comprise approximately 188,819 acres, as generally depicted on a map entitled "Greater Salmon Ecosystem", dated September 10, 1992, including each of the following areas: (A) Bluejoint (63,924 acres), and (B) Selway-Bitterroot additions (124,895 acres).

(5) GREATER SALMON-GREATER YELLOWSTONE CORRIDOR.—Certain lands in the Bitterroot and Beaverhead National Forests which comprise approximately 501,457 acres, as generally depicted on a map entitled "Greater Salmon-Greater Yellowstone Corridor", dated September 10, 1992, including each of the following areas: (A) Allan Mountain (102,715 acres), (B) Anderson Mountain (3,466 acres), (C) West Big Hole (125,606 acres), (D) Garfield Mountain (43,067 acres), (E) Goat Mountain (9,504 acres), (F) Italian Peaks (91,277 acres), (G) Tendoy Mountains (57,490 acres), (H) Tash Peak (59,839 acres), and (I) Saginaw Creek (8,493 acres).

(6) SAPPHIRE MOUNTAINS/ANACONDA-PINTLAR.—Certain lands in the Bitterroot, Deerlodge, and Beaverhead National Forests which comprise approximately 476,612 acres, as generally depicted on a map entitled "Sapphire Mountains/Anaconda-Pintlar", dated September 10, 1992, including each of the following areas: (A) Quigg Peak (75,711 acres), (B) Stony Mountain (102,452 acres), (C) Sapphire Crest (116,530 acres), (D) Silver King (28,884 acres), (E) Emerine Mountain (16,664 acres), (F) Sleeping Child (21,423 acres), and (G) Anaconda-Pintlar additions (114,948 acres).

(7) LITTLE BELT MOUNTAINS.—Certain lands in the Lewis and Clark National Forest which comprise approximately 370,809 acres, as generally depicted on a map entitled "Little Belt Mountains", dated September 10, 1992, including each of the following areas: (A) Tenderfoot/Deep Creek (92,570 acres), (B) Middle Fork Judith (84,904 acres), (C) Pilgrim Creek (44,919 acres), (D) Sawmill Creek (11,477 acres), (E) Big Baldy (43,060 acres), (F) Tollgate-Sheep (24,193 acres), (G) Mount High (33,489 acres), and (H) Bluff Mountain (36,197 acres).

(8) COEUR D'ALENE MOUNTAINS.—Certain lands in the Lolo National Forest which comprise approximately 144,217 acres, as generally depicted on a map entitled "Coeur d'Alene Mountains", dated September 10, 1992, including each of the following areas: (A) Reservation Divide (24,616 acres), (B) North Siegel (8,563 acres), (C) S. Siegel-S. Cutoff (13,599 acres), (D) Patricks Knob (17,282 acres), (E) Cherry Peak (38,568 acres), and (F) Mount Bushnell (41,589 acres).

(b) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated under this section shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act or any similar reference shall be deemed to be a reference to the date of the enactment of this Act.

(c) MAP AND DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall file a map and legal description of each wilderness area designated under this section with the Committee on Energy and Natural Resources of the Senate and the Speaker of the House of Representatives. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and legal description may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

SEC. 4. WATER.

(a) RESERVATION.—With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes for which such area is designated. The priority date of such reserved rights shall be the date of enactment of this act.

(b) IMPLEMENTATION.—The Secretary of Agriculture, and all other officers of the United States shall take all steps necessary to protect the rights reserved by subsection (a), including the filing of claims for quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of Montana in which the United States has been or is hereafter properly joined in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 5460; 43 U.S.C. 666), commonly referred to as the "McCarran Amendment".

(c) CONSTRUCTION.—(1) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved, appropriated, or otherwise secured by the United States in the State of Montana on or before the date of enactment of this Act.

(2) Nothing in this Act shall be construed as establishing a precedent with regard to any future designations, including designations of wilderness, or as constituting an interpretation of any other Act or designations made pursuant thereto.

SEC. 5. FLATHEAD NATIONAL PARK AND PRESERVE STUDY.

(a) IN GENERAL.—The Congress hereby directs the Secretary of the Interior, acting through the Director of National Park Service, to study the feasibility of creating a Flathead National Park and Preserve.

(b) STUDY AREA.—The study area shall consist of that area generally known as the Glacier View Ranger District of the Flathead National Forest, excepting those lands south of the Big Mountain Road. The study area shall comprise approximately 285,078 acres, as delineated on the map entitled "Flathead National Park and Preserve Study" and dated September 10, 1992.

(c) STUDY.—The Secretary shall study the feasibility of creating a unit of the National Park System, including national park and national preserve designations to be administered by the National Park Service. The study shall include specific recommendations as to which areas within the study boundary should be classified as national park, and which should be classified as national preserve where hunting, fishing, and some motorized use shall be allowed.

(d) Time Period.—The study shall be completed 3 years after the date of enactment of this Act.

(e) Administration of Area.—The national park and preserve study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain its presently existing natural character and potential for inclusion in the National Park System. Until Congress determines otherwise, no new road construction or reconstruction, or timber harvest (except firewood gathering) shall be allowed within the study areas. Additionally, no oil and gas leasing, mining, or other development which impairs the natural and roadless qualities of the study area shall be allowed. Special consideration shall be given to preserving scenery, water quality and fisheries habitat, biological diversity, and wildlife habitat for threatened and endangered species.

SEC. 6. WILD AND SCENIC RIVER STUDIES.

(a) Studies.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding the following new paragraphs at the end thereof:

"( ) Smith River, Montana.—The segment within the Lewis and Clark National Forest from Tenderfoot Creek downstream to Deep Creek, comprising approximately 11.8 miles. Notwithstanding any other provision of this Act, the Secretary of the Interior, acting through the Director of the National Park Service shall be the lead agency for conducting the study of the river segment described in this paragraph. The study of the river segment described in this paragraph shall be completed not later than 3 years after the enactment of this paragraph.

"( ) Yellowstone River, Wyoming and Montana.—The segment within the Gallatin National Forest and Yellowstone National Park from the southern boundary of Yellowstone National Park to the confluence with Yellowstone Lake, and from the Fishing Bridge downstream to the mouth of Yankee Jim Canyon comprising approximately 102 miles. Notwithstanding any other provision of this Act, the Secretary of the Interior, acting through the Director of the National Park Service shall be the lead agency for conducting the study of the river segment described in this paragraph. The study of the river segment described in this paragraph shall be completed not later than 3 years after the enactment of this paragraph.

"( ) Middle Fork Judith River, Montana.—The segment within the Lewis and Clark National Forest from Arch Coulee Junction downstream to the national forest boundary, comprising approximately 4.8 miles. Notwithstanding any other provision of this Act, the Secretary of the Interior, acting through the Director of the National Park Service shall be the lead agency for conducting the study of the river segment described in this paragraph. The study of the river segment described in this paragraph shall be completed not later than 3 years after the enactment of this paragraph.

"( ) Rock Creek, Montana.—The segment within the Lolo and Deerlodge National Forests from the Gilles Bridge downstream to the confluence with the Clark Fork River, in the northwest quarter of section 12, T11N, R16W, comprising approximately 35 miles. Notwithstanding any other provision of this Act, the Secretary of the Interior, acting through the Director of the National Park Service shall be the lead agency for conducting the study of the river segment described in this paragraph. The study of the river segment described in this paragraph shall be completed not later than 3 years after the enactment of this paragraph.".

(b) Special Provisions.—Except as otherwise provided by this section, and subject to existing private rights, the wild and scenic river study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretaries of Agriculture and Interior so as to maintain their presently existing wild and scenic character and potential for inclusion in the National Wild and Scenic Rivers System at their highest level of eligibility. The streambed and the lands one half mile wide along either side of the streambed of any river or stream included in the study shall be managed to protect their presently existing suitability for inclusion into the National Wild and Scenic Rivers System as wild rivers. No new road construction or reconstruction, bridges, dams, timber harvesting, mining, oil and gas leasing, or other developments shall be allowed within the one half mile corridor along either side of rivers and streams under study.

SEC. 7. ECOSYSTEM PROTECTION STUDY FOR THE NORTHERN ROCKIES.

(a) Definitions.—As used in this section—

(1) The term "Scientific Committee" means the Northern Rockies Scientific Committee established under subsection (b).

(2) The term "Northern Rockies" means those portions of the States of Montana, Idaho, Wyoming, Oregon, and Washington depicted on the maps accompanying this Act.

(3) The term "wildlife" means all nondomesticated species of plants, animals, and microbes.

(b) Scientific Committee.—

(1) Establishment.—Not later than 60 days after the date of enactment of this Act, the National Academy of Sciences shall establish a Northern Rockies Scientific Committee. The Scientific Committee shall consist of 12 members appointed by the National Academy of Sciences after consideration of comments received pursuant to paragraph (4) and full and good faith consultation with the Society for Conservation Biology and professionals in the fields of wildlife, fisheries, population ecology, hydrology, range and forestry.

(2) Member qualifications.—The Scientific Committee shall consist of members with the following qualifications—

(A) one representative from academia who has studied the implementation of recovery plans for grizzly bear;

(B) one academic forest economist;

(C) one landscape ecologist;

(D) one wildlife biologist;

(E) one fisheries biologist;

(F) one plant ecologist;

(G) one big game population ecologist;

(H) one fire ecologist;

(I) one forest ecologist;

(J) one hydrologist;

(K) one conservation biologist; and

(L) one invertebrate biologist.

(3) Other requirements.—Not more than 2 members of the Scientific Committee may be employees of any Federal or State agency or from any industry involved in resource extraction.

(4) Publication and comment period.—The National Academy of Sciences shall publish for public comment the proposed appointees to the Scientific Committee in the Federal Register.

(c) Study.—The Scientific Committee shall conduct a study of the ecosystem of the Northern Rockies. All lands within the Northern Rockies shall be studied on a regional basis, without regard to political boundaries, utilizing an integrated, multidisciplinary approach. Emphasis shall be placed on National Forest System lands, other lands owned by the Federal Government, and privately owned corporate timber lands. The following subjects shall be examined in detail—

(1) the extent of habitat fragmentation caused by development actions, particularly logging and road building, and the effect such fragmentation has had on the numbers, distribution, densities, movement and viability of threatened, endangered and sensitive wildlife species, including, but not limited to, grizzly bear, gray wolf, and woodland caribou;

(2) the impact of road densities on wildlife distribution, densities and mortality, on stream sedimentation, and on native fisheries;

(3) the extent to which blocks of wild lands can be linked to create a system of connecting land corridors capable of supporting wildlife and plant migrations and natural genetic exchange;

(4) the condition of native fisheries in the region and the impacts that development actions, particularly logging, road building and increasing accessibility, have had on these fisheries;

(5) the opportunities for cooperative management to protect and enhance wildlife populations, and the extent to which such cooperative management is hindered by conflicting mandates, goals, and jurisdiction of the various resource management agencies; and

(6) the extent to which harvested lands have been reforested and the role, if any, such reforestation has had or could have in protecting the ecosystem.

(d) Plan.—Based on the results of the study required by subsection (c), the Scientific Committee shall prepare a plan to protect the ecosystem of the Northern Rockies. Such plan shall analyze the subjects studied under subsection (c). In addition, such plan shall—

(1) identify critical habitat and possible ecosystem corridor linkages; and

(2) make recommendations for management goals, techniques and other specific actions needed to protect and restore—

(A) biological and ecological diversity;

(B) native wildlife, fisheries and plants;

(C) water quality and instream flows;

(D) the productivity on a long-term sustainable basis of all resources on Federal forest lands; and

(E) biological connectivity between and among physiographic provinces.

(e) Time for Study and Plan.—Not later than 3 years after the date of enactment of this Act, the ecosystem study required by subsection (c) shall be completed and the plan required by subsection (d) shall be submitted to the Secretary of Agriculture, the Secretary of the Interior, the Committees on Interior and Insular Affairs and Agriculture of the House of Representatives, and the Committees on Energy and Natural Resources and Agriculture, Nutrition, and Forestry of the Senate.

(f) Implementation of Plan.—Within 1 year after the date the ecosystem protection plan is submitted under subsection (e), the Secretaries of Agriculture and the Interior shall implement the recommendations of the Scientific Committee contained in such plan.

(g) Protection of Roadless Areas.—Until such time as the ecosystem protection plan is submitted under subsection (e) and subsequently implemented under subsection (f), the Secretaries of Agriculture and the Interior shall prohibit with respect to all roadless areas within their jurisdictions any new road construction or reconstruction, timber harvest (except firewood gathering), salvage logging, mining, oil and gas leasing or exploration, or any other development that would impair the natural and pristine qualities of these areas.

SEC. 8. WILDLAND RECOVERY SYSTEM.

(a) NATIONAL WILDLAND RESTORATION AND RECOVERY SYSTEM.—In recognition of the fact that certain National Forest System lands and surrounding areas have been damaged by unwise resource extraction and development activities and practices, and where the productive potential of the lands and waters of these areas has been reduced by development activities, there is hereby established the National Wildland Restoration and Recovery System (hereinafter in this section referred to as the "Recovery System").

(b) MANAGEMENT.—Recovery System lands shall be managed so as to restore their native vegetative cover and species diversity, stabilize slopes and soils so as to prevent or reduce further erosion, recontour slopes to their original contours, remove barriers to natural fish spawning runs, and generally restore, as much as possible, such lands to their natural condition as existed prior to their entry and development.

(c) COMPONENTS.—The following areas, as depicted on the maps dated September 10, 1992, and entitled "National Wildland Restoration and Recovery Area", shall be components of the National Wildland Recovery and Restoration System:

Recovery areas	Acres	National Forest
Skyland	10,126	Flathead National Forest
Hungry Horse	205,236	Flathead National Forest
Lolo Creek	59,398	Lolo/Clearwater National Forests
Yellowstone West	137,600	Targhee National Forest
Mt. Leidy	69,912	Bridger/Teton National Forest
Cabinet/Yaak	92,800	Kootenai National Forest
Magruder Corrior	11,522	Nez Perce/Bitterroot National Forest

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to establish a special unit of the United States Forest Service known as the National Wildland Recovery Corps which shall hire the necessary personnel and purchase the necessary equipment to carry out its land recovery responsibilities as defined by this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KOSTMAYER] will be recognized for 30 minutes in support of this amendment, and the gentleman from Montana [Mr. MARLENEE] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I want to commend the Members on both sides, the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Minnesota [Mr. VENTO], the gentleman from Minnesota [Mr. VENTO], the chairman who has guided the subcommittee for a long time, and under whose leadership some great work has been done.

There are some fundamental differences between the two proposals now before the House, that is, the Williams-Vento proposal, and the one I am now offering.

My proposal would provide 3.4 million acres of wilderness. That offered by the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Minnesota [Mr. VENTO] would offer 1.4 million acres of wilderness, 1 million of wilderness study areas, and 150,000 acres of special management.

No. 2, my proposal contains 154 miles of wild and scenic river designations. Parts of the Smith, the Yellowstone, the middle fork of the Judith, and the Rock Creek will be designated as wild and scenic. The Williams-Vento proposal would protect no rivers in the State of Montana at all.

No. 3, my water rights language is the same as theirs.

No. 4, my proposal contains a provision called the Wild Lands Recovery Program, which would reclaim more than 470,000 acres of decimated timber land by creating a National Wildlife Recovery Corps within the National Forest Service.

No. 5, my proposal, unlike theirs, contains a provision to study the Glacier View Ranger District of the Flathead National Forest for possible addition to the National Park System. The provision requires a study of 285,000 acreas, which would last for 3 years.

Both the Williams-Vento bill and the Kostmayer bills contain a study of the northern Rockies ecosystem, in parts of Montana, Wyoming, Idaho, Washington, and Oregon. The difference is that the Vento-Williams proposal does not protect that land during the study period. My proposal would protect these lands during the study period.

There really are three reasons I am offering this proposal today. One is an environmental reason. Another is on behalf of the taxpayers, and the third is on behalf of the people of Montana and protecting their economy.

On the environment, this is a different approach. Normally we designate wilderness areas State by State, and that is, of course, what we are going to do today, although it is not the way we ought to be designating wilderness areas. We ought to be designating wilderness areas by ecosystems, because what we have here is the largest, last remaining ecosystem of more than 13 million acres covering five States in the lower 48.

What we are doing is dealing with a portion of that. We ought to be dealing with all of it, not with a portion of it. For example, we have wildlife corridors which are corridors which allow wildlife to move from one area to another, but those wildlife do not stop at the State border. They do not stop at the Montana State line. They do not recognize State borders. that is why it is a mistake to deal with the preservation of wilderness areas State by State. We ought to deal with the preservation of wilderness areas in an ecosystem. That is what I seek to do.

Second, as I said a little while ago, in fiscal year 1991 the taxpayers of this country subsidized the low-cost timber sales in Montana to the tune of $40 million. What that means is that the Federal Government cuts the roads into the forest for the timber companies to get the timber. the taxpayers of the United States paid to build the roads that the timber companies used to enter the forest to cut down the timber. Then they buy the timber from the U.S. Government.

In 1991, in Montana, when that was all done, there was a net loss of $40 million. So the taxpayers of this country, under this proposal, are subsidizing some of the largest timber corporations in this country. That is the way the system works. So I come here today on behalf of the taxpayers as well to change the system.

Finally, I come today to speak on behalf of the people of Montana. If we were to save all of the remaining roadless areas in the State of Montana; that is, if we were to save all of those areas which are eligible to be wilderness because roads have not yet been cut there, according to a study prepared by the University of Montana and the University of Idaho, the cost in banning logging in those areas would be a total of 600 jobs. That is the economic cost of the Kostmayer proposal to save 4 million acres of wilderness, 600 jobs.

In other areas besides timber, in services, in recreation, in tourism, in the new informational services we will create that many jobs in 5 weeks.

□ 1630

But we are not prepared to pay the cost of 600 jobs which would be created in other areas in a little more than a month to save 4 million acres of wilderness. Those timber jobs which will be lost are two-tenths of 1 percent of the total job base in the State of Montana.

This economic argument is the only argument that makes sense, and the argument that is made by the other side simply does not make sense. There are a relatively small number of timber jobs left in the State of Montana, and a relatively small percentage of those would be lost. In other words, we are looking at an economic situation, and we are not looking at it I think very realistically.

Now, for example, the National Forest Service in the Gallatin National Forest is about to engage in below-cost timber sales in order to save 75 timber jobs. But what happens when those forests are cut? Those areas of Montana and all of the Western States become less attractive to the service industry, to fishing, to tourism, to informationage jobs, and to recreation. We are damaging not only the environment, we are damaging the economy of Montana and of the West.

The way in which we manage our national forests, the clear-cutting which we allow, the millions of dollars in subsidized sales to the biggest corporations in this country is a shameful tragedy, and we will come to the time when we recognize that what we have done, the giveaway of millions and millions of dollars to the timber companies, $40 million in the State of Montana last year alone, there will come the time, when we recognize the folly of what we have done.

Mr. Chairman, I reserve the balance of my time.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am amazed, absolutely amazed when I hear the statement that there are relatively few timber jobs in the State of Montana. That may be a few compared to Pennsylvania, but unemployment is already high in Montana. I hope the gentleman does not suffer from the same problem as Montana does in that regard in Pennsylvania. I hope he does not suffer that kind of problem.

But let me inform the gentleman from Pennsylvania that there is a $288 million payroll surrounding the timber industry in western Montana, $288 million, 10,000 timber jobs within 100 miles of Kalispell and Missoula, MT. That timber industry and mining industry, which the gentleman would also like to see run out of the hills, provide the tax base, the economic benefits that support the infrastructure of schools, and hospitals, and highways. The gentleman seeks to destroy the mills and run miners out of the hills, and seeks to destroy the kind of services that Montana has come to depend on, the things that are necessary.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to my colleague, the gentleman from Missouri.

Mr. EMERSON. Mr. Chairman, I thank the gentleman for yielding. I wanted to observe that the gentleman from Pennsylvania said there were three reasons for which he was offering this amendment. I wanted to suggest that I really believe there is a fourth reason, and perhaps the real reason he is offering this extreme amendment is to make the Vento-Williams amendment look moderate by comparison.

Mr. MARLENEE. Reclaiming my time, have we ever seen this happen before? Is this deja vu?

Mr. EMERSON. I think I am afraid it is. I think we have reached that point in the year where Congress really should adjourn and stop doing such mischief, and let us revisit this issue, if at all possible, next year when perhaps a little more temperate climate might exist in which we could deliberate.

Mr. MARLENEE. Was this ever done to the gentleman from Missouri?

Mr. EMERSON. I have no complaints about how I have been treated. We actually made out rather well with Missouri wilderness issues. We were able to achieve some compromises. There really should be more compromise in these wilderness bills in the interest of jobs and the economy and the livelihood of our people.

Mr. MARLENEE. Mr. Chairman, I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Chairman, I yield myself 30 seconds to point out to my friend from Montana and Missouri, who has taken a sudden interest in the affairs of the State of Montana, that there will remain after my proposal more than 10 million acres of woodlands that can be cut in the State of Montana. We do not seek to drive the timber industry out of Montana. It is an important industry. It has made an enormous contribution, and there are 10 million acres left on which timber can be cut in the State of Montana after my proposal.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. McNULTY). The gentleman will state his parliamentary inquiry.

Mr. MARLENEE. Mr. Chairman, I meant to reserve the balance of my time.

POINT OF ORDER

Mr. KOSTMAYER. Point of order, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. KOSTMAYER. Mr. Chairman, the gentleman yielded all of his time back.

The CHAIRMAN pro tempore. The Chair would suggest to the gentleman from Pennsylvania that the gentleman can ask unanimous consent to reclaim his time, which is normally honored by the Members of the House.

Mr. KOSTMAYER. Mr. Chairman, if the gentleman from Montana would like to make such a unanimous-consent request, let me just say, Mr. Chairman, that he yielded back his time.

The CHAIRMAN pro tempore. The gentleman has made such a request. Is there objection to the request of the gentleman from Montana?

Mr. KOSTMAYER. I do not object, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair hears no objection, and the gentleman from Montana [Mr. MARLENEE] may reserve his time.

Mr. MARLENEE. Mr. Chairman, I am very pleased that the chairman and the gentleman from Pennsylvania did not object, because his colleague on that side of the aisle would not have had an opportunity to speak on this legislation. So I am most happy to yield such time as he may consume to my colleague, the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I appreciate the gentleman yielding. As I opposed the amendment of my colleague from Montana, I now want to oppose the amendment of my colleague from Pennsylvania and point out to the House that the Kostmayer amendment is opposed by each and every member of the Montana congressional delegation. That is both of us here in the House and both Senators are opposed to the Kostmayer amendment.

The amendment would designate at least twice as much land as wilderness than does my bill. The amendment by the gentleman from Pennsylvania [Mr. KOSTMAYER] fails to recognize longstanding conservation negotiated agreements on sensitive areas that need wilderness protection. The Kostmayer amendment would remove, it appears to me, about 25 percent of the suitable timber base in Montana, and I can assure my colleagues that would devastate some of our timber-dependent communities in Montana.

The Kostmayer amendment closes more than 50 percent of the motorized recreation trails and virtually all of high country motorized access in Montana. The Kostmayer amendment places in wilderness patented mining claims, a mistake my colleague from Montana would have made had his bill passed. It places in wilderness irrigation ditches and impoundments, dams and roads.

The Kostmayer amendment, my colleagues, has not received the endorsement of major conservation groups in America who have endorsed my legislation.

□ 1640

I want to read for my colleagues those conservation groups which have endorsed my legislation before the House today but have withheld their endorsement from the Kostmayer amendment which is now before the Members: the Wildlife Federation, the Sierra Club, the Wilderness Society, Montana's Outfitters and Guides, Montana's Rod and Gun Clubs, the Greater Yellowstone Coalition. Each of those groups supports my legislation but have knowingly withheld their support from the Kostmayer amendment.

I ask all of my colleagues here in the House, whether you consider yourself an extreme environmentalists, moderate conservationist, or, in fact, are more industry-related, I ask all of the Members to oppose the Kostmayer amendment, because all sides have not supported it, and most oppose it as well.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, this amendment obviously is misdirected and misguided.

The Members heard the gentleman from Montana talk about the implications it might have on the State of Montana. I wanted to address another part of the amendment which I consider to be a shot across the bow at the last of this session but will be alive and well during the next session, and the gentleman obviously is determined that he now places his hand and this Congress' hand over five States, not just one, but five States.

Now, there will be a study, and I want to discuss this study with you for just a moment, because it does impact the State of Oregon as one of those States. The problem with the study is not the study. The problem with the study is simply that everything stops until the study has been completed. And I assume it is being done by the National Park Service.

But the study stops everything, especially in roadless areas. Does that impact the State of Oregon? Well, let me tell you how it might. In the eastern part of the State, as I mentioned here before, we have a terrible, terrible infestation of timber. Three billion board feet, we estimate, is standing dead, dying, that should be harvested for forest health purposes as well as for jobs in our State. This amendment stops even salvage operations in roadless areas in my State.

The very forests that the gentleman is trying to preserve are the forests he is allowing to die; the trees that are infected will infect the next green tree and the next green tree until everything is wiped out. That is what this study does.

This idea that there are no jobs left in Montana and in the West in timber if fictitious. It displays the ignorance of the gentleman about what goes on in our State. Seventy-two communities in Oregon are directly dependent upon the timber industry, and I am not just talking about timber jobs, I am talking about hardware stores and the grocery stores and the school systems that will all disintegrate if the gentleman has his way.

Now, how does it affect one school district? This study, how does it affect one school district in my part of the area, in the Hells Canyon area. It eliminates half of the operating budget of the Enterprise school district. Half of the budget is gone for schools. Now, I am sure the gentleman is not interested in closing schools in Oregon, but he will.

Beyond that, we know about his bill that has been introduced that is not a part of this amendment, but has been introduced which provides that now the National Park System will take care of all of 14 million acres of designated land in five States, changing that management from the Forest Service and, in my case, the national recreation area now becomes a proposed national park, and the chairman of the subcommittee and I have heard, and we know, how the National Park Service is being funded or is not being funded, I should say.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Oregon. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Does the gentleman mean that there is a piece of legislation that has been introduced by our colleague that we are speaking of that takes wilderness areas and puts them into or under the jurisdiction of the National Park Service?

Mr. SMITH of Oregon. It takes not only some wilderness area but other designations such as national recreation areas, some national conservation areas, all currently being managed by the Forest Service, changes that management to the National Park System.

Mr. MARLENEE. If the gentleman will yield further, is not the management of the National Park Service such that they prohibit hunting in most of the areas under their jurisdiction?

Mr. SMITH of Oregon. In all areas that I know, you cannot hunt in a national park, and, of course, other recreation is limited as the gentleman well knows.

I wanted to point out while we are turning this over to this grand-sounding National Park System, there is a $376 million shortfall in the funding to operate existing parks in America without adding any more. The National Park Service has a backlog of $2 billion in construction programs. The National Park Service has a backlog of $2.5 billion in already designated land acquisitions.

Now we are going to turn over an additional 14 million acres. It makes a lot of sense? It does not make any sense to me.

The facts are that we have diverted the attention of this whole discussion to the point that the last tree is about to be harvested in the Northwest, there is nothing left, we have clearcut the whole region, and that is the purpose of the idea here is to shut everything down so that we save the last tree.

May I report to the Members these statistics put together by the Forest Service: The annual growth in national forests now exceeds harvest. I want to say that again: The annual growth in national forests now exceeds harvest by 55 percent.

Somebody said, "My goodness, we are overcutting." Obviously we are not overcutting.

As 70 percent of America's forest land base is already designated in land-use categories where timber harvest is forbidden. That means there is 30 percent of the land base left that can be managed in multiple use, and, yes, in harvesting of timber.

What makes anybody believe that in the 70 percent of the land base that is timbered across the country that cannot be touched ever again by a chain saw there is not old growth, there are not ancient forests?

So somebody is kidding somebody here, and obviously we are the brunt of it.

The purpose here simply is to shut down the West, simply because it has most of the public land in it, not Indiana, not New York, not the east coast. So we are subject to this intense battle and conflict that we ought to be put out of business because we happen to depend upon renewable natural resources.

Mr. Chairman, I resist that argument, and I suggest we vote down the Kostmayer amendment.

The CHAIRMAN. The Committee will rise informally to receive an announcement.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONIOR) assumed the chair.

The SPEAKER pro tempore. The House will be in order.

Pursuant to House Resolution 591, the Chair announces that a list has been placed at the desk describing the object of each motion to suspend the rules that may be considered not sooner than 2 hours after its notation on the list.

The Chair is advised that each Cloakroom has been provided a copy of the list as it is maintained at the desk.

The suspensions for tomorrow will be available, in other words, at the desk or in the Cloakroom for those who wish to apprise themselves as to what will be considered.

The Committee will resume its sitting.

MONTANA NATIONAL FOREST MANAGEMENT ACT OF 1992

The Committee resumed its sitting.

Mr. KOSTMAYER. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Kostmayer amendment.

What is this debate about? The debate over the Kostmayer amendment is about 4 million acres of roadless area. Were we to be viewing it by air or on the ground it would look like wilderness. It has a wild character; it is essentially roadless.

But it is not legally designated as wilderness, and that is what this debate is all about.

The next question is then: Why are these areas roadless areas? Well, the roadless areas are for several good reasons. They tend to be remote, they tend to be fragile, they tend to be areas where cutting timber does not make as much sense as other areas.

To really understand what we are talking about, we have to look a little bit at the history of the national forests in Montana and the other States. There are a lot of forest lands in these States that are in private ownership. They are in private ownership because they are more productive forest lands. The timber companies came in and they bought up lands from the Federal Government, and they bought the most productive forest land. You could predict that. They left the higher elevation areas, the areas that are rocky, the areas that are fragile, the areas where the timber is not so good. Those remain in the public domain, and that portion of the public forests which were the most rocky, the most remote, the most difficult to produce timber are those which are left today as roadless areas.

□ 1650

So we have a situation where we are looking at whether it is most appropriate to go into those areas to produce more timber, and it is not surprising, when that issue is raised, that we find that the sales in those areas are below-cost sales and that they are some of the most environmentally damaging sales. Again, the timber is not the most desirable, and growing conditions are very difficult.

And so we are asking to take timber from an area where it is very, very difficult. The irony of our forest policies is, rather than invest in private lands where it makes most sense to grow trees, we are fighting over these remote, fragile areas where, I would say, we are really not talking about growing trees, we are really talking about extracting timber from these areas because effectively the regeneration potential for a lot of these areas is very, very low.

The Interior Committee did a study on this, and it showed that areas that have been logged, an enormous number of them on our national forests are not regenerating the way you would like to believe. Now, on the lands that the private companies own, lower elevation, more rainfall, more productive lands, regeneration is more likely to occur. But on the public lands, particularly those roadless areas, because of their history, this regeneration is not a certain thing. We have in our minds a picture of tree farms where little seedlings grow up to be giant trees. But that is not what we are talking about on these areas. We are talking about extracting timber just like we talk about mining an area. That is why we should stop before we release 4 million acres of land from areas that are wild in character, and say we are going to put them in the timber base and we are going to produce timber on this, because in fact that is not what we are going to do. We are going to extract the timber that is there now and never, never restore those areas to something like they are now.

I do not think we need to take that 4 million acres for timber production. We have other areas where it makes more sense to produce timber. I would suggest that instead what we ought to do before we make this decision is ask the scientists, ask the people who understand these things, "What does it take to sustain these ecological systems over time? What does it take to maintain these forests for future generations? What does it take to maintain the fisheries and the other wildlife that depend on these forests?" I know what the answer is going to be when we ask the scientists. They are going to say we cannot take nearly as much timber out of these areas as we thought we could. We know that, we know that is what the scientists are going to say. We know their answer to that question. They do not want to hear the answer, because they know the answer is that we have extracted too much timber from these fragile areas in the past. In essence, we have run an ecological deficit, we have overdrawn our deficit. We have taken more out of these areas than they can sustain, because we are taking the timber from the wrong areas.

So I would suggest that we support the Kostmayer amendment because it is the amendment which makes the most sense from the standpoint of sustaining these areas for the long term.

We have a choice: We can extract timber and pursue the path we have, and we will find ourselves without resources to sustain jobs, sustain the economy in the future; or we can adjust our human activities to what can be maintained over a long period of time. It is a choice that we have to make.

And I would suggest that, with all due respect for the chairman of our subcommittee and the gentleman from Montana, Mr. WILLIAMS, who I know appreciate sustaining activities over some period of time, that by passing this rule and this bill and by avoiding the question of what do we have to do for the long term to sustain these forests and these ecological systems, that we are not going to achieve the objectives which we all seek.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I yield to the chairman of the subcommittee.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman in the well for his thoughtful statement in terms of reviewing the information and the problems that face our national forests, public domain lands. He has been one of the most thoughtful Members of Congress working in both the Agriculture and Interior Committees, as has my colleague, the gentleman from Pennsylvania [Mr. KOSTMAYER], the author of this.

Of course, I rise in opposition to the amendment today, and I would just state that I think, in fairness to the gentleman from Pennsylvania and the gentleman from Indiana, who are advocates of this amendment, they have asked for more time. In other words, the suggestion was that the type of amendment that they have here was not an amendment that could be resolved, this policy resolved, for instance, in this session of Congress. I think Montana, with 12 years of time that has been put in with the existing format, has got some difficulties, but clearly we are trying to resolve the problem on that particular policy path.

I think they raise important questions about the total ecosystem. But I think the great major difference I have with them is not so much the nature of the problem or trying to define it, but simply the solution, to declare wilderness, to use that as a means to stop timber harvest or change the general forest management plan. That I disagree with. I think this is not the type of solution.

Mr. JONTZ. Mr. Chairman, I appreciate the statement by our subcommittee chairman. I myself, as one Member, would be quite happy to put those areas into some sort of reserve status while we are doing the study. And then after we have a blueprint from scientists who could tell us what is necessary to sustain the fishery, what is necessary to sustain the forests, what is necessary to make sure the productivity of this resource is unimpaired not just for our use but for future generations. That is the time to make the decision about whether we are going to release areas or whether we are going to protect them permanently.

I feel like we ought to have that study done, we ought to have that blueprint, we ought to have that information before we make decisions that are irrevocable decisions about the fate of this 4 million acres.

The Forest Service has come before our committee, and we have asked them, "Can you tell us that with the passage of this bill the fisheries are going to be there for the benefit of future generations?" They have not provided that assurance to us. We have asked them can they tell us will the productivity of these forests remain unimpaired for the benefit of future generations? Of course, they cannot tell us that that occurs.

I just ask the Members of the House to change the way we look at these issues from simply allocating so much land here and so much land here and so much land here, toward a process which is based on a scientific blueprint so that we can sustain the ecological systems.

It may not happen with this bill, but *it is going to* have to happen.

Mr. VENTO. Mr. Chairman, if the gentleman would yield further, I know that he shares and I share concern about these arboreal forests in the foothills and in the Rocky Mountain areas. I just think that the problem is dealing with general forest management practices, that system has to lend itself to deal with these type of questions. We should not put that burden on the wilderness designation here.

The measure that we have before us, which Congressman WILLIAMS and I have written, your committees have supported. It is nearly twice the amount of wilderness designated as the Forest Service recommends. So we certainly are not standing behind the Forest Service in that sense. We are moving out aggressively to have a sound plan. I hope that, working together, we can deal with the forest management practices and correct the inefficiencies and the problem with it.

The gentleman before repeated his concern about the low-cost timber sales. I strongly support the gentleman from Pennsylvania and the gentleman from Indiana with regard to eliminating below-cost timber sales. We do not have that issue before us. Again, the solution dealing with that is not this proceeding.

Mr. JONTZ. Reclaiming my time in order to respond very quickly to the subcommittee chairman, that issue is before us because when we release these forests for general forest purposes, what we are releasing them to is timber sales.

□ 1700

We can predict, based on all the past experience, that these timber sales are going to lose money. They are losing money now. These are more remote areas, these are more fragile areas, these are more areas where it is difficult to regenerate timber. I know the gentleman understands that.

I appreciate our subcommittee chairman being willing to take up these issues at some other time. I think they ought to be taken up now.

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise with my colleagues from Montana in opposition to the Kostmayer amendment and urge my colleagues to oppose it in the strongest way.

Mr. Chairman, although the gentleman's intentions to provide for a study of the Northern Rockies may be honorable—and I am sure they are—to ban logging and mining on 9 million acres of Idaho's forests for 3 years would be extremely disruptive and unacceptable to Idahoans.

I do believe it is important to assure sustainability of our forests so we can provide certainty and stability for our timber-dependent communities while protecting our natural resources.

S. 1696, as amended by the William's substitute already includes a study which would "assess both environmental and economic conditions" and "identify opportunities to improve sustainability of natural resources and the economy," and it does it without banning mining and logging.

My colleague, the gentleman from Montana [Mr. WILLIAMS], has worked hard and honorably to draft reasonable legislation, with the help of Montanans, to settle the roadless area question in his State. Next spring, I hope to follow his lead and introduce legislation, shaped by Idahoans, to bring resolution to the roadless area question in Idaho.

Mr. Chairman, the Kostmayer amendment would be disruptive and bring turmoil into the lives of many Idahoans, including timber workers and miners. Therefore, I strongly urge my colleagues to oppose the Kostmayer amendment.

Mr. KOSTMAYER. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Chairman, I rise in support of the Kostmayer substitute because it holds three distinct advantages over the bill before us: it is a better deal for the environment, it is a better deal for the American taxpayer, and it is a better deal for the economy of Montana.

Mr. Chairman, this substitute provides this House with the opportunity to inject an important dose of scientific and economic reality into what has been—for too long—a parochial and political debate. The substitute offered by my colleague from Pennsylvania is designed to ensure that we deal with the question of Montana wilderness owned by the citizens of the United States the way biologists and economists would have us do it, rather than the way the timber industry wants it done.

This is not to say that Messrs. WILLIAMS and VENTO do not deserve a great deal of credit for improving the bill sent to us by the Senate. Both deserve our thanks for elevating several crucial roadless areas to a protected status, for greatly improving water rights and release language, and for taking the initial steps toward dealing with the issue of wilderness through an ecosystem wide approach.

My argument is not with the efforts of my two friends from Montana and Minnesota, Mr. Chairman—they have worked diligently. My argument is with the vision, or rather the lack thereof, that the Federal Government has traditionally employed in determining questions of the management of the national forest, which are owned by the people of the United States of America.

We have ignored for too long the unalterable fact that this traditional State-by-State and section-by-section approach to wilderness designation has been costly to the owners of America's wilderness, has been costly to the forests and costly to sound ecology. It has isolated though wildlife habitat and fragmented ecosystems. It has severed natural wildlife migration corridors and threatened the survival of many species.

It should be noted, Mr. Chairman, that of the forests that covered North America less than 300 years ago, no more than 5 percent remain. In contrast, less than 20 percent of the Brazilian rain forests, about which we have heard so much, have been destroyed. The Northern Rockies ecosystem, of which Montana is the core, is the last intact ecosystem in the lower 48 States. It represents the last remaining habitat for grizzly bears, woodland caribou, moose, and many other species.

These species do not recognize State boundaries, and they do not understand the concept of planning areas. Biologists understand that the survival of these species depends on understanding their habitat needs and protecting the little habitat they have left. That is precisely what the Kostmayer substitute before us today seeks to do.

As important as the biological, the ecological, the green reasons for saving this land are, Mr. Chairman, there is at least a strong and economic argument, another green argument, to be made for changing our approach to wilderness protection.

To begin with, allowing timber cutting in the remaining roadless lands of Montana's forests will, as the gentleman from Indiana pointed out, without question, lead to millions of dollars of additional losses for the U.S. taxpayer through below-cost timber sales. Because the tree stands on Montana's remaining roadless areas are high, dry, and cold—in the professional forester's parlance—they are not particularly valuable as commodities. Because they are so remote, the cost of building roads and otherwise preparing the timber for sale is quite high. This mismatch between timber value and cost of management has already, using accounting principles accepted everywhere but the U.S. Forest Service, resulting in every one of Montana's national forests operating at a loss in the last 3 years. In fact, timber activities in the forests the substitute seeks to protect cost the Treasury nearly $50 million last year alone, and this figure does not even reflect the environmental costs of stream degradation and other pollutants.

Amazingly, Mr. Chairman, statistics on below-cost timber sales are not even the most compelling economic argument for preventing further cutting in the roadless lands.

One of the persistent arguments against preserving wilderness has always been the detrimental effect it has on local economies through loss of jobs in the timber industry. Mr. Chairman, we now know these arguments are false. They are dead wrong. A study dated March 1992, by Thomas Michael Power, chairman of the economics department of the University of Montana, shows that the entire short-term employment impact of protecting all remaining roadless lands in Montana would be 600 jobs. That is to say, that if we adopt this substitute—Montana would lose a total of 600 jobs. This represents roughly 0.2 percent of the 380,000 jobs in the counties of Montana which include Forest Service lands.

Significantly, Mr. Chairman, the jobs being created in Montana depend on a healthy forest. Jobs in fishing, tourism, and recreation lead the way in job growth. The Powers study also demonstrates that more and more of the jobs being created result from people taking advantage of information-age technology to move their base of operations to so-called high-amenity areas like Montana's national forest counties. In total, the Powers study shows that economic growth in Montana is not related to further cutting in Forest Service roadless lands. In fact, it shows that allowing further logging is a recipe for stunting the job growth that is occurring and dooming the long-term economic health of the region.

For all the reasons I have outlined above, I call on my colleagues to support the substitute to save the remaining roadless lands in Montana's national forests. To do otherwise, Mr. Chairman, is a bad deal for the environment, a bad deal for the American taxpayer, and a bad deal for Montanans who care about the future of their State.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have three recent letters that I would like to quote from. Not only is the Vento-Williams bill unacceptable, but even more so, the Kostmayer bill.

One of these letters is from the Pyramid Lumber Co. and states:

> Shortly after our second meeting, we were told that Pat would not consider the Nevada Mountain area for wilderness because it had never been proposed by anyone in the past.

Mr. Noonan also said that snowmobilers were against the Nevada Mountain Wilderness.

The Lincoln District Ranger was also opposed to formal wilderness for an area, as there are at least 250 mining claims involved, and the Forest Service thought also that local elk herd could be managed much better if the area was not formal wilderness.

□ 1710

However, during the Committee on Interior and Insular Affairs hearing, the gentleman from Minnesota [Mr. VENTO] included a Nevada mountain area in his amendments to the bill. That letter, in its entirety, will be included in the Record.

> September 28, the Montana wilderness bill, as negotiated by Senators Baucus and Burns is not totally acceptable, not totally acceptable, to the mineral extraction industry, is considered an adequate bill to satisfy all constituents. Please use your best efforts to defeat the provisions proposed by Representatives Williams and Vento which restrict and change the Baucus-Burns bill,

From the National Water Users Resource Association, from Fairfax Drive, Arlington, VA—also opposes the Baucus-Williams or the Vento-Williams legislation and supports the compromise by the Senators.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman from Montana [Mr. MARLENEE] for yielding and his comity in this issue.

The gentleman and I began service in Congress together, and I appreciate his point of view, but do not agree in this case. We agree in terms of opposing the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER], and I assure my colleagues that there has been no idea of collaboration or cooperation with Congressman KOSTMAYER in this other than the fact, as I said, that I understand what they are driving at. I do not think the data base exists to make the types of decisions that our colleague from Pennsylvania [Mr. KOSTMAYER] is asking us to make.

In fact, as the gentleman knows, the process that we have before us is the system that produces the information. I would agree there are defects in the system, the decisionmaking process that we go through. But nevertheless, Mr. Chairman, I think that we certainly cannot trade this for the type of offer that our friend, the gentleman from Pennsylvania [Mr. KOSTMAYER], is making for us, and, as I indicated before, I just wanted to make it clear that I oppose this.

Mr. Chairman, I think the substitute that the gentleman from Montana [Mr. WILLIAMS] and I put together that has survived through the committee process in the House today is a good proposal. It is a balanced one. We surely will have the opportunity to invite different issues with regard to other matters with regard to forests, general management practices such as below-cost timber sales and other issues, but they are not addressed in this particular issue, and they will, I think, continue.

Mr. Chairman, I would suggest to all the Members of the House that we better think seriously about some of the proposals that we are talking about in terms of an ecosystem approach. We find that in the Pacific Northwest, and I think we are going to find again in other areas, we are going to have to come up with answers and responses to that because the general pattern and policy of forest practices has not done the job with regard to many of the laws that we have articulated, and I do not know that we are prepared to change many of the laws. I think we are going to have to custom make or change some of the forest practices that we have.

So I rise in opposition today to the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER], and I thank my colleague and friend, the gentleman from Montana [Mr. MARLENEE] for having yielded me some time.

Mr. Chairman, while I commend my friend and colleague, Mr. KOSTMAYER, for his sincere effort to bring environmental protection to the State of Montana, I must oppose his substitute. It has several serious problems.

The Kostmayer substitute designates wilderness areas that may not be of sufficient quality to become components of the national wilderness preservation system. We have not had the opportunity to review these areas to ensure that we are not creating inferior wilderness areas. It appears that this amendment attempts to use the wilderness designation process to solve problems on how general national forest lands are being managed. I agree that there are problems with timber sales and other activities in the national forests, but the wilderness system was not designed and must not be the vehicle for solving these problems. We can correct forest management problems without diluting the quality of the wilderness system. The purpose of wilderness is not to stop all timber sales, but to protect wild lands that have special unique qualities, not a designation to be used as a heat shield against bad forest management practices.

The Kostmayer amendment designates numerous wild and scenic rivers that have had no legislative review whatsoever. The Interior Committee has moved forward numerous wild and scenic river bills and has a process for reviewing all candidates for this designation. The rivers in this amendment have not been through this process and have not been given the necessary scrutiny. We've held no hearings on these wild and scenic river proposals.

The ecosystem study provided for in this Kostmayer amendment has interim protection provisions that stops all development on. roadless lands whether or not they are designated wilderness. This is unfair to the workers and communities that are looking to this bill to give them some certainty as to what lands can be used for nonwilderness activities. The result of this provision is that no lands would be released to nonwilderness uses as a result of the passage of this bill. The crisis we seek to solve would continue unabated.

Mr. Chairman, the Kostmayer amendment has some worthy intentions, no question about that point. However, it is far too extreme and if we adopt it, it would surely kill the process we are engaged in to resolve the Montana wilderness issue and, thus, prevent millions of acres of roadless lands from receiving the protection they need.

I urge my colleagues to defeat it.

Mr. KOSTMAYER. Mr. Chairman, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. KOSTMAYER] for yielding this time to me and will not on his time again refer negatively to his legislation. I do want to commend the gentleman from Pennsylvania and others who have spoken in his support and the support of his amendment because they do understand the necessity of such important environmental matters as protecting wildlife corridors and trying to not designate wilderness in such a way that we only have wilderness islands left which are unconnected one to the other.

The gentleman from Pennsylvania [Mr. KOSTMAYER] and others, and I include myself among them, recognize that the Congress of the United States must begin to pass wilderness legislation that gives recognition to the direction in which our rivers and streams flow, that gives recognition to the natural movement of our great wildlife. Heretofore, it seems to me, the Congress has primarily given too much recognition to political boundaries and not enough consideration to environmental realities on the ground.

I have in the legislation that is the basic bill before us placed an economic and ecosystem study that achieves much of what I think the gentleman from Pennsylvania would like to see achieved in the northern Rockies, and that is a full review of how it is we can continue to extract natural resources and yet appropriately protect the environment of the northern Rockies. My economic and ecosystem study is intended to do that. It is one of the most critically important parts of the legislation.

Finally, Mr. Chairman, I would like to say, in support of my own legislation, that Montana enjoys a State which has the greatest hunting season, the greatest fishing in the world, in the world, right here in the United States, in the last best place called Montana. The final vote that we will have today will be on legislation which preserves and protects wildlife habitat and fish-spawning grounds in a manner that ensures that Montanans and Americans will continue to enjoy the very best quality hunting and fishing opportunities on earth right in this country in the place called Montana.

Mr. MARLENEE. Mr. Chairman, as we bring this debate to a close on a number of different proposals for the State of Montana, all of the proposals have been largely influenced by those who do not live within the boundaries of the State. Let me address one of the things that my colleague from Montana has proposed as part of his piece of legislation, the Vento-Williams bill, an economic and ecosystem study.

My question to that study is: What will it cost? How long will it take? How much redtape will be involved with it? And, under a friendly administration, the study's conclusions could be biased toward preservation, such as the "Greater Yellowstone Visions" document was biased toward preservation.

☐ 1720

Will this study in fact add to the below-cost timber sales that my colleague from Pennsylvania spoke to? Is that what we want to do? Will that cost be relegated and chalked up on the cost of timber sales?

We are putting more work into management of the public lands. We are dealing with issues in the economic and ecosystem study that the Forest Service already addresses.

So it appears to me that this study that is contained in the Williams-Vento bill is duplication and costly and could well contribute to more below-cost timber sales.

Mr. Chairman, I would urge my colleagues to at this time vote against both Kostmayer and against the Williams-Vento proposal. It is unfortunate that we have arrived at this point, but I do not see that as the vehicle to resolve the problem, go to conference and come back to the floor of the House and finalize the question of wilderness, recreation, and professional management in the State of Montana.

Mr. Chairman, I urge Members to vote no on Kostmayer and "no" on Williams-Vento.

Mr. Chairman, I include the following correspondence for the RECORD.

NATIONAL WATER
RESOURCES ASSOCIATION,
Arlington, VA, October 2, 1992.

Hon. RON MARLENEE,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN MARLENEE: The National Water Resources Association would like to emphatically voice our strong objections to the version of the Montana Wilderness bill which was adopted by the House Interior Committee on September 16, 1992.

First of all, it is important to note that the NWRA is not categorically opposed to additional wilderness areas in the West. However, in this case, we are extremely concerned about the unquantified federal reserved water right that the Williams-Vento substitute creates. Not only does this seriously hamper the ability of all Montanans to continue to determine what has been their historic right—the use of water within their own state boundaries—but it sets an extremely dangerous precedent for other states, especially in the West. Granting federal reserved water rights for wilderness areas, where prior appropriation systems are utilized to administer water rights, will seriously impair the development and management of precious water resources by the state.

The use of water in Montana is best left to the people who live and work every day in the State of Montana and know how this important resource is most efficiently used. The language in the Williams-Vento substitute is yet another example of the federal government overstepping its bounds and intervening in state matters where it clearly does not belong.

Moreover, the Williams-Vento language was never thoroughly discussed in any House Interior Committee hearing, nor has this particular bill language had the benefit of discussion on the record in the House for those directly and indirectly affected. In a matter of this magnitude of importance for the state of Montana, and for the precedent that it sets for other Western states and their water rights, it is vitally important that a full airing of these issues occur. Water rights have historically been left to the states for a good reason—the scarcity of this resource is best handled at the state level by those who have a thorough knowledge of its impacts.

Sincerely,

THOMAS F. DONNELLY,
Executive Vice President.

BALCRON OIL,
Billings, MT, September 28, 1992.

Hon. RON MARLENEE,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN MARLENEE: The Montana Wilderness Bill as negotiated by Senators Baucus and Burns, even though not totally acceptable to the mineral extraction industries, is considered an adequate bill to satisfy all constituents.

Please use your best efforts to defeat the provisions proposed by Representatives Williams and Vento which restrict and change the Baucus-Burns bill.

Among these conditions that are now considered onerous and should be defeated are:

1. The additions of more acreage to the wilderness designation.
2. The removal of the "sunset" provision that enables lands to be managed as wilderness until Congress acts on same.
3. The judicial review of the Forest Services' decisions regarding "non-wilderness" areas released from wilderness study.
4. Language creating unquantified federally reserved water rights for wilderness areas.

Again, please devote your efforts to defeating these onerous changes to the Senate Wilderness Bill.

Thank you for your assistance.

Very truly yours,

W.R. CRONOBLE,
Vice President.

PYRAMID MOUNTAIN LUMBER INC.
Seeley Lake, MT, 59868, September 15, 1992.

Hon. RON MARLENE,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN MARLENE: Early in 1987, several members in the timber industry, that would be affected by a Nevada Mountain Wilderness, met with members of the Helena Forest Conservation Coalition in

Lincoln, Montana, to discuss the area. Two meetings were held and boundaries were discussed. The industry felt that it would be willing to consider a Nevada Mountain Wilderness if the wilderness bill itself would contain stronger release language to assure the rest of the roadless areas on the Lincoln Ranger District would really be released for multiple use under the Helena Forest Plan.

Shortly after our second meeting, Congressman William's aid, Mr. Art Noonan, told us that Pat would not consider the Nevada Mountain Area for wilderness because it had never been proposed by anyone in the past. Mr. Noonan also said the snowmobilers were against a Nevada Mountain Wilderness. The Lincoln District Ranger was also opposed to formal wilderness for the area as there are at least 250 mining claims involved and the Forest Service thought the local elk herd could be managed much better if the area was not formal wilderness. Because of what Mr. Noonan had said, negotiations with the coalition ceased.

However, during the Interior Committee hearings on H.B. 2090, Congressman Vento included a Nevada Mountain area in his amendments to the bill. This was quite a surprise to the industry as we nor the general public were notified or allowed any input into a decision to create a wilderness at Nevada Mountain.

It is interesting to note that Congressman Williams did not include Nevada Mountain in his own original wilderness bill, yet he pushed for inclusion of it in John Melcher's wilderness bill. We feel the area is well protected under the Helena Forest Plan and should not be included in the Baucus-Burns bill by house amendments.

Sincerely,

GERALD V. PARKER,
Timber Manager.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Williams-Vento proposal is a good proposal, but it is not enough. It is too little land and protects no rivers at all in Montana. It opens up some of the most remote areas of the State for timbering, that area which is high, dry, and cold. It is inaccessible and more expensive. It will cost us a great deal of money.

In 1991 we lost over $40 million in below cost timber sales. If this proposal is adopted, we will lose more timber and more money in the future.

Mr. Chairman, finally we have an historic opportunity and an historic obligation to preserve some of the most beautiful country in North America. Let us seize that opportunity and vote for the Kostmayer amendment this evening.

The CHAIRMAN. All time having expired, the question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania [Mr. KOSTMAYER].

The amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. McNULTY) having assumed the chair, Mr. DONNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 1696) to designate certain national forest lands in the State of Montana as wilderness, to release other national forest lands in the State of Montana for multiple use management, and for other purposes, pursuant to House Resolution 590, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WILLIAMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by eletronic device, and there were—yeas 282, nays 123, not voting 27, as follows:

[Roll No. 455]

YEAS—282

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
AuCoin
Bacchus
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Green
Gunderson
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Jacobs
James
Jenkins
Johnson (SD)
Johnston
Jones
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Sisisky
Skaggs
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Stark
Stenholm
Stokes
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Weldon
Wheat
Whitten
Williams
Wilson
Wolpe
Wyden
Yates
Yatron
Young (FL)
Zimmer

NAYS—123

Allard
Allen
Archer
Armey
Atkins
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bentley
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Campbell (CO)
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Evans
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Gingrich
Goodling
Grandy
Hammerschmidt
Hancock
Hansen
Hefley
Herger
Hopkins
Hunter
Hyde
Inhofe
Johnson (CT)
Johnson (TX)
Jontz
Kasich
Kennedy
Kolbe
Kostmayer
Kyl
Lagomarsino
Lent
Lewis (CA)
Lightfoot
Lowery (CA)
Marlenee
Martin
McCandless
McDade
McEwen
McGrath
Michel
Miller (OH)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Orton
Owens (UT)
Oxley
Packard
Paxon
Payne (VA)
Penny
Pursell
Ray
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Roth
Santorum
Schaefer
Schiff
Schulze
Shuster
Sikorski
Skeen
Slaughter
Smith (OR)
Smith (TX)
Solomon
Stallings
Stearns
Studds
Stump
Sundquist
Synar

Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Waxman
Weber
Wolf
Wylie
Young (AK)
Zeliff

NOT VOTING—27

Anthony
Barnard
Blackwell
Boxer
Chandler
Conyers
Crane
Dwyer
Foglietta
Guarini
Hall (OH)
Hayes (LA)
Henry
Holloway
Huckaby
Ireland
Jefferson
Lehman (FL)
Lipinski
Livingston
McCrery
Quillen
Sensenbrenner
Solarz
Staggers
Thomas (GA)
Wise

□ 1745

The Clerk announced the following pair on this vote:

Mr. Conyers for, with Mr. Quillen against.

Messrs. ATKINS, CAMPBELL of Colorado, and OWENS of Utah changed their vote from "yea" to "nay."

Messrs. ANDREWS of Maine, HALL of Texas, and MCMILLAN of North Carolina changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on S. 1696, the legislation just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

RETURN OF ENROLLED BILL, H.R. 3379, AMENDING UNITED STATES CODE RELATING TO AUTHORITIES OF THE ADMINISTRATIVE CONFERENCE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. MCNULTY) laid before the House the following message from the President of the United States, which was read:

To the House of Representatives:

Pursuant to House Concurrent Resolution 366, I am hereby returning the enrolled bill H.R. 3379, "An Act to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference," to the House of Representatives for the purpose of making necessary corrections.

GEORGE BUSH.

THE WHITE HOUSE, *October 2, 1992.*

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2532, FREEDOM FOR RUSSIA AND EMERGING EURASIAN DEMOCRACIES AND OPEN MARKET SUPPORT ACT, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 102-976) on the resolution (H. Res. 592) waiving points of order against the conference report to accompany the bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act," and against the consideration of such conference report, which was referred to the House Calendar and order to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 2681, NATIVE HAWAIIAN HEALTH CARE AMENDMENTS OF 1992

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 102-977) providing for consideration of the Senate bill (S. 2681) relating to native Hawaiian health care, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR COMPLETION OF ACTIVITIES OF TASK FORCE TO INVESTIGATE CERTAIN ALLEGATIONS CONCERNING HOLDING OF AMERICANS AS HOSTAGES IN IRAN IN 1980

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 585 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 585

Resolved, That the provisions of clause 5 of rule XI requiring the adoption of one primary expense resolution for the payment from the contingent fund of the House of the expenses of the Task Force to Investigate Certain Allegations Concerning the Holding of Americans as Hostages in Iran in 1980 in the second session of the One Hundred Second Congress are hereby waived, to the end that the provisions of House Resolution 258 of the One Hundred Second Congress shall be deemed to satisfy the requirements of that clause and that, notwithstanding the adjournment of the second session of the One Hundred Second Congress sine die, the task force shall be authorized to file a final report with the Clerk of the House at any time after the adjournment of the second session of the One Hundred Second Congress sine die and before noon on January 3, 1993. The expenses of the task force may not exceed the amounts listed in the first section of House Resolution 512, as recommended to be amended by the Committee on House Administration in House Report 102-930.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 585 provides for the completion of the activities of the Task Force To Investigate Certain Allegations Concerning the Holding of Americans as Hostages by Iran in 1980—more familiarly/popularly known as the October Surprise Task Force.

The resolution deems that House Resolution 258 of the 102d Congress, which created the panel, serves as an expense resolution for purposes of clause 5 of rule XI until the task force files its final report.

The rule waives clause 5 of rule XI and authorizes the October Surprise Task Force to file a final report with the Clerk of the House after adjournment sine die and before January 3, 1993.

Finally, the rule adds a proviso limiting expenses to the amount approved in the first section of House Resolution 512 as amended by the House Administration Committee. This language is designed to ensure that the budget of the task force will be no higher than $1.35 million, a figure requested by the task force chairman and ranking minority member and agreed to by the Committee on House Administration.

The purpose of this resolution is to make clear that the important investigation being conducted by this task force of Foreign Affairs Committee members, and so well chaired by our distinguished colleague from Indiana [Mr. HAMILTON], with the able assistance of the ranking minority member from Illinois [Mr. HYDE], may continue after we adjourn, but no later than the end of this year, laying to rest any confusion regarding the termination date of the panel.

The resolution ensures that the task force will be able to file a final report after we adjourn—but before January 3, 1993. Chairman HAMILTON testified that the work of the task force is nearing completion. And, he and the gentleman from Illinois [Mr. HYDE] agreed that, having come this far, the task force should have the time and resources to complete the inquiry in an appropriate manner so that no lingering suspicions about the serious allegations, which led to the creation of the task force, will remain.

In fact, in testimony from the chairman and the ranking minority member of the task force, it appears to the Rules Committee that the work of the task force has been conducted with remarkable cooperation, and that the panel has operated responsibly and professionally.

Mr. Speaker, I urge my colleagues to approve this resolution, thereby permitting the task force to resolve the issues that form its mandate.

Mr. Speaker, I reserve the balance of my time.

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, after the 1980 election, most political observers believed that the American people overwhelmingly pitched the failed Carter regime out of office because of its disastrous economic policy, the double-digit inflation, the interest rates at over 20 percent, the double-digit unemployment, losing jobs at 50,000 a week, the long lines at gas stations and the despair.

Others figured that it was the foreign policy disgraces of the Carter administration, the failed rescue of the hostages in Iran, the march of communism in Nicaragua, the support of the Sandinistas in Nicaragua and Carter's support in Angola as well as a Soviet invasion of Afghanistan. America was not in the same position of strength as it is today. All Mr. Carter could do then was send them a postcard saying, "For marching on Afghanistan we will not attend the Olympics." Many felt that that was the reason the American people turned to the strength and vision of Ronald Reagan.

A few die-hard Carter supporters who could never accept that the American people did not like inflation, skyrocketing interest rates, gasoline lines and international weakness, desired to find a conspiracy behind the demise of the Carter Presidency. In the self-fulfilling fantasies of an assortment of misfits and oddballs and conspiracy theorists those people built their own new conspiracy.

A year ago almost to the day, the Rules Committee considered a resolution creating a special House task force to investigate once and for all the rumors regarding a 1980 conspiracy. The special task force would investigate those infamous October Surprise charges.

Mr. Speaker, I had a chance to look back at those committee transcripts, and last year I predicted that the main purpose of the task force was political. It would bring up old rumors and accusations, highlight baseless charges, and right in the middle of the 1992 Presidential campaign would seek to file its report. I said that we would create the investigation, and then it would disappear and we would not bear a thing until the very last minute, probably not until days before the election.

Well, we created the task force, Mr. Speaker. Noting much has been said about the baseless conspiracy charges since, except that most newspapers and responsible organizations have discarded them for the fantasy that they are.

But let us look at the calendar. Here we are on the House floor right on time. It is October. Surprise. That is the only election October Surprise around here.

The gentleman from California [Mr. BEILENSON] has explained the House resolution. At a time when the public standing of this institution is at such a low, the House should never have started this investigation and never asked the American taxpayer to pay for this blatantly partisan political bill.

I would like to commend, however, the honorable chairman of the Rules Committee, Mr. MOAKLEY, and the distinguished gentleman from New York [Mr. SOLOMON] for coming to a compromise that takes into account the concerns of the American taxpayer. House Resolution 585 does set a limit of $1.35 million on the expenditures of the task force.

But let us not deceive anyone about the true cost of this witch hunt. It has cost the taxpayers much more than that. Other agencies have already spent well over $700,000 to meet the needs of the task force, and the figure is going up.

Mr. Speaker, when this resolution came up I made a point of order that the resolution was not correct because it did not include a primary expense resolution. There is no question at all but what that was a violation of the House rules.

However, the Parliamentarian ruled at that time that it was only temporary and, therefore, could operate under the agreement of another House committee. Republican BILL THOMAS asked Parliamentarian Bill Brown in a letter dated February 10 whether or not that was the case, and the Parliamentarian responded saying that "the expectation of a future primary expense resolution relating to the task force is logically consistent with the ruling of February 5." In other words, they are going to act expeditiously.

Here we are a year later. We have the resolution on the floor again, and they have still not done as the Parliamentarian promised would be done immediately when I objected to the violation of the rules a year ago.

□ 1800

Mr. Speaker, I wish the task force haste in drawing to a close this embarrassment in our congressional history. Although the American taxpayer should not be forced to pay for it, I hope they can report once and for all and put this issue behind us.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the minority leader.

Mr. MICHEL. Mr. Speaker and my colleagues, I rise in opposition to this procedural gimmick that will fund the October Surprise task force for the duration of this Congress.

Now, as outraged as I am about the process, I want to focus my comments on the issue of funding an investigation of incredible allegations that Reagan and Bush campaign aides were involved in any attempt to delay the release of Americans held hostage in Iran. Let there be no mistake. We are not just talking about $1,350,000 here. The FBI estimates they have spent $415,000 to assist the task force. The Treasury Department estimates they have spent over 9,000 manhours assisting the task force at a cost of over $257,000. The Defense Department has spent $1.5 million to respond to requests of the task force. The CIA has spent $132,000, and Justice has spent $23,000. The State Department has spent $100,000 just flying task force staff around the world. That brings us to $2.4 million, and I believe these estimates are low since I asked the agencies to estimate only costs they could document.

The taxpayers will spend almost $4 million chasing wild rumors. What a waste. No wonder the majority has to hide behind procedural gimmicks to provide funding for this task force.

You will recall that the Republican substitute that I offered called for limited funding and a date certain for the task force to report. The chairman of the task force, the gentleman from Indiana [Mr. HAMILTON], as I recall, responded that, "If nothing is there, I will be the first to ask that it be shut down."

The task force has already admitted publicly what most of us knew from the beginning: President Bush had absolutely no part in this so-called conspiracy.

One of the main proponents of this conspiracy theory, Mr. Gary Sick, a former national security staffer for Jimmy Carter, wrote that "At least five sources who say they were in Paris in connection with these meetings insist that George Bush was present for at least one meeting." The task force now tells us, in effect, that Mr. Sick's sources must be lying or suffering from mass hallucination, because Mr. Bush's whereabouts for the period in question are documented, and he was not in Paris.

I see the distinguished gentleman from my home State, the gentleman from Illinois [Mr. HYDE], who served as our ranking member on the task force. Might I ask the gentleman a few questions here relating to the main allegations in this conspiracy theory?

I ask the gentleman from Illinois [Mr. HYDE]: Does not Gary Sick tell us the Carter administration was negotiating a $150 million arms-for-hostages deal with Iran? Is that not what was purported?

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, that is absolutely correct. In Mr. Sick's book called "All Fall Down," he indicates that a $150 million group of arms, weapons, was ready to be shipped to Iran in exchange for the hostages.

These were weapons that the Shah had paid for earlier but were never delivered because of the difficulties with Iran. There was an embargo. Yes.

Mr. MICHEL. When were these negotiations taking place?

Mr. HYDE. If the gentleman will yield further, October 1980.

Mr. MICHEL. In the gentleman's opinion, has he seen any credible evidence to suggest the 1980 Reagan-Bush campaign engaged in a conspiracy to detain American hostages held in Iran?

Mr. HYDE. Does the gentleman mean after 7 months and about $800,000 that this body has expended out of the contingency fund, have I seen any evidence that the 1980 Reagan-Bush campaign engaged in a conspiracy to detain American hostages held in Iran? What that the gentleman's question?

Mr. MICHEL. That is the question.

Mr. HYDE. The answer is no.

Mr. MICHEL. I thank the gentleman. In the gentleman's opinion, he has seen any credible evidence to suggest that the meeting took place in Paris in October 1980?

Mr. HYDE. You mean, in Madrid in July 1980?

Mr. MICHEL. That would be the one.

Mr. HYDE. No. The answer to that is no.

Mr. MICHEL. As I understand it, Gary Sick says in his book "October Surprise" that one fundamental question looms above all others: Did William Casey, without the knowledge of the United States Government, travel to Paris during the period October 15 to 20, 1980, to meet with Iranian and Israeli representatives to arrange the release of the United States hostages to the Reagan-Bush forces? Again, I am quoting from his book, "the answer, it appears, is yes; everything else is of secondary importance." I guess I would have to ask the distinguished gentleman here: Has he seen any credible evidence that Mr. Casey was in Paris in October of 1980?

Mr. HYDE. After 7 months and about $800,000 spent in investigating everyone from aardvark to zebra, the answer is no.

Mr. MICHEL. Mr. Speaker, it is obvious from what we have just heard that the task force in their thorough investigation has achieved one thing; by now they must have found out that many sources out there were lying, that statements that some journalist took as truth were actually fiction, and that this conspiracy theory is really a house of cards.

No meetings took place. George Bush had absolutely no involvement at the time, and the time has come to write the end, frankly, to this story. The time, it seems to me, has come to end this folly and to report to the American people that there was no conspiracy.

I would urge the gentleman from Indiana [Mr. HAMILTON], the distinguished chairman, and my friend, the gentleman from Illinois [Mr. HYDE], to orally report their findings as soon as possible and, of course, preferably before the election.

Obviously I am very much opposed to this resolution providing for the continuation of funding for the task force.

DEPARTMENT OF THE TREASURY,
Washington, DC, September 28, 1992.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR MR. LEADER: Thank you for your September 22 letter requesting information on what costs the Treasury Department and related agencies have incurred for the October Surprise inquiry.

As you requested, we have prepared an estimated accounting of the cost to the Treasury Department of complying with the House of Representatives and Senate inquiries into the allegations surrounding "October Surprise." The Treasury Department has, to date, spent $257,333 on the investigation, calculated from receipt of the first House letter in September 1991 to August 21, 1992. Because the search for documents is still in progress, the full cost of the investigation to Treasury cannot yet be determined.

We asked all offices and bureaus within Treasury to provide us with the number of hours they spent responding to House and Senate inquiries, including the cost of copying documents. We did not include copying costs under $25. Copying costs were calculated at 10 cents a page.

To compute the cost to Treasury for the hours worked, we added 18% of the annual salary for a given grade and step to the annual salary and divided that amount by 2087, the official number of hours each employee works annually. We then multiplied this hourly wage by the number of hours worked by each grade and step.

Where we did not know the step, a step three was used to calculate the salary. Where we knew positions were clerical, we used the clerical salary scale. Where we did not know otherwise, we assumed that grades 5, 6, and 7, were clerical.

We have provided the number of hours worked and the cost of those hours, along with additional costs, on the attached chart.

I hope that this information is responsive to your inquiry. Please let me know if our office can be of further assistance.

Sincerely,

MARY C. SOPHOS,
Assistant Secretary (Legislative Affairs).

COSTS OF OCTOBER SURPRISE

Office	Manhours	Cost	Copying and other costs
Deputy General Counsel	30	$1,611.00	
General Counsel (Enforcement)	596.50	21,069.93	
General Counsel (International Affairs)	9	304.74	
Enforcement	3	130.84	
OASIA	147.75	4,361.72	
OFAC	208	6,266.34	
Customs Service	2,193.50	69,001.43	$850
IRS	4,153.75	88,548.27	750
U.S. Secret Service	1,020	31,260.47	240
ATF	992	32,938.17	
Total	9,353.50	255,493.01	1,840

Total costs, $257,333.01.

THE ASSISTANT SECRETARY
OF DEFENSE,
Washington, DC, September 30, 1992.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR LEADER: In response to your September 22 letter, the Department of Defense incurred approximately $1,529,000.00 in expenses to respond to requests of the October Surprise Task Force. This figure includes all costs associated with time and material expended during the period October, 1991 through September, 1992.

I hope this will be of assistance to you.

Sincerely,

DAVE GRIBBIN.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, September 30, 1992.

Hon. BOB MICHEL,
Minority Leader, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: This is in response to your letter of September 22, 1992, in which you asked for costs associated with the FBI's October Surprise Task Force.

The Task Force was started on or about May 4, 1992. Normally, the FBI does not keep figures for individual investigations. However, on May 30, 1992, the tracking of certain costs was initiated. To date, those costs have been:

Salaries	$318,907
Benefits	70,452
Overtime	11,333
Travel	[1]15,760
Total	416,452

[1] Approximately $10,000 is reimbursable as a result of Congressional Staff travel.

Extrapolating from the existing data for pre-May 30th costs, and considering a reasonable amount for space, equipment, and supplies, it is estimated that to date the FBI has incurred total costs of around $500,000 for the October Surprise Task Force Investigation.

I hope this is of some assistance.

Sincerely yours,

JOHN E. COLLINGWOOD,
Inspector in Charge, Office of Public and Congressional Services.

U.S. DEPARTMENT OF JUSTICE—HOURS/FUNDS SPENT ON OCTOBER SURPRISE*

Labor category	Hours	Dollars
Professional	20	$540.18
Attorney	334	14,583.63
Paralegal	317	4,943.47
Clerical	48	559.68
Other	20	283.80
Subtotal	739	20,910.76
Cost of copying		1,000.00
Travel		1,000.00
Total		22,910.76

*Main Justice (Washington) expenses only. This table does not include costs incurred in United States Attorney Offices.

NATIONAL SECURITY COUNCIL,
Washington, DC, September 28, 1992.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: I am responding to your September 22, request regarding what costs the National Security Council has borne in cooperation with the October Surprise congressional investigation to date.

Total professional time expended on the congressional inquiry, including, but not limited to, identifying, producing, or making available documents and records, time spent by lawyers reviewing materials for release, and other staff time is approximately 154.2 hours. We conservatively estimate that these staff hours equate to approximately $5,760.11 of salary costs. Total nonprofessional staff time expended on the inquiry is approximately 16 hours, approximating $253.92 of salary costs. We are unable to estimate the dollar amount of other costs for supplies, long distance calls, and the like.

The NSC staff has outstanding requests from the October Surprise Task Force, which we are currently processing; therefore, we are still expending staff time and resources on the October Surprise Task Force inquiry.

If you need additional information, do not hesitate to contact Virginia Lampley at (202) 395-3055.

Sincerely,

WILLIAM F. SITTMANN,
Executive Secretary.

September 30, 1992.

Memorandum for: Tracy Sandlin.

From: Rudolph Rousseau, Deputy Director, House Affairs, Office of Congressional Affairs.

Subject: Cost estimate.

1. As requested in Mr. Michel's letter, we have estimated the cost of our response to the various inquiries of the October Surprise Task Force. We estimate that CIA's response has cost $132,000 to date.

2. As I told you in our telephone conversation, this is a very soft estimate because some of our components did not keep records of time spent on the inquiry. We have had to make rough estimates of the cost of those components' response.

RUDOLPH ROUSSEAU.

Mr. BEILENSON. Mr. Speaker, may I inquire of my friend, the gentleman from Ohio, if the gentleman is going to yield additional time?

Mr. MCEWEN. I would say, Mr. Speaker, that I have significant requests for time, and I have been in this situation before where there were no requests for time on the other side and we used our time only to discover that a significant amount of requests appeared at the very tail end.

Mr. BEILENSON. If I may say to my friend, this gentleman, insofar as he is aware, and other members of the committee on the majority side have never misled the gentleman as to further requests for time. Until this moment we did not have any further requests for time or any requests for time. I was just offering the gentleman an opportunity to proceed. We do have one gentleman here now who either will speak at this time or shortly thereafter.

Mr. MCEWEN. It is my understanding, Mr. Speaker, that there will be only one request for time, and that there will be only one request for time on the majority side, and I will be pleased to yield to the distinguished ranking member on the Committee on Rules.

Mr. BEILENSON. At the moment that is the case, as the gentleman knows, as my friend knows.

We will be happy to proceed on our side if the gentleman would proceed first. I was simply advising the gentleman that as of now we only have one Member requesting time.

Mr. MCEWEN. I am simply advising the gentleman that I am wary of these conditions, not that the gentleman from California [Mr. BEILENSON] has engaged in this before, but, therefore, I am reluctant to use all of my time under those conditions.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I rise in opposition to this resolution, and I hope it will be defeated. It certainly does not come as an October Surprise to anyone listening to this debate right now that my primary reason for opposing this resolution is simply my belief that this entire exercise has been totally unwarranted from the very beginning.

The so-called October Surprise Task Force never should have been set up in the first place. And we certainly should not be extending its lifespan for another 3 months by virtue of adopting this resolution today. The task force ought to be shut down today, now, before any more time, effort, and money are wasted chasing after butterflies.

Mr. Speaker, two wrongs do not make a right. And in this instance, this resolution does not make right what was done wrong in the first place. Two wrongs are still two wrongs.

House Resolution 258, which established the so-called October Surprise Task Force, was cleared by the Rules Committee in October 1991—1 year ago. It was subsequently passed by the House in February 1992—8 months ago.

When this whole enterprise was being set up, Republicans strenuously objected to going forward without any budget having been established for the task force. Indeed, the task force was set up in clear violation of rule XI, clause 5, which requires the adoption of a primary expense resolution before any such task force can draw money from the contingent fund of the House.

Now, today, the House is being asked to rewrite history and say that House Resolution 258 really was a primary expense resolution after all—even though it was never presented as such when the House considered it 8 months ago.

And, just to make sure that all the bases are covered and everyone is totally confused, the resolution before us today goes ahead and waives clause 5 of rule XI anyway. Mr. Speaker, this must be the legislative equivalent of the hidden ball trick. But it is also one more example of how the majority sets aside the standing rules of the House whenever the rules get in the way of a politically motivated juggernaut.

Mr. Speaker, if there is anything good in this resolution before us today, it is one thing: A cap of $1,350,000,000 on what the task force will be authorized to spend. That figure is a lot higher than many of us would have wished, but at least it is a budget of sorts—something we should have had a long time ago. I commend the Rules Committee for including this provision in the resolution.

Returning to my principal point, however, I must say that this task force never should have been established in the first place. And it should not be perpetuated by this resolution. But the majority has been determined to do the wrong thing the wrong way since day one, as far as this particular issue is concerned.

And that is with this task force that has already wasted a million dollars of the taxpayers money, without any results at all, should be terminated now, and defeating this bill will do just that.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding me this time.

Well, Mr. Speaker, it is October, and it is not a happy new fiscal year.

The biggest surprise though is the ongoing charade fostered by the liberals in this Congress. I just cannot believe the liberals want to spend another $2.5 million for a fishing expedition, a fishing expedition for something nobody cares about.

The American people care about keeping their jobs, helping their families, paying their bills, and living within a budget, something the liberals failed to understand.

☐ 1810

Let us take a look at the facts of this case. The liberals' case centers around allegations of Carter Foreign Policy Director Gary Sick. His chief witnesses are a jailed South African arms dealer and Abbey Hoffman. After 7 months, $800,000, maybe the liberals should subpoena Elvis; he could probably give them the answers they need.

Let us get serious, let us stop the political games and get down to the chores that have to be done.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we on this side understand that our friends and colleagues on the other side are not in support of this resolution. We understand their feelings about it; we have from the very beginning, about a year or so ago.

I would like to tell our colleagues, if I may, I think it is fair to characterize it this way: The discussion between Mr. HAMILTON, Mr. HYDE, and the members of the Committee on Rules a day or so ago was perhaps, if one may put it this way, a little more reasonable and helpful than some of the discussion we have had here on the floor.

What I want to do, however, if I may, Mr. Speaker, just for a moment is to remind Members who may not have heard the introduction from our side here that what we have before us now is a resolution which provides for basically three things only.

First, it provides for the completion of the activities of this so-called October Surprise task force.

Second is, that it is designed to insure that the budget of the task force would be no higher than the $1.35 million, a figure requested by the task force chairman and by the ranking minority member, and agreed to by the Committee on House Administration.

And finally, it makes clear that the committee may continue its procedures and its investigations after we adjourn but no later than the end of the year. The intention, as expressed to the Committee on Rules a couple of days ago both by Mr. HYDE and by the distinguished chairman, the gentleman from Indiana [Mr. HAMILTON] was that the work of the committee would be finished by probably the middle of November, simply giving them until the end of the year to file a report.

So that is all we are doing, we are trying to bring to a conclusion and to put a limit on the amount of money this particular task force can use. Members should understand that that is what is at stake here today.

Mr. MCEWEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, there is an old wildcatter expression that I have heard from some of my friends out in California. It says, "If you drill a dry hole deep enough, you are bound to strike a lot of nothing big." And clearly, that is exactly what we have found in this resolution.

It seems to me that with the action that has been taken by the October Surprise task force, we are going to continue to find a lot of nothing big.

I hope very much that we will defeat this resolution.

Mr. Speaker, there's an old wildcatter expression that says, "if you drill a dry hole deep enough, you're bound to strike a lot more nothing—big!"

Mr. Speaker, that expression applies in spades to the October surprise task force. They started drilling a dry hole last February, and the deeper they drilled the more nothing they found.

And now, some 800,000 in wasted taxpayers' dollars later, they've come to the Rules Committee to ask us to sink another $550,000 into their dry hole so they can keep drilling right up to next January 3.

And instead of bringing to this floor the proper primary expense resolution which has been reported from the Committee on House Administration, we have before us this peculiar rule that goes through all kinds of contorted English in order to avoid letting on that we are taking big bucks here.

Mr. Speaker, my colleagues will recall that last February, when the resolution establishing this task force came to the floor, the gentleman from Ohio [Mr. MCEWEN] raised a point of order against it on grounds that the report did not mention how much it would cost as is required on primary expense resolutions.

On that occasion, the Chair ruled that the resolution was not a primary expense resolution but rather an interim funding mechanism allowed under another rule. And the Parliamentarian later confirmed in a letter to the ranking Republican on the House Administration Committee that the task force would still need a primary expense resolution under House rules.

Now, lo and behold, we have a special rule out of the Rules Committee that says the February resolution shall be deemed to be the primary expense resolution, while at the same time waiving the requirement that there be a primary expense resolution.

I suppose one could conclude that the circular logic contained in this special rule is symbolic of the circular tail chasing after conspiracy mongers the task force has been forced to engage in. After a while, I'm sure, it's difficult to tell who's telling the more credible lies.

At least the minority was successful in the Rules Committee on this resolution in amending it to include an indirect reference to a spending ceiling contained in the House Administration Committee's reported resolution. That was after the majority rejected our proposal to include the actual dollar amount.

Had we not prevailed with that provision, this resolution would have been an open-ended, blank check for the task force to run up bills without limit. But even with that spending ceiling, this is still a half a million dollars too high!

So I would caution my colleagues on both sides not to be fooled into thinking that just because you see no dollar signs in this resolution, it is somehow a freebie procedural vote that will have no political consequences.

Quite to the contrary, if you vote for this resolution, you are authorizing the task force to run up bills of $1.35 million using the credit card of John Q. and Mary Citizen.

And I'm sure they will be delighted to learn that you've invested their hard-earned dollars in this bottomless, dry hole.

Is this really the kind of investment in America's future candidate Clinton is calling for? Is it any wonder we are running up bigger and bigger deficits when we throw good money after wild conspiracy theories—all for potential partisan gain? Is it any wonder the American people think less of us for our profligate ways?

Mr. Speaker, I hate to say I told you so, but we warned against this wild goose chase last February after two prominent national magazines found the same dry holes after extensive investigations into the so-called October Surprise allegations.

The time has come to put an end to this wasteful and costly drilling expedition. Vote down this resolution and shut down this investigation before we bring more shame and embarrassment on this House.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. I thank the gentleman for yielding time to me.

Mr. Speaker, the expenditure called for by this resolution has to be one of the most frivolous and wasteful proposals in Congress this year. Considering some of the other expenditures that have been approved by this body, that is saying something.

This whole October Surprise investigation debacle began as a result of unsubstantiated charges made by former Carter administration officials and others, that George Bush somehow in the midst of a Presidential campaign in October 1980, snuck away to Europe to cut some kind of deal regarding hostages. The allegation was ridiculous to begin with, and was found to be completely unfounded by every responsible group that looked at it. In fact, about the only finding that the current October Surprise task force has issued is that this bologna charge, which started it all, about President Bush being in Paris was completely unfounded.

Nonetheless, this task force has met and expended through September 30 of this year more than $769,000 to investigate this. We are now asked to increase this expenditure to $1,350,000 to conclude the investigation and present a report of the task force findings.

Actually, this amount of money is only the tip of the iceberg. This does not account for the millions that are being spent by various executive agencies as a result of this investigation and to help in it. The Defense Department alone has spent over $1,500,000. The Department of State has spent over $100,000 to pay for commercial travel for the staff of this committee to glamorous cities on the Mediterranean, and in Europe, and other places. Who knows what exotic spots they may find to travel to if Congress authorizes the continual operation of this task force. In fact, the minimum additional expenditure by other agencies already is between $2.5 and $3 million. Those expenditures will also increase if this resolution passes.

I hear many Members express concern about the disrespect in which Congress is held by a large proportion of the people of this country. I have heard a number of Members, particularly on the majority side, be critical of those who supposedly bash Congress. Well, why not? When it does things like it is doing today.

Congress is not held in disrespect because of what Members say. Congress is held in disrespect because of Congress' own actions. Passing this resolution today will only further enhance the view that people already have of this body as one that is wasteful and engages in frivolous activities.

I would like to make a prediction. I would predict that after this resolution is approved and all this additional money is spent and after the task force reports, which will conveniently be after the election, it will have been found to have produced no substantial evidence to justify this wasteful expenditure. I would urge my colleagues to vote against the resolution.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. I thank the gentleman for yielding.

First, Mr. Speaker, let me just begin by paying a compliment to the chairman of our committee, the gentleman from Indiana [Mr. HAMILTON], who has conducted this inquiry with a great deal of fairness.

I would also bring to the attention of the House, because not everything is noted around here, Chairman HAMILTON held a press conference about a month ago in which he, in effect, indicated publicly in the middle of a presidential campaign that there is no credible embarrassing evidence tying the current Republican President of the United States, George Bush, to any wrongdoing. For that I personally think Chairman HAMILTON deserves not only a great deal of credit on judgment but on integrity, for acting in a nonpartisan fashion.

Now, as far as this particular inquiry is concerned, we are really at the seventh inning of an inquiry. We are constrained in what can be said because much of what has been reported is of a confidential variety. But let me just say as a member of this committee that, in looking at the evidence, the conspiratorialists in America have not only not scored a run but they have not made a hit.

As hard as it is to believe in a world where press cynicism is rampant, no credible corroborating evidence has been presented that would lead one to think of embarrassment to high-level officials of the United States of America.

I believe this House is obligated to bring this investigation to an end because irresponsible charges should not be dignified. Yet, I must say from the perspective of the minority, that the staff of the committee has been fair and responsible. I also would say that one of the interesting lessons of this endeavor could be a case study of public journalism at its most vulnerable.

Honest, decent people appear to have been manipulated or duped by discreditable, sometimes recanters, and, despite any lack of passion at the thought, I would suggest to this body that sometimes American public officials are decent, honorable, and honest, and sometimes those people that might make charges from other parts of the world may lack the same kind of integrity.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana [Mr. HAMILTON], the chairman of the task force.

Mr. HAMILTON. I thank the distinguished gentleman from California for yielding time to me.

Mr. Speaker, I rise in support of House Resolution 585, a resolution that would provide for the completion of the investigation of the October Surprise Task Force.

The October Surprise Task Force was created in February, 1992, following the adoption of House Resolution 258. Since then, the task force has been hard at work.

To date, the task force has interviewed and deposed over 125 people. It has reviewed close to 30,000 documents and pursued investigative leads in several foreign countries.

The task force is in the final stages of its investigation. Approximately 50 witnesses still remain to be interviewed or deposed. Several important lines of inquiry still need to be pursued and about 5,000 documents need to be reviewed and analyzed. Additionally, some organizations and executive branch agencies still need to complete document production.

Among the 50 remaining witnesses, approximately 2 dozen critical witnesses have not yet been deposed. Several of these witness interviews were purposely put off until the final stages of the investigation to allow task force staff to complete interviews of related, but less important, witnesses and to analyze relevant documentary evidence. Other important witnesses have only just been located and are scheduled for interview later this month.

Access to documents and information to which no one has had previous access continues. For instance, nearly 75 percent of the almost 2,500 hours of Hashemi FISA electronic surveillance tapes have been fully reviewed. Also, thousands of classified intelligence and defense community documents have been read and analyzed.

Finally, the task force is still awaiting permission from the Governments of Israel and Iran to review documents and interview witnesses. Hopefully, we will receive such permission shortly. This will allow the task force to consider important evidence, much of which has never been addressed until now.

During the 7 months that the task force has been operating, I think we have addressed many of the concerns initially expressed by the minority. This has not been a political witch hunt. In fact, our interim report, released on July 1, reached only one conclusion—that then-candidate George Bush did not travel to Paris in October 1980, to participate in alleged secret meetings.

We have conducted this inquiry in a bipartisan fashion. The minority: has fully participated in every interview and deposition; has been free to pursue completely any leads they believe relevant; has requested and obtained documentary and other evidence; and there has been no disclosure of the names of people we have contacted during our investigation. There have been no leaks about any aspect of this investigation.

I know we are all concerned with keeping costs to a minimum and the task force has certainly done that. Indeed, the Congressional Budget Office estimated that the task force's operating budget would cost between $1.8 and $2.5 million. The actual cost of this investigation falls far below CBO's minimum cost estimate. We have worked hard to ensure that this investigation is conducted without any waste. I might add that citing estimated costs to executive branch agencies responding to task force requests is somewhat misleading. Generally, we have worked with personnel in either Congressional Affairs or FOIA offices who would be responding to requests of this nature in any case. Additionally, much of the cost was incurred by requests from the executive branch itself prior to the task force being created.

I would like to offer a final observation. The task force has been in operation since February 1992 and is in the final stages of its work. Unless the task force is allowed to complete its work, no final conclusions will be able to be reached. Such a situation is clearly in no one's interest, particularly those whose reputations have been tarnished. I would not want anyone, whether opponents or proponents of this issue, to say when we are finished that we were not thorough or complete in pursuing viable leads.

While I appreciate the perspective on the partisan nature of the debate leading to the creation of the task force, at this juncture it seems in all of our interests to see this project to its orderly conclusion on January 3, 1993, so as to put these issues to rest once and for all. I should note that while our colleague HENRY HYDE might agree with you about the partisan inception of this investigation, he has stated that it has been and continues to be conducted in a fair, professional, and unusually bipartisan atmosphere. By voting for this resolution, it allows the task force to complete its final interviews, review the remaining evidence, and complete the final report by January 3, 1993.

In sum, this investigation is proceeding in a bipartisan, cooperative manner. If the House will let us pursue this investigation to its appropriate conclusion, we are likely to be able to put this matter to rest once and for all.

I urge support for House Resolution 585.

□ 1820

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GOSS], a member of the task force.

Mr. GOSS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as a member of the committee, this gentleman is obviously constrained by what I can say, but I certainly want to echo and underscore the statements by the chairman of our Task Force and our ranking member, that fair play has been the word. I think the leadership of the Task Force has been excellent. I do not think there is any doubt there has been fair play in the conduct of the investigation.

However, the words "witch hunt" I believe does associate with some efforts by others that are going on. I think that has caused some concern, and I agree, we need to get to the basis of this.

There will always be another reported sighting of Elvis. There is no doubt about it. There will always be fantasy land inside the Beltway. There is no doubt about that. There will always be an endless supply of nonsense that we could chase down if we wanted to around here. In fact, there is already a cottage industry in this town, as most people know, that does chase rumormongering, dissembling and even lying in trying to prove things.

The issue tonight is cost. It is a question of cost, a question of the wise use of money, of the taxpayers' dollars. Is this the best use of millions of dollars right now when dollars are precious in our country, when we are in a deficit mode. We have agencies taking money out of their other duties and diverting them to do this exercise. We are paying consultants money to do this exercise, and of course, we had these GAO costs before this thing officially started.

So what we are dealing with is are we spending the taxpayers' money wisely? Are we going to get a good return on it?

I believe the answer that is we have spent enough.

Some have suggested that we do not spell so well on this side of the aisle. Let me tell you, I am not so sure that some on the other side of the aisle add so well. We do have an additional problem. We are spending in this country more than we can afford right now. We all know that.

My view tonight is that there is not enough money, there is not enough magic, that even a Merlin could turn this dross into gold on Halloween night, and let us be sure that Halloween night is not the target.

Mr. McEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, I thank the gentleman for yielding me this time.

I have been making notes of those points that have been made. I wanted to come up toward the last so I could cover some things that perhaps have been overlooked.

One of the significant things is something that I believe is unprecedented that was used in the investigation, and that is a House Committee using its influence to influence a Federal judge to allow someone to have leniency to come out and testify in this case. I am speaking of the chief counsel of the House Foreign Affairs Committee, Mr. R. Spencer Oliver.

I will read from the Wall Street Journal:

> Mr. Oliver has now used his influence to spring a convicted South African arms dealer from prison, presumably because this criminal can help the Democrats' October Surprise probe. The wonderfully-named Dirk Francois Stoffberg, a former South African Intelligence Agent turned arms dealer, was convicted last year of selling 1,000 handguns to a U.S. Customs Agent posing as an arms broker.

□ 1830

During his trial it was revealed that Mr. Stoffberg had threatened a Federal agent with death. Along comes Spencer Oliver, who last month wrote to U.S. District Judge Jack Weinstein informing him that Mr. Stoffberg was assisting the Foreign Affairs Committee in its investigation of the October Surprise. Mr. Oliver lobbied the judge to reduce Mr. Stoffberg's sentence.

Mr. Speaker, it also has not been brought out that there have already been more, but no less than, five independent investigations of the so-called October Surprise, one by Newsweek magazine, one by New Republic magazine. None has come up with any evidence that there is any wrongdoing, and I can only conclude that this is nothing more or less than a coverup to cover up some of those things which really are corrupt and are going on today such as the post office scandal.

Mr. McEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Ohio [Mr. McEWEN] for yielding this time to me, and I just reminded myself that this is a day that the gentleman from Illinois [Mr. HYDE] spoke of a number of months ago when he said,

> It looks like this thing is all going to come to a head around the first week of October,

in what Mr. HYDE referred to as "a lucky booking."

I say to my colleagues, The problem is you can't take the political spin off this issue, and it's a political spin at a time when we should be doing the people's work. The people's work is housing. The people's work is jobs. The people's work is the credit crunch.

We are not doing that. We are investigating this idea that somehow swamis, rug merchants and political consultants got together and held up a hostage release.

Mr. Speaker, it is no wonder America looks at this body and says, "A lot of these folks should be moved out of here. They don't care about what the real agenda of America is. They're playing political games."

Let us move on. Let us go back to the people's work.

Mr. McEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Is it quiet enough for you, Mr. Speaker? It is for me. Just checking.

Mr. Speaker, if we are going back 12 years for political purposes to investigate a so-called surprise, then let us go back 10 more, the New Year's Eve, 1969, and January 1970, and investigate, spend some of this money, why the now Governor of Arkansas traveled to Moscow in the dead of night, 26 degrees below zero, to meet with the enemy in an enemy capital that was making every plane, and every bullet and every rifle that killed our men in Vietnam. Moscow, the Evil Empire, was running that war. I ask my colleagues, why don't we investigate that? Why don't we find out why the Governor of Arkansas' senior policy adviser, David Ipsham, went to Moscow the next year and went on to Hanoi?

I have got a photograph of Phan Van Dong I will be showing later tonight, and then he went on the radio, Mr. Ipsham, and told every American fighting man to throw down his weapons, to leave their planes, get off their ships, face court martial and desert that cause in the part of the cold war where we were fighting for freedom for the southern half of Vietnam.

Then go back 10 more years, to 1960, and study the Chicago surprise and the Texas surprise in November 1960 when the election was stolen from Vice President Richard Nixon.

I ask my colleagues, Why don't we fence some of this money, and keep this political game going and be fair about it?

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I have always been curious what President Wilson might really have known about the sinking of the *Lusitania*.

Mr. DORNAN of California. Nineteen hundred and sixteen, and he promised he would not take us into war. One hundred twenty-eight men were lost off the southern coast of Ireland on the *Lusitania* in May 1915, and he said he would not take us to war, and he did not. That is worth investigating.

What about Colonel House? Was Colonel House running Woodrow?

Mr. Speaker, I am glad the gentleman from Missouri brought that up.

Mr. McEWEN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I want to preface my remarks by saying there is no one in any parliamentary body in the world I would rather serve with in any capacity than the gentleman from Indiana [Mr. HAMILTON]. He is doing a very professional and very objective job as chairman of this difficult task force, and I have absolutely no criticism, but only praise, of the manner in which this is being conducted.

I only entreat my friend to look at the matter from our perspective. Some of the most serious, heinous, egregious charges have been floating around this country from sources hardly friendly to the Republican administration and about people who are dead and cannot defend themselves, and we Republicans have been sitting here listening to these charges made in the press, in books, on talk shows, against Bill Casey who is dead, against many other people, against the now President, then Vice President, George Bush, then candidate George Bush.

We do not characterize our task force as engaging in a witch hunt, but I do not know how I would characterize what the GAO did for months before that unbeknownst to the majority looking into this.

When we talk about the expenses in this search for the Emerald City of Oz, for the smoking gun that we have not found, and we add up the cost, it is going to go far beyond what we are talking about here and months and months of interviewing people to no end.

Now the gentleman said that the minority leader, and possibly myself, came awfully close to violating the rules. I want the gentleman to know I looked at the rules, I have discussed it with counsel at great length, and I think characterizing the totality of the evidence thus far as amounting to zero in terms of substantiating these charges is not a breach of the rules, and I did it with much soul searching and much review of counsel.

Additionally, Mr. Speaker, on this September 23, I said the same thing in the Committee on House Administration in a colloquy with the gentleman from Connecticut [Mr. GEJDENSON] while seated right next to the gentleman from Indiana.

So, I do not think we violated any rules.

But I can only say this: There are lots of places to spend the millions of dollars that are going to be spent on this thus far fruitless search. There is no credible evidence that we have found. But when this story is told, and I do look forward, I really look forward, to the final report, we are going to hear a story that is incredible. We are going to hear about lying, about deception, about manipulation of the media and by the media, and it will make fascinating proportions, and I only hope that the movie that Mr. Sick intends to make out of his fantasy will include some of the ideas with suggestions in the scenario that we will provide.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, I just want to thank the gentleman from Illinois [Mr. HYDE] for the very gracious comments he made about me and return them.

We both have recognized that this has been an extremely difficult and volatile matter to get into. I have enjoyed my relationship with him. He has conducted himself in a highly professional manner. Our personal relationship has been excellent, and so has the relationships between our staffs, and I am grateful to him for that.

I also recognize that it came for him during a very difficult time personally, and so it was all the more difficult, and he has my accommodation and my praise.

Mr. HYDE. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON], and I promise not to use that in the campaign, but I certainly appreciate everything he has said.

Mr. McEWEN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me begin by saying to my colleagues from the Committee on Rules that my reticence at us having so many requests and their not having so many may have left an impression that I was skeptical. I apologize for that. The gentleman from California, as I have said publicly and privately many times, is the most fair individual with whom I have had the privilege of serving both on the Permanent Select Committee on Intelligence and the Committee on Rules, and the mere fact that I have time here is his generosity in yielding me 5 minutes.

Mr. Speaker, on February 5, I rose when this resolution was before us and made a point of order against consideration on the grounds that the report did not include a total amount of funds to be funded as required under House rule XI, clause 5(a). At that time the Chair overruled my point of order on the grounds that the resolution was not a primary expense resolution, but just interim funding.

The following day in a letter from the gentleman from California [Mr. THOMAS] to the Parliamentarian, Bill Brown, the Parliamentarian responded by saying that it would be deemed for the moment that the expectation of a future primary expense resolution relating to the task force is logically consistent with the ruling of yesterday.

□ 1840

In other words, the fact is it was only temporary and immediately the majority would come to the floor with a request for a funding resolution.

Mr. Speaker, here we are in October, 72 hours before adjourning. We have before us a rule that does not do that. In other words, my point of order made in February was absolutely correct and it was a partisan ruling to insinuate otherwise. We have proof of the pudding as to here we are. This is an exercise not in legislation, not in legislative activity. This is a partisan political act that has been an embarrassment from day one. We now say that they can go until even after sine die, that they can make the report. Hopefully by the end of this 102d Congress this additional chapter to the embarrassment to our country will be drawn to a close and we can begin the 103d Congress on a new sheet.

Mr. Speaker, I regret that we have come here, and I urge my colleagues to vote no on the resolution.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in concluding I do want to say again that we at the Committee on Rules believe that the task force should have the time and the resources to complete the inquiry in an appropriate manner so that no lingering suspicions about the serious allegations which have led to the creation of the task force in the first instance will remain.

To reiterate also that which I said a little bit earlier, the resolution simply provides for the completion of the activities of the task force no later than the end of this year, but after we do adjourn, which hopefully will be in the next 3 or 4 days, and to ensure that the budget of the task force will not be any higher than $1.35 million, apparently an amount that both the majority and the minority Members have agreed upon.

Mr. LIVINGSTON. Mr. Speaker, surprise, surprise. It is October 1, and the Democrats are surprising the taxpayers with the bill for the Democrats' political witch hunt: $1.3 million for the House. Cha-ching; $1.5 million for the Defense Department. Cha-ching; and $415,000 for the FBI. Cha-ching.

And don't forget the Treasury Department, the CIA, the State Department, the U.S. Senate, the GAO, and more for a grand total approaching $5 million, Cha-ching Ba Da Bing.

All to slander the President by spreading the outrageous allegations of proven liars and con men.

This rule is before us because the Democrats are trying to waive the House rules.

Rule XI requires that payments out of the contingent fund of the House must be accompanied by a primary expense resolution, or a budget. After numerous efforts by the minority, the Parliamentarian belatedly ruled that we were right, the task force was in violation of rule XI and needed a budget.

So, today we come not to consider a budget, but to waive rule XI. Surprise, rule XI is gone. Now we don't need a budget. Maybe the Democrats should just waive the Parliamentarian.

The flagrant manipulation of House rules indicates the lengths that some conspiracy-minded Democrats will go to besmirch the President. This investigation is a waste of time and should be stopped.

Mr. ROSE. Mr. Speaker, I rise in support of House Resolution 585 which provides that the expenses of the October Surprise Task Force may not exceed the amounts listed in House Resolution 512, as recommended to be amended by the Committee on House Administration in House Report 102–930.

The amendment of the Committee on House Administration is the product of the Subcommittee on Accounts which conducted a hearing on and markup of House Resolution 512 on September 23. At that session, the chairman of the task force, the Honorable LEE HAMILTON presented and justified a very detailed budget proposal covering the second session. Additionally, the ranking minority member of the task force, the Honorable

HENRY HYDE testified. He indicated that, while he believed in a quick conclusion to the investigative phase of the inquiry, he was satisfied with the amount of resources allocated to the minority side.

After a period of questioning, the subcommittee adopted an amendment approving Chairman HAMILTON's request for $1,350,000 and limiting the amount available for the procurement of consultant services to $950,000. This total authorized amount and concomitant consultant limitation constitute the principal elements of the first section of House Resolution 512, as amended, which is referenced in House Resolution 585, now pending before the House. The subcommittee's amendment, also, included a provision prohibiting the use of funds with respect to any report of the task force to be submitted during the period beginning on the date on which the resolution is agreed to and ending on November 3, 1992.

At a meeting held on September 23, the full committee adopted the amendment from the Subcommittee on Accounts after concurring in a minority amendment to strike the provisions regarding the prohibition on the use of funds with respect to the task force report. It should be noted that the stricken provision was originally inserted as a measure of good faith by the majority to prevent the report from becoming an issue in the Presidential election.

Regarding the merits of the amendment, the amount of $1,350,000 is not unreasonable for this type of investigation. Other major house investigations have involved substantial sums, such as the Iran-Contra matter, high profile ethics investigations, and judicial impeachment proceedings. In fact, it is clear that Chairman HAMILTON has made every prudent effort to limit and minimize the cost of this investigation. For example, where necessary, he has used individuals, already, employed by the FBI, the U.S. Customs Service, and the Bureau of Alcohol, Tobacco, and Firearms and the task force has worked, primarily, with borrowed and used equipment.

Of most importance, I would argue that it would not be prudent to cut off funding for the task force at this time when it is nearing the conclusion of its work. Providing funds through the end of the session will enable the task force to complete its work and issue a final report in a professional and timely manner.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCEWEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 181, not voting 30, as follows:

[Roll No. 456]

AYES—221

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Jacobs
Jenkins
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wolpe
Wyden
Yates
Yatron

NOES—181

Allard
Allen
Applegate
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Browder
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Chapman
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cramer
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Herger
Hobson
Hopkins
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Parker
Patterson
Paxon
Penny
Petri
Porter
Pursell
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Schulze
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—30

Baker
Barnard
Boxer
Chandler
Crane
Davis
Dorgan (ND)
Dwyer
Foglietta
Guarini
Hall (OH)
Hayes (LA)
Henry
Holloway
Horton
Huckaby
Ireland
Jefferson
Johnson (SD)
Lipinski
Livingston
Machtley
McCrery
Olin
Quillen
Sensenbrenner
Staggers
Thomas (GA)
Wilson
Wise

□ 1902

Messrs. APPLEGATE, CAMPBELL of Colorado, and CLEMENT changed their vote from "aye" to "no."

Ms. SLAUGHTER changed her vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on House Resolution 585, the resolution just agreed to.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. SENSENBRENNER. Mr. Speaker, due to a death in my family, I was not present.

Had I been present, I would have voted "yea" on rollcall vote number 451, "nay" on rollcall vote number 452, "yea" on rollcall vote number 453, "nay" on rollcall vote number 454, "nay" on rollcall vote number 455, and "nay" on rollcall vote number 456.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 529 AND H.R. 4551

Mr. CAMPBELL of California. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of House Joint Resolution 529 and H.R. 4551.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4996, JOBS THROUGH EXPORTS ACT OF 1992

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut? The Chair hears none and without objection, appoints the following conferees: from the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. FASCELL, GEJDENSON, FEIGHAN, JOHNSTON of Florida, BROOMFIELD, and ROTH.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974 REAUTHORIZATIONS

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2042) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

SENATE AMENDMENT: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fire Administration Authorization Act of 1992."

TITLE I-UNITED STATES FIRE ADMINISTRATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) $25,550,000 for the fiscal year ending September 30, 1992;

"(E) $26,521,000 for the fiscal year ending September 30, 1993; and

"(F) $27,529,000 for the fiscal year ending September 30, 1994.".

SEC. 102. PRIORITY ACTIVITIES OF THE UNITED STATES FIRE ADMINISTRATION

(a) PRIORITY ACTIVITIES.—In expending funds appropriated pursuant to the amendments made by section 101 of this Act, the United States Fire Administration shall give priority to—

(1) reducing the incidence of residential fires, especially in residences of the very old, the very young, or the disabled in urban and rural areas, through the development and dissemination of public education and awareness programs, through arson research and technical assistance programs, and through research and development on new technologies;

(2) working with State Fire Marshals and other State level fire safety offices to identify fire problems that are national in scope;

(3) disseminating information about the activities and programs of the United States Fire Administration to State and local fire services;

(4) enhancing the residential sprinkler programs, including research, demonstration activities, and technical assistance to the public and private sectors;

(5) enhancing research into sprinkler programs in areas or structure, with limited or no domestic water supply;

(6) through the National Fire Academy, enhancing the residential and field program in support of State level training programs, particularly those that support the volunteer fire service; and

(7) strengthening programs that help protect the lives and safety of fire and emergency medical services personnel, including research into causes of death and injuries, research and development on new technologies to mitigate and prevent injuries, dissemination of information, and technical assistance to State and local fire departments.

(b) REPORT TO CONGRESS.—The United States Fire Administration shall, within 1 year after the date of enactment of this Act, submit a report to the Congress on the activities undertaken pursuant to subsection (a)(1).

SEC. 103. REPORT ON IMPLEMENTATION OF HOTEL AND MOTEL FIRE SAFETY ACT OF 1990.

The United States Fire Administration shall, within 6 months after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on its progress in implementing the Hotel and Motel Fire Safety Act of 1990 (Public Law 101-391; 104 Stat. 747), including amendments made by that Act. The report shall specify the nature of expenditures made as of the date of the report, as well as including an estimate of the costs and a specific schedule for implementation.

SEC. 104. LISTINGS OF DESIGNATED PLACES OF PUBLIC ACCOMMODATION.

Section 28 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2224) is amended—

(1) by striking "Certified" in the section heading; and

(2) in subsection (a)—

(A) by inserting "(acting through its Governor or the Governor's designee)" immediately after "each State" wherever it appears; and

(B) by striking "the Governor of the State or his designee certifies".

SEC. 105. FIRE PREVENTION AND CONTROL GUIDELINES FOR PLACES OF PUBLIC ACCOMMODATION.

(a) EXCEPTIONS FOR CERTAIN AUTOMATIC SPRINKLER SYSTEMS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) EXCEPTIONS.—(1) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce with an automatic sprinkler system installed before October 25, 1992, if the automatic sprinkler system is installed in compliance with an applicable standard (adopted by the governmental authority having jurisdiction, and in effect, at the time of installation) that required the placement of a sprinkler head in the sleeping area of each guest room.

"(2) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce to the extent that such place of public accommodation affecting commerce is subject to a standard that includes a requirement or prohibition that prevents compliance with a provision of National Fire Protection Association Standard 13 or 13-R. In such a case, the place of public accommodation affecting commerce is exempt only from that specific provision.".

(b) DEFINITIONS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225) is amended by adding at the end of subsection (d), as redesignated by this section, the following new paragraph:

"(3) The term 'governmental authority having jurisdiction' means the Federal, State, local, or other governmental entity with statutory or regulatory authority for the approval of fire safety systems, equipment, installations, or procedures within a specified locality.".

SEC. 106. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

(a) AMENDMENT.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by adding at the end of following new section:

"SEC. 31. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

"(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) The term 'affordable cost' means the cost to a Federal agency of leasing office space in a building that is protected by an automatic sprinkler system or equivalent level of safety, which cost is no more than 10 percent greater than the cost of leasing available comparable office spaced in a building that is not so protected.

"(2) The term 'automatic sprinkler system' means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire—

"(A) will protect human lives by discharging water over the fire area in accordance with the National Fire Protection Association Standard 13, 13D, or 13R, whichever is appropriate for the type of building and occupancy being protected, or any successor standard thereto; and

"(B) includes an alarm signaling system with appropriate warning signals (to the extent such alarm systems and warning signals are required by Federal, State, or local laws or regulations) installed in accordance with the National Fire Protection Association Standard 72, or any successor standard thereto.

"(3) The term 'equivalent level of safety' means an alternative design or system (which may include automatic sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic sprinkler systems.

"(4) The Term 'Federal employee office building' means any office building in the United States, whether owned or leased by the Federal Government, that is regularly occupied by more than 25 full-time Federal employees in the course of their employment.

"(5) The term 'housing assistance'—

"(A) means assistance provided by the Federal Government to be used in connection with the provision of housing, that is provided in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

"(B) does not include assistance provided by the Secretary of Veterans Affairs; the Federal Emergency Management Agency; the Secretary of Housing and Urban Development under the single family mortgage insurance programs under the National Housing Act or the homeownership assistance program under section 235 of such Act; the National Homeownership Trust; the Federal Deposit Insurance Corporation under the affordable housing program under section 40 of the Federal Deposit Insurance Act; or the Resolution Trust Corporation under the affordable housing program under section 21A(c) of the Federal Home Loan Bank Act.

"(6) The term 'hazardous areas' means those areas in a building referred to as hazardous areas in National Fire Protection Association Standard 101, known as the Life Safety Code, or any successor standard thereto.

"(7) The term 'multifamily property' means—

"(A) in the case of housing for Federal employees or their dependents, a residential building consisting of more than 2 residential units that are under one roof; and

"(B) in any other case, a residential building consisting of more than 4 residential units that are under one roof.

"(8) The term 'prefire plan' means specific plans for fire fighting activities at a property or location.

"(9) The term 'rebuilding' means the repairing or reconstructing of portions of a multifamily property where the cost of the alterations is 70 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located.

"(10) the term 'renovated' means the repairing or reconstructing of 50 percent or more of the current value of a Federal employee office building, not including the value of the land on which the Federal employee office building is located.

"(11) The term 'smoke detectors' means single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion, installed in accordance with the National Fire Protection Association Standard 74 or any successor standard thereto.

"(12) The term 'United States' means the States collectively.

"(b) FEDERAL EMPLOYEE OFFICE BUILDINGS.—(1)(A) No Federal funds may be used for the construction or purchase of a Federal employee office building of 6 or more stories unless during the period of occupancy by Federal employees the building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the construction or purchase of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the building are protected by automatic sprinkler systems or an equivalent level of safety.

"(B)(i) Except as provided in clause (ii), no Federal funds may be used for the lease of a Federal employee office building of 6 or more stories, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless during the period of occupancy by Federal employees the entire Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the lease of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the entire Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(ii) The first sentence of clause (i) shall not apply to the lease of a building the construction of which is completed before the date of enactment of this section if the leasing agency certifies that no suitable building with automatic sprinkler systems or an equivalent level of safety is available at an affordable cost.

"(iii) Within 3 years after such date of enactment, and periodically thereafter, the Comptroller General shall audit a selection of certifications made under clause (ii) and report to Congress on the results of such audit.

"(2) Paragraph (1) shall not apply to—

"(A) a Federal employee office building that was owned by the Federal Government before the date of enactment of this section;

"(B) space leased in a Federal employee office building if the space was leased by the Federal Government before such date or enactment;

"(C) space leased on a temporary basis for not longer than 6 months;

"(D) a Federal employee office building that becomes a Federal employee office building pursuant to a commitment to move Federal employees into the building that is made prior to such date of enactment; or

"(E) a Federal employee office building that is owned or managed by the Resolution Trust Corporation.

Nothing in this subsection shall require the installation of an automatic sprinkler system or equivalent level of safety by reason of the leasing, after such date of enactment, of space below the sixth floor in a Federal employee office building.

"(3) No Federal funds may be used for the renovation of a Federal employee office building of 6 or more stories that is owned by the Federal Government unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the renovation of any other Federal employee office building that is owned by the Federal Government unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(4) No Federal funds may be used for entering into or renewing a lease of a Federal employee office building of 6 or more stories that is renovated after the date of enactment of this section, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for entering into or renewing a lease of any other Federal employee office building that is renovated after such date of enactment of this section, unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(c) HOUSING.—(1)(A) No Federal funds may be used for the construction, purchase, lease, or operation by the Federal Government of housing in the United States for Federal employees or their dependents unless—

"(i) in the case of a multifamily property acquired or rebuilt by the Federal Government after the date of enactment of this section, the housing is protected, before occupancy by Federal employees or their dependents, by an automatic sprinkler system (or equivalent level of safety) and hard-wired smoke detectors; and

"(ii) in the case of any other housing, the housing, before—

"(I) occupancy by the first Federal employees (or their dependents) who do not occupy such housing as of such date of enactment; or

(II) the expiration of 3 years after such date of enactment,

whichever occurs first, is protected by hard-wired smoke detectors.

"(B) Nothing in this paragraph shall be construed to supersede any guidelines or requirements applicable to housing for Federal employees that call for a higher level of fire safety protection than is required under this paragraph.

"(2)(A)(i) Housing assistance may not be used in connection with any newly constructed multifamily property, unless after the new construction the multifamily property is protected by an automatic sprinkler system and hard-wired smoke detectors.

"(ii) For purposes of clause (i), the term 'newly constructed multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is newly constructed after the date of enactment of this section; and

"(II) for which (a) housing assistance is used for such new construction, or (b) a binding commitment is made, before commencement of such construction, to provide housing assistance for the newly constructed property.

"(iii) Clause (i) shall not apply to any multifamily property for which, before such date of enactment, a binding commitment is made to provide housing assistance for the new construction of the property or for the newly constructed property.

"(B)(i) Except as provided in clause (ii), housing assistance may not be used in connection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the chapter on existing apartment buildings of National Fire Protection Association Standard 101 (known as the Life Safety Code), as in effect at the earlier of (I) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (II) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

"(ii) If any rebuilt multifamily property is subject to, and in compliance with, any provision of a State or local fire safety standard or code that prevents compliance with a specific provision of National Fire Protection Association Standard 101, the requirement under clause (i) shall not apply with respect to such specific provision.

"(iii) For purposes of this subpararaph, the term 'rebuilt multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is rebuilt after the last day of the second fiscal year that ends after the date of enactment of this section; and

"(II) for which (a) housing assistance is used for such rebuilding, or (b) a binding commitment is made, before commencement of such rebuilding, to provide housing assistance for the rebuilt property.

"(C) After the expiration of the 180-day period beginning on the date of enactment of this section, housing assistance may not be used in connection with any other dwelling unit, unless the unit is protected by a hardwired or battery-operated smoke detector. For purposes of this subparagraph, housing assistance shall be considered to be used in connection with a particular dwelling unit only if such assistance is provided (i) for the particular unit, in the case of assistance provided on a unit-by-unit basis, or (ii) for the multifamily property in which the unit is located, in the case of assistance provided on a structure-by-structure basis.

"(d) REGULATIONS.—The Administrator of General Services, in cooperation with the United States Fire Administration, the National Institute of Standards and Technology, and the Department of Defense, within 2 years after the date of enactment of this section, shall promulgate regulations to further define the term 'equivalent level of safety', and shall, to the extent practicable, base those regulations on nationally recognized codes.

"(e) STATE AND LOCAL AUTHORITY NOT LIMITED.—Nothing in this section shall be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard that establishes requirements concerning fire prevention and control. Nothing in this section shall be construed to reduce fire resistance requirements which otherwise would have been required.

"(f) PREFIRE PLAN.—The head of any Federal agency that owns, leases, or operates a building or housing unit with Federal funds shall invite the local agency or voluntary organization having responsibility for fire protection in the jurisdiction where the building or housing unit is located to prepare, and biennially review, a prefire plan for the building or housing unit.

"(g) REPORTS TO CONGRESS.—(1) Within 3 years after the date of enactment of this section, and every 3 years thereafter, the Administrator of General Services shall transmit to Congress a report on the level of fire safety in Federal employee office buildings subject to fire safety requirements under this section. Such report shall contain a description of such buildings for each Federal agency.

"(2) Within 10 years after the date of enactment of this section, each Federal agency providing housing to Federal employees or housing assistance shall submit a report to Congress on the progress of that agency in implementing subsection (c) and on plans for continuing such implementation.

"(3)(A) The National Institute of Standards and Technology shall conduct a study and submit a report to Congress on the use, in combination, of fire detection systems, fire suppression systems, and compartmentation. Such study shall—

"(i) quantify performance and reliability for fire detection systems, fire suppression systems, and compartmentation, including a field assessment of performance and determination of conditions under which a reduction or elimination of 1 or more of those systems would result in an unacceptable risk of fire loss; and

"(ii) include a comparative analysis of compartmentation using fire resistive materials and compartmentation using noncombustible materials.

"(B) The National Institute of Standards and Technology shall obtain funding from non-Federal sources in an amount equal to 25 percent of the cost of the study required by subparagraph (A). Funding for the National Institute of Standards and Technology for carrying out such study shall be derived from amounts otherwise authorized to be appropriated, for the Building and Fire Research Center at the National Institute of Standards and Technology, not to exceed $750,000. The study shall not commence until receipt of all matching funds from non-Federal sources. The scope and extent of the study shall be determined by the level of project funding. The Institute shall submit a report to Congress on the study within 30 months after the date of enactment of this section.

"(h) RELATION TO OTHER REQUIREMENTS.—In the implementation of this section, the process of meeting space needs in urban areas shall continue to give first consideration to a centralized community business area and adjacent areas of similar character to the extent of any Federal requirement therefor.".

(b) EFFECTIVE DATE.—Subsection (b) of section 31 of the Federal Fire Prevention and Control Act of 1974, as added subsection (a) of this section, shall take effect 2 years after the date of enactment of this Act.

TITLE II—NATIONAL FALLEN FIREFIGHTERS FOUNDATION

SEC. 201. SHORT TITLE.

This title may be cited as the "National Fallen Firefighters Foundation Act".

SEC. 202. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Fallen Firefighters Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is a charitable and nonprofit corporation to be organized under the laws of the State of Maryland and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—

(1) primarily to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters' Memorial and the annual memorial service associated with it;

(2) to provide financial assistance to families of fallen firefighters for transportation to and lodging at non-Federal facilities during the annual memorial service;

(3) to assist State and local efforts to recognize firefighters who die in the line of duty; and

(4) to provide scholarships and other financial assistance for educational purposes and job training for the spouses and children of fallen firefighters.

SEC. 203. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP—

(1) VOTING MEMBERS.—The Foundation shall have a governing Board of Directors (hereafter in this title referred to as the "Board"), which shall consist of nine voting members, of whom—

(A) one member shall be an active volunteer firefighter;

(B) one member shall be an active career firefighter;

(C) one member shall be a Federal firefighter; and

(D) six members shall have a demonstrated interested in the fire service.

(2) NONVOTING MEMBER.—The Administrator of the United States Fire Administration of the Federal Emergency Management Agency (hereafter in this title referred to as the "Administrator") shall be an ex officio nonvoting member of the Board.

(3) STATUS OF BOARD MEMBERS.—Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(4) COMPENSATION.—Members of the Board shall serve without compensation.

(b) APPOINTMENT AND TERMS.—Within 3 months after the date of enactment of this act, the Administrator shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years, except that the Administrator, in making the initial appointments to the Board, shall appoint—

(1) three members to a term of 2 years;

(2) three members to a term of 4 years; and

(3) three members to a term of 6 years.

(c) VACANCY.—A vacancy on the Board shall be filled within 60 days in the manner in which the original appointment was made.

(d) CHAIRMAN.—The Chairman shall be elected by the Board from its voting members for a 2-year term.

(e) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(f) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a member of the Board misses three consecutive meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (c).

(g) GENERAL POWERS.—

(1) ACTIONS BY THE BOARD.—The Board may complete the organization of the Foundation by—

(A) appointing no more than two officers or employees;

(B) adopting a constitution and bylaws consistent with this title; and

(C) undertaking other such acts as may be necessary to carry out this title.

(2) LIMITATION.—Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services.

(h) OFFICERS AND EMPLOYEES.—

(1) STATUS.—Officers and employees of the Foundation shall not be considered Federal employees, shall be appointed without regard to title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to chapter 51 and

subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Maximum salary.—No officer or employee may receive pay in excess of the annual rate of basic pay prescribed for level GS-15 of the General Schedule under section 5107 of title 5, United States Code.

SEC. 204. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) In General.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Maryland; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

(b) Seal.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) Powers.—To carry out its purposes under section 202, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the State of Maryland, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be personally liable, except for gross negligence;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income therefrom;

(4) to enter into contracts and other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(5) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT.

The Administrator may provide personnel, facilities, and other administrative services to the Foundation and shall require and accept reimbursements for such personnel, facilities, and services that shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services. Notwithstanding any other provision of law, Federal personnel and stationery shall not be used to solicit funding for the Foundation.

SEC. 206. VOLUNTEER STATUS.

The Administrator may accept, without regard to the Federal civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the United States Fire Administration, as volunteers in the performance of the functions authorized under this title.

SEC. 207. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) Audits.—For purposes of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101 et seq.), the Foundation shall be treated as a private corporation established under Federal law.

(b) Report.—The Foundation shall, within 4 months after the end of each fiscal year, prepare and submit to the appropriate committees of the Congress a report of the Foundation's proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) Relief For Certain Foundation Acts or Failures to Act.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with the purposes set forth in section 202(b); or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so,

the Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

SEC. 208. IMMUNITY OF THE UNITED STATES.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

TITLE III—WORKER'S FAMILY PROTECTION

SEC. 301. WORKERS' FAMILY PROTECTION

(a) Short Title.—This section may be cited as the "Workers' Family Protection Act".

(b) Findings and Purposes.—

(1) Findings.—Congress finds that—

(A) hazardous chemicals and substances that can threaten the health and safety of workers are being transported out of industries on workers' clothing and persons;

(B) these chemicals and substances have the potential to pose an additional threat to the health and welfare of workers and their families;

(C) additional information is needed concerning issues related to employee transported contaminant releases; and

(D) additional regulation may be needed to prevent future releases of this type.

(2) Purpose.—It is the purpose of this section to—

(A) increase understanding and awareness concerning the extent and possible health impacts of the problems and incidents described in paragraph (1);

(B) prevent or mitigate future incidents of home contamination that could adversely affect the health and safety of workers and their families;

(C) clarify regulatory authority for preventing and responding to such incidents; and

(D) assist workers in redressing and responding to such incidents when they occur.

(c) Evaluation of Employee Transported Contaminant Releases.

(1) Study.—

(A) In general.—Not later than 18 months after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health (hereafter in this section referred to as the "Director"), in cooperation with the Secretary of Labor, the Administrator of the Environmental Protection Agency, the Administrator of the Agency for Toxic Substances and Disease Registry, and the heads of other Federal Government agencies as determined to be appropriate by the Director, shall conduct a study to evaluate the potential for, the prevalence of, and the issues related to the contamination of workers' homes with hazardous chemicals and substances, including infectious agents, transported from the workplaces of such workers.

(B) Matters to be evaluated.—In conducting the study and evaluation under subparagraph (A), the Director shall—

(i) conduct a review of past incidents of home contamination through the utilization of literature and of records concerning past investigations and enforcement actions undertaken by—

(I) the National Institute for Occupational Safety and Health;

(II) the Secretary of Labor to enforce the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(III) States to enforce occupational safety and health standards in accordance with section 18 of such Act (29 U.S.C. 667); and

(IV) other government agencies (including the Department of Energy and the Environmental Protection Agency), as the Director may determine to be appropriate;

(ii) evaluate current statutory, regulatory, and voluntary industrial hygiene or other measures used by small, medium and large employers to prevent or remediate home contamination;

(iii) compile a summary of the existing research and case histories conducted on incidents of employee transported contaminant releases, including—

(I) the effectiveness of workplace housekeeping practices and personal protective equipment in preventing such incidents;

(II) the health effects, if any, of the resulting exposure on workers and their families;

(III) the effectiveness of normal house cleaning and laundry procedures for removing hazardous materials and agents from workers' homes and personal clothing;

(IV) indoor air quality, as the research concerning such pertains to the fate of chemicals transported from a workplace into the home environment; and

(V) methods for differentiating exposure health effects and relative risks associated with specific agents from other sources of exposure inside and outside the home;

(iv) identify the role of Federal and State agencies in responding to incidents of home contamination;

(v) prepare and submit to the Task Force established under paragraph (2) and to the appropriate committees of Congress, a report concerning the results of the matters studied or evaluated under clauses (i) through (iv); and

(vi) study home contamination incidents and issues and worker and family protection policies and practices related to the special circumstances of firefighters and prepare and submit to the appropriate committees of Congress a report concerning the findings with respect to such study.

(2) Development of investigative strategy.—

(A) Task force.—Not later than 12 months after the date of enactment of this Act, the Director shall establish a working group, to be known as the "Workers' Family Protection Task Force". The Task Force shall—

(i) be composed of not more than 15 individuals to be appointed by the Director from among individuals who are representative of workers, industry, scientists, industrial hygienists, the National Research Council, and government agencies, except that not more than one such individual shall be from each appropriate government agency and the number of individuals appointed to represent industry and workers shall be equal in number;

(ii) review the report submitted under paragraph (1)(B)(v);

(iii) determine, with respect to such report, the additional data needs, if any, and the need for additional evaluation of the scientific issues related to and the feasibility of developing such additional data; and

(iv) if additional data are determined by the Task Force to be needed, develop a recommended investigative strategy for use in obtaining such information.

(B) INVESTIGATIVE STRATEGY.—

(i) CONTENT.—The investigative strategy developed under subparagraph (A)(iv) shall identify data gaps that can and cannot be filled, assumptions and uncertainties associated with various components of such strategy, a timetable for the implementation of such strategy, and methodologies used to gather any required data.

(ii) PEER REVIEW.—The Director shall publish the proposed investigative strategy under subparagraph (A)(iv) for public comment and utilize other methods, including technical conferences or seminars, for the purpose of obtaining comments concerning the proposed strategy.

(iii) FINAL STRATEGY.—After the peer review and public comment is conducted under clause (ii), the Director, in consultation with the heads of other government agencies, shall propose a final strategy for investigating issues related to home contamination that shall be implemented by the National Institute for Occupational Safety and Health and other Federal agencies for the period of time necessary to enable such agencies to obtain the information identified under subparagraph (A)(iii).

(C) CONSTRUCTION.—Nothing in this section shall be construed as precluding any government agency from investigating issues related to home contamination using existing procedures until such time as a final strategy is developed or from taking actions in addition to those proposed in the strategy after its completion.

(3) IMPLEMENTATION OF INVESTIGATIVE STRATEGY.—Upon completion of the investigative strategy under subparagraph (B)(iii), each Federal agency or department shall fulfill the role assigned to it by the strategy.

(d) REGULATIONS.—

(1) IN GENERAL.—Not later than 4 years after that date of enactment of this Act, and periodically thereafter, the Secretary of Labor, based on the information developed under subsection (c) and on other information available to the Secretary shall—

(A) determine if additional education about, emphasis on, or enforcement of existing regulations or standards is needed and will be sufficient, or if additional regulations or standards are needed to protect workers and their families from employee transported releases of hazardous materials; and

(B) prepare and submit to the appropriate committees of Congress a report concerning the results of such determination.

(2) ADDITIONAL REGULATIONS OR STANDARDS.—If the Secretary of Labor determines that additional regulations or standards are needed under paragraph (1), the Secretary shall promulgate such regulations or standards as determined to be appropriate not later than 3 years after such determination.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from sums otherwise authorized to be appropriated, for each fiscal year such sums as may be necessary to carry out this section.

The SPEAKER pro tempore (during the reading). Without objection, the Senate amendment is considered as read and will be printed in the RECORD.

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Virginia?

Mr. PACKARD. Mr. Speaker, reserving the right to object, I do not object, but I rise to support H.R. 2042, and want to compliment the chairman of the subcommittee and the chairman and ranking member of the full committee for their efforts in bringing this about.

Mr. BOUCHER. Mr. Speaker, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from Virginia.

Mr. BOUCHER. Mr. Speaker, H.R. 2042, the Federal Fire Prevention and Control Act, which reauthorizes the programs of the U.S. Fire Administration, passed the House on June 3, 1991. The legislation was approved in the other body on September 29 together with several amendments which I will describe briefly.

The first amendment is technical in nature and facilitates the implementation of Public Law 101–391, the Hotel and Motel Fire Safety Act. The amendment deletes the requirement that the States certify that places of public accommodation meet the requirements of Public Law 101–391. Under the amendment, the States will still be required to formulate and submit the list of approved places of public accommodation to the Director of the Federal Emergency Management Agency [FEMA].

The second amendment incorporates portions of H.R. 3808, the Fallen Firefighters Foundation Act introduced by the Gentlewoman from Maryland [Mrs. BYRON]. The purpose of the foundation is to provide support for the memorial services at the National Fallen Firefighters' Memorial located in Emmitsburg, MD. This amendment was also developed in consultation with the majority and minority members of the Science, Space, and Technology Committee.

The third amendment incorporates H.R. 3360, the Federal Fire Safety Act of 1992 which was passed by the House on August 10, 1992. This bipartisan measure, which is the number one legislative priority of the Nation's fire service organizations will establish for the first time, minimum fire safety standards for Federal office space, housing for federal employees, and federally subsidized housing. In appropriate circumstances it will require the use of sprinklers and smoke detectors in Federal buildings, enabling the Federal Government to lead by example in the area of fire safety.

The final amendment requires the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals transported from their workplaces. I would like to express my deep appreciation to the gentleman from New York [Mr. BOEHLERT] who worked closely with me in developing the content of this legislation and who has worked tirelessly to obtain its passage.

Mrs. BYRON. Mr. Speaker, I rise today in strong support of H.R. 2042 which reauthorizes the programs of the U.S. Fire Administration and the National Fire Academy. I am especially pleased that this legislation includes the language of H.R. 3808, legislation I introduced in the House, to establish a National Fallen Firefighters Foundation Act.

The foundation established by this bill will enable us to honor the career and volunteer firefighters who have sacrificed their lives for the protection of their communities and Nation. It would serve as a charitable, nonprofit corporation, existing solely on donations made by individuals and organizations wishing to honor career and volunteer firefighters who have died in the line of duty and to assist their families. The primary purpose of the foundation is to maintain and preserve the National Fallen Firefighters Memorial, in Emmitsburg, MD, and finance the memorial's annual ceremony. If successful, the foundation could provide support to local efforts made throughout the country to commemorate these courageous men and women, and aid the firefighters' families wishing to attend the memorial service in honor of their loved ones.

At present, all costs incurred by the memorial, its annual ceremony, and the other efforts of recognition for the fallen firefighter, have been funded through FEMA. This foundation, in removing the burden from the taxpayer, will "encourage, accept, and administer" charitable contributions made in memory of those fallen heroes.

I am delighted that this foundation has been strongly endorsed by the fire community, including the Maryland State Firemen's Association, the National Fire Protection Association, and the International Association of Fire Fighters. The memorial is growing at a rapid rate, and so too is the need for its increased support. We must help commemorate these fallen heroes and assist those they have left behind. I ask my colleagues to join me in support of this legislation.

Mr. VALENTINE. Mr. Speaker, I rise today in support of H.R. 2042, comprehensive Federal fire legislation. This legislation will help the approximately 60,000 firefighters in North Carolina.

As a co-chair of the congressional fire caucus, I commend Representative BOUCHER and Representative BOEHLERT on their hard work to bring this legislation to the full House.

I am especially pleased to see that the Fallen Firefighters Foundation will be authorized by this act. People often do not realize how dangerous fire fighting can be, and I believe this foundation will call appropriate attention to those who have fallen in the line of duty.

Another important provision is the Federal Fire Safety Act. This legislation is the No. 1 legislative priority of the Nation's fire services organizations. Inclusion of this legislation will, for the first time, establish minimum fire safety standards for Federal buildings.

I have supported firefighters since I first came to Congress in 1983. During the 101st congressional, I chaired the subcommittee with jurisdiction over the National Fire Academy and worked for passage of National Fire Prevention Week.

I am delighted that this comprehensive legislation will be passed before the end of the 102d Congress. I look forward to continuing to battle for our Nation's firefighters, full-time and volunteer, in the future.

Mr. PACKARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Virginia?

There was no objection.

A motion to reconsider was laid on the table.

URGING MEMBERS TO SUPPORT H.R. 2042, FEDERAL FIRE SAFETY ACT

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I want to commend this important legislation to my colleagues. I would like to point out something that is extremely important. It is often overlooked in this highly technology-intensive Nation of ours, the most affluent Nation on the face of this Earth.

We have the highest death rate and property loss rate due to fires. That is a sad commentary. That is something that we have to correct, and we are determined to do so. I would commend the chairman of the subcommittee, my colleagues, the gentleman from Virginia [Mr. BOUCHER] and the ranking member, my colleague, the gentleman from California, for their hard work on this legislation. This is something that I have been involved with right from the beginning, and it has been a pleasure for me to be a partner in a most worthy effort.

IN RECOGNITION OF EFFORTS OF MEMBERS ON H.R. 2042

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WELDON. Mr. Speaker, I stand to praise the work of this subcommittee and the leadership of the gentleman from Virginia [Mr. BOUCHER] and the efforts of the gentleman from California [Mr. PACKARD]. They have done an outstanding job on this very important piece of legislation, with the cooperation of the gentleman from California [Mr. BROWN] and the gentleman from Pennsylvania [Mr. WALKER], who has done yeoman's work on behalf of the Nation's fire service.

This is perhaps the single most important piece of legislation to the Nation's 1.5 million firefighters that we will consider this year. It reauthorizes the Fire Administration, a totally revamped Fire Administration, which now includes the National Fire Academy.

It also includes a new initiative offered by the gentleman from Virginia [Mr. BOUCHER] and the gentleman from New York [Mr. BOEHLERT], the Federal Fire Safety Act. It includes updates to H.R. 94, which became law last session, the first breaker bill in the history of this country.

It includes the Fallen Fire Fighters Foundation, and it also includes the Workers' Family Protection Act. These are significant pieces of legislation. I thank all of my colleagues for working on this, and on behalf of the 1.5 million domestic defenders in this country, we thank the gentleman for their leadership.

Mr. Speaker, as a former volunteer fire chief and the chairman of the congressional fire services caucus, I am very pleased to express my support for H.R. 2042. The primary purpose of this important legislation is to reauthorize the programs of the U.S. Fire Administration and the National Fire Academy. However, H.R. 2042 also includes several other provisions strongly backed by the American Fire Service.

Although the United States still struggles diligently to control our Nation's fire problem, the situation has dramatically improved over the last two decades. Yet even today, the statistics still indicate that the United States is at, or near, the bottom of most fire performance indicators for industrialized countries. In order to further enhance our Nation's fire prevention and control programs, we must provide U.S. Fire Administration and the National Fire Academy with additional resources.

Since their inception in 1974, the U.S. Fire Administration and the National Fire Academy have played key roles in preventing loss of life and property from fire. This bill would reauthorize the U.S. Fire Administration's funding for fiscal years 1992 through 1994, enabling them to strengthen their vital programs. In addition to directing the Fire Administration to give high priority to some salient issues like reducing the incidence of residential fires, H.R. 2042 requires the administration to report to Congress regarding its progress on implementing the Hotel and Motel Fire Safety Act of 1990 (Public Law 101–391).

The Federal Government should set an example in the area of fire safety and, by its own actions, encourage the private sector to use technology proven to save lives. Congress took a step in that direction when we approved the hotel-motel bill. Fortunately, H.R. 2042 presents us with another excellent opportunity to encourage fire safety by enacting the Federal Fire Safety Act.

The Federal Safety Act would establish minimum fire protection standards governing the installation of automatic sprinklers and smoke detectors in newly constructed or renovated Federal office space and federally assisted housing. When used in combination, automatic sprinklers and smoke detectors are a cost effective means of preventing fire devastation. I am particularly pleased that this important successor to the hotel-motel bill has been included as a provision of H.R. 2042.

This legislation also contains a provision to establish a fallen firefighters foundation. Each year, the families of fallen firefighters attend a memorial service at the National firefighter memorial in Emmitsburg, MD. Those who have lost fathers, mothers, brothers, and other immediate relatives in the line of duty are invited to attend. This charitable, nonprofit foundation would provide badly needed financial assistance and moral support to the families of the deceased and would be a fitting tribute to our brave domestic defenders.

Finally, this legislation also includes the Workers' Family Protection Act. This important provision addresses the issue of inadvertent exposure to Toxic materials outside of the workplace. In short, it requires a 4-year study on home contamination, with special consideration for the families of firefighters.

Mr. Speaker, H.R. 2042 is a good, solid piece of legislation. I am proud to be associated with its provisions and urge my colleagues to support its passage.

AUTHORIZING CORRECTION IN THE ENROLLMENT OF H.R. 2042, FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974 REAUTHORIZATIONS

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 138) to authorize a correction in the enrollment of H.R. 2042, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 138

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the text of the bill (H.R. 2042) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes, the Clerk of the House of Representatives shall make the following corrections: With respect to section 209—

(1) strike out subparagraph (A) of subsection (d)(1) and insert in lieu thereof the following new subparagraph:

"(A) determine if additional education about, emphasis on, or enforcement of existing regulations or standards is needed and well be sufficient, or if additional regulations or standards are needed with regard to employee transported releases of hazardous materials; and"; and

strike out paragraph (2) of subsection (d) and insert in lieu thereof the following new paragraph:

(2) ADDITIONAL REGULATIONS OR STANDARDS.—If the Secretary of Labor determines that additional regulations or standards are needed under paragraph (1), the Secretary shall promulgate, pursuant to the Secretary's authority under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), such regulations or standards as determined to be appropriate not later than 3 years after such determination.".

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOUCHER. Mr. Speaker, Senate Concurrent Resolution 138 directs the Enrolling Clerk of the House to make corrections in the enrollment of H.R. 2042, the authorization for the Federal Fire Prevention and Control Act.

The resolution was initiated in the other body by Mr. JEFFORDS in response to interpretative concerns regarding the Jeffords amendment to H.R. 2042 raised by the gentleman from Pennsylvania [Mr. WALKER].

I would urge adoption of the resolution so that the interpretative concerns will be resolved.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

INTRODUCTION OF FOOD STAMP EMPLOYMENT AND FLEXIBILITY AMENDMENTS OF 1992

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EMERSON. Mr. Speaker, I am introducing a bill today that will improve the Food Stamp Program and enhance waiver authority for welfare reform demonstration projects.

The President sent to Congress four proposals to promote work, provide flexibility and encourage innovation in Federal public assistance programs. One of these proposals includes changes in the Food Stamp Program that will remove limitations on work requirements and enhance waiver authority for welfare reform demonstration projects.

I believe there are major problems facing the entire public welfare system which require budgetary, regulatory, tax and welfare reform. I would like to see a system in which we provide benefits to people in a coordinated and simplified manner and provide employment and training for able-bodied participants. We must simplify the programs we have and make taxpayers out of those able-bodied people now in need of help. The food stamp proposal is a step in that direction.

These four proposals, including the food stamp proposal which I will sponsor, will be introduced today. I urge my colleagues to review these proposals. The welfare system is broken and must be fixed. When a family is in need of help, that need often crosses program lines and the hurdles that families must face are immense. They must go to different agencies, meet different eligibility standards, and abide by different rules and regulations. Administrators of these programs have similar problems. One of our first priorities should be to make sure that we improve the delivery of Federal welfare benefits to needy families across the United States.

SECTION-BY-SECTION SUMMARY OF THE FOOD STAMP EMPLOYMENT AND FLEXIBILITY AMENDMENTS OF 1992

REMOVE LIMITATIONS ON DURATION OF JOB SEARCH

Section 2 would amend Sections 6(d) and 20(e) of the Food Stamp Act to assign state agencies the responsibility for establishing the duration of job search periods for participants in the Food Stamp Program's employment and training (E&T) and workfore programs. Currently, the Food Stamp Program regulations limit job search to eight weeks at application and an additional eight weeks during each succeeding twelve month period. The proposal would remove this limitation, thus permitting state agencies to require longer or continual job search. State agencies are in a much better position to judge whether continuing job search is likely to help food stamp participants find work and expedite the time when they will no longer require Federal food assistance. It is reasonable to require able-bodied unemployed or underemployed people who are receiving Federal assistance to spend time searching for work, just as it is reasonable to require able-bodied employed people to continue working. The proposal would make any job search periods required by state agencies for E&T participants subject to any minimum period established by the Secretary by regulation.

REVISE PROHIBITION AGAINST DISPLACING EMPLOYEES

Section 3 would amend Sections 6(d) and 20(d) of the Food Stamp Act to expand state agencies' ability to place E&T or workfare participants. Currently, state agencies are prohibited by the statute from placing E&T or workfare participants in any job if doing so would have the result of displacing an employee who is not participating in E&T or workfare. The proposal would prohibit firing or laying off existing employees with the intent of replacing them with E&T or workfare participants, but it would enable state agencies to fill jobs vacated for other reasons with E&T or workfare participants as long as contracts for services/collective bargaining agreements were honored. Since state agencies have the responsibility for placing both E&T and workfare participants, those agencies are in the best position to know whether jobs are appropriate for such participants. State agencies should have as few constraints as possible in their efforts to place E&T and workfare participants in jobs.

AUTHORITY FOR STATE AGENCIES TO INCREASE HOURS OF PARTICIPATION IN COMMUNITY WORK EXPERIENCE PROGRAMS AND WORKFARE

Section 4 would amend Section 20(b) and (c) of the Food Stamp Act to make a technical amendment and to provide state agencies administering community work experience programs (CWEP) and food stamp workfare programs additional options.

The technical amendment would change an incorrect reference to a renumbered section of the Social Security Act. The incorrect reference currently prevents state agencies administering CWEP from considering the value of food stamps received by CWEP participants when calculating the maximum hours such participants can be required to work.

The proposal would give state agencies that administer CWEP the option to include the average monthly cost of providing Medicaid benefits and the value of Federal housing assistance when computing the maximum hours of CWEP participation. The maximum number of hours that CWEP participants receiving food stamps could be required to work would be capped at 40 hours a week. Currently, food stamp recipients who participate in CWEP are limited to 120 hours monthly. The proposal would provide state agencies that administer CWEP maximum flexibility in assigning participants to jobs.

The proposal would also provide food stamp state agencies administering workfare the option to consider the average monthly cost of providing Medicaid benefits (for food stamp households that receive Medicaid) and the value of Federal housing assistance, in addition to the value of households' food stamp allotments, in calculating the maximum hours workfare participants can be required to work. The maximum number of hours that workfare participants could be required to work would be capped at 40 hours a week. Currently, food stamp recipients participating in workfare are limited to 30 hours per week. The proposals would enhance state agencies' flexibility in administering this food stamp work program.

ENHANCED FOOD STAMP PROGRAM WAIVER AUTHORITY FOR WELFARE REFORM DEMONSTRATION PROJECTS

Section 5 would amend Section 17(b) of the Food Stamp Act to improve the Secretary of Agriculture's existing authority to approve waivers requested by states operating or wishing to operate welfare reform demonstration projects. The Secretary would be authorized to approve waivers of any aspect of the program, including eligibility requirements, benefit computations, and administrative procedures.

Currently, Section 17(b) of the Food Stamp Act authorizes waivers necessary to conduct demonstration projects but denies the Department authority to approve waivers that would lower or further restrict eligibility standards (income and resources) or benefits unless the project involves the payment of the average value of allotments in cash or improved coordination of E&T and AFDC's Job Opportunities and Basic Skills program. Improved waiver authority for welfare reform demonstration projects is necessary to permit tests of program changes that cannot be achieved under current authority. Such tests could lead to achieving one of the most important goals of this Administration: permitting closer conformity between the Food Stamp Program and the Aid to Families with Dependent Children program and other Federal assistance programs, thus leading to meaningful welfare reform and maximizing state agencies' flexibility.

EFFECTIVE DATE

Section 105 specifies that the amendments made by this bill will become effective on October 1, 1992.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5006, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 588 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 588

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 5006) to authorize appropriations for fiscal year 1993 for military functions of the Department of Defense, to prescribe military personnel levels for fiscal year 1993, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During debate on this resolution, all time yielded is yielded for the purposes of debate only.

Mr. Speaker, House Resolution 588 provides for the expeditious consideration of the conference report to accompany the fiscal year 1993 Department of Defense authorization. The rule provides for the consideration of the conference report and waives all points of order against the conference report and its consideration. The rule also provides that the conference report shall be considered as read.

Mr. Speaker, as Members know, the Committee on Armed Services has spent the better part of this year developing a bill which will serve as the basis for restructuring our Armed Forces to meet the Nation's defense requirements. The conference agreement reflects the realities of today's world and the Armed Services Committee is to be commended for its efforts in creating this legislation. Mr. Speaker, I urge adoption of this resolution in order that the House may proceed to the consideration of this most important conference agreement.

☐ 1910

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I will not take much time to speak on this rule since this House has not just this legislation but a great deal of other business that it must address as well.

I will simply point out that H.R. 5006, the fiscal year 1993 Defense authorization, is an extremely important bill whose programs not only involve our national defense but our economy and its industrial base as well.

A great deal of time has passed since this House approved its version of this bill. Four months, in fact.

A procedural delay in the Senate, however, consumed several weeks in August and September.

Then, of course, a committee of conference was necessary to work through and resolve the differences in this extensive bill as passed by the two Houses.

The conference agreement is now ready for consideration by this House, however, and it is my understanding that it has the support of both Armed Services Committee Chairman, ASPIN and ranking minority member DICKINSON.

It appears at this time that it is a bill that the President can sign as well.

As we now move toward adjournment within the next few days, adoption of the rule before us will allow the House to go on to debate and conclude action on this bill.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Alabama [Mr. DICKINSON], one of the most distinguished Members ever to serve in the House, and the long-time ranking minority member of the Armed Services Committee, one who is deeply admired and respected on both sides of the aisle. I am proud to yield him whatever time he might consume. He is retiring this year.

Mr. DICKINSON. Mr. Speaker, let me first thank our distinguished ranking member for the very glowing and flattering remarks. I very much appreciate it.

This will be the last opportunity I will have to speak on a rule for the Armed Services Committee. I am glad to say that this last rule on the last conference is on a bill that I am very pleased to support. I think that the conference committee report is something that our committee can be proud of, and that all of the Members of the House can support.

Mr. Speaker, this bill authorizes $274.5 billion for the defense of our country. We worked hard, and we were conscientious, and we are continuing on a downhill slope as far as funding for defense. We have funded this at some $7 billion under the administration's request, and it is $2.5 billion under what our own Budget Committee authorized.

We worked hard, very long hours, and after a very trying conference with the Senate we have brought back a conference report having resolved over 2,000 language differences with the Senate. We have accommodated 92 outside conferees representing 14 committees on almost 350 provisions.

As with any bill, the conference report on H.R. 5006, the fiscal year 1993 DOD authorization bill, had plenty not to like in it. I do not think anybody was unanimously happy with it. But I believe I am correct in saying that more of the conferees have signed, agreed to, and signed the conference report than any conference report in recent memory. There were only three of the House conferees who refused to sign the report, and that is something of a record.

There were many things that Members sought and thought should be included that were not, and there were many things that were included that some of us felt should not be included. However, in light of the ongoing international change and the domestic turmoil of our Presidential election, I think we come out with a reasonably good bill. I am not aware of any Department of Defense or administration opposition to our conference report. And as I said, only three conferees failed to sign the conference report.

Accordingly, Mr. Speaker, I urge support for this. We have a sort of truncated rule. The objectionable part that was in the bill dealing with abortion in military hospitals overseas was removed from this bill. It is subject to a separate rule. It will come up following this. But in order not to jeopardize the parent bill, the total bill, it is not in here.

I think there is nothing controversial in here, and I urge all of the Members to support it. I think all of the Members on this side will support it. I do urge support.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his great leadership all of these years.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN], a member of the Armed Services Committee.

Mr. DORNAN of California. Mr. Speaker, it is not fair when somebody becomes a legend in only a few years, and the gentleman from New York [Mr. SOLOMON] has already become a legend on the Rules Committee.

I would like to thank my good friend and former marine, JERRY SOLOMON, for providing me time today to speak on the fiscal year 1993 defense authorization report. I would also like to thank all of my fellow conferees for their hard work on this report, especially our committee's ranking minority member, BILL DICKINSON, who has always provided this House with outstanding leadership on defense issues and is retiring at the end of this session. For the first time in some years, I have found enough positive measures in this conference report to support the majority of the provisions agreed to in the conference.

We do not know what the world, economic or political environment of next year may look like, but this report, containing the majority of provisions proposed by President George Bush in his fiscal year 1993 Defense budget, is a large and vital step toward ensuring our future national security.

I was especially pleased with the outcome of three important issues I personally became involved with during our conference negotiations.

First, I was very satisfied with the conferees' agreement on the need to maintain our power projection capability through the modernization of our strategic bomber force.

Over 85 percent of the funding requested by the administration to provide the B-1B Lancer with conventional enhancements was included in the report. These enhancements will ensure that the Air Force has a reliable, penetrating supersonic bomber with all-weather precision bombing capability. Additionally, the conferees approved 20 B-2 Shadow Stealth bombers, the minimum number necessary to provide a credible long range stealth force.

Next, the conferees agreed to fund 36 F/A-18 C/D Hornet strike fighters and proceed forward without delay with the vastly improved F/A-18 E/F Hornet variant. These 36 C/D's will immediately help address our continuing requirement to modernize our naval carrier strike force.

Anything less than 36 aircraft would have resulted in increased costs for both the Navy and the taxpayer in future C/D procurement. Meanwhile, by demonstrating our commitment to the F/A-18 E/F, an aircraft with more range, more payload, and more capability than the already combat proved C/D, we are guaranteeing our future naval aviators a modern, reliable, and survivable strike aircraft for future Desert Storms.

Finally, despite previous opposition in the House, the conferees agreed to fully fund research and development on a modest but essential ground-based antisatellite [Asat] system. Believe it or not, we do not possess any current capability to deny the enemy use of satellites in battle, despite the fact that up to 10 potentially hostile countries possess such a capability. If Saddam Hussein controlled satellites during Desert Storm, we may not have been able to successfully continue our bombing campaign or execute the Hail Mary ground maneuver which resulted in allied victory.

Besides these important conference issues, I was also very happy to see a modified version of my bill, H.R. 4513, the New Careers in Education Act, included in the conference. This legislation, which was part of the House bill, will provide our brave service men and women, as well as displaced Department of Defense and defense contractor employees, with incentives to pursue new careers as elementary and secondary school teachers.

With so much talent in our military, especially in science and math, the real winners of this legislation will be our children, who will have a new influx of knowledge and leadership in the classroom. We owe it to our brave service men and women, who have volunteered to sacrifice their lives in defense of our country, some small assistance in their transition to new civilian careers.

This report is by no means perfect, especially with regards to low SDI funding and unnecessary ABM Treaty requirements, but overall it represents a George Bush defense budget and a George Bush vision for the future security of this Nation. Let's just hope we can build upon this vision during the next 4 years and not have to rebuild our military strength at the end of this century.

□ 1920

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 3144, MEDICAL HEALTH CARE INITIATIVES ACT OF 1992

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 589 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 589

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House the bill (S. 3144) to amend title 10, United States Code, to improve the health care system provided for members and former members of the Armed Forces and their dependents, and for other purposes. Debate on the bill shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. The previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 589 is the rule providing for the consideration of S. 3144, the Medical Health Care Initiatives Act of 1992.

It provides for consideration of S. 3144 in the House, any rule of the House to the contrary notwithstanding.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

Finally, the rule provides for one motion to recommit.

Mr. Speaker, S. 3144, the bill for which the Rules Committee has recommended this rule, is a measure that the House has passed each of the last 2 years as an amendment to the Department of Defense authorization bill. Unfortunately, both last year and this year the conferees on the DOD authorization bill have stripped the provision from the bill in the face of a Presidential veto threat.

The House has an opportunity to again affirm its commitment to safe, high-quality reproductive health services for women serving in our Armed Services as well as the dependents of all those serving in the military abroad.

These services were available, paid for by the recipient, for years. But beginning in 1988, the Defense Department prohibited military health care facilities from performing abortions, even when the woman's life is in jeopardy and even though she would pay for the procedure herself. For the many women stationed in countries that do no have adequate health care or legal abortion, this policy dooms them to unsafe or illegal procedures.

Our military provides health care to the men and women in the armed forces and their dependents because the health services in some foreign counties are not adequate. Yet, for this one issue, abortion, which is legal in the United States, we refuse to ensure that military families receive safe treatment.

Passage of S. 3144 will overturn this dangerous policy that was never approved by Congress. It will allow a woman to receive an abortion at an overseas military health facility if she pays all the costs, direct and indirect, associated with the procedure.

Mr. Speaker, I ask my colleagues to support the rule so that the House may proceed with consideration of this important legislation.

Mr. Speaker, if the Members of the House who saw 60 Minutes last night and saw the fate of women in the military who are raped and the inattention that was given to their charges and to all the people in the House and in the country who have watched the Tailhook problem unfold, I hope that this time we can have an opportunity to correct what is an absolute injustice for the women in the military and for military spouses.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I oppose this rule not just because it is a restrictive rule but because we should not even by considering it at this time.

The President will veto this bill. It will be a pocket veto. We have gone through this battle over and over again. We even had it today.

It seems to me that we should be dealing with the pressing matters of appropriations bills, conference reports, and those sorts of things which are coming forward.

So I urge opposition to this rule.

Mr. Speaker, at this point in the RECORD I am inserting the statement of administration policy.

Mr. Speaker, I oppose this rule, not because it is a restrictive rule, but because it should not even be considered. The President will pocket veto S. 3144. He always vetoes these bills and Congress always sustains that veto.

Under these circumstances, Mr. Speaker, I find it strange that we are wasting time on this issue when there are only 3 days left before we adjourn, and there are dozens upon dozens of conference reports, appropriations bills, and suspensions waiting to be heard.

It seems to me Mr. Speaker, that we should not be considering controversial measures that have already been considered this year and have no chance of passage. The provision to allow certain medical procedures on military bases was in the Defense authorization bill and the conferees took it out because it is a party spoiler.

For this reason, I oppose this rule, and I reserve the balance of my time.

STATEMENT OF ADMINISTRATION POLICY

If S. 3144 were presented to the President in its current form, the President's senior advisers would recommend a veto.

S. 3144 would substantially change Federal policy with respect to abortion. The bill would allow abortions on demand to be performed at overseas U.S. military facilities in cases other than when the life of the mother is endangered. Since 1981, the Federal Government has determined that taxpayer funds should be used for abortion in only the most narrow of circumstances: when the life of the mother is endangered.

The President has repeatedly voiced his strong view that such a policy should continue and that any attempt to weaken current abortion policy would warrant a veto.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MINK. Mr. Speaker, I rise in support of the veto override. As of yesterday, millions of women across this Nation will not receive comprehensive and accurate medical information in clinics which receive title X funding.

I received a notice from the Hawaii Department of Health that explains how my State proposes to cope with the gag rule, while attempting to continue to provide complete and appropriate medical information and services to the women who attend publicly funded clinics.

The statement by the Hawaii Department of Health clearly portrays the struggle States will have in trying to provide complete health information and services to women while being gagged by the Federal Government. The statement is as follows:

Publicly subsidized family planning clinics throughout the State have arranged services supported with State funds to assure continued pregnancy testing, counseling, and referral services. We emphasize that State money will be used—no Federal title X funds. The implementation of the title X gag rule began as of October 1, 1992. Title X funds will continue to be used to subsidize preventive family planning services in Hawaii.

Nevertheless, women in Hawaii who visit any Department of Hawaii subsidized clinics will experience no disruption in regular services. Many added hours of staff time, however, will have to be put into documentation of the changes and activities necessary to assure compliance.

State law in Hawaii protects women's right to privacy, information, and referral for their choice of all medical services for reproductive health, including pregnancy, and family planning. The gag rule prohibits the use of Federal title X funds for information or referral for abortion. Fortunately for Hawaii residents, the State legislature provides sufficient funding to the statewide family planning system so that clinics are not confined to the title X funded project and its rules.

The legality of the gag rule continues to be challenged. A U.S. district court of appeals will decide on an appeal for injunction against the rule by the National Family Planning and Reproductive Health Association and the National Association of Nurse Practitioners in Reproductive Health.

The State and federally funded program in Hawaii services about 18,000 low-income women each year with primary prevention service including family planning medical exams, screening for breast and cervical cancer, sexually transmitted diseases, pregnancy testing and referral, and information and referral for a variety of health problems which might otherwise go undetected. Title X makes up less than 37 percent of the funding of the overall publicly subsidized family planning program.

The Department of Health Office of Family Planning, which administers the program, contracts the majority of services to voluntary agencies throughout the State—ambulatory clinics, primary care centers, hospitals, women's health clinics, Planned Parenthood, and some private physician offices and group clinics. Only five, however—The Bay Clinic, Kalihi-Palama Health Clinic, Kokua Kalihi Valley, Rural Oahu Family Planning Project, and the University of Hawaii Women's Health Clinic—are partially supported with title X funds. These clinics will continue to offer family planning services and referral through State-funded clinic projects.

Although President Bush indicated physicians would be allowed to provide counseling and referral for abortion services, this offers no real relief. Most title X projects have voluntary or part-time physicians and medical directors, but qualified nurse practitioners—often trained by title X funds—provide the client services and these professionals are not included in the Presidential exemption. This problem is one of several reasons for the court actions pending.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Saturday, October 3, 1992.

AUTHORIZING SPECIAL FACILITIES CENTER OF THE LIBRARY OF CONGRESS

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5575) to authorize certain uses of real property acquired by the Architect of the Capitol for use by the Librarian of Congress and for other purposes, as amended.

The Clerk read as follows:

H.R. 5575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIBRARY OF CONGRESS SPECIAL FACILITIES CENTER.

Section 205(a) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 141 note) is amended by adding at the end the following new sentence: "The property acquired under this section shall be known as the 'Library of Congress Special Facilities Center' (hereinafter in this section referred to as the 'Center').".

SEC. 2. ADDITIONAL USES OF THE CENTER.

Section 205(g) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 141 note) is amended—

(1) in paragraph (2), by striking out "and" after the semicolon;

(2) by redesignating paragraph (3) as paragraph (6); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) for external training;

"(4) for general assembly and education programs of the Library;

"(5) for temporary living quarters and common areas for visiting scholars using the collections of the Library or participating in the programs of the Library; and".

SEC. 3. FEES FOR USE OF THE CENTER.

Section 205 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 141 note) is amended by adding at the end the following new subsection:

"(h)(1) The Librarian of Congress—

"(A) may charge fees for use of the Center under paragraphs (3), (4), and (5) of subsection (g); and

"(B) shall deposit the fees in the fund under paragraph (2).

"(2) There is established in the Treasury a fund which shall consist of amounts deposited under paragraph (1) and such other amounts as may be appropriated to the fund. The fund shall be—

"(A) available to the Librarian of Congress, in amounts specified in appropriations Acts, for the expenses of the Center; and

"(B) subject to audit by the Comptroller General at the discretion of the Comptroller General.".

SEC. 4. TEMPORARY RESTRICTION ON EVENING USE OF THE CENTER.

No evening meetings may be held at the Library of Congress Special Facilities Center until an on-site parking plan for the property is approved by the Joint Committee on the Library.

SEC. 5. REPEAL OF DUPLICATE PROVISIONS OF LAW.

Effective November 15, 1990, sections 1, 2, and 4 of the Act entitled "An Act to authorize acquisition of certain real property for the Library of Congress, and for other purposes", approved November 15, 1990 (2 U.S.C. 141 note) are repealed.

□ 1930

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentleman from Georgia [Mr. GINGRICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5575 seeks authorization by the Library of Congress to expand uses of the building at 601 East Capitol Street (formerly St. Cecelia's Academy). Specifically, the Library of Congress requests authorization to provide external training programs; temporary lodging quarters for visiting scholars and selected participants in Library programs; and for general assembly and meeting purposes.

I urge my colleagues to support H.R. 5575 legislation for three important reasons. First, and foremost, for the child care center which was the major impetus for the purchase of the facility. If the day care center is to open for operation as scheduled in April 1993, all major construction must be completed by February. Continuation of construction hinges on completing an essential fire sprinkler system, but installation of the system first requires that plans be finalized for the upper floors. However, major construction plans cannot be finalized until the additional uses for the upper floors are authorized by this legislation.

Second, the educator's institute is another important Library outreach program consistent with our national priority for enhancing American competitiveness. This program brings groups of 30 elementary and secondary school teachers and librarians from all over the United States to the Library to learn from distinguished lecturers and to participate in guided use of the Library's collections. Were facilities available, these programs could be doubled, or tripled, to assist those people who deal most directly with the young.

And finally, this legislation is to make the Library accessible to those who might otherwise be unable to benefit from the richness of its collections. Many foreign interns must decline offers to participate in Library programs, and those who do accept often suffer hardship because of a lack of housing support. This facility will provide a special service to those whose financial resources and programmatic needs justify it. At the same time, because the facility has a limited capacity of approximately 17, the facility will not significantly divert patronage from the other available accommodations on Capitol Hill.

This legislation does not include a request for any additional funds. It seeks rather to establish a special deposit account in the U.S. Treasury into which moneys generated from the residential uses of the facility will be deposited.

I am mindful that increased usage of the East Capitol facility will generate traffic which could impact on the community. It is anticipated that any use of the facility during evening hours would occur only on rare occasions.

Consequently, this legislation provides that the community concerns regarding the impact of increased traffic due to evening use of the facility are considered. In response to those concerns, this amendment requires that any parking plan for the special facility center shall be developed in consultation with the Delegate from the District of Columbia, Ms. NORTON, in order to address the concerns of residents living in the neighborhood where the special facility center is located.

I urge my colleagues to support and adopt H.R. 5575, as amended.

Mr. Speaker, I include herewith the correspondence between the gentleman from North Carolina [Mr. ROSE], chairman of the Committee on House Administration, and the gentleman from New Jersey [Mr. ROE], chairman of the Committee on Public Works and Transportation, acknowledging jurisdiction of the Committee on Public Works over various provisions of Public Law 101–562 and identical provisions of Public Law 101–520, as follows:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, October 1, 1992.
Hon. CHARLIE ROSE,
Chairman, Committee on House Administration, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I have received your correspondence regarding H.R. 5575 as it pertains to the jurisdiction of the Committee on Public Works and Transportation.

We have reviewed the technical amendment in the nature of a substitute to the bill and, in exchange for your acknowledgment of our jurisdiction, our Committee waives its right to a sequential referral of this legislation. It should be noted, however, that this should not be construed as a waiver, now or in the future, of this Committee's jurisdiction over the issue in question, or our inclusion in any conference thereon. In addition, we have no objections to House consideration of the matter under suspension of the rules. I ask, however, that our exchange of letters be made a part of the debate concerning this measure.

With all good wishes.
Sincerely,
ROBERT ROE, *Chairman.*

COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC, October 1, 1992.
Hon. ROBERT A. ROE,
Chairman, Committee on Public Works and Transportation, Washington, DC.

DEAR MR. CHAIRMAN: On September 23, 1992, the Committee on House Administration ordered reported H.R. 5575, authorizing certain expanded uses of real property acquired by the Architect of the Capitol for use by the Librarian of Congress.

Although H.R. 5575 modifies or repeals provisions of legislation originating in the Committee on Public Works and Transportation, consideration of this bill will not diminish the jurisdiction of that Committee over measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Library of Congress.

This Committee believes that future legislation proposing to amend various provisions of P.L. 101–562 (and identical provisions contained in P.L. 101–520) would be subject to referral to the Public Works and Transportation Committee under House Rule X.

After reviewing the text of the technical amendment in the nature of a substitute to the bill, this Committee would appreciate your consideration of allowing the matter to be taken up under suspension of the rules as soon as the schedule permits.

With my very best wishes,
Sincerely,
CHARLIE ROSE, *Chairman.*

Mr. Speaker, I reserve the balance of my time.

Mr. GINGRICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say that the recent purchase of St. Cecelia's on Capitol Hill for use by the Library of Congress has resulted in acquisition of much-needed space for employee training and for a day care center for the children of Library employees. H.R. 5575 extends the uses of St. Cecelia's to include external and congressionally related training and temporary living quarters for visiting students and scholars.

Currently, the Library is critically short of adequate training space. Among the Library's many training programs are the 200 programs conducted each year by the Congressional Research Service for 10,000 congressional staff members. By authorizing the Library to use St. Cecelia's for external and congressionally related training, this legislation makes valuable training space available. Further, the plans for the facility include use of sophisticated technology, including interactive video and CD ROM technology.

H.R. 5575 authorizes the use of St. Cecelia's for temporary living quarters for visiting scholars participating in Library programs.

Seventeen dorm like rooms would be available on a fee recovery basis. A special account would be created in Treasury into which moneys received for dorm residence and use of the space by outside groups will be deposited. This legislation does not require any new funds for St. Cecelia's but does allow the Library of Congress to use the facility to its full potential at a time when the Library is critically short of adequate space.

Let me say as a former teacher of West Georgia College, I know the importance of the Library of Congress for scholars all across this country and in fact around the world. I know what an extraordinary research facility the Library is. And I think that from all over the world there will be people who will find a real use and a real asset in having access to the Library, having access to the kind of facility for visiting scholars that is suggested here.

Since it will be self-supporting in terms of fees, it seems to me it is a win-win relationship for both the taxpayer and the world of knowledge.

So I strongly urge my colleagues to support this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 5575, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize certain additional uses of the Library of Congress Special Facilities Center, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS ACT OF 1991

Mr. DERRICK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2164) to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority as amended.

The Clerk read as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Expedited Consideration of Proposed Rescissions Act of 1992".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.

(a) IN GENERAL.—Part B of title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by redesignating sections 1013 through 1017 as sections 1014 through 1018, respectively, and inserting after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY.—In addition to the method of rescinding budget authority specified in section 1012, the President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriations Act. Funds made available for obligation under this procedure may not be proposed for rescission again under this section or section 1012.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) Not later than 3 days after the date of enactment of an appropriation Act, the President may transmit to Congress a special message proposing to rescind amounts of budget authority provided in that Act and include with that special message a draft bill or joint resolution that, if enacted, would only rescind that budget authority.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill or joint resolution for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a).

"(c) LIMITATION ON AMOUNTS SUBJECT TO RESCISSION.—

"(1) The amount of budget authority which the President may propose to rescind in a special message under this section for a particular program, project, or activity for a fiscal year may not exceed 25 percent of the amount appropriated for that program, project, or activity in that Act.

"(2) The limitation contained in paragraph (1) shall only apply to a program, project, or activity that is authorized by law.

"(d) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of continuous session of the applicable House after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Congress in which the appropriation Act involved originated shall introduce (by request) the draft bill or joint resolution accompanying that special message. If the bill or joint resolution is not introduced as provided in the preceding sentence, then, on the third day of continuous session of that House after the date of receipt of that special message, any Member of that House may introduce the bill or joint resolution.

"(B) The bill or joint resolution shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the seventh day of continuous session of that House after the date of receipt of that special message. If the Committee on Appropriations fails to report the bill or joint resolution within that period, that committee shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill or joint resolution shall be taken in that House on or before the close of the 10th calendar day of continuous session of that House after the date of the introduction of the bill or joint resolution in that House. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of Congress on the same calendar day on which the bill or joint resolution is agreed to.

"(2)(A) A bill or joint resolution transmitted to the House of Representatives or the Senate pursuant to paragraph (1)(C) shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the seventh day of continuous session of that House after it receives the bill or joint resolution. A committee failing to report the bill or joint resolution within such period shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed upon the appropriate calendar.

"(B) A vote on final passage of a bill or joint resolution transmitted to that House shall be taken on or before the close of the 10th calendar day of continuous session of that House after the date on which the bill or joint resolution is transmitted. If the bill or joint resolution is agreed to in that House, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the engrossed bill or joint resolution to be returned to the House in which the bill or joint resolution originated.

"(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill or joint resolution under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection therewith, shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to recommit a bill or joint resolution under this section is not in order.

"(e) AMENDMENTS PROHIBITED.—No amendment to a bill or joint resolution considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(f) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House defeats the bill or joint resolution transmitted with that special message.

"(g) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations; and

"(2) continuity of a session of either House of Congress shall be considered as broken only by an adjournment of that House sine die, and the days on which that House is not in session because of an adjournment of more than 3 days to a date certain shall be excluded in the computation of any period.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of such Act (2 U.S.C. 621 note) is amended—

(1) by striking "and 1017" in subsection (a) and inserting "1013, and 1018"; and

(2) by striking "section 1017" in subsection (d) and inserting "sections 1013 and 1018"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of such Act (2 U.S.C. 682(5)) is amended—

(A) in paragraph (4), by striking "1013" and inserting "1014"; and

(B) in paragraph (5)—

(i) by striking "1016" and inserting "1017"; and

(ii) by striking "1017(b)(1)" and inserting "1018(b)(1)".

(2) Section 1015 of such Act (2 U.S.C. 685) (as redesignated by section 2(a)) is amended—

(A) by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014";

(B) in subsection (b)(1), by striking "1012" and inserting "1012 or 1013";

(C) in subsection (b)(2), by striking "1013" and inserting "1014"; and

(D) in subsection (e)(2)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by striking "1013" in subparagraph (C) (as so redesignated) and inserting "1014"; and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) he has transmitted a special message under section 1013 with respect to a proposed rescission; and".

(3) Section 1016 of such Act (2 U.S.C. 686) (as redesignated by section 2(a)) is amended by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014".

(d) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of such Act is amended—

(1) by redesignating the items relating to sections 1013 through 1017 as items relating to sections 1014 through 1018; and

(2) by inserting after the item relating to section 1012 the following new item:

"Sec. 1013. Expedited consideration of certain proposed rescissions.".

SEC. 3. APPLICATION.

Section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2) shall apply to amounts of budget authority provided by appropriation Acts (as defined in subsection (g) of such section) that are enacted during the One Hundred Third Congress.

SEC. 4. TERMINATION.

The authority provided by section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2) shall terminate effective on the date in 1994 on which Congress adjourns sine die.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from South Carolina [Mr. DERRICK] will be recognized for 20 minutes, and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

For what purpose does the gentleman from Minnesota [Mr. SABO] rise?

Mr. SABO. Mr. Speaker, I rise in opposition to the motion and request a portion of the time.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. SOLOMON] opposed to the motion?

Mr. SOLOMON. Mr. Speaker, we are in support of the motion.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. SABO] qualifies and will receive the 20 minutes.

The gentleman from Minnesota [Mr. SABO] will be recognized for 20 minutes.

Mr. DERRICK. Mr. Speaker, I yield 10 minutes of my time to the gentleman from New York [Mr. SOLOMON] and ask unanimous consent that he be allowed to yield time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The SPEAKER pro tempore. The gentleman from South Carolina will be recognized for 10 minutes, the gentleman from New York [Mr. SOLOMON] will be recognized for 10 minutes, and the gentleman from Minnesota [Mr. SABO] will be recognized for 20 minutes.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL].

Mr. ANDREWS of Texas. Mr. Speaker, I rise in strong support of H.R. 2164, the expedited rescission proposal sponsored by Congressman CARPER.

I came to Congress very much opposed to the line-item veto. I have always believed that it would shift far too much power and leverage to the President, unfairly tilting the system of checks and balances between the legislative and the executive branches.

It is no surprise that John F. Kennedy, Jimmy Carter, Ronald Reagan and George Bush, and Bill Clinton have all voiced support for the line-item veto. Can you imagine how a President like Lyndon Johnson could use this provision to his advantage?

President Bush's line-item veto proposal, for example, would effectively shift the congressional power of the purse to the executive branch, allowing for the deletion of any item in any spending proposal and requiring a two-thirds majority vote by the Congress to override the President's veto.

Yet the ability to eliminate wasteful and unjustifiable programs from a large spending bill is attractive. As Nikita Khrushchev once said: "Politicians are the same everywhere—they will build a bridge where there is no river."

Last year's Highway Administration bill is a case in point. This bill allocated 35 percent of the $6.5 billion in Federal highway funds available for demonstration projects to only five States, including funding for the following programs: $35 million for a monorail in Altoona; $1.6 million for a state of the art technology project to control rock slides in Lewistown; and $14.2 million to elevate 14 bridges over Molly Ann's Brook.

I am a cosponsor of the expedited rescission proposal because this bill maintains our governmental system of checks and balances while also increasing the accountability of both the executive and legislative branches for reducing the deficit.

The expedited rescission proposal restores accountability to Federal spending practices by allowing the President, with the approval of the Congress, to rescind funding for those programs that are slipped into appropriations bills—such as the renovation of Lawrence Welk's home—without the prior authorization of the Congress.

This bill adds to current law by providing a mechanism for the expedited consideration of those proposed Presidential rescissions that meet its specific criteria, without shifting the balance of power to the President by requiring only a simple majority vote by the Congress to approve or defeat the proposed rescissions.

And lastly, the bill is binding only for 2 years—if it fails to increase spending accountability or has unforeseen consequences, the expedited rescission can be improved or repealed altogether. As I see it, this is one tool to restore fiscal accountability that the Congress cannot afford to pass by.

Mr. HUGHES. Mr. Speaker, I rise in strong support of H.R. 2164, the Expedited Consideration of Proposed Rescissions Act of 1992.

If we are to escape the budget woes that plague this country, it is imperative we reduce spending, particularly wasteful or unnecessary spending. H.R. 2164 gives the Congress and the President the mechanism to do just that.

H.R. 2164 brings sorely needed improvement to the current budget process. The measure is far better than a line-item veto in that it respects the balance of powers by involving the President and the Congress in the process.

The bill makes a critically important distinction between authorized and unauthorized programs. The President may call for an elimination of 100 percent of any unauthorized program, but could only propose to eliminate 25 percent of an authorized program. This is appropriate and reasonable. Authorized programs have already been scrutinized at the committee level, and by the full House. In addition, the President has had the opportunity to veto authorizing legislation.

We are all too familiar with unauthorized programs that are not subject to this type of review, and the extra projects that tend to pop up. H.R. 2164 gives Congress and the President the needed authority to control programs which represent poor prioritization, or unnecessary spending.

The measure is carefully crafted. It imposes a 3-day period in which the President may submit a rescission to Congress. Unlike the line-item veto, the Congress must vote on any rescission proposed by the President. If Congress rejects the rescission, the funds in question would be spent in accordance with the legislation.

Finally, this is a 2-year trial program. At the close of 103d Congress, we have the option to amend this measure if changes are needed, and Congress may extend the bill, or make it a permanent mechanism.

H.R. 2164 will not eliminate our deficit overnight. We must restructure our entire budget process. But this bill addresses one critical aspect of the budget process. It equips us with another means to eliminate those programs which have not been thoroughly scrutinized. It creates greater degree of accountability, and ensures that only programs which are genuinely deserving, are funded by the Congress. I urge my colleagues to vote for this vital legislation. It is the fiscally responsible thing to do.

Mr. GRADISON. Mr. Speaker, I rise in favor of H.R. 2164, the Expedited Consideration of Proposed Rescissions Act of 1992.

I applaud the courage the distinguished gentleman from Delaware exercised in compelling his leadership to bring this measure to a vote. Unfortunately, the leadership saw fit to handicap the bill by bringing it up under suspension so it must garner a two-thirds majority.

Over the past year, the Democratic leadership has fought strenuously against any reform of budget process legislation. Representative STENHOLM was forced to resort to a discharge resolution to bring the balanced budget amendment to the floor. More recently, the Democratic leadership buried a budget process reform bill introduce by the chairman of the Budget Committee by referring it to three committees which had no intention of reporting it. Meanwhile, that same Democratic leadership has repeatedly tried to dismantle the budget discipline we do have.

Today we have a rare opportunity to vote on a series of modest reforms in the rescission process. The most important feature of the bill is a requirement that the Congress take a prompt and timely vote on the President's proposed rescissions.

Currently, any proposed rescission is automatically canceled if the Congress does not approve it within 45 days. Congress can block a rescission by simply refusing to vote on it—effectively exercising a passive veto over the rescission process. Since 1974, the Congress has approved only 35 percent of all proposed rescissions. To its credit however, Congress has initiated rescissions of almost $50 billion.

In my view, the ability of the Congress to block rescissions by simply refusing to act is symptomatic of a bias in the existing budget process against deficit reduction. Most of our budgeting is done on an incremental basis that simply builds on the priorities of the past. Our entitlement programs are automatically funded so that they don't have to compete with other deserving programs. I could name many other examples.

At a time when we are facing record deficits, Congress should be actively engaged in every effort to control spending—no matter how small. If we disagree with a rescission, let us act on our convictions by voting "no."

I would like to add that I am not unsympathetic with concerns that this bill would upset the delicate balance of power between the executive and legislative branch over the budget process. I, for one, have opposed the line-item veto largely on the grounds that it might lead to logrolling between the executive and legislative branches that would result in just the opposite of its intended outcome.

Nothing in this proposal erodes the ability of the Congress to control appropriations. All it does is require the Congress to provide a separate vote for each rescission, if only to defeat it.

We should not be under any illusion that this amendment will solve our budget problems. Programs subject to enhanced rescission constitute 40 percent of Federal outlays. What we really need is to make the decisions that actually cut spending.

Nevertheless, I urge my colleagues to support this modest but positive change in the President's rescission authority.

Mr. MORAN. Mr. Speaker, earlier this week we had an opportunity to vote on a line-item veto.

I voted with the majority in rejecting this provision.

Given the prolonged recession, the seemingly intractable budget deficits and the trillion dollars that has been added to our national debt over the last decade, desperate measures and radical proposals are necessary.

I was not ready, however, to support a line-item veto that would undermine the authority and tip the balance of power against this branch of our Nation's government.

I am pleased to vote today for the expedited rescission proposal, H.R. 2164.

This proposal establishes a constructive procedure to weed out expenditures that were never authorized, without undermining Congress's important control over the appropriations process.

At a time when we are facing a $350 billion budget deficit, we must make sure all expenditures are of legitimate national interest.

This measure before us today will effectively check these expenditures without forcing us to the other extreme.

I would remind my colleagues, however, that while this measure is needed and should be supported it is not a panacea.

It will not balance the Federal budget.

There are no simple or easy solutions for balancing the Federal budget.

Most people assume you can do it by eliminating all the perks, pork barrel projects, all the waste, fraud and abuse within the Federal Government.

This makes good campaign rhetoric, but it does little to solve the problem and distracts us from a constructive dialog on real deficit reduction efforts.

Mr. Speaker, we could lock all Government offices and stop all operations at the Congress, the White House, the Federal and Supreme Courts, the FBI, the Park Service, the Defense Department, the National Institutes of Health, and keep them closed for the remainder of this year, and we would still not balance the budget.

I commend my colleagues to read the recent three-part series by Steven Mufson entitled "The Mortgage on America" that was featured in the Washington Post this past week.

I ask unanimous consent that it be included in the RECORD along with my remarks.

Mr. Speaker, this series explains in very understandable terms what the budget deficit and the $4 trillion in national debt mean in lost opportunities and indirect costs to the American public.

Restoring economic growth and deficit reduction must remain our top priorities.

But, we must be honest with the public on the tough choices we have to make.

The expedited rescission proposal before us today puts the Federal Government on the right track.

With enactment of this measure we can move on to a constructive discussion of other meaningful deficit reduction measures.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 776, ENERGY POLICY ACT OF 1992

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file the conference report on the bill (H.R. 776) to provide for improved energy efficiency. This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BILBRAY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I consume. Mr. Speaker, I am delighted to bring this very important budget process reform bill, H.R. 2164, to the floor tonight.

Mr. Speaker, I know my constituents will be delighted to hear the purpose of this bill is to give the President a legislative line-item veto. I have supported the line-item veto for a long time.

The Rules Subcommittee on the Legislative Process, which I have the honor to Chair, last week completed hearings on not only H.R. 2164, but all the legislative line-item veto bills referred to us. In my opinion, H.R. 2164 is the best of them.

Briefly, Mr. Speaker, H.R. 2164 would enhance the President's accountability over spending by allowing him, during the next 2 years, to send Congress special messages proposing to reduce or eliminate specific items in appropriations acts. The bill would enhance congressional accountability because Congress would have to vote up or down on Presidential rescission proposals.

Under the bill, after the President signs each appropriations act into law, he could, if he chose, within 3 days send to Congress a special rescission message proposing to reduce or eliminate amounts of budget authority, essentially line-items, which were contained in that act. The President could propose to cancel up to 100 percent of any unauthorized appropriations in the act, and up to 25 percent of authorized appropriations.

The contents of the President's message would be introduced in the House by the majority or minority leader, or if not, by any Member. It would be referred to the Appropriations Committee, which must report it out within 7 days without substantive change. Within 10 days of introduction, the House must vote on the bill without amendment.

If the House passes the bill, it goes to the Senate, where a similar process would be followed under a similar timetable. Presumably, since the legislation incorporates the President's proposal, he would sign it into law. The rescinded appropriations would be permanently canceled and spending reduced.

If, on the other hand, the legislation is defeated in either House, the President must make the appropriated funds available for obligation.

Mr. Speaker, during our subcommittee hearings we heard testimony suggesting some legislative line-item veto proposals would dramatically shift power from the legislative branch to the executive branch of Government. There was concern expressed that some of the bills before us would essentially require Congress to muster a two-thirds majority in both Houses to implement its spending priorities.

The Carper bill preserves the balance of power between Congress and the President. All the Carper bill does is require Congress to consider and vote on certain Presidential rescission messages, something which Congress is not now required to do. By contrast, current law permits the Congress to reject rescission proposals by inaction, with no vote and no accountability.

Finally, as I indicated, the amendments made by the Carper bill are also temporary, a test-drive, for the 103d Congress only. With any reform, especially procedural reform, there are unforeseen and unintended consequences.

Therefore, it seems a good idea to try this out for a limited time and see how it works. If it proves useful, Congress can extend it or make it permanent. If it doesn't work, we can let it expire. Either way we—and our constituents—will know we have given the legislative line-item veto a try.

Mr. Speaker, I think every witness who appeared before my subcommittee agreed with one idea: That the legislative line-item veto is not the only answer to our deficit problem. In fact, it isn't even a very big part of the answer, since only about one-third of all expenditures could ever be subject to it.

But I believe we must use every weapon at our disposal if we ever hope to win the battle against the Federal budget deficit. I commend the gentleman from Delaware for his fine legislation and urge its adoption.

☐ 1940

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, I want to thank the gentleman for yielding me this time.

Mr. Speaker, on our Committee on Appropriations, we have carefully examined this legislation. We think it is a mistake to pass this bill.

As you know, rescissions are provided for under the Budget Reform Act of 1974. Down through the years this law has worked and I think worked well. We have Members in the House who are against the Budget Reform Act. They have been against it now for a number of years. We have a chairman of that committee and a ranking minority member and members on the Budget Committee who I think had done a good job through the years.

As the law provides, you know, we not only have rescissions, but we have deferrals under the Budget Reform Act. Over the years, Presidents have requested rescissions from time to time, and the amounts requested, we on our Committee on Appropriations have exceeded the President's requested rescissions about $1.8 billion.

The different Presidents since the passage of the Budget Reform Act have requested $69,300,000,000 in rescissions and we have exceeded the requests of the Presidents and rescinded $71 billion.

During the present year, President Bush requested rescissions totaling $7.9 billion. We have rescinded $8.2 billion.

We held hearings on the different amounts proposed. We carefully examined each request. We then rescinded $8.2 billion.

This clearly shows, Mr. Speaker, that under the Budget Reform Act the provision concerning rescissions has worked and it has worked well.

The present law, as you know, gives us the opportunity to change the request that is submitted by the Presidents in regard to rescissions. We can makes changes in the proposal, not only increasing the amount, but making changes as to the different programs presented and amounts requested.

Under the present bill, as I understand, Mr. Speaker, we must include the President's request for the rescission as it is proposed. There is no change permitted as far as the amount is concerned. A vote would come up or down. There would be no opportunity to change any part of the requested rescission.

Therefore, Mr. Speaker, I would like all the Members of the House now to carefully consider this. In our Committee on Appropriations, we have worked hard this year and it gives me an opportunity at this time to thank the Members on both sides of the aisle.

My chairman, one of the ablest men who ever served in this Congress. He has been a little under the weather, and he asked me, as the No. 2 member on the committee, to help him with these bills. With the help of Members on both sides of the aisle, we took 13 appropriation bills by the last day of July and sent them over to the other body, by virtue of the assistance on both sides of the aisle, and I appreciate it.

Mr. Speaker, we ought to carefully consider this matter. This resolution should be defeated.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA], the distinguished chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this legislation. I have the greatest respect for the gentlemen from Kentucky and the members of the Appropriations Committee.

I do not view this legislation, very frankly, as either a transfer of power to the President or a threat to the prerogatives of the Appropriations Committee. I view it as an effort to try to expedite the existing process with regard to rescissions. Right now under the existing process, when the President sends up a rescission package if one-fifth of the House wants to discharge that and bring it to a vote, they have the opportunity to do that, or nothing can happen.

Let us use the example of what happened this year. The President offered a rescission package of approximately $7.8 billion. The Appropriations Committee came back with a package of

$8.1 billion. We voted on the appropriations package and then we voted on the President's package, and that is the way it should be done.

The problem right now with the present procedure is that you could face a situation where nothing can happen. In other words, you could have no discharge and you ultimately could not have a vote on the President's package.

I think at the very least the President deserves a vote on his package, and essentially that is what this legislation provides. It provides for a vote on the President's package. It does not take away from the ability of the Appropriations Committee to offer a substitute for what the President presents. If the Appropriations Committee offers that substitute, we vote on it. We then vote on the President's package. That is essentially what this is. This is expedited rescission. That is the title of this legislation.

I commend the gentleman from Delaware for his willingness to work with us in the Budget Committee to clarify some of the provisions here.

I think this represents a step forward.

There are some line-item procedures out there that involve constitutional amendments that I think do represent a transfer of power to the President, that do represent a threat to the Appropriations Committee and their prerogatives. This is not that kind of legislation. This was carefully drafted, and I think for that reason it ought to be supported by the Members.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, would the gentleman tell me if I understood him correctly?

I understand that, under this bill, if the President sends up a rescission the 1st of November, and we are not in session, 10 days later we obviously can't do anything with it. Say it is for the FCC or the FTC. They are not authorized. You could potentially shut down the FTC and the FCC while we are not in session.

Mr. PANETTA. That is not the case. If in fact we are out of session——

Mr. SMITH of Iowa. We cannot authorize it or vote down the rescission when we are out of session.

Mr. PANETTA. My understanding is that if we are out of session and we have adjourned, the President then decides to rescind, we would then pick up the rescission at the beginning of the next session of the Congress.

Mr. SMITH of Iowa. Suppose we are in session. The FCC or the FTC, they are not authorized, so he sends a rescission up. We cannot act in 10 days. What do you do, just shut down the agencies?

Mr. PANETTA. I think what this requires is that we vote on that package. It also requires the Appropriations Committee to submit a substitute. That is what we do now.

I do not see any problem, frankly, in requiring a vote on the President's package. He at the very least deserves that vote. If we do not like what he does, let us vote it down.

Mr. SMITH of Iowa. So we cannot change and increase his package, that is what we have been doing all these years.

Mr. PANETTA. You have increased the rescissions, to your credit.

Mr. SOLOMON. I reserve the balance of my time, Mr. Speaker.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, when it comes to spending tax dollars, the American taxpayers are demanding accountability. They want to know how their money is spent and they want to know why their money is being spent and they want to know who is spending their money. The taxpayers have a fundamental right to this information, and that is what this legislation is all about.

With the passage of H.R. 2614, the President will be able to rescind a part of an appropriation bill and require the Congress to vote on the specific proposal that the President has rescinded.

I support giving the President this authority, because I believe that every appropriated tax dollar should be done in the open with full public debate. If we in this body, if Members of Congress cannot justify any request that we make of the Treasury, then it should not be approved. That is what this legislation is all about.

The bottom line, with the passage of this bill we will find out if the line-item veto works. I happen to believe very strongly that this legislation will demonstrate that this can save the taxpayers a lot of money, Mr. Speaker. This is the way we should try it, find out if it works, without shifting tremendous power to the executive branch of the Government.

Mr. SABO. Mr. Speaker, does the gentleman from New York plan to yield time? The rest of us have yielded.

Mr. SOLOMON. The gentleman is asking a question that the gentleman knows is a little out of joint, because we thought we had an agreement where we would have the time divided equally. That is not the case, so I thought we would let the opposition get down to our level and then we will participate in the debate. That sounds fair to me.

□ 1950

Mr. SABO. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, a former Member of the House by the name of Jim Neeburk from Massachusetts said to a bunch of freshmen in the House one time; he said, "I understand your problem. You think this place is on the level."

Mr. Speaker, I want to make the point tonight that apparently some people think this debate is on the level, but it is not. I think everybody ought to vote for this because it does not mean anything. And I think we ought to leach all meaning out of this vote because it is a phony. It is a legislative phony, it is a political phony.

A speaker just said he thinks the taxpayers have a right to know exactly who is going to spend all of the appropriation money. Fine. What about all of the tax expenditures? What about the 128 specific tax increases that were voted for in this Congress last year at the request of George Bush?

I say to my colleagues, "If you follow Bush's own accounting system as he applies it to Bill Clinton, why should this only apply to appropriations? Why shouldn't we have an opportunity to have a vote on each and every one of those specific tax items? Every time a bill come out of the Ways and Means Committee, it's locked up like a drum. You can't get a vote on it. Why only appropriated items?"

This issue is not about spending. This issue is about power. The fact is that in Congress it has already been demonstrated that on appropriated items, on requests for rescissions, the Committee on Appropriations has already cut $2 billion more than we were asked to through the rescissions process going back to 1974. So, we have cut more than the amount that we have been asked to cut. We have just done it in a different way, and that does not suit the body at the other end of Pennsylvania Avenue.

Now I would like to make a couple of other points. I want to ask my colleagues this:

"When Lyndon Johnson was President of the United States, trying to ram the Vietnam war down Congress' throat in a sneaky way, in a back door way, how many of you would have had the guts to stand up to him on the Gulf of Tonkin Resolution if he had come to you and said, 'I'm sorry, I tell you, but, if you can't vote with me on the war, I'm sorry. I'm going to have to send down a specific proposal to rescind your program or your project.' You pass a proposal like this, and you give every President the opportunity to eliminate what little courage is left in this institution when it comes to establishing an independent foreign policy." My colleagues, we have a constitutional obligation to avoid that.

The other point I would simply make is this:

As I was saying earlier, this is not a real proposition. What people want to do is to be able to vote for this tonight knowing full well nothing is going to happen to it. I say to my colleagues, "It ain't going nowhere. You get a free vote."

Well, I do not believe that is a credible way to do the public's business either, and, if my colleagues want this baby considered, then consider it in a comprehensive package so that we have an opportunity to vote on tax items, not just appropriated items. That is the way to do it.

Second, I want to correct a misstatement made by the chairman of the Committee on the Budget. He said that the committee will have the authority, if they want, to change the rescissions sent down by the President. That is not true as we read it. As we read it, Mr. Speaker, if the committee reports a different proposition than that which is sent down by the President, then what happens is that the President is entitled to impound on any item until there is a specific vote on the House floor. That is an opportunity for any Executive to intimidate any Member of this body.

Mr. Speaker, I would say to the gentlemen on that side of the aisle, "Given the shape that your nominee is in these days, I'd be very worried about giving that power to a Democratic President. I'd be very worried about it because you're going to have a chance to operate under that system."

So, my advice to my colleagues is this vote does not mean beanbag. It is a political phony. If my colleagues want to pose for political holy pictures, go ahead and do it, but let us not pretend when the votes go up tomorrow that it is real.

I say to my colleagues, "I encourage all of you to vote for it. It's just like another phony motion to instruct on a conference report. When you want to be serious, when you want to give us a right to debate this with some time to analyze it so we know what is in it, when we have enough time to deal with it so that the Budget Committee chairman knows what's in it, then I'm happy to debate it."

Mr. Speaker, right now it is obvious there is confusion about what this means. It is a lousy way to legislate 2 days before the end of the session. This is the kind of idiocy we usually reserve for tax bills, and I just do not think we ought to do it.

In my view, vote for it. It does not mean beanbag. Vote for it. It does not mean beanbag. When my colleagues want to bring a real vote to us, fine, we will consider it. But give us an opportunity to amend, give us an opportunity to shape it so that we are doing what they are merely pretending that they are doing this evening.

Mr. SOLOMON. Mr. Speaker, I think it is time we got into the debate, and I yield myself 4 minutes.

Mr. Speaker, in answer to the previous speaker: I am so confident that George Bush is going to win this election and come from behind that I am going to support this legislation, the legislation that is a watered-down version of the line-item veto, but at least it is a step in the right direction.

I think there is sincerity on the part of both sides, and I particularly want to commend the gentleman from Delaware [Mr. CARPER] for his efforts, and the gentleman from Texas [Mr. STENHOLM], and the gentleman from Minnesota [Mr. PENNY] and others, and I comment the floor manager, the gentleman from South Carolina [Mr. DERRICK] also for holding the hearings that have helped lead to this day even though we have this watered-down version on the floor.

I also want to acknowledge the Speaker for at least scheduling this under the suspension rules for what I understand he has characterized as a symbolic vote, and I guess that was reemphasized by the previous speaker, the gentleman from Wisconsin [Mr. OBEY]. But I guess it is symbolic because the Speaker knows the bill will not make it through the other body, and that is really too bad. Had it not been for the Speaker's 13th hour conversion last Wednesday when the rule on the continuing appropriation resolution was about to be defeated, was trailing with a vote of 202 to 204, I believe we might have had an opportunity to consider a real line-item veto amendment to the CR, the continuing resolution, that day, and I had a letter indicating that the President of the United States would have signed that amendment into law, and we really would have had a line-item veto. Had that happened the President today could be exercising the line-item veto rescission authority over items in the appropriations bills we have been sending to the White House for the last several weeks now.

So, Mr. Speaker, I really do regret we are left today with little more than a symbolic vote, but since so much in politics is a matter of symbolism, I suppose we should milk this symbol for what it is worth.

For one thing, this vote symbolizes the continuing reluctance of the majority leadership to give us a real vote on a real line-item veto that will be signed into law, notwithstanding the clear support of an overwhelming majority of the American people. It also symbolizes the resistance of the majority leadership to heed even their own presidential candidate who has exercised the line-item veto as a Governor of Arkansas and who favors a line-item veto.

Yes, he might be the President. Let us give it to him.

Mr. Speaker, it also symbolizes just how out of touch the majority leadership is when the American people overwhelmingly, by 70 percent, support any President, whoever he might be, having this authority.

Mr. Speaker, I favor the bill before us today because it is an improvement over the current rescission process which is nothing more than just a cop-out. It lets us take no action whatsoever, and then nothing is done.

□ 2000

This bill does accelerate and compress the Congressional review period for proposed rescissions, and it ensures that we will have an opportunity to cast an up or down vote. It specifically prohibits amendments to these rescission proposals, and it also prohibits suspending those expedited procedures.

The bill before us as amended confines, and this is the important part, the President to rescinding no more than 25 percent of the budget authority for any authorized matter over the next 2 years, 25 percent of any authorized program.

Mr. Speaker, I have sent a colleague letter to every Member in which I indicated my support for this bill. But I also made it clear in that letter that if this bill does not pass this House and does not pass the Senate as well in the next couple of days, I will renew my efforts to attach a true line-item veto to whatever continuing resolution is out there on the last day.

Mr. Speaker, I urge support for the resolution, and I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in strong support of H.R. 2164, the expedited rescission bill. I want to commend my colleague TOM CARPER for his efforts in bringing this bill to the floor today. He has worked tirelessly to put together a bipartisan consensus behind a compromise bill that improves the ability of Congress and the President to review questionable spending without disturbing the balance of power between the two branches.

I have concerns that a line-item veto with a two-third vote to override could give the President authority to write appropriations bills with the support of only one-third plus one of Congress. I do not want to give this type of power to any President.

Mr. Speaker, I would like to try to answer some of the questions of the gentleman from Wisconsin [Mr. OBEY] just a moment ago.

As far as to the complaint of brining this up at this hour, it is not our fault. We worked at this for the last several months to try to have this considered in the duly elective process, and we failed.

I would also point out to my colleagues we worked awfully hard to get a balanced budget constitutional amendment. We lost. The day after we went to work in the regular process, many of the same folks arguing against this said do it in the regular legislative process. We passed a bill out of the Committee on the Budget. It was referred to other committees and it died, because we did not want to consider it.

The gentleman from Kansas [Mr. SLATTERY] a moment ago talked about accountability. That is what we are talking about.

The gentleman from Wisconsin [Mr. OBEY] and the other appropriators who are concerned about this coming from the President, all you have to do is propose a separate appropriation rescission bill. And if in the wisdom of this body right here the majority agree with you and not the President, we will vote for it. That is all we are trying to do, is we are trying to get a majority vote of the will of the House, not a majority of the will of the Committee on Appropriations on an appropriations bill.

To my colleague who a moment ago said why don't we bring a separate bill on taxes and entitlements? Bring it. Bring it. I will support it enthusiastically. That is exactly what we need to be doing, bringing accountability to this body, and stop this endless blaming between the President and the Congress regarding who is doing what.

The gentleman from Kentucky very accurately stated the work of the Committee on Appropriations. None of us are concerned about that. It is the total work of this body collectively, and the other end of Pennsylvania Avenue, that we are concerned about, and we believe this modified rescission order process brings accountability to both ends of Pennsylvania Avenue and deals with the top three problems of our Nation: the deficit, the deficit, and the deficit.

That is what we are talking about. Not placing blame. We are talking about an expedited rescission bill to be tried for 2 years. If it does not work, change it to where it will.

Unlike the line-item veto, expedited rescission proposals preserve the power of congressional majorities to control spending decisions. Expedited rescission does not give the President undue leverage in the appropriations process because funding for the program will continue if a simple majority of either House disagree with him.

This bill will not change the balance of powers between the branches, but will increase the accountability of both branches. No longer will a President be able to escape responsibility for government spending by simply blaming Congress for giving him a choice between accepting wasteful spending or shutting down parts of the government by vetoing an entire appropriations bill. No longer will a President be able to hide behind antispending rhetoric without taking action. This bill says to the President: If you are serious about cutting spending, provide leadership by making reasonable recommendations of spending to cut and convince a majority of Congress that the spending should be eliminated.

This bill will also increase the ability of this body to review individual spending programs. As we all know, the fact that a program was included in a larger appropriations bill that was passed does not in any way mean that the majority of Congress approved of that program. For example, when Congress passed the agricultural and rural development appropriations bill in 1990, the majority of the Members did not endorse spending on Lawrence Welk's home. Requiring a second vote on individual items included in a omnibus appropriation bill is a reasonable response to realities of the legislative process.

Again, I urge my colleagues to support this small, reasonable reform of the spending process.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I just take this time to point out we are not just talking about projects that some people like to call pork barrel projects. We are talking about whole departments.

For the last several years, for example, the Presidents have sent up budgets that zeroed out Amtrak. They sent up budgets that zeroed out the Legal Services Administration, EDA, Juvenile Justice, a number of whole programs.

Now, if you do not want Amtrak, you can vote against it in the appropriations bill. But after we have passed the appropriations bill under this process, the President could send up a rescission for Amtrak and you have to go through another whole process or stop the trains, I guess.

Mr. CARPER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Chairman, I would ask, under the provisions of this bill, if the President signs in this case a transportation appropriations bill, sends back a rescission to eliminate funding for Amtrak, all we do in the House of Representatives is vote up or down. If a simple majority of us want to restore funding to Amtrak, we simply vote a simple majority. Not two-thirds, but a simple majority.

Mr. SMITH of Iowa. Mr. Speaker, Reclaiming my time, as I understand it you have to defeat the President's proposal within 10 days. If you cannot get it within 10 days, it is impounded and the trains might stop, period, right there, until you can get positive action. Is that not right?

Mr. CARPER. Mr. Speaker, if the gentleman will continue to yield, the idea is to compel the House and the Senate to vote.

Mr. SMITH of Iowa. Reclaiming my time, the idea as I get it is to send all the power down to the other end of Pennsylvania Avenue. He can stop the trains in spite of the fact that every district in this country may want a program. This does not just balance up the power; this puts way too much power down at the other end of Pennsylvania Avenue.

Mr. CARPER. If the gentleman will yield further, if we required a two-thirds vote, a two-thirds majority in the House and in the Senate to overturn a President's rescission, I would agree with you. We do not do that here. A simple majority in either the House or the Senate defeats the President's rescission.

Mr. SMITH of Iowa. Mr. Speaker, reclaiming my time, we are not just talking about a few projects, we are talking about whole programs and departments.

The SPEAKER pro tempore [Mr. MAZZOLI]. The Chair wishes to announce that the gentleman from South Carolina (Mr. DERRICK) has 3 minutes remaining, the gentleman from Minnesota [Mr. SABO] has 7 minutes remaining, and the gentleman from New York [Mr. SOLOMON], has 6 minutes remaining.

Mr. SOLOMON. MR. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL], the chairman of our Pork Busters Task Force.

Mr. FAWELL. Mr. Speaker, I commend my colleagues on the other side of the aisle who are sponsoring this bill. I know that the gentleman from Delaware [Mr. CARPER], the gentlewoman from South Carolina [Mrs. PATTERSON], the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. PENNY], and others have been laboring consistently and quietly and trying to do everything possible to see that there is some opportunity to have at least a very modified, enhanced rescission bill. Certainly I look upon this as a relatively weak bill, but it is at least the first step of a 1,000-mile journey toward hopefully someday being able to help us to balance the Federal budget.

Once again, I hear those who are still lamenting, some I hear now, in regard to the passage of any type of line-item veto legislation; the latest defense is we are posing for holy pictures, that this cannot go through, that it is only symbolic; it seems to me the Congress is very petrified about the President having any real bipartisan participation or any kind of participation in the appropriation process. Yet I hear from your side of the aisle continuously that the President is 1,000 percent responsible for all of this Nation's debt and deficit and so forth and so on.

Well, if the President is so responsible for the debt and the deficit—and the debt is now $4 trillion, and the Federal Government pays $300 billion a year just to pay interest on it—then at least do you not think he ought not to be able to have just a little bit of an opportunity to play some part in the appropriation process which results in so much overspending; to suggest to this body that there are certain appropriations identified by line item that constitute wasteful or unnecessary spending which must be bundled in one rescission message? To me that is asking so very, very little. With a simple majority vote, you can turn the President back.

I think the fear that this body has that the President or Pennsylvania Avenue may have, under this bill, extraordinary powers is absurd. They are protecting their own special interests. Their fear is misplaced. Their fear ought to be in regard to the growing national debt and the annual deficits that we are piling onto our children and our grandchildren to ultimately pay. We resist like an alcoholic anything that would modify any of Congress' power to spend. Congress is like an alcoholic being denied his power to drink himself to death. Congress feels it has got to continue to imbibe in overspending.

One of these days I expect somebody over there will snap and say "Stop me before I spend again."

This bill is such a mild suggestion, that maybe this monstrous turnabout that Congress must go through can begin by just this little bit of a turn—now.

It is not asking very much. We are not talking only about pork, as the gentleman from Iowa [Mr. SMITH] did say. I would agree with the gentleman there. We are talking about being able to take the first toddling step to save this Nation from the senseless, profligate overspending that just seems to go on and on and on. We resist like an alcoholic, I repeat, even the mildest of medicine.

□ 2010

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding time to me.

In light of the previous comment, I would simply like to make this point: No Congress since Harry Truman has ever been able to change any President's budget by more than 3 percent. So let us not suggest that somehow Congress is responsible for those deficits.

The Congress has rolled through the budgets that every President has asked for virtually untouched. The problem is not that the Congress has stood up to Presidents; the problem is that they have not.

Mr. FAWELL. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Speaker, here is the opportunity. We have not been successful. We have an opportunity now to join in a bipartisan effort to do some cutting. We are in control. A simple majority will stop the President from doing this.

Mr. OBEY. Mr. Speaker, with all due respect, we have done the cutting. We have done more cutting than the President has asked for. We are simply trying to maintain the integrity of the process.

Mr. FAWELL. Mr. Speaker, if the gentleman will continue to yield, we have not done the cutting that people are asking for. We cannot compare ourselves to the President. We must compare ourselves to what the people expect of us.

Mr. OBEY. Mr. Speaker, this does not do anything about that.

Mr. FAWELL. Mr. Speaker, it gives us the opportunity; the opportunity is there, if we want to take it.

Mr. OBEY. Mr. Speaker, it is a phoney opportunity.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Speaker, today we have an opportunity to bring honesty and accountability to the Federal budget process. I rise in strong support of H.R. 2164.

First, I must commend my colleagues Mr. CARPER, Mr. STENHOLM, Mr. JOHNSON, and my friends across the aisle. Because of this bipartisan, cooperative approach, we are able to stand here together and craft worthy public policy. This bill that we support today gives the President and the Congress the opportunity to cut wasteful spending.

Over the past several months, we have heard much discussion on what language a line-item rescission bill, a statutory line-item veto bill, should contain. This open debate has been useful in bringing the issues of wasteful spending to the forefront. But the time to act is now.

This bill in no way diminishes either the President's or the Congress' current authority. It sets out the guidelines for expedited line-item rescissions, and requires a vote on the proposed rescissions.

H.R. 2164 makes sense. Within 3 days of signing an appropriations bill, the President may submit a rescission proposal to Congress. The President may line-item out 100 percent of unauthorized programs, and 25 percent of authorized programs. Within 10 days, Congress has to vote on the rescission message. The funds are not spent until Congress votes. Finally, this bill sunsets in 2 years.

Some will say that this is not strong enough; that the rescission should take effect unless Congress disapproves it. The fundamental denominator is that there will be a vote on what the President decides to line-item out. The importance of this was highlighted by President Bush in his Budget for the United States Government for Fiscal Year 1993, where he supported "legislation to enhance the existing rescission procedures by requiring an up-or-down vote in Congress on Presidential rescission proposals."

Some will think that this gives the President too much authority. However, H.R. 2164 does not surrender the power of the purse to the executive branch. Under this bill, Congress must approve the rescission.

With a $352 billion deficit, and a $4 trillion debt, we cannot afford to ignore any suggestions for spending cuts. While this bill will not cure our financial ills, it will provide us with a tool to help reduce the deficit.

H.R. 2164 has been cosponsored by 226 Members of the House, both Republicans and Democrats. We are doing something right. This bill is also supported by Citizens Against Government Waste, Citizens for a Sound Economy, the National Taxpayers Union, National Association of Manufacturers, the National Grange, the Helicopter Association International, the National Independent Dairy Foods Association, and the U.S. Business and Industrial Council.

I strongly urge my colleagues to support H.R. 2164.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair advises that the gentleman from Minnesota [Mr. SABO] has 6 minutes remaining, the gentleman from New York [Mr. SOLOMON] has 3 minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 2 minutes remaining.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am always sort of intrigued by these discussions. It always leaves me a little bewildered at times, as a member of the Committee on Appropriations, on what we should be doing, particularly whenever I hear from Members who would appear to say that we should not be appropriating for unauthorized programs, and then we get letters from those same Members thanking us for the dollars that were appropriated to the unauthorized programs. At times I wonder why they ask for it, say "Thank you", and then complain about appropriating for unauthorized programs.

Maybe the gentleman from Delaware can explain it. Let us be clear about one thing here. We are talking about trying to fix a process that is not broken and pretending we are doing something.

Since 1974, Presidents have requested approximately $69 billion in rescissions. The Congress has approved $71 billion of rescissions, $2 billion more. Just this year, 1992, the President requested about $7.9 billion of rescissions. The Congress rescinded $8.2 billion in one bill alone.

So if my colleagues think the issue is the discussion of the deficit and spending, it is not. It is just simply that some Members do not like the fact that the power exists in the Congress to take the appropriate recommendations of a President, consider them and, in many instances, modify them.

Mr. FAWELL. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Speaker, I do want to point out that the rescissions this year were brought about by the Presidential rescissions, and for the first time we actually went ahead and those were filed. And there was a bipartisan coming together.

Mr. SABO. Mr. Speaker, is the gentleman from Illinois suggesting this is the first time the Congress has responded to a request by the President and passed rescissions?

Mr. FAWELL. Mr. Speaker, if the gentleman will continue to yield, I am pointing out that this year that was the case and that previous years, as a practical matter, most of the rescissions were rescissions that would have been given anyway because they had lapsed and they were rescissions that did not hurt at all.

The Presidential rescissions, when he makes those requests, we hardly ever specifically rescind what he is asking for.

Mr. SABO. Mr. Speaker, since 1974, rescissions of $69 billion were requested by the President, and $71 billion was rescinded by the Congress. It is clear that the issue involved here is not the deficit. It is not spending. It is about a little bit of power between this branch and the executive.

Fundamentally and most important, it is pretending we are doing something, before an election, on a major national problem, when, in fact, we are doing nothing.

The only thing we are doing is sort of tilting the power to the President from the Congress. Why we want to do that for a process that is not broken is beyond me.

Let us have our good time. Let us pretend we are doing something, as we do on many other things. Vote as one wants to vote. It is not going to do anything to deal with the deficit problem. It is not going to fundamentally change the spending patterns in this country.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, to discredit this effort, as the gentleman is doing, I think requires a response of him to this question also on the budget process: Since 1974, this body has waived that Budget Act 630 times through March 1 of this year.

Mr. SABO. Mr. Speaker, let me respond. I do not know what the relevance of that is. We waive it for all kinds of purposes.

Mr. STENHOLM. Mr. Speaker, that is the point.

Mr. SABO. Sometimes we have not passed a budget resolution. Sometimes there are basic ongoing programs that have never been reauthorized. Whatever the reason, it is not the fault of Appropriations which, in total, are usually under the President.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I want to give my colleagues an example of how the President can use this to expand spending. I have cut the President's foreign aid budget by $1.2 billion. We give him this authority, he is going to be able to come to me or any other chairman and say, "Hey, if you don't lay off my foreign budget, if you don't lay off my favorite spending program, I am going to embarrass the hell out of you on whatever you want done most."

It gives the President that kind of power, and that means we give him the power to leverage spending up, not down. I do not think that is a very smart thing to do.

Mr. CARPER. Mr. Speaker, will the gentleman yield?

Mr. SABO. Mr. Speaker, we were very happy we were able to accommodate the gentleman in appropriations bills this year. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Speaker, let me just say, what we really want to do is we had a procedure that worked this year where the President sent a rescission package to the House. We voted. We did not change it. We voted up or down on it, simple majority. We defeated it.

The appropriators themselves prepared their own package that I think better reflected certainly the priorities of our caucus. We voted on it up or down, and we approved it.

Mr. SABO. So the process worked.

Mr. CARPER. Mr. Speaker, if the gentleman will continue to yield, we would like to make that, with this legislation at least, for the next 2 years, the way it works every time.

□ 2020

Mr. SABO. Mr. Speaker, I would say to the gentleman, we have made different choices over the years, since 1974. Collectively we have passed $2 billion more in rescissions than Presidents have asked.

Mr. CARPER. Would the gentleman yield?

Mr. SABO. I can understand why a potential Governor might like this. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Speaker, those of us who crafted this proposal liked the way it worked this year. We simply would like to try it for 2 years.

Mr. SOLOMON. Mr. Speaker, I am very proud to yield 2 minutes to the gentleman from California [Mr. DREIER], a very distinguished member of the Committee on Rules.

Mr. DREIER of California. Mr. Speaker, we have been talking about the 1974 Budget Impoundment Act. Eighteen years ago we saw the President's rescission authority weakened. Since that time there have been 564 rescissions which have basically been ignored by this Congress.

I have to say, Mr. Speaker, that it is important for us to recognize that the gentleman from Minnesota and the gentleman from Wisconsin, my friend, are right. This is not the line item veto. The American people are out there telling me when I am at home, and I know are saying to friends on both sides of the aisle, "We need to implement the line item veto so the President can have the same power that 43 Governors in this country have, the ability to look at a massive appropriations bill," which this institution sends down to his desk and say, "Sign it or veto it." He is given that choice.

The line item veto authority would give the President the opportunity to blue pencil out certain wasteful pork barrel spending programs. That is what the gentleman from New York [Mr. SOLOMON] wants to see us give the President.

My friends on the other side of the aisle are absolutely right, this is not that authority. It is a very small step. The gentleman from Wisconsin [Mr. OBEY] says that it is nothing. I would like to think that this is something, so I do not want our colleagues to believe for a moment that we are in any way implementing that line-item veto authority.

I have heard a number of speeches here from the well and over the past several weeks which might lead constituents to believe that those who are strongly supporting this compromise, and I congratulate my friends on the other side of the aisle who have made an attempt to try and compromise on this, but frankly, I think it is a very poor compromise. I do not believe for a second that it gets at the root of the problem.

Plenty of speeches could be made here in support of this measure saying, "We are implementing what the American people want," and tragically, Mr. Speaker, it is a long way from what the American people want.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] has the right to close, and the gentleman from Minnesota [Mr. SABO] has no time remaining.

Mr. SOLOMON. Mr. Speaker, I yield myself the remainder of our time.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 minute.

Mr. SOLOMON. Mr. Speaker, one of the previous speakers made a statement that the process is not broke.

Well, if it ain't broke, how did we get ourselves in this sea of red ink that is just drowning this Nation? I again have to commend the gentleman from Delaware [Mr. CARPER]. He is a most distinguished Member, and I hope he goes on to great success when he leaves us. We are going to miss him.

I commend the gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. PENNY] and the gentlewoman from South Carolina [Mrs. PATTERSON] and all of the Republicans on this side almost unanimously who support a line-item veto. I am just sorry that this is not the line-item veto.

I want everybody to vote for this bill. It is a step in the right direction, but I want to put everybody on notice that if we are being sandbagged and if some kind of deal has been made over in that other body where there is a bird over there named BYRD, and this bill is going no place over there, I am going to tell the Members, there are going to be problems. We are going to attach a true line-item veto to the last CR of the day that we are going to be here on Monday or Tuesday, and we are going to have, finally, a true line-item veto up or down vote.

I do thank the gentleman from Delaware [Mr. CARPER] for all of his efforts, and we hope this bill successfully passes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMP.

The SPEAKER pro tempore. The Chair would advise the Members to be cautious in their reference to Members of the other body and to follow the House rules.

Mr. SOLOMON. Mr. Speaker, I apologize.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 2 minutes to close debate.

Mr. DERRICK. Mr. Speaker, I yield the balance of my time, 2 minutes, to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, let me begin simply by yielding to the gentleman from Minnesota.

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this proposal could be described as a line-item veto with a majority override. I think it is a good step, and I urge its adoption.

Mr. SPEAKER, I rise in support of H.R. 2164, the Expedited Consideration of Rescissions Act introduced by our colleague TOM CARPER. I want to commend the gentleman from Delaware for his leadership in doggedly pursuing this legislation. I want to also thank the other principals who have pushed for passage of this measure: LIZ PATTERSON, TIM JOHNSON, CHARLIE STENHOLM, JERRY SOLOMON, and DICK ARMEY. Only their diligent work has brought us to this point.

This bill would amend the 1974 Budget Act to establish a process to expeditiously consider Presidential rescissions. After signing an appropriations bill into law, the President would have 3 calendar days to submit to the House a recession message containing all rescissions proposed related to the bill just signed. Under the terms of H.R. 2164, the President is authorized to rescind up to 100 percent of unauthorized appropriations and up to 25 percent of authorized appropriations. The bill would be referred to the appropriations panels in both the House and Senate. The committees cannot substantively amend the bill and must report it within 7 calendar days to the House. Within 10 calendar days of introduction, the House must then vote on the resolution, which is debated for a total of 4 hours and cannot be amended. If a majority of the House votes to approve the resolution, it is sent to the Senate, where a process begins similar to that followed by the House.

If a simple majority in either the House of Senate does not vote to approve the resolution, the rescissions are rejected. But the important point is that we will finally face votes on rescissions. The authors of special interest provisions tucked away in spending bills will have to defend their actions and if a project or projects survive a vote, only then would it go forward. I firmly believe that more times than not, unauthorized and wasteful spending will not survive the light of day and a vote by the Congress.

Some will argue that this legislation transfers too much power to the President. That is simply not the case. Under the legislation, no rescissions go forward unless approved by the Congress. Furthermore, the bill sunsets after just 2 years, so if this is not a workable process, we can review it of let it expire.

This measure, Mr. Speaker and colleagues, is a very modest attempt to put in place a workable process to handle Presidential rescissions. This might be described as line-item veto subject to a majority override in Congress. Frankly, I would support broader line-item veto authority for the President. But this measure is a good start and it deserves the support of every Member concerned about the runaway national debt and our children's future. I urge adoption of H.R. 2164.

Mr. CARPER. Mr. Speaker, I yield to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. I thank the gentleman for yielding to me, and I commend him for his leadership. I rise in strong support of H.R. 2164.

Expedited rescission, as contained in this legislation gives the Congress and the administration a crucial tool in the fight to restore accountability and responsibility to the budget process. We've talked about the need to eliminate wasteful spending. Now we have a way to do it.

H.R. 2164 allows the President to submit one rescission bill per appropriations bill. The President may propose cuts of up to 25 percent in authorized programs; unauthorized programs may be cut up to 100 percent. A majority in either body may reject the proposed rescission. And, we may offer an alternative rescission package to the one offered by the President.

We need this reform. Expedited rescission was considered at the 1990 Budget Summit but not included in the final package. It is past time to make it part of our budget process. Expedited rescission requires us to establish and follow priorities when we spend taxpayers' money. It gives Congress authority to eliminate programs we don't need and can't afford. It will help restore confidence that Congress can discipline itself to spend wisely.

During recent Budget Committee hearings on the state of the economy, three prominent economists all agreed that the best long-term strategy for economic growth is deficit reduction. Expedited rescission alone will not eliminate the deficit. But it will allow us to take aim at the parts of the budget that most need to be cut. Passage of this expedited rescission package sends a clear signal: We are serious about deficit reduction.

I urge all my colleagues to cast their vote for H.R. 2164.

Mr. CARPER. Mr. Speaker, I want to express my gratitude to the Speaker for making it possible for us to debate this measure here this evening and to vote on it. I want to express my gratitude to the gentleman from South Carolina [Mr. DERRICK] for holding the hearing.

For those who have spoken here tonight and have criticized this legislation, I wish they might have been here, and I think they would have heard speaker after speaker, witness after witness, saying there may be some value to expediting rescission powers and urging its adoption.

I want to acknowledge particularly those who coauthored this legislation, the gentlewoman from South Carolina [Mrs. PATTERSON], the gentleman from South Dakota [Mr. JOHNSON], the gentleman from Kansas [Mr. GLICKMAN], the gentleman from Texas [Mr. ARMEY], the gentleman from New York [Mr. SOLOMON], and former Congresswoman Lynn Martin.

Mr. Speaker, let me just say we have witnessed here tonight one of the primary reasons why we need to take a modest step, as this legislation represents. This is a war of words. It has gone on between the executive branch and the legislative branch with regard to rescissions and line item veto powers for years. Presidents say, "We send rescissions. You never vote for them." Congressmen say, "We rescind all the time and it does not amount to anything."

Let us end that kind of debate once and for all, and let the President know that when he sends a rescission message to this Congress, he is shooting with real bullets. We want to make the President accountable, and we want to make ourselves accountable.

This legislation before us has strong bipartisan support. Over half of the House of Representatives has cosponsored it, an equal number of Democrats and Republicans. It is supported by the Speaker, by the administration, and it is supported by the nominee of our party.

It represents incremental change, not a sea of change in terms of power, but incremental change. It is constitutional. It strengthens the authorization process. It provides value for the authorization process. It assures speedy action with respect to Presidential rescissions. They do not drag out for weeks or months, but we act on them in a speedy way. We minimize uncertainty. We do it for 2 years, a 2-year test drive.

Again, I would urge the adoption of this measure.

Mr. ANDREWS of Texas. Mr. Speaker, I rise in strong support of H.R. 2164, the expedited rescission proposal sponsored by Congressman CARPER.

I came to Congress very much opposed to the line-item veto. I have always believed that it would shift far too much power and leverage to the President, unfairly tilting the system of checks and balances between the legislative and the executive branches.

It is no surprise that John F. Kennedy, Jimmy Carter, Ronald Reagan, and George Bush and Bill Clinton have all voiced support for the line-item veto. Can you imagine how a President like Lyndon Johnson could use this provision to his advantage?

President Bush's line-item veto proposal, for example, would effectively shift the congressional power of the purse to the executive branch, allowing for the deletion of any item in any spending proposal and requiring a two-thirds majority vote by the Congress to override the President's veto.

Yet the ability to eliminate wasteful and unjustifiable programs from a large spending bill is attractive. As Nikita Kruschev once said:

> "Politicians are the same everywhere * * * they will build a bridge where there is no river."

Last year's highway authorization bill is a case in point. This bill allocated 35 percent of the $6.5 billion in Federal highway funds available for demonstration projects to only five States, including funding for the following programs: $35 million for a monorail in Altoona; $1.6 million for a state-of-the-art technology project to control rock slides in Lewistown; and $14.2 million to elevate 14 bridges over Molly Ann's Brook.

I am a cosponsor of the expedited rescission proposal because this bill maintains our governmental system of checks and balances while also increasing the accountability of both the executive and legislative branches for reducing the deficit.

The expedited rescission proposal restores accountability to Federal spending practices by allowing the President, with the approval of the Congress, to rescind funding for those programs that are slipped into appropriations bills—such as the renovation of Lawrence Welk's home—without the prior authorization of the Congress.

This bill adds to current law by providing a mechanism for the expedited consideration of those proposed Presidential rescissions that meet its specific criteria, without shifting the balance of power to the President by requiring only a simple majority vote by the Congress to approve or defeat the proposed rescissions.

And lastly, this bill is binding only for 2 years—if it fails to increase spending accountability or has unforeseen consequences, the expedited rescission can be improved or repealed altogether. As I see it, this is one tool to restore fiscal accountability that the Congress cannot afford to pass by.

Mr. GLICKMAN. Mr. Speaker, as you know, the Impoundment Control Act of 1974 established rules to allow the President to rescind funding amounts in appropriations bills with congressional approval. The purpose was to give the President additional authority to check spending. However, the current law is flawed because it does not require congressional consideration of the Presidential rescission messages. If Congress does not approve the rescissions within 45 days, the money is automatically released for use.

There have been very few votes on Presidential rescission messages. I do not believe this process was what Congress intended when it originally passed the law. In the minds of many, the only way to fix the law is to pass a line-item veto amendment. I believe to do that would be a serious breach in the balance of power between the executive and legislative branches as set out in the Constitution. To pass a line-item veto amendment would constitute a major shift of power to the President, something our Founding Fathers clearly wanted to avoid when they gave the power to appropriate money to the Congress.

However, the fact remains that in the eyes of the American people, Congress has proven incapable of taking the budget deficit seriously by refusing to cut spending and by constantly loading down appropriations bills with pork barrel projects. I have heard from hundreds of constituents demanding that the President be given the line-item veto to check congressional excess.

I think a far better, and constitutionally sounder, approach to giving the President more authority to cut spending would be to adopt an expedited rescission policy like the Carper bill. Unlike current law, the Carper bill requires Congress to vote on the President's rescission message within a specified time period. If either body fails to do so, the funds will remain impounded until Congress acts to defeat the President's rescission bill.

Requiring Congress to take the President's spending recommendations seriously will bring some much needed accountability to the appropriations process. Too often, appropriations conference reports arrive in the House loaded down with hometown goodies that were not authorized by either body, forcing Members to choose between voting to fund much needed domestic and defense programs and voting against blatant pork barrel spending. Who can forget the Lawrence Welk fiasco?

Under the Carper bill, both the President and the Congress would have to take responsibility for their spending decisions. Currently, the President can mask the true size of his budget proposals by suggesting spending cuts in all sorts of areas he knows not even members of his own party would support. He doesn't have to worry though, because he knows Congress will never vote on them. So, he can continue to accuse Congress of wasteful spending by ignoring his own proposals. Under the Carper bill, the President will have to consider every rescission choice seriously because Congress will have to vote on them.

Similarly, Members will have to make tough choices about the type of spending they will support. This will put every Member on record showing their level of commitment to unauthorized, pork barrel appropriations or true deficit reduction.

Mr. Speaker, it is past time to put accountability back into the budget process. An expedited rescission policy would ensure that Congress and the President pay more than just lip service to cutting spending. With such a law, we could get on with the serious business of reducing the deficit and the national debt. The American people expect it and deserve it. Vote yes on the Carper bill.

Mr. CONYERS. Mr. Speaker, as chairman of the committee of jurisdiction, I must rise in opposition to H.R. 2164.

This bill affects substantial changes in the timing and scope of Presidential rescissions, and amends the process through which the Congress agrees to or rejects such actions.

Although rule X(1)(j)(1) grants legislative jurisdiction to the Committee on Government Operations over "[b]udget and accounting measures, other than appropriations," H.R. 2164 is being placed before the House under suspension of the rules without going through regular and normal legislative proceedings before our committee.

There has not been one hearing on this measure. H.R. 2164 has not been considered by any Subcommittee of Government Operations. It has not been marked up at either the subcommittee or the full committee level of Government Operations. Nor has any report on this legislation been filed with the House by the Committee on Government Operations.

Yet the House of Representatives is nonetheless going to consider this legislation, which drastically alters the system of checks and balances between the executive and legislative branches of Government.

In addition, on the merits, H.R. 2164 has a number of defects, which should counsel this body to reject it.

First, this bill is based on a false premise—that Presidential rescissions promote greater spending restraint. As a matter of historic fact, it is the Congress, not the President that has led the way in rescissions—nearly $50 billion has been rescinded at the initiation of the Congress, while only $21 billion has been rescinded at the President's request.

Second, H.R. 2164 limits rescissions to 25 percent of appropriated amounts, but only for programs authorized by law. For programs that operate without express statutory authorization, there is no 25-percent limitation. Thus, unlimited Presidential rescissions could affect whole departments such as the Department of Energy, the Department of Justice, the Federal Trade Commission, the Federal Emergency Management Administration, the Nuclear Regulatory Commission, and the Securities and Exchange Commission. This is a matter of grave concern that should be subject to committee review, at a minimum.

Finally, H.R. 2164 opens a potential floodgate that could paralyze the legislative process. The bill establishes extremely short time frames for legislative action on proposed Presidential rescissions. By flooding the Congress with rescission proposals, the President could effectively dictate the legislative agenda. Such a change surrenders congressional prerogatives to the President.

In sum, H.R. 2164 is unwise legislation. I do not believe that the Committee on Government Operations would look with favor on this proposal. I urge my colleagues to defeat this bill.

Mr. SWETT. Mr. Speaker, I rise in strong support of H.R. 2164, and I commend my colleague Mr. CARPER for his leadership in getting this important reform to the floor of this House.

I am one of the bill's 225 cosponsors. I am also one of those who support giving the President full line-item veto authority, and so in that sense it is true that—if it were up to me alone—we would go further than H.R. 2164 will take us today.

But I am nonetheless very proud to support this legislation as a first step in the budget reform process. It will help give our Government one of the tools it will need to grapple successfully with our budget problems. This is a balanced measure; it is a temporary measure. In my judgment, it does not unduly compromise the authority or prerogatives of this body.

The fiscal crisis we face requires new approaches; it requires a willingness to explore different policy avenues in the hope of making progress. We should not be afraid to avail ourselves of new tools and options. Clearly, our budget process is broken, and it does need fixing. Surely that cannot be denied. Why then should we not press forward and—on a trial basis—see if this rescission measure helps. It may not. If so, we have lost nothing, and the legislation will sunset at the end of the next Congress. But if it does help—and I think it will—our constituents and our posterity will thank us for the action we take in approving H.R. 2164.

Mr. Speaker, I strongly urge my colleagues to support this bill. Support it—even if you want a full line-item veto bill—because it's a first, grand step toward that more distant goal. Support it—if you don't support an outright line-item veto—because, if this works, we'll never need a line-item veto. But, either way, please support it.

Mr. CARPER and others have won us this opportunity to match our legislative actions to our words. We dare not waste it. I urge my colleagues to join with me in support of H.R. 2164.

Mr. LEHMAN of California. Mr. Speaker, I rise before my colleagues today to express my strong support for H.R. 2164, the Expedited Consideration of Proposed Rescissions Act of 1992. As a cosponsor of this legislation and a supporter of the Balanced Budget Act, I believe it is critical that we embark on a solid plan to reduce the Federal budget deficit.

It is clearly time for this legislation. We must make both the President and the Congress accountable for spending decisions. I do not think that there is anyone in this body who disagrees with the need to reduce the Federal budget deficit. However, it is difficult to make the tough decisions that will negatively affect people all over the country.

I believe implementing the Expedited Consideration of the Proposed Rescission Act of 1992 will go a long way in bringing our fiscal house in order. This legislation will strengthen accountability in the budget process while preserving the balance of power between the legislative and executive branches. If enacted, H.R. 2164 would allow the President to submit one rescission bill per appropriations bill. In it, the President could reduce unauthorized programs as much as 100 percent and authorized programs as much as 25 percent. Congress would then vote on the President's bill, without amendment. Only a majority, in either body, would be needed to defeat the proposed rescission. Members would be free to introduce alternative rescission bills as well.

Mr. Speaker, as elected public servants, we must be accountable to the people we represent here in Congress. We also must be accountable to the future generations of this country. It is simply unfair to saddle this kind of debt on our children. We must begin to reduce the Federal budget deficit now. Tough choices won't be any easier or any less painful tomorrow than they are today. It is critical that we approve H.R. 2164 and that it be enacted into law expeditiously.

I urge my colleagues to join me today in supporting this enhanced rescission measure. It is timely, it is needed, and it represents good sound policy.

Mr. ROWLAND. Mr. Speaker, in spite of record-high deficits, the Federal Government continues to spend taxpayers' dollars on such things as Belgian endive research and the mating habits of the Japanese quail. No wonder people are so angry. They believe Washington wantonly wastes their money and then imposes more burdens on them to cover the waste. It may not be accurate to blame the Federal budget deficits entirely on pork barrel spending. But nonessential spending has, in fact, played a significant part.

Earlier this session, we in the House of Representatives had an opportunity to do something truly decisive about the budget deficits by enacting the balanced budget amendment. Some critics said this would not be as much of a panacea as its proponents claimed. But it was certainly the strongest budgetary discipline proposed so far. Sadly, it failed by 10 votes.

Today, we have another opportunity to do something about wasteful spending—enact a new procedure for line-item rescissions.

As everyone here knows, rank-and-file Members of the House rarely have an opportunity to debate separate items in the budget that may fit the definition of "pork." The rules seldom permit it. This measure offers us a chance to deal openly with these budgetary items. If we believe an item is worthwhile, this bill gives us an opportunity to keep it in the budget. If an item is shown to be wasteful, we can strike it out. For the first time, pork barrel spending can be addressed in the full light of public scrutiny. This is my understanding of how our representative system of government is supposed to work.

Mr. Speaker, this bill is certainly not the ultimate answer to budget deficits. Eventually, I believe we will have to enact the balanced budget amendment. But it is a big step in the right direction. The House has too often failed to move forward on deficit reduction. Let us not fail again.

Mrs. LLOYD. Mr. Speaker, I rise today in the name of fiscal accountability and responsibility and in the strongest support for the H.R. 2164, the expedited rescission bill.

The gentleman from Delaware [Mr. CARPER] has done an outstanding job in steering this issue through this Congress and I commend him for getting it to the floor before we adjourn. This is an excellent accomplishment for the gentleman to leave us with when he leaves Congress at the end of this session. His dedication will be missed.

Mr. Speaker, H.R. 2164 is not the line-item veto, but it is a more workable proposal for fiscal responsibility for both the Congress and the President. In demanding that Congress go on record in support or disapproval of each rescission package submitted by the President, we are forced to answer for our spending habits. It prompts us to look closely at each rescission bill, make sure projects important to our own Districts are not jeopardized, and vote accordingly.

At the same time, the President, who also wants to appear fiscally conservative, is encouraged to develop fair and workable rescission packages if he is serious about getting them approved.

The time constraints put on the entire process are fair and demand efficient and timely consideration of each proposal so that what is deemed wasteful spending is eliminated quickly and what is needed is moved along without prolonged interruption. Also, if we find that expedited rescission does not work as planned, we can let it expire after next year without reauthorization action.

My colleagues, I hope that all those who support line-item veto can support expedited rescission, it is a modest reform that may prove helpful in reducing the deficit and in making the executive and legislative branch more accountable. I urge its immediate adoption. Thank you.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from South Carolina [Mr. DERRICK] that the House suspend the rules and pass the bill, H.R. 2164.

The question was taken.

Mr. STENHOLM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFERENCE REPORT ON H.R. 707, FUTURES TRADING PRACTICES ACT OF 1992

Mr. DE LA GARZA. Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 707) to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of earlier today.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] is recognized for 1 hour.

Mr. DE LA GARZA. Mr. Speaker, this legislation is a reauthorization of the Commodity Futures Trading Commission. It reauthorizes them for 2 years. It makes some positive changes in the operation. It addresses some of the concerns regarding the trading of futures, and basically this morning we had the last meeting of the conferees on the House side. All of them are in agreement. The minority is in agreement, and I suggest that this is a good conference report for us to adopt at this time.

Mr. Speaker, I am pleased to bring to the floor the conference report to accompany H.R. 707, the Futures Trading Practices Act of 1992.

More than 3 years ago public confidence in the integrity of the futures trading industry was severely shaken as the result of a highly publicized FBI sting operation at the Chicago exchanges. Although the sting operation involved a relatively small number of traders, these abuses tainted the entire industry and brought into question the effectiveness of the Federal oversight of the Commodity Futures Trading Commission [CFTC].

In the aftermath of that investigation, the House Agriculture Committee conducted its own in-depth investigation of the future trading industry.

Following that investigation, the House Agriculture Subcommittee on Conservation, Credit and Rural Development held hearings and developed legislation to address the various shortcomings in current futures trading regulation. This legislation was further refined by the full committee on Agriculture and was approved unanimously—420–0—by the House of Representatives. Unfortunately, similar legislation did not reach the Senate floor during the 101st Congress.

We renewed the drive for new regulatory reform legislation early in the 102d Congress. The House, by a vote of 395–27, again gave its approval to the committee's package in March of last year. And the Senate passed its own version by a substantial margin. Our colleagues in the House and the Senate have given us a strong, clear mandate on the need for regulatory reform.

Mr. Speaker, the thrust of both bills is to strengthen the regulatory framework in order to better deter and especially detect fraud and abuse that may be perpetrated on the floors of futures markets. However, each Chamber took a fundamentally different approach to these issues, and since November of last year the conferees have been trying to hammer out acceptable compromises.

Today I am pleased to present to our colleagues the product of our work—a strong bill that will begin to bring futures trading regulation into the modern age.

Let there be no doubt about the need for this legislation. While the futures exchanges are to be commended for generally improving their own internal oversight against fraudulent trading practices, Congress cannot rely on their good word alone. While the CFTC itself has taken important steps to help ensure that trading on exchanges is fair and orderly, the agency can take its mandate only so far.

This conference report makes amendments to the Commodity Exchange Act that will ensure that the CFTC has the authority and the mandate to more effectively regulate the futures market and better protect investors and the integrity of the futures markets.

We have tried to incorporate the best and most workable provisions in the House and Senate-passed bills. The agreement gives CFTC the powers to effectively crack down on trading fraud and forces exchanges to improve their audit-trail standards.

It also imposes other self-regulation requirements on the futures markets themselves. To ensure that the exchanges of sufficient incentives to guarantee that audit trail improvements are made, the bill provides that in any trading pit which fails to meet the enhanced requirements, the privilege of dual trading shall not be available to its brokers.

Mr. Speaker, the Senate version of this bill included provisions relating to regulatory jurisdiction over complex financial instruments. No similar provisions were included in the House bill and, as a result, the House conferees were called upon to develop positions in this area without the benefit of the normal committee process.

I want to commend our Members for the approach they tock in addressing issues so important to the competitiveness—as well as the safety and soundness—of our Nation's financial system. The provisions adopted in title V of the bill will help secure the competitive position of U.S. financial institutions while maintaining sufficient safeguards to protect against systemic risk and fraud.

The conferees agreed to the Senate provision regarding Federal oversight of margin levels on stock index futures. This provision gives the Board of Governors of the Federal Reserve System authority to review the stock index futures margin levels set by exchanges and order changes if it decides those levels are inappropriate. The provision also permits the Fed to delegate this new authority to the CFTC.

Mr. Speaker, among the most difficult and complex issues that faced the conferees involved the regulatory treatment of certain types of derivative financial transactions, such as swaps and hybrid financial transactions.

The conferees settled on an interim regulatory strategy that essentially gives the CFTC the authority to exempt these types of transactions from regulation as long as they are consistent with the public interest. However, this is an area that the House Agriculture Committee will continue to study and will likely want to revisit in the next Congress.

To give us a hard start in that area, the conferees have directed that the CFTC—in corporation with the Federal Reserve Board and the Securities and Exchange Commission—conduct a comprehensive study of the markets for swap contracts and other off-exchange derivative financial products. It is our hope that such a study will fill in some of the information gaps we now have in the nature of these complex products.

Mr. Speaker, this conference report carefully balances the need to keep our Nation's futures markets competitive in the global market while ensuring that the public interest is served and protected.

The administration and particularly the Commodity Futures Trading Commission have cooperated with us in the development of this legislative package, even though we have had our differences along the way. I want to extend my personal appreciation to CFTC Chairman Wendy Gramm, the other Commissioners and their staff for their assistance.

I want to also thank my House and Senate colleagues who worked long and hard on this legislation. I particularly want to highlight the work and leadership exhibited by the gentleman from Oklahoma [Mr. ENGLISH], who chairs the Subcommittee on Conservation, Credit and Rural Development. The expertise he has developed in this issue area and the wisdom he has shown in helping us finalize the conference report are greatly appreciated. I am also grateful for the cooperation and contribution from our distinguished colleagues from the Committees on Energy and Commerce, and the Committee on Banking, Finance and Urban Affairs.

Mr. Speaker, the popular perception of futures trading in Chicago is that of high-stakes speculators. The reality, though, is futures markets provide a useful price risk management tool for literally millions of people, particularly within our Nation's agriculture-based industries. These people are individual farmers and ranchers, grain elevator operators and feedlots owners, farmer-owned cooperatives, grain companies, and other agribusiness firms.

This conference report strengthens the authority of the Commodity Futures Trading Commission so it can effectively protect the American public and ensure the integrity of the futures markets. I urge adoption of the conference report.

Mr. Speaker, I move to suspend the rules and pass the previous question on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

U.N. CONVENTION AGAINST TORTURE

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6017) to implement for the United States the United Nations Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment.

The Clerk read as follows:

H.R. 6017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

It is the purpose of this Act to enact the necessary legislation to implement for the United States the United Nations Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment.

SEC. 2. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"Torture .... 2340.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date the United States has become a party to the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

□ 2030

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6017 provides the implementing legislation necessary for the United States to complete the process whereby we formally deposit with the United Nations our instruments of adherence to the U.N. Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment.

The bill before us has previously been passed by the House without dissent as part of a broader bill. The same language has also passed the other body in a separate bill. What we seek to do in bringing this measure to the floor now is to make sure that this bill will get to the President as soon as possible so that the United States will retain its full credibility as the leader of a global international effort to end the scourge of torture.

The Torture Convention itself makes torture a crime under international law as we have previously made other activities such as genocide, slavery and piracy. The bill itself amends the United States Code by inserting a new chapter on torture. The chapter permits fines and criminal penalties to be applied to torturers who are U.S. citizens or who are found within U.S. jurisdiction no matter where the torture occurred. The bill defines what is meant by torture and by severe mental pain or suffering. It also protects the applicability of State or local laws.

Mr. Speaker, the bill before us is sponsored by two outstanding legislators who are retiring this year: WILLIAM S. BROOMFIELD, ranking member on that committee and GUS YATRON who has served with distinction as chairman of the Foreign Affairs Subcommittee on Human Rights. All two of these men have contributed in a significant way to the advancement of international human rights.

I urge my colleagues to support this bill.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this bill, which would implement the U.N. Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

I am proud to be an original cosponsor of this legislation—along with Chairman FASCELL and Congressman YATRON, chairman of the Subcommittee on Human Rights and International Organizations. Commendations are due to both Chairman FASCELL and Congressman YATRON for their commitment to this cause.

Mr. Speaker, this bill would create a criminal cause of action in U.S. courts against perpetrators of torture overseas. It would allow the United States to fully implement our responsibilities under the U.N. Convention Against Torture.

This legislation is strongly supported by the administration. I urge my colleagues to give it their support.

Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 6017.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TECHNICAL CORRECTIONS TO U.S. INFORMATION AND EDUCATIONAL EXCHANGE ACT OF 1948 AND FOREIGN SERVICE ACT OF 1980

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6047) to amend the U.S. Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, and other provisions of law to make certain changes in administrative authorities, as amended.

The Clerk read as follows:

H.R. 6047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGES IN ADMINISTRATIVE AUTHORITIES.

(a) RADIO FACILITIES.—Section 235 of the Foreign Relations Authorization Act Fiscal Years 1990 and 1991 (Public Law 101-246) is amended—

(1) by amending the heading of section 235 to read as follows: "CONTINUING CONTRACT AUTHORITY FOR SELECTED VOICE OF AMERICA RADIO FACILITIES"; and

(2) by inserting ", Sri Lanka, Sao Tome, and Kuwait" after "Thailand".

SEC. 2. APPROPRIATIONS AUTHORITIES.

Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476) is amended by adding at the end thereof the following new subsection:

"(f)(1) Subject to paragraphs (2) and (3), funds authorized to be appropriated for any account of the United States Information Agency in the Department of State and Related Agencies Appropriations Act, for the second fiscal year of any 2-year authorization cycle may be appropriated for such second fiscal year for any other account of the United States Information Agency.

"(2) Amounts appropriated for the 'Salaries and Expenses' and 'Educational and Cultural Exchange Programs' accounts may not exceed by more than 5 percent the amount specifically authorized to be appropriated for each such account for a fiscal year. No other appropriations account may exceed by more than 10 percent the amount specifically authorized to be appropriated for such account for a fiscal year.

"(3) The requirements and limitations of subsection (a) shall not apply to the appropriation of funds pursuant to this subsection.

"(4) This subsection shall cease to have effect after September 30, 1993.".

SEC. 3. PROTECTION OF FOREIGN DIPLOMATIC MISSIONS.

(a) Amendment to Title 3.—Section 202(10) of title 3, United States Code, is amended by striking ", pursuant to invitations of the United States Government" and inserting "when such officials are in the United States to conduct official business with the United States Government".

(b) Effective Date.—The amendment made by subsection (a) shall be deemed to have become effective as of October 1, 1991.

SEC. 4. FOREIGN SERVICE RETIREMENT AND DISABILITY.

(a) Contributions to the Fund.—Section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4050(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) the Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amount deducted and withheld from basic salary and amounts contributed by the Department.

"(B) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department.".

(b) Special Contributions.—Section 805(d) of the Foreign Service Act of 1980 (22 U.S.C. 4045) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either section 4045 or 4071e of title 22 and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.".

(c) Mandatory Retirement.—Section 812(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4052(a)(2)) is amended in the first sentence by striking "55" and inserting "57".

(d) Computation of Annuities.—Section 806(a)(6) of the Foreign Service Act of 1980 (22 U.S.C. 4046(a)(6)) is amended by striking "section 5545(a)(2)" and inserting "section 5545(c)(2)".

SEC. 5. BENEFITS FOR UNITED STATES HOSTAGES CAPTURED IN LEBANON.

(a) In General.—Section 599C(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513) is amended by adding at the end the following: "For purposes of this paragraph, any United States hostage captured in Lebanon who was paid a salary or wage in Lebanese pounds in amounts that were not adjusted to compensate for any devaluation of the Lebanese pound that occurred during such hostage's period of captivity shall not be considered to have received a salary or wage from an employer.".

(b) Effective Date.—The amendment made by subsection (a) shall be deemed to have become effective as of the date of enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. Berman] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. Broomfield] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Berman].

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us, H.R. 6047, is a housekeeping bill. It makes limited technical changes to State Department, U.S. Information Agency, and AID administrative and personnel authorities. The bill does not authorize any additional funding, does not contain any substantive provisions, and does not make any policy changes.

Section 1 of the bill extends existing USIA multi-year contracting authority to three new planned VOA radio transmitter construction projects. Section 2 corrects an inadvertent omission in Public Law 102-138, the fiscal year 1992–93 Foreign Relations Authorization Act, to relax line-item authorizing constraints on appropriations. Section 3 corrects a drafting error in the same act which had led to misinterpretation of statutes providing for reimbursement of State and local governments for foreign VIP visit costs. Section 4 corrects a technical error in the Foreign Service Act of 1980, so as to allow participation of certain eligible AID employees in retirement plans. Section 5 adjusts statutes providing compensation for United States hostages in Lebanon, so as to factor in exchange rate changes.

Four of these provisions have been requested, and the fifth agreed to, by the executive branch. A provision on housing benefits for employees of international organizations, to which the minority had objected, was deleted from this bill prior to introduction. It is my understanding that the administration supports passage of the bill, and I urge my colleagues to do so as well.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the core provisions of this bill, which affects the operations of the Department of State and the U.S. Information Agency. The basic changes contained in this bill have either been requested by the administration, or agreed to by them.

I do wish to make one clarification, however: It is my understanding that reimbursements to local governments for enhanced protection of visiting foreign officials under section 3 would apply only when the visiting officials are in the United States primarily to conduct official business with the U.S. Government. The other existing criteria must also be met—such as the city having 20 or more consulates or diplomatic facilities. If a foreign official is visiting at the invitation of the local government, then the local government should be responsible for the additional expenses.

It should be recalled that last year's conference report on the Foreign Relations Authorization Act for Fiscal Years 1992 and 1993, stated on this issue: "The conferees intend that future claims should be based on written commitments agreed to in advance."

Mr. Speaker, I wish to thank the chairman of our Committee, Dante Fascell, for his willingness to work out differences on these items, and to accommodate administration requests. His actions continue to reinforce the principle that partisanship and politics stop at the waters edge.

I urge passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. BERMAN] that the House suspend the rules and pass the bill, H.R. 6047, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RED CROSS AND RED CRESCENT RECOGNITION OF MAGEN DAVID ADOM

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 223) expressing the sense of the Congress that the International Red Cross/Red Crescent Movement should include Magen David Adom as a legitimate national society of that movement.

The Clerk read as follows:

H. CON. RES. 223

Whereas Magen David Adom performs the humanitarian functions of other national societies of the International Red Cross/Red Crescent Movement;

Whereas Magen David Adom is still not a full partner in the International Red Cross/Red Crescent Movement;

Whereas the refusal of the international community to recognize Magen David Adom indicates the intensity of hostility faced by Israel in the world community;

Whereas the recognition by the international community of the humanitarian role played by Magen David Adom would provide additional impetus to the Middle East peace process;

Whereas the American Red Cross Board of Governors has approved and begun implementation of a resolution recognizing Magen David Adom as a constituent member of the International Red Cross/Red Crescent Movement;

Whereas the American Red Cross, working with the International Committee of the Red Cross and in cooperation with Magen David Adom, has established the Holocaust and War Victims Tracing and Information Center to assist holocaust survivors in learning about the fate of loved ones; and

Whereas the American Red Cross has worked to promote cooperation between Magen David Adom and other national Red Cross/Red Crescent societies: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the International Red Cross/Red Crescent Movement should include Magen David Adom as a legitimate national society of the International Red Cross/Red Crescent Movement;

(2) the Star of David should be recognized as a legitimate symbol of humanitarian concern when utilized by Magen David Adom; and

(3) all other national societies of the International Red Cross/Red Crescent Movement should take the example of the American Red Cross and support full membership of Magen David Adom in the International Red Cross/Red Crescent Movement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I begin I want to thank Chairman FASCELL, Chairman HAMILTON, and Chairman YATRON for moving so expeditiously on this resolution in the Foreign Affairs Committee. I appreciate your help and am very sorry to see Mr. FASCELL and Mr. YATRON leave Congress at the end of this year. I have thoroughly enjoyed working with you on the committee and wish you the best in your endeavors in the future.

Mr. Speaker, I introduced this resolution because I feel that it is completely unfair that the international community has not recognized Magen David Adom as a legitimate National Red Cross Red Crescent Society. It carries out the functions of any other Red Cross Red Crescent National Society, but has never been recognized by the International Committee of the Red Cross.

The obstacle to full acceptance in the Red Cross movement is basically a simple one. Magen David Adom wishes to use the red shield of David as its symbol of humanitarian concern instead of the red crescent or the red cross. However, the Geneva Conventions do not recognize the red shield of David. Originally only the red cross was recognized as an emblem to be carried by voluntary medical personnel. In 1876, the Turks announced that the red cross wounded the sensibilities of the Muslem soldier, and that they would employ a red crescent as their symbol of humanitarian concern. In 1929, the red crescent was officially recognized by the signatories of the Geneva Conventions as was the red lion and sun, the symbol utilized by the Iranians until 1980.

Despite these efforts to accommodate countries who were not comfortable employing the red cross, the international community did not take similar steps after Israel declared its independence in 1948. In fact in 1949, a diplomatic conference which had the authority to add humanitarian symbols chose not to add the red shield of David despite efforts by the Israeli Government. In 1974 another diplomatic conference was held and again Israel wished to add the red shield of David as an official symbol for Magen David Adom, but withdrew its proposal because of strong international opposition particularly from countries who refused to recognize Israel's existence.

My resolution calls on the international community to take whatever steps are necessary to resolve this unfortunate situation. At a time when Israel's neighbors are at last pursuing a peace process, recognition of Magen David Adom and its symbol, the red shield of David, would be an important confidence building measure similar to the revocation of United Nations General Assembly Resolution 3379, equating Zionism with racism.

While the international community has not recognized Magen David Adom, the American Red Cross has enthusiastically endorsed inclusion of Magen David Adom in the International Red Cross/Red Crescent movement. In 1990, the American Red Cross adopted a resolution designed to bring Magen David Adom into closer cooperation with the rest of the Red Cross/Red Crescent movement. Cooperation between the American Red Cross and Magen David Adom has included the establishment of the Holocaust and War Victims Tracing and Information Center to assist Holocaust survivors in learning about the fate of loved ones.

I drafted House Congressional Resolution 233 with the assistance of the American Red Cross and it has supported its passage. I urge my colleagues to support this resolution and to help end this injustice.

□ 2040

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution expresses the sense of Congress that the International Red Cross/Red Crescent Movement should include Israel's Magen David Adom as a national society of that movement. I support the resolution and commend Congressman ENGEL for his sponsorship.

The improved atmosphere in the Middle East should be reflected in all aspects of the Arab world's relationship with Israel. Now is the time to take politics out of the international effort to provide humanitarian assistance to the needy around the world. Israel's Magen David Adom is a legitimate humanitarian relief movement and deserves to be a full partner in the International Red Cross/Red Crescent Movement.

In addition, the Star of David should be recognized as a legitimate symbol of humanitarian concern when utilized by Magen David Adom. It is only natural that a country should have the right to use the symbol of its choosing for international humanitarian relief efforts.

The American Red Cross is to be commended for working to promote cooperation between Magen David and other national Red Cross/Red Crescent societies and for approving a resolution recognizing Magen David Adom as a member of the international humanitarian movement.

During this period of great hope and promise in the Middle East, I believe that it is time for all national societies to support full membership for Magen David Adom in the International Red Cross/Red Crescent Movement. Such a step will help show Israelis that the Arab world is sincere in seeking a working relationship with the Jewish state.

I urge my colleagues to join me in supporting this resolution.

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 223, a resolution expressing the sense of the Congress that Magen David Adom should be accorded the same status as other organizations of the International Red Cross/Red Crescent Movement. Permit me to commend our colleague on the Foreign Affairs Committee, the gentleman from New York [Mr. ENGEL] for his outstanding work on this measure.

Since its inception, Magen David Adom has performed the same humanitarian functions as every other member of the International Red Cross/Red Crescent Movement.

As some of my colleagues may know, the American Red Cross board of governors has approved and begun implementation of a resolution recognizing Magen David Adom as a constituent member of the organization.

Mr. Speaker, it is high time this fine organization is recognized internationally for all the good it has been doing. I accordingly, urge support for this measure.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. ENGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 223, the concurrent resolution now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ENGEL] that the House suspend the rules and agree to the concurrent resolution.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

COMMENDING PERSONS WHO ASSISTED JEWS DURING THE HOLOCAUST

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 538) commending the heroic individuals who acted to rescue Jews during the Holocaust and the Jewish Foundation for Christian Rescuers, which perpetuates the altruism and moral courage of such individuals.

The Clerk read as follows:

H. RES. 538

Whereas, during the period from 1941 to 1945, Adolph Hitler and the Nazi leadership of Germany implemented a massive genocide against the Jewish people;

Whereas the implementation of the genocide, which is referred to as the Holocaust, resulted in the tragic deaths of more than 6,000,000 Jews from throughout Europe;

Whereas Jewish men, women, and children were taken from their homes and sent to gas chambers and death camps during the Holocaust;

Whereas Jewish individuals were hunted down by the Nazi regime and its collaborators during the Holocaust;

Whereas, in regions controlled by the Nazis during the Holocaust, laws forbade an individual from assisting, hiding, or concealing knowledge of the whereabouts of a Jew;

Whereas the punishment for violating such laws was death;

Whereas courageous individuals throughout Europe ignored such laws and followed their consciences in order to save Jews from deportation and death;

Whereas, in many instances, such courageous individuals put the lives of complete strangers ahead of their own lives in the name of humanity;

Whereas many of such courageous individuals, who are heroes, are still living in the United States and elsewhere; and

Whereas the Jewish Foundation for Christian Rescuers, which is a project of the Anti-Defamation League, working in consultation with Yad Vashem, which is the Holocaust Martyrs' and Heroes' Remembrance Authority in Israel, assists approximately 1,000 of such courageous individuals who are in financial need and endeavors to inculcate in the people of the world the altruism and moral courage exemplified by such courageous individuals: Now, therefore, be it

Resolved, That the House of Representatives commends—

(1) the countless heroic individuals who acted at great personal risk to save Jews from death in concentration camps and gas chambers during the Holocaust for—

(A) placing humanitarian principles before personal safety; and

(B) protecting human beings from extreme acts of inhumanity in the face of the acquiescence in such acts by many others throughout the world; and

(2) the Jewish Foundation for Christian Rescuers for its inspiring and compelling work in recognizing, honoring, and encouraging the people of the world to show the altruism and moral courage of such heroic individuals.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 538, commending those heroic individuals who acted to rescue Jews during the Holocaust and urge its immediate adoption.

Mr. Speaker, this resolution, authorized by our distinguished colleague from New York Mrs. LOWEY, recognizes the moral courage of those men and women who, at great personal risk, acted to save their Jewish friends, neighbors and, in some cases, total strangers from the Nazi terror. These individuals transcended religious or ethnic differences to rescue Jews from deportation and death. By their noble actions, they demonstrated the bond of humanity we all share. It is a tragic commentary on those horrific times that more non-Jews did not act to save the lives of their fellow man and that acts of common decency became extraordinary deeds.

The example set by those who rescued Jews from the gas chambers and concentration camps is one of altruism to which we should all aspire and which has direct relevance for our lives today. In these troubling times of ethnic cleansing in Bosnia, of clan warfare in Somalia, of religious persecution in Tibet, indeed, of racial intolerance in this country, the example of compassion for one's fellow human beings set by these men and women deserves to be emulated. Today, nearly 50 years after the Holocaust, it is important to remember that thousands of people all over the world are at risk of losing their livelihoods, if not their lives, simply for belonging to the wrong race, or religious or ethnic group.

It is fitting that the House of Representatives pay homage to these heroes of the Holocaust during the observance of the Jewish high holy days, a time for atonement of sins and affirmation of life. Let each of us atone for the sins of omission we commit when we neglect to defend the rights of those who differ with us or are different from us. Let us reaffirm our commitment to do all that we can to end ethnic, racial and religious intolerance. By doing so, we protect not just those around us but our own humanity and self-interest.

Mr. Speaker, the words of Protestant Pastor Martin Neimuller, who lived through the Holocaust, are particularly appropriate. He said: "When Hitler attacked the Jews, I was not a Jew, therefore, I was not concerned. And when Hitler attacked the Catholics, I was not a Catholic and, therefore, I was not concerned. And when Hitler attacked the unions, I was not a trade unionist and I was not concerned. Then, Hitler attacked me * * * and there was not one left to be concerned."

I commend Representative LOWEY for her efforts to bring this important issue to our attention and to pay tribute to these truly heroic individuals. I urge unanimous adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution commends those individuals who rescued Jews during the Holocaust and highlights the excellent work of the Jewish Foundation for Christian Rescuers. I support it, and wish to praise the efforts of Congresswoman LOWEY, the principal sponsor.

When Americans hear about the Holocaust they are shocked that such a tragedy could have occurred. They ask why other human beings did not do more to rescue European Jews. Thankfully, some good men and women did stand up and do what was right.

These individual rescuers showed compassion and human decency toward others during that nightmare of Nazi persecution. In bravely saving Jews from death or deportation, they put their own lives in danger. Fortunately, many Jews were able to escape as a result. The efforts of those Christian rescuers should be known and honored as a model of human behavior under difficult circumstances.

House Resolution 538 commends the many heroic individuals who saved Jews and other victims of Nazi persecution from the concentration camps. It also calls to our attention the important work of the Jewish Foundation for Christian Rescuers in saluting the courage of these heroic individuals. The Jewish Foundation for Christian Rescuers now lends a helping hand to assist about 1,000 Christian rescuers who need assistance in their twilight years.

We must never forget the Holocaust nor those who stood up for what was right during that time. I urge my colleagues to join me in supporting this resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 2050

Mr. ENGEL. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York, Mrs. LOWEY.

Mrs. LOWEY of New York. Mr. Speaker, I rise in strong support of House Resolution 538, and I would like to extend my gratitude to Chairman FASCELL, ranking minority member BROOMFIELD, Subcommittee on Europe and the Middle East Chairman HAMILTON, and ranking member GILMAN, and the chairman and ranking minority member of the Human Rights Subcommittee, Mr. YATRON and Mr. BEREUTER. I also thank the other members of the Foreign Affairs Committee for helping to bring this resolution to the floor.

House Resolution 538 commends, for their courageous actions, those individuals who rescued Jews from the tragedy of the Holocaust. During World War II, millions stood by and did nothing as the Nazis slaughtered 6 million Jews. However, there were those who did act, at great personal risk, to save Jews who would otherwise have met their deaths in the Nazi concentration camps. House Resolution 538 honors these silent and unsung heroes who stood up in the face of one of the greatest nightmares of modern history.

The resolution also acknowledges the important work of the Jewish Foundation for Christian Rescuers. This organization has taken on the challenge of finding Holocaust rescuers around the world and providing them support in appreciation for their selfless acts on behalf of humanity. Many of the brave men and women, who put the lives of strangers before their own, now live in very difficult circumstances. The foundation seeks them out and lets them know that their courageous deeds are not forgotten.

The Acts of the rescuers fifty years ago should serve as examples to all of us and to future generations. Their courageous acts are an eloquent testimony to the capacity of the human spirit to stand up against overwhelming odds to do what is right and what is just. Many of these inspiring individuals refuse to take credit for their miraculous deeds because they feel that they did what every thinking, caring human being should have done. But, in spite of their own humility, they do deserve our thanks and appreciation.

Let me tell my colleagues about three of the heroines that this resolution honors. Dr. Tina Strobos of Larchmont, NY, rescued over 100 Jews in her native Netherlands. She was just 19 years old when she and her mother first began hiding Jews in their attic. Despite the danger to their own lives, they refused to turn away Jews trying to escape certain death at the hands of the Nazis.

Two others, Julia Schweder and her daughter, Elizabeth Schweder Szak, of Queens, NY, were rescuers in their native Hungary. They lived in an apartment building that was filled with Nazi officers. Still, they not only hid Jews in their apartment, but they also bribed officials to take food to Jews trapped in the Budapest ghetto.

There are countless stories of this type of heroism. The stories are moving and touching to all who read them. At times like these, when crimes rooted in hatred and bigotry have been on the rise in our own Nation, it is important that we all be reminded of the courageous acts of these individuals in the face of the horrors of the Holocaust. Their deeds should serve as inspiration to all of us to stand up and speak out against all forms of bigotry, intolerance, and hatred today.

There is a Hebrew saying, "He who saves one life, saves the universe." These rescuers have saved the universe many times over. I hope all of my colleagues will join me in approving this resolution.

Mr. GILMAN. Mr. Speaker, I rise in strong support of the measure now pending before us. House Resolution 538, introduced by our colleague, Congresswoman LOWEY, expresses the sense of the House of Representatives that those individuals who acted to save Jews during the dark years of the Holocaust be commended for their heroic acts. Accordingly, I am pleased to be a cosponsor of this legislation.

House Resolution 538 also lauds the Jewish Foundation for Christian Rescuers, which persists in its efforts on behalf of this noble ideal. Fifty years ago, the world was engulfed in madness. Adolf Hitler and his collaborators brought with them a unique brand of hatred that spread across the European continent. Slowly, yet methodically, laws were adopted and regulations promulgated which not only stripped Jewish citizens of their rights, but created numerous ghettos across the continent, and ultimately saw the construction of chillingly efficient concentration and death camps.

Ultimately, Mr. Speaker, more than 6 million innocent men, women, and children perished in the Holocaust. Precious few individuals were willing to risk their lives on behalf of their fellow human beings. However, even in the midst of the hell that was Europe, some men and women with the moral fortitude to act did what they could to save Jewish lives. Many of these have been honored at the Holocaust Museum in Jerusalem in the Garden of Righteous Gentiles. The Jewish Foundation for Christian Rescuers perpetuates the selflessness and courage with which these individuals acted, and is to be commended for its ongoing efforts. Accordingly, Mr. Speaker, I urge my colleagues to lend House Resolution 538 their unqualified support.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. ENGEL] that the House suspend the rules and agree to the resolution, House Resolution 538.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

CONCERNING THE SITUATION IN SOMALIA

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 370) concerning the humanitarian crisis in Somalia.

The Clerk read as follows:

H. CON. RES. 370

Whereas violence, anarchy, and starvation continue to escalate in Somalia;

Whereas there have been more than 100,000 deaths by starvation and approximately

2,000,000 people face death from starvation and disease as a result of drought, famine, and civil war;

Whereas one-fourth of all Somali children under the age of five have perished and three out of four of the remaining young children are still in danger of dying;

Whereas a 95 percent malnutrition rate and a 75 percent severe malnutrition rate currently exist in Somalia;

Whereas hundreds of thousands of Somalis are refugees or internally displaced;

Whereas a state of almost total anarchy has existed for 19 months, following the overthrow of the Siad Barre dictatorship and the subsequent civil war between various Somali clans, during which period the government has ceased to exist—no police, no army, no health ministry, no schools, and no civil administration of any kind;

Whereas Somali warring factions have disrupted international relief efforts, attacked convoys, stolen food and medical supplies, and injured and killed relief workers;

Whereas the safety of relief workers and people seeking care must be assured during periods needed to provide medical and feeding services;

Whereas Somali leaders have been unable or unwilling to exert control over those responsible for the clan, subclan, and random violence which jeopardizes relief operations;

Whereas the process of peace negotiations should not be permitted to delay resolution of the obvious security problems that prevent relief operations; and

Whereas President Bush recently welcomed the call of the Secretary-General of the United Nations for a new agenda to strengthen the ability of the United Nations to prevent, contain, and resolve conflict across the globe: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the President should—

(1) express to the United Nations Security Council the desire and the willingness of the United States to participate, consistent with applicable United States legal requirements, in the deployment of armed United Nations security guards, as authorized by the Security Council, in order to secure emergency relief activities and enable greater numbers of international and Somali organizations and people to provide relief and rehabilitation assistance;

(2) express to the United Nations Security Council that the exigency of the crisis in Somalia warrants authorization by the Security Council of the deployment of United Nations security guards even in the event that an invitation by the various warring Somali factions cannot be obtained;

(3) encourage discussion of alternative strategies for solving the political crisis in Somalia;

(4) support the United Nations-sponsored relief coordination conference for Somalia scheduled for mid-October 1992; and

(5) make every effort to ensure that adequate United States financial support exists for the United Nations to carry out its humanitarian and peacekeeping/peacemaking mission in Somalia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 370, concerning the humanitarian crisis in Somalia.

Mr. Speaker, the world, after much delay, has begun to give needed attention to the almost unbelievable suffering in Somalia. As most of us know by now, it is one of the worst humanitarian crises the world is faced with today. Brutal and senseless killings continue and the gross abuse of the most basic human rights of the Somalia population by all the warring factions is a factor of everyday life. Despite the courageous efforts of relief officials, the reality is that many people continue to die. Food is not getting to those who need it most.

Mr. Speaker, the United Nations has begun to deploy humanitarian security guards to assure relief gets to those in need. This process must be speeded up.

Mr. Speaker, the resolution urges the President to: First, express to the U.N. Security Council the desire and the willingness of the United States to participate in activities authorized by the Security Council to enable relief supplies to reach the needy; second, express to the Security Council the need for additional deployment of security guards; third, encourage discussion of alternative strategies for solving the crisis, and; fourth, make every effort to ensure adequate U.S. support exists for the efforts of the United Nations.

Mr. Speaker, throughout the long years of the cold war, Somalia and the rest of the Horn of Africa were of strategic importance to the United States. I believe we have a specific moral obligation to assist the people of Somalia in this time of need. We can do this best by working through the United Nations. United Nations Secretary General Boutrous-Ghali, his special envoy for Somalia, Ambassador Mohammed Sahnoun, and the relief agencies working in Somalia need our support.

Mr. Speaker, every day we open the newspaper and we see the dying women, the dying children, and the dying men, and it certainly is something that makes our hearts break. The world cannot continue to sit idly by and watch these poor people starve to death.

Mr. Speaker, this resolution expresses the willingness of the United States to support their efforts. I urge the adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution concerning the ongoing tragedy in Somalia. I commend Congressman JOHN LEWIS for sponsoring this timely legislation to help end the suffering of the Somali people.

Two terrible disasters face the international community today. While the horrors of Bosnia dominate the news, the developments in Somalia could take the lives of far more innocent people.

The horrible events unfolding in Somalia have shocked the world. More than 100,000 innocent human beings have already starved, and 2 million more face the same fate. Malnutrition is nearly universal, and hundreds of thousands of Somalis have fled the country or been displaced.

Since the overthrow of the previous regime, only anarchy has ruled in Somalia. Fighting among the various clans has created chaos. The violence has disrupted international relief efforts and compounded the problems caused by drought.

The United States Government has donated about $148 million in assistance to Somalia over the 2 years. President Bush has supported United States and international assistance efforts. Despite the efforts of the international community, still more must be done.

This resolution urges the President to communicate to the U.N. Security Council that the United States would consider participating in the deployment of armed U.N. guards to secure relief shipments. It also encourages further discussion of additional strategies to address the crisis in Somalia, including a high-level conference to coordinate relief efforts. In addition, it calls upon the administration to identify adequate U.S. financial support for U.N. activities.

When historians write the story of how America responded to the challenges of building the new world order, I want them to say that Americans led the way in extending a helping hand to the starving people of Somalia. I urge my colleagues to support this resolution.

□ 2100

Mr. ENGEL. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from New York [Mr. ENGEL] for yielding me this time and for his support on this resolution.

I thank the gentleman from Florida [Mr. FASCELL], the chairman of the full committee, and the ranking member, the gentleman from Michigan [Mr. BROOMFIELD] for all his help and his support in cosponsoring this resolution.

Mr. Speaker, like so many others, I am deeply troubled by the crisis in Somalia. Every day thousands of Somalis are dying of starvation. Dozens of clans are fighting each other. Chaos rules the country.

The situation in Somalia is unlike anything this world has known. There is no government. There is no army or police. Starving refugees roam the country seeking safe haven and food.

It is time for the eyes of the world to turn to Somalia. We must seek solutions. We must find a way to end the crisis. There are no easy answers, but we must get to the starving. We cannot stand by while thousands of people die.

The United Nations is making some progress in Somalia. In some villages, the elders are once again in control. The United States is sending food in by air, by land, and by sea; but we must do more, and we can do more. We must turn our hearts and our minds to solve this problem. We must use and explore new methods, new ways, new means, new techniques in negotiations. We must provide leadership and financial support to the United Nations to solve this problem.

This resolution, House Concurrent Resolution 370, calls on the United Nations to attempt to find new solutions to this crisis. We must devote our energy and our resources to restoring to this country a sense of order, a sense of peace. We must find peace, and I urge all my colleagues to support this resolution.

Mr. ENGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise in support of this resolution which draws attention to the tragedy that is occurring in Somalia.

Earlier this evening, I spoke in support of a resolution honoring individuals who risked their lives to save Jews during the Holocaust. During World War II, millions stood by and did nothing as the Nazis slaughtered 6 million Jews. However, the individuals that my resolution honors did act, and their actions saved many lives.

Today, in Somalia, the famine and decades of civil war raging there have taken a deadly toll. Some 4.5 million people face death by starvation and a sixth of the population of 7 million are refugees because of the brutal violence. AID workers have testified that at least one person is starving to death every minute while heavily armed fighters from rival militias confiscate all the food they can.

Tragically, the world's attention has been diverted by other world events from this catastrophe. And like the millions around the world who did nothing to end the Holocaust, many in the international community are content to "hear no evil—see no evil" when it comes to Somalia.

I commend all who have taken an active part in moving this resolution forward, and I urge my colleagues to prove that the lesson of the Holocaust rescuers still teaches us today.

Mr. GILMAN. Mr. Speaker, I want to thank the chairman, the gentleman from Florida [Mr. FASCELL] and the ranking minority member, Mr. BROOMFIELD, for bringing House Concurrent Resolution 370 to the floor at this appropriate time. In addition, I want to thank the chairman of the Subcommittee on Africa, the distinguished gentleman from California, [Mr. DYMALLY] and the ranking minority member, the distinguished gentleman from Indiana, [Mr. BURTON] for supporting House Concurrent Resolution 370. Their leadership in attempting to resolve the crisis in Somalia and end the bloodbath that has engulfed Mogadishu, has been crucial to the development of the strong bipartisan support for ending the troubles there.

The tragedy facing Somalia continues to be beyond our hearts and minds to grasp. It is estimated that at least 5,000 people are succumbing to hunger and related diseases every day. The problem is not a lack of food but attacks on relief convoys delivering the food in country.

The administration must be commended for its creative approach to ending the fighting by continuing to support meal distribution centers in areas where there is armed conflict. The U.S. Agency for International Development informs the combatants, however, that if they want development assistance such as wells, fertilizers, and so forth, they must end the fighting.

House Concurrent Resolution 370 supports the deployment of armed U.N. security forces to secure emergency relief activities. It also calls for these forces to be dispatched even if the warring factions do not agree to it.

Accordingly, I support House Concurrent Resolution 370 and urge my colleagues to vote for the bill.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise to express the strongest support possible for House Concurrent Resolution 370, a resolution calling for action to respond to the humanitarian crisis in Somalia. But I also want to ask, "How could this tragedy have come to pass?"

The tragedy befalling the people of Somalia mocks virtually all attempts to describe it. Pictures, here, definitely speak louder than words. Today's Washington Post carried such a photo. It showed a desperate mother bathing her rail-thin daughter as they patiently awaited a ration that might extend their lives for yet another day. A picture so grim can only make one wonder why there is other news in the paper.

The accompanying story, which one could barely read after absorbing the shock of that photo, chronicled a deteriorating situation in Somalia. Since we last revisited this crisis in August, with a resolution urging humanitarian relief, the famine, drought, and civil war have been compounded by emerging epidemics of measles, tuberculosis, and hepatitis. These diseases may now be killing more people than the famine itself.

Permit me to try to describe what havoc the famine alone has wreaked. I'll not use my own words, because I couldn't begin to assay the dimensions of the worst humanitarian crisis facing humanity this decade. I will refer instead to a moving and sobering report. "A Journey to Hell," prepared by Jeffrey Clark. Mr. Clark, a former professional staff member of the Select Committee on Hunger, now serves as a consultant to the United States Committee on Refugees—one of the many private voluntary agencies seeking to plug the relief gap created by the breakdown of Somali society and the failure of governmental relief efforts.

I quote from Mr. Clark's report on his recent visit to Somalia which shows there is now:

> Death by starvation of untold hundreds of thousands of Somalis.
>
> A 95 percent malnutrition rate * * * with some 75 percent severe malnutrition believed to exist. There is no precedent of such suffering for a large population in my experience.
>
> A total absence of even rudimentary health care.
>
> Rampant epidemics of the diseases associated with malnutrition, plus malaria and typhoid.
>
> Food in such short supply that it is the currency of the land and thus the spark of much of the violence.

Let me then say a word about how this tragedy unfolded. In analyzing the roots of the tragedy, Mr. Clark upbraids "the stewards of the international humanitarian assistance system that have allowed this horrible situation to deteriorate into a monumental catastrophe of unparalleled dimensions and the toll of suffering to exceed comprehension, let alone forgiveness."

His critique of the breakdown of international relief recognizes the internal causes of the crisis: famine, drought, and lawlessness. But he reserves his most withering criticism for the agencies of the United Nations: "They have failed tragically to meet even their basic responsibilities. The sad U.N. preoccupation with protocol and turf again prevented effective coordination and useful action." These are Mr. Clark's words but they have been echoed by the U.N.'s own officials, including Ambassador Sahnoun, the Secretary General's own special representative in Somalia.

While the main responsibility for Somali suffering lies within and with the international community, we should not absolve ourselves. The United States has dallied in paying assessments to the United Nations, shirked its leadership as one of five permanent members of the Security Council, and delayed in leading the effort to pre-position food and to use our excess military logistical capacity for relief.

True, the United States has done more than most nations. We have supported private relief and we have mounted a military airlift of food and medicine to help stop the suffering. Congress has paid close attention to the Horn of Africa and passed measures to relieve and to prevent suffering in that region.

But our Government has left the main responsibility for famine prevention and relief to the brave and tireless workers employed by such nongovernmental institutions as the International Red Cross. Consequently, we have missed opportunities to prevent needless human suffering. We are still all too prone to fight a cold war now ended with military aid still in excess. Even with tight budgets, we can convert security aid into food aid and humanitarian relief. The precise authority to do that is provided in the Horn of Africa Recovery and Food Security Act, which I sponsored with Mr. WHEAT and Mr. BEREUTER.

The resolution before us today calls on our Government to move full speed ahead in supporting the secure delivery of humanitarian aid. It supports U.S. participation in the U.N. security force now being deployed to ensure that food aid reaches starving people. It endorses adequate relief aid to meet the critical survey needs of millions of people standing on the precipice of extinction.

In conclusion, I can only hope that this expression of solidarity with the people of Somalia will help to push our Government into high gear. We can't afford to wait another day.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. ENGEL] that the House suspend the rules and agree to the concurrent resolution, House Congressional Resolutions 370.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ENGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Congressional Resolution 370, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

U.S. PARTICIPATION IN A CASCADIA CORRIDOR COMMISSION

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6077) concerning U.S. participation in a Cascadia Corridor commission.

The Clerk read as follows:

H.R. 6077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CASCADIA CORRIDOR COMMISSION.

The United States should continue negotiations with the Government of Canada and State, provincial, and local governments in the urbanized Cascadia corridor along Interstate 5/Highway 99 from Vancouver, British Columbia (including Vancouver Island), to Eugene, Oregon, in order to establish a commission to—

(1) act as a forum to coordinate consideration of regional issues in the Cascadia area by representatives from the private sector, nonprofit organizations, and local, State, provincial, regional, and national governments;

(2) develop a strategy for environmentally sound economic development in the Cascadia region which includes consideration of environmental issues, urban development, transportation, communications, and education; and

(3) submit a plan, developed by the commission and incorporating such strategy, to the Congress, the Canadian Parliament, the legislature of British Columbia, and the State legislatures of Oregon and Washington.

SEC. 2. ADVISORY COMMISSION.

The commission should be authorized to function only in an advisory capacity and should have no authority concerning any local, State, or Federal agency or government.

SEC. 3. COMPOSITION OF UNITED STATES DELEGATION.

If the United States and Canada conclude an agreement to establish such a commission concerning the Cascadia region, the United States delegation to the commission should include—

(1) 1 member appointed by the President, who should be a nonvoting member;

(2) a Washington State delegation; and

(3) an Oregon delegation.

SEC. 4. COST-SHARING AMONG U.S. DELEGATION.

Upon appointment of a United States delegation to such a commission, the United States delegation should decide the cost-sharing arrangements among the Federal, State, and local participants of the delegation. Federal Government contributions of the United States may not exceed one-fourth of the total budget of the commission for any fiscal year.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for "International Commissions" for the Department of State for purposes of a commission pursuant to this Act $200,000 for fiscal year 1993 and $200,000 for fiscal year 1994. Amounts authorized to be appropriated by this section are authorized to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6077, concerning U.S. participation in a Cascadia Corridor commission. This legislation urges the President to continue ongoing negotiation with the Government of Canada to establish a Cascadia Corridor commission. The purpose of this commission is to address environmentally sound development and other regional issues in the Cascadia Corridor from Vancouver, British Columbia to Eugene, Oregon. The commission, which would serve in an advisory capacity to Federal, State, and local governments, would submit a development strategy for consideration by the concerned Federal and State Governments.

Mr. Speaker, it is expected that this commission will have little cost to the Federal Government. The legislation provides that the U.S. delegation to the commission would negotiatie cost-sharing arrangements between the Federal, State, and local participants. At no time would the Federal Government bear more than one-quarter of the costs of the commission. The bill would authorize a ceiling of only $200,000 for each fiscal years 1993 and 1994 for this purpose.

I urge the Members to support this legislation.

Mr. BROOMFIELD. Mr Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill authorize U.S. participation in the Cascadia Corridor commission, which is to propose an environmentally sound economic development plan for our Pacific Northwest and the Canadian province of British Columbia. The plan will be submitted to Congress, the Canadian Parliament, the legislature of British Columbia, and the State legislatures of Oregon and Washington.

This approach will help coordinate growth stategies on this region in order to reconcile economic and environmental objectives. I wish to congratulate Congressman JOHN MILLER for his leadership on this bill, and for the hard work he has consistently performed on behalf of his constituents and his region. The House and our committee will certainly miss his energy, his wisdom and his dedication next year.

Mr. Speaker, I urge passage of this bill.

Mr. BROOMFIELD. Mr. Speaker, I yield the balance of my time to the gentleman from Washington [Mr. MILLER], the sponsor of this legislation.

Mr. MILLER of Washington. Mr. Speaker, I thank my colleague, the ranking member, the gentleman from Michigan, for yielding me this time, and I thank him for his kind words. It has been a pleasure to serve with him on the committee.

I want to thank all my colleagues on the Foreign Affairs Committee for helping to bring this bill to the floor, particularly Chairman FASCELL, Ranking Member BROOMFIELD and Congressman BERMAN.

This bill is not only sponsored by myself, it is sponsored by the whole Washington State delegation and by the gentleman from Oregon [Mr. WYDEN].

The concept that this bill advocates is supported by the administration.

Let me just briefly describe for my colleagues the why's and wherefore's of this bill.

The region west of the Cascade Mountains in the Pacific Northwest is known as Cascadia. There is a corridor within that region running from Vancouver, BC, down to Eugene, OR. It is an area of incredible growth. The demographers are predicting that in the next several decades the population growth in that corridor percentage wise may be the greatest on the North American Continent. That comes about in part because of the desirable environment of the area, in part because of the Canadian-American Free-Trade Agreement and other reasons.

Just to give you one statistic, in 1986 the vehicular border crossings at Blaine, WA, in this corridor across the Canadian-American border were 5 million, approximately 5 million. That was 1986.

☐ 2110

In 1992, this year, it is 11 million, and the Customs Office tells me that in the year 2000 they are projecting 28 million. That gives my colleagues an idea of the growth.

However, Mr. Speaker, with that growth there can be tremendous challenge if we are going to preserve and sustain the environment of the Cascadia region. That is what this commission is about.

What we have here is a bill that puts the Federal Government behind setting up an advisory body that would bring Federal, State, provincial, local, officials to the table in a forum to discuss the environmental, transportation, economic challenges in the Cascadia Corridor region and allow them to together propose strategies to meet these challenges.

Mr. Speaker, I thank my colleagues for their help on this, and I ask for a favorable vote.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. ENGEL] that the House suspend the rules and pass the bill, H.R. 6077.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ENGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

EXPRESSING SENSE OF CONGRESS THAT U.S. SHOULD DEVELOP NATIONAL STRATEGY IMPLEMENTING EARTH SUMMIT AGREEMENTS

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 353) expressing the sense of the Congress that the United States should assume a strong leadership role in implementing the decisions made at the Earth summit by developing a national strategy to implement Agenda 21 and other Earth summit agreements through domestic policy and foreign policy, by cooperating with all countries to identify and initiate further agreements to protect the global environment, and by supporting and participating in a high-level U.N. Sustainable Development Commission, as amended.

The Clerk read as follows:

H. CON. RES. 353

Whereas the United Nations Conference on Environment and Development (hereinafter in this preamble referred to as "UNCED"), known as the Earth Summit, assembled in June of 1992 in Rio de Janeiro, Brazil, the largest summit of heads of state in history and outlined a comprehensive action plan for environmentally sustainable development, known as Agenda 21;

Whereas the United States has a strong national interest in the environmental sustainability of global economic development, and many pressing environmental and economic problems are inherently transboundary and not susceptible to resolution by the actions of any single nation acting alone;

Whereas Agenda 21, a plan of national and international actions to integrate environment and development, negotiated and adopted by the United States and 177 other countries, offers a significant starting point for continuing progress in avoiding environmental degradation and social and economic disintegration in the 21st century;

Whereas the role of the United States, as a major economic force and a country that has long been in the forefront of environmental protection activities nationally and internationally, should be one of leadership and positive action in the implementation process of Agenda 21 and all decisions of UNCED;

Whereas Agenda 21 urges all governments to adopt national strategies for sustainable development;

Whereas Agenda 21 urges all countries to "make significant progress" in incorporating environmental costs into economic decisions, to undertake research or sustainable production methods and consumption patterns, and to undertake other actions to make their economies more environmentally sustainable;

Whereas Agenda 21 calls for a "supportive international climate for achieving environment and development goals," by "providing adequate financial resources to developing countries and dealing with international debt," and calls for "the reallocation of resources presently committed to military purposes" to support United States policies and the efforts of developing countries to implement Agenda 21;

Whereas UNCED recommended that high-level United Nations Commission on Sustainable Development (hereinafter in this preamble referred to as the "Commission") be established by the 47th United Nations General Assembly to provide a vital forum in which the member states of the United Nations may review progress made by considering reports from national governments, international organizations, and nongovernmental organizations;

Whereas the United States was an active and positive participant in UNCED negotiations regarding the Commission, and will play a major role in the decisions of the 47th United Nations General Assembly regarding the specific modalities and effectiveness of the Commission;

Whereas the agreements adopted at UNCED are milestones toward the achievement of environmentally sustainable economic development and for holding governments accountable for progress toward integrating environment and development;

Whereas many opportunities for agreements concerning more extensive actions on critical issues remained unresolved at UNCED and will require further attention by the nations of the world; and

Whereas the ultimate success of achieving sustainable development and a healthy environment at the national and international levels depends upon actions taken at the State and local community levels, and on actions by schools, public offices, businesses, and citizens: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) effective follow-up to achieve the many goals of the agreements reached at the United Nations Conference on Environment and Development (hereinafter in this resolution referred to as "UNCED") will depend on the following actions by the President and the United States Government:

(a) The United States should adopt a national strategy for environmentally sustainable development, based on an extensive process of nationwide consultations with all interested organizations and individuals, including State and local governments, nongovernmental organization, businesses, and labor groups.

(B) The United States Government should encourage and facilitate, at all levels of community and sectors of society, appropriate means for adopting individual Agenda 21 plans of action, including the establishment of local, county, State, business, and other boards and commissions for achieving sustainable development. Each member of the Congress should help initiate this process within their States or districts.

(C) The President should establish an effective mechanism to plan, initiate, and coordinate United States policy for implementing Agenda 21. Responsibility should be vested in a duly constituted office, headed by an appropriate high level official, and the necessary staff support structure should be provided.

(D) Policies should be formulated for foreign policy and foreign assistance in order to help developing countries, and for domestic actions in order to assure appropriate action by the United States to implement Agenda 21;

(2) in order to contribute to a transition to a sustainable United States economy, the research and policy initiatives urged in Agenda 21 should be pursued, including research on sustainable consumption and production patterns, creation of a policy framework for sustainable consumption patterns, identification of a strategy to eliminate or reduce subsidies for unsustainable natural resource exploitation, and to improve pricing policies;

(3) the Congress should adopt a plan to reallocate an appropriate amount of savings from reduced defense spending in order to achieve its goals of global environmental protection and sustainable development over the next decade;

(4) the President should urge and actively participate in new and existing multilateral efforts aimed at creating a more favorable international economic climate for developing countries to practice sustainable *development, and such* efforts should include international consultations regarding reduction in developing country debt linked with environmental policy reforms, and increased loans and concessional assistance upon de-

velopment and implementation of national sustainable development strategies in developing countries;

(5) the United States should actively support, at the 47th United Nations General Assembly, the effective establishment of a high-level United Nations Commission on Sustainable Development (hereinafter in this resolution referred to as the "Commission"), including the establishment of provisions for meaningful participation by organizations of the United Nations system, international financial institutions, and other relevant intergovernmental organizations and nongovernmental organizations recommended by UNCED;

(6) the President should affirm strong United States commitment to the Commission by appointing a high-level representative from the United States to the Commission, and by encouraging the United Nations Secretary General to appoint an Under Secretary General for Sustainable Development to coordinate the implementation of Agenda 21 in the United Nations system and *to* head the secretariat support structure for the Commission;

(7) the President should submit a national report for the Commission on activities the United States has undertaken to implement Agenda 21, both domestically and internationally, on progress made toward fulfilling other commitments undertaken at UNCED, and on other environmental and developmental issues that the United States finds relevant, and should strongly encourage all United Nations members to submit national reports;

(8) the United States should *encourage the Commission* to call for periodic international meetings to continue the process toward developing and advancing international agreement to facilitate sustainable economic development for the protection of the global environment and the promotion of human dignity of current and future generations; and

(9) the President should submit an annual report to the Congress on the steps taken by the United States to implement Agenda 21 and the recommendations made by this *resolution, and* should make information regarding such steps available to members of the Congress upon their request.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 353, expressing the sense of the Congress that the United States should assume a strong leadership role in implementing the decisions made at the Earth summit in Rio de Janeiro by developing a national strategy to implement Agenda 21 and other Earth summit agreements through domestic policy and foreign policy, by cooperating with all countries to identify and initiate further agreements to protect the global environment, and by supporting and participating in a high-level U.N. Sustainable Development Commission, as amended.

The Brazil meeting of the U.N. Conference on Environment and Development [UNCED], in June, marked global concurrence on the need to better integrate environmental and developmental activities, and presented a plan to achieve it. Some 175 countries gave their approval to the comprehensive program of action known as Agenda 21. The task now before nations is to implement the precepts of that document, which will be a demanding, yet necessary, endeavor if the world's development is to be viable and endure. Each nation must do its part. The resolution now before the House, House Concurrent Resolution 353, as amended, is an effort to get the U.S. process in gear.

At the outset I would like to commend my distinguished colleague, the chief sponsor of the resolution, the Honorable NANCY PELOSI for her leadership and interest in shaping this very significant measure. It has been 4 months since the Rio summit, and it is very important that Congress show its commitment to effective implementation of the UNCED initiatives.

I also wish to commend the chairman and ranking minority member of the Subcommittee on Human Rights and International Organizations, the Honorables GUS YATRON, and DOUG BEREUTER for their support in expediting consideration of this measure, and their continuing efforts on behalf of environment and development.

The text of House Concurrent Resolution 353, as amended, highlights congressional sentiments on behalf of achieving the UNCED objective of environmentally sustainable development. It recognizes that the ultimate success of UNCED is dependent on actions taken at all levels: international, national, state, local, public, private, and individual. Specifically, it calls for the following:

A national strategy, based on countrywide consultations with a broad diversity of interests, and with efforts to engage all sectors, and levels in the process.

A Presidential plan for coordinating U.S. policy to implement agenda 21;

Formulation of domestic and foreign policies, including foreign aid, to implement agenda 21;

Research on sustainable consumption and production patterns, creation of an appropriate policy framework, and a strategy to cut subsidies which promote degradation of the resource base;

A Congressional plan to reallocate defense savings to environmentally sustainable development;

Active U.S. support at the U.N. General Assembly for the Sustainable Development Commission, including provisions for meaningful participation by other U.N. entities, international financial institutions, and NGO's;

Presidential affirmation of a strong U.S. commitment to the Commission by appointing a high-level American to that body, and by encouraging the U.N. Secretary General to appoint an Under Secretary General for Sustainable Development to coordinate and implement Agenda 21;

Submission of a national report, by the President, on U.S. domestic and international activities, to implement agenda 21, fulfill other UNCED initiatives, and encourage other nations to also submit national reports; and

An annual report to Congress on measures to implement agenda 21, and the recommendations of this resolution.

Mr. Speaker, I urge the adoption of House Concurrent Resolution 353, as amended.

Mr. Speaker, I yield such time as she may consume to the sponsor of the resolution, the gentlewoman from California [Ms. PELOSI], to explain the resolution.

Ms. PELOSI. Mr. Speaker, Mr. FASCELL, Mr. BROOMFIELD, Mr. YATRON, Mr. BEREUTER, and members of the Foreign Affairs Committee, are to be commended for their efforts to expedite consideration of this legislation.

The Earth Summit Environmental Leadership Act, presents us with the opportunity to follow up on the important work of the Earth summit to develop its blueprint—agenda 21—for global environmental action.

House Concurrent Resolution 353 outlines a comprehensive national strategy for sustainable development, in accordance with the principles of agenda 21, to be coordinated under the leadership of a specific office and the direction of a high-level government official.

The resolution also urges the United States to identify and initiate further agreements to protect the global environment and to support the creation of a high-level U.N. Sustainable Development Commission headed by an Undersecretary General. The President is urged to report to Congress on the progress of these steps.

House Concurrent Resolution 353 is supported by the administration. I have been in contact with the appropriate offices of the State Department and have incorporated their suggestions in the resolution. The 71 cosponsors of this measure include one-half the members of the Foreign Affairs Committee and all of the House delegates to the Earth summit. It is also supported by the major United States' nongovernmental organizations.

The Earth summit presented world leaders with an opportunity that should not be lost. We must now embark on a new course that will sustain our planet and its resources for the benefit of future generations. This resolution calls on the United States to assert its leadership to achieve this goal.

I urge my colleagues to support this resolution. Thank you, again, to Members of the Foreign Affairs Committee, for their recognition of the importance and timeliness of this resolution.

We must make the promise of Rio a reality.

Mr. ENGEL. Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution, which expresses the sense of Congress with respect to implementing the decisions of the recent U.N. Conference on Environment and Development.

I wish to commend the gentlelady from California, Congresswoman PELOSI, for her sponsorship of the resolution.

Mr. Speaker, despite all the criticism of administration policy toward the Earth summit, the fact is that the U.S. Government made a very constructive contribution in Rio and in the talks that led up to the meeting in Rio.

Largely as a result, the conference adopted four major items: The Rio Declaration on Environment and Development; the lengthy action plan referred to as Agenda 21; the U.N. Framework Convention on Climate Change; and nonbinding but authoritative principles for the management and conservation of forest resources.

In addition, the conference adopted the U.N. Biodiversity Convention, which the administration decided not to join at this time. This was due to concerns about intellectual property and also the decisionmaking and funding mechanism.

The administration has already made a good beginning in implementing the results of the conference:

During the talks on climate, the administration pledged $75 million for related projects in developing countries including the development of national plans;

The President announced that the United States would have our own national plan on climate ready by the end of the year in order to start international consultations in January 1993.

The President announced a forests-for-the-future initiative to double worldwide forestry assistance, beginning with a $150 million additional U.S. contribution.

The administration is preparing for consideration by the U.N. General Assembly of establishment of the Sustainable Development Commission called for in Rio, and is working on an interagency basis to formulate further plans to implement the other recommendations of the conference.

The good start made by the administration shows that the United States is serious about international cooperation to address global environmental problems. The resolution before us calls for similar measures to implement the recommendations of the Rio conference.

The State Department supports the provisions of this resolution, which are fully consistent with U.S. policy toward implementing the results of the Earth summit. Ms. PELOSI should be further commended for her cooperative attitude on the issues that were raised by the Department at an earlier stage in the consideration of this resolution.

Mr. Speaker, I was appointed to the Earth summit observer delegation. Although I did not actually attend the Conference, I followed the proceedings in other ways.

Recently I had the opportunity to contribute an article on these matters to a magazine called Michigan International Lawyer. I include this summary of my views for inclusion in the RECORD at the conclusion of my remarks.

"IT STARTED IN RIO": INTERNATIONAL ENVIRONMENTAL LAW AFTER THE EARTH SUMMIT

By the Honorable William S. Broomfield

The United Nations Conference on Environment and Development (UNCED) or "Earth Summit," which took place in Rio de Janeiro during June, will undoubtedly be remembered as a milestone in international environmental law and politics. Whether or not the agreements reached in Rio mark the trail toward real solutions for global environmental problems, the negotiations will serve as a benchmark for future international relations on the subject of the environment.

As will be familiar to anyone who followed press reports of the conference, the Earth Summit was characterized by a variety of disagreements among the industrialized countries (the "North"), and between them and the poorer countries (the "South"), concerning responsibility for global environmental problems and how to address them. Despite traditional U.S. leadership in the environmental area, the governments of many other countries—not to mention environmental activists and the press—were highly critical of U.S. policies and positions.

UNCED had an ambitious agenda, including several major documents discussed below. Throughout these complex negotiations, however, a small group of issues were at the core of discussion: whether the advanced industrial countries should adopt specific "targets and timetables" for reducing pollution, especially emissions of carbon dioxide (CO_2) and other gases that contribute to potential global climate warming; whether developing countries should expect "new and additional" financial resources from the North as the price of taking action for the environment; and whether the South should obtain technology on "preferential and noncommercial" terms.

Thus, the Earth Summit came to be at least as much about development as environment. Apart from steps by the industrialized countries to reduce greenhouse gas (GHG) emissions, the primary issues concerned demands by the South for money and technology. How is it that these issues, which are related to earlier calls for a "New International Economic Order," came to the forefront at UNCED?

The pattern was actually set when concern over the discovery of the hole in the stratospheric ozone over the Antarctic in the late 1970's quickly led to a series of international actions. After it was discovered that depletion of stratospheric ozone is primarily caused by chlorofluorocarbons (CFC's) and certain other industrial chemicals, the international community reacted by adopting the Vienna Convention for the Protection of the Ozone Layer and then successive agreements, including the Montreal Protocol on Substances that Deplete the Ozone Layer, which provide for a phaseout of CFC's and other ozone-depleting chemicals.

It soon became obvious to the poorer countries that they had new leverage over the North as a result of emerging concerns about the global environment. While production and use of CFC's and other ozone-destroying chemicals overwhelmingly take place in Industrialized nations, a solution to this problem has to be worldwide. Not only is it necessary to phase out CFC's and similar chemicals everywhere, but economic growth in the developing countries would otherwise actually lead to a proliferation of these chemicals. The nations of the South realized that they could demand compensation as the price of agreeing to cooperate in protecting the global environment. In the case of the Montreal Protocol, they were successfully able to demand that the richer countries make good the incremental costs of substituting for CFC's and similar substances as well as the refrigeration and other equipment in which they are used.

Aside from the fact that 1992 is the twentieth anniversary year of the Stockholm Conference on the Human Environment, the idea of holding a new world conference was given impetus by increasing world concern about several other environmental problems of global significance. These included potential climate change (global warming) as a result of increasing GHG levels; the loss of biological diversity ("biodiversity") around the world, especially as a result of deforestation and other threats to wildlife habitat; and a general loss of productive potential, especially in the South, resulting from the expansion of human settlements and overexploitation of renewable resources such as forests and soils.

The outcome of the various negotiations which culminated in Rio was not wholly satisfactory to any party of interest. While public failure was averted, most participants went away at least partially disappointed. Nevertheless, the renewed attention to international environmental concerns that resulted from the conference and the acceptance of certain principals and commitments there may contribute to the resolution of global environmental issues in the future. To understand the results of the conference, however, it is necessary to look at the five key items under discussion:

(1) CONFERENCE DECLARATION

The parties agreed to a broad set of principles known as the Rio Declaration on Environment and Development. The North, including the United States, had sought a more concise and inspirational document, or "Earth Charter", that would help raise public consciousness about the importance of environmental protection. But the South insisted on recognition of several points, including national sovereignty over natural resources and a "right to development." Ultimately, the North agreed, and even accepted an acknowledgment of responsibility for current global environmental problems. Even so, the most the South would agree to in terms of environmental protection is that all nations are "common but differentiated responsibilities."

(2) AGENDA 21

This several-hundred page document is supposed to serve as a guide for action into the 21st century. In addition to numerous chapters on specific issues, it also contains key language on financial commitments and new institutions. Implementing the various actions contained in Agenda 21 would take $125 billion or more in external support, but clearly many if not most of them cannot be addressed without major private sector involvement. About half the necessary funds would be made available if the richer countries met the target of 0.7% of gross national product previously established by the U.N. General Assembly for foreign aid; the rest would have to come from additional contributions. The United States went along with these statements, but only after noting that it had never agreed to the 0.7% level in the first place and that the new and additional resources required for the remainder would have to include voluntary government contributions as well as private efforts.

On institutions, the United States was largely successful in preventing duplication of effort by obtaining agreement to assign oversight responsibilities to a new committee of the existing U.N. Economic and Social Council (ECOSOC). One of the more interesting developments at UNCED, however, was the creation of a Sustainable Development Commission, which will provide a forum for debate on related issues, with input from non-governmental organizations (NGO's). Due to concerns of the richer countries, financial administration of additional environmental projects will be through an expanded Global Environment Facility (GEF) in the World Bank, for which new management arrangements will be worked out.

(3) CLIMATE CHANGE

Prior to the Rio meeting itself, the best-known item under discussion was the U.N. Framework Convention on Climate Change. The U.S. Administration was roundly criticized by other industrialized countries, particularly in the European Community, as well as environmentalists, for its refusal to agree to targets and timetables for the reduction of GHG emissions, particularly the proposed stabilization of CO_2 emissions at 1990 levels by the year 2000. The Administration was also criticized by developing countries, as well as others, for its reluctance to make commitments on providing new and additional financial resources or transferring technology.

The Bush Administration was ultimately successful in preventing inclusion of a specific pledge on CO_2 emissions, although it did agree to the goal of reducing overall GHG emissions to 1990 levels. The Administration succeeded in obtaining provisions requiring submission of national plans describing measures to respond to potential global climate change. The Administration also agreed to provide new financial resources, but on a voluntary basis; at the last meeting of the International Negotiating Committee, the Administration announced a $75 million package of assistance for developing countries, including a $50 million contribution to the GEF and $25 million over two years to assist in the development of national plans.

The Bush Administration was subjected to unrelenting criticism by European officials, environmentalists, certain members of Congress and others for its refusal to accept a CO_2 stabilization requirement as part of the Framework Convention. Aside from the fact that greenhouse warming still has not been scientifically detected, however, the Administration has other points in its favor:

First, the other nations urging adoption of such a requirement had no concrete plans to meet it and were in fact relying on a variety of schemes that were either questionable or self-interested. Japan was basing its projections on an unsustainable expansion of nuclear power capacity; France had similar plans and also hoped to increase electricity exports from its nuclear plants; Germany would probably rely on the elimination of subsidies to coal miners.

Second, U.S. emissions of CO_2 and other GHG's will probably stabilize at or around 1990 levels in any event. This was documented during the negotiations and is to be demonstrated in the U.S. national plan to be submitted pursuant to the Convention. Adopting a binding commitment, however, could have unforeseeable effects on the economy. If the Administration had agreed to make CO_2 stabilization a legal requirement, Congress was poised to enact it into law without even specifying how to achieve it.

Third, it is important to recall the way the international community responded to the threat to the ozone layer—a much more immediate, well-documented, and specific environmental threat. Agreement was initially reached on general principles through the Vienna Convention; only after these were specific requirements adopted through the Montreal Protocol and other agreements. Similarly, through adoption of the Framework Convention, the nations of the world have not only accepted general obligations of climate for the first time, but also have put in motion a process for responding to emerging developments on climate.

(4) BIODIVERSITY

Perhaps since the climate agreement had already been worked out, the Bush Administration's decision not to sign the Convention on Biodiversity that was finalized shortly before Rio became the lightning rod for criticism of U.S. policy. The Administration's decision was undercut as a result of a leak which disclosed that the chief U.S. negotiator, Environmental Protection Agency Administrator William Reilly had recommended pursuing an offer to reopen the text of this agreement.

The Administration had given notice of its intention not to sign the Biodiversity Convention unless certain problems were corrected; these included uncertain financial arrangements, an unnecessary focus on biotechnology, and failure to provide adequate recognition and protection to intellectual property rights (IPR), including patents. But the President and other senior officials never really explained the basis of their decision, leaving the impression that the United States was unwilling to participate in cooperative international agreements to protect the environment.

Actually, the Administration's objections to the Biodiversity Convention have merit. Much of the Convention represents a concerted attempt by the South, particularly those countries with large tropical forests and other natural areas, to capture the benefits of modern advances in biological technology. In fact, the basic provisions on protecting biodiversity are very vague and, in the case of the developing countries, made expressly conditional upon financial resources and transfer of technology.

The special focus on biotechnology in the Convention was unacceptable to the Administration because it considers this a special growth sector in the U.S. economy and has consistently argued (with considerable scientific support) that products of bio-technology should not be regulated differently from other items. With respect to IPR, the Administration was concerned about provisions, such as that in Article 16, which attempt to establish conditions for access to biological resources—*viz.*, "concessional and preferential terms where mutually agreed, . . . including technology protected by patents and other intellectual property rights . . .".

In fact, the emerging scientific interest in biological resources holds the promise that they can be better protected through being more highly valued for commercial purposes. However, experience including the oft-cited cooperative agreement between the Merck Pharmaceutical Company and the government of Costa Rica shows that such arrangements must be kept general at the outset in view of the many uncertainties in drug discovery, approval and marketing. Imposing onerous and time-consuming approval processes and negotiations at the front end will only serve to lessen the incentive for "chemical prospecting" in poorer countries and detract from conservation efforts.

(5) FORESTS

Despite opposition from countries like Malaysia with large tropical forests, the United States was successful in obtaining agreement to an authoritative but non-binding set of principles on the management of forest resources. It is unfortunate that more was not achieved on this subject, since the forests of the world are key reservoirs of biological diversity. Shortly before attending the Rio conference, the President announced that the United States would raise its assistance for forest conservation by $150 million per year as part of a multilateral program to double international support.

CONCLUSION

While there were successes in Rio, the Bush Administration came under criticism from virtually every quarter. Much of this was self-serving; despite our relatively high levels of energy consumption, the U.S. record on environmental protection is surely among the finest in the world. The Administration was reluctant to take on additional environmental and financial commitments, however, due to the domestic economic situation and a belief that satisfying the demands of developing countries and environmental activists at Rio would be virtually impossible.

As things happened, it was just this reluctance to step forward on behalf of U.S. values and interests that opened the Administration to the most intense criticism. In addition to pointing to our undeniable record of environmental protection, the Administration should have more forcefully championed the importance of economic growth under free market and free trade conditions, as well as democratic institutions and citizen participation, as the pillars of true environmental protection. U.S. negotiators had worked hard to include these principles at appropriate places in the various agreements reached at UNCED. The Administration's basic approach and its objections to certain proposals were well-founded, but the caution it displayed encouraged criticism.

Only history can judge whether the Earth Summit leads to greater international efforts to protect the global environment. The discussions at Rio will, however, undoubtedly affect the world political and economic environment for many years to come.

□ 2120

GENERAL LEAVE

Mr. ENGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Concurrent Resolution 353, as amended.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ENGEL] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 353, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

ENTERPRISE FOR THE AMERICAS INITIATIVE

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4059) to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enterprise for the Americas Initiative Act of 1992".

SEC. 2. GOOD NEIGHBOR ENVIRONMENTAL ACT OF 1992.

Title VI of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738 and following) is amended by adding at the end the following new sections:

"SEC. 616. SALE OF QUALIFIED DEBT TO ELIGIBLE COUNTRIES.

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—The President may sell to an eligible country up to 40 percent of such country's qualified debt, only if an amount of the local currency of such country (other than the price paid for the debt) equal to—

"(A) not less than 40 percent of the price paid for such debt by such eligible country, or

"(B) the difference between the price paid for such debt and the face value of such debt;

whichever is less, is used by such country through an Environmental Fund for eligible activities described in section 612.

"(2) ENVIRONMENTAL FUNDS.—For purposes of this section, the term 'Environmental Fund' means an Environmental Fund established under section 608. In the case of Mexico, such fund may be designated as the Good Neighbor Environmental Fund for the Border.

"(3) ESTABLISHMENT AND OPERATION OF ENVIRONMENTAL FUNDS.—The President should advise eligible countries on the procedures required to establish and operate the Environmental Funds required to be established under paragraph (1).

"(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions, including the amount to be paid by the eligible country, under which such country's qualified debt may be sold under this section.

"(c) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

"(d) CERTAIN PROHIBITIONS INAPPLICABLE.—A sale of debt under this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(e) IMPLEMENTATION BY THE FACILITY.—A sale of debt authorized under this section shall be accomplished at the direction of the Facility. The Facility shall direct the Commodity Credit Corporation to carry out such sale. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect the sale.

"(f) DEPOSIT OF PROCEEDS.—The proceeds from a sale of qualified debt under this section shall be deposited in the account or accounts established by the Commodity Credit Corporation for the repayment of such debt by the eligible country.

"(g) DEBTOR CONSULTATION.—Before any sale of qualified debt may occur under this section, the President should consult with the eligible country's government concerning such sale. The topics addressed in the consultation shall include the amount of qualified debt involved in the transaction and the uses to which funds made available as a result of the sale shall be applied.

"SEC. 617. SALE, REDUCTION, OR CANCELLATION OF QUALIFIED DEBT TO FACILITATE CERTAIN DEBT SWAPS.

"(a) AUTHORITY TO SELL, REDUCE, OR CANCEL QUALIFIED DEBT.—For the purpose of facilitating eligible debt swaps, the President, in accordance with this section—

"(1) may sell to an eligible purchaser (as determined pursuant to subsection (c)(1)) any qualified debt of an eligible country; or

"(2) may reduce or cancel eligible debt of an eligible country upon receipt of payment from an eligible payor (as determined under subsection (c)(2)).

"(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions under which qualified debt may be sold, reduced, or canceled pursuant to this section.

"(c) ELIGIBLE PURCHASERS AND ELIGIBLE PAYORS.—

"(1) SALES OF DEBT.—Qualified debt may be sold pursuant to subsection (a)(1) only to a purchaser who presents plans satisfactory to the President for using the debt for the purpose of engaging in eligible debt swaps.

"(2) REDUCTION OR CANCELLATION OF DEBT.—Qualified debt may be reduced or cancelled pursuant to subsection (a)(2) only if the payor presents plans satisfactory to the President for using such reduction or cancellation for the purpose of facilitating eligible debt swaps.

"(d) DEBTOR CONSULTATION AND RIGHT OF FIRST REFUSAL.—

"(1) CONSULTATION.—Before selling, reducing, or canceling any qualified debt of an eligible country pursuant to this section, the President should consult with that country concerning, among other things, the amount of debt to be sold, reduced, or canceled and the uses of such debt for eligible debt swaps.

"(2) RIGHT OF FIRST REFUSAL.—The qualified debt of an eligible country may be sold, reduced, or cancelled pursuant to this section only if that country has been offered the opportunity to purchase that debt pursuant to section 616 and has not accepted that offer.

"(e) LIMITATION.—In the aggregate, not more than 40 percent of the qualified debt of an eligible country may be sold, reduced, or cancelled under this section or sold under section 616.

"(f) ADMINISTRATION.—The Facility shall notify the Commodity Credit Corporation of purchasers and payors the President has determined to be eligible under subsection (c), and shall direct the corporation to carry out the sale, reduction, or cancellation of a qualified debt pursuant to this section. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect such sale, reduction, or cancellation.

"(g) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

"(h) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of qualified debt pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such debt.

"(i) ELIGIBLE DEBT SWAPS.—As used in this section, the term 'eligible debt swap' means a debt-for-development swap or debt-for-nature swap.

"SEC. 618. NOTIFICATION TO CONGRESSIONAL COMMITTEES.

"(a) NOTICE OF NEGOTIATIONS.—The Secretary of State and the Secretary of the Treasury shall, in every feasible instance, notify the designated congressional committees not less than 15 days prior to any formal negotiation for debt relief under this title.

"(b) TRANSMITTAL OF TEXT OF AGREEMENTS.—The Secretary of State shall transmit to the designated congressional committees a copy of the text of any agreement with any foreign government which would result in any debt relief under this title no less than 30 days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief.

"(c) ANNUAL REPORT.—The Secretary of State or the Secretary of the Treasury, as appropriate, shall submit to the designated congressional committees not later than February 1 of each year a consolidated statement of the budgetary implications of all debt relief agreements entered into force under this title during the preceding fiscal year.

"(d) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term 'designated congressional committees' means the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 619. DEFINITION OF QUALIFIED DEBT.

"As used in sections 616, 617, and 618, the term 'qualified debt' means any obligation, or portion of such obligation, of an eligible country to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act or section 4(b) of the Food for Peace Act of 1966—

"(1) in which the Commodity Credit Corporation obtained a legal right or interest, as a result of assignment or subrogation, not later than September 1, 1992; and

"(2) the payment of which obligation has been, not later than September 1, 1992, rescheduled in accordance with principles set forth in an Agreed Minute of the Paris Club.

Such term includes the obligation to pay any interest which was due or accrued not later than September 1, 1992, and unpaid as of the date of a debt sale pursuant to section 616 or or a debt sale, reduction, or cancellation pursuant to section 617 (as the case may be).".

SEC. 3. ANNUAL REPORTS TO THE CONGRESS.

Section 614(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm(a)) is amended by adding at the end the following: "This report shall include—

"(1) a description of the activities undertaken by the Facility during the previous fiscal year;

"(2) a description of any Enviromental Framework Agreement entered into under this title;

"(3) a report on what Environmental Funds have been established under this title and on the operations of such Funds; and

"(4) a description of any grants that have been extended by administering bodies pursuant to an Enviromental Framework Agreement under this title.".

SEC. 4. CENTER FOR NORTH AMERICAN STUDIES.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a center, to be known as the Center For North American Studies, whose primary purpose shall be to promote better agricultural relationships among Canada, Mexico, and the United States through cooperative study, training, and research.

(b) LOCATION.—The Institute shall be located at an institution of higher education or at a consortium of such institutions.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1994 and such sums as may necessary for each of fiscal years 1995 and 1996.

SEC. 5. STUDY OF THE EFFECT OF FREE TRADE WITH LATIN AMERICAN AND CARIBBEAN COUNTRIES ON THE UNITED STATES ECONOMY.

The President shall transmit to the Congress, not later than 8 months after the date of the enactment of this Act, a study describing—

(1) in summary fashion, the likely effect on major United States industries and other sectors, including agriculture, that could be most affected by a hemispherical free trade zone with Latin American and Caribbean countries;

(2) the regions in the United States that would be most affected by a hemispherical free trade zone with Latin American and Caribbean countries and, in summary fashion, the nature of these effects;

(3) the extent to which horticultural exports from Latin American and Caribbean countries complement or compete with United States production;

(4) a country-by-country overview of recent economic developments in Latin American and Caribbean countries significantly influencing United States relations with such countries, including present trade and investment patterns in these regions;

(5) the likely effect of a hemispherical free trade zone with Latin American and Caribbean countries on the United States economy and its multilateral interrelationship with other countries in the region, including Canada and Mexico;

(6) the extent to which manufactured products exported from Latin American and Caribbean countries complement or compete with United States production; and

(7) the likely effects of a hemispherical free trade zone with Latin American and Caribbean countries on existing environmental, agricultural, labor, and consumer protection laws and practices within the United States and within the other countries included in the zone.

SEC. 6. THE GOOD NEIGHBOR ENVIRONMENTAL BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to be known as the Good Neighbor Environmental Board (hereinafter in this section referred to as the "Board").

(b) PURPOSE.—The purpose of the Board shall be to advise the President and the Congress on the need for implementation of environmental and infrastructure projects (including projects that affect agriculture, rural development, and human nutrition) within the States of the United States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border.

(c) MEMBERSHIP.—The Board shall be composed of—

(1) representatives from the United States Government, including a representative from the Department of Agriculture and representatives from other appropriate agencies;

(2) representatives from the governments of the States of Arizona, California, New Mexico, and Texas; and

(3) representatives from private organizations, including community development, academic, health, environmental, and other nongovernmental entities with experience and expertise on environmental and infrastructure problems along the southwest border.

(d) ANNUAL REPORTS TO THE PRESIDENT AND CONGRESS.—

(1) IN GENERAL.—The Board shall submit to the President and the Congress of the United States an annual report on—

(A) the environmental and infrastructure projects referred to in subsection (a) that have been implemented, and

(B) the need for the implementation of additional environmental and infrastructure projects.

(2) TRANSMISSION OF COPIES TO BOARD MEMBERS.—The Board shall—

(A) transmit to each member of the Board a copy of any report to be submitted pursuant to paragraph (1) at least 14 days before its submission, and

(B) allow each member of the Board to have 14 days within which to prepare and submit supplemental views with respect to the recommendations of the Board for inclusion in such report.

Mr. SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes,

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4059, the Good Neighbor Environmental Act of 1992, establishes a workable and cost-effective way to help some of the countries of Latin America and the Caribbean finance environmental projects.

H.R. 4059 achieves this objective through an innovative approach that will help reduce our official debt exposure. It is an approach that promotes the improvement of environmental conditions in Latin America and the Caribbean. This bill thus creates a win-win situation for the U.S. taxpayer and for the cause of environmental quality.

Under H.R. 4059, the U.S. Treasury is authorized to accept payment immediately on a debt that—under Paris Club rescheduling terms—would not have to be paid back, in most cases, for another 5, 10, or 15 years.

The approach taken in this bill is what I would term a government-to-government, debt-for-environment swap. H.R. 4059 authorizes the President to sell at the market price up to 40 percent of the so-called Paris Club rescheduled debt owed by nine Latin American and Caribbean countries to the U.S. Department of Agriculture's Commodity Credit Corporation [CCC]. Among the countries that could use this mechanism are Mexico, Brazil, Chile, and Jamaica.

Up to approximately $500 million of the $1.4 billion owed to the CCC under the Paris Club agreement could be repurchased under the bill's provisions. However, a market rate sale can only take place if the debtor country agrees to commit an amount equivalent to 40 percent of the purchase price in local currency to finance eligible environmental projects in that country.

I would like to point out that this legislation can directly benefit the millions of Americans who live near the United States-Mexico border. H.R. 4059 allows the proceeds derived from Mexico's participation in this mechanism to be used to finance environmental projects along the United States-Mexico border and in the Gulf of Mexico. Thus, Mexican participation in this mechanism will benefit people on both sides of the border.

Mr. Speaker, the projects that could be undertaken through the financing made available under this legislation include both nature and development projects. An eligible project could be a local initiative to protect the environment or a project to improve human living conditions threatened by environmental degradation.

H.R. 4059 has another provision I would like to highlight. The legislation authorizes a comprehensive study on the potential effects of a free trade zone with Latin America and the Caribbean, as envisioned under the Enterprise for the Americas Initiative. This provision recognizes the need for Congress to have a comprehensive analysis done on the economic, labor, and environmental effects a hemispheric free trade zone may create.

Mr. Speaker, this legislation is a logical extension of the only part of the Enterprise for the Americas Initiative that has been authorized by the Congress—that is, the EAI provision to reduce Public Law 480 debt included in the 1990 Farm Act, and that was funded in the agricultural appropriations bill signed into law a month ago.

Mr. Speaker, I would like to thank the chairman, the gentleman from Florida [Mr. FASCELL], the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from New Jersey [Mr. TORRICELLI], the gentlemen from New Jersey [Mr. GEJDENSON], the gentleman from California [Mr. BERMAN], and all my colleagues on the Committee on Foreign Affairs, which received a sequential referral of the legislation, for their contributions and suggestions for fine-tuning this excellent bill. The administration has expressed its support for passage of H.R. 4059.

Mr. Speaker, the United States, Mexico, and other Latin American countries have committed themselves to tackling the environmental problems they face within their border. Let's seize this opportunity to build upon the commitment in Mexico and other parts of Latin America and the Caribbean. I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4059, the Enterprise for the Americas Initiative. This bill puts into place a critical element of the Latin American policy designed by the President to improve the lives of all people of this hemisphere through market-oriented reforms and economic growth.

The Enterprise for the Americas Initiative moves us away from the handout policies of the past to the hand-up approach which will promote economic growth and democratic reform. It will focus our efforts on critical sectors of the Latin American and Caribbean economies, including community based conservation, sustainable use of the environment, and child survival and child health.

This legislation allows the President to undertake sales, reductions and swaps for eligible countries for Commodity Credit Corp. debt obligations.

Several aspects of H.R. 4059 will improve cooperation throughout the hemisphere. By creating a special United States-Mexico Environmental Board, we will develop greater cooperation and understanding of the environmental issues of our southern border.

I would like to salute the sponsors of the legislation, particularly the gentleman from Texas, Agriculture Committee Chairman DE LA GARZA, and the gentleman from Florida, Foreign Affairs Committee Chairman FASCELL, for their tireless efforts in crafting this legislation and bringing it before us today. I urge its prompt adoption.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. de la GARZA] that the House suspend the rules and pass the bill, H.R. 4059, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HAWAII TROPICAL FOREST RECOVERY ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 2679) to promote the recovery of Hawaii tropical forests, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. It there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hawaii Tropical Forest Recovery Act".

SEC. 2. HAWAII TROPICAL FOREST RECOVERY.

(a) IN GENERAL.—The International Forestry Cooperation Act of 1990 (16 U.S.C. 4501 et seq.) is amended—

(1) by redesignating sections 605, 606, and 607 as sections 609, 610, and 611, respectively; and

(2) by inserting after section 604 the following new sections:

"SEC. 605. INSTITUTE OF PACIFIC ISLANDS FORESTRY.

"(a) EXPANSION.—The Secretary shall expand the capabilities of and construct additional facilities, as funds are appropriated for the expansion and construction, at—

"(1) the Institute of Pacific Islands Forestry; and

"(2) tropical forests in the State of Hawaii.

"(b) TROPICAL FORESTRY PLAN.—

"(1) IN GENERAL.—Not later than 1 year after the date of receipt by the Secretary of the action plan required by section 5(b) of the Hawaii Tropical Forest Recovery Act, the Secretary shall prepare and submit to the Committee on Agriculture and the Committee on Interior and Insular Affairs of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to the Committees on Appropriations of the House of Representatives and Senate, a tropical forestry plan to expand the capabilities of and construct additional facilities under subsection (a).

"(2) ELEMENTS.—The plan shall provide for—

"(A) the establishment of a model center for research, demonstration, education, training, and outreach activities suitable for transferring scientific, technical, managerial, and administrative assistance to governmental and non-governmental organizations seeking to address problems associated with tropical forests within and outside the United States;

"(B) the acquisition or construction of facilities for research, classroom instruction, and housing near an experimental tropical forest in the State of Hawaii;

"(C) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish, and plant species and the restoration of their habitats;

"(D) the study of biological control of nonnative species that degrade or destroy native forest ecosystems;

"(E) achieving a better understanding of global climate change and the significance of achieving a reduction of greenhouse gases through research associated with the unique atmospheric conditions found in Hawaii and the Pacific Ocean;

"(F) a review of the extent to which existing Federal forestry programs can be utilized to achieve the purposes of the plan; and

"(G) the establishment of experimental tropical forests in the State of Hawaii as authorized by section 606.

"(3) CAPABILITY.—In preparing elements of the plan that address paragraph (2)(F), the Secretary shall identify the capability of the plan—

"(A) to promote a greater understanding of tropical forest ecosystem processes, conservation biology, and biodiversity management;

"(B) to demonstrate the various benefits of maintaining a tropical forest reserve system;

"(C) to promote sound watershed and forest management;

"(D) to develop compatible land uses adjacent to protected natural areas; and

"(E) to develop new methods of reclaiming and restoring degraded lands.

"SEC. 606. HAWAII EXPERIMENTAL TROPICAL FOREST.

"(a) DEFINITIONS.—As used in this section:

"(1) FOREST.—The term 'Forest' means the Hawaii Experimental Tropical Forest.

"(2) GOVERNOR.—The term 'Governor' means the Governor of Hawaii.

"(3) LANDS.—The term 'lands' means lands, waters, and interests in lands and waters.

"(4) STATE.—The term 'State' means the State of Hawaii.

"(b) ESTABLISHMENT AND MANAGEMENT.—At the request of the Governor, the Secretary shall establish and administer within the State a Hawaii Experimental Tropical Forest. The Forest shall be managed as—

"(1) a model of quality tropical forest management where harvesting on a sustainable yield basis can be demonstrated in balance with natural resource conservation;

"(2) a site for research on tropical forestry, conservation biology, and natural resource management; and

"(3) a center for demonstration, education, training, and outreach on tropical forestry, conservation biology, and natural resources research and management.

"(c) DELINEATION OF THE LOCATION OF THE FOREST.—

"(1) IDENTIFICATION OF LANDS.—The Governor and the Secretary shall identify one or more suitable sites for the Forest in lands within the State. The identification of each site shall be based on scientific, ecological, administrative, and such other factors as the Governor and Secretary consider to be necessary or desirable to achieve the purposes of this section. Each site identified pursuant to the preceding sentence shall be of sufficient size and located so that the site can be effectively managed for Forest purposes.

"(2) EXTERIOR BOUNDARIES.—The exterior boundaries of the Forest, including the boundaries of all sites identified for Forest purposes, shall be delineated on an official map. The map shall be available for public inspection in the office of the Administrator of the Division of Forestry and Wildlife of the Department of Land and Natural Resources of the State. The Governor and the Secretary may from time to time, by mutual agreement, amend the official map to modify the boundaries of the Forest.

"(d) AUTHORITIES OF THE SECRETARY.—

"(1) IN GENERAL.—To carry out the purposes of this section, the Secretary is authorized—

"(A) to administer the Forest in cooperation with the Governor and affected State agencies;

"(B) to make grants and enter into contracts and cooperative agreements with the Federal Government, the government of the State, local governments, corporations, nonprofit organizations and individuals;

"(C) to exercise existing authority with respect to cooperative forestry and research for Forest purposes; and

"(D) to issue necessary rules and regulations or apply existing rules and regulations applicable to areas administered by the Forest Service that are necessary or desirable to administer the Forest—

"(i) for the purposes described in subsection (b);

"(ii) to protect persons within the Forest; and

"(iii) to preserve and protect the resources in the Forest.

"(2) LAND ACQUISITION.—The authority in section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) shall be available to the Secretary to carry out this section.

"(3) STATUTORY CONSTRUCTION.—Nothing in this section is intended to affect the jurisdiction of the State, both civil and criminal, over any person within the Forest by reason of the establishment of the Forest under this section, except in the case of a penalty for an offense against the United States.

"SEC. 607. ANNUAL REPORT ON INSTITUTES OF TROPICAL FORESTRY.

"The Secretary shall make annual reports to Congress on the progress, needs, and long-range plans of the Institutes of Tropical Forestry in meeting the requirements of section 2407 of the Global Climate Change Prevention Act of 1990 (7 U.S.C. 6706). Such reports shall be submitted by the Secretary pursuant to section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1606(c)).

"SEC. 608. DEFINITIONS.

"As used in this title (unless the context otherwise requires):

"(1) INSTITUTES OF TROPICAL FORESTRY.—The term 'Institutes of Tropical Forestry' means the Institute of Tropical Forestry in Puerto Rico and the Institute of Pacific Islands Forestry established under section 2407 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6706).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(3) STATE.—The term 'State' means each of the 50 States, Guam, American Samoa, the Republic of Palau (until the Compact of Free Association enters into effect), Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.".

(b) CONFORMING AMENDMENTS.—

(1) Section 602(b) of the International Forestry Cooperation Act of 1990 (16 U.S.C. 4501(b)) is amended by striking "(hereinafter referred to in this title as the Secretary)".

(2) The heading of section 604 of such Act (16 U.S.C. 4503) is amended to read as follows:

"SEC. 604. INSTITUTE OF TROPICAL FORESTRY IN PUERTO RICO.".

SEC. 3. TROPICAL FORESTRY RESEARCH AND ASSISTANCE.

(a) ASSISTANCE.—To promote sound management and conservation of tropical forests of the United States and to promote the development and transfer of technical, managerial, educational, and administrative skills to managers of tropical forests within or outside the United States, the Secretary of Agriculture is authorized to provide assistance through the Forest Service to eligible entities in States with tropical forests to—

(1) develop, promote, and demonstrate sustainable harvesting of native woods and other forest products on a sustainable yield basis in balance with natural resource conservation;

(2) promote habitat preservation and species protection or recovery;

(3) protect indigenous plant and animal species and essential watersheds from non-native animals, plants, and pathogens;

(4) establish biological control agents for non-native species that threaten natural ecosystems;

(5) establish a monitoring system in tropical forests to identify baseline conditions and determine detrimental changes or improvements over time;

(6) detect and appraise stresses affecting tropical forests caused by insect infestations, diseases, pollution, fire, and non-native animal and plant species, and by the influence of people;

(7) determine the causes of changes that are detected through experimentation, intensive monitoring, and data collection at affected tropical forest sites; and

(8) engage in research, demonstration, education, training, and outreach that furthers the objectives of this subsection.

(b) FORM OF ASSISTANCE.—Assistance provided to eligible entities under this section may be in the form of grants, contracts, or cooperative agreements.

(c) DEFINITIONS.—As used in this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means a State forester or equivalent State official, State, political subdivision of a State, Federal agency, private organization, corporation, or other private person.

(2) STATE.—The term "State" means each of the 50 States, Guam, American Samoa, the Republic of Palau (until the Compact of Free Association enters into effect), Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 4. HAWAII TROPICAL FOREST RECOVERY TASK FORCE.

(a) ESTABLISHMENT.—There is established the Hawaii Tropical Forest Recovery Task Force (hereafter in this section referred to as the "Task Force") to advise the Secretary of Agriculture with respect to tropical forests and related ecosystems in the State of Hawaii.

(b) ACTION PLAN.—Not later than 1 year after the date of the first meeting of the Task Force, the Task Force shall submit to the Committees, Secretaries, and Governor referred to in subsection (k) an action plan that contains findings and recommendations for rejuvenating Hawaii's tropical forests, including findings and recommendations on—

(1) methods of restoring the health of declining or degraded tropical forest land;

(2) compatible uses within tropical forests, particularly agroforestry and the cultivation of scarce or valuable hardwoods and other forest products in Hawaii's tropical forests;

(3) actions to encourage and accelerate the identification and classification of unidentified plant, animal, and microbe species;

(4) actions to—

(A) promote public awareness of tropical forest preservation;

(B) protect threatened and endangered species;

(C) improve forest management and planning; and

(D) promote public awareness of the harm caused by introduced species;

(5) the benefits of fencing or other management activities for the protection of Hawaii's native plants and animals from nonnative species, including the identification and priorities for the areas where these activities are appropriate;

(6) traditional practices, uses, and needs of native Hawaiians in tropical forests;

(7) means of improving the health of tropical forests and related ecosystems in the State of Hawaii through programs administered by the Secretary of Agriculture and the Secretary of the Interior;

(8) the capability of existing Federal, State, and private forestry programs for rejuvenating Hawaii's tropical forests; and

(9) such other issues relating to tropical forests in Hawaii as the Task Force considers appropriate.

(c) COMPOSITION.—The Task Force shall be composed of 12 members, of whom—

(1) three members shall be appointed by the Secretary of Agriculture, two of whom shall be representatives of the Forest Service and the Soil Conservation Service, respectively;

(2) two members shall be appointed by the Secretary of the Interior as representatives of the United States Fish and Wildlife Service and the National Park Service, respectively;

(3) six members shall be appointed by the Governor of Hawaii, of whom—

(A) two members shall be private owners of tropical forest lands;

(B) two members shall be experts in the field of tropical forestry; and

(C) two members shall be representatives of Hawaii conservation organizations that have demonstrated expertise in the areas of tropical forest management, habitat preservation, and alien species control or have demonstrated effective advocacy in the areas; and

(4) one member shall be the Administrator of the Department of Land and Natural Resources, State of Hawaii, or the designated representative of the Administrator.

(d) INITIAL APPOINTMENTS.—Appointments under this section to the Task Force shall be made not later than 90 days after the date of enactment of this Act.

(e) CHAIRPERSON.—The Task Force shall select a Chairperson from among its members.

(f) VACANCIES.—A vacancy on the Task Force shall not affect its powers and shall be filled in the same manner as the original appointment.

(g) COMPENSATION.—

(1) IN GENERAL.—A member of the Task Force shall not receive compensation as a result of the performance of services for the Task Force.

(2) TRAVEL EXPENSES.—The members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

(h) MEETINGS.—The Task Force shall meet not later than 180 days after the date of enactment of this Act and shall meet at the call of the Chairperson.

(i) VOTING.—The Task Force shall act and advise by majority vote.

(j) ASSISTANCE.—The Secretary of Agriculture and the Secretary of the Interior shall provide such assistance and support as are necessary to meet the objectives of the Task Force. The assistance shall include making Federal facilities, equipment, tools, and technical assistance available on such terms and conditions as the appropriate Secretary considers necessary.

(k) REPORT.—The action plan required under subsection (b) shall be submitted to—

(1) the Committees on Agriculture and Interior of the House of Representatives;

(2) the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate;

(3) the Secretary of Agriculture;

(4) the Secretary of the Interior; and

(5) the Governor of Hawaii.

(l) NONAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—Sections 7(d), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Task Force.

(m) TERMINATION.—The Task Force and authority to carry out this section shall terminate 180 days after submitting the report required by subsection (b).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out sections 3 and 4.

The Senate bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 4059, as amended, and S. 2679.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONGRESSIONAL AWARD ACT AMENDMENTS OF 1992

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6049) to amend the Congressional Award Act to revise and extend authorities for the Congressional Award Board.

The Clerk read as follows:

H.R. 6049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Award Act Amendments of 1992".

SEC. 2. REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.

Section 5 of the Congressional Award Act (2 U.S.C. 804) is amended by adding at the end the following subsection:

"(c)(1) The Director shall, in consultation with the Board, ensure that appropriate procedures for fiscal control and fund accounting are established for the financial operations of the Congressional Award Program, and that such operations are administered by personnel with expertise in accounting and financial management. Such personnel may be retained under contract. In carrying out this paragraph, the Director shall ensure that the liabilities of the Board do not, for any calendar year, exceed the assets of the Board.

"(2)(A) The Comptroller General of the United States shall determine, for calendar years 1993 and 1994, whether the Director has substantially complied with paragraph (1). The findings made by the Comptroller General under the preceding sentence shall be included in the first report submitted under section 8(b) after December 31, 1994.

"(B) If the Director fails to substantially comply with paragraph (1), the Board shall take such actions as may be necessary to prepare, pursuant to section 9, for the orderly cessation of the activities of the Board.".

SEC. 3. TERMINATION.

Section 9 of the Congressional Award Act (2 U.S.C. 808) is amended by striking "October 1, 1992" and inserting "October 1, 1995".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 6049.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6049, the Congressional Award Act Amendments of 1992, reauthorizes the Congressional Award Program—a program to recognize youth volunteer efforts within congressional districts.

Under the renewed leadership of the 34-member Board of Directors, the program continues to thrive and grow. Although the program has made great strides since its reauthorization 2 years ago, there is still a need for stronger internal financial controls. Therefore, H.R. 6049 amends current law to ensure that appropriate fiscal procedures are implemented.

I urge a unanimous vote for this bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no objection to passage of H.R. 6049, the Congressional Award Act which will reauthorize the Congressional Award Program for 3 years at no cost to the taxpayer. This program is a youth volunteer program and spends no Federal funds.

H.R. 6049 requires the Director of the Congressional Award Program to establish financial procedures for fiscal control and accounting to be administered by personnel with expertise in accounting and financial management. The General Accounting Office recommended that such controls be implemented in order for this program to be made more accountable. If such controls are not implemented and effective within 2 years, the Congressional Award Board shall take steps to termine. I would like to submit the letter from the General Accounting Office recommending that such financial controls be established. This is a noncontroversial bill and I urge that it be passed.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, June 23, 1992.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, U.S. Senate.

Hon. MAJOR R. OWENS,
Chairman, Subcommittee on Select Education, Committee on Education and Labor, House of Representatives.

In response to your May 7, 1992, joint letter, we are providing information on the Congressional Award Foundation. Specifically, you asked that we provide our assessment of three issues related to the financial condition and management of the Foundation—the accuracy of the Foundation's 1991 financial statements, the effectiveness of the Foundation's financial management, and the Foundation's ability to operate in a financially sound manner.

During the first 4 months of calendar year 1992, the Foundation received increased contributions, which improved its financial position and ability to meet obligations in a timely manner. However, the Foundation continues to experience several lingering internal control problems, including problems in preparing its financial statements. The Foundation's ability to operate in a financially sound manner depends, in part, on its ability to strengthen its internal controls, specifically by hiring or otherwise acquiring access to staff with increased financial management expertise.

The Congressional Award Foundation was established in 1979 under Public Law 96-114 and is a private, nonprofit, tax-exempt organization established to promote initiative, achievement, and excellence among youth in areas of public service, personal development, and physical fitness. Public Law 101-525 reauthorized the Foundation's existence through September 1992. The Foundation is administered by a board of directors, which currently consists of 34 members.

At the time of your request, we were in the midst of completing our audit of the Congressional Award Foundation's 1990 financial statements and had not yet begun an audit of the 1991 statements. To respond to your request, we delayed completing our audit of the 1990 statements and instead performed certain procedures related to the statements included in the Foundation's 1991 annual report.

We interviewed Foundation officials and accounting staff, analyzed information contained in the financial statements, and reviewed supporting documentation, such as written policies and procedures, bank deposits, bank statements, invoices, and canceled checks. We performed our work from May 1992 through June 1992 in accordance with generally accepted government auditing standards. We discussed the results of our work with the responsible Foundation officials and have incorporated their comments where appropriate. We did not, however, verify the accuracy of all financial statement amounts.

ACCURACY OF THE FOUNDATION'S 1991 FINANCIAL STATEMENTS

The Foundation's 1991 financial statements contained several inaccuracies. In particular, the Foundation's fund balance on one statement was materially incorrect, and the statements did not adequately disclose certain financial transactions. Some examples follow.

In its Statement of Revenue and Expenses and Change in Fund Balance for the year ended December 31, 1991, the Foundation incorrectly reported a positive fund balance of more than $32,000. In its Statement of Financial Position, however, the Foundation correctly reported that if finished 1991 with a negative fund balance of more than $19,000. Foundation officials told us this inconsistency was caused by a mathematical error.

The Statement of Financial Position showed a loan payable of $50,000, but did not disclose the source, terms, or purpose of the loan. The loan was an interest-free loan from a relative of a Board member. Generally accepted accounting principles require that the statements disclose the terms of the loan and its related-party nature.

Restricted and unrestricted funds were not properly segregated in conformity with generally accepted accounting principles. Such segregation identifies any limits on use of funds for carrying out the Foundation's objectives and operations.

The Foundation did not disclose that in 1991 it was late in filing required information with the Internal Revenue Service and in paying federal withholding taxes. The Internal Revenue Service assessed the Foundation penalties for similar problems in 1990.

EFFECTIVENESS OF THE FOUNDATION'S FINANCIAL MANAGEMENT

The Foundation has continued to experience several lingering internal control problems which could detract from its ability to effectively and efficiently carry out its program responsibilities. We believe that the Foundation's ability to correct these problems depends on its ability to hire or otherwise acquire access to staff with increased financial management expertise.

Inadequate segregation of duties

The Foundation did not have adequate internal controls over the receipt and handling of contribution funds. As a result, the Foundation was subject to the risk that contribution funds might be misappropriated or lost.

Duties involving the receipt of funds must be segregated to reduce the opportunities which allow a person to perpetrate and conceal errors or irregularities in the normal course of his or her duties. Duties should be assigned so that the same person is not responsible for receiving funds and for maintaining and accounting for them. In May 1991, we met with Foundation officials and made suggestions to change the procedures over the receipt of funds. Specifically, we suggested that one person open the mail and prepare an adding machine tape of all funds and another prepare the bank deposits. Control over the funds would be further strengthened by comparing the adding machine tape and the accounting records prepared by the people.

However, based on our review of related accounting records for September 1991 through March 1992, the Foundation did not always have evidence that it properly segregated the receipt and handling of contributions. In particular, adding machine tapes were not always initialed to indicate that the person who opened the mail and received contributions was not the same person who prepared the bank deposits.

Inadequate control over fixed assets

The Foundation did not adequately control fixed assets, increasing the risk that the assets could be lost or stolen. We also identified problems with fixed assets in our reports on the Foundation's 1987 and 1989 financial statements.[1]

The Foundation has developed written policies and procedures for depreciating fixed assets and now maintains a list of fixed assets. However, the Foundation has not tagged or otherwise identified all of its fixed assets or their locations, thus exposing them to theft or other loss.

Inadequate control over disbursements

The Foundation did not maintain subsidiary records for disbursements, nor do we believe it always conducted sufficient analyses of invoices before paying bills. As a result, the Foundation ran an unusually high risk of making incorrect disbursements. In fact, we found one instance in which the Foundation overpaid 1 month's charges for leased equipment and one instance in which the Foundation paid duplicate invoices for the same service.

As discussed later, these problems were further exacerbated by the Foundation's late payment of many bills, resulting in a number of past due notices and increased paperwork. Foundation officials acknowledged the disbursement problems, but believed that recent improvement in the Foundation's cash flow would help to enable timely bill payment.

Inadequate financial management staffing

For several years, the Foundation has struggled with repeated financial management problems. For example, in our report on the Foundation's 1987 financial statements (GAO/AFMD-89-14), we disclosed two material internal control weaknesses regarding safeguarding of assets and reimbursement of the National Director's expenses. The Foundation has acknowledged problems and has resolved some of them. However, the Foundation has not been able to institutionalize the reforms necessary to ensure contributors and others that Foundation funds are handled and accounted for in a manner that reduces the risk for fraud, waste, and mismanagement.

The key Foundation official responsible for financial management is also responsible for other important but not directly related functions, such as formulating policies, performing fundraising activities, and managing Foundation programs. Foundation officials strongly agree that hiring or otherwise acquiring access to staff with increased financial management expertise would be an important step in the right direction, and told us they are considering a number of options for doing that. Such staff should be responsible for designing, implementing, and evaluating the effectiveness of the Foundation's internal controls, including accounting for the Foundation's operations and activities and preparing the Foundation's financial statements.

THE FOUNDATION'S ABILITY TO OPERATE IN A FINANCIALLY SOUND MANNER

The Foundation reported that it ended 1991 with a negative fund balance. The Foundation acknowledged to us that it also had serious cash flow problems during the year and that, as a result, it was sometimes as much as 8 months late in paying many of its bills. However, Foundation officials said that increased contributions in 1992 and recent actions by the Board have helped to improve the Foundation's financial position and enabled timely bill payment.

The Foundation received about $109,000 in contributions during the first 4 months of calendar year 1992, well ahead of the pace set by the $182,000 it received for calendar year 1991. The Foundation attributed this increase to new, more active Board members and to the Foundation's success in attracting an increased number of new contributors.

In addition, the Board has taken a number of actions to reduce the Foundation's expenditures, thus further improving the Foundation's cash flow. For example, the Board instructed the Foundation to dispose of unneeded supplies and other material, thereby reducing the Foundation's expenditures for storage rental. It also froze and reduced some Foundation salaries indefinitely. Further, the Board began requiring its treasurer to receive weekly reports of receipts and disbursements to better allow the Board to review and control the Foundation's cash flow. We believe that these actions should help to reduce the Foundation's expenditures and to enhance oversight and direction by the Board.

We are resuming our audit of the Foundation's 1990 financial statements and will shortly begin our audit of the 1991 statements. Those audits will address the issues discussed in this letter and contain additional recommendations, if appropriate. Copies of those audits will be made available to you when completed.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we will not distribute it until 30 days from its date. At that time, we will make it available to interested parties.

If you or your staff have any questions or require additional information on the matters discussed in this report, please contact me at (202) 275-9489 or Rosemary Jellish, Assistant Director, at (202) 512-6920.

DAVID L. CLARK,
Director, Legislative Reviews and Audit Oversight.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 6049.

The question was taken, and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5482, VOCATIONAL REHABILITATION ACT AMENDMENTS OF 1992

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes.

---

[1] Congressional Award Program: Problems at the National Level Must Be Solved If the Program Is To Progress (GAO/AFMD-89-14, November 14, 1988) and Financial Audit: Congressional Award Foundation Financial Statements for 1989 (GAO/AFMD-91-25, April 30, 1991).

(For conference report and statement, see proceedings of the House of Thursday, October 1, 1992.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5482.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge approval of the conference report to H.R. 5482, that reauthorizes the Rehabilitation Act of 1973. This bill represents a bipartisan effort to address specific needs that have come to our attention during this legislative process. Although this act provided many individuals with the opportunity to become independent and self-sufficient taxpayers, we must face the painful reality that even with the act in place, the unemployment rate among individuals with disabilities is staggering. This legislation enabled us to make significant inroads into what has been a legacy of employment discrimination. Changes were also made and new initiatives added to advance the cause of consumer empowerment and to facilitate and maximize opportunities for people with disabilities in order that they may have full control over their lives.

I am pleased that the House and Senate have reached agreement on the issues addressed by this bill. H.R. 5482 creates partnerships between providers and consumers to ensure a more consumer-driven system; rigorously changes language and references that inadvertently impose stigma and stereotype; increases the range of eligible services; facilitates greater participation of minorities by preparing them for careers in vocational rehabilitation, independent living, and related services; and bridges the critical transition from school to employment and independent community life.

The progressive legislation before the House is the result of lengthy negotiations, compromises, and hard work by both the House and Senate. I would like to thank Congressman BALLENGER, the ranking minority member, for his assistance during this process, as well as his outstanding staff member, Sally Lovejoy. Also, special thanks for the support of subcommittee members. I want to thank my staff and full committee staff member Alan Lovesee for their excellent work. Additionally, I wish to acknowledge the contributions made by many of the organizations working in the field of rehabilitation and disability policy. We can be proud of this bill for it represents our continued commitment to the empowerment of individuals with disabilities.

□ 2130

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this conference report which will improve vocational rehabilitation services to individuals with disabilities and ensure that such services will be provided with increased consumer control and provide better accountability to the programs being funded.

The Vocational Rehabilitation Act is the only program that provides comprehensive rehabilitation services to individuals with disabilities that enable them to seek employment and find a job. It is a program that has been highly successful in providing job opportunities to individuals with disabilities by making them more independent and productive taxpaying citizens.

To build upon this investment and its return and to move toward implementing many of the provisions required by the Americans with Disabilities Act, this conference report makes several changes which will increase access to this program through improved eligibility requirements, increase consumer control and choices, and improve rehabilitation services for individuals with the most severe disabilities.

I am particularly pleased to see that provisions of my bill, H.R. 4493, the Individuals with Disabilities Transportation Act, were included in this conference agreement as a demonstration program so that individuals with disabilities who have jobs, are seeking jobs, or who need vocational rehabilitation services, will have affordable, accessible transportation in order to keep and maintain employment. Workers who are disabled and choose to compete in the marketplace are often at a disadvantage when it comes to locating affordable transportation to their jobs. For these individuals, the cost of transportation consumes a large portion of their paycheck and creates a disincentive for them to seek employment. While the Americans with Disabilities Act requires that accessible transportation be provided to people with disabilities where there is fixed route transportation or comparable paratransit, there is no such requirement if there is no established public transportation. These demonstration grants will go a long way toward filling that gap.

While there are many other significant changes made to this act which I will not elaborate on, I am very pleased that such a large and important reauthorization was accomplished in a bipartisan manner. I support this legislation and urge my colleagues to support its passage.

Mr. BALLENGER. Mr. Speaker, I rise today to support this conference agreement on H.R. 5482, the Vocational Rehabilitation Act Amendments of 1992. We have been able to work our a bill which makes major improvements in the programs under the Rehabilitation Act to provide employment opportunities to individuals with disabilities. This is a bipartisan bill which the administration supports and which the disability community is behind. It has taken almost 2 years of work by Chairman OWENS, Mr. GOODLING, myself, and Members of the other body to bring such a comprehensive bill to conclusion. This conference report makes significant changes to the current law by improving accountability in the State Grant Program, the largest program under the act, improving eligibility requirements, reducing the time between when an individual enters the rehabilitation process and when he finds a job, increasing consumer control and choice both in determining what job or career they pursue and what services are provided to reach their goal, providing better coordination between special education and vocational rehabilitation, and providing incentives for business to participate in the rehabilitation process.

This is a good bill that will strengthen our economy by returning more individuals with disabilities to work. I support this bill and urge my colleagues to support it as well.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER, pro tempore (Mr. RICHARDSON). The question is in the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and agree to the conference report on the bill, H.R. 5482.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

MAKING CORRECTIONS IN ENROLLMENT OF H.R. 5482, VOCATIONAL REHABILITATION ACT AMENDMENTS OF 1973

Mr. OWENS of New York. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 371) to make corrections in the enrollment of the bill, H.R. 5482, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I take this time to yield to the gentleman from New

York [Mr. OWENS] to explain his request.

Mr. OWENS of New York. Mr. Speaker, if the gentleman will yield this is a concurrent resolution which makes a technical correction to the statutory language for the conference report that we have just passed. It is noncontroversial, and I believe it has been agreed to by all parties.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, this correction has been cleared by the majority.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 371

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes, the Clerk of the House of Representatives shall make corrections in the bill as follows:

(1) In section 308 of the bill, strike subsection (e) of the section and insert the following:

(e) RELATIONSHIP TO SPECIAL DEMONSTRATION PROGRAMS.—Section 311 (29 U.S.C. 777a), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(e) EDUCATIONAL AND VOCATIONAL REHABILITATION DEMONSTRATION PROJECTS REGARDING LOW-FUNCTIONING.—

"(1) GRANTS.—The Commissioner may make grants to public or private institutions to pay for the cost of developing special projects and demonstration projects to address the general education, counseling, vocational training, work transition, supported employment, job placement, followup, and community outreach needs of individuals who are either low-functioning and deaf or low-functioning and hard-of-hearing. Such projects shall provide educational and vocational rehabilitation services that are not otherwise available in the region involved and shall maximize the potential of such individuals, including individuals who are deaf and have additional severe disabilities.

"(2) MONITORING.—The Commissioner shall monitor the activities of the recipients of grants under this subsection to ensure that the recipients carry out the projects in accordance with paragraph (1), that the recipients coordinate the projects as described in paragraph (3), and that information about innovative methods of service delivery developed by such projects is disseminated.

"(3) ANNUAL REPORT.—The Commissioner shall prepare and submit an annual report to Congress that includes an assessment of the manner in which the recipients carrying out the projects coordinate the projects with projects carried out by other public or nonprofit agencies serving individuals who are deaf, to expand or improve services for such individuals.".

(f) RELATIONSHIP TO SPECIAL DEMONSTRATION PROGRAMS.—Section 311 (29 U.S.C. 777a), as amended by subsection (e), is amended by adding at the end the following new subsection:

"(f)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund special demonstration programs, projects and activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund programs, projects, and activities described in section 802.

"(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.".

(2) In section 801 of the bill:

(A) Redesignate subsection (b) as subsection (c).

(B) Insert after subsection (a) the following subsection.

(b) ACCOUNT.—There shall be established an account with a distinct designated budget account identification code number in the President's budget, for activities under title VIII of the Rehabilitation Act of 1973. Funding for such activities shall be available only to such extent as is provided, or in such amounts as are provided, in appropriations Acts. Such account shall be separate and distinct from the accounts for all other activities under titles I through VII of such Act.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

NATIVE AMERICAN LANGUAGES ACT OF 1992

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2044) to assist Native Americans in assuring the survival and continuing vitality of their languages, as amended.

The Clerk read as follows:

S. 2044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act, other than section 4, may be cited as the "Native American Languages Act of 1992".

SEC. 2. GRANT PROGRAM.

The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by inserting before section 804 the following:

SEC. 803C. GRANT PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

"(a) AUTHORITY TO AWARD GRANTS.—The Secretary shall award a grant to any agency or organization that is—

"(1) eligible for financial assistance under section 803(a); and

"(2) selected under subsection (c);

to be used to assist Native Americans in ensuring the survival and continuing vitality of native American languages.

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—The purposes for which each grant awarded under subsection (a) may be used include, but are not limited to—

"(1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;

"(2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to serve as interpreters or translators of such language;

"(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;

"(4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;

"(5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language; and

"(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project.

"(c) APPLICATIONS.—For the purpose of making grants under subsection (a), the Secretary shall select applicants from among agencies and organizations described in such subsection on the basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

"(1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) is requested, including a description of existing programs and projects, if any, in support of such language;

"(2) a detailed description of the project for which such grant is requested;

"(3) a statement of objectives that are consonant with the purpose described in subsection (a);

"(4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;

"(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans; and

"(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons.

"(d) PARTICIPATING ORGANIZATIONS.—If a tribal organization or other eligible applicant decides that the objectives of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application submitted under subsection (c).

"(e) LIMITATIONS ON FUNDING.—

"(1) SHARE.—Notwithstanding any other provision of this title, a grant made under subsection (a) may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost—

"(A) shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

"(B)(i) may be provided from any private or non-Federal source; and

"(ii) may include funds (including interest) distributed to a tribe—

"(I) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

"(II) from funds collected and administered by the Federal Government on behalf of such tribe or its constituent members; or

"(III) by the Federal Government for general tribal administration or tribal development under a formula or subject to a tribal budgeting priority system, such as, but not limited to, funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or tribal budget priority system.

"(2) DURATION.—The Secretary may make grants made under subsection (a) on a 1-year, 2-year, or 3-year basis.

"(f) ADMINISTRATION.—(1) The Secretary shall carry out this section through the Administration for Native Americans.

"(2)(A) Not later than 180 days after the effective date of this section, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review—

"(i) applications submitted under subsection (a);

"(ii) evaluations carried out to comply with subsection (c)(4); and

"(iii) the preservation of products required by subsection (c)(5).

"(B) Such panel shall include, but not be limited to—

"(i) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

"(ii) a designee of the regional centers funded under section 5135 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3215);

"(iii) representatives of national, tribal, and regional organizations that focus on Native American language, or Native American cultural, research, development, or training; and

(iv) other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian tribes and tribal organizations.

"(C) The duties of such panel include—

"(i) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;

"(ii) reviewing applications received under subsection (c);

"(iii) providing to the Secretary a list of recommendations for the approval of such applications—

"(I) in accordance with regulations issued by the Secretary; and

"(II) the relative need for the project; and

"(iv) reviewing evaluations submitted to comply with subsection (c)(4).

"(D)(i) Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a)—

"(I) shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and

"(II) may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material;

for preservation and use consonant with their respective responsibilities under other Federal law.

"(ii) Based on the Federal recognition of the sovereign authority of Indian tribes over all aspects of their cultures and language and except as provided in clause (iii), an Indian tribe may make a determination—

"(I) not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or

"(II) to restrict in any manner the use or redistribution of such copies after transmission under such clause.

"(iii) Clause (ii) shall not be construed to authorize Indian tribes—

"(I) to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or

"(II) to sell such products, or copies of such products, for profit to the entities referred to in clause (i).".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by inserting "803C" after "803A" each place it appears; and

(2) by adding at the end the following:

"(f) There are authorized to be appropriated to carry out section 803C, $2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.".

SEC. 4. NATIVE AMERICANS EDUCATIONAL ASSISTANCE ACT.

(a) SHORT TITLE.—This section may be cited as the "Native Americans Educational Assistance Act".

(b) AGREEMENT TO CARRY OUT DEMONSTRATION PROJECT.—The Secretary of the Interior is authorized to enter into an agreement with a nonprofit captioning agency engaged in manufacturing and distributing captioning decoders, for the purpose of carrying out a demonstration project to determine the effectiveness of captioned educational materials as an educational tool in schools operated by the Bureau of Indian Affairs.

(c) REPORT.—Prior to the expiration of the 12-month period following the date of the agreement entered into pursuant to subsection (b), the Secretary of the Interior shall report to the Congress the results of the demonstration project carried out pursuant to such agreement, together with recommendations of the Secretary.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentlemen from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous matter, on the Senate bill, S. 2044, now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I come before you today with a bill of great importance to the native American Indian, our Nation and to the international community. The Native American Languages Act of 1992 is an effort to stem the rapid extinction of native American languages. It is the missing connection that will enable the American Indian to journey out of poverty with respect and pride for their heritage.

Native American languages are near extinction in the United States. Studies suggest that at one time several thousand distinct Indian languages existed in what is now America. Today that number has dwindled to approximately 150 Indian languages.

As chairman of the Subcommittee on Human Resources I have had the opportunity to address the problems facing youth, families, and the elderly. Faced with poverty, high unemployment, and chronic alcoholism, many tribes have realized the importance that culture and native languages play in the well being of native people.

This resurgence was enhanced with the passage of the Native American Languages Act in 1990, which declared it the right of native Americans to use their languages and encouraged its practice, development, and promotion in all settings. The act recognized that traditional languages are a complex part of the ethnic and cultural identities of native Americans and that the survival and distinction of a culture may be dependent upon language preservation. Support has been shown from organizations such as U.S. English, who welcome the cultural wealth indigenous languages bring to our Nation. Yet, despite this change in attitude and policy, there is no comprehensive effort to maintain what remains of our native Indian languages.

The early 1900's marked the U.S. Government's aggressive attack on the languages and culture of the American Indian. Education was seen as the method to civilize and assimilate the "red man". Children were often separated from their families and sent great distances to schools where speaking their native languages meant abuse and humiliation. So successful was the United States antinative language policy that many native languages may not survive the next century. Even today many of these attitudes persist.

Historical events and prejudices endangered the survival of native American languages and the diverse cultures they represent. Comprising less than 1 percent of the population in the United States, native Americans have not enjoyed the support, other ethnic groups have benefited from, in the preservation of their cultural identities. Unlike other languages, which have flourished through strong ethnic ties and legislative representation, the deterioration of native American culture will continue without the passage of this bill.

The preservation of any culture lies in the recording of, and the honoring of, the American Indian's traditional rites and languages. Tribal languages are vital links in the preservation of traditional rites and customs and are fundamental to the identity of native Americans. Without native languages many tribal and village members have found it impossible to bridge two cultures.

Native American students have the highest dropout rate in the Nation and are more than two times likely to commit suicide. Reports indicate that as much as 60 percent of all Indian students do not finish high school and less than one-half of 1 percent obtain professional degrees. The high incidence of teen suicide, chronic alcoholism, and chemical dependency within native American communities is testimony to the disassociation experienced by many tribal members. Studies link these chronic problems to the loss of self identity and a lack of cultural awareness.

Studies also show that only 2 of the 20 native languages in Alaska are still being learned by children. In California, indigenous languages are disappearing at a rate of 6 per year. As with many of the native languages in the United States, the few remaining fluent speakers are elderly. In some cases, less than 10 elderly speakers remain. Extinction for a language is as close as the death of the last elderly member. With so many native tribes experiencing a gap between elderly native speakers and nonnative speaking native children, it is little wonder that this tragedy persists.

These statistics highlight the need for this legislation. Community language programs can span the language gap between generations and provide the basis for cultural and community growth.

Today's innovative language education programs are evidence of the commitment on the part of native American communities to overcome the ills prevalent to reservation life. Existing language programs encourage the maintenance of native American languages as a way of strengthening Indian culture and ultimately the Indian family. However, problems remain. Inadequate funding levels force many tribal governments to choose between economic and social development. According to the National Park Service, 1992 applications for language preservation programs far exceed the funding available. Figures show 97 of the 183 applications submitted were for language related programs and of these 97 requests only 19 were funded.

The Native American Languages Act of 1992, would assist native Americans in establishing the mechanisms to secure the survival of their languages.

Among its provisions, tribal governments and other native American organizations presently under the Native Americans Programs Act could apply for grants to establish native language training programs, to develop written materials, to compile oral records, to establish community language programs. It would be administrated by the administration for native Americans with grants awarded on a competitive basis.

Native Americans are a minority in crisis. Languages once associated with derision, are now recognized not only for the cohesiveness and self worth they bring to native American culture, but for the historical value to our Nation's future generations. I urge you to support the Native American Languages Act 1992.

☐ 2140

Mr. Speaker, I reserve the balance of my time.

Mr. CAMPBELL of Colorado. Mr. Speaker, the traditional languages of native American people are an integral part of their culture and identity. They provide a means for elaborating stories, literature, religion, and the rich history and traditional ways of life. The ability of Indian communities to preserve their traditional languages will allow them to effectively preserve their traditional stories, literatures, and oral history. To lose the diversity and vibrant history of our many Indian nations, is to lose a vital part of the history of this country.

Senate bill 2044, introduced by Senator DANIEL INOUYE, entitled the "Native American Languages Act of 1991" authorizes the administration for native Americans to make grants to Indian tribal governments and other native American organizations. The bill amends the Native Programs Act of 1974 to authorize eligible organizations to receive grants through fiscal year 1993. I am fully supportive of this grant process. The ANA has recently been rated as one of the most effective Government organizations.

As the only native American Member of Congress, I have been involved in most all legislation where the Indian community is involved. I am in full support of the Native American Languages Act. Language in all cultures is paramount to the survival and vitality of one's culture. To lose the ability to communicate in the traditional languages further compromises the effectiveness of passing on the oral history of traditional ways of life.

Many of the problems that Indian communities are confronted with—alcohol and drug abuse, suicide, high dropout rates—are directly related to one's loss of identity. A revival of language programs that emphasize the native languages is an important step to bringing individuals and communities closer to their true identities and the vibrant culture they share.

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise to voice my support of S. 2481, the Indian Health Amendments of 1992. The reauthorization of this important piece of legislation will ensure the continued support for Indian health care services to all native Americans, residing on reservations or in large urban areas, until the year 2000.

This legislation incorporates 60 objectives developed by the U.S. Department of Health and Human Services that serve two primary goals. First, they will provide a measuring device for comparing the current health status of native Americans to their health status in the year 2000. Second, the objectives will serve to provide valuable resource data for the Indian health care improvement fund.

Currently, all statistics show that the native American population is the most at risk group in the country, suffering from the highest mortality rate of all population groups in the United States and facing alcohol, diabetes, tuberculosis, and suicide rates much higher than the national average.

After much debate in both Houses of Congress, the Indian health amendments before us today incorporate legislation I have introduced this Congress that addresses the high occurrence of fetal alcohol syndrome in native American infants who are 20 times more likely to be born with fetal alcohol syndrome than other U.S. infants. In order to confront these and other monumental challenges, a unilateral approach to health care must be undertaken that focuses on prevention, education, and effective treatment programs. Extreme cultural contrasts also contribute to the unique challenge facing Indian leaders and health experts in their search for an effective and efficient health model.

Although native Americans represent the smallest population group in the United States, the resources needed to effectively address the plethora of health issues are among the greatest. With the passage of the Snyder Act in 1921, Congress formally obligated itself to provide quality health care to the native American population and should make a concerted effort this day to uphold that trust responsibility.

In spite of the circumstances that native American communities are facing, there is hope. For example UNITY [United National Indian Tribal Youth, Inc.], a national organization comprised of 45 native American youth councils—has designated sobriety and heritage as key paths in the journey to the year 2000. It is groups like this that will propel a renewed generation of Indian people toward a healthier tomorrow.

Again I would urge my colleagues to support passage of S. 2481, the Indian Health Amendments of 1992 to keep Indian health alive.

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise in support of House Concurrent Resolution 367. I have been asked by the Morningstar Foundation, a nationally recognized native American advocacy group, to support its efforts for a Columbus Day concert on the Capitol Grounds.

House Concurrent Resolution 367 would authorize the presentation of the program on the Capitol Grounds. The program, entitled "Native Voices: The Next 500 Years," will feature performances by traditional native American dancers, traditional and contemporary musical performances, and readings and poetry. On the occasion of the quincentenary of Columbus' arrival in the Americas, the program will honor native American people and celebrate the rich, vibrant, traditional ways that have been passed on for generations.

As you know, Congress has declared 1992 the "Year of the American Indian" and the "National Year of Reconciliation Between Indians and Non-Indians" to commemorate native American culture and to acknowledge the significant contributions native American people have given to the history of this country.

From the Persian Gulf war to the Navajo code talkers of the Second World War, native American men and women have answered our country's call when conflict has occurred, and have served gallantly and honorably. In the arts, traditional native American artists and performers have preserved traditional forms of entertainment and have brought world recognition to the traditional ways. Further, in athletics, many of us have had the opportunity to represent this country at the highest level of competition.

As the only American Indian serving in this body, I would ask the rest of my colleagues to support House Concurrent Resolution 367 to ensure that our native voices are heard.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of S. 2044, the Native American Languages Act of 1992. This bill is extremely important to my native constituents in Alaska. We are in danger of losing the continuance of our native languages and I am extremely pleased with the junior Senator from Alaska in the other body for his part in introducing similar legislation.

This bill proposes to appropriate $5 million in fiscal year 1993 and such sums as necessary for fiscal years 1994, 1995, 1996, and 1997. Programs will be established to train native Americans to teach native languages to others and to serve as interpreters or translators. This bill also proposes to establish and support community language programs to bring older and younger native Americans together to facilitate and encourage the transfer of language skills from one generation to another. We already have a couple of programs in some communities in Alaska and I am delighted that this bill will establish programs to further the continuance of native languages. I wholeheartedly support S. 2044 and urge my colleagues to pass this important bill.

Mr. GOODLING. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLTER). The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the Senate bill, S. 2044, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

RELATING TO CONSIDERATION OF SENATE AMENDMENT TO H.R. 5194, JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 AMENDMENTS

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 594) relating to the consideration of the Senate amendment to H.R. 5194.

The Clerk read as follows:

H. RES. 594

Resolved, That upon the adoption of this resolution the bill (H.R. 5194) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with an amendment as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (6), (7), (8), (9), and (10), respectively;

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) recent trends show an upsurge in arrests of adolescents for murder, assault, and weapon use;

"(3) the small number of youth who commit the most serious and violent offenses are becoming more violent;";

(3) in paragraph (4), as redesignated by paragraph (1), by inserting "prosecutorial and public defender offices," after "juvenile courts,";

(4) by striking "and" at the end of paragraph (9), as redesignated by paragraph (1);

(5) by striking the period at the end of paragraph (10), as redesignated by paragraph (1), and inserting ";"; and

(6) by adding at the end the following new paragraphs:

"(11) emphasis should be placed on preventing youth from entering the juvenile justice system to begin with; and

"(12) the incidence of juvenile delinquency can be reduced through public recreation programs and activities designed to provide youth with social skills, enhance self esteem, and encourage the constructive use of discretionary time.".

(b) PURPOSE.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "delinquency" and inserting "justice and delinquency prevention";

(B) in paragraph (2) by striking "agencies, institutions, and individuals in developing and implementing juvenile delinquency programs" and inserting "nonprofit juvenile justice and delinquency prevention programs";

(C) by striking "and" at the end of paragraph (7);

(D) by redesignating paragraph (8) as paragraph (9);

(E) by inserting after paragraph (7) the following new paragraph:

"(8) to strengthen families in which juvenile delinquency has been a problem;";

(F) by striking the period at the end of paragraph (9), as redesignated by subparagraph (D), and inserting a semicolon; and

(G) by adding at the end the following new paragraphs:

"(10) to assist State and local governments in improving the administration of justice and services for juveniles who enter the system; and

"(11) to assist States and local communities to prevent youth from entering the justice system to begin with."; and

(2) in subsection (b)—

(A) by striking "maintaining and strengthening the family unit" and inserting "preserving and strengthening families";

(B) by striking "and (4)" and inserting "(4)"; and

(C) by inserting "; (5) to encourage parental involvement in treatment and alternative disposition programs; and (6) to provide for coordination of services between State, local, and community-based agencies and to promote interagency cooperation in providing such services" before the period at the end.

(c) DEFINITIONS.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) by amending paragraph (16) to read as follows:

"(16) the term 'valid court order' means a court order given by a juvenile court judge to a juvenile—

"(A) who was brought before the court and made subject to such order;

"(B) who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States;

"(C) with respect to whom an appropriate public agency (other than a court or law enforcement agency), before the issuance of such order—

"(i) reviewed the behavior of such juvenile and the circumstances under which such juvenile was brought before the court and made subject to such order;

"(ii) determined the reasons for the behavior that caused such juvenile to be brought before the court and made subject to such order;

"(iii) determined that all dispositions (including treatment), other than placement in a secure detention facility or a secure correctional facility, have been exhausted or are clearly inappropriate; and

"(iv) submitted to the court a written report stating the results of the review conducted under clause (i) and the determinations made under clauses (ii) and (iii);";

(2) by striking "and" at the end of paragraph (17);

(3) by striking the period at the end of paragraph (18) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

"(19) the term 'comprehensive and coordinated system of services' means a system that—

"(A) ensures that services and funding for the prevention and treatment of juvenile delinquency are consistent with policy goals of preserving families and providing appropriate services in the least restrictive environment so as to simultaneously protect juveniles and maintain public safety;

"(B) identifies, and intervenes early for the benefit of, young children who are at risk of developing emotional or behavioral problems because of physical or mental stress or abuse, and for the benefit of their families;

"(C) increases interagency collaboration and family involvement in the prevention and treatment of juvenile delinquency; and

"(D) encourages private and public partnerships in the delivery of services for the prevention and treatment of juvenile delinquency;

"(20) the term 'gender-specific services' means services designed to address needs unique to the gender of the individual to whom such services are provided;

"(21) the term 'home-based alternative services' means services provided to a juvenile in the home of the juvenile as an alternative to incarcerating the juvenile, and includes home detention;

"(22) the term 'jail or lockup for adults' means a locked facility that is used by a State, unit of local government, or any law enforcement authority to detain or confine adults—

"(i) pending the filing of a charge of violating a criminal law;

"(ii) awaiting trial on a criminal charge; or "(iii) convicted of violating a criminal law; and

"(23) the term 'nonprofit organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.".

SEC. 2. JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) Office of Juvenile Justice and Delinquency Prevention.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 (b)) is amended by amending the third sentence to read as follows: "The Administrator shall have the same reporting relationship with the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have.".

(b) Personnel, Special Personnel, Experts, and Consultants.—Section 202 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612) is amended—

(1) in subsection (b) by striking "prescribes for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376";

(2) in subsection (c) by striking "Act" and inserting "title"; and

(3) in subsection (d) by striking "prescribed for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376".

(c) Concentration of Effort.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by inserting "(1)" after "(a)"; and

(ii) by striking "implement overall policy and develop objectives and priorities" and inserting "develop objectives, priorities, and a long-term plan, and implement overall policy and a strategy to carry out such plan,"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The plan described in paragraph (1) shall—

"(i) contain specific goals and criteria for making grants and contracts, for conducting research, and for carrying out other activities under this title; and

"(ii) provide for coordinating the administration programs and activities under this title with the administration of all other Federal juvenile delinquency programs and activities, including proposals for joint funding to be coordinated by the Administrator.

"(B) The Administrator shall review the plan described in paragraph (1) annually, revise the plan as the Administrator considers appropriate, and publish the plan in the Federal Register—

"(i) not later than 240 days after the date of enactment of this paragraph, in the case of the initial plan required by paragraph (1); and

"(ii) except as provided in clause (i), in the 30-day period ending on October 1 of each year.";

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (5); and

(B) by striking the period at the end of paragraph (6) and inserting "; and";

(3) by adding at the end the following new paragraph:

"(7) not later than 1 year after the date of the enactment of this paragraph, issue model standards for providing health care to incarcerated juveniles."; and

(4) by striking subsections (f) and (g).

(d) Coordinating Council on Juvenile Justice and Delinquency Prevention.—Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "the Director of the Office of Community Services" and all that follows through the period and inserting "the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Office of National Drug Control Policy, the Director of the ACTION Agency, the Commissioner of Immigration and Naturalization, such other officers of Federal agencies who hold significant decision making authority as the President may designate, and individuals appointed under paragraph (2)."; and

(B) by amending paragraph (2) to read as follows:

"(2)(A) Nine members shall be appointed, without regard to political affiliation, to the Council in accordance with this paragraph from among individuals who are practitioners in the field of juvenile justice and who are not officers or employees of the United States.

"(B)(i) Three members shall be appointed by the Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives.

"(ii) Three members shall be appointed by the majority leader of the Senate, after consultation with the minority leader of the Senate.

"(iii) Three members shall be appointed by the President.

"(C)(i) Of the members appointed under each of clauses (i), (ii), and (iii)—

"(I) 1 shall be appointed for a term of 1 year;

"(II) 1 shall be appointed for a term of 2 years; and

"(III) 1 shall be appointed for a term of 3 years;

as designated at the time of appointment.

"(ii) Except as provided in clause (iii), a vacancy arising during the term for which an appointment is made may be filled only for the remainder of such term.

"(iii) After the expiration of the term for which a member is appointed, such member may continue to serve until a successor is appointed.";

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) in the first sentence by inserting "(in cooperation with State and local juvenile justice programs) all Federal programs and activities that detain or care for unaccompanied juveniles," after "delinquency programs";

(C) in the second sentence—

(i) by inserting "shall examine how the separate programs can be coordinated among Federal, State, and local governments to better serve at-risk children and juveniles and" after "Council"; and

(ii) by inserting "and all Federal programs and activities that detain or care for unaccompanied juveniles" before the period; and

(D) by adding at the end the following new paragraph:

"(2) In addition to performing their functions as members of the Council, the members appointed under subsection (a)(2) shall collectively—

"(A) make recommendations regarding the development of the objectives, priorities, and the long-term plan, and the implementation of overall policy and the strategy to carry out such plan, referred to in section 204(a)(1); and

"(B) not later than 180 days after the date of the enactment of this paragraph, submit such recommendations to the Administrator, the Chairman of the Committee on Education and Labor of the House of Representatives, and the Chairman of the Committee on the Judiciary of the Senate."; and

(3) in subsection (f)—

(A) by inserting "Members appointed under subsection (a)(2) shall serve without compensation." after "(f)"; and

(B) by striking "who are employed by the Federal Government full time".

(e) Annual Report.—Section 207(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617(1)) is amended—

(1) in subparagraph (D)—

(A) by inserting "(including juveniles treated as adults for purposes of prosecution)" after "juveniles"; and

(B) by striking "and" at the end;

(2) in subparagraph (E) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school.".

(f) Federal Assistance for State and Local Programs.—

(1) Authority to make grants and contracts.—Section 221(b)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5613(b)(2)) is amended—

(A) in the first sentence by striking "existence" and inserting "experience"; and

(B) in the second sentence by striking "section 291(c)(1)" and inserting "section 299(c)(1)".

(2) Allocation.—Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(A) by striking "allotted" each place it appears and inserting "allocated" and striking "allotment" each place it appears and inserting "allocation";

(B) in subsection (a)—

(i) in paragraph (2)(A)—

(I) by striking "part D" and inserting "parts D and E";

(II) by inserting "or such greater amount, up to $400,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$325,000,"; and

(III) by inserting ", or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$75,000";

(ii) in paragraph (2)(B)—

(I) by inserting "or such greater amount, up to $600,000, as is available to be allocated if appropriations have been enacted and made available to carry out parts D and E in the full amounts authorized by section 299(a) (1) and (3)" after "$400,000,"; and

(II) by inserting ", or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$100,000"; and

(iii) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and

(C) in subsection (c)—

(i) in the first sentence by striking "and evaluation" and inserting ", evaluation, and one full-time staff position"; and

(ii) in the second sentence by striking "7½ per centum" and inserting "10 percent".

(3) STATE PLANS.—(A) Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(i) in subsection (a)—

(I) in the second sentence by striking "programs, and the State" and inserting "programs and challenge activities subsequent to State participation in part E. The State";

(II) in paragraph (1) by striking "section 291(c)(1)" and inserting "section 299(c)(1)";

(III) by amending paragraph (3) to read as follows:

"(3) provide for an advisory group, which—

"(A) shall consist of not less than 15 and not more than 33 members appointed by the chief executive officer of the State—

"(i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice;

"(ii) which members include—

"(I) at least 1 locally elected official representing general purpose local government;

"(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, counsel for children and youth, and probation workers;

"(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services;

"(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;

"(V) volunteers who work with delinquents or potential delinquents;

"(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;

"(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; and

"(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence;

"(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;

"(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and

"(v) at least 3 members who have been or are currently under the jurisdiction of the juvenile justice system;

"(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

"(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);

"(D) shall, consistent with this title—

"(i) advise the State agency designated under paragraph (1) and its supervisory board;

"(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the requirements of paragraphs (12), (13), and (14) and with progress relating to challenge activities carried out pursuant to part E; and

"(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and

"(E) may, consistent with this title—

"(i) advise on State supervisory board and local criminal justice advisory board composition;

"(ii) review progress and accomplishments of projects funded under the State plan.";

(IV) in paragraph (8)—

(aa) by inserting "(A)" after "(8)";

(bb) by striking "(A) an" and inserting "(i) an";

(cc) by striking "(B)" and inserting "(ii)";

(dd) by striking "(C)" and inserting "(iii)";

(ee) by inserting "(including educational needs)" after "delinquency prevention needs" each place it appears; and

(ff) by adding at the end the following new subparagraphs:

"(B) contain—

"(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services for females; and

"(ii) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

"(C) contain—

"(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

"(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

"(D) contain—

"(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

"(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;";

(V) in paragraph (9) by inserting "recreation," after "special education,";

(VI) by amending paragraph (10) to read as follows:

"(10) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

"(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

"(i) for youth who can remain at home with assistance: home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

"(ii) for youth who need temporary placement: crisis intervention, shelter, and aftercare; and

"(iii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

"(B) community-based programs and services to work with—

"(i) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

"(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

"(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

"(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

"(E) educational programs or supportive services for delinquent or other juveniles, provided equitably regardless of sex, race, or family income, designed to—

"(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

"(I) education in settings that promote experiential, individualized learning and exploration of academic and career options;

"(II) assistance in making the transition to the world of work and self-sufficiency;

"(III) alternatives to suspension and expulsion; and

"(IV) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

"(ii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

"(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

"(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

"(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

"(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

"(i) a sense of safety and structure;

"(ii) a sense of belonging and membership;

"(iii) a sense of self-worth and social contribution;

"(iv) a sense of independence and control over one's life;

"(v) a sense of closeness in interpersonal relationships; and

"(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

"(M) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(ii) assist in the provision by the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

"(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

"(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families.";

(VII) in paragraph (12)(A) by inserting "or alien juveniles in custody," after "court orders,";

(VIII) in paragraph (13)—

(aa) by striking "regular", and

(bb) by inserting before the semicolon at the end "or with the part-time or full-time security staff (including management) or direct-care staff of a jail or lockup for adults";

(IX) in paragraph (14)—

(aa) by striking "; beginning after the five-year period following December 8, 1980,";

(bb) by striking "1993" and inserting "1997"; and

(cc) by striking "areas which" and all that follows through the end of the paragraph and inserting "areas that are in compliance with paragraph (13) and—

"(A)(i) are outside a Standard Metropolitan Statistical Area; and

"(ii) have no existing acceptable alternative placement available;

"(B) are located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within 24 hours, so that a brief (not to exceed 48 hours) delay is excusable; or

"(C) are located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel;";

(X) by amending paragraph (16) to read as follows:

"(16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;"; and

(XI) in paragraph (17)—

(aa) by striking "and maintain the family units" and inserting "the families";

(bb) by striking "deliquency. Such" and inserting "delinquency (which"; and

(cc) by inserting "and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible)" before the semicolon;

(XII) by striking "and" at the end of paragraph (23);

(XIII) by striking the period at the end of paragraph (24) and inserting "; and"; and

(XIV) by adding at the end the following new paragraph:

"(25) provide an assurance that if the State receives under section 222 for any fiscal year an amount that exceeds 105 percent of the amount the State received under such section for fiscal year 1992, all of such excess shall be expended through or for programs that are part of a comprehensive and coordinated community system of services."; and

(ii) by amending subsection (c) to read as follows:

"(c)(1) Subject to paragraph (2), the Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(2) Failure to achieve compliance with the subsection (a)(12)(A) requirement within the 3-year time limitation shall terminate any State's eligibility for funding under this part for a fiscal year beginning before January 1, 1993, unless the Administrator determines that the State is in substantial compliance with the requirement, through achievement of deinstitutionalization of not less than 75 percent of such juveniles or through removal of 100 percent of such juveniles from secure correctional facilities, and has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time not exceeding 2 additional years.

"(3) If a State fails to comply with the requirements of subsection (a), (12)(A), (13), (14), or (23) in any fiscal year beginning after January 1, 1993—

"(A) subject to subparagraph (B), the amount allotted under section 222 to the State for that fiscal year shall be reduced by 25 percent for each such paragraph with respect to which noncompliance occurs; and

"(B) the State shall be ineligible to receive any allotment under that section for such fiscal year unless—

"(i) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with section 222 (c) and (d) and with section 223(a)(5)(C)) for that fiscal year only to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

"(ii) the Administrator determines, in the discretion of the Administrator, that the State—

"(I) has achieved substantial compliance with each such paragraph with respect to which the State was not in compliance; and

"(II) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time."; and

(iii) in subsection (d)—

(I) by inserting ", excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d)," after "section 222(a)";

(II) by striking "the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14)" and inserting "activities of the kinds described in subsection (a) (12)(A), (13), (14) and (23)"; and

(III) by striking "subsection (a)(12)(A) and subsection (a)(13)" and inserting "subsection (a) (12)(A), (13), (14) and (23)".

(B) Notwithstanding the amendment made by subparagraph (A)(ii), section 223(c)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)(3)), as in effect on the day prior to the date of enactment of this Act, shall remain in effect to the extent that it provides the Administrator authority to grant a waiver with respect to a fiscal year prior to a fiscal year beginning before January 1, 1993.

(f) NATIONAL PROGRAMS.—

(1) NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 241(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)(2)) is amended—

(A) in subsection (d)—

(i) by inserting "recreation and park personnel," after "special education personnel"; and

(ii) by inserting "prosecutors and defense attorneys," after "probation personnel,"; and

(B) in subsection (e)—

(i) in paragraph (5) by striking "prescribed for GS-18 of the General Schedule by section 5332" and inserting "payable under section 5376"; and

(ii) in paragraph (6) by striking "Act" and inserting "title".

(2) INFORMATION FUNCTION.—Section 242(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5652(3)) is amended by inserting "(including drug and alcohol programs and gender-specific programs)" after "treatment programs".

(3) RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.—Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(A) by striking "The" and inserting "(a) The";

(B) in paragraph (1) by striking "maintain the family unit" and inserting "preserve families";

(C) by redesignating paragraphs (3), (4), (5), (6), (7), (8), and (9) as paragraphs (5), (6), (7), (8), (9), (10), and (11), respectively;

(D) by inserting after paragraph (2) the following new paragraphs:

"(3) establish or expand programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

"(4) Encourage the development of programs which, in addition to helping youth take responsibility for their behavior, take into consideration life experiences which may have contributed to their delinquency when developing intervention and treatment programs;

"(5) encourage the development and establishment of programs to enhance the States' ability to identify chronic serious and violent juvenile offenders who commit crimes such as rape, murder, firearms offenses, gang-related crimes, violent felonies, and serious drug offenses;";

(E) in subparagraph (D) of paragraph (7), as redesignated by subparagraph (C), by inserting "(including the productive use of discretionary time through organized recreational" after "lawful activities";

(F) by striking "and" at the end of paragraph (10), as redesignated by subparagraph (C);

(G) by striking the period at the end of paragraph (11), as redesignated by subparagraph (C), and inserting "; and"; and

(H) by adding at the end the following new paragraphs and subsection:

"(12) support independent and collaborative research, research training, and consultation on social, psychological, educational, economic, and legal issues affecting children and families;

"(13) support research related to achieving a better understanding of the commission of hate crimes by juveniles and designed to identify educational programs best suited to prevent and reduce the incidence of hate crimes committed by juveniles; and

"(14) routinely collect, analyze, compile, publish, and disseminate uniform national statistics concerning—

"(A) all aspects of juveniles as victims and offenders;

"(B) the processing and treatment, in the juvenile justice system, of juveniles who are status offenders, delinquent, neglected, or abused; and

"(C) the processing and treatment of such juveniles who are treated as adults for purposes of the criminal justice system.

"(b) The Administrator shall make available to the public—

"(1) the results of evaluations and research and demonstration activities referred to in subsection (a)(8); and

"(2) the data and studies referred to in subsection (a)(9);

that the Administrator is authorized to disseminate under subsection (a).".

(3) TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.—Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(A) in paragraph (2) by inserting "(including juveniles who commit hate crimes)" after "offenders";

(B) in paragraph (3)—

(i) by inserting "prosecutors and defense attorneys," after "judges";

(ii) by striking "and" at the end;

(C) by striking the period at the end of paragraph (4) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(5) provide technical assistance and training to assist States and units of general local government to adopt the model standards issued under section 204(b)(7).".

(4) ESTABLISHMENT OF TRAINING PROGRAM.—Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5659) is amended in the first sentence by inserting ", including methods and techniques specifically designed to prevent and reduce the incidence of hate crimes committed by juveniles" before the period .

(5) CURRICULUM FOR TRAINING PROGRAM.—Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended in the second sentence by inserting "and shall include training designed to prevent juveniles from committing hate crimes" before the period.

(6) SPECIAL STUDIES AND REPORTS.—Section 248 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5662) is amended—

(A) by striking "(a) Not later than 1 year after the date" and inserting "(a) PURSUANT TO 1988 AMENDMENTS.—(1) Not later than 1 year after the date";

(B) by striking "(1) to review" and inserting "(A) to review";

(C) by striking "(A) conditions" and inserting "(i) conditions";

(D) by striking "(B) the extent" and inserting "(ii) the extent";

(E) by striking "(2) to make" and inserting "(B) to make";

(F) by striking "(b)(1) Not later" and inserting "(2)(A) Not later";

(G) by striking "(A) how" and inserting "(i) how";

(H) by striking "(B) the amount" and inserting "(ii) the amount";

(I) by striking "(C) the extent" and inserting "(iii) the extent";

(J) by striking "(2)(A) for purposes" and inserting "(B)(i) for purposes";

(K) by striking "(B) For purposes" and inserting "(ii) for purposes";

(L) by striking "(c) Not later" and inserting "(3) Not later";

(M) by striking "subsection (a) or (b)" and inserting "paragraph (1) or (2)"; and

(N) by adding at the end the following new subsection:

"(b) PURSUANT TO 1992 AMENDMENTS.—(1) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to juveniles waived to adult court that reviews—

"(i) the frequency and extent to which juveniles have been transferred, certified, or waived to criminal court for prosecution during the 5-year period ending December 1992;

"(ii) conditions of confinement in adult detention and correctional facilities for juveniles waived to adult court; and

"(iii) sentencing patterns, comparing juveniles waived to adult court with juveniles who have committed similar offenses but have not been waived; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report (including a compilation of State waiver statutes) on the findings made in the study and recommendations to improve conditions for juveniles waived to adult court.

"(2) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to admissions of juveniles for behavior disorders to private psychiatric hospitals, and to other residential and nonresidential programs that serve juveniles admitted for behavior disorders, that reviews—

"(i) the frequency with which juveniles have been admitted to such hospitals and programs during the 5-year period ending December 1992; and

"(ii) conditions of confinement, the average length of stay, and methods of payment for the residential care of such juveniles; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve procedural protections and conditions for juveniles with behavior disorders admitted to such hospitals and programs.

"(3) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of gender bias within State juvenile justice systems that reviews—

"(i) the frequency with which females have been detained for status offenses (such as frequently running away, truancy, and sexual activity), as compared with the frequency with which males have been detained for such offenses during the 5-year period ending December 1992; and

"(ii) the appropriateness of the placement and conditions of confinement for females; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to combat gender bias in juvenile justice and provide appropriate services for females who enter the juvenile justice system.

"(4) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of the Native American pass-through grant program authorized under section 223(a)(5)(C) that reviews the cost-effectiveness of the funding formula utilized; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve the Native American pass-through grant program.

"(5) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of access to counsel in juvenile court proceedings that reviews—

"(i) the frequency with which and the extent to which juveniles in juvenile court proceedings either have waived counsel or have obtained access to counsel during the 5-year period ending December 1992; and

"(ii) a comparison of access to and the quality of counsel afforded juveniles charged in adult court proceedings with those of juveniles charged in juvenile court proceedings; and

"(B) submit to Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve access to counsel for juveniles in juvenile court proceedings.

"(6)(A) Not later than 180 days after the date of enactment of this subsection, the Administrator shall begin to conduct a study and continue any pending study of the incidence of violence committed by or against juveniles in urban and rural areas in the United States.

"(B) The urban areas shall include—

"(i) the District of Columbia;

"(ii) Los Angeles, California;

"(iii) Milwaukee, Wisconsin;

"(iv) Denver, Colorado;

"(v) Pittsburgh, Pennsylvania;

"(vi) Rochester, New York; and

"(vii) such other cities as the Administrator determines to be appropriate.

"(C) At least one rural area shall be included.

"(D) With respect to each urban and rural area included in the study, the objectives of the study shall be—

"(i) to identify characteristics and patterns of behavior of juveniles who are at risk of becoming violent or victims of homicide;

"(ii) to identify factors particularly indigenous to such area that contribute to violence committed by or against juveniles;

"(iii) to determine the accessibility of firearms, and the use of firearms by or against juveniles;

"(iv) to determine the conditions that cause any increase in violence committed by or against juveniles;

"(v) to identify existing and new diversion, prevention, and control programs to ameliorate such conditions;

"(vi) to improve current systems to prevent and control violence by or against juveniles; and

"(vii) to develop a plan to assist State and local governments to establish viable ways to reduce homicide committed by or against juveniles.

"(E) Not later than 3 years after the date of enactment of this subsection, the Administrator shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of the study addressing each objective specified in subparagraph (D).

"(7)(A) Not later than 1 year after the date of the enactment of this subsection, the Administrator shall—

"(i) conduct a study described in subparagraph (B); and

"(ii) submit to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate the results of the study.

"(B) The study required by subparagraph (A) shall assess—

"(i) the characteristics of juveniles who commit hate crimes, including a profile of such juveniles based on—

"(I) the motives for committing hate crimes;

"(II) the age, sex, race, ethnicity, education level, locality, and family income of such juveniles; and

"(III) whether such juveniles are familiar with publications or organized groups that encourage the commission of hate crimes;

"(ii) the characteristics of hate crimes committed by juveniles, including—

"(I) the types of hate crimes committed;

"(II) the frequency with which institutions and natural persons, separately determined, were the targets of such crimes;

"(III) the number of persons who participated with juveniles in committing such crimes;

"(IV) the types of law enforcement investigations conducted with respect to such crimes;

"(V) the law enforcement proceedings commenced against juveniles for committing hate crimes; and

"(VI) the penalties imposed on such juveniles as a result of such proceedings; and

"(iii) the characteristics of the victims of hate crimes committed by juveniles, including—

"(I) the age, sex, race, ethnicity, locality of the victims and their familiarity with the offender; and

"(II) the motivation behind the attack.".

(7) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665) is amended—

(A) in subsection (a)—

(i) by striking "(a) The" and inserting "(a) Except as provided in subsection (f), the";

(ii) in paragraph (1) by inserting "(including home-based treatment programs)" after "alternatives"; and

(iii) by amending paragraph (3) to read as follows:

"(3) Establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles.";

(iv) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(v) by inserting after paragraph (3) the following new paragraph:

"(4) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles affected by the juvenile justice system, including services that provide for the appointment of special advocates by courts for such juveniles.";

(vi) in paragraph (4), as redesignated by clause (iv)—

(I) by inserting "(including self-help programs for parents)" after "programs"; and

(II) by inserting ", including programs that work with families during the incarceration of juvenile family members and which take into consideration the special needs of families with limited-English speaking ability" before the period at the end;

(vii) in paragraph (7), as redesignated by clause (iv)—

(I) by striking the period at the end of subchapter (C) and inserting a comma; and

(II) by adding at the end the following: "that targets juveniles who have had contact with the juvenile justice system or who are likely to have contact with the system."; and

(viii) by adding at the end the following new paragraph:

"(9) Establishing or supporting programs designed to prevent and to reduce the incidence of hate crimes by juveniles, including—

"(A) model educational programs that are designed to reduce the incidence of hate crimes by means such as—

"(i) addressing the specific prejudicial attitude of each offender;

"(ii) developing an awareness in the offender of the effect of the hate crime on the victim; and

"(iii) educating the offender about the importance of tolerance in our society; and

"(B) sentencing programs that are designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration."; and

(B) in subsection (b)(5) by inserting "community service personnel," after "law enforcement personnel,";

(C) in subsection (b)—

(i) by striking "(b) The" and inserting "(b) Except as provided in subsection (f), the"; and

(ii) in paragraph (2) by inserting "to assist in identifying learning difficulties (including learning disabilities)," after "schools,"; and

(D) by adding at the end the following new subsection:

"(f) The Administrator shall not make a grant or a contract under subsection (a) or (b) to the Department of Justice or to any administrative unit or other entity that is part of the Department of Justice.".

(g) CONSIDERATIONS FOR APPROVAL OF APPLICATIONS.—Section 262(d)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a(d)(1)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination waiving the competitive process—

"(i) with respect to programs to be carried out in areas with respect to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists; or

"(ii) with respect to a particular program described in part C that is uniquely qualified."; and

(2) by striking subparagraph (C).

(h) PREVENTION, INTERVENTION, AND TREATMENT PROGRAM RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is amended to read as follows:

"PART D—GANG-FREE SCHOOLS AND COMMUNITIES; COMMUNITY-BASED GANG INTERVENTION

"Subpart I—Gang-Free Schools and Communities

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 281. (a) The Administrator shall make grants to or enter into contracts with public agencies (including local educational agencies) and private nonprofit agencies, organizations, and institutions to establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

"(1) To prevent and to reduce the participation of juveniles in the activities of gangs that commit crimes. Such programs and activities may include—

"(A) individual, peer, family, and group counseling, including the provision of life skills training and preparation for living independently, which shall include cooperation with social services, welfare, and health care programs;

"(B) education and social services designed to address the social and developmental needs of juveniles which such juveniles would otherwise seek to have met through membership in gangs;

"(C) crisis intervention and counseling to juveniles, who are particularly at risk of gang involvement, and their families, including assistance from social service, welfare, health care, mental health, and substance abuse prevention and treatment agencies where necessary;

"(D) the organization of neighborhood and community groups to work closely with parents, schools, law enforcement, and other public and private agencies in the community; and

"(E) training and assistance to adults who have significant relationships with juveniles who are or may become members of gangs, to assist such adults in providing constructive alternatives to participating in the activities of gangs.

"(2) To develop within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(3) To target elementary school students, with the purpose of steering students away from gang involvement.

"(4) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

"(5) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(6) To promote and support, with the cooperation of community-based organizations experienced in providing services to juveniles engaged in gang-related activities and the cooperation of local law enforcement agencies, the development of policies and activities in public elementary and secondary schools which will assist such schools in maintaining a safe environment conducive to learning.

"(7) To assist juveniles who are or may become members of gangs to obtain appropriate educational instruction, in or outside a regular school program, including the provision of counseling and other services to promote and support the continued participation of such juveniles in such instructional programs.

"(8) To expand the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802) by juveniles, provided through State and local health and social services agencies.

"(9) To provide services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity.

"(10) To provide services authorized in this section at a special location in a school or housing project.

"(11) To support activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this subpart.

"(b) From not more than 15 percent of the amount appropriated to carry out this part in each fiscal year, the Administrator may make grants to and enter into contracts with public agencies and private nonprofit agencies, organizations, and institutions—

"(1) to conduct research on issues related to juvenile gangs;

"(2) to evaluate the effectiveness of programs and activities funded under subsection (a); and

"(3) to increase the knowledge of the public (including public and private agencies that operate or desire to operate gang prevention and intervention programs) by disseminating information on research and on effective programs and activities funded under this subpart.

"APPROVAL OF APPLICATIONS

"SEC. 281A. (a) Any agency, organization, or institution desiring to receive a grant, or to enter into a contract, under this subpart shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application submitted under subsection (a) shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(6) describe how such program or activity is coordinated with programs, activities, and services available locally under parts B or C of this title, and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801–11805);

"(7) certify that the applicant has requested the State planning agency to review and comment on such application and summarizes the responses of such State planning agency to such request;

"(8) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency; and

"(9) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(c) In reviewing applications for grants and contracts under section 281(a), the Administrator shall give priority to applications—

"(1) submitted by, or substantially involving, local educational agencies (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));

"(2) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(3) for assistance for programs and activities that—

"(A) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in such geographical area; and

"(B) will substantially involve the families of juvenile gang members in carrying out such programs or activities.

"Subpart II—Community-Based Gang Intervention

"SEC. 282. (a) The Administrator shall make grants to or enter into contracts with public and private nonprofit agencies, organizations, and institutions to carry out programs and activities—

"(1) to reduce the participation of juveniles in the illegal activities of gangs;

"(2) to develop regional task forces involving State, local, and community-based organizations to coordinate enforcement, intervention, and treatment efforts for juvenile gang members and to curtail interstate activities of gangs; and

"(3) to facilitate coordination and cooperation among—

"(A) local education, juvenile justice, employment, and social service agencies;

"(B) community-based programs with a proven record of effectively providing intervention services to juvenile gang members for the purpose of reducing the participation of juveniles in illegal gang activities; and

"(4) to support programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(A) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(B) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior.

"(b) Programs and activities for which grants and contracts are to be made under subsection (a) may include—

"(1) developing within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses;

"(2) providing treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent;

"(3) promoting the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes;

"(4) expanding the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802) by juveniles, provided through State and local health and social services agencies;

"(5) providing services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity; or

"(6) supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this subpart.

"APPROVAL OF APPLICATIONS

"SEC. 282A. (a) Any agency, organization, or institution desiring to receive a grant, or to enter into a contract, under this subpart shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application submitted under subsection (a) shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 282 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(6) describe how such program or activity is coordinated with programs, activities, and services available locally under parts B or C of this title, and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801-11805);

"(7) certify that the applicant has requested the State planning agency to review and comment on such application and summarizes the responses of such State planning agency to such request;

"(8) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency; and

"(9) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(c) In reviewing applications for grants and contracts under section 285(a), the Administrator shall give priority to applications—

"(1) submitted by, or substantially involving, community-based organizations experienced in providing services to juveniles;

"(2) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(3) for assistance for programs and activities that—

"(A) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in such geographical area; and

"(B) will substantially involve the families of juvenile gang members in carrying out such programs or activities.

"Subpart III—General Provisions

"DEFINITION

"SEC. 283. For purposes of this part, the term 'juvenile' means an individual who is less than 22 years of age.".

(i) ADDITIONAL PARTS IN TITLE II.—(1) Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(A) by redesignating part E as part I;

(B) by redesignating sections 291, 292, 293, 294, 295, and 296 as sections 299, 299A, 299B, 299C, 299D, and 299E, respectively; and

(C) by inserting after part D the following new parts:

"PART E—STATE CHALLENGE ACTIVITIES

"ESTABLISHMENT OF PROGRAM

"SEC. 285. (a) IN GENERAL.—The Administrator may make a grant to a State that receives an allocation under section 222, in the amount of 10 percent of the amount of the allocation, for each challenge activity in which the State participates for the purpose of funding the activity.

"(b) DEFINITIONS.—For purposes of this part—

"(1) the term 'case review system' means a procedure for ensuring that—

"(A) each youth has a case plan, based on the use of objective criteria for determining a youth's danger to the community or himself or herself, that is designed to achieve appropriate placement in the least restrictive and most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the youth;

"(B) the status of each youth is reviewed periodically but not less frequently than once every 3 months, by a court or by administrative review, in order to determine the continuing necessity for and appropriateness of the placement;

"(C) with respect to each youth, procedural safeguards will be applied to ensure that a dispositional hearing is held to consider the future status of each youth under State supervision, in a juvenile or family court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not later than 12 months after the original placement of the youth and periodically thereafter during the continuation of out-of-home placement; and

"(D) a youth's health, mental health, and education record is reviewed and updated periodically; and

"(2) the term 'challenge activity' means a program maintained for 1 of the following purposes:

"(A) Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.

"(B) Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.

"(C) Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement.

"(D) Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.

"(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.

"(F) Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.

"(G) Developing and adopting policies and programs designed to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are nonoffenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.

"(H) Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school.

"(I) Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.

"(J) Developing and adopting policies to establish—

"(i) a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including schools, social services, health services, mental health services, and the juvenile justice system; and

"(ii) a statewide case review system.

"Part F—Treatment for Juvenile Offenders Who are Victims of Child Abuse or Neglect

"DEFINITION

"SEC. 287. For the purposes of this part, the term 'juvenile' means a person who is less than 18 years of age.

"AUTHORITY TO MAKE GRANTS

"SEC. 287A. The Administrator, in consultation with the Secretary of Health and Human Services, shall make grants to public and nonprofit private organizations to develop, establish, and support projects that—

"(1) provide treatment to juvenile offenders who are victims of child abuse or neglect and to their families so as to reduce the likelihood that the juvenile offenders will commit subsequent violations of law;

"(2) based on the best interests of juvenile offenders who receive treatment for child abuse or neglect, provide transitional services (including individual, group, and family counseling) to juvenile offenders—

"(A) to strengthen the relationships of juvenile offenders with their families and encourage the resolution of intrafamily problems related to the abuse or neglect;

"(B) to facilitate their alternative placement; and

"(C) to prepare juveniles aged 16 years and older to live independently; and

"(3) carry out research (including surveys of existing transitional services, identification of exemplary treatment modalities, and evaluation of treatment and transitional services) provided with grants made under this section.

"ADMINISTRATIVE REQUIREMENTS

"SEC. 287B. The Administrator shall administer this part subject to the requirements of sections 262, 299B, and 299E.

"PRIORITY

"SEC. 287C. In making grants under section 287A, the Administrator—

"(1) shall give priority to applicants that have experience in treating juveniles who are victims of child abuse or neglect; and

"(2) may not disapprove an application solely because the applicant proposes to provide treatment or transitional services to juveniles who are adjudicated to be delinquent for having committed offenses that are not serious crimes.

"PART G—MENTORING

"PURPOSES

"SEC. 288. The purposes of this part are—

"(1) to reduce juvenile delinquency and gang participation;

"(2) to improve academic performance; and

"(3) to reduce the dropout rate,

through the use of mentors for at-risk youth.

"DEFINITIONS

"SEC. 288A. For purposes of this part—

"(1) the term 'at-risk youth' means a youth at risk of educational failure or dropping out of school or involvement in delinquent activities; and

"(2) the term 'mentor' means a person who works with an at-risk youth on a one-to-one basis, establishing a supportive relationship with the youth and providing the youth with academic assistance and exposure to new experiences that enhance the youth's ability to become a responsible citizen.

"GRANTS

"SEC. 288B. The Administrator shall, by making grants to and entering into contracts with local educational agencies (each which agency shall be in partnership with a public or private agency, institution, or business), establish and support programs and activities for the purpose of implementing mentoring programs that—

"(1) are designed to link at-risk children, particularly children living in high crime areas and children experiencing educational failure, with responsible adults such as law enforcement officers, persons working with local businesses, and adults working for community-based organizations and agencies; and

"(2) are intended to achieve 1 or more of the following goals:

"(A) Provide general guidance to at-risk youth.

"(B) Promote personal and social responsibility among at-risk youth.

"(C) Increase at-risk youth's participation in and enhance their ability to benefit from elementary and secondary education.

"(D) Discourage at-risk youth's use of illegal drugs, violence, and dangerous weapons, and other criminal activity.

"(E) Discourage involvement of at-risk youth in gangs.

"(F) Encourage at-risk youth's participation in community service and community activities.

"REGULATIONS AND GUIDELINES

"SEC. 288C. (a) REGULATIONS.—The Administrator, after consultation with the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of Labor, shall promulgate regulations to implement this part.

"(b) GUIDELINES.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.

"USE OF GRANTS

"SEC. 288D. (a) PERMITTED USES.—Grants awarded pursuant to this part shall be used to implement mentoring programs, including—

"(1) hiring of mentoring coordinators and support staff;

"(2) recruitment, screening, and training of adult mentors;

"(3) reimbursement of mentors for reasonable incidental expenditures such as transportation that are directly associated with mentoring; and

"(4) such other purposes as the Administrator may reasonably prescribe by regulation.

"(b) PROHIBITED USES.—Grants awarded pursuant to this part shall not be used—

"(1) to directly compensate mentors, except as provided pursuant to subsection (a)(3);

"(2) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the grantee's operations;

"(3) to support litigation of any kind; or

"(4) for any other purpose reasonably prohibited by the Administrator by regulation.

"PRIORITY

"SEC. 288E. (a) IN GENERAL.—In making grants under this part, the Administrator shall give priority for awarding grants to applicants that—

"(1) serve at-risk youth in high crime areas;

"(2) have 60 percent or more of their youth eligible to receive funds under chapter 1 of the Elementary and Secondary Education Act of 1965; and

"(3) have a considerable number of youth who drop out of school each year.

"(b) OTHER CONSIDERATIONS.—In making grants under this part, the Administrator shall give consideration to—

"(1) the geographic distribution (urban and rural) of applications;

"(2) the quality of a mentoring plan, including—

"(A) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and

"(B) the degree to which parents, teachers, community-based organizations, and the local community participate in the design and implementation of the mentoring plan; and

"(3) the capability of the applicant to effectively implement the mentoring plan.

"APPLICATIONS

"SEC. 288F. An application for assistance under this part shall include—

"(1) information on the youth expected to be served by the program;

"(2) a provision for a mechanism for matching youth with mentors based on the needs of the youth;

"(3) an assurance that no mentor will be assigned to more than one youth, so as to ensure a one-to-one relationship;

"(4) an assurance that projects operated in secondary schools will provide youth with a variety of experiences and support, including—

"(A) an opportunity to spend time in a work environment and, when possible, participate in the work environment;

"(B) an opportunity to witness the job skills that will be required for youth to obtain employment upon graduation;

"(C) assistance with homework assignments; and

"(D) exposure to experiences that youth might not otherwise encounter;

"(5) an assurance that projects operated in elementary schools will provide youth with—

"(A) academic assistance;

"(B) exposure to new experiences and activities that youth might not encounter on their own; and

"(C) emotional support;

"(6) an assurance that projects will be monitored to ensure that each youth benefits from a mentor relationship, with provision for a new mentor assignment if the relationship is not beneficial to the youth;

"(7) the method by which mentors and youth will be recruited to the project;

"(8) the method by which prospective mentors will be screened; and

"(9) the training that will be provided to mentors.

"GRANT CYCLES

"SEC. 288G. Grants under this part shall be made for 3-year periods.

"REPORTS

"SEC. 288H. Not later than 120 days after the completion of the first cycle of grants under this part, the Administrator shall submit to Congress a report regarding the success and effectiveness of the grant program in reducing juvenile delinquency and gang participation, improving academic performance, and reducing the dropout rate.

"PART H—BOOT CAMPS

"ESTABLISHMENT OF PROGRAM

"SEC. 289. (a) IN GENERAL.—The Administrator may make grants to the appropriate agencies of 1 or more States for the purpose of establishing up to 10 military-style boot camps for juvenile delinquents (referred to as "boot camps").

"(b) LOCATION.—(1) The boot camps shall be located on existing or closed military installations on sites to be chosen by the agencies in one or more States, or in other facilities designated by the agencies on such sites, after consultation with the Secretary of Defense, if appropriate, and the Administrator.

"(2) The Administrator shall—

"(A) try to achieve to the extent possible equitable geographic distribution in approving boot camp sites; and

"(B) give priority to grants where more than one State enters into formal cooperative arrangements to jointly administer a boot camp; and

"(c) REGIMEN.—The boot camps shall provide—

"(1) a highly regimented schedule of discipline, physical training, work, drill, and ceremony characteristic of military basic training;

"(2) regular, remedial, special, and vocational education; and

"(3) counseling and treatment for substance abuse and other health and mental health problems.

"CAPACITY

"SEC. 289A. Each boot camp shall be designed to accommodate between 150 and 250 juveniles for such time as the grant recipient agency deems to be appropriate.

"ELIGIBILITY AND PLACEMENT

"SEC. 289B. (a) ELIGIBILITY.—A person shall be eligible for assignment to a boot camp if he or she—

"(1) is considered to be a juvenile under the laws of the State of jurisdiction; and

"(2) has been adjudicated to be delinquent in the State of jurisdiction or, upon approval of the court, voluntarily agrees to the boot camp assignment without a delinquency adjudication.

"(b) PLACEMENT.—Prior to being placed in a boot camp, an assessment of a juvenile shall be performed to determine that—

"(1) the boot camp is the least restrictive environment that is appropriate for the juvenile considering the seriousness of the juvenile's delinquent behavior and the juvenile's treatment need; and

"(2) the juvenile is physically and emotionally capable of participating in the boot camp regimen.

"POST-RELEASE SUPERVISION

"SEC. 289C. A State that seeks to establish a boot camp, or participate in the joint administration of a boot camp, shall submit to the Administrator a plan describing—

"(1) the provisions that the State will make for the continued supervision of juveniles following release; and

"(2) provisions for educational and vocational training, drug or other counseling and treatment, and other support services.

"PART I—WHITE HOUSE CONFERENCE ON JUVENILE JUSTICE

"SEC. 291. (a) IN GENERAL.—The President may call and conduct a National White House Conference on Juvenile Justice (referred to as the "Conference") in accordance with this part.

"(b) PURPOSES OF CONFERENCE.—The purposes of the Conference shall be—

"(1) to increase public awareness of the problems of juvenile offenders and the juvenile justice system;

"(2) to examine the status of minors currently in the juvenile and adult justice systems;

"(3) to examine the increasing number of violent crimes committed by juveniles;

"(4) to examine the growing phenomena of youth gangs, including the number of young women who are involved;

"(5) to assemble persons involved in policies and programs related to juvenile delinquency prevention and juvenile justice enforcement;

"(6) to examine the need for improving services for girls in the juvenile justice system;

"(7) to create a forum in which persons and organizations from diverse regions may share information regarding successes and failures of policy in their juvenile justice and juvenile delinquency prevention programs; and

"(8) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problems of juvenile delinquency and juvenile justice.

"(c) SCHEDULE OF CONFERENCES.—The Conference under this part shall be concluded not later than 18 months after the date of enactment of this part.

"(d) PRIOR STATE AND REGIONAL CONFERENCES.—

"(1) IN GENERAL.—Participants in the Conference and other interested persons and organizations may conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the executive director of the Conference.

"(2) PURPOSE OF STATE AND REGIONAL CONFERENCES.—State and regional conferences and activities shall be directed toward the consideration of the purposes of this part. State conferences shall elect delegates to the National Conferences.

"(3) ADMITTANCE.—No person involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders may be denied admission to a State or regional conference.

"CONFERENCE PARTICIPANTS

"SEC. 291A. (a) IN GENERAL.—The Conference shall bring together persons concerned with issues and programs, both public and private, relating to juvenile justice, and juvenile delinquency prevention.

"(b) SELECTION.—

"(1) STATE CONFERENCES.—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences.

"(2) DELEGATES.—(A) In addition to delegates elected pursuant to paragraph (1)—

"(i) each Governor may appoint 1 delegate and 1 alternate;

"(ii) the majority leader of the Senate, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iii) the Speaker of the House of Representatives, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iv) the President may appoint 20 delegates and 5 alternates;

"(v) the chief law enforcement official and the chief juvenile corrections official of each State may appoint 1 delegate and 1 alternate each; and

"(vi) the Chairperson of the Juvenile Justice and Delinquency Prevention Advisory Committee of each State, or his or her designate, may appoint 1 delegate.

"(B) Only persons involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders shall be eligible for appointment as a delegate.

"(c) PARTICIPANT EXPENSES.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed from funds appropriated pursuant to this Act.

"(d) NO FEES.—No fee may be imposed on a person who attends a Conference except a registration fee of not to exceed $10.

"STAFF AND EXECUTIVE BRANCH

"SEC. 291B. (a) IN GENERAL.—The President may appoint and compensate an executive director of the National White House Conference on Juvenile Justice and such other directors and personnel for the Conference as the President may deem to be advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates. The staff of the Conference may not exceed 20, including the executive director.

"(b) DETAILEES.—Upon request by the executive director, the heads of the executive and military departments may detail employees to work with the executive director in planning and administering the Conference without regard to section 3341 of title 5, United States Code.

"PLANNING AND ADMINISTRATION OF CONFERENCE

"SEC. 291C. (a) FEDERAL AGENCY SUPPORT.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

"(b) DUTIES OF THE EXECUTIVE DIRECTOR.—In carrying out this part, the executive director of the White House Conference on Juvenile Justice—

"(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels authorized by section 291(d);

"(2) may enter into contracts and agreements with public and private agencies and organizations and academic institutions to assist in carrying out this part; and

"(3) shall prepare and provide background materials for use by participants in the Conference and by participants in State and regional conferences.

"REPORTS

"SEC. 291D. (a) IN GENERAL.—Not later than 6 months after the date on which a National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress.

"(b) CONTENTS.—A report described in subsection (a)—

"(1) shall include the findings and recommendations of the Conference and proposals for any legislative action necessary to implement the recommendations of the Conference; and

"(2) shall be made available to the public.

"OVERSIGHT

"SEC. 291E. The Administrator shall report to the Congress annually during the 3-year period following the submission of the final report of a Conference on the status and implementation of the findings and recommendations of the Conference.".

(2) REPEALER.—Subtitle G of title II of the Crime Control Act of 1990 (42 U.S.C. 13051 et seq.) is repealed effective September 30, 1993.

(j) GENERAL AND ADMINISTRATIVE PROVISIONS.—Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974, as redesignated by subsection (g), is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) To carry out the purposes of this title (other than parts D, E, F, G, H, and I) there are authorized to be appropriated $150,000,000 for fiscal years 1993, 1994, 1995, and 1996. Funds appropriated for any fiscal year shall remain available for obligation until expended.

"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated—

"(i) to carry out subpart 1, $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996; and

"(ii) to carry put subpart 2, $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No funds may be appropriated to carry out part D, E, F, G, or I of this title or title V or VI for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D, E, F, G, or I of this title or title V or VI) for the fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D, E, F, G, or I of this title or title V or VI) for the preceding fiscal year.

"(3) To carry out part E, there are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, and 1996.

"(4)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part F—

"(i) $15,000,000 for fiscal year 1993; and

"(ii) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No amount is authorized to be appropriated for a fiscal year to carry out part F unless the aggregate amount appropriated to carry out this title for that fiscal year is not less than the aggregate amount appropriated to carry out this title for the preceding fiscal year.

"(C) From the amount appropriated to carry out part F in a fiscal year, the Administrator shall use—

"(i) not less than 85 percent to make grants for treatment and transitional services;

"(ii) not to exceed 10 percent for grants for research; and

"(iii) not to exceed 5 percent for salaries and expenses of the Office of Juvenile Justice and Delinquency Prevention related to administering part F.

"(5)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part G such sums as are necessary for fiscal years 1993, 1994, 1995, and 1996.

"(6)(A) There are authorized to be appropriated to carry out part H such sums as are necessary for fiscal year 1993, to remain available until expended, of which—

"(i) not more than $12,500,000 shall be used to convert any 1 closed military base or to modify any 1 existing military base or other designated facility to a boot camp; and

"(ii) not more than $2,500,000 shall be used to operate any 1 boot camp during a fiscal year.

"(B) No amount is authorized to be appropriated for a fiscal year to carry out part H unless the aggregate amount appropriated to carry out parts A, B, and C of this title for that fiscal year is not less than 120 percent of the aggregate amount appropriated to carry out those parts for fiscal year 1992.

"(7)(A) There are authorized to be appropriated such sums are necessary for each National Conference and associated State and regional conferences under part I, to remain available until expended.

"(B) New spending authority or authority to enter into contracts under part I shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(C) No funds appropriated to carry out this Act shall be made available to carry out part I other than funds appropriated specifically for the purpose of conducting the Conference.

"(D) Any funds remaining unexpended at the termination of the Conference under part I, including submission of the report pursuant to section 291D, shall be returned to the Treasury of the United States and credited as miscellaneous receipts."; and

(2) by adding at the end the following new subsection:

"(e) Of such sums as are appropriated to carry out section 261(a)(6), not less than 20 percent shall be reserved by the Administrator for each of fiscal years 1993, 1994, 1995, and 1996, for not less than 2 programs that have not received funds under subpart II of part C prior to October 1, 1992, which shall be selected through the application and approval process set forth in section 262.".

SEC. 3. RUNAWAY AND HOMELESS YOUTH.

(a) FINDINGS.—Section 302 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) juveniles who have become homeless or who leave and remain away from home without parental permission, are at risk of developing serious health and other problems because they lack sufficient resources to obtain care and may live on the street for extended periods thereby endangering themselves and creating a substantial law enforcement problem for communities in which they congregate;";

(2) by striking "and" at the end of paragraph (4);

(3) in paragraph (5) by striking "temporary" and all that follows through the period at the end and inserting "care (including preventive services, emergency shelter services, and extended residential shelter) outside the welfare system and the law enforcement system;" and

(4) by adding at the end the following new paragraphs:

"(6) runaway and homeless youth have a disproportionate share of health, behavioral, and emotional problems compared to the general population of youth, but have less access to health care and other appropriate services and therefore may need access to longer periods of residential care, more intensive aftercare service, and other assistance;

"(7) to make a successful transition to adulthood, runaway youth, homeless youth, and other street youth need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment;

"(8) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop an accurate national reporting system and to develop an effective system of care including prevention, emergency shelter services, and longer residential care outside the public welfare and law enforcement structures;

"(9) early intervention services (such as home-based services) are needed to prevent runaway and homeless youth from becoming involved in the juvenile justice system and other law enforcement systems; and

"(10) street-based services that target runaway and homeless youth where they congregate are needed to reach youth who require assistance but who would not otherwise avail themselves of such assistance or services without street-based outreach.".

(b) AUTHORITY TO MAKE GRANTS.—

(1) AUTHORITY.—Section 311(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(a)) is amended by striking "structure and" and inserting "system, the child welfare system, the mental health system, and".

(2) ALLOTMENT OF FUNDS.—Section 311(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(b)) is amended—

(A) in paragraph (2)—

(i) by striking "$75,000" and inserting "$100,000"; and

(ii) by striking "$30,000" and inserting "$45,000"; and

(B) in paragraph (3) by striking "1988" each place it appears and inserting "1992".

(3) STREET-BASED SERVICES; HOME-BASED SERVICES.—Section 311 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended by striking subsection (c) and inserting the following:

"(c)(1) If for a fiscal year the amount appropriated under section 385(a)(1) exceeds $50,000,000, the Secretary may make grants under this subsection for that fiscal year to entities that receive grants under subsection (a) to establish and operate street-based service projects for runaway and homeless youth.

"(2) For purposes of this part, the term 'street-based services' includes—

"(i) street-based crisis intervention and counseling;

"(ii) information and referral for housing;

"(iii) information and referral for transitional living and health care services; and

"(iv) advocacy, education, and prevention services for—

"(I) alcohol and drug abuse;

"(II) sexually transmitted diseases including HIV/AIDS infection; and

"(III) physical and sexual assault.

"(d)(1) If for a fiscal year the amount appropriated under section 385(a)(1) exceeds $50,000,000, the Secretary may make grants for that fiscal year to entities that receive grants under subsection (a) to establish and operate home-based service projects for families that are separated, or at risk of separation, as a result of the physical absence of a runaway youth or youth at risk of family separation.

"(2) For purposes of this part—

"(A) the term 'home-based service project' means a project that provides—

"(i) case management; and

"(ii) in the family residence (to the maximum extent practicable)—

"(I) intensive, time-limited, family and individual counseling;

"(II) training relating to life skills and parenting; and

"(III) other services;

designed to prevent youth from running away from their families or to cause runaway youth or to return to their families;

"(B) the term 'youth at risk of family separation' means an individual—

"(i) who is less than 18 years of age; and

"(ii)(I) who has a history of running away from the family of such individual;

"(II) whose parent, guardian, or custodian is not willing to provide for the basic needs of such individual; or

"(III) who is at risk of entering the child welfare system or juvenile justice system, as a result of the lack of services available to the family to meet such needs; and

"(C) the term 'time-limited' means for a period not to exceed 6 months.".

(c) ELIGIBILITY.—Section 312 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712) is amended—

(1) in subsection (a) by striking "facility providing" and inserting "project (including a host family home) that provides"; and

(2) in subsection (b)—

(A) by amending paragraph (2) to read as follows:

"(2) shall use such assistance to establish, to strengthen, or to fund a runaway and homeless youth center, or a locally controlled facility providing temporary shelter, that has—

"(A) a maximum capacity of not more than 20 youth; and

"(B) a ratio of staff to youth that is sufficient to ensure adequate supervision and treatment;";

(B) in paragraph (3)—

(i) by striking "child's parents or relatives and assuring" and inserting "parents or other relatives of the youth and ensuring"; and

(ii) by striking "child" each place it appears and inserting "youth";

(C) by amending paragraph (4) to read as follows:

"(4) shall develop an adequate plan for ensuring—

"(A) proper relations with law enforcement personnel, health and mental health care personnel, social service personnel, school system personnel, and welfare personnel;

"(B) coordination with personnel of the schools to which runaway and homeless youth will return, to assist such youth to stay current with the curricula of those schools; and

"(C) the return of runaway and homeless youth from correctional institutions;";

(D) in paragraph (5)—

(i) by striking "aftercare" and all that follows through "assuring" and inserting "providing counseling and aftercare services to such youth, for encouraging the involvement of their parents or legal guardians in counseling, and for ensuring"; and

(ii) by striking "children" and inserting "youth";

(E) in paragraph (6) by striking "children and family members which it serves" and inserting "youth and family members whom it serves (including youth who are not referred to out-of-home shelter services)";

(F) by redesignating paragraphs (6), (7), (8), (9), and (10) as paragraphs (7), (8), (9), (10), and (11), respectively;

(G) by inserting after paragraph (5) the following new paragraph:

"(6) shall develop an adequate plan for establishing or coordinating with outreach programs designed to attract persons (including, where applicable, persons who are members of a cultural minority and persons with limited ability to speak English) who are eligible to receive services for which a grant under subsection (a) may be expended;"; and

(H) by adding at the end the following new subsections:

"(c) To be eligible for assistance under section 311(c), an applicant shall propose to establish, strengthen, or fund a street-based service project for runaway and homeless youth and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—

"(1) to provide qualified supervision of staff, including on-street supervision by appropriately trained staff;

"(2) to provide backup personnel for on-street staff;

"(3) to provide informational and health educational material to runaway and homeless youth in need of services;

"(4) to provide initial and periodic training of staff who provide services under the project;

"(5) to carry out outreach activities for runaway and homeless youth and to collect statistical information on runaway and homeless youth contacted through such activities;

"(6) to develop referral relationships with agencies and organizations that provide services or assistance to runaway and homeless youth, including law enforcement, education, social services, vocational education and training, public welfare, legal assistance, mental health and health care;

"(7) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds received under section 311(c), the achievements of the project under section 311(c) carried out by the applicant, and statistical summaries describing the number and the characteristics of the runaway and homeless youth who participate in such project in the year for which the report is submitted;

"(8) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(9) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under subsection 311(c);

"(10) to keep adequate statistical records that profile runaway and homeless youth whom it serves and not to disclose the identity of such youth in reports or other documents based on such statistical records;

"(11) not to disclose records maintained on an individual runaway and homeless youth without the informed consent of the youth, to any person other than an agency compiling statistical records; and

"(12) to provide to the Secretary such other information as the Secretary may reasonably require.

"(d) To be eligible for assistance under section 311(d), an applicant shall propose to establish, strengthen, or fund a home-based service project for runaway youth or youth at risk of family separation and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—

"(1) to provide counseling and information services needed by runaway youth, youth at risk of family separation, and the family (including unrelated individuals in the family household) of such youth, including services relating to basic life skills, interpersonal skill building, educational advancement, job attainment skills, mental and physical health care, parent training, financial planning, and referral to sources of other needed services;

"(2) to provide directly, or through an arrangement made by the applicant, 24-hour service to respond to family crises (including immediate access to temporary shelter for runaway youth and youth at risk of family separation affected by family crises);

"(3) to establish in partnership with the families of runaway youth and youth at risk of family separation, objectives and measures of success to be achieved as a result of participating in such project;

"(4) to provide informational and health educational material to runaway youth and youth at risk of family separation in need of services;

"(5) to provide initial and periodic training of staff who provide services under the project;

"(6) to carry out outreach activities for runaway youth and youth at risk of family separation, and to collect statistical information on runaway youth and youth at risk of family separation contacted through such activities;

"(7) to ensure that—

"(i) caseloads will remain sufficiently low to allow for intensive (5 to 20 hours per week) involvement with each family participating in such project; and

"(ii) qualified supervision will be provided to staff who provide services under the project;

"(8) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under section 311(d), the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the runaway youth and youth at risk of family separation who participate in such project in the year for which the report is submitted;

"(9) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(10) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under section 311(d);

"(11) to keep adequate statistical records that profile runaway youth and youth at risk of family separation whom it serves and not to disclose the identity of such youth in reports or other documents based on such statistical records;

"(12) not to disclose records maintained on an individual runaway youth or youth at risk of family separation without the informed consent of the youth, to any person other than an agency compiling statistical records; and

"(13) to provide to the Secretary such other information as the Secretary may reasonably require.".

(d) APPROVAL BY SECRETARY.—Section 316 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5713) is amended—

(1) in the first sentence by striking "section 311(a)" each place it appears and inserting "section 311 (a), (c), or (d)"; and

(2) in the second sentence by striking "$150,000" and inserting "$200,000".

(e) GRANTS TO PRIVATE ENTITIES; STAFFING.—Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended—

(1) by striking "part" each place it appears and inserting "title";

(2) in the first sentence inserting "and the programs, projects, and activities they carry out under this title" after "center"; and

(3) in the last sentence by inserting "under this title" before the period.

(f) TRANSITIONAL LIVING GRANT PROGRAM.—Section 322(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714-2(a)) is amended—

(1) in paragraph (1) by inserting "which shall include money management, budgeting, consumer education, and use of credit" after "basic life skills"; and

(2) in paragraph (13)—

(A) by striking "consent of the individual youth and parent or legal guardian" and inserting "informed consent of the individual youth"; and

(B) by striking "or a government agency involved in the disposition of criminal charges against youth".

(g) NATIONAL COMMUNICATION SYSTEM; STREET-BASED SERVICES PROGRAM; HOME-BASED SERVICES PROGRAM; COORDINATING ACTIVITIES.—

(1) ADDITIONAL PARTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended—

(A) in part D—

(i) by striking "PART D" and inserting "PART F"; and

(ii) by redesignating sections 361, 362, 363, 364, and 366 as sections 381 through 385, respectively;

(B) in part C—

(i) by striking "PART C" and inserting "PART E"; and

(ii) by redesignating sections 341 and 342 as sections 371 and 372, respectively; and

(C) by inserting after part B the following new parts:

"PART C—NATIONAL COMMUNICATIONS SYSTEM

"AUTHORITY TO MAKE GRANTS

"SEC. 331. With funds reserved under section 385(a)(3), the Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers. The Secretary shall give priority to grant applicants that have experience in providing telephone services to runaway and homeless youth.

"PART D—COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES

"COORDINATION

"SEC. 341. With respect to matters relating to the health, education, employment, and housing of runaway and homeless youth, the Secretary shall coordinate the activities of agencies of the Department of Health and Human Services with the activities of other Federal entities and with the activities of entities that are eligible to receive grants under this title.

"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

"SEC. 342. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under this title, for the purpose of carrying out the programs, projects, or activities for which such grants are made.

"AUTHORITY TO MAKE GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

"SEC. 343. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway youth and homeless youth.

"(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

"(1) youth who repeatedly leave and remain away from their homes;

"(2) home-based and street-based services for, and outreach to, runaway youth and homeless youth;

"(3) transportation of runaway youth and homeless youth in connection with services authorized to be provided under this title;

"(4) the special needs of runaway youth and homeless youth programs in rural areas;

"(5) the special needs of programs that place runaway youth and homeless youth in host family homes;

"(6) staff training in—

"(A) the behavioral and emotional effects of sexual abuse and assault;

"(B) responding to youth who are showing effects of sexual abuse and assault; and

"(C) agency-wide strategies for working with runway and homeless youth who have been sexually victimized;

"(7) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers;

"(8) training for runaway youth and homeless youth, and staff training, related to preventing and obtaining treatment for infection by the human immunodeficiency virus (HIV);

"(9) increasing access to health care (including mental health care) for runaway youth and homeless youth; and

"(10) increasing access to education for runaway youth and homeless youth.

"(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who have experience working with runaway youth or homeless youth.

"TEMPORARY DEMONSTRATION PROJECTS TO PROVIDE SERVICES TO YOUTH IN RURAL AREAS

"SEC. 344. (a)(1) With funds appropriated under section 385(c), the Secretary may make grants on a competitive basis to States, localities, and private entities (and combinations of such entities) to provide services (including transportation) authorized to be provided under part A, to runaway and homeless youth in rural areas.

"(2)(A) Each grant made under paragraph (1) may not exceed $100,000.

"(B) In each fiscal year for which funds are appropriated to carry out this section, grants shall be made under paragraph (1) to eligible applicants carry out projects in not fewer than 10 States.

"(C) Not more than 2 grants may be made under paragraph (1) in each fiscal year to carry out projects in a particular State.

"(3) Each eligible applicant that receives a grant for a fiscal year to carry out a project under this section shall have priority to receive a grant for the subsequent fiscal year to carry out a project under this section.

"(b) To be eligible to receive a grant under subsection (a), an applicant shall—

"(1) submit to the Secretary an application in such form and containing such information and assurances as the Secretary may require by rule; and

"(2) propose to carry out such project in a geographical area that—

"(A) has a population under 20,000;

"(B) is located outside a Standard Metropolitan Statistical Area; and

"(C) agree to provide to the Secretary an annual report identifying—

"(i) the number of runaway and homeless youth who receive services under the project carried out by the applicant;

"(ii) the types of services authorized under part A that were needed by, but not provided to, such youth in the geographical area served by the project;

"(iii) the reasons the services identified under clause (ii) were not provided by the project; and

"(iv) such other information as the Secretary may require.".

(2) TECHNICAL AMENDMENTS.—(A) Section 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712a) is repealed.

(B) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5712b) is repealed.

(C) Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5712c) is repealed.

(D) Sections 316 and 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5713, 5714) are redesignated as sections 313 and 314, respectively.

(E) Section 365 of the Runaway and Homeless Youth Act (42 U.S.C. 5733) is repealed.

(h) REPORTS.—Section 361 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5715) is amended to read as follows:

"REPORTS

"SEC. 361. (a) Not later than 180 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate on the status, activities, and accomplishments of the runaway and homeless youth centers that are funded under parts A, B, C, D, and E, with particular attention to—

"(1) in the case of centers funded under part A—

"(A) their effectiveness in alleviating the problems of runaway and homeless youth;

"(B) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

"(C) their effectiveness in strengthening family relationships and encouraging stable living conditions for children; and

"(D) their effectiveness in helping youth decide upon a future course of action; and

"(2) in the case of centers funded under part B—

"(A) the number and characteristic of homeless youth served by such projects;

"(B) describing the types of activities carried out under such projects;

"(C) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

"(D) the effectiveness of such projects in preparing homeless youth for self-sufficiency;

"(E) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living;

"(F) the ability of such projects to strengthen family relationships, and encourage the resolution of intrafamily problems through counseling and the development of self-sufficient living skills; and

"(G) plans for the following fiscal year.".

(2) by adding at the end the following:

"(b)(1) The Secretary shall include in the report required by subsection (a) an evaluation of the results of Federal evaluation of the programs, projects, and activities carried out under this title and a description of the training provided to the persons who carry out the evaluation.

"(2) As part of the evaluation described in paragraph (1), the Secretary shall require the persons who carry out the evaluation to visit each grantee on-site not less frequently than every 3 years.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 366 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) There are authorized to be appropriated to carry out this title (other than part B and section 344) $75,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996."; and

(B) by adding at the end the following new paragraphs:

"(3) After making the allocation required by paragraph (2), the Secretary shall reserve for the purpose of carrying out section 331—

"(A) for fiscal year 1993 not less than $912,500, of which $125,000 shall be available for the acquisition of communications equipment;

"(B) for fiscal year 1994 not less than $826,900;

"(C) for fiscal year 1995 not less than $868,300; and

"(D) for fiscal year 1996 not less than $911,700.

"(4) In the use of funds appropriated under paragraph (1) that are in excess of $38,000,000 but less than $42,600,000, priority may be given to awarding enhancement grants to programs (with priority to programs that receive grants of less than $85,000), for the purpose of allowing such programs to achieve higher performance standards, including—

"(A) increasing and retaining trained staff;

"(B) strengthening family reunification efforts;

"(C) improving aftercare services;

"(D) fostering better coordination of services with public and private entities;

"(E) providing comprehensive services, including health and mental health care, education, prevention and crisis intervention, and vocational services; and

"(F) improving data collection efforts.

"(5) In the use of funds appropriated under paragraph (1) that are in excess of $42,599,999—

"(A) 50 percent may be targeted at developing new programs in unserved or underserved communities; and

"(B) 50 percent may be targeted at program enhancement activities described in paragraph (3).";

(2) in subsection (b) by amending paragraph (1) to read as follows:

"(1) Subject to paragraph (2), there are authorized to be appropriated to carry out part B $25,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996."

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) There is authorized to be appropriated to carry out section 344 $1,000,000 for each of fiscal years 1993, 1994, 1995, and 1996.".

SEC. 4. MISSING CHILDREN.

Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5777) is amended by striking "fiscal years 1989, 1990, 1991, and 1992" and inserting "fiscal years 1993, 1994, 1995, and 1996".

SEC. 5. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following new title:

"TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

"SEC. 501. SHORT TITLE.

"This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act'.

"SEC. 502. FINDINGS.

"The Congress finds that—

"(1) approximately 700,000 youth enter the juvenile justice system every year;

"(2) Federal, State, and local governments spend close to $2,000,000,000 a year confining many of those youth;

"(3) it is more effective in both human and fiscal terms to prevent delinquency than to attempt to control or change it after the fact;

"(4) half or more of all States are unable to spend any juvenile justice formula grant funds on delinquency prevention because of other priorities;

"(5) few Federal resources are dedicated to delinquency prevention; and

"(6) Federal incentives are needed to assist States and local communities in mobilizing delinquency prevention policies and programs.

"SEC. 503. DEFINITION.

"In this title, the term 'State advisory group' means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

"SEC. 504. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

"The Administrator shall—

"(1) issue such rules as are necessary or appropriate to carry out this title;

"(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

"(3) provide adequate staff and resources necessary to properly carry out this title; and

"(4) not later than 180 days after the end of each fiscal year, submit a report to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on the Judiciary of the Senate—

"(A) describing activities and accomplishments of grant activities funded under this title;

"(B) describing procedures followed to disseminate grant activity products and research findings;

"(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

"(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

"SEC. 505. GRANTS FOR PREVENTION PROGRAMS.

"(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of general local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to children, youth, and families of—

"(1) recreation services;

"(2) tutoring and remedial education;

"(3) assistance in the development of work awareness skills;

"(4) child and adolescent health and mental health services;

"(5) alcohol and substance abuse prevention services;

"(6) leadership development activities; and

"(7) the teaching that people are and should be held accountable for their actions.

"(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—

"(1) the unit is in compliance with the requirements of part B of title II;

"(2) the unit has submitted to the State advisory group a 3-year plan outlining the unit's local front end plans for investment for delinquency prevention and early intervention activities;

"(3) the unit has included in its application to the Administrator for formula grant funds a summary of the 3-year plan described in paragraph (2);

"(4) pursuant to its 3-year plan, the unit has appointed a local policy board of no fewer than 15 and no more than 21 members with balanced representation of public agencies and private, nonprofit organizations serving children, youth, and families and business and industry;

"(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services to at-risk youth and their families, including such programs as nutrition, energy assistance, and housing;

"(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

"(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

"(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

"(1) plans for service and agency coordination and collaboration including the colocation of services;

"(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities; and

"(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"To carry out this title, there are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".

(b) STUDY.—After the program established by subsection (a) has been funded for two years, the General Accounting Office shall prepare and submit to Congress a study of the effects of the program in encouraging States and units of general local government to comply with the requirements of part B of title II.

SEC. 6. CHILDREN'S ADVOCACY PROGRAM.

(a) FINDINGS.—Section 211 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (6), and (7), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) traditionally, community agencies and professionals have different roles in the prevention, investigation, and intervention process;" and

(3) by inserting after paragraph (4), as redesignated by paragraph (1), the following new paragraph:

"(5) there is a national need to enhance coordination among community agencies and professionals involved in the intervention system;".

(b) REGIONAL CHILDREN'S ADVOCACY PROGRAM.—Subtitle A of the Victims of Child Abuse Act (42 U.S.C. 13001 et seq.) is amended—

(1) by redesignating sections 212, 213, and 214 as sections 214, 214A, and 214B, respectively; and

(2) by inserting after section 211 the following new sections:

"SEC. 212. DEFINITIONS.

"For purposes of this subtitle—

"(1) the term 'Administrator' means the agency head designated under section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b));

"(2) the term 'applicant' means a child protective service, law enforcement, legal, medical and mental health agency or other agency that responds to child abuse cases;

"(3) the term 'board' means the Children's Advocacy Advisory Board established under section 213(e);

"(4) the term 'census region' means 1 of the 4 census regions (northeast, south, midwest, and west) that are designated as census regions by the Bureau of the Census as of the date of enactment of this section;

"(5) the term 'child abuse' means physical or sexual abuse or neglect of a child;

"(6) the term 'Director' means the Director of the National Center on Child Abuse and Neglect;

"(7) the term 'multidisciplinary response to child abuse' means a response to child abuse that is based on mutually agreed upon procedures among the community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that best meets the needs of child victims and their nonoffending family members;

"(8) the term 'nonoffending family member' means a member of the family of a victim of child abuse other than a member who has been convicted or accused of committing an act of child abuse; and

"(9) the term 'regional children's advocacy program' means the children's advocacy program established under section 213(a).

"SEC. 213. REGIONAL CHILDREN'S ADVOCACY CENTERS.

"(a) ESTABLISHMENT OF REGIONAL CHILDREN'S ADVOCACY PROGRAM.—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall establish a children's advocacy program to—

"(1) focus attention on child victims by assisting communities in developing child-focused, community-oriented, facility-based programs designed to improve the resources available to children and families;

"(2) provide support for nonoffending family members;

"(3) enhance coordination among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases; and

"(4) train physicians and other health care and mental health care professionals in the multidisciplinary approach to child abuse so that trained medical personnel will be available to provide medical support to community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.

"(b) ACTIVITIES OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

"(1) ADMINISTRATOR.—The Administrator, in coordination with the Director, shall—

"(A) establish regional children's advocacy program centers;

"(B) fund existing regional centers with expertise in the prevention, judicial handling, and treatment of child abuse and neglect; and

"(C) fund the establishment of freestanding facilities in multidisciplinary programs within communities that have yet to establish such facilities,

for the purpose of enabling grant recipients to provide information, services, and technical assistance to aid communities in establishing multidisciplinary programs that respond to child abuse.

"(2) GRANT RECIPIENTS.—A grant recipient under this section shall—

"(A) assist communities—

"(i) in developing a comprehensive, multidisciplinary response to child abuse that is designed to meet the needs of child victims and their families;

"(ii) in establishing a freestanding facility where interviews of and services for abused children can be provided;

"(iii) in preventing or reducing trauma to children caused by multiple contacts with community professionals;

"(iv) in providing families with needed services and assisting them in regaining maximum functioning;

"(v) in maintaining open communication and case coordination among community professionals and agencies involved in child protection efforts;

"(vi) in coordinating and tracking investigative, preventive, prosecutorial, and treatment efforts;

"(vii) in obtaining information useful for criminal and civil proceedings;

"(viii) in holding offenders accountable through improved prosecution of child abuse cases;

"(ix) in enhancing professional skills necessary to effectively respond to cases of child abuse thorough training; and

"(x) in enhancing community understanding of child abuse; and

"(B) provide training and technical assistance to local children's advocacy centers in its census region that are grant recipients under section 214.

"(c) OPERATION OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

"(1) SOLICITATION OF PROPOSALS.—Not later than 1 year after the date of enactment of this section, the Administrator shall solicit proposals for assistance under this section.

"(2) MINIMUM QUALIFICATIONS.—In order for a proposal to be selected, the Administrator may require an applicant to have in existence, at the time the proposal is submitted, 1 or more of the following:

"(A) A proven record in conducting activities of the kinds described in subsection (c).

"(B) A facility where children who are victims of sexual or physical abuse and their nonoffending family members can go for the purpose of evaluation, intervention, evidence gathering, and counseling.

"(C) Multidisciplinary staff experienced in providing remedial counseling to children and families.

"(D) Experience in serving as a center for training and education and as a resource facility.

"(E) National expertise in providing technical assistance to communities with respect to the judicial handling of child abuse and neglect.

"(3) PROPOSAL REQUIREMENTS.—

"(A) IN GENERAL.—A proposal submitted in response to the solicitation under paragraph (1) shall—

"(i) include a single or multiyear management plan that outlines how the applicant will provide information, services, and technical assistance to communities so that communities can establish multidisciplinary programs that respond to child abuse;

"(ii) demonstrate the ability of the applicant to operate successfully a multidisciplinary child abuse program or provide training to allow others to do so; and

"(iii) state the annual cost of the proposal and a breakdown of those costs.

"(B) CONTENT OF MANAGEMENT PLAN.—A management plan described in paragraph (3)(A) shall—

"(i) outline the basic activities expected to be performed;

"(ii) describe the entities that will conduct the basic activities;

"(iii) establish the period of time over which the basic activities will take place; and

"(iv) define the overall program management and direction by—

"(I) identifying managerial, organizational, and administrative procedures and responsibilities;

"(II) demonstrating how implementation and monitoring of the progress of the children's advocacy program after receipt of funding will be achieved; and

"(III) providing sufficient rationale to support the costs of the plan.

"(4) SELECTION OF PROPOSALS.—

"(A) COMPETITIVE BASIS.—Proposals shall be selected under this section on a competitive basis.

"(B) CRITERIA.—The Administrator, in coordination with the Director, shall select proposals for funding that—

"(i) best result in developing and establishing multidisciplinary programs that respond to child abuse by assisting, training, and teaching community agencies and professionals called upon to respond to child abuse cases;

"(ii) assist in resolving problems that may occur during the development, operation, and implementation of a multidisciplinary program that responds to child abuse; and

"(iii) carry out the objectives developed by the Board under subsection (e)(2)(A);

"(C) to the greatest extent possible and subject to available appropriations, ensure that at least 1 applicant is selected from each of the 4 census regions of the country; and

"(D) otherwise best carry out the purposes of this section.

"(5) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Acts, the Administrator shall provide to each grant recipient the financial and technical assistance and other incentives that are necessary and appropriate to carry out this section.

"(6) COORDINATION OF EFFORT.—In order to carry out activities that are in the best interests of abused and neglected children, a grant recipient shall consult with other grant recipients on a regular basis to exchange ideas, share information, and review children's advocacy program activities.

"(d) REVIEW.—

"(1) EVALUATION OF REGIONAL CHILDREN'S ADVOCACY PROGRAM ACTIVITIES.—The Administrator, in coordination with the Director, shall regularly monitor and evaluate the activities of grant recipients and shall determine whether each grant recipient has complied with the original proposal and any modifications.

"(2) ANNUAL REPORT.—A grant recipient shall provide an annual report to the Administrator and the Director that—

"(A) describes the progress made in satisfying the purpose of the children's advocacy program; and

"(B) states whether changes are needed and are being made to carry out the purpose of the children's advocacy program.

"(3) DISCONTINUATION OF FUNDING.—

"(A) FAILURE TO IMPLEMENT PROGRAM ACTIVITIES.—If a grant recipient under this section substantially fails in the implementation of the program activities, the Administrator shall not discontinue funding until reasonable notice and an opportunity for reconsideration is given.

"(B) SOLICITATION OF NEW PROPOSALS.—Upon discontinuation of funding of a grant recipient under this section, the Administrator shall solicit new proposals in accordance with subsection (c).

"(e) CHILDREN'S ADVOCACY ADVISORY BOARD.—

"(1) ESTABLISHMENT OF BOARD.—

"(A) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Administrator and the Director, after consulting with representatives of community agencies that respond to child abuse cases, shall establish a children's advocacy advisory board to provide guidance and oversight in implementing the selection criteria and operation of the regional children's advocacy program.

"(B) MEMBERSHIP.—(i) The board—

"(I) shall be composed of 12 members who are selected by the Administrator, in coordination with the Director, a majority of whom shall be individuals experienced in the child abuse investigation, prosecution, prevention, and intervention systems;

"(II) shall include at least 1 member from each of the 4 census regions; and

"(III) shall have members appointed for a term not to exceed 3 years.

"(ii) Members of the Board may be reappointed for successive terms.

"(2) REVIEW AND RECOMMENDATIONS.—

"(A) OBJECTIVES.—Not later than 180 days after the date of enactment of this section and annually thereafter, the Board shall develop and submit to the Administrator and the Director objectives for the implementation of the children's advocacy program activities described in subsection (b).

"(B) REVIEW.—The board shall annually—

"(i) review the solicitation and selection of children's advocacy program proposals and make recommendations concerning how each such activity can be altered so as to better achieve the purposes of this section; and

"(ii) review the program activities and management plan of each grant recipient and report its findings and recommendations to the Administrator and the Director.

"(3) RULES AND REGULATIONS.—The Board shall promulgate such rules and regulations as it deems necessary to carry out its duties under this section.

"(f) REPORTING.—The Attorney General and the Secretary of Health and Human Services shall submit to Congress, by March 1 of each year, a detailed review of the progress of the regional children's advocacy program activities.".

(c) LOCAL CHILDREN'S ADVOCACY PROGRAM.—Section 214 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13002), as redesignated by subsection (b)(1), is amended—

(1) by amending the heading to read as follows:

"SEC. 214. LOCAL CHILDREN'S ADVOCACY CENTERS.";

(2) in subsection (a) by striking "The Director of the Office of Victims of Crime (hereinafter in this subtitle referred to as the 'Director'), in consultation with officials of the Department of Health and Human Services," and inserting "The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime,";

(3) in subsection (b)(2)(B) by inserting "and nonoffending family members" after "neglect"; and

(4) by adding at the end the following new subsection:

"(d) CONSULTATION WITH REGIONAL CHILDREN'S ADVOCACY CENTERS.—A grant recipient under this section shall consult from time to time with regional children's advocacy centers in its census region that are grant recipients under section 213.".

(d) SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—Section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003), as redesignated by subsection (b)(1), is amended in subsections (a) and (c)(1) by striking "Director" and inserting "Administrator".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004), as redesignated by subsection (b)(1), is amended to read as follows:

"SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.

"(a) SECTIONS 213 AND 214.—There are authorized to be appropriated to carry out sections 213 and 214—

"(1) $15,000,000 for fiscal year 1993; and

"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(b) SECTION 214A.—There are authorized to be appropriated to carry out section 214A—

"(1) $5,000,000 for fiscal year 1993; and

"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.".

SEC. 7. HEAD START TRAINING IMPROVEMENT.

(a) PURPOSE.—It is the purpose of this section—

(1) to promote continued access for Head Start and other early childhood staff to the Child Development Associate credential;

(2) to increase the ability of Head Start staff to address the problems facing Head Start families;

(3) to create a systematic approach to training, thereby improving the quality of Head Start instruction and using training funds more efficiently and effectively; and

(4) to allow the use of training funds for creative approaches to learning for children.

(b) TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a) by striking "(2) training" and all that follows through the end of the subsection and inserting "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and

(2) by adding at the end the following new subsections:

"(c) The Secretary shall—

"(1) develop a systematic approach to training Head Start personnel, including—

"(A) specific goals and objectives for program improvement and continuing professional development;

"(B) a process for continuing input from the Head Start community; and

"(C) a strategy for delivering training and technical assistance; and

"(2) report on the approach developed under paragraph (1) to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".

SEC. 8. AMENDMENTS TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.

(a) SPENDING OF FUNDS BY STATES.—Section 658J(c) of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858h(c)) is amended—

(1) by striking "obligated" and inserting "expended"; and

(2) by striking "succeeding fiscal year" and inserting "succeeding 3 fiscal years".

(b) PAYMENTS EXCLUDED FROM INCOME.—The Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858a et seq.) is amended by adding at the end the following new section:

"SEC. 658S. MISCELLANEOUS PROVISIONS.

"Notwithstanding any other law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.".

(c) TECHNICAL AMENDMENTS.—

(1) CORRECTION IN CITATION.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by striking "title IV" and inserting "title VI".

(2) DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858n) is amended—

(A) in paragraph (7), by striking "4(b)" and inserting "4(e)"; and

(B) in paragraph (14), by striking "4(c)" and inserting "4(l)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) APPLICATION.—The amendments made by this section shall not apply with respect to fiscal years beginning before October 1, 1992.

SEC. 9. AMENDMENT TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) FINDINGS.—The Congress finds that—

(1) circumstances surrounding the death of a young boy named Adam Mann in New York City prompted a shocking documentary focusing on the inability of child protection services to protect suffering children;

(2) the documentary described in paragraph (1) showed the serious need for systemic changes in our child welfare protection system;

(3) thorough, coordinated, and comprehensive investigation will, it is hoped, lead to the prevention of abuse, neglect, or death in the future;

(4) an undue burden is placed on investigation due to strict Federal and State laws and regulations regarding confidentiality;

(5) while the Congress recognizes the importance of maintaining the confidentiality of records pertaining to child abuse, neglect, and death, often the purpose of confidentiality laws and regulations are defeated when they have the effect of protecting those responsible;

(6) comprehensive and coordinated interagency communication needs to be established, with adequate provisions to protect against the public disclosure of any detrimental information need to be established;

(7) Certain States, including Georgia, North Carolina, California, Missouri, Arizona, Minnesota, Oklahoma, and Oregon, have taken steps to establish by statute interagency, multidisciplinary fatality review teams to fully investigate incidents of death believed to be caused by child abuse or neglect;

(8) teams such as those described in paragraph (7) should be established in every State, and their scope of review should be expanded to include egregious incidents of child abuse and neglect before the child in question dies; and

(9) teams such as those described in paragraph (7) will increase the accountability of child protection services.

(b) MODIFICATION OF CONFIDENTIALITY PROVISION REGARDING STATE GRANTS UNDER CHILD ABUSE PREVENTION AND TREATMENT ACT.—Section 107(b)(4) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106A(b)(4)) is amended to read as follows:

"(4) provide for—

"(A) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to purposes of this Act; and

"(B) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;".

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that each State should review and reform of the system in the State for protecting against child abuse and neglect, including implementing formal interagency, multidisciplinary teams—

(1) to review—

(A) all cases of child death in which the child was previously known by the State to have been abused or neglected; and

(B) incidents of child abuse before a child dies when there is evidence of negligent handling by the State,

in order to hold the State accountable; and

(2) to make recommendations regarding the outcomes of individual cases and systemic changes in the State's procedures for protecting against child abuse and neglect.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the resolution, House Resolution 594.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here to vote on passage of a substitute amendment to the Senate's substitute amendment to H.R. 5194, the Juvenile Justice and Delinquency Prevention Amendments of 1992, the reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 and Runaway and Homeless Youth Act.

Before I begin my remarks, I would like to take the time to thank Chairman FORD and my colleagues from the other side of the aisle, Mr. GOODLING, ranking member of the Education and Labor Committee, and Mr. FAWELL, ranking member of the Human Resources Subcommittee for their tireless efforts in helping to put together this truly bipartisan bill.

Mr. Speaker, H.R. 5194 reflects a blending of the components of both the original House and Senate versions of the act.

It contains vital components, such as study of violence by and against juveniles in both urban and rural settings. It creates incentives for states and local jurisdictions to enter into innovative public/private partnerships and, it creates incentives to encourage State and local jurisdictions to create community systems of care, involving interagency collaborative efforts.

It also provides for two new gang intervention programs: one that requires local education agency involvement with other local, public and private institutions in providing a broad variety of prevention and intervention activities; and the other is aimed specifically at the more hard-core gang members providing for the development of regional task forces involving State, local and community-based organizations to coordinate enforcement, intervention, and treatment efforts and to curtail interstate activities of gangs.

It allows state challenge activities that provide for additional funding for states that implement new and innovative policies for dealing with youth; It creates a new title for front-end prevention services, providing desperately needed support for counties and local governments; and, it creates a mentoring program for at-risk youth that encourages collaboration between schools and other private and public agencies.

It also allows for a new innovative boot camp program that provides a program of discipline combined with educational and job training components; and it provides for a White House Conference on Juvenile Justice which will allow the sharing of ideas and information between practitioners, academics, and the youth themselves.

The bill also allows the continuation of vital services to our runaway and homeless youth. The Runaway and Homeless Youth Act is the safety net with which we rescue those young people, who find themselves lost and confused without family support.

The act provides basic services through community-based agencies to alleviate the problems of runaways through the provision of temporary shelter, supportive services and counseling—and whenever possible, reuniting them with their families. The act also provides funding for transitional living programs that provide long-term shelter and life skills training to homeless youth who are attempting to make that transition into an adult world.

Finally, H.R. 5194 creates a national children's advocacy program for victims of sexual and physical abuse that focuses attention on the child victim and provides support for the nonoffending family members by improving the resources available to them.

This legislation is committed to addressing today's immediate issues concerning youth and will make the necessary structural changes to the JJDPA in this reauthorization cycle to ensure the future of our youth.

Mr. Speaker, this bill represents a bipartisan and bicameral effort to address the ravages of social disease on our youth and our communities. H.R. 5194 is a keystone in the foundation of the future of our children. I ask for your support in passing this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, from the Commonwealth of Pennsylvania, I rise in support of H.R. 5194, reauthorizing the Juvenile Justice and Delinquency Prevention Act of 1974.

The legislation before us today represents a compromise between the House and Senate-passed bills. Programs authorized under this act are vitally important to communities dealing with increasing numbers of crimes committed by juveniles, particularly those communities dealing with an increase in violent crimes. It provides for programs of prevention, intervention, and treatment, and programs which address the problems created by the growing numbers of youth gangs.

In addition, this legislation attempts to increase coordination between a youth's home school and the facility where they are currently residing, whether it is a juvenile detention facility or a runaway or a homeless shelter. Due to the strong correlation between poor academic achievement and juvenile delinquency, this provision could prove to be a key prevention tool. By ensuring these youth can keep up with their classmates while they are not attending their school, we can increase the chance that they will stay in school and succeed academically once they return to their homes.

□ 2150

If we can help these youths stay in school and off the streets, we are taking a giant step toward eliminating their future participation in delinquent activities. As a former educator, I am particularly pleased to see these provisions in the act.

Mr. Speaker, there is another provision in H.R. 5194 which I would like to call to the attention of my colleagues. Part G of this act authorizes the administrator to make grants for mentoring programs. As I have mentioned previously, my office has mentored several students from D.C. public schools and found it to be a rewarding experience for all involved. The young man, came to us when he was in the eighth grade, our first student, and will graduate this school year. Some of you may actually have met Lydell Mitchell when I brought him to the floor. When we first met Lydell, he was very shy and hesitated to look at people when he was talking to them. If you met him today, he would look you straight in the eye and give you a big smile and a hearty handshake. Lydell has become a fine young man and I would like to think my office played at least a small role in helping him stay in school and graduate. He became a part of our office family, and they took him everywhere. We are very proud of him.

The mentoring section in this bill contains many of the provisions of the mentoring program I offered as a part of my substitute to the Neighborhood Schools Improvement Act and that Act is a joke, which fortunately we will not have to witness again during this session, and involves local schools, businesses, and public and private organizations in mentoring programs for youth at risk of dropping out, of educational failure and of involvement in delinquent activities and gang participation. Mentoring programs work! Hopefully the provisions contained in this legislation will allow other local communities to develop mentoring programs.

Finally, I would like to point out some important changes to the Runaway and Homeless Youth Act, which is title II of this act. This legislation calls for greater home-based and street-based services for youth. These services are designed to target troubled youth and provide the most effective interventions, such as greater family involvement before these youth become involved in delinquent activities. I want to commend Congressman FAWELL for insisting that these services be included as part of the Basic Center Program. This will facilitate coordination in providing these youth with the new services and all of the other services and resources available to them.

Mr. Speaker, I want to commend Chairman MARTINEZ and Congressman FAWELL for their efforts to make meaningful changes to this important act. I would also like to commend Congressmen KILDEE for his revisions to the gang prevention section of the law.

I also want to thank the staff, Lee Cowen, Lynn Selmser, Roger McClellan, Becky Franck, Terry Deschler, and Alan Lapatin, and remind the Members, as always, they always have four to every two that we have. Again, they did an outstanding job and are to be complimented.

Mr. Speaker, I yield whatever time he may consume to the gentlemen from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I thank my colleague from Pennsylvania for yielding me the time.

Mr. Speaker, I would like to engage in a colloquy with our colleague, the chairman of the subcommittee with jurisdiction over this act.

In July 1990, the Office of Juvenile Justice and Delinquency Prevention approved a plan submitted by the State of Wisconsin which allowed Wisconsin additional time to complete statutory and regulatory changes, and specified conditions under which Wisconsin would be deemed in compliance with the act. Approval of this plan—confirmed by letter from Robert Sweet, administrator to Jerome Lacke, executive director, Wisconsin Office of Justice Assistance, dated July 17, 1990—represented a good faith agreement with Wisconsin which Wisconsin has been diligently implementing.

It is my understanding that it is not the intent of this legislation to abrogate that agreement, and that the House committee report contains language on page 30 which protects Wisconsin's participation under the act, including the state formula block grant portion of the act, as long as Wisconsin meets the requirements of the agreed to jail removal plan.

Is this also the gentleman's understanding?

Mr. MARTINEZ. Mr. Speaker, will the gentlemen yield?

Mr. PETRI. I yield to the gentleman from California.

Mr. MARTINEZ. Yes; it is; the gentleman is correct. The gentleman is to be commended because he brought to our attention a special situation that exists in Wisconsin, and I want to assure the gentleman that we have provided language in the report that does take into account the agreement that was made with the Office of JJDP, and there is language in the report to protect that agreement.

Mr. PETRI. Mr. Speaker, I include for the RECORD the House committee report language protecting Wisconsin's participation under the act at this point.

In December of 1988, Wisconsin Governor Tommy G. Thompson notified OJJDP that Wisconsin was conditionally withdrawing from participation in the state formula grant portion of the Juvenile Justice and Delinquency Prevention Act. In June 1969, Governor Thompson notified OJJDP that the State of Wisconsin would not submit a plan for 1989 and would not participate in the Act. In April 1990, the Administrator of OJJDP was asked to reassess Wisconsin's Jail and Lockup Removal Plan. After negotiating a compromise, Wisconsin submitted a revised plan which was approved by OJJDP in July of 1990, providing additional time to complete regulatory and statutory changes necessary to implementing the plan through the issuance of a waiver of termination as authorized under the Act (section 223) and regulations (28 CFR 31.303). This plan specified certain criteria to be met in order for Wisconsin to be in compliance with the Act, and the terms for compliance. Terms agreed to include the use of common staff for both adult and juvenile facilities, provided that the staff is not used in both the adult and juvenile centers at the same time or on the same day, and that such staff be trained and certified to work with juveniles in detention. Such training is to be consistent with national standards for juvenile detention staff.

Although the committee feels that the use of common staff for both juvenile and adult offenders should be prohibited, it also recognizes that the State of Wisconsin entered into an agreement in good faith with the Office of Juvenile Justice and Delinquency Prevention and has been in the process of implementing its plan for the past two years. The committee does not consider it appropriate to supplant this agreement but directs the Office to closely monitor the effects it has on juveniles in custody and report the results to the Chair of the House Committee on Education and Labor and the Chair of the Senate Committee on the Judiciary by December 31, 1995.

If the State of Wisconsin fails to meet the requirements of the "Jail Removal Plan" agreement as described in its state plan and as approved by the Office of Juvenile Justice and Delinquency Prevention (confirmed by letter from Robert Sweet, Administrator, to Jerome Lacke, Executive Director, Wisconsin Office of Justice Assistance, dated July 17, 1990) such that the State is no longer in compliance with the terms of the Act and becomes a nonparticipating State, the State would be required, in order to resume participation, to submit a new state plan for approval by the Office under the statutes and regulations in effect at the time of application.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. FAWELL], who played a leading role in helping the gentleman from California [Mr. MARTINEZ] come us with an outstanding bill.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of the House/Senate agreement on H.R. 5194, the Juvenile Justice and Delinquency Prevention Act of 1992. This bill reauthorizes three programs which are vital to the well-being of this country's youth: The Juvenile Justice and Delinquency Prevention Act, the Runaway and Homeless Youth Act, an the Missing Children's Act.

I want to thank Congressman MARTINEZ, the chairman of the Human Resources Subcommittee, for the bipartisan manner in which this reauthorization process has been conducted—from the handling of hearing sites and witnesses through the development of changes in these important laws. I also would like to thank Senators BROWN and KOHL for their hard work and for the cooperative nature of the House/Senate negotiations on this agreement.

The legislation we are voting on today provides important services to at-risk youth, whether they are runaways, homeless youth or youth involved in the juvenile justice system. By providing assistance to these young people today, we are insuring they will become productive members of society tomorrow, instead of part of the adult criminal justice system.

In both the Juvenile Justice and Delinquency Prevention Act and the Runaway and Homeless Youth Act, we have added language that will provide counseling to youth and their families before the youth returns home from a detention center or runaway shelter. While aftercare is important, I also believe families should receive counseling before the youth returns home to help insure the same circumstances which led the youth to become involved in delinquent activities or to leave home do not reoccur.

A provision for home-based alternative services has been included in the bill, and I would certainly encourage the use in this area of the innovative home detention program that exists in my district—the 13th Congressional District of Illinois—as a successful alternative to incarceration. On April 7 of this year, Jean Peerson, chief probation officer of the DuPage County Department of Probation and Court Services and Pat McGrath, superintendent of the DuPage County Youth House, testified before the Subcommittee on Human Resources about the innovative home detention program they have developed which allows them to treat youth locally rather than sending them to other jurisdictions when their detention facility is overcrowded. The have a 79-percent success rate, which is at least partially due to their ability to work with the youth and their family at the same time since the youth remains at home. I want to commend these hard working people for helping to get these children and their families back on the right track.

I have talked to many people in my district that work with these programs and I have heard testimony from experts in these areas who have explained the benefits and necessity of these programs to me. Based on this information, I strongly believe that these programs deserve increased funding in order to solidify and hopefully expand the progress being made. These programs speak for themselves and their success has been verified.

Finally, I want to applaud Congressman GOODLING, the ranking minority member of our committee, for his school coordination and mentoring provisions in this bill. They are both excellent additions to this legislation. Mr. Speaker, I encourage all of my colleagues to support this comprehensive reauthorization package.

□ 2200

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield back the balance of my time, I just wanted to again reiterate the great pleasure it was working with the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Illinois [Mr. FAWELL] on this legislation and to thank the gentleman from Pennsylvania [Mr. GOODLING] for naming the members of our staff on the Subcommittee on Human Resources who worked so diligently on this piece of legislation.

Mr. WYDEN. Mr. Speaker, I strongly support H.R. 5194 and commend the work of the committee, and particularly Chairman MARTINEZ, for their tireless work in completing this bill.

This spring, at my request and the request of Congresswoman JOLENE UNSOELD, the Subcommittee on Human Relations conducted a field hearing in my district in Portland, OR.

The testimony we heard was alarming, and provided proof that criminal youth gang activity is not just a problem restricted to large urban centers. It is also striking small towns and rural areas throughout the country, and particularly in California and the Northwest. Young people from all social, ethnic and economic backgrounds are at risk. This is not just a problem of the inner city poor.

The Portland Police Bureau Gang Enforcement Team estimates that gang membership in Portland has mushroomed in the last 3 years, from 357 identified gangsters in 1989 to 2,343 in 1992.

Oregon Police have reports of Hispanic and Asian gangs moving up and down Highway 97 selling narcotics and spreading violence as far away as Yakima, WA.

Police have identified 85 gang affiliates between Baker City and Ontario, in rural eastern Oregon, and there's evidence that Crips, a California-based gang, has slipped into Klamath Falls in southern Oregon and is dealing drugs and illegal firearms.

In a worrisome twist to criminal gang activities, national hate groups are recruiting and directing Skinheads, with their frightening agenda of racism and hatred.

Last year $81 million was spent as part of the Juvenile Justice and Delinquency Prevention Act. Oregon received just $480,000 of that money, all of which went to a much-needed outreach program for teenagers girls in gangs.

Less then $2 million in State and local resources are devoted to gang intervention each year in Oregon. In Portland, there are only three halfway homes for teenage boys who want to leave the streets, and each can only house a handful of youths at a time. These three programs cannot handle the 2,000-plus gang-affected youth in the area.

The hearing uncovered a great need in Portland for new and innovative approaches to the gang problem. It also exposed the desperate need, not only in Oregon, but throughout the region, for a greater Federal commitment to fighting the scourge of youth gang crime.

Three recommendations emerged from this hearing, and I am pleased that they were included in H.R. 5194. The first was a recommendation that a regional approach be taken to both prevention and enforcement of gang activity. This provision allows law enforcement and social service programs to develop of community-based gang intervention programs including regional gang programs that will encompass enforcement, intervention and treatment for gang-affected youths.

In the Northwest, we have seen an alarming increase in organized gang activity stretching from Los Angeles to Seattle spreading among rural and suburban communities. This provision would give our States the ability to coordinate activities between the States and communities to prevent and combat criminal gang activity.

The second recommendation was for increased funding for intervention and prevention grants for States. The gang-free schools and communities programs create innovative intervention programs that involve the families, schools and communities of gang-affected youth.

The third critical point that was made in the hearing in Portland was that the grant formula for these programs should not be based on population of the State or region, but on the severity of the gang problem in the area. Now small States with large gang problems will have the opportunity to receive critical Federal support.

H.R. 5194 provides hope to communities seeking relief from the tragic and frightening youth gang problem, and I urge my colleagues to support it.

Mr. FORD of Michigan. Mr. Speaker, I rise today in strong support of the reauthorization of the Juvenile Justice and Delinquency Prevention Act. I want to congratulate Mr. MARTINEZ, the chairman of the Subcommittee on Human Resources, and Mr. FAWELL, the ranking minority member for working so hard to bring the House a bipartisan bill.

The intent of this act in 1974 was to rehabilitate juveniles in an effort to stop juvenile criminal offenders from becoming adult criminal offenders. In today's political climate where a too ready answer to rising juvenile crime tends to be locking kids up and waiving 14-, 13-, and even 12-year-olds up to the adult justice system, it is imperative that we step back and reexamine the disparity between the intent of the initial JJDP Act and where the juvenile justice system is actually heading today.

The Juvenile Justice and Delinquency Act provides a Federal framework for States with regard to much needed services for youths and their families. Strong emphasis is placed on a preventive and interventive approach by working not only with the resulting problems, but also with families in an attempt to change the factors, such as physical and mental abuse, education, and drug and alcohol abuse, which contribute to delinquent behavior.

Locking kids up does not work to make them law abiding citizens. This bill reiterates the intent of the initial JJDP Act by directing that appropriate treatment for juvenile delinquents take into account the whole youth, not just his or her delinquent behavior.

This bill works to insure that appropriate treatment acknowledges the distinction made between violent and nonviolent juvenile offenders, that youth are not locked up with adults, and that status offenders are not locked up at all.

Highlights of the bill include education, comprehensive and coordinated community-based services and alternatives to incarceration, mental health services, and family-involved alternative services. Special studies are included to examine gender-specific services, juveniles waived to adult courts, hate crimes, and violent crimes committed by and against juveniles in urban and rural areas.

The gang prevention and intervention section has been expanded to focus on targeting elementary school children, family preservation, community empowerment, and holding juveniles responsible for their actions.

The bill also reauthorizes the Runaway and Homeless Youth Program with various improvements, including expanding the basic grant provision to include home-based and street-based services. And the bill reauthorizes the Missing and Exploited Children's Act for another 4 years.

Mr. Speaker, the Juvenile Justice and Delinquency Prevention Act is authorized at $150 million in fiscal year 1993 and such sums as may be appropriated thereafter. I regret that we find ourselves in a situation where the bill is funded at no more than half its authorized level.

I urge my colleagues to join me in support of this important legislation.

Mr. KILDEE. Mr. Speaker, I rise in support of H.R. 5194, the Juvenile Justice and Delinquency Prevention Amendments of 1992, which extends the Juvenile Justice and Delinquency Prevention Act of 1974 for 4 additional years.

This bill makes many important improvements in the act.

The first is the new title II, Gang-Free Schools and Communities Program which is identical to H.R. 5175, The Gang-Free Schools and Communities Act, which I introduced earlier this year with other members of the subcommittee. This replaces the existing program which was enacted in 1988 and which, unfortunately, has accomplished little except for research. This new program authorizes $25 million primarily to support local service projects designed to help organize and support gang prevention and intervention projects that substantially involve public schools.

Educational services, when coordinated with social and mental health services available through community-based youth services organizations and other public agencies, can become powerful tools to prevent youth from joining or participating in gang activities. Youth who are, or may become, gang members must have access to these kinds of comprehensive services if we want them to participate in lawful, constructive activities, and to make safe and healthy decisions about their futures.

The second improvement relates to the issue of the so-called valid court order. This provision of the law provides an exception to the requirement that status offenders are to be treated in nonsecure facilities in cases where a youth violates a valid order of the court. I opposed the adoption of this exception 12 years ago and have continued to have concerns about its use. The bill provides for local reviews of these orders to ensure that runaways and other status offenders will not be held in secure detention if nonsecure treatment options are available in the community.

Additionally, H.R. 5194 provides for other important improvements including:

First, new requirements for States to reduce any disproportionate incarceration of minority youth and to establish comprehensive and coordinated community systems of services;

Second, new State plan requirements which place a stronger emphasis on dropout prevention and on maintaining and strengthening families;

Third, a new authorization for monitoring programs; and

Fourth, authority for the Secretary of Health and Human Services to make grants to runaway centers to support the provision of street-based as well as home-based services when the appropriation for the Runaway and Homeless Youth Act exceeds $50 million.

Mr. Speaker, H.R. 5194 continues the tradition of bipartisan support which has always attended the Juvenile Justice and Delinquency Prevention Act. I want to express my appreciation for the hard work of the subcommittee chairman, Mr. MARTINEZ, and the ranking Republican, Mr. FAWELL. They have brought us an excellent bill which I am pleased to support.

Mr. RICHARDSON. Mr. Speaker, the Juvenile Justice and Delinquency Prevention Act has had a major impact on our juvenile justice system for 18 years. It has determined the role our Federal Government will take in these proceedings and, more importantly, it has provided States with guidelines and programs to help address the needs of troubled youth.

I believe the legislation before us today will help improve the existing system so that we may address the increase of crime activity among youth our society is experiencing and target at-risk youth to prevent criminal activity before it starts.

While I will be supporting this legislation, as one of the Representatives from New Mexico, I am compelled to express concerns about the impact some of the provisions included in H.R. 5194 will have on rural, geographically isolated and financially strapped States like New Mexico.

In New Mexico, we receive $325,000 annually that must be divided among 33 counties for facilities, the providing of staff and training, the transportation of juveniles to certified juvenile detention centers and nonsecure alternatives to detention centers such as shelter homes. This is not a lot of money—as a matter of fact, it is the minimum amount required within the statute. While this is not a lot of money, I believe New Mexico has gone to great lengths to protect those juveniles in detention centers and promote a high quality of care.

A provision included in H.R. 5194 would prohibit the sharing of detention staffers under any circumstances and would only allow a waiver from meeting each and every mandate until fiscal year 1994. After that each State would see a reduction in funding by 25 percent for each mandate it failed to meet.

In New Mexico's case, many counties barely have enough funding to hire one set of trained detention staffers let alone two separate staffers. While I understand the intent of this language, I am concerned that rural counties are already having difficulty hiring enough detention staff on existing funding without being further penalized with reduced funding due to their inability to meet staffing mandates. Additionally, their efforts to ensure the safety and security of juveniles and specialized training for detention officers that work with youth are not being taken into consideration.

As I stated earlier, I will be supporting this legislation but I hope both the Committee and the Department of Justice will keep these issues in mind for future legislation and rulemaking.

Mr. CRAMER. Mr. Chairman, I rise today to join my colleagues in supporting the reauthorization of the Juvenile Justice and Delinquency Prevention Act.

This reauthorization measure is important for several reasons. It helps to strengthen families. A strong, self-confident, and loving family is our best defense against the crisis of delinquency. Enriching local communities through Federal assistance so that those communities can actively act on behalf of children and families is accomplished in the reauthorization bill. This bill strengthens our delinquency prevention efforts. The old adage is aptly applied here: An ounce of prevention is worth a pound of cure. It is more effective in both human and fiscal terms to prevent delinquency than to attempt to control or change it after the fact.

I would like to thank Chairman MARTINEZ of the Human Resources Subcommittee and the entire Education and Labor Committee for the excellent work that has been done to address the needs of juveniles, prevent delinquency and help local communities address their unique situations. Chairman MARTINEZ willingly and diligently worked with me and several others to incorporate into the bill a children's advocacy section designed to help prevent juvenile delinquency and minimize the trauma a child may experience due to physical and sexual abuse.

I would also like to thank Chairman OWENS of the Select Education Subcommittee and Chairwoman SCHROEDER of the Select Committee on Children, Youth, and Families for their support on the National Children's Advocacy Program Act of 1992 that is included in the reauthorization package. We were fortunate to have a number of Members support the bill from both sides of the aisle. I appreciate their support.

In the other body, I would like to commend Chairman BIDEN for his leadership. In 1990, Chairman BIDEN sponsored the Victims of Child Abuse Act. That Act highlighted the benefits of the multidiciplinary team approach to addressing child abuse and neglect reports. Chairman BIDEN was interested in my bill H.R. 4729, saw the merits of it and how it complemented his previous efforts. Working with the Judiciary Committee, we were able to incorporate H.R. 4729 into the Victims of Child Abuse Act of 1990.

Chairman KOHL and his staff were of great assistance in helping us craft a responsible measure that would enhance the reauthorization of the Juvenile Justice and Delinquency Prevention Act. Additionally, Senator NICKLES, the Senate primary sponsor of the National Children's Advocacy Program Act of 1992, and my senior Alabama Senator, Senator HEFLIN, were instrumental in helping us raise this issue in that body.

If I may take a few moments, I would like to discuss the purpose of section 6 of the reauthorization package. The purpose of the Children's Advocacy Program is to provide information, services, and assistance to communities so that such communities can establish multidiciplinary teams and programs to respond to child abuse.

First, the bill makes the child the central focus and works to protect the child, punish the offender, and prevent such future heinous acts. Second, the bill will, in the long term, establish a national network of comprehensive, community-based child abuse intervention, prevention, prosecution, and investigation programs. Third, the program established by this bill will provide training on the most effective community-based treatment approaches to child physical and sexual abuse and will disseminate the information so that there will be a continuous replication of the training.

Fourth, the bill does not establish a particular model that must be followed—to the contrary it allows a community to design a program that fits that community's particular needs, including being culturally responsive. Fifth, the Children's Advocacy Program recognizes the importance of training physicians and other health care professionals in the multidisciplinary approach to child abuse so that trained personnel will be available to provide medical support to community agencies that respond to child abuse. Sixth, the bill establishes a Children's Advocacy Advisory Board that will ensure that the program being implemented is addressing the needs that exist. A majority of the board members shall be individuals experienced in child abuse investigation, prosecution, prevention, and intervention systems.

The bill before us recognizes that child abuse and neglect is all too often a precursor of juvenile delinquency. Multidisciplinary child abuse programs yield the future benefits of preventing adolescent criminal behavior. These programs help break the chain of abusive behavior. Study upon study shows that there is a relationship between the child abuse and juvenile delinquency.

One of the bigger problems many communities are facing, regardless of size or geographic location, is the problem of runaways or thrownaways. Researchers report that large numbers of runaway or thrownaway youth were subjected to physical or sexual abuse prior to leaving the household. Some runaway adolescents use illegal drugs, engage in prostitution, or participate in other types of illegal activities that may bring them into contact with the juvenile justice system.

The weight of the evidence indicates a relationship between child maltreatment and delinquency. Studies continue to show that child abuse and neglect are related to delinquency. Thus, to the extent we are able to effectively address child abuse cases, we can positively impact the lives of abused children and prevent them from becoming delinquents or abusers themselves.

The U.S. Advisory Board on Child Abuse and neglect noted in its 1991 report that the Nation continually pays for the social and personal costs of substance abuse, eating disorders, depression, adolescent pregnancy, suicide, juvenile delinquency, prostitution, pornography, and violent crime—all of which may have substantial roots in childhood abuse and neglect. Our bill today is cost-effective preventive medicine.

This is not an inside-the-beltway proposal. It is a local community empowerment proposal. It is a proposal to help American cities, towns and villages. That is to say, the Children's Advocacy Program spreads the concept of the multifaceted, multidisciplinary and comprehensive approach to child abuse nationwide but makes sure that each community has the flexibility to design a program to fit its unique needs.

It assists prosecutors, courts, social services agencies and other agencies in helping abused children. That is a local responsibility; the Federal role should be limited. We are not looking for Washington to micromanage this program. Our bill calls for community enrichment.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLTER). The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and agree to the resolution, House Resolution 594.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

INDIAN HEALTH AMENDMENTS OF 1992

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2481) to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes, as amended.

The Clerk read as follows:

S. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Health Amendments of 1992".

SEC. 2. AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 3. FINDINGS; POLICY; AND DEFINITIONS.

(a) FINDINGS.—Section 2 of the Act (25 U.S.C. 1601) is amended—

(1) in the matter preceding paragraph (a), by striking "finds that—" and inserting "finds the following:";

(2) in paragraph (d), by striking out the second sentence; and

(3) by striking out paragraphs (e), (f), and (g).

(b) DECLARATION OF POLICY.—Section 3 of the Act (25 U.S.C. 1602) is amended to read as follows:

"DECLARATION OF HEALTH OBJECTIVES

"SEC. 3. (a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.

"(b) It is the intent of the Congress that the Nation meet the following health status objectives with respect to Indians and urban Indians by the year 2000:

"(1) Reduce coronary heart disease deaths to a level of no more than 100 per 100,000.

"(2) Reduce the prevalence of overweight individuals to no more than 30 percent.

"(3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.

"(4) Reduce the level of cancer deaths to a rate of no more than 130 per 100,000.

"(5) Reduce the level of lung cancer deaths to a rate of no more than 42 per 100,000.

"(6) Reduce the level of chronic obstructive pulmonary disease related deaths to a rate of no more than 25 per 100,000.

"(7) Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.

"(8) Reduce cirrhosis deaths to no more than 13 per 100,000.

"(9) Reduce drug-related deaths to no more than 3 per 100,000.

"(10) Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.

"(11) Reduce suicide among men to no more than 12.8 per 100,000.

"(12) Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.

"(13) Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.

"(14) Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.

"(15) Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.

"(16) Increase years of healthy life to at least 65 years.

"(17) Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.

"(18) Reduce deaths caused by motor vehicle crashes to no more than 39.2 per 100,000.

"(19) Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dl and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dl.

"(20) Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.

"(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children aged 6 through 8 and no more than 40 percent among adolescents aged 15.

"(22) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.

"(23) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.

"(24) Reduce destructive periodontal disease to a prevalence of no more than 15 percent among individuals aged 35 to 44.

"(25) Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.

"(26) Reduce the prevalence of gingivitis among individuals aged 35 to 44 to no more than 50 percent.

"(27) Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.

"(28) Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.

"(29) Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.

"(30) Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.

"(31) Reduce stroke deaths to no more than 20 per 100,000.

"(32) Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.

"(33) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(34) Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.

"(35) Reduce colorectal cancer deaths to no more than 13.2 per 100,000.

"(36) Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.

"(37) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

"(38) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

"(39) Reduce diabetes-related deaths to no more than 48 per 100,000.

"(40) Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.

"(41) Reduce the most severe complications of diabetes as follows:

"(A) End-stage renal disease, 1.9 per 1,000.

"(B) Blindness, 1.4 per 1,000.

"(C) Lower extremity amputation, 4.9 per 1,000.

"(D) Perinatal mortality, 2 percent.

"(E) Major congenital malformations, 4 percent.

"(42) Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases.

"(43) Confine the prevalence of HIV infection to no more than 100 per 100,000.

"(44) Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.

"(45) Reduce chlamydia trachomatis infections, as measured by a decrease in the incidence of nongonococcal urethritis to no more than 170 cases per 100,000.

"(46) Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.

"(47) Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.

"(48) Reduce viral hepatitis B infection to no more than 40 per 100,000 cases.

"(49) Reduce indigenous cases of vaccine-preventable diseases as follows:

"(A) Diphtheria among individuals aged 25 and younger, 0.

"(B) Tetanus among individuals aged 25 and younger, 0.

"(C) Polio (wild-type virus), 0.

"(D) Measles, 0.

"(E) Rubella, 0.

"(F) Congenital Rubella Syndrome, 0.

"(G) Mumps, 500.

"(H) Pertussis, 1,000.

"(50) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.

"(51) Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.

"(52) Reduce tuberculosis to an incidence of no more than 5 cases per 100,000.

"(53) Reduce bacterial meningitis to no more than 8 cases per 100,000.

"(54) Reduce infectious diarrhea by at least 25 percent among children.

"(55) Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

"(56) Reduce cigarette smoking to a prevalence of no more than 20 percent.

"(57) Reduce smokeless tobacco use by youth to a prevalence of no more than 10 percent.

"(58) Increase to at least 65 percent the proportion of parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

"(59) Increase to at least 75 percent the proportion of mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.

"(60) Increase to at least 90 percent the proportion of pregnant women who receive prenatal care in the first trimester of pregnancy.

"(61) Increase to at least 70 percent the proportion of individuals who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.

"(c) It is the intent of the Congress that the Nation increase the proportion of all degrees in the health professions and allied and associated health profession fields awarded to Indians to 0.6 percent.

"(d) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the progress made in each area of the Service toward meeting each of the objectives described in subsection (b).".

(c) DEFINITIONS.—Section 4 of the Act (25 U.S.C. 1603) is amended by adding at the end the following new subsections:

"(m) 'Service area' means the geographical area served by each area office.

"(n) 'Health profession' means family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, and allied health professions.

"(o) 'Substance abuse' includes inhalant abuse.

"(p) 'FAE' means fetal alcohol effect.

"(q) 'FAS' means fetal alcohol syndrome.".

TITLE I—INDIAN HEALTH PROFESSIONALS

SEC. 101. PURPOSE.

Section 101 of the Act (25 U.S.C. 1611) is amended to read as follows:

"PURPOSE

"SEC. 101. The purpose of this title is to increase the number of Indians entering the health professions and to assure an adequate supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health care to Indian people.".

SEC. 102. HEALTH PROFESSIONS.

(a) RECRUITMENT PROGRAM.—Section 102(a) of the Act (25 U.S.C. 1612(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

"(A) to enroll in courses of study in such health professions; or

"(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;";

(2) in paragraph (2)—

(A) by striking out "school" both places it appears and inserting in lieu thereof the following: "course of study"; and

(B) by striking out "clause (1)(A)" and inserting in lieu thereof the following: "paragraph (1)"; and

(3) in paragraph (3)—

(A) by striking out "Indians," and inserting in lieu thereof "Indians in,";

(B) by inserting a comma before "courses";

(C) by striking out ", in any school"; and

(D) by striking out "clause (1)(A)" and inserting in lieu thereof the following: "paragraph (1)".

(b) PREPARATORY SCHOLARSHIP PROGRAM.—Section 103 of the Act (25 U.S.C. 1613) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) have demonstrated the capability to successfully complete courses of study in the health professions.";

(2) in subsection (b)(1), by inserting before the period at the end the following: "on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary)";

(3) by amending subsection (b)(2) to read as follows:

"(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the Secretary).";

(4) in subsection (c), by striking out "full time"; and

(5) by amending subsection (e) to read as follows:

"(e) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.".

(c) HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104 of the Act (25 U.S.C. 1613a) is amended—

(1) in subsection (a)—

(A) by striking out "Indian communities" and inserting in lieu thereof the following: "Indians, Indian tribes, tribal organizations, and urban Indian organizations";

(B) by striking out "full time" and inserting in lieu thereof the following: "full or part time"; and

(C) by striking out "of medicine" and all that follows through "social work" and inserting in lieu thereof the following: "and pursuing courses of study in the health professions";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "full time" and inserting in lieu thereof "full or part time"; and

(ii) by striking out "health profession school" and inserting in lieu thereof "course of study";

(B) in paragraph (3)—

(i) by striking "(3)" and inserting "(3)(A)";

(ii) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(iii) by inserting at the end the following new subparagraphs:

"(B) A recipient of an Indian Health Scholarship may, at the election of the recipient, meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A) that—

"(i) is located on the reservation of the tribe in which the recipient is enrolled; or

"(ii) serves the tribe in which the recipient is enrolled.

"(C) Subject to subparagraph (B), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section."; and

(C) by adding at the end the following new paragraph:

"(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

"(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

"(B) the period of obligated service specified in section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254m(f)(1)(B)(iv)) shall be equal to the greater of—

"(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

"(ii) two years; and

"(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.";

(3) by amending subsection (c) to read as follows:

"(c) The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement, to available vacancies within the Service, of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy."; and

(4) by striking out subsection (d).

(d) EFFECTIVE DATE.—The amendments made by subsection (c)(1)(C) and subsection (c)(2)(B) shall apply with respect to scholarships granted under section 104 of the Indian Health Care Improvement Act after the date of the enactment of this Act.

(e) EXTERN PROGRAM.—Section 105 of the Act (25 U.S.C. 1614) is amended—

(1) in subsection (a), by striking out "section 757 of the Public Health Service Act" and inserting in lieu thereof "section 104"; and

(2) in subsection (b), by striking out "school of medicine" and all that follows through "health professions" and inserting in lieu thereof "course of study in the health professions".

SEC. 103. BREACH OF CONTRACT PROVISIONS RELATING TO INDIAN HEALTH SCHOLARSHIPS.

Section 104(b) of the Act (25 U.S.C. 1613a(b)) (as amended by section 102(c) of this Act) is amended by adding at the end the following new paragraph:

"(5)(A) An individual who has, on or after the date of the enactment of this paragraph, entered into a written contract with the Secretary under this section and who—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(ii) is dismissed from such educational institution for disciplinary reasons,

"(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

"(B) If for any reason not specified in subparagraph (A) an individual breaches his written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

SEC. 104. NURSING.

(a) CONTINUING EDUCATION ALLOWANCES.—Section 106(a) of the Act (25 U.S.C. 1615(a)) is amended by inserting "nurses," after "dentists,".

(b) QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.—Section 112 of the Act (25 U.S.C. 1616e) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) The Secretary shall provide one of the grants authorized under subsection (a) to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 114(b) and the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b).".

(c) TRAINING FOR NURSE MIDWIVES, NURSE ANESTHETISTS, AND NURSE PRACTITIONERS.—Section 112(g) of the Act (25 U.S.C. 1616e(g)) (as redesignated by subsection (b)(1) of this section) is amended to read as follows:

"(g) Beginning with fiscal year 1993, of the amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not less than $1,000,000 shall be used to provide grants under subsection (a) for the training of nurse midwives, nurse anesthetists, and nurse practitioners.".

(d) RETENTION BONUS FOR NURSES.—Section 117 (25 U.S.C. 1616j) of the Act is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by adding after subsection (a) the following new subsection (b):

"(b) Beginning with fiscal year 1993, not less than 25 percent of the retention bonuses awarded each year under subsection (a) shall be awarded to nurses."; and

(3) by amending subsection (f) (as amended by paragraph (1)) to read as follows:

"(f) The Secretary may pay a retention bonus to any physician or nurse employed by an organization providing health care services to Indians pursuant to a contract under the Indian Self-Determination Act if such physician or nurse is serving in a position which the Secretary determines is—

"(1) a position for which recruitment or retention is difficult; and

"(2) necessary for providing health care services to Indians.".

(e) RESIDENCY PROGRAM.—Title I of the Act is amended by adding at the end the following new section:

"NURSING RESIDENCY PROGRAM

"SEC. 118. (a) The Secretary, acting through the Service, shall establish a program to enable licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 108(a)(2)(A)), and have done so for a period of not less than one year, to pursue advanced training.

"(b) Such program shall include a combination of education and work study in an Indian health program (as defined in section 108(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse).

"(c) An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least three times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

(f) GRANTS FOR THE PROVISION OF PRIMARY CARE SERVICES ON OR NEAR INDIAN COUNTRY.—Title I of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended by adding immediately after section 112 the following new section:

"NURSING SCHOOL CLINICS

"SEC. 112A. (a) GRANTS.—In addition to the authority of the Secretary under section 112(a)(1), the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing, developing, operating, and administering clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18, United States Code.

"(b) PURPOSES.—Grants provided under subsection (a) may be used to—

"(1) establish clinics, to be run and staffed by the faculty and students of a grantee school, to provide primary care services in areas in or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide clinical training, program development, faculty enhancement, and student scholarships in a manner that would benefit such clinics; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(c) AMOUNT AND CONDITIONS.—The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.

"(d) DESIGN.—The clinics established under this section shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

"(f) AUTHORIZATION TO USE AMOUNTS.—Out of amounts appropriated to carry out this title for each of the fiscal years 1993 through 2000 not more than $5,000,000 may be used to carry out this section.".

SEC. 105. MAINTENANCE OF COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

Section 107(b) of the Act (25 U.S.C. 1616(b)) is amended—

(1) in paragraph (2), in the material preceding subparagraph (A), by inserting "and maintain" after "develop";

(2) in paragraph (2)(B), by adding at the end the following: "with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,";

(3) in paragraphs (3) and (5), by striking out "develop" each place it appears and inserting in lieu thereof "maintain"; and

(4) in paragraph (4), by striking out "develop and".

SEC. 106. CHANGES TO INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

(a) ELIGIBILITY REQUIREMENTS.—Section 108 of the Act (25 U.S.C. 1616a(b)) is amended—

(1) in subsection (a)(1), by striking out "physicians," and all that follows through "professionals" and inserting in lieu thereof "health professionals"; and

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by amending clause (i) to read as follows:

"(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or"; and

(ii) in clause (ii), by striking out "medicine" and all that follows through "health profession" and inserting in lieu thereof the following: "a health profession";

(B) in paragraph (1)(B)—

(i) by inserting "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii);

(ii) in clause (i), by striking out "medicine, osteopathy, dentistry, or other health profession" and inserting in lieu thereof the following: "a health profession"; and

(iii) in clause (ii) (as redesignated by clause (i) of this subparagraph), by striking out "medicine, osteopathy, dentistry, or other health profession" and inserting in lieu thereof the following: "a health profession"; and

(C) in paragraph (2), by inserting "and" at the end of subparagraph (D), by striking out paragraphs (3) and (4), and by inserting after paragraph (2) the following:

"(3) submit to the Secretary an application for a contract described in subsection (f).".

(b) PRIORITY.—Section 108(d) of the Act (25 U.S.C. 1616a(d)) is amended—

(1) in paragraph (1), by striking out "The" and inserting "Consistent with paragraph (3), the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), of the total amounts appropriated for each of the fiscal years 1993, 1994, and 1995 for loan repayment contracts under this section, the Secretary shall provide that—

"(i) not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives; and

"(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).

"(B) The requirements specified in clause (i) or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements.".

(c) BECOMING A PARTICIPANT.—Paragraph (1) of section 108(e) (25 U.S.C. 1616a(e)) is amended to read as follows:

"(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).".

(d) EXTENSION OF OBLIGATED SERVICE.—Paragraph (2)(A) of section 108(e) (25 U.S.C. 1616a(e)) is amended by inserting before the semicolon the following: ", including extensions resulting in an aggregate period of obligated service in excess of 4 years".

(e) CLARIFICATION REGARDING UNDERGRADUATE LOANS.—Paragraph (1) of section 108(g) (25 U.S.C. 1616a(g)) is amended in the matter preceding subparagraph (A) by striking out "loans received by the individual for—" and inserting in lieu thereof "loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—".

(f) PAYMENT.—Section 108(g)(2)(A) (25 U.S.C. 1616a(g)(2)(A)) is amended to read as follows:

"(2)(A) For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

"(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.".

(g) TAX LIABILITY.—(1) Paragraph (3) of section 108(g) (25 U.S.C. 1616a(g)(3)) is amended to read as follows:

"(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary—

"(A) in addition to such payments, may make payments to the individual in an amount not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.".

(2) The amendment made by paragraph (1) shall apply only with respect to contracts under section 108 of the Indian Health Care Improvement Act entered into on or after the date of enactment of this Act.

(h) STAFFING NEEDS.—Section 108(k) (25 U.S.C. 1616a(k)) is amended to read as follows:

"(k) The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

"(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

"(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.".

(i) ANNUAL REPORT.—Subsection (n) of section 108 is amended to read as follows:

"(n) The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

"(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

"(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

"(4) the amount of loan payments made under this section, in total and by health profession;

"(5) the number of scholarship grants that are provided under section 104 with respect to each health profession;

"(6) the amount of scholarship grants provided under section 104, in total and by health profession;

"(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the three fiscal years beginning after the date the report is filed; and

"(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.".

SEC. 107. RECRUITMENT ACTIVITIES.

Section 109 of the Act (25 U.S.C. 1616b) is amended—

(1) by amending the heading to read as follows:

"RECRUITMENT ACTIVITIES"; AND

(2) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.".

SEC. 108. ADVANCED TRAINING AND RESEARCH.

Section 111 of the Act (25 U.S.C. 1616d) is amended—

(1) in subsection (b), by amending the last sentence to read as follows: "In such event, with respect to individuals entering the program after the date of the enactment of the Indian Health Amendments of 1992, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection."; and

(2) by striking out subsection (d).

SEC. 109. INMED PROGRAM.

Section 114(b) of the Act (25 U.S.C. 1616g(b)) is amended—

(1) by inserting after "North Dakota," the following: "to be known as the 'Quentin N. Burdick Indian Health Programs',"; and

(2) by adding at the end the following: "Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 112(e).".

SEC. 110. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

Title I of the Act is amended by inserting after section 108 the following new section:

"SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND

"SEC. 108A. (a) There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b). Amounts appropriated for the Fund shall remain available until expended.

"(b) For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

"(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to—

"(A) the liability of individuals under subparagraph (A) or (B) of section 104(b)(5) for the breach of contracts entered into under section 104; and

"(B) the liability of individuals under section 108(l) for the breach of contracts entered into under section 108; and

"(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

"(c)(1) Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make payments to an Indian tribe or tribal organization administering a health care program pursuant to a contract entered into under the Indian Self-Determination Act—

"(A) to which a scholarship recipient under section 104 or a loan repayment program participant under section 108 has been assigned to meet the obligated service requirements pursuant to sections; and

"(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 104 or section 108.

"(2) An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ, directly or by contract, health professionals to provide health care services.

"(d)(1) The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.".

SEC. 111. COMMUNITY HEALTH AIDE PROGRAM.

Title I of the Act (as amended by section 104 of this Act) is amended by adding at the end the following new section:

"COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA

"SEC. 119. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; popularly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

"(1) provides for the training of Alaska Natives as health aides or community health practitioners;

"(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

"(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

"(b) The Secretary, acting through the Community Health Aide Program of the Service, shall—

"(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

"(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

"(C) promotes the achievement of the health status objectives specified in section 3(b);

"(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

"(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

"(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

"(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.".

SEC. 112. MATCHING GRANTS TO TRIBES.

Title I of the Act (as amended by section 111 of this Act) is amended by adding at the end the following new section:

"MATCHING GRANTS TO TRIBES FOR SCHOLARSHIP PROGRAMS

"SEC. 120. (a)(1) The Secretary shall make grants to Indian tribes and tribal organizations for the purpose of assisting such tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

"(2) Amounts available for grants under paragraph (1) for any fiscal year shall not exceed 5 percent of amounts available for such fiscal year for Indian Health Scholarships under section 104.

"(3) An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as the Secretary determines are necessary to carry out this section.

"(b)(1) An Indian tribe or tribal organization receiving a grant under subsection (a) shall agree to provide scholarships to Indians pursuing education in the health professions in accordance with the requirements of this section.

"(2) With respect to the costs of providing any scholarship pursuant to paragraph (1)—

"(A) 80 percent of the costs of the scholarship shall be paid from the grant made under subsection (a) to the Indian tribe or tribal organization; and

"(B) 20 percent of such costs shall be paid from non-Federal contributions by the Indian tribe or tribal organization through which the scholarship is provided.

"(3) In determining the amount of non-Federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the Federal Government to the Indian tribe or tribal organization involved or to any other entity shall not be included.

"(4) Non-Federal contributions required by subparagraph (B) of paragraph (2) may be provided directly by the Indian tribe or tribal organization involved or through donations from public and private entities.

"(c) An Indian tribe or tribal organization shall provide scholarships under subsection (b) only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in section 104(a).

"(d) In providing scholarships under subsection (b), the Secretary and the Indian tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

"(1) obligate such recipient to provide service in an Indian health program (as defined in section 108(a)(2)(A)), in the same service area where the Indian tribe or tribal organization providing the scholarship is located, for—

"(A) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

"(B) such greater period of time as the recipient and the Indian tribe or tribal organization may agree;

"(2) provide that the amount of such scholarship—

"(A) may be expended only for—

"(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

"(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and

"(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

"(3) require the recipient of such scholarship to maintain an acceptable level of academic standing (as determined by the educational institution in accordance with regulations issued by the Secretary); and

"(4) require the recipient of such scholarship to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant.

"(e)(1) An individual who has entered into a written contract with the Secretary and an Indian tribe or tribal organization under subsection (d) and who—

"(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(B) is dismissed from such educational institution for disciplinary reasons,

"(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(D) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the Federal share of the amount which has been paid to him, or on his behalf, under the contract.

"(2) If for any reason not specified in paragraph (1), an individual breaches his written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.

"(3) The Secretary may carry out this subsection on the basis of information submitted by the tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

"(f) The recipient of a scholarship under subsection (b) shall agree, in providing health care pursuant to the requirements of subsection (d)(1)—

"(1) not to discriminate against an individual seeking such care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

"(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(g) The Secretary may not make any payments under subsection (a) to an Indian tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian tribe or tribal organization has complied with requirements of this section.".

SEC. 113. TRIBAL HEALTH PROGRAM ADMINISTRATION.

Title I of the Act (as amended by section 112 of this Act) is amended by adding at the end the following new section:

"TRIBAL HEALTH PROGRAM ADMINISTRATION

"SEC. 121. The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of tribal health programs.".

SEC. 114. TRIBALLY CONTROLLED VOCATIONAL INSTITUTIONS.

(a) NURSING PROGRAM GRANTS.—Section 112(a)(2) of the Act (25 U.S.C. 1616e(a)(2)) is amended by inserting before the comma the following: "and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))".

(b) TRIBAL CULTURE AND HISTORY PROGRAMS.—Section 113(b)(1) of the Act (25 U.S.C. 1616f(b)(1) is amended by inserting before the comma "and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))".

SEC. 115. CONTINUING EDUCATION ALLOWANCES.

Section 106(b) of the Act (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) Of amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not more than $1,000,000 may be used to establish postdoctoral training programs for health professionals.".

SEC. 116. UNIVERSITY OF SOUTH DAKOTA MODEL HEALTH PROGRAM.

Title I of the Act (as amended by section 113 of this Act) is amended by adding at the end the following new section:

"UNIVERSITY OF SOUTH DAKOTA PILOT PROGRAM

"SEC. 122. (a) The Secretary may make a grant to the School of Medicine of the University of South Dakota (hereafter in this section referred to as 'USDSM') to establish a pilot program on an Indian reservation at one or more service units in South Dakota to address the chronic manpower shortage in the Aberdeen Area of the Service.

"(b) The purposes of the program established pursuant to a grant provided under subsection (a) are—

"(1) to provide direct clinical and practical experience at a service unit to medical students and residents from USDSM and other medical schools;

"(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

"(3) to provide academic and scholarly opportunities for physicians, physician assistants, nurse practitioners, nurses, and other allied health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

"(c) The pilot program established pursuant to a grant provided under subsection (a) shall—

"(1) incorporate a program advisory board composed of representatives from the tribes and communities in the area which will be served by the program; and

"(2) shall be designated as an extension of the USDSM campus and program participants shall be under the direct supervision and instruction of qualified medical staff serving at the service unit who shall be members of the USDSM faculty.

"(d) The USDSM shall coordinate the program established pursuant to a grant provided under subsection (a) with other medical schools in the region, nursing schools, tribal community colleges, and other health professional schools.

"(e) The USDSM, in cooperation with the Service, shall develop additional professional opportunities for program participants on Indian reservations in order to improve the recruitment and retention of qualified health professionals in the Aberdeen Area of the Service.".

SEC. 117. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title I of the Act (as amended by section 116 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 123. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title I of the Act is amended—

(1) in section 102, by striking out subsection (c);

(2) in section 105, by striking out subsection (d);

(3) in section 108, by striking out subsection (o);

(4) in section 110, by striking out subsection (c);

(5) in section 113, by striking out subsection (c);

(6) in section 114, by striking out subsection (e);

(7) in section 115, by striking out subsection (f); and

(8) in section 116, by striking out subsection (e).

TITLE II—HEALTH SERVICES

SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

(a) IN GENERAL.—Section 201 of the Act (25 U.S.C. 1621) is amended—

(1) in subsection (a)—

(A) in the material preceding paragraph (1), by striking out "subsection (h)" and inserting in lieu thereof "this section";

(B) by amending paragraph (1) to read as follows:

"(1) eliminating the deficiencies in health status and resources of all Indian tribes,"; and

(C) in paragraph (4), in the material preceding subparagraph (A)—

(i) by inserting after "responsibilities" the following: ", either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act,"; and

(ii) by striking out "resources deficiency" and inserting in lieu thereof the following: "status and resource deficiencies";

(2) in subsection (b)—

(A) in paragraph (1), by striking out "subsection (h)" and inserting in lieu thereof "this section";

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2)(A) (as redesignated by subparagraph (B))—

(i) by striking out "subsection (h)" and inserting in lieu thereof "this section";

(ii) in the first sentence, by striking out "but such allocation" through "met";

(iii) in the second sentence—

(I) by striking out "(in accordance with paragraph (2))"; and

(II) by striking out "raise the deficiency level" and inserting in lieu thereof the following: "reduce the health status and resource deficiency"; and

(D) in paragraph (2)(B) (as redesignated by subparagraph (B)), by inserting after "consultation with" the following: ", and with the active participation of,";

(3) in subsection (c)—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(B) by amending paragraph (1) (as redesignated by subparagraph (A) above) to read as follows:

"(1) The term 'health status and resource deficiency' means the extent to which—

"(A) the health status objectives set forth in section 3(b) are not being achieved; and

"(B) the Indian tribe does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances."; and

(C) in paragraph (3) (as redesignated by subparagraph (A) above)—

(i) by striking out "Under regulations, the" and inserting in lieu thereof "The"; and

(ii) by striking out "health resources deficiency level" and inserting in lieu thereof "extent of the health status and resource deficiency";

(4) in subsection (d)(1), by striking out "subsection (h)" and inserting in lieu thereof "this section";

(5) in subsection (e)—

(A) in the material preceding paragraph (1)—

(i) by striking out "60 days" and inserting in lieu thereof "3 years";

(ii) by striking out "Indian Health Care Amendments of 1988" and inserting in lieu thereof "Indian Health Amendments of 1992"; and

(iii) by striking out "health services priority system" and inserting in lieu thereof "health status and resource deficiency";

(B) in paragraph (1), by striking out "health resources deficiencies" and inserting in lieu thereof "health status and resource deficiencies";

(C) in paragraph (2), by striking out "the level of health resources deficiency for" and inserting in lieu thereof the following: "the extent of the health status and resource deficiency of";

(D) in paragraph (3), by striking "raise all" and all that follows through the semicolon and insert in lieu thereof the following: "eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and"; and

(E) by striking out paragraphs (4) and (5) and redesignating paragraph (6) as paragraph (4); and

(6) in subsection (f), by striking out "(f)(1)" and all that follows through the paragraph designation for paragraph (2) and inserting in lieu thereof "(f)".

(b) EFFECTIVE DATE.—Except with respect to the amendments made by subsection (a)(5), the amendments made by subsection (a) shall take effect three years after the date of the enactment of this Act. The amendments made by subsection (a)(5) shall take effect upon the date of the enactment of this Act.

(c) TECHNICAL AMENDMENT.—The heading for section 201 of the Act (25 U.S.C. 1621) is amended to read as follows:

"INDIAN HEALTH CARE IMPROVEMENT FUND".

SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

(a) IN GENERAL.—Section 202 of the Act (25 U.S.C. 1621a) is amended—

(1) in subsection (a)(1)(B), by striking out "under subsection (e)" and inserting in lieu thereof "to the Fund under this section";

(2) in subsection (b)(2), by striking out "shall establish at not less than $10,000 or not more than $20,000;" and inserting in lieu thereof the following: "shall establish at—

"(A) for 1993, not less than $15,000 or not more than $25,000; and

"(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;"; and

(3) in subsection (c), by striking out "Funds appropriated under subsection (e)" and inserting in lieu thereof "Amounts appropriated to the Fund under this section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall take effect January 1, 1993.

SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION.

Section 203 of the Act (25 U.S.C. 1621b) is amended—

(1) in subsection (a), by inserting before the period at the end the following: "so as to achieve the health status objectives set forth in section 3(b)";

(2) in subsection (b), in the material preceding paragraph (1), by striking out "section 201(f)" and inserting in lieu thereof "section 801"; and

(3) by striking out subsection (c).

SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

Section 204 of the Act (25 U.S.C. 1621c) is amended—

(1) by amending subsection (c) to read as follows:

"(c)(1) The Secretary shall continue to maintain through fiscal year 2000 each model diabetes project in existence on the date of the enactment of the Indian Health Amendments of 1992 and located—

"(A) at the Claremore Indian Hospital in Oklahoma;

"(B) at the Fort Totten Health Center in North Dakota;

"(C) at the Sacaton Indian Hospital in Arizona;

"(D) at the Winnebago Indian Hospital in Nebraska;

"(E) at the Albuquerque Indian Hospital in New Mexico;

"(F) at the Perry, Princeton, and Old Town Health Centers in Maine;

"(G) at the Bellingham Health Center in Washington;

"(H) at the Fort Berthold Reservation;

"(I) at the Navajo Reservation;

"(J) at the Papago Reservation;

"(K) at the Zuni Reservation; or

"(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.

"(2) The Secretary may establish new model diabetes projects under this section taking into consideration applications received under this section from all service areas, except that the Secretary may not establish a greater number of such projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary)."; and

(2) in subsection (d)—

(A) in paragraph (2), by striking out "and" after the semicolon;

(B) in paragraph (3), by striking out the period and inserting in lieu thereof the following: "; and"; and

(C) by adding at the end the following new paragraph:

"(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.".

SEC. 205. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.

Section 209 of the Act (25 U.S.C. 1621h) is amended—

(1) in subsection (j) (as redesignated by section 902(3)(B) of this Act), by striking out "submit to the Congress an annual report" and inserting in lieu thereof the following: "submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and

(2) by adding at the end the following new subsections:

"(l) LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.—Any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a contract pursuant to the Indian Self-Determination Act shall—

"(1) in the case of a person employed as a psychologist, be licensed as a clinical psychologist or working under the direct supervision of a licensed clinical psychologist;

"(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

"(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

"(m) INTERMEDIATE ADOLESCENT MENTAL HEALTH SERVICES.—(1) The Secretary, acting through the Service, may make grants to Indian tribes and tribal organizations to provide intermediate mental health services to Indian children and adolescents, including—

"(A) inpatient and outpatient services;

"(B) emergency care;

"(C) suicide prevention and crisis intervention; and

"(D) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

"(2) Funds provided under this subsection may be used—

"(A) to construct or renovate an existing health facility to provide intermediate mental health services;

"(B) to hire mental health professionals;

"(C) to staff, operate, and maintain an intermediate mental health facility, group home, or youth shelter where intermediate mental health services are being provided; and

"(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units.

"(3) Funds provided under this subsection may not be used for the purposes described in section 216(b)(1).

"(4) An Indian tribe or tribal organization receiving a grant under this subsection shall ensure that intermediate adolescent mental health services are coordinated with other tribal, Service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such tribe or tribal organization.

"(5) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this subsection.

"(6) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 206. NEW STUDIES AND DEMONSTRATION PROGRAM.

(a) HOSPICE CARE.—Title II of the Act is amended by inserting after section 204 the following:

"HOSPICE CARE FEASIBILITY STUDY

"SEC. 205. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study—

"(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and

"(2) to determine the most efficient and effective means of furnishing such care.

"(b) Such study shall—

"(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;

"(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution of such individuals;

"(3) determine the most appropriate means to facilitate the participation of Indian tribes and tribal organizations in providing hospice care;

"(4) identify and evaluate various means for providing hospice care, including—

"(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice program established by the Secretary at such hospital; and

"(B) the provision of such care by a community-based hospice program under contract to the Service; and

"(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.

"(c) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

"(d) For the purposes of this section—

"(1) the term 'terminally ill' means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less; and

"(2) the term 'hospice program' means any program which satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)); and

"(3) the term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)).".

(b) MANAGED CARE.—Title II of the Act is amended by adding at the end the following new section:

"MANAGED CARE FEASIBILITY STUDY

"SEC. 210. (a) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing an Indian tribe to purchase, directly or through the Service, managed care coverage for all members of the tribe from—

"(1) a tribally owned and operated managed care plan; or

"(2) a State licensed managed care plan.

"(b) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.".

(c) CONTRACT CARE.—Title II of the Act (as amended by subsection (b) of this Act) is amended by adding at the end the following new section:

"CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM

"SEC. 211. (a) The Secretary shall establish a demonstration program to evaluate the use of a contract care intermediary to improve the accessibility of health services to California Indians.

"(b)(1) In establishing such program, the Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred, during the period of the demonstration program, in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 810 with respect to high-cost contract care cases.

"(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

"(3) No payment may be made for treatment provided under the demonstration program to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

"(c) There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under such demonstration, at least one half of whom are not affiliated with the California Rural Indian Health Board.

"(d) The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.

"(e) Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on—

"(1) access to needed health services;

"(2) waiting periods for receiving such services; and

"(3) the efficient management of high-cost contract care cases.

"(f) For the purposes of this section, the term 'high-cost contract care cases' means those cases in which the cost of the medical treatment provided to an individual—

"(1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 202, except that the cost of such treatment does not meet the threshold cost requirement established pursuant to section 202(b)(2); and

"(2) exceeds $1,000.

"(g) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this section.".

SEC. 207. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Title II of the Act (as amended by section 206(c) of this Act) is amended by adding at the end the following new section:

"COVERAGE OF SCREENING MAMMOGRAPHY

"SEC. 212. The Secretary, through the Service, shall provide for screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian and urban Indian women 35 years of age or older at a frequency, determined by the Secretary (in consultation with the Director of the National Cancer Institute), appropriate to such women, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.".

(b) CONFORMING AMENDMENT.—Section 201(a)(4)(B) of the Act (25 U.S.C. 1621(a)(4)(B)) is amended by striking the semicolon at the end and inserting the following: ", including screening mammography in accordance with section 212;".

SEC. 208. PATIENT TRAVEL COSTS.

Title II of the Act (as amended by section 207 of this Act) is amended by adding at the end the following new section:

"PATIENT TRAVEL COSTS

"SEC. 213. (a) The Secretary, acting through the Service, shall provide funds for the following patient travel costs associated with receiving health care services provided (either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act) under this Act—

"(1) emergency air transportation; and

"(2) nonemergency air transportation where ground transportation is infeasible.

"(b) There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 209. THIRD PARTY REIMBURSEMENT.

(a) RECOVERY BY INDIAN TRIBE.—Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by inserting ", an Indian tribe, or a tribal organization" after "United States" each place it appears;

(2) in subsection (a), by inserting ", an Indian tribe, or a tribal organization" after "Service";

(3) in subsection (a) and subsection (e)(1)(A), by inserting ", an Indian tribe, or a tribal organization" after "Secretary" each place it appears; and

(4) in subsection (b), by striking ", or any political subdivision of a State,".

(b) SPECIAL RULE WITH RESPECT TO SELF-INSURANCE PLAN.—Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by striking "(a) The" and inserting the following: "(a) Except as provided in subsection (f), the"; and

(2) by adding at the end the following new subsection:

"(f) The United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization.".

SEC. 210. EPIDEMIOLOGY CENTERS.

Title II of the Act (as amended by section 208 of this Act) is amended by adding at the end the following new section:

"EPIDEMIOLOGY CENTERS

"SEC. 214. (a)(1) The Secretary shall establish an epidemiology center in each Service area to carry out the functions described in paragraph (3).

"(2) To assist such centers in carrying out such functions, the Secretary shall perform the following:

"(A) In consultation with the Centers for Disease Control and Indian tribes, develop sets of data (which to the extent practicable, shall be consistent with the uniform data sets used by the States with respect to the year 2000 health objectives) for uniformly defining health status for purposes of the objectives specified in section 3(b). Such sets shall consist of one or more categories of information. The Secretary shall develop formats for the uniform collecting and reporting of information on such categories.

"(B) Establish and maintain a system for monitoring the progress made toward meeting each of the health status objectives described in section 3(b).

"(3) In consultation with Indian tribes and urban Indian communities, each area epidemiology center established under this subsection shall, with respect to such area—

"(A) collect data relating to, and monitor progress made toward meeting, each of the health status objectives described in section 3(b) using the data sets and monitoring system developed by the Secretary pursuant to paragraph (2);

"(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

"(C) assist tribes and urban Indian communities in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

"(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

"(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

"(F) work cooperatively with tribal providers of health and social services in order to avoid duplication of existing services; and

"(G) provide technical assistance to Indian tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community.

"(4) Epidemiology centers established under this subsection shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(5) The director of the Centers for Disease Control shall provide technical assistance to the centers in carrying out the requirements of this subsection.

"(6) The Service shall assign one epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance necessary to carry out this subsection.

"(b)(1) The Secretary may make grants to Indian tribes, tribal organizations, and eligible intertribal consortia or Indian organizations to conduct epidemiological studies of Indian communities.

"(2) An intertribal consortia or Indian organization is eligible to receive a grant under this subsection if—

"(A) it is incorporated for the primary purpose of improving Indian health; and

"(B) it is representative of the tribes or urban Indian communities in which it is located.

"(3) An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall prescribe.

"(4) Applicants for grants under this subsection shall—

"(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);

"(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and

"(C) demonstrate cooperation from Indian tribes or urban Indian organizations in the area to be served.

"(5) A grant awarded under paragraph (1) may be used to—

"(A) carry out the functions described in subsection (a)(3);

"(B) provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and

"(C) provide, in collaboration with tribes and urban Indian communities, the Service with information regarding ways to improve the health status of Indian people.

"(6) There are authorized to be appropriated to carry out the purposes of this subsection not more than $12,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 211. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

Title II of the Act (as amended by section 210 of this Act) is amended by adding at the end the following new section:

"COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS

"SEC. 215. (a) The Secretary, acting through the Service and in consultation with the Secretary of the Interior, may award grants to Indian tribes to develop comprehensive school health education programs for children from preschool through grade 12 in schools located on Indian reservations.

"(b) Grants awarded under this section may be used to—

"(1) develop health education curricula;

"(2) train teachers in comprehensive school health education curricula;

"(3) integrate school-based, community-based, and other public and private health promotion efforts;

"(4) encourage healthy, tobacco-free school environments;

"(5) coordinate school-based health programs with existing services and programs available in the community;

"(6) develop school programs on nutrition education, personal health, and fitness;

"(7) develop mental health wellness programs;

"(8) develop chronic disease prevention programs;

"(9) develop substance abuse prevention programs;

"(10) develop accident prevention and safety education programs;

"(11) develop activities for the prevention and control of communicable diseases; and

"(12) develop community and environmental health education programs.

"(c) The Secretary shall provide technical assistance to Indian tribes in the development of health education plans, and the dissemination of health education materials and information on existing health programs and resources.

"(d) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

"(e) Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of—

"(1) the number of preschools, elementary schools, and secondary schools served;

"(2) the number of students served;

"(3) any new curricula established with funds provided under this section;

"(4) the number of teachers trained in the health curricula; and

"(5) the involvement of parents, members of the community, and community health workers in programs established with funds provided under this section.

"(f)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs.

"(2) Such program shall include—

"(A) school programs on nutrition education, personal health, and fitness;

"(B) mental health wellness programs;

"(C) chronic disease prevention programs;

"(D) substance abuse prevention programs;

"(E) accident prevention and safety education programs; and

"(F) activities for the prevention and control of communicable diseases.

"(3) The Secretary of the Interior shall—

"(A) provide training to teachers in comprehensive school health education curricula;

"(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

"(C) encourage healthy, tobacco-free school environments.

"(g) There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 212. INDIAN YOUTH GRANT PROGRAM.

Title II of the Act (as amended by section 211 of this Act) is amended by adding at the end the following new section:

"INDIAN YOUTH GRANT PROGRAM

"SEC. 216. (a) The Secretary, acting through the Service, is authorized to make grants to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian preadolescent and adolescent youths.

"(b)(1) Funds made available under this section may be used to—

"(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional healers; and

"(B) develop and provide community training and education.

"(2) Funds made available under this section may not be used to provide services described in section 209(m).

"(c) The Secretary shall—

"(1) disseminate to Indian tribes information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

"(2) encourage the implementation of such models; and

"(3) at the request of an Indian tribe, provide technical assistance in the implementation of such models.

"(d) The Secretary shall establish criteria for the review and approval of applications under this section.

"(e) There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 213. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

Title II of the Act (as amended by section 212 of this Act) is amended by adding at the end the following new section:

"AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM

"SEC. 217. (a) The Secretary may provide grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field.

"(b) The Secretary shall provide one of the grants authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall,to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 114(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 112(e), and existing university research and communications networks.

"(c)(1) The Secretary shall issue regulations for the competitive awarding of the grants provided under this section.

"(2) Applicants for grants under this section shall agree to provide a program which, at a minimum—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations that will be served by the program;

"(B) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

"(C) provides summer enrichment programs to expose Indian students to the varied fields of psychology through research, clinical, and experiential activities;

"(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

"(E) develops affiliation agreements with tribal community colleges,the Service, university affiliated programs, and other appropriate entities to enhance the education of Indian students;

"(F) to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services; and

"(G) to the maximum extent feasible, employs qualified Indians in the program.

"(d) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate student who receives a stipend described in subsection (c)(2)(D) that is funded by a grant provided under this section. Such obligation shall be met by service—

"(1) in the Indian Health Service;

"(2) in a program conducted under a contract entered into under the Indian Self-Determination Act;

"(3) in a program assisted under title V of this Act; or

"(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.".

SEC. 214. PREVENTION, CONTROL, AND ELIMINATION OF TUBERCULOSIS.

Title II of the Act (as amended by section 213 of this Act) is amended by adding at the end the following new section:

"PREVENTION, CONTROL, AND ELIMINATION OF TUBERCULOSIS

"SEC. 218. (a) The Secretary, acting through the Service after consultation with the Centers for Disease Control, may make grants to Indian tribes and tribal organizations for—

"(1) projects for the prevention, control, and elimination of tuberculosis;

"(2) public information and education programs for the prevention, control, and elimination of tuberculosis; and

"(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of tuberculosis for health professionals, including allied health professionals.

"(b) The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains the assurances required by subsection (c) and such other agreements, assurances, and information as the Secretary may require.

"(c) To be eligible for a grant under subsection (a), an applicant must provide assurances satisfactory to the Secretary that—

"(1) the applicant will coordinate its activities for the prevention, control, and elimination of tuberculosis with activities of the Centers for Disease Control, and State and local health agencies; and

"(2) the applicant will submit to the Secretary an annual report on its activities for the prevention, control, and elimination of tuberculosis.

"(d) In carrying out this section, the Secretary—

"(1) shall establish criteria for the review and approval of applications for grants under subsection (a), including requirement of public health qualifications of applicants;

"(2) shall, subject to available appropriations, make at least one grant under subsection (a) within each area office;

"(3) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

"(4) shall prepare and submit a report to the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House and the Select Committee on Indian Affairs of the Senate not later than February 1, 1994, and biennially thereafter, on the use of funds under this section and on the progress made toward the prevention, control, and elimination of tuberculosis among Indian tribes and tribal organizations.

"(e) The Secretary may, at the request of a recipient of a grant under subsection (a), reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.".

SEC. 215. CONTRACT HEALTH SERVICES.

Title II of the Act (as amended by section 214 of this Act) is amended by adding at the end the following new sections:

"CONTRACT HEALTH SERVICES PAYMENT STUDY

"SEC. 219. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes and tribal organizations operating contract health care programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under self-governance compacts, Service personnel, private contract health services providers, the Indian Health Service Fiscal Intermediary, and other appropriate experts, shall conduct a study—

"(1) to assess and identify administrative barriers that hinder the timely payment for services delivered by private contract health services providers to individual Indians by the Service and the Indian Health Service Fiscal Intermediary;

"(2) to assess and identify the impact of such delayed payments upon the personal credit histories of individual Indians who have been treated by such providers; and

"(3) to determine the most efficient and effective means of improving the Service's contract health services payment system and ensuring the development of appropriate consumer protection policies to protect individual Indians who receive authorized services from private contract health services providers from billing and collection practices, including the development of materials and programs explaining patients' rights and responsibilities.

"(b) The study required by subsection (a) shall—

"(1) assess the impact of the existing contract health services regulations and policies upon the ability of the Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of bills submitted by private contract health services providers;

"(2) assess the financial and any other burdens imposed upon individual Indians and private contract health services providers by delayed payments;

"(3) survey the policies and practices of collection agencies used by contract health services providers to collect payments for services rendered to individual Indians;

"(4) identify appropriate changes in Federal policies, administrative procedures, and regulations, to eliminate the problems experienced by private contract health services providers and individual Indians as a result of delayed payments; and

"(5) compare the Service's payment processing requirements with private insurance claims processing requirements to evaluate the systemic differences or similarities employed by the Service and private insurers.

"(c) Not later than 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report that includes—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

"PROMPT ACTION ON PAYMENT OF CLAIMS

"SEC. 220. (a) The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) The Service shall pay a completed contract care service claim within 30 days after completion of the claim.

"DEMONSTRATION OF ELECTRONIC CLAIMS PROCESSING

"SEC. 221. (a) Not later than June 15, 1993, the Secretary shall develop and implement, directly or by contract, 2 projects to demonstrate in a pilot setting the use of claims processing technology to improve the accuracy and timeliness of the billing for, and payment of, contract health services.

"(b) The Secretary shall conduct one of the projects authorized in subsection (a) in the Service area served by the area office located in Phoenix, Arizona.

"LIABILITY FOR PAYMENT

"SEC. 222. (a) A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

"(b) The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.".

SEC. 216. OFFICE OF WOMEN'S INDIAN HEALTH CARE.

Title II of the Act (as amended by section 215 of this Act) is amended by adding at the end the following new section:

"OFFICE OF INDIAN WOMEN'S HEALTH CARE

"SEC. 223. There is established within the Service an Office of Indian Women's Health

Care to oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.".

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title II of the Act (as amended by section 216 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 224. Except as provided in sections 209(m), 211, 213, 214(b)(5), 215, and 216, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title II of the Act is amended—

(1) in section 201(h), by striking out the first sentence and striking out "subsection" and inserting in lieu thereof "section";

(2) in section 202, by striking out subsection (e);

(3) in section 204(e), by striking out the first sentence and striking out "subsection (c)" and inserting in lieu thereof "this section"; and

(4) in section 209 (as amended by section 902(3)(B) of this Act)—

(A) by striking out subsections (c)(5), (d)(6), (f)(4), and (g)(5);

(B) in subsection (h)—

(i) by striking out paragraph (2) and by striking out "(1)";

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(iii) by striking out "subparagraph (A)" and inserting "paragraph (1)"; and

(iv) by striking out "subparagraph (B)" and inserting "paragraph (2)";

(C) in subsection (i), by striking out paragraph (2) and by striking out "(1)";

(D) in subsection (d)(3)(B), by striking out "this subsection" and inserting in lieu thereof "this section"; and

(E) in subsection (k)(6), by striking out the first sentence and in the second sentence by striking out "subsection" and inserting in lieu thereof "section".

TITLE III—HEALTH FACILITIES

SEC. 301. HEALTH FACILITIES CLOSURE AND PRIORITIES.

Section 301 of the Act (25 U.S.C. 1631) is amended—

(1) in subsection (a)(2), by striking out "Hospitals" and inserting "Health Care Organizations";

(2) in subsection (b)(1)—

(A) in the material preceding subparagraph (A), by striking out "other" before "outpatient";

(B) by striking out "and" at the end of subparagraph (D);

(C) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(D) by adding at the end the following new subparagraphs:

"(F) the level of utilization of such hospital or facility by all eligible Indians; and

"(G) the distance between such hospital or facility and the nearest operating Service hospital.";

(3) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively;

(4) in subsection (c)(1) (as redesignated by paragraph (2) of this subsection), by amending the material preceding subparagraph (A) to read as follows:

"(c)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—"; and

(5) by striking out paragraph (2) of subsection (c) (as redesignated by paragraph (2)) and redesignating paragraphs (3), (4), and (5) of such subsection as paragraphs (2), (3), and (4), respectively.

SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

Section 302 of the Act (25 U.S.C. 1632) is amended—

(1) by amending subsection (e) to read as follows:

"(e)(1) The Secretary is authorized to provide financial assistance to Indian tribes and communities in an amount equal to the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (c).

"(2) For the purposes of paragraph (1), the term 'Federal share' means 80 percent of the costs described in paragraph (1).

"(3) With respect to Indian tribes with fewer than 1,000 enrolled members, the non-Federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in part, through cash donations or in kind property, fairly evaluated.";

(2) in subsection (f)(1), by striking out "subsection (h)" and inserting in lieu thereof "this section"; and

(3) in subsection (g)—

(A) in paragraph (1), by striking out "The Secretary" through "report" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and

(B) by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

SEC. 303. AMBULATORY CARE FACILITIES GRANT PROGRAM.

Section 306 of the Act (25 U.S.C. 1636) is amended to read as follows:

"GRANT PROGRAM FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES

"SEC. 306. (a)(1) The Secretary, acting through the Service, shall make grants to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided in subsection (c)(1)(C)). A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

"(2) A grant under paragraph (1) may only be made to a tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to a tribe or tribal organization) pursuant to a contract entered into under the Indian Self-Determination Act.

"(b)(1) A grant provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

"(A) located apart from a hospital;

"(B) not funded under section 301 or section 307; and

"(C) which, upon completion of such construction, expansion, or modernization will—

"(i) have a total capacity appropriate to its projected service population;

"(ii) serve no less than 500 eligible Indians annually; and

"(iii) provide ambulatory care in a service area (specified in the contract entered into under the Indian Self-Determination Act) with a population of not less than 2,000 eligible Indians.

"(2) The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to a tribe or tribal organization applying for a grant under this section whose tribal government offices are located on an island.

"(c)(1) No grant may be made under this section unless an application for such a grant has been submitted to and approved by the Secretary. An application for a grant under this section shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to a grant received under this section—

"(A) adequate financial support will be available for the provision of services at such facility;

"(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

"(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

"(2) In awarding grants under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

"(A) a need for increased ambulatory care services; and

"(B) insufficient capacity to deliver such services.

"(d) If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing ambulatory care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States.".

SEC. 304. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

(a) AWARDING OF GRANTS.—Section 307(c) of the Act (25 U.S.C. 1637(c)(3)) is amended—

(1) in paragraph (1)(A), by inserting "or program" immediately after "facility" each place it appears;

(2) in paragraph (3)(A)—

(A) by striking "The" and inserting "On or before September 30, 1995, the"; and

(B) by adding before the colon the following: "and for which a completed application has been received by the Secretary"; and

(3) by striking subparagraph (B) and inserting the following:

"(B) The Secretary may also enter into contracts or award grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1).".

(b) REPORTS.—Section 307(h) of the Act (25 U.S.C. 1637(h)) is amended to read as follows:

"(h)(1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.

"(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.".

SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

Section 305 of the Act (25 U.S.C. 1634) is amended to read as follows:

"EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION

"SEC. 305. (a)(1) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—

"(A) any plans or designs for such renovation or modernization; and

"(B) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended,

but only if the requirements of subsection (b) are met.

"(2) The Secretary shall maintain a separate priority list to address the needs of such facilities for personnel or equipment.

"(3) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2).

"(b) The requirements of this subsection are met with respect to any renovation or modernization if—

"(1) the tribe or tribal organization—

"(A) provides notice to the Secretary of its intent to renovate or modernize; and

"(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for personnel or equipment; and

"(2) the renovation or modernization—

"(A) is approved by the appropriate area director of the Service; and

"(B) is administered by the tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.".

SEC. 306. LAND TRANSFER.

Title III of the Act is amended by adding at the end the following new section:

"LAND TRANSFER

"SEC. 308. The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title III of the Act (as amended by section 306 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 309. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title III of the Act is amended—

(1) in section 302, by striking out subsection (h); and

(2) in section 307, by striking out subsection (i).

SEC. 308. BUY AMERICAN REQUIREMENT.

Title III of the Act (as amended by section 307 of this Act) is amended by adding at the end the following new section:

"APPLICABILITY OF BUY AMERICAN REQUIREMENT

"SEC. 310. (a) The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 309.

"(b) The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994 with funds provided pursuant to the authorization contained in section 309. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.

"(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 309, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

"(d) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).".

TITLE IV—ACCESS TO HEALTH SERVICES

SECTION 401. TREATMENT OF PAYMENTS TO INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE AND MEDICAID PROGRAMS.

(a) MEDICARE PROGRAM.—Section 401 of the Act (42 U.S.C. 1395qq note) is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM

"SEC. 401. (a) Any payments received by a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act) for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

"(b) Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.".

(b) MEDICAID PROGRAM.—(1) Section 402 of the Act is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM

"SEC. 402. (a) Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

"(b) Any payments received by such facility for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.".

(2) The increase (from 50 percent) in the percentage of the payments from the fund to be made to each service unit of the Service specified in the amendment made by paragraph (1) shall take effect beginning with payments made on January 1, 1993.

SEC. 402. REPORT.

Section 403 of the Act (25 U.S.C. 1671 note) is amended by striking out "The Secretary" and all that follows through "section 701" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801,".

SEC. 403. APPLICATION ASSISTANCE.

Section 404 of the Act (25 U.S.C. 1622) is amended—

(1) by amending subsection (b)(4) to read as follows:

"(4) develop and implement—

"(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for coverage of needy individuals; and

"(B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII and XIX of the Social Security Act."; and

(2) by amending subsection (c) to read as follows:

"(c) The Secretary, acting through the Service, may enter into an agreement with an Indian tribe, tribal organization, or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act and benefits under title XVIII of the Social Security Act at a Service facility or a health care facility administered by such tribe or organization pursuant to a contract under the Indian Self-Determination Act.".

SEC. 404. EXTENSION OF DEMONSTRATION PROGRAM.

Section 405 of the Act (42 U.S.C. 1395qq note) is amended—

(1) in subsection (c)(2), by striking "1995" and inserting "1996"; and

(2) in subsection (e), by striking "1995" and inserting "1996".

SEC. 405. AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES.

Title IV of the Act is amended by adding at the end the following new section:

"AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES

"SEC. 406. With respect to an elderly or disabled Indian receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

Title IV of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 407. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

SEC. 501. GRANT AUTHORITY.

(a) IN GENERAL.—Section 502 of the Act (25 U.S.C. 1652) is amended—

(1) by striking "contracts with" and inserting the following: "contracts with, or make grants to,";

(2) by inserting after "enters into with" the following: ", or in any grant the Secretary makes to,"; and

(3) by amending the heading to read as follows:

"CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS".

(b) CONFORMING AMENDMENTS.—(1) Section 503 of the Act (25 U.S.C. 1653) is amended—

(A) in subsection (a), in the material preceding paragraph (1)—

(i) by inserting ", or make grants to," after "contracts with"; and

(ii) by inserting "or grant" after "such contract";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting "or receive grants" after "enter into contracts"; and

(ii) in paragraph (5), by inserting "or to meet the requirements for receiving a grant" after "Secretary";

(C) in subsection (c)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(D) in subsection (d)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(E) in subsection (e)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(F) in subsection (f), by inserting "or receiving grants under subsection (a)" after "this section"; and

(G) by amending the heading to read as follows:

"CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES".

(2) Section 504 of the Act (25 U.S.C. 1654) is amended—

(A) by striking "SEC. 504." and all that follows through the end of subsection (a) and inserting the following:

"SEC. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting ", or grant made," after "contract entered into"; and

(ii) in paragraph (2), by striking "within one year" and all that follows through the period at the end and inserting the following: ", or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.";

(C) in subsection (c), by inserting ", or grant made," after "entered into"; and

(D) by amending the heading to read as follows:

"CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS".

(3) Section 505 of the Act (25 U.S.C. 1655) is amended—

(A) in subsection (a), by inserting "compliance with grant requirements under this title and" before "compliance with,";

(B) in subsection (b)—

(i) by inserting "or received a grant" after "entered into a contract"; and

(ii) by inserting before the period at the end the following: "or the terms of such grant";

(C) in subsection (c)—

(i) by inserting "the requirements of a grant or complied with" after "complied with";

(ii) by inserting "or grant" after "such contract" each place it appears";

(iii) by inserting "or make a grant" after "enter into a contract"; and

(iv) by inserting "or grant" after "whose contract";

(D) in subsection (d), by inserting "or grant" after "a contract" each place it appears; and

(E) by amending the heading to read as follows:

"EVALUATIONS; RENEWALS".

(4) Section 506 of the Act (25 U.S.C. 1656) is amended—

(A) in subsection (b), by inserting "or grants" after "any contracts";

(B) in subsection (d), by inserting "or grant" after "contract" each place it appears;

(C) in subsection (e)—

(i) by inserting ", or grants to," after "Contracts with"; and

(ii) by inserting "or grants" after "such contracts"; and

(D) by amending the heading to read as follows:

"OTHER CONTRACT AND GRANT REQUIREMENTS".

(5) Section 507 of the Act (25 U.S.C. 1657) is amended—

(A) in subsection (a)—

(i) in the material preceding paragraph (1), by inserting ", or a grant received," after "entered into"; and

(ii) in paragraphs (1) and (2), by inserting "or grant" after "contract" each place it appears; and

(B) in subsections (b) and (c), by inserting "or grant" after "contract" each place it appears.

(6) Section 509 of the Act (25 U.S.C. 1659) (as amended by section 902(5)(A) of this Act) is amended by inserting "or grant recipients" after "contractors" each place it appears.

(7) Section 510(a) of the Act (25 U.S.C. 1660(a)) (as amended by section 902(5)(B) of this Act) is amended by inserting before the period at the end the following: "and for providing central oversight of the programs and services authorized under this title".

SEC. 502. ALCOHOL AND SUBSTANCE ABUSE.

Title V of the Act is amended by inserting after section 510 (as redesignated by section 902(5)(B) of this Act) the following new section:

"GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES

"SEC. 511. (a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201.

"(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

"(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

"(1) size of the urban Indian population;

"(2) accessibility to, and utilization of, other health resources available to such population;

"(3) duplication of existing Service or other Federal grants or contracts;

"(4) capability of the organization to adequately perform the activities required under the grant;

"(5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

"(6) identification of need for services.

"The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

"(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).".

SEC. 503. TREATMENT OF DEMONSTRATION PROJECTS.

Title V of the Act (as amended by section 502 of this Act) is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN DEMONSTRATION PROJECTS

"SEC. 512. (a) Notwithstanding any other provision of law, the Oklahoma City Clinic demonstration project and the Tulsa Clinic demonstration project shall be treated as service units in the allocation of resources and coordination of care and shall not be subject to the provisions of the Indian Self-Determination Act for the term of such projects. The Secretary shall provide assistance to such projects in the development of resources and equipment and facility needs.

"(b) The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a).".

SEC. 504. URBAN NIAAA TRANSFERRED PROGRAMS.

Title V of the Act (as amended by section 503 of this Act) is amended by adding at the end the following new section:

"URBAN NIAAA TRANSFERRED PROGRAMS

"SEC. 513. (a) The Secretary shall, within the Branch of Urban Health Programs of the Service, make grants or enter into contracts for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as 'NIAAA') and transferred to the Service.

"(b) Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

"(c) Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

"(d) For the purpose of carrying out this section, the Secretary may combine NIAAA alcohol funds with other substance abuse funds currently administered through the Branch of Urban Health Programs of the Service.

"(e) The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every two years.".

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title V of the Act (as amended by section 504 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 514. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title V of the Act (25 U.S.C. 1650 et seq.) is amended—

(1) in section 503—

(A) in subsection (c), by striking out "(c)(1)" and inserting "(c)" and by striking out paragraph (2);

(B) in subsection (d), by striking out paragraph (4);

(C) in subsection (e), by striking out paragraph (4); and

(D) in subsection (f), by striking out paragraph (5); and

(2) in section 509 (as redesignated by section 902(5)(A) of this Act), by striking out the last sentence.

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

SEC. 601. INDIAN HEALTH SERVICE.

Section 601(c) of the Act (15 U.S.C. 1661(c)) is amended—

(1) in paragraph (2), by striking out "and" after the semicolon;

(2) in paragraph (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) all scholarship and loan functions carried out under title I.".

SEC. 602. DIRECTOR OF INDIAN HEALTH SERVICE.

(a) CONFIRMATION BY SENATE.—

(1) IN GENERAL.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended in the second sentence by striking "Secretary" and inserting "President, by and with the advice and consent of the Senate".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect January 1, 1993.

(b) INTERIM APPOINTMENT.—The President may appoint an individual to serve as Interim Director of the Service from January 1, 1993, until such time as a Director is appointed and confirmed as provided in section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) (as amended by subsection (a) of this section).

(c) TERM.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended by adding at the end the following: "Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.".

SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

Title VI of the Act (25 U.S.C. 1661 et seq.) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 603. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

TITLE VII—SUBSTANCE ABUSE PROGRAMS

SEC. 701. REDESIGNATION OF EXISTING TITLE VII.

(a) TITLE HEADING.—Title VII of the Act (25 U.S.C. 1671 et seq.) is redesignated as title VIII and the title heading is amended to read as follows:

"TITLE VIII—MISCELLANEOUS"

(b) REDESIGNATION OF SECTIONS.—Sections 701 through 720 of the Act (25 U.S.C. 1671 et seq.) are hereby redesignated as sections 801 through 820, respectively.

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 207(a), by striking out "section 713" and inserting in lieu thereof "section 813";

(2) in section 307(e), by striking out "section 713" and inserting in lieu thereof "section 813"; and

(3) in section 405(b)—

(A) in paragraph (1), by striking out "sections 402(c) and 713(b)(2)(A)" and inserting in lieu thereof "sections 402(a) and 813(b)(2)(A)"; and

(B) in paragraph (4), by striking out "section 402(c)" each place it appears and inserting in lieu thereof "section 402(a)".

(d) REFERENCES.—Any reference in a provision of law other than the Indian Health Care Improvement Act to sections redesignated by subsection (b) shall be deemed to refer to the section as so redesignated.

SEC. 702. SUBSTANCE ABUSE PROGRAMS.

(a) IN GENERAL.—The Act is amended by inserting after title VI the following new title:

"TITLE VII—SUBSTANCE ABUSE PROGRAMS

"INDIAN HEALTH SERVICE RESPONSIBILITIES

"SEC. 701. The Memorandum of Agreement entered into pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) shall include specific provisions pursuant to which the Service shall assume responsibility for—

"(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

"(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

"(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

"INDIAN HEALTH SERVICE PROGRAM

"SEC. 702. (a) COMPREHENSIVE PREVENTION AND TREATMENT PROGRAM.—(1) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

"(A) prevention, through educational intervention, in Indian communities;

"(B) acute detoxification and treatment;

"(C) community-based rehabilitation;

"(D) community education and involvement, including extensive training of health care, educational, and community-based personnel; and

"(E) residential treatment programs for pregnant and post partum women and their children.

"(2) The target population of such program shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

"(b) CONTRACT HEALTH SERVICES.—(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Service in carrying out the program required under subsection (a).

"(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to develop criteria for the certification of alcohol and substance abuse service providers and accreditation of service facilities which meet minimum standards for such services and facilities as may be determined pursuant to section 4205(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411(a)(3)).

"(c) GRANTS FOR MODEL PROGRAM.—(1) The Secretary, acting through the Service shall make a grant to the Standing Rock Sioux Tribe to develop a community-based demonstration project to reduce drug and alcohol abuse on the Standing Rock Sioux Reservation and to rehabilitate Indian families afflicted by such abuse.

"(2) Funds shall be used by the Tribe to—

"(A) develop and coordinate community-based alcohol and substance abuse prevention and treatment services for Indian families;

"(B) develop prevention and intervention models for Indian families;

"(C) conduct community education on alcohol and substance abuse; and

"(D) coordinate with existing Federal, State, and tribal services on the reservation to develop a comprehensive alcohol and substance abuse program that assists in the rehabilitation of Indian families that have been or are afflicted by alcoholism.

"(3) The Secretary shall submit to the President for inclusion in the report to be transmitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under paragraph (1).

"INDIAN WOMEN TREATMENT PROGRAMS

"SEC. 703. (a) The Secretary may make grants to Indian tribes and tribal organizations to develop and implement a comprehensive alcohol and substance abuse program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women, regardless of age.

"(b) Grants made pursuant to this section may be used to—

"(1) develop and provide community training, education, and prevention programs for Indian women relating to alcohol and substance abuse issues, including fetal alcohol syndrome and fetal alcohol effect;

"(2) identify and provide appropriate counseling, advocacy, support, and relapse prevention to Indian women and their families; and

"(3) develop prevention and intervention models for Indian women which incorporate traditional healers, cultural values, and community and family involvement.

"(c) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(d)(1) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) Twenty percent of the funds appropriated pursuant to this subsection shall be used to make grants to urban Indian organizations funded under title V.

"INDIAN HEALTH SERVICE YOUTH PROGRAM

"SEC. 704. (a) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

"(b) TREATMENT CENTERS OR FACILITIES.—(1) The Secretary shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

"(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

"(3) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

"(4)(A) Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

"(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

"(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

"(B) Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

"(c) FEDERALLY OWNED STRUCTURES.—

"(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes—

"(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

"(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

"(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

"(d) REHABILITATION AND AFTERCARE SERVICES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

"(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

"(e) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (d) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

"(f) MULTIDRUG ABUSE STUDY.—(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the interrelationship of such abuse with the incidence of mental illness among such youth.

"(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after the date of the enactment of this section.

"TRAINING AND COMMUNITY EDUCATION

"SEC. 705. (a) COMMUNITY EDUCATION.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

"(b) TRAINING.—The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

"(c) COMMUNITY-BASED TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

"(1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;

"(2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and

"(3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

"GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER

"SEC. 706. (a) GRANTS FOR RESIDENTIAL TREATMENT.—The Secretary shall make grants to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for adult and adolescent members of the Navajo Nation and neighboring tribes.

"(b) PURPOSES OF GRANTS.—Grants made pursuant to this section shall (to the extent appropriations are made available) be used to—

"(1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;

"(2) establish clinical assessment teams consisting of a clinical psychologist, a part-time addictionologist, a master's level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;

"(3) provide at least 12 beds for an adolescent shelterbed program in the city of Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention;

"(4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and

"(5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.

"(c) CONTRACT FOR RESIDENTIAL TREATMENT.—The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and drug treatment as authorized in subsection (b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out the purposes of subsection (b)(1)—

"(A) $400,000 for fiscal year 1993;

"(B) $400,000 for fiscal year 1994; and

"(C) $500,000 for fiscal year 1995;

"(2) to carry out the purposes of subsection (b)(2)—

"(A) $100,000 for fiscal year 1993;

"(B) $125,000 for fiscal year 1994; and

"(C) $150,000 for fiscal year 1995;

"(3) to carry out the purposes of subsection (b)(3)—

"(A) $75,000 for fiscal year 1993;

"(B) $85,000 for fiscal year 1994; and

"(C) $100,000 for fiscal year 1995;

"(4) to carry out the purposes of subsection (b)(4), $150,000 for each of fiscal years 1993, 1994, and 1995; and

"(5) to carry out the purposes of subsection (b)(5)—

"(A) $75,000 for fiscal year 1993;

"(B) $90,000 for fiscal year 1994; and

"(C) $100,000 for fiscal year 1995.

"REPORTS

"SEC. 707. (a) COMPILATION OF DATA.—The Secretary, with respect to the administration of any health program by a service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents in which any Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

"(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.).

"(c) COMPREHENSIVE REPORT.—Each service unit director shall be responsible for assembling the data compiled under this section and section 4214 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2434) into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.

"FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT GRANTS

"SEC. 708. (a)(1) The Secretary may make grants to Indian tribes and tribal organizations to establish fetal alcohol syndrome and fetal alcohol effect programs as provided in this section for the purposes of meeting the health status objectives specified in section 3(b).

"(2) Grants made pursuant to this section shall be used to—

"(A) develop and provide community and in-school training, education, and prevention programs relating to FAS and FAE;

"(B) identify and provide alcohol and substance abuse treatment to high-risk women;

"(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to FAS and FAE affected persons and their families or caretakers;

"(D) develop and implement counseling and support programs in schools for FAS and FAE affected children;

"(E) develop prevention and intervention models which incorporate traditional healers, cultural values and community involvement;

"(F) develop, print, and disseminate education and prevention materials on FAS and FAE; and

"(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

"(3) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(b) The Secretary, acting through the Service, shall—

"(1) develop an annual plan for the prevention, intervention, treatment, and aftercare for those affected by FAS and FAE in Indian communities;

"(2) conduct a study, directly or by contract with any organization, entity, or institution of higher education with significant knowledge of FAS and FAE and Indian communities, of the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians and Alaska Natives with FAS or FAE; and

"(3) establish a national clearinghouse for prevention and educational materials and other information on FAS and FAE effect in Indian and Alaska Native communities and ensure access to clearinghouse materials by any Indian tribe or urban Indian organization.

"(c) The Secretary shall establish a task force to be known as the FAS/FAE Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian FAS/FAE experts.

"(d) The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make grants to Indian tribes, tribal organizations, universities working with Indian tribes on cooperative projects, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide aftercare for Indians and urban Indians affected by FAS or FAE.

"(e)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the status of FAS and FAE in the Indian population. Such report shall include, in addition to the information required under section (3)(d) with respect to the health status objective specified in section (3)(b)(27), the following:

"(A) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally based service delivery systems.

"(B) The incidence of FAS and FAE babies born for all births by reservation and urban-based sites.

"(C) The prevalence of FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.

"(D) The level of support received from the entities specified in subsection (c) in the area of FAS and FAE.

"(E) The number of inpatient and outpatient substance abuse treatment resources which are specifically designed to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.

"(F) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for FAS and FAE affected individuals in Indian communities.

"(2) The Secretary may contract the production of this report to a national organization specifically addressing FAS and FAE in Indian communities.

"(f)(1) There are authorized to be appropriated to carry out this section $22,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) Ten percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations funded under title V.

"PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

"SEC. 709. The Secretary, acting through the Service, shall continue to make grants, through fiscal year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

"THUNDER CHILD TREATMENT CENTER

"SEC. 710. (a) The Secretary, acting through the Service, shall make a grant to the Intertribal Addictions Recovery Organization, Inc. (commonly known as the Thunder Child Treatment Center) at Sheridan, Wyoming, for the completion of construction of a multiple approach substance abuse treatment center which specializes in the treatment of alcohol and drug abuse of Indians.

"(b) For the purposes of carrying out subsection (a), there are authorized to be appropriated $2,000,000 for fiscal years 1993 and 1994. No funding shall be available for staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) shall be used for administrative purposes.

"SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT

"SEC. 711. (a) The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

"(b) Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

"(c) A contract entered into or a grant provided under this section shall be for a period of one year. Such contract or grant may be renewed for an additional one year period upon the approval of the Secretary.

"(d) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

"(e) The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

"(f) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

"(g) For the purposes of this section, the following definitions apply:

"(1) The term 'educational curriculum' means one or more of the following:

"(A) Classroom education.

"(B) Clinical work experience.

"(C) Continuing education workshops.

"(2) The term 'eligible community college' means an accredited community college that—

"(i) is located on or near an Indian reservation;

"(ii) has entered into a cooperative agreement with the governing body of such Indian reservation to carry out a demonstration project under this section; and

"(iii) has a student enrollment of not less than 10 percent Indian.

"(3) The term 'tribally controlled community college' has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

"(4) The term 'tribally controlled postsecondary vocational institution' has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

"(h) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, such sums as may be necessary to carry out the purposes of this section. Such sums shall remain available until expended.

"GILA RIVER ALCOHOL AND SUBSTANCE ABUSE TREATMENT FACILITY

"SEC. 712. (a) The Secretary, acting through the Service, shall establish a regional youth alcohol and substance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Community, by the Service from such Community.

"(b) The center established pursuant to this section shall be known as the 'Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center'.

"(c) The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Fallon, Nevada.

"ALASKA NATIVE DRUG AND ALCOHOL ABUSE DEMONSTRATION PROJECT

"SEC. 713. (a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be used by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary's, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism.

"(b) The Secretary shall submit to the President for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under subsection (a).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 714. Except as provided in sections 703, 706, 708, 710, and 711, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out the provisions of this title.".

(b) REDESIGNATION AND REPEAL OF EXISTING PROVISIONS.—

(1) REDESIGNATION.—The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended by redesignating section 4224 as section 4208A.

(2) REPEAL.—Part 6 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.), as amended by paragraph (1), is hereby repealed.

SEC. 703. INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986 AMENDMENTS.

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended—

(1) in section 4206—

(A) in subsection (c)—

(i) in paragraph (2)—

(I) by striking "(2) the" and inserting "(B) the";

(II) by striking "(3) the" and inserting "(C) the";

(III) by striking "(4) the" and inserting "(D) the";

(IV) in subparagraph (D) (as redesignated by subclause (III)), by striking "and" at the end;

(V) in subparagraph (E), by striking the period at the end and inserting ", and"; and

(VI) by adding at the end the following new subparagraph:

"(F) an evaluation component to measure the success of efforts made."; and

(ii) by adding at the end the following new paragraph:

"(3) All Tribal Action Plans shall be updated every 2 years."; and

(B) in subsection (d), by amending paragraph (2) to read as follows:

"(2) There are authorized to be appropriated for grants under this subsection not more than $2,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000."; and

(C) by adding at the end the following new subsection:

"(f)(1) The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to implement and develop community and in-school training, education, and prevention programs on alcohol and substance abuse, fetal alcohol syndrome and fetal alcohol effect.

"(2) Funds provided under this section may be used for, but are not limited to, the development and implementation of tribal programs for—

"(A) youth employment;

"(B) youth recreation;

"(C) youth cultural activities;

"(D) community awareness programs; and

"(E) community training and education programs.

"(3) There are authorized to be appropriated to carry out the provisions of this subsection $5,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(2) in section 4207(b), by amending paragraph (3) to read as follows:

"(3) The Assistant Secretary of the Interior for Indian Affairs shall appoint such employees to work in the Office of Alcohol and Substance Abuse, and shall provide such funding, services, and equipment as may be necessary to enable the Office of Alcohol and Substance Abuse to carry out its responsibilities.";

(3) in section 4210, by amending subsection (b) to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(4) in section 4212(a), by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000";

(5) in section 4213(e), by amending paragraphs (1) and (2) to read as follows:

"(1) For the planning and design, construction, and renovation of, or purchase or lease of land or facilities for, emergency shelters and half-way houses to provide emergency care for Indian youth, there are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) For the staffing and operation of emergency shelters and half-way houses, there are authorized to be appropriated $5,000,000 for fiscal year 1993 and $7,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(6) in section 4216(a)(1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(C) the Makah Indian Tribe of Washington for the investigation and control of illegal narcotic traffic on the Makah Indian Reservation arising from its proximity to international waters.";

(7) by amending section 4216(a)(3) to read as follows:

"(3) For the purpose of providing the assistance required by this subsection, there are authorized to be appropriated—

"(A) $500,000 under paragraph (1)(A) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000,

"(B) $500,000 under paragraph (1)(B) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000, and

"(C) $500,000 under paragraph (1)(C) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(8) by amending section 4216(b) to read as follows:

"(b)(1) MARIJUANA ERADICATION AND INTERDICTION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish and implement a program for the eradication of marijuana cultivation, and interdiction, investigation, and control of illegal narcotics trafficking within Indian country as defined in section 1152 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under paragraph (2) for those Indian reservations where the scope of the problem is most critical, and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(2) For the purpose of establishing the program required by paragraph (1), there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(9) in section 4218, by amending subsection (b) to read as follows:

"(b) AUTHORIZATION.—For the purposes of providing the training required by subsection (a), there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999 and 2000."; and

(10) in section 4220(b), by amending paragraphs (1) and (2) to read as follows:

"(1) For the purpose of constructing or renovating juvenile detention centers as provided in subsection (a), there are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) For the purpose of staffing and operating juvenile detention centers, there are authorized to be appropriated $7,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

TITLE VIII—MISCELLANEOUS

SEC. 801. REPORTS.

Section 801 of the Act (25 U.S.C. 1671) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"REPORTS

"SEC. 801. The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

"(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population;

"(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact;

"(3) a report on the use of health services by Indians—

"(A) on a national and area or other relevant geographical basis;

"(B) by gender and age;

"(C) by source of payment and type of service; and

"(D) comparing such rates of use with rates of use among comparable non-Indian populations.

"(4) a separate statement which specifies the amount of funds requested to carry out the provisions of section 201;

"(5) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in section 814, relating to infant and maternal mortality and fetal alcohol syndrome;

"(6) the reports required by sections 3(d), 108(n), 203(b), 209(j), 301(c), 302(g), 305(a)(3), 403, 708(e), and 817(a), and 822(f);

"(7) for fiscal year 1995, the report required by sections 702(c)(3) and 713(b);

"(8) for fiscal year 1997, the interim report required by section 307(h)(1); and

"(9) for fiscal year 1999, the reports required by sections 307(h)(2), 512(b), 711(f), and 821(g).".

SEC. 802. REGULATIONS.

Section 802 of the Act (25 U.S.C. 1672) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"REGULATIONS

"SEC. 802. Prior to any revision of or amendment to rules or regulations promulgated pursuant to this Act, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.".

SEC. 803. EXTENSION OF TREATMENT OF ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

Section 808 of the Act (25 U.S.C. 1678) (as redesignated by section 701(b) of this Act) is amended by striking out "1991" and inserting in lieu thereof "2000".

SEC. 804. INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME.

Section 814 of the Act (25 U.S.C. 1680d) (as redesignated by section 701(b) of this Act) is amended—

(1) by striking out "(a)"; and

(2) by striking out subsection (b).

SEC. 805. REALLOCATION OF BASE RESOURCES.

Section 817(a) of the Act (25 U.S.C. 1680(g)) (as redesignated by section 701(b) of this Act) is amended by striking out "Secretary has submitted to the Congress" and inserting in lieu thereof the following: "Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801,".

SEC. 806. CHILD SEXUAL ABUSE TREATMENT PROGRAMS.

Section 819 of the Act (25 U.S.C. 1680i) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"CHILD SEXUAL ABUSE TREATMENT PROGRAMS

"SEC. 819. (a) The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

"(b) Beginning October 1, 1995, the Secretary and the Secretary of the Interior may establish, in any service area, demonstration programs involving treatment for child sexual abuse, except that the Secretaries may not establish a greater number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).".

SEC. 807. TRIBAL LEASING.

Section 820 of the Act (25 U.S.C. 1680j) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"TRIBAL LEASING

"SEC. 820. Indian tribes providing health care services pursuant to a contract entered into under the Indian Self-Determination Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.".

SEC. 808. EXTENSION OF TERMINATION DATE OF CERTAIN DEMONSTRATION PROJECTS; JOINT VENTURE PROJECTS.

Section 818 of the Act (25 U.S.C. 1680h) (as redesignated by section 701(b) of this Act) is amended—

(1) in subsection (d)—

(A) in paragraph (1), by inserting before the period at the end the following: ", or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made"; and

(B) in paragraph (2), by striking "1994" and inserting "1996"; and

(2) by amending subsection (e) to read as follows:

"(e)(1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which an Indian tribe shall expend tribal, private, or other available nontribal funds, for the acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

"(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

"(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.".

SEC. 809. HOME AND COMMUNITY BASED CARE DEMONSTRATION PROJECT.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by adding at the end the following new section:

"HOME- AND COMMUNITY-BASED CARE DEMONSTRATION PROJECT

"SEC. 821. (a) The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act, to establish demonstration projects for the delivery of home- and community-based services to functionally disabled Indians.

"(b)(1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community-based services (including transportation services) to functionally disabled Indians.

"(2) Such funds may not be used—

"(A) to make cash payments to functionally disabled Indians;

"(B) to provide room and board for functionally disabled Indians;

"(C) for the construction or renovation of facilities or the purchase of medical equipment; or

"(D) for the provision of nursing facility services.

"(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians;

"(d) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(e) At the discretion of the tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.

"(f) The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c).

"(g) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

"(h) For the purposes of this section, the following definitions shall apply:

"(1) The term 'home- and community-based services' means one or more of the following:

"(A) Homemaker/home health aide services.

"(B) Chore services.

"(C) Personal care services.

"(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

"(E) Respite care.

"(F) Training for family members in managing a functionally disabled individual.

"(G) Adult day care.

"(H) Such other home- and community-based services as the Secretary may approve.

"(2) The term 'functionally disabled' means an individual who is determined to require home- and community-based services based on an assessment that uses criteria (including, at the discretion of the tribe or tribal organization, activities of daily living) developed by the tribe or tribal organization.

"(i) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.".

SEC. 810. SHARED SERVICES DEMONSTRATION PROJECTS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 809 of this Act) is amended by adding at the end the following new section:

"SHARED SERVICES DEMONSTRATION PROJECT

"SEC. 822. (a) The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into contracts with Indian tribes or tribal organizations to establish not more than 6 shared services demonstration projects for the delivery of long-term care to Indians. Such projects shall provide for the sharing of staff or other services between a Service facility and a nursing facility owned and operated (directly or by contract) by such Indian tribe or tribal organization.

"(b) A contract entered into pursuant to subsection (a)—

"(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

"(2) shall provide that expenses (including salaries) relating to services that are shared between the Service facility and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

"(3) may authorize such tribe or tribal organization to construct, renovate, or expand a nursing facility (including the construction of a facility attached to a Service facility), except that no funds appropriated for the Service shall be obligated or expended for such purpose.

"(c) To be eligible for a contract under this section, a tribe or tribal organization, shall, as of the date of the enactment of this Act—

"(1) own and operate (directly or by contract) a nursing facility;

"(2) have entered into an agreement with a consultant to develop a plan for meeting the long-term needs of the tribe or tribal organization; or

"(3) have adopted a tribal resolution providing for the construction of a nursing facility.

"(d) Any nursing facility for which a contract is entered into under this section shall meet the requirements for nursing facilities under section 1919 of the Social Security Act.

"(e) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(f) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the findings and conclusions derived from the demonstration projects conducted under this section.".

SEC. 811. RESULTS OF DEMONSTRATION PROJECTS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 810 of this Act) is amended by adding at the end the following new section:

"RESULTS OF DEMONSTRATION PROJECTS

"SEC. 823. The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.".

SEC. 812. PRIORITY FOR INDIAN RESERVATIONS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 811 of this Act) is amended by adding at the end the following new section:

"PRIORITY FOR INDIAN RESERVATIONS

"SEC. 824. (a) Beginning on the date of the enactment of this section, the Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian tribe with jurisdiction over such lands.

"(b) For purposes of this section, the term "Indian lands" means—

"(1) all lands within the limits of any Indian reservation; and

"(2) any lands title which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.".

SEC. 813. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 812 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 825. Except as provided in section 821, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Section 807 of the Act (25 U.S.C. 1677) (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by striking out subsection (f).

SEC. 814. TRIBAL SELF-GOVERNANCE PROJECT.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) is amended—

(1) in section 301, by inserting after "Interior" the following: "and the Secretary of Health and Human Services (hereafter in this title referred to as the 'Secretaries') each";

(2) in sections 302, 303, 304, and 305, by striking "Secretary" each place it appears and inserting in lieu thereof "Secretaries";

(3) in section 303(a)(1), by inserting after "Interior" the following: "and the Indian Health Service of the Department of Health and Human Services"; and

(4) by adding after section 309 the following new section:

"SEC. 310. For the purposes of providing one year planning and negotiations grants to the Indian tribes identified by section 302, with respect to the programs, activities, functions, or services of the Indian Health Service, there are authorized to be appropriated such sums as may be necessary to carry out such purposes. Upon completion of an authorized planning activity or a comparable planning activity by a tribe, the Secretary is authorized to negotiate and implement a Compact of Self-Governance and Annual Funding Agreement with such tribe.".

TITLE IX—TECHNICAL CORRECTIONS

SEC. 901. REPEAL OF EXPIRED REPORTING REQUIREMENTS.

The Act is amended—

(1) in section 116, by striking out subsection (d);

(2) in section 204(a)—

(A) by striking out paragraph (2);

(B) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(D) in paragraph (2) (as redesignated by subparagraph (C)), by striking out "subparagraph (A)" and inserting in lieu thereof "paragraph (1)";

(3) in section 602, by striking out subsection (a)(3); and

(4) by striking out section 803 (as redesignated by section 701(b) of this Act).

SEC. 902. OTHER TECHNICAL CORRECTIONS.

The Act is amended—

(1) in section 4(c), by striking out "sections 102, 103, and 201(c)(5)," and inserting in lieu thereof the following: "sections 102 and 103,";

(2) in title I—

(A) in section 102(b)(1), by striking ": *Provided*, That the" and inserting in lieu thereof ". The";

(B) in section 105(c), by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services";

(C) in section 108(d)(1)(A), by striking out "Indian Health" and inserting in lieu thereof "Indian health"; and

(D) in section 108(i), by striking out "Service manpower programs" and inserting in lieu thereof "health professional programs of the Service".

(3) in title II—

(A) by striking out "**SEC. 209. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.**" and inserting in lieu thereof the following:

"MENTAL HEALTH PREVENTION AND TREATMENT SERVICES

"SEC. 209."; and

(B) in section 209, by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(4) in title III—

(A) by striking out "**SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.**" and inserting in lieu thereof the following:

"INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT

"SEC. 307."; and

(B) in section 301(d) (as redesignated by section 301(2) of this Act), by striking out "sections 102 and 103(b)" and inserting in lieu thereof "section 102";

(5) in title V—

(A) by striking out "**SEC. 409, FACILITIES RENOVATION.**" and inserting in lieu thereof the following:

"FACILITIES RENOVATION

"SEC. 509."; and

(B) by striking out "**SEC. 511. URBAN HEALTH PROGRAMS BRANCH.**" and inserting in lieu thereof the following:

"URBAN HEALTH PROGRAMS BRANCH

"SEC. 510.";

(6) in section 601(c)(3)(D), by striking out "(25 U.S.C. 2005, et seq.)" and inserting in lieu thereof "(42 U.S.C. 2005 et seq.)";

(7) in section 601(d)(1)(C), by striking out "appropriate" and inserting in lieu thereof "appropriated";

(8) in section 813(b)(2)(A) (as redesignated by section 701(b) of this Act), by striking out "section 402(c)" and inserting in lieu thereof "section 402(a)"; and

(9) by amending the heading for section 816 (as redesignated by section 701(b)) to read as follows:

"INDIAN HEALTH SERVICE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH FACILITIES AND SERVICES SHARING".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2481, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Speaker, I am a member of the Committee on Energy and Commerce and the Health and Environment Subcommittee. Our subcommittee had jurisdiction of this matter, as well.

Am I to be afforded any time in the debate of his measure?

The SPEAKER pro tempore. Will the gentleman from Arizona [Mr. RHODES] yield time to the gentleman?

Mr. RHODES. Mr. Speaker, I ask unanimous consent that 10 minutes of my 20 minutes be yielded to the gentleman from California [Mr. DANNEMEYER] and that he may control the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. MILLER of California. Mr. Speaker, S. 2481 reauthorizes the programs and services of the Indian Health Service. It represents the agreements of the committees of jurisdiction in the House and Senate. The Interior Committee has held several hearings on similar legislation and has worked very closely with the Energy and Commerce Committee and the Senate Select Committee on Indian Affairs to craft this bill which reflects the agreements of all three committees.

Mr. Speaker, since the 19th century the Federal Government has had the responsibility to provide health services to Indian people. This responsibility stems from the numerous treaties between the Federal Government and Indian tribes. Unfortunately, the Federal Government has not fully carried through on these obligations.

According to the Indian Health Service, Indian people still suffer the highest mortality rates in this Nation. Indian people are 400 percent more likely to die from tuberculosis than the rest of the country, Indian people are over 400 percent more likely to die from alcoholism, and Indian people are over 150 percent more likely to die from diabetes. According to a recent study by the University of Minnesota, Indian adolescents are four times more likely to attempt suicide than all other ethnic groups.

Mr. Speaker, it is not an exaggeration to say that Indian people have the lowest health status in this Nation. In recent years, we have seen a great deal of improvement in the health status of Indian people. We still have a long way to go.

This bill includes several innovative programs to address some very serious health problems confronting Indian people. The bill includes programs to address fetal alcohol syndrome, adolescent suicide, child sexual abuse, alcoholism, diabetes, tuberculosis, and long-term care for elderly Indian people.

In addition, the bill incorporates 58 specific health objectives development by the administration and published in the Healthy People 2000 report. It is our goal that through this legislation these objectives can be achieved by the year 2000.

Mr. Speaker, the House has already considered and overwhelmingly passed a nearly identical measure H.R. 3724. This bill incorporates several of the Senate provisions and reflects the agreements of the House and Senate committees of jurisdiction. This bill has bipartisan support and I urge my colleagues to continue to support this very important measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of S. 2481, the Indian Health Amendments of 1992. New Mexico's Third Congressional District which I represent, has the largest native American constituency of any Member in the House with 19 pueblos, the Navajo Nation, and the Jicarilla Apache Tribe; 21 percent of my district's population is native American.

Unfortunately, the rich historical and cultural heritage of our Nation's Indians is being destroyed daily by high unemployment, poverty, and a health status that is far below that of the general population. The original Americans, to whom the U.S. Government has a trust responsibility, are falling through the cracks.

A recent Washington Post story on the survey of the status of native American teenagers just hints at the overwhelming problems faced by native Americans. Some of the conclusions of the study are and I quote: "[Native American teenagers are] the most devastated group of adolescents in the nation," and "for ever risk factor, with the exception of homicide, Native [American] kids are in far worse shape than African-American kids."

Additionally, a 1990 Department of Health and Human Services Healthy People 2000 report notes that native American populations, relative to other populations, are young and impoverished with one in four living below the poverty level. The telling factor in the report, however, is the explanation for the relative youth and poverty of native Americans, that is, that so many native Americans die before age 45. The exceedingly high death rate is traced to six causes: unintentional injuries, cirrhosis, homicide, suicide, pneumonia, and diabetes.

H.R. 3742 will give the Indian Health Service the resources it needs to begin to deal with many of these problems. I am particularly pleased that the legislation contains several important provisions I authored regarding fetal alcohol syndrome [FAS] which strikes without regard to race, or socioeconomic status. While FAS affects 1 in 250 live births, the incidence is 30 times higher among native Americans. The physical and mental birth defects which are symptomatic of FAS can occur whenever a woman drinks alcohol during pregnancy.

With respect to the critical problem of Indian alcoholism—I am also pleased H.R. 3742 includes a provision to expand alcohol and substance abuse treatment services in the city of Gallup in McKinley County, NM. The scourge of alcoholism in Indian country is nowhere more evident than in Gallup on the edge of the Navajo reservation. Alcohol related traffic accidents are seven times higher in Gallup than in the rest of the Nation and McKinley County has been cited by the National Institute on Alcohol and Alcohol abuse for having the highest composite index of alcohol related problems of all of the Nation's 3,106 counties. In 1990, the Gallup alcoholism crisis gained national media coverage on the NBC "Today Show," ABC's "20/20" documentary and the "McNeil-Lehrer News Hour."

H.R. 3742 contains these and other important provisions to begin to address the crisis in Indian health. I urge my colleagues support of this critical legislation.

In closing, it has been brought to my attention that the Indian Health Service refuses to enter into lease arrangements with tribes and tribal organizations when such organizations own their health facilities and also contract to administer the health program under Public Law 93-638. IHS, however, does enter into lease arrangements for these same facilities if the IHS operates the health program directly. Statutory language in the Indian Health Care Improvement Act and the Indian Self-Determination Act require the IHS to fund tribally contracted programs on the same basis as IHS programs.

I am gravely concerned that the discretionary authority to enter into leases with tribes and tribal organizations contained in section 701 of the Indian Health Care Improvement Act is being used by the IHS to circumvent its statutory responsibilities to fund tribal contractors on an equitable basis with IHS programs.

For these reasons, I worked to maintain language inserted by the Senate in the final legislation. Unfortunately, due to OMB opposition and time constraints associated with the close of the 102d Congress, we were unable to include the Senate provision.

However, I will continue to work to insure that IHS revises its leasing priority system to permit leases with tribes and tribal organizations which own facilities and contract to administer the health program under Public Law 93-638. Furthermore, I will be asking the GAO to conduct an investigation of the IHS leasing program and its compliance with existing statute.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I am happy to yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, on the gentleman's questions concerning the lease priority system, I will just say to him that I will continue to work to ensure that IHS revises its lease priority system to permit leases with tribes and tribal organizations which own facilities and contract to administer the health program under Public Law 93-638; furthermore, I am asking the GAO to conduct an investigation of the IHS leasing programs in compliance with those existing statutes.

Mr. RICHARDSON. I thank the gentleman. I think that is a very necessary measure.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say that I think the chairman, the gentleman from California [Mr. MILLER] has very adequately explained the purposes and content of the bill, and that I fully support it. I urge my colleagues to support it.

Mr. Speaker, I rise in full support of S. 2481, the Indian Health Amendments Act of 1992.

While the Government has provided health care services to native Americans since the 19th century as part of its responsibilities to the tribes, disturbingly glaring disparities have existed between the health status of native Americans and other American citizens.

In recognition of these disparities, Congress passed the Indian Health Care Improvement Act of 1976. A principal purpose of the act was to raise Indian health status to a level comparable with that of the general population over a 7-year period ending in 1984. The act was reauthorized in 1988 until the year 1993, and would be extended again by the present legislation until the year 2000.

The House version of this bill, H.R. 3724, passed by an overwhelming majority on September 15, 1992. The gentleman has already touched on some of the specifics of this legislation, so I will simply note that, while I ardently support most of the bill's provisions, I continue to object strongly to the provision that would exempt tribal self-insured employee health plans from the third-party liability for IHS health services. There is no compelling reason to exempt some employees from the legitimate liability their beneficiaries incur when they use health services provided by IHS. All employers, whether in the public or private sector, should be treated equally.

More importantly, because IHS operates a discretionary program, the exemption from third-party liability contemplated by this bill only serves to discriminate unfairly against poor and unemployed tribal members who have no other means of receiving health care. IHS retains all of its third-party collections; thus, receiving reimbursement enable IHS to provide health care to a greater number of people who could not otherwise afford it. By exempting tribal self-insured employee health plans, the bill unfairly gives free services to those who could otherwise pay for them and consequently keeps IHS from providing services for those least able to afford it.

In closing, Mr. Speaker, despite the inclusion of this one provision, given the real need in Indian country for the services provided by this legislation, I wholeheartedly urge my colleagues to support S. 2481. Passage of this legislation will assure Indian people of continuing access to high-quality, comprehensive health services appropriate to their needs, it will assist Indian tribes and Alaska Native Corporations in developing their capacity to staff and manage health programs and provide tribal organizations with the opportunity to assume operational authority for Indian Health Service programs serving their communities, and it will aid them in gaining access to other Federal, State, and local programs to which they are entitled.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and Members, I rise in opposition to this legislation, and I think that although the title is "Indian Health Amendments of 1992," since one of the primary beneficiaries of a provision of this bill will be the Navajo tribe in, wherever it is, New Mexico, Arizona, we may call this legislation the Navajo Relief Act of 1992.

I have been advised that the Navajo Tribe is self-insured for medical purposes.

There are about 4,000 people who work for that tribe who are self-insured for medical purposes, and I want to share with my colleagues how this bill, if it is adopted, will impact on the Navajo Nation and the ability to get reimbursement for medical services rendered to members of the Navajo tribe at facilities of the Indian Health Services.

□ 2210

Just imagine in your mind that there is in New Mexico, in Mr. RICHARDSON's district, I assume, a facility at the Indian Health Service. Next door there is another private clinic. If a member of the Navajo Nation would go to the private clinic for medical service, that private clinic could get reimbursement from the Navajo Nation for the medical service; but let us just assume that that member of the Navajo Nation went to the Indian Health Service next door, and if this bill becomes law, that Indian Health Service would not be able to get reimbursement from the Indian tribe.

Now, what kind of an arrangement is that, that Federal tax dollars going to build and supply and support this Indian Health Service, when they are given in the form of services to members of the Navajo Nation, that they cannot get reimbursement for that from the tribe's insurance. They are self-insured. That is the reason that the administration is opposed to this bill, because it would preclude this right of reimbursement. That is not good public policy.

There is another provision in this law as it has gone through the process, as is oftentimes the case around here, that whenever there is a train going through the station an effort is made by people along the way to attach different cars, and that certainly is true in this case. Different cars have been loaded on this train, and they place additional duties on the Indian Health Service, and they are having difficulty, candidly, performing the duties that have been assigned to them today.

When you deny the right of reimbursement on the part of the Indian Health Service over against the provider, or the Navajo Tribe, self-insured for medical purposes, what that means is that there is just that much less resource available to take care of those people who come in for medical service to the Indian Health Service. And it is another illustration, I guess, of them that has want to keep, and they do not want anybody else to get what they have.

That is an understandable human emotion, but I do not think we should honor that in this legislation.

And it is for these reasons that I believe that this bill should be opposed, and I ask for a "no" vote.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise quickly to say that we fully debated this when this bill was before the House before. The bill passed 330 to 36. The fact is, again, that the insurance is not a question of overlap or reimbursement, this is if the elderly went out and bought MediGap insurance for uncovered services. These services are not provided. I would hope that my colleagues would support this legislation as they did previously.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume to say at this time that I have in the past shared with my colleague from California, Mr. DANNEMEYER, his concern about the third-party reimbursement provisions in this bill. I think they are very valid concerns, but I think the valid concerns in this bill that deal with underservice or lack of service to the native American population in this country for medical care far override those concerns. I do not believe that there is anybody in this body or anybody in this country who can argue that the facts and figures and statistics as to the health status of native Americans relative to the health status of the rest of the citizens of this country cry out for specialized, directed, focused medical care for native Americans. There are very few who could argue that point, and that is what this bill is about.

Mr. Speaker, I agree with the gentleman from California [Mr. DANNEMEYER] that there is a defect in this bill as it relates to the third-party paying provisions. But I believe that the purposes, the overall purposes of the bill, and the overall needs it intends to serve and will serve, and the overall harm that has been done by lack of medical service far overrides those concerns and calls out to all of our Members to support this bill and to vote for its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume. I have one additional comment to share with my colleagues. This Member from California, on the point of third-party reimbursement, offered an amendment when the bill was before the House several weeks ago, as I recall. There were about 160 votes for that amendment. That is a pretty good showing to delete this provision that the administration says causes it to say they are opposed to this bill. I think that needs to be taken into consideration.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, let me thank the chairman for yielding time to me.

Mr. Speaker, the self-insurance provision Mr. DANNEMEYER is referencing addresses a problem brought to my attention by the Navajo Nation and the Alamo Navajo School Board. Specifically, the Navajo Nation has had a contract with a private carrier since 1988 to provide health insurance coverage to the Nation's approximately 7,000 employees who are both Indian and non-Indian.

The policy covers only those employees who are ineligible for IHS services or who need health services which cannot be met by the IHS.

More importantly, the policy is paid for entirely by funds from the Navajo Nation's general fund.

Furthermore, the insurance policy reimburses the IHS for all medical services provided by the IHS to non-Indian Navajo Nation employees.

Despite these efforts, the IHS notified the Navajo Nation in April 1989 that it would begin billing and collecting from the Navajo Nation's health insurance policy.

The self-insurance provision simply allows the Navajo Nation to use their health care policy the way it was designed, thus providing health care to those who otherwise would not have access to IHS services and providing additional health care benefits to tribal employees willing to pay extra for them.

In short, the self-insurance provision clearly states that the IHS may not attempt recovery of any kind from any self-insurance plan funded by an Indian tribe or tribal organization.

The Navajo Nation has many problems including a deep and abiding poverty, alcoholism, suicide and an unemployment rate which tops the Nation, ranging from 38 to 50 percent depending upon the season.

Despite the overwhelming problems facing the Navajo Nation, the nation acted as a responsible employer providing health insurance to non-Indian employees, a population which otherwise would have no health insurance.

They did so within their means, in an effort to keep premiums affordable, tailoring the program only to those who had no access to IHS services or those who needed services IHS could not provide.

I might add that since the administration has done little to stop the skyrocketing cost of health care, you can hardly blame poverty stricken tribes from tailoring their insurance program to avoid high cost premiums.

Additionally, without the Navajo Nation's actions to provide insurance for its non-Indian employees, this population would have been added to the existing 37 million Americans with no health insurance.

Quite frankly, there are many areas in which IHS is clearly inadequate including long waits, overcrowded, and old facilities, inadequate medical equipment, and lack of specialists. Why should Navajo's be any different from any other American? They want the same right to choose their doctor as every other American and they should not be prevented by the administration from getting the best care available if they are willing to pay for it.

I believe my colleague, Mr. DANNEMEYER, has failed to factor in that the Navajo Nation's initiative in this area saves the IHS a considerable amount of money,time, and effort as those tribal members who choose to obtain private health care using their private insurance are not using IHS facilities and doctors, thus greatly reducing the burden on IHS.

Finally, and most importantly, the self-insurance provision protects the trust responsibility of the U.S. Government to our Nation's Indians to provide medical services and care to native Americans. IHS's attempt to collect from tribal insurance policies was a blatant violation of this trust responsibility as established by the Treaty agreements of 1850 and 1868.

The fact is, native Americans are entitled to use IHS facilities and services without being charged for them.

IHS's billing practices also violated the sovereignty of the Navajo Nation. As a sovereign nation, the Navajo's may exercise their right of self-government by creating and administering its own health insurance program.

I might also add that the administration is supporting this legislation and that the House has already addressed this issue once, voting down the Dannemeyer amendment.

In closing, I want to point out to my colleagues that Mr. DANNEMEYER already attempted to strip out this provision unsuccessfully on the floor. His amendment failed. Additionally, this same provision was included in the Senate bill and has the strong support of the Senate Republicans. I urge my colleagues to support passage of the Indian Health Care Amendments.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume. I would just like to share with my colleagues where we are procedurally. As you may recall, the House passed its version of this bill, the Senate passed the bill, and no conferees were appointed. The existence of conferees was circumvented.

Now, the process has presented us this evening with the reality of the Senate bill on the floor that is substantially different from the House bill, which the House voted on. I want to add to my colleagues the things that were added, that are in the Senate bill that were never in the House bill. These are the additions to this legislation that the House never voted on yet: Nursing school clinics, establishes a program of grants for schools of nursing to establish health care clinics, authorizes $5 million for fiscal 1993 through the year 2000.

□ 2220

Loan repayments. Sets aside 25 percent of funds for nurses and 10 percent for mental health professionals.

Matching grants to tribes. Grants to tribes for health professional scholarships, requires an 80-percent nonfederal match of funds.

University of South Dakota, demonstrations to be conducted by the University of South Dakota regarding retention of health professionals and Indian facilities.

Epidemiology, a program of grants to tribes to the purpose of collecting epidemiology data, authorized at $12 million for fiscal year 1992 and such sums for fiscal year 1994 by the year 2,000.

American Indians into psychology, a program of grants to at least three universities to develop career recruitment programs as means of encouraging Indians to enter mental health fields.

Prevention, control and elimination of tuberculosis, a program of grants to tribes for the prevention, control and elimination of tuberculosis.

Demonstration of electronic data submission, authorizes the Secretary to develop two demonstration projects regarding how to develop communications and computer technology can be used to improve the efficiency of information exchanged on billing and utilization of data.

And finally, the Office of Indian Women's Health Care establishes an Office of Indian Women's Health Care in the Indian Health Service.

Mr. Speaker, I think it is obvious to all of us that some of these additions are meritorious in advancing the health of Indians. Some of them I think can properly be classified as pork, plain and simple, adding to the bureaucracy of some of these universities around the country.

I do not know whether there are any Navajo Indians in the University of South Dakota on the faculty. If there are not, there ought to be, I suppose.

I think what we are witnessing here is at the last minute to have a bill adopted that is going to add some pork in an extensive way.

For these additional reasons, I think this measure should be rejected.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

I do not denigrate the motivations of my friend, the gentleman from California [Mr. DANNEMEYER]. The gentleman from California [Mr. DANNEMEYER] is a dogged defender of the Federal budget and a dogged defender of the rights of all Americans. I know that my friend recognizes the health needs that we are trying to deal with.

I think our difference of opinion here basically lies not so much in whether or not we need to deal with these needs, but in how we do so.

While I do not support the position that the gentleman from California [Mr. DANNEMEYER] is putting forth here tonight, I respect him for doing so.

I do not wish anybody to conclude from the remarks of the gentleman from California [Mr. DANNEMEYER] that he has any less concern for the health needs of Native Americans than any of the rest of us.

It would be remiss of me not to recognize the efforts of Chairman MILLER and the gentleman from New Mexico [Mr. RICHARDSON] in this regard as well.

We are of a mind, all of a single mind. We know full well that while the land of the Dinee, the Navajo, may to some of our eastern brethren look arid and barren, it is some of the most achingly beautiful country in the world, and yet is is hard, worse than hard to make a living off that land.

We know full well that while the Dinee, the Navajo, are the most populus and therefore maybe get the most attention in comparision to some other Indian communities around the country, the Rosebud Reservation in the Dakotas and elsewhere, they may even be well off.

We need this legislation. They need this legislation. This is not just important. This is literally life and death.

While there can be some flaws in here, and I agree with the gentleman from California [Mr. DANNEMEYER] on some of those flaws that he points out, the flaws do not outweigh the things that we need to do, the things that are required and that are answered in large measure and not in full measure by this bill.

Mr. Speaker, I urge its adoption.

The SPEAKER pro tempore. [Mr. KOLTER]. Without objection, the gentleman from New Mexico [Mr. RICHARDSON] will claim the time of the gentleman from California [Mr. MILLER].

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of S. 2481, the Indian Health Care Improvement Act of 1992. This bill is the result of the hard work of the House Interior and Insular Affairs Committee, the Energy and Commerce Committee, and the Senate Select Committee on Indian Affairs. This bill proposes to authorize the Indian Health Care Improvement Act [IHCIA] originally signed into law in 1976, revised and reauthorized a couple of times since then. The law was the first comprehensive Federal law to define the Indian health care programs and was in response to documented flaws in the health status of Indians and Alaska Natives. I am pleased to be an original cosponsor of the bill and urge favorable consideration by this body.

This bill mandates an annual budget of $1.4 billion beginning in 1994 to be distributed between Alaska Natives and lower 48 tribes. Alaska natives will receive a portion of the $1.4 billion each year based on a formula developed by IHS and BIA to allocate funds between Alaska Natives and the lower 48 Indian tribes.

Title I of the act is designed to accomplish two goals: First, to increase the number of Indians trained in the health care professions; and second, to provide a larger pool of health professionals to serve Indian people. IHS will establish a variety of programs such as: First, recruitment and scholarship programs; and second, a retention bonus program to keep key medical personnel in the more rural areas.

This title also includes language for the upgrading of the Community Health Aide Program in Alaska. This program provides a vital link between the remote villages and the regional health facilities in Alaska.

Title II of the act mandates that several programs be implemented to elevate the health status of Alaska Natives and Indian tribes to the rest of the Nation. Under this title, the Indian health care improvement fund would be established to implement these programs 3 years after the President signs this bill. Programs which would benefit Alaska Natives include:

Patient travel cost, Indian youth grant program, health promotion and disease prevention, mental health prevention and treatment services, comprehensive School Health Education programs, diabetes prevention, treatment and control, mental health prevention and treatment services, new studies and demonstration programs, that is, Hospice care feasibility study, coverage of screening mammography, third party reimbursement, epidemiology centers, comprehensive school health education programs, and Indian youth grant program.

Title III of the act pertains to the construction of health facilities such as hospitals, clinics, and staff quarters. Alaska Native organizations may apply for grants to upgrade existing facilities or construct new facilities. Title III also addresses the problem of safe water and sanitary waste disposal facilities in Alaska Native and Indian country. This provision is extremely important to my Alaska Native constituents. Recently, the Anchorage Daily News ran a week long series of the problem of sewage disposal in rural villages in Alaska. In 1990, 60 percent of the residents in the small village of Kotlik had to be medivaced to the Bethel hospital for emergency treatment of viral meningitis. It is inexcusable that in this day and age that residents of a small rural community such as Kotlik do not have the basic water and sewer facilities that the rest of this Nation enjoys. I am extremely pleased that we are finally addressing the problem of safe water and sewage facilities in Alaska Native and Indian country. I want to thank members of the committees on aggressively addressing this problem. It is long overdue. Grants would be awarded on a priority basis nationwide and I urge my Alaska Native villages to apply for these grants.

Title IV of the act establishes a program of grants and contracts with tribal organizations to assist eligible Alaska Natives in obtaining Medicare/Medicaid benefits.

Title V of the act, as amended by the 1980 amendments, authorized grants to urban Indian organizations to provide outreach and referral services to Indians in urban and other areas.

Title VI provides organizational improvements in the Indian Health Service.

Title VII directs the Secretary, acting through IHS, to provide a program of substance abuse prevention and treatment to Alaska Natives and Indian tribes. Grants will be made available to Alaska Native organizations for problems such as fetal alcohol syndrome. Three programs are scheduled for Alaska. First, Tanana Chiefs Conference, Inc. to operate a youth treatment facility in Fairbanks, AK, second, the Southeast Alaska Regional Health Corp. to staff and operate a residential youth facility and third, the Alaska Native drug and alcohol abuse demonstration project which authorizes 60 percent of the grant funds to be used by the Alaska Native Health Board to stimulate coordinated community development programs to villages seeking to combat alcohol and drug abuse. The remaining 40 percent of this grant would be to provide alcohol recovery services in the village of St. Mary's, AK.

Title VIII directs the President to include reports with the submission of his annual budget showing that the objectives of this act are being met. The title authorizations appropriations of Indian health care programs through fiscal year 2000.

I believe S. 2481 is a good bill and urge my colleagues to pass this bill. Thank you.

Mr. BEREUTER. Mr. Speaker, this Member rises today in support of the conference report on H.R. 3724, the Indian Health Amendments of 1992. This legislation will take positive steps toward improving the health of all native Americans.

It is a well documented fact that the health care status of native Americans is far below the status of the non-Indian population in the United States. This legislation is designed to help prevent many of these health problems and provide better access to care.

There are several sections of the legislation that this Member would like to highlight today. Important new guidelines are given regarding the closure of IHS hospitals that would take into consideration the distance between the facility to be closed and the nearest IHS facility. These changes are critically important as IHS continues to consider hospital closures.

Several amendments added to the bill on the House Floor last month remain in the conference report. The gentleman from North Dakota [Mr. DORGAN] offered language to establish a demonstration project for adult substance abuse treatment. This Member was pleased to see the inclusion of adult substance abuse treatment in the bill as the success of the drug dependency unit at the Winnebago Indian Health Service Hospital in the First Congressional District of Nebraska which provides alcohol and substance abuse treatment for adults by native Americans in a hospital setting is well-documented.

In addition, the gentleman from Montana [Mr. WILLIAMS] offered an amendment regarding nursing home care which is included in the conference report. This language would allow Indian Health Service and tribal organizations to share the costs of certain services such as building maintenance, housekeeping, dietary activities, and administrative support.

This Member understandably has had a long standing interest, concern, and history of action in the area of alcohol and drug abuse among Indian people. Four tribes, the Santee Sioux, Omaha, Winnebago, and the newly restored Northern Ponca, reside in the First Congressional District of Nebraska and a small part of the Iowa-Sac reservation is also in my district.

Mr. Speaker, there are several provisions in the bill that deal with substance abuse. This bill reauthorizes the establishment of adolescent treatment centers originally authorized by legislation introduced by the distinguished former Member of the House from South Dakota, Mr. DASCHLE, who is now a Member of the other body, and this Member. While adolescents in each service area are currently receiving treatment, only about half of the services areas have established treatment centers. The bill rightly encourages IHS and the areas providing contract care to establish their own regional centers.

In addition the bill includes a fetal alcohol syndrome prevention measure sponsored by the distinguished gentlemen from Colorado [Mr. CAMPBELL]. It authorizes the Secretary of Health and Human Services to make grants for community training, education, and prevention programs for fetal alcohol syndrome and fetal alcohol effect. This Member strongly and enthusiastically supports these provisions.

Mr. Speaker, and colleagues, there is an urgent need to effectively combat fetal alcohol syndrome and fetal alcohol effect on a broad scale across this country especially among the native American population where it is such a common problem. This effort must be a national priority, for this disease reaps tragic, irreversible consequences on its innocent and helpless victims. This human tragedy can be prevented with the health and education programs created or reauthorized by this legislation.

Mr. Speaker, this Member strongly encourages his colleagues to support this legislation.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, we yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr.

MILLER] that the House suspend the rules and pass the bill, H.R. 2481, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AIRPORT AND AIRWAY SAFETY, CAPACITY, NOISE IMPROVEMENT, AND INTERMODAL TRANSPORTATION ACT OF 1992

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rule and pass the bill (H.R. 6093) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, and 1995, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

Sec. 101. Declaration of policy.
Sec. 102. Airport improvement program.
Sec. 103. Airway improvement program.
Sec. 104. FAA operations.
Sec. 105. Linkage with passenger facility charges program.
Sec. 106. Apportionments.
Sec. 107. Military airports.
Sec. 108. Airport noise compatibility program.
Sec. 109. Maximum obligation of the United States.
Sec. 110. Terminal development.
Sec. 111. Letters of intent.
Sec. 112. Airport development defined.
Sec. 113. Public access and participation with respect to airports.
Sec. 114. National airway system.
Sec. 115. Definition of passengers enplaned.
Sec. 116. Extension of State block grant pilot program.
Sec. 117. Disadvantaged business enterprise.
Sec. 118. Extension of certain restrictions on contract and grant awards.
Sec. 119. Acquisition or construction of facilities for advanced training of maintenance technicians for air carrier aircraft.
Sec. 120. Air traffic controller staffing.
Sec. 121. Minimum number of air traffic controllers.
Sec. 122. Limitation on privatization of operation of certain airport control towers.
Sec. 123. Effects of airport noise.
Sec. 124. Aviation safety inspectors.
Sec. 125. Aircraft operations in winter conditions.
Sec. 126. Visual flight rule routes for complex terminal airspace areas.
Sec. 127. Study on reflectorization of taxiway and runway markings.
Sec. 128. Landbanking and options to purchase land.
Sec. 129. Lighting systems for aircraft obstructions and airport runways.
Sec. 130. Economic benefits of airport development projects.
Sec. 131. Soundproofing of certain residential buildings in areas surrounding airports.
Sec. 132. Laredo International Airport, Laredo, Texas.
Sec. 133. Study of small airport runway maintenance.
Sec. 134. Tucson study.
Sec. 135. Air traffic over Grand Canyon.

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

Sec. 201. Procurement reform.
Sec. 202. Aviation security training.
Sec. 203. Hazards to safe and efficient air commerce.
Sec. 204. National commission to promote a strong and competitive airline industry.

TITLE III—RESEARCH, ENGINEERING, AND DEVELOPMENT

Sec. 301. Short title.
Sec. 302. Aviation research authorization of appropriations.
Sec. 303. Deicing study.
Sec. 304. Aircraft noise research program.
Sec. 305. Use of domestic products.

TITLE IV—AVIATION INSURANCE

Sec. 401. Insurance for departments and agencies of the United States.
Sec. 402. Extension of program.
Sec. 403. Administration of aviation insurance program.
Sec. 404. Continuation of aviation insurance laws.

TITLE V—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND

Sec. 501. Extension of Airport and Airway Trust Fund.
Sec. 502. Clarification of trust fund revenues.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Nation's aviation system must be part of an intermodal transportation system consisting of hubs and interconnections with other forms of transportation that will move people and goods in the fastest, most efficient manner;

(2) our Nation's airports are our interconnections with the global economy; expanded flight capacity and greatly improved ground access for passengers and cargo are essential to our Nation's ability to compete in the international marketplace;

(3) without significant additional financial resources, the Nation's airports will be unable to accommodate fully the growing aviation and ground traffic demands of the 1990's;

(4) 27 of the Nation's top 100 airports are now unacceptably congested and the resulting delays in flights are costing our economy billions of dollars a year in lost productivity and undermining the Nation's ability to compete in the global economy;

(5) unless the capacity of our airports is increased substantially, the problem of flight delays will escalate dramatically and, by the year 2000, 40 major airports will be congested and incurring more than 20,000 hours of flight delay a year;

(6) the Nation must undertake an airport improvement and development program costing at least $7,000,000,000 a year over the next decade just to prevent the problem of airport delay from growing worse in the 21st century;

(7) neither State, local, nor Federal Government can independently finance the needed airport and intermodal development and there must be a combined effort relying on all levels of government;

(8) both the Federal airport improvement program and local passenger facility charge programs are essential to funding the development, as part of an intermodal transportation system, of airports (including necessary ground access eligible for funding under such programs) which meet our Nation's needs;

(9) the Nation's air traffic control system must be modernized with the highest advanced technology to enable it to continue to move traffic safely and efficiently and the necessary development and procurement of capital equipment will cost at least $18,000,000,000 over the next decade;

(10) the modernization of the air traffic control system will result in productivity and safety benefits of $257,000,000,000 over the life of the equipment purchased; these benefits include the value of time saved by airline passengers, reductions in airline operating costs, and reduced government expenditures and benefits from increased safety;

(11) there will need to be a continuing increase in staffing for the air traffic control system to enable controllers to handle, safely and efficiently, the increased workload which will arise as air transportation grows over the next decade;

(12) the Federal Government must play a major role in developing our aviation system; full use must be made of the more than $5,000,000,000 which aviation users contribute to the Airport and Airway Trust Fund each year and the $7,400,000,000 surplus which has accumulated in the Trust Fund;

(13) although survival of a strong and competitive airline industry is essential to our Nation's economic future—the Nation's airlines are in a financial and competitive crisis which threatens our entire aviation system and our Nation's ability to move people; major airlines have lost more than $6,000,000,000 over the past 2 years; many airlines have merged or discontinued operations; and new entry into the industry has ceased;

(14) the opportunities for new entrants and financially weak airlines to compete successfully can be maximized by the development of new airport capacity, particularly terminal facilities and gates, which will facilitate the ability of new airlines to compete against the airlines which now dominate the facilities at major hub airports;

(15) investment in the aviation transportation infrastructure of the United States will pay immediate and long-term dividends in jobs and economic productivity and provide the foundation for the Nation's continued leadership in the global economic competition of the 21st century;

(16) infrastructure investment differs significantly from other forms of government spending because it creates new wealth for the Nation;

(17) the wealth and economic strength of the United States is in the Nation's infrastructure which provides the foundation for all aspects of life;

(18) failure to invest in the transportation infrastructure, including aviation, has placed the United States in danger of becoming a service-oriented economy, rather than having a strong and independent manufacturing-based economy;

(19) the creation of a national intermodal transportation system is central to the transportation issues of the coming decades

and will create the new wealth of the Nation to provide the funds for the Nation to meet the challenges of the 21st century;

(20) our Nation should devote greater efforts to integrating the aviation system with highway and mass transit facilities providing access to airports;

(21) transportation planning, taking account of commerce and land-use patterns, must be improved at all levels and local officials must have a significant role in transportation decisions affecting their areas;

(22) failure to develop an improved intermodal transportation system for the 1990's and the 21st century will result in continuing the two decade trend of decline in United States competitiveness in the global economy and the accompanying decline in the Nation's standard of living;

(23) the safety of the traveling public is of paramount national importance;

(24) aircraft deicing is an important element of aviation safety and past aircraft incidents suggest that both the Federal Government and private industries should focus on methods to improve aircraft deicing procedures and facilities;

(25) noise associated with the use of our Nation's airports must be reduced and efforts to mitigate noise must be continued;

(26) airports must use the airport noise planning program to ensure that capacity expansion minimizes noise to the surrounding community;

(27) the Nation's air traffic control system must be modernized with the most advanced technology, and the necessary capital equipment must be developed and procured, in order to continue the safe and efficient operation of the national airspace system;

(28) there will need to be a continuing increase in the number of aviation safety inspectors to handle the current and future workload of the air carrier and commuter industry; and

(29) the United States airline industry lost more than $6 billion in 1990 and 1991, the number of air carriers serving the public has declined substantially as a result of the industry's financial distress and the absence of governmental policies to promote competition, and continued financial losses could result in the further loss of air carrier competition and service to the traveling public.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

SEC. 101. DECLARATION OF POLICY.

(a) NATIONAL TRANSPORTATION POLICY.—Section 502 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201) is amended by adding at the end the following:

"(c) NATIONAL TRANSPORTATION POLICY.—

"(1) It is a goal of the United States to develop a national intermodal transportation system that moves people and goods in an efficient manner. The Nation's future economic direction is dependent on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the Nation's infrastructure.

"(2) United States leadership in the world economy, the expanding wealth of the Nation, the competitiveness of the Nation's industry, the standard of living, and the quality of life are at stake.

"(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation which moves people and goods in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance United States industry's ability to compete in the global marketplace.

"(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

"(5) An intermodal transportation system consists of transportation hubs which connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the Nation's vast rural areas, as well as providing links to other forms of transportation and to intercity connections.

"(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

"(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the Nation to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The Nation's future economic prosperity depends on its ability to compete in an international marketplace that is teeming with competitors but where a full one-quarter of the Nation's economic activity takes place.

"(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will move people and goods faster in an efficient manner.".

(b) CAPACITY EXPANSION AND NOISE ABATEMENT.—Such section is further amended by adding at the end the following new subsection:

"(d) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.".

SEC. 102. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 505(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204(a)) is amended—

(1) by striking "and" following "1991,"; and

(2) by inserting before the period at the end of the second sentence the following: ", $15,966,700,000 for fiscal years ending before October 1, 1993, $18,116,700,000 for fiscal years ending before October 1, 1994, and $20,366,700,000 for fiscal years ending before October 1, 1995".

(b) OBLIGATIONAL AUTHORITY.—Section 505(b)(1) of such Act is amended by striking "1992" and inserting "1995".

SEC. 103. AIRWAY IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 506(a)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(a)(1)) is amended—

(1) by striking "and" following "1991" and inserting a comma; and

(2) by inserting before the period at the end of the first sentence the following: ", $8,200,000,000 for fiscal years ending before October 1, 1993, $11,100,000,000 for fiscal years ending before October 1, 1994, and $14,000,000,000 for fiscal years ending before October 1, 1995".

(b) CAPITAL INVESTMENT PLAN AUGMENTATION.—Section 506(a)(2) of such Act is amended to read as follows:

"(2) CAPITAL INVESTMENT PLAN AUGMENTATION.—If the Secretary determines that it is necessary to augment or substantially modify elements of the Airway Capital Investment Plan submitted to Congress under section 504 of this title (including a determination that it is necessary to establish more than 23 area control facilities), there is authorized to be appropriated from the Trust Fund for fiscal year 1994 to carry out such augmentation or modification $100,000,000. Amounts appropriated under this paragraph shall remain available until expended.".

(c) OTHER EXPENSES.—

(1) EXTENSION.—Section 506(c)(4) of such Act is amended—

(A) in the paragraph heading by striking "–1992" and inserting "–1995"; and

(B) by striking "and 1992" and inserting ", 1992, 1993, 1994, and 1995".

(2) CONFORMING AMENDMENT.—Section 506(e)(5) of such Act is amended by striking "1992" and inserting "1995".

(d) WEATHER SERVICES.—Section 506(d) of such Act is amended by striking the second sentence and inserting the following new sentence: "Expenditures for the purposes of carrying out this subsection shall be limited to $35,596,000 for fiscal year 1993, $37,800,000 for fiscal year 1994, and $39,000,000 for fiscal year 1995.".

SEC. 104. FAA OPERATIONS.

Section 106(k) of title 49, United States Code, is amended—

(1) by striking "and" and inserting a comma; and

(2) by inserting before the period at the end the following: ", $4,716,500,000 for fiscal year 1993, $5,100,000,000 for fiscal year 1994, and $5,520,000,000 for fiscal year 1995".

SEC. 105. LINKAGE WITH PASSENGER FACILITY CHARGES PROGRAM.

Paragraph (4) of section 1113(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513(e)(4)) is amended by striking "under this subsection on or before" and all that follows through the period at the end of such paragraph and inserting the following:

"under this subsection—

"(A) on or before September 30, 1993, if, during fiscal year 1993, the amount available for obligation under section 419 of this Act is less than $38,600,000;

"(B) on or before September 30, 1994, if, during fiscal year 1994, the amount available for obligation under section 419 of this Act is less than $38,600,000; or

"(C) on or before September 30, 1995, if, during fiscal year 1995, the amount available for obligation under section 419 of this Act is less than $38,600,000.

This limitation on the authority to impose a fee shall not apply if the amount available in fiscal years for obligation as described in subparagraph (A), (B), or (C), is less than $38,600,000 as a result of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriations Act. The provisions of this paragraph shall not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues derived from a fee imposed pursuant to an approval made under this subsection by a public agency which has received an approval to impose a fee under this subsection prior to September 30, 1993, in the case of subparagraph (A), prior to September 30, 1994, in the case of subparagraph (B), and prior to September 30, 1995, in the case of subparagraph (C), regardless of whether such fee is being imposed on the date set forth in such subparagraph.".

SEC. 106. APPORTIONMENTS.

(a) INCREASE FOR CARGO HUBS.—Section 507(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(a)(2)) is amended—

(1) by striking "3 percent" and inserting "4 percent"; and

(2) by striking "(but not to exceed $50,000,000)".

(b) LIMITS.—Section 507(b)(1) of such Act is amended by striking "$300,000 nor more than $16,000,000" and inserting "$400,000 nor more than $22,000,000".

(c) PRIMARY AND CARGO SERVICE AIRPORTS.—Section 507(b)(3) of such Act is amended by striking "49.5 percent" each place it appears and inserting "44 percent".

(d) RULES REGARDING CERTAIN ALASKA AIRPORTS.—Section 507(b)(5) of such Act is amended by adding at the end the following new subparagraph:

"(F) INCLUDED AIRPORTS.—For purposes of this paragraph, the airports referred to in subparagraph (A) include those public airports that received scheduled service as of September 3, 1982, but were not apportioned funds in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970 because the airports were not under the control of State or local public agencies.".

SEC. 107. MILITARY AIRPORTS.

(a) SET-ASIDE.—Section 508(d)(5) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2207(d)(5)) is amended by inserting after "1992" the following: ", not less than 2.25 percent of the funds made available under section 505 in fiscal year 1993, and not less than 2.5 percent of the funds made available under section 505 in each of fiscal years 1994 and 1995".

(b) DESIGNATION.—Section 508(f)(1) of such Act is amended—

(1) by striking "not more than 8"; and

(2) by striking the second sentence.

(c) CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.—

(1) FUNDING.—Section 508(f) of such Act is amended by adding at the end the following new paragraph:

"(6) FUNDING FOR CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.—Not to exceed $4,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for fiscal years 1993, 1994, and 1995 may be used in the aggregate by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of airport surface parking lots, fuel farms, and utilities.".

(2) CONFORMING AMENDMENT.—Section 513(c) of such Act is amended by inserting after "this section" the following: "and section 508(f)(6) of this title".

SEC. 108. AIRPORT NOISE COMPATIBILITY PROGRAM.

Section 508(d)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2207(d)(2)) is amended—

(1) by striking "10 percent" and inserting "15 percent"; and

(2) by adding at the end the following new sentence: "The 15 percent referred to in the preceding sentence shall be 12.5 percent—

"(A) in the case of fiscal year 1994 if the amount of funds made available under section 505 for fiscal year 1994 is less than $1,935,000,000; and

"(B) in the case of fiscal year 1995 if the amount of funds made available under section 505 for fiscal year 1995 is less than $2,025,000,000.".

SEC. 109. MAXIMUM OBLIGATION OF THE UNITED STATES.

Section 512(b)(3) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2211(b)(3)) is amended by striking the period at the end and inserting the following: "; except that, for fiscal year 1993 and thereafter, for grants for the acquisition of land or interests in land, the maximum obligation of the United States may be increased for an airport (other than a primary airport) either by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable project costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.".

SEC. 110. TERMINAL DEVELOPMENT.

(a) ALLOWABLE PROJECT COSTS.—Section 513(b)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(b)(1)) is amended by adding at the end the following new sentence: "In the case of a commercial service airport which annually has .05 percent or less of the total enplanements in the United States, the Secretary may approve, under the preceding sentence as allowable project costs of a project for airport development at such airport, terminal development in revenue-producing areas and construction, reconstruction, repair, and improvement of nonrevenue-producing parking lots if the sponsor certifies that no project for needed airport development affecting safety, security, or capacity will be deferred by such approval.".

(b) FEDERAL SHARE.—Section 513(b)(5) of such Act is amended by inserting before the period at the end the following: "; except that the United States share of project costs allowable for any project under such paragraph at a commercial service airport which annually has .05 percent or less of the total enplanements in the United States shall be 85 percent".

(c) RETROACTIVE APPLICABILITY.—The amendment made by subsection (a) may be applied to any terminal development which is underway in calendar year 1992 or later.

SEC. 111. LETTERS OF INTENT.

Section 513(d)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(d)(1)) is amended by adding at the end the following new subparagraph:

"(G) OTHER CONSIDERATIONS.—A letter of intent issued under this paragraph shall not condition the obligation of any funds on the imposition of a passenger facility charge.".

SEC. 112. AIRPORT DEVELOPMENT DEFINED.

(a) AIRCRAFT DEICING EQUIPMENT.—Section 503(a)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)(B)) is amended—

(1) by striking "or" at the end of clause (v);

(2) by inserting "or" after the semicolon at the end of clause (vi); and

(3) by inserting after clause (vi) the following:

"(vii) aircraft deicing equipment and structures (other than aircraft deicing fluids and storage facilities for such equipment and fluids);".

(b) CONTROL TOWER AND NAVIGATIONAL AIDS RELOCATION; MEETING MANDATES OF CERTAIN FEDERAL LAWS; AIRCRAFT DEICING FACILITIES.—Section 503(a)(2) of such Act is further amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(E) the relocation, after December 31, 1991, of an air traffic control tower and any navigational aid (including radar) if such relocation is necessary to carry out a project approved by the Secretary under this title;

"(F) any construction, reconstruction, repair, or improvement of an airport (or any purchase of capital equipment for an airport) which is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, and the Federal Water Pollution Control Act with respect to the airport, other than construction or purchase of capital equipment which would primarily benefit a revenue producing area of the airport used by a nonaeronautical business; and

"(G) any acquisition of land for, or work necessary to construct, a pad suitable for deicing aircraft prior to takeoff at a commercial service airport, including construction or reconstruction of paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, and paved access for deicing vehicles and aircraft, but excluding acquisition of aircraft deicing fluids and construction and reconstruction of storage facilities for aircraft deicing equipment and fluids.".

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the cost and the feasibility of maintaining and operating navigational aids (including radar) for a transition period of up to 2 years at airports converting in whole or in part from military airports to civilian commercial or reliever airports.

SEC. 113. PUBLIC ACCESS AND PARTICIPATION WITH RESPECT TO AIRPORTS.

(a) PUBLIC ACCESS TO AIRPORT BUDGET.—Section 511(a)(11) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)(11)) is amended by inserting "and a report of the airport budget will be available to the public at reasonable times and places" before the semicolon at the end.

(b) PUBLIC PARTICIPATION WITH RESPECT TO AIRPORT PROJECTS.—Section 509(b)(6)(A) of such Act (49 U.S.C. App. 2208(b)(6)(A)) is amended by inserting "(i)" after "unless" and by striking the period at the end and inserting the following: ", and (ii) the sponsor of the project certifies to the Secretary that the airport management board either has voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.".

SEC. 114. NATIONAL AIRWAY SYSTEM.

(a) ELIMINATION OF REPORTING REQUIREMENT.—Section 504(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2203(b)) is amended by striking paragraph (2).

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking "(1)";

(2) by striking "(A)", "(B)", and "(C)" and inserting "(1)", "(2)", and "(3)", respectively; and

(3) by striking "(i)", "(ii)", and "(iii)" and inserting "(A)", "(B)", and "(C)", respectively.

SEC. 115. DEFINITION OF PASSENGERS ENPLANED.

Section 503(a)(10) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(10)) is amended by inserting "or Alaska or Hawaii" after "contiguous States".

SEC. 116. EXTENSION OF STATE BLOCK GRANT PILOT PROGRAM.

(a) EXTENSION.—Section 534(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. 2227(a)) is amended by striking "1992" and inserting "1996".

(b) PARTICIPATING STATES.—Section 534(b) of such Act is amended—

(1) by striking "3" and inserting "7"; and

(2) by adding at the end the following new sentence: "The 7 States to be selected for participation in the program in fiscal years 1993, 1994, 1995, and 1996 shall include the 3 States selected for the participation in the program in fiscal year 1992 (Illinois, Missouri, and North Carolina).".

SEC. 117. DISADVANTAGED BUSINESS ENTERPRISE.

(a) ASSURANCE.—Section 511(a)(17) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)(17)) is amended by inserting "or which provide ground transportation, baggage carts, automobile rentals, or other consumer services" after "or other consumer products".

(b) ADMINISTRATION OF DBE ASSURANCE.—Section 511 of such Act is further amended by adding at the end the following new subsection:

"(h) ADMINISTRATION OF DBE ASSURANCE.—

"(1) MANAGEMENT CONTRACTS.—In administering subsection (a)(17) of this section, an airport owner or operator is authorized to meet the overall percentage goal established under such subsection by including businesses operated through management contracts and subcontracts. The dollar amount of a management contract and subcontract with a DBE firm shall be added to the total of DBE participation in airport concessions and to the base from which the airport's overall percentage goal is calculated. The dollar amount of management contracts and subcontracts with non-DBE firms and the gross revenues of business activities to which management contracts and subcontracts pertain shall not be added to this base.

"(2) PURCHASE OF GOODS AND SERVICES.—Except as provided in subsection (h)(3), an airport owner or operator may meet the overall percentage goal established under subsection (a)(17) of this section by including the purchase from DBEs of goods or services used in businesses conducted on the airport, provided that good faith efforts shall be made by the airport owner or operator and the businesses conducted on the airport to explore all available options to achieve, to the maximum extent practical, compliance with such goal through direct ownership arrangements, including, but not limited to, joint ventures and franchises.

"(3) PROVISION FOR CAR RENTAL FIRMS.—

"(A) In complying with subsection (a)(17) of this section, an airport owner or operator shall include the revenues of car rental firms on the airport in the base from which the overall percentage goal set forth in such subsection is calculated.

"(B) An airport owner or operator may require a car rental firm to meet any requirement imposed under subsection (a)(17) of this section through the purchase or lease of goods or services from DBE's. In the event an airport owner or operator requires the purchase or lease of goods or services from DBE's, a car rental firm shall be permitted to meet such requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B)).

"(C) Nothing in this subsection or subsection (a)(17) of this section shall require a car rental firm to change its corporate structure to provide for direct ownership arrangements in order to meet the requirements of such subsection or subsection (a)(17).

"(4) GENERAL PROVISIONS.—

"(A) Nothing in this subsection or subsection (a)(17) shall preempt any State or local law, regulation, or policy enacted by the governing body of an airport owner or operator, or the authority of any State or local government or airport owner or operator to adopt or enforce any law, regulation, or policy relating to DBE's.

"(B) An airport owner or operator shall be permitted to afford opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals to participate through direct contractual agreement with such concerns.

"(5) EXCLUSION OF AIR CARRIER SERVICES.—Air carriers in providing passenger or freight-carrying services and other businesses that conduct aeronautical activities at an airport shall not be included in the overall percentage goal set forth in subsection (a)(17) of this section for participation of small business concerns at the airport.".

(c) BASIC PROGRAM.—Section 505(d)(2)(A) of such Act (49 U.S.C. App. 2204(d)(2)(A)) is amended by striking "$14,000,000" and inserting "$16,015,000".

(d) REGULATIONS.—Not later than the 180th day following the date of the enactment of this Act, the Secretary of Transportation shall issue regulations to carry out sections 511(a)(17) and 511(h) of the Airport and Airway Improvement Act of 1982, as amended by subsections (a) and (b) of this section, relating to the disadvantaged business enterprise assurance.

SEC. 118. EXTENSION OF CERTAIN RESTRICTIONS ON CONTRACT AND GRANT AWARDS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—Section 9130 of the Aviation Safety and Capacity Expansion Act of 1990 (49 U.S.C. App. 2226b) is amended by inserting ", section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b))" after "subtitle".

(b) FOREIGN GOVERNMENTS DISCRIMINATING AGAINST U.S. PRODUCTS.—Section 9131 of such Act (49 U.S.C. App. 2226c) is amended by inserting ", section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b))" after "subtitle".

SEC. 119. ACQUISITION OR CONSTRUCTION OF FACILITIES FOR ADVANCED TRAINING OF MAINTENANCE TECHNICIANS FOR AIR CARRIER AIRCRAFT.

(a) GRANTS.—The Administrator of the Federal Aviation Administration may make grants to not to exceed 4 vocational technical institutions for the purpose of acquiring or constructing facilities to be used for the advanced training of maintenance technicians for air carrier aircraft.

(b) ELIGIBILITY CRITERIA.—The Administrator may only make a grant under this section to a vocational technical educational institution if such institution has a training curriculum which prepares aircraft maintenance technicians who hold an airframe and power plant certificate issued under subpart D of part 65 of title 14 of the Code of Federal Regulations to maintain, without direct supervision, air carrier aircraft.

(c) LIMITATION ON AMOUNTS OF GRANTS.—The maximum amount of Federal funds which a vocational technical educational institution may receive, in the aggregate, through grants made under this section shall be $5,000,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, from the Airport and Airway Trust Fund, such sums as may be necessary for carrying out this section for fiscal years 1993, 1994, and 1995. Such sums shall remain available until expended.

SEC. 120. AIR TRAFFIC CONTROLLER STAFFING.

The Administrator of the Federal Aviation Administration shall develop and submit annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the staffing standards used to determine the number of air traffic controllers needed to operate the air traffic control system of the United States, a 3-year projection of the number of air traffic controllers needed to be employed to operate such system to meet such standards, and a detailed plan for employing such controllers, including projected budget requests.

SEC. 121. MINIMUM NUMBER OF AIR TRAFFIC CONTROLLERS.

The Administrator of the Federal Aviation Administration shall hire such additional persons as are necessary to make the number of persons employed in the air traffic control work force of such Administration on September 30, 1993, not less than 18,128.

SEC. 122. LIMITATION ON PRIVATIZATION OF OPERATION OF CERTAIN AIRPORT CONTROL TOWERS.

The Administrator of the Federal Aviation Administration shall not enter into any contract on or before September 30, 1994, with a private person for operation of an airport control tower at any airport which in fiscal year 1990 had 5,500 or more air carrier operations and 40,000 or more air taxi operations unless the owner or operator of such airport first agrees, in writing, to the Administrator entering into such contract.

SEC. 123. EFFECTS OF AIRPORT NOISE.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall—

(1) analyze the social, economic, and health effects of airport noise on populations within 65, 60, and 55 LDN noise areas to determine the actual level at which noise creates an adverse impact on populations; and

(2) study the effect of single event noise on populations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act and after providing notice and opportunity for public comment, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the analysis and study conducted under subsection (a).

SEC. 124. AVIATION SAFETY INSPECTORS.

The Administrator of the Federal Aviation Administration shall, within authorized levels, increase the employment of aviation safety inspectors so that by the end of fiscal year 1995 the ratio of employed safety inspectors to authorized positions for such inspectors is not less than 95 percent. The Administrator shall ensure that the current backlog in inspector training is eliminated by the end of fiscal year 1995 and that adequate administrative and clerical support is made available, from appropriations for Federal Aviation Administration operations, to support the inspector work force.

SEC. 125. AIRCRAFT OPERATIONS IN WINTER CONDITIONS.

(a) IN GENERAL.—Before November 1, 1992, the Administrator of the Federal Aviation Administration shall require, by regulation, procedures to improve safety of aircraft operations during winter conditions.

(b) FACTORS TO BE CONSIDERED.—In determining procedures to be required under subsection (a), the Administrator shall consider, among other things, aircraft and air traffic control modifications, the availability of different types of deicing fluids (taking into account their efficacy and environmental limitations), the types of deicing equipment available, and the feasibility and desirability of establishing timeframes within which deicing must occur under certain types of inclement weather.

SEC. 126. VISUAL FLIGHT RULE ROUTES FOR COMPLEX TERMINAL AIRSPACE AREAS.

Section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)) is amended by adding at the end the following: "In carrying out clause (3), the Administrator shall update and arrange for publication of clearly defined routes for navigating through a complex terminal airspace area, and to and from an airport located within such an area, where the Administrator determines that publication of such routes would promote safety in air navigation. Such routes shall be for the optional use of pilots operating under visual flight rules and shall be developed in consultation with pilots and other users of affected airports.".

SEC. 127. STUDY ON REFLECTORIZATION OF TAXIWAY AND RUNWAY MARKINGS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine whether the safety benefits derived from the reflectorization of runways and taxiways of all military airfields under Federal Specification TT–B–1325B should be extended to runways and taxiways of public use airports.

(b) REPORT.—Not later than June 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations concerning requirements for upgraded reflectorization of runways and taxiways at public use airports.

SEC. 128. LANDBANKING AND OPTIONS TO PURCHASE LAND.

(a) STUDY.—The Secretary of Transportation shall conduct a study on the following types of projects:

(1) LANDBANKING.—The purchase of land for airport development to be carried out more than 5 years after the date of the purchase.

(2) OPTIONS TO PURCHASE.—The purchase of options to purchase land for airport development.

(b) CONTENT.—In conducting the study under subsection (a), the Secretary shall examine the following:

(1) ELIGIBILITY FOR FUNDING.—Whether or not the projects described in paragraphs (1) and (2) of subsection (a) should be eligible for funding under the Airport Improvement Program.

(2) CONDITIONS.—If the projects described in paragraphs (1) and (2) of subsection (a) become eligible for funding under the Airport Improvement Program—

(A) whether or not certain limitations should be imposed on such projects;

(B) whether or not priority should be afforded to the funding of such projects in relation to other airport development projects; and

(C) whether or not certain environmental requirements should be imposed on such projects.

(c) REPORT.—Not later than December 31, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with any appropriate recommendations for legislative and administrative action.

SEC. 129. LIGHTING SYSTEMS FOR AIRCRAFT OBSTRUCTIONS AND AIRPORT RUNWAYS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the current Federal program for monitoring the installation and operation of lighting systems for aircraft obstructions and airport runways.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the study conducted under this section, together with recommendations on methods to ensure that the best available technologies are utilized in lighting systems described in subsection (a).

SEC. 130. ECONOMIC BENEFITS OF AIRPORT DEVELOPMENT PROJECTS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the economic benefits of carrying out airport development projects in areas designated as "redevelopment areas" under section 401 of the Public Works and Economic Development Act of 1965.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations on whether or not airport development projects in areas described in subsection (a) should receive priority consideration in the distribution of grants under the Airport Improvement Program.

SEC. 131. SOUNDPROOFING OF CERTAIN RESIDENTIAL BUILDINGS IN AREAS SURROUNDING AIRPORTS.

During the 2-year period beginning on the date of the enactment of this Act, the Secretary may make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for projects to soundproof residential buildings—

(1) if the operator of the airport involved received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

(2) if the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

(3) if the Secretary determines that the proposed projects are compatible with the purposes of the Aviation Safety and Noise Abatement Act of 1979.

SEC. 132. LAREDO INTERNATIONAL AIRPORT, LAREDO, TEXAS.

Section 313(c)(2)(C) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (101 Stat. 1531) is amended by striking "20 years" and inserting "40 years".

SEC. 133. STUDY OF SMALL AIRPORT RUNWAY MAINTENANCE.

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the ability of airports which annually enplane .05 percent or less of total enplanements in the United States to finance the maintenance of runways, aprons, and taxiways constructed under the Airport Improvement Program, whether or not it would be desirable to make maintenance of runways, aprons, and taxiways eligible projects for grants under the Airport Improvement Program, and whether or not the result of making such maintenance eligible projects would be to reduce the long-term costs of airport development.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations.

SEC. 134. TUCSON STUDY.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the current and projected need for air traffic control and related services in the airspace in the vicinity of Tucson, Arizona. In particular the study shall focus upon—

(1) the facilities and personnel necessary to assist general aviation pilots in the vicinity of Tucson and the United States-Mexico border area with services such as weather and traffic advisories;

(2) flight plan filings; and

(3) notification of law enforcement agencies that monitor international air traffic between Arizona and Mexico.

(b) REPORT.—Not later than May 1, 1993, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subsection (a). The report shall include the Administrator's evaluation of the ability of the consolidation plans of the Federal Aviation Administration to assure no reduction or delay in the delivery of air traffic control and related services to pilots in the vicinity of Tucson.

(c) STATUS.—The Administrator of the Federal Aviation Administration shall not change the status (including reductions in staff, changes in operating hours, changes in jurisdiction, and disconnection of telephone lines) of the Tucson flight service station before the 60th day following the date on which the report required by subsection (b) is submitted.

SEC. 135. AIR TRAFFIC OVER GRAND CANYON.

(a) STUDY.—The Administrator of the Federal Aviation Administration, in consultation with the Director of the National Park Service, the State of Arizona, the State of Nevada, the Clark County Department of Aviation, affected Indian tribes, and the general public, shall conduct a study on increased air traffic over Grand Canyon National Park.

(b) REPORT.—The Administrator of the Federal Aviation Administration shall submit to Congress a report on the results of the study conducted under subsection (a). The report shall include the following:

(1) A report on the increase in air traffic over Grand Canyon National Park since 1987.

(2) A forecast of the increase in air traffic over Grand Canyon National Park through 2010.

(3) A report on the carrying capacity of the airspace over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by section 3 of the Act of August 18, 1987 (Public Law 100–91; 101

Stat. 676), including the substantial restoration of natural quiet at the Park.

(4) A plan of action to manage increased air traffic over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by such section 3 of the Act of August 18, 1987, including any measures to encourage or require the use of quiet aircraft technology by commercial air tour operators.

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

SEC. 201. PROCUREMENT REFORM.

(a) In General.—Section 303 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1344) is amended by adding at the end the following new subsections:

"(g) Limited Sources of Procurement.—The Administrator shall have the same authority as the Administrator would have under section 2304(c)(1) of title 10, United States Code, if the Federal Aviation Administration were an agency listed under section 2303(a) of title 10, United States Code.

"(h) Contract Tower Program.—The Administrator may enter into a contract, on a sole source basis, with a State or political subdivision thereof for the purpose of permitting such State or political subdivision to operate an airport traffic control tower classified as a level I visual flight rules tower by the Administrator if the Administrator determines that the State or political subdivision has the capability to comply with the requirements of this subsection. Any such contract shall require that the State or political subdivision comply with all applicable safety regulations in its operation of the facility and with applicable competition requirements in the subcontracting of any work to be performed under the contract.".

(b) Conforming Amendment.—The portion of the table of contents contained in the first section of such Act relating to section 303 is amended by adding at the end the following:

"(g) Limited sources of procurement.

"(h) Contract tower program.".

SEC. 202. AVIATION SECURITY TRAINING.

Section 316(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1357(c)) is amended by inserting "(1)" after "(c)" and by adding at the end the following new paragraph:

"(2) Reimbursement for certain expenses.—At the discretion of the Administrator, reimbursement may be made for travel, transportation, and subsistence expenses for the security training of non-Federal domestic and foreign security personnel whose services will contribute significantly to carrying out civil aviation security programs under this section. To the extent practicable, air travel reimbursed under this paragraph shall be conducted on United States air carriers.".

SEC. 203. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE.

(a) Notice of Construction.—Section 1101(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1501(a)) is amended—

(1) by inserting after "of the construction or alteration," the following: "or the establishment or expansion,";

(2) by inserting after "or of the proposed construction or alteration," the following: "or of the proposed establishment or expansion,"; and

(3) by inserting "or sanitary landfill" after "structure".

(b) Landfill Hazard Study and Report.—

(1) Requirements.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study to determine whether a municipal solid waste facility located within a 5-mile radius of the end of a runway may have the potential for attracting or sustaining bird movements (from feeding, watering, or roosting in the area) that may pose a hazard across the runways or approach and departure patterns of aircraft.

(2) Report.—Not later than December 31, 1993, the Secretary of Transportation shall transmit to Congress, after first having provided an opportunity for public comment, a report on the results of the study conducted under paragraph (1), together with an assessment of the threat posed to aviation safety by the location of solid waste facilities near airport runways. The report shall include recommendations concerning the construction of new solid waste facilities and the expansion of existing facilities within a 5-mile radius of an airport runway.

SEC. 204. NATIONAL COMMISSION TO PROMOTE A STRONG AND COMPETITIVE AIRLINE INDUSTRY.

(a) Findings.—Congress finds the following:

(1) The Nation's airlines must be part of an intermodal transportation system that will move people and goods in the fastest, most efficient manner.

(2) The Nation's airlines provide our connections with the global economy. A strong airline industry is essential to our Nation's ability to compete in the international marketplace.

(3) The Nation's airlines are in a state of financial distress, having lost more than $6,000,000,000 in 1990 and 1991. These losses threaten the ability of our airlines to accommodate the growing aviation traffic demands of the 1990's which threaten to undermine our Nation's ability to compete in the global economy.

(4) Because of the airline industry's financial distress and the absence of government policies to promote competition, there has been a precipitous decline in the number of major airlines. Of the 22 airlines which entered the industry following airline deregulation, only 2 are now operating. The rest have either gone out of business or merged with other carriers.

(5) Concentration in the airline industry has advanced rapidly in the past few years. The top 4 major airlines now control 67 percent of aviation traffic and the top 7 airlines now control 91 percent of aviation traffic. Three major airlines, carrying 19 percent of aviation traffic, are in chapter 11 bankruptcy and their survival is in doubt.

(6) The continued success of a deregulated airline system requires the spur of effective actual and potential competition to force airlines to provide high quality service at the lowest possible fares.

(7) Further reductions in the number of major airlines may leave the industry without sufficient competition to ensure a continuation of the benefits consumers have received under airline deregulation.

(b) Establishment.—There is established a commission to be known as the "National Commission to Ensure a Strong Competitive Airline Industry" (hereinafter in this section referred to as the "Commission").

(c) Functions.—

(1) Investigation and study.—The Commission shall make a complete investigation and study of the financial condition of the airline industry, the adequacy of competition in the airline industry, and legal impediments to a financially strong and competitive airline industry.

(2) Policy recommendations.—Based on the results of the investigation and study to be conducted under paragraph (1), the Commission shall recommend to the President and Congress those policies which need to be adopted to—

(A) achieve the national goal of a strong and competitive airline system which will facilitate the ability of the Nation to compete in the global economy;

(B) provide adequate levels of competition and service at reasonable fares in cities of all sizes;

(C) retard the flow of United States air carrier bankruptcies and accompanying loss of jobs for United States citizens;

(D) provide a stable work environment for airline industry employees; and

(E) continue to reduce noise for citizens around airports without damaging the economic or competitive positions of the air carriers.

(3) Consideration of aircraft noise abatement.—In carrying out the study and investigation under paragraph (1), the Commission shall take into account aircraft noise abatement, a priority established by Congress by enactment of the Airport Noise and Capacity Act of 1990.

(d) Specific Matters To Be Addressed.—The Commission shall specifically investigate and study under subsection (c)(1) the following:

(1) Financial condition of airline industry.—The current financial condition of the airline industry and how the industry's financial condition is likely to change over the next 5 years, including—

(A) the profits or losses likely to be achieved by the airline industry over the next 5 years;

(B) whether or not any profits realized will be adequate to permit airlines to acquire the capital equipment necessary to meet the demand of the traveling public in a safe and efficient manner, while complying with environmental regulations; and

(C) whether or not any major airlines are likely to fail or sell major assets in order to survive.

(2) Adequacy of competition.—The current state of competition in the airline industry, how the structure of airline industry competition is likely to change over the next 5 years, and whether or not the expected level of competition will be sufficient to continue the consumer benefits of airline deregulation.

(3) Legal impediments to a financially strong and competitive airline industry.—Whether or not the Federal Government should take any legislative or administrative actions to improve the financial conditions of the airline industry or to enhance airline competition, including whether or not any changes are needed in the legal and administrative policies which govern—

(A) the initial award and the transfer of international airline routes;

(B) the allocation of slots at high density airports;

(C) the allocation of gates, particularly at airports dominated by 1 or a limited number of airlines;

(D) frequent flier programs;

(E) airline computer reservations systems;

(F) the rights of foreign investors to invest in United States airlines;

(G) the taxes and user fees imposed on United States airlines;

(H) the regulatory responsibilities imposed on United States airlines;

(I) the bankruptcy laws of the United States and related fitness rules administered by the Department of Transportation as they apply to airlines; and

(J) the obligations of failing airlines to meet pension obligations.

(4) INTERNATIONAL AVIATION POLICY.—Whether or not the policies and strategies followed by the United States in international aviation are promoting the ability of United States airlines to achieve long-term competitive success in international markets, including—

(A) the Government's general negotiating policy;

(B) the desirability of multilateral rather than bilateral negotiations;

(C) whether or not foreign countries have developed the necessary infrastructure of airports and airways to enable United States airlines to provide the service needed to meet the demand for aviation service between the United States and such countries;

(D) the rights granted foreign airlines to provide service in United States domestic markets ("cabotage"); and

(E) the rights granted foreign investors to invest in United States airlines.

(5) ASSESSMENT OF AIRCRAFT MANUFACTURING INDUSTRY.—The state of the United States aircraft manufacturing industry and make recommendations to the President and Congress concerning policies that will help foster a healthy, competitive United States aircraft manufacturing industry.

(6) STUDY OF INCENTIVES FOR EXPEDITED FLEET CONVERSION.—The possibility of long-term loan guarantees and tax incentives for air carriers to expedite the conversion of the commercial airline fleet from Stage 2 to Stage 3 aircraft in advance of the deadlines established by the Airport Noise and Capacity Act of 1990.

(e) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 7 members as follows:

(A) 1 member appointed by the President.

(B) 3 members appointed by the Speaker of the House of Representatives.

(C) 3 members appointed by the majority leader of the Senate.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in transportation policy (including representatives of Federal, State, and local governments and other public authorities owning or operating airports) and organizations representing airlines, passengers, shippers, airline employees, aircraft manufacturers, general aviation, and the financial community.

(B) SECTORS REPRESENTED.—Members appointed pursuant to paragraph (1) shall be appointed in a manner such that the interests of both large hub airports and small airports with commercial air service will be taken into consideration. One member of the Commission shall be a citizen representing a consensus among citizen noise groups or noise affected municipalities.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(h) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (c)(2).

(k) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

TITLE III—RESEARCH, ENGINEERING, AND DEVELOPMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1992".

SEC. 302. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking subparagraph (A) and all that follows and inserting in lieu thereof the following:

"(A) for fiscal year 1993—

"(i) $14,700,000 solely for management and analysis projects and activities;

"(ii) $87,000,000 solely for capacity and air traffic management technology projects and activities;

"(iii) $28,000,000 solely for communications, navigation, and surveillance projects and activities;

"(iv) $7,700,000 solely for weather projects and activities;

"(v) $6,800,000 solely for airport technology projects and activities;

"(vi) $44,000,000 solely for aircraft safety technology projects and activities;

"(vii) $41,100,000 solely for system security technology projects and activities;

"(viii) $31,000,000 solely for human factors and aviation medicine projects and activities;

"(ix) $4,500,000 for environment and energy projects and activities; and

"(x) $5,200,000 for innovative/cooperative research projects and activities; and

"(B) for fiscal year 1994, $297,000,000.

Not less than 15 percent of the amount appropriated pursuant to this paragraph shall be for long-term research projects, and not less than 3 percent of the amount appropriated under this paragraph shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.".

SEC. 303. DEICING STUDY.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress on the feasibility of requiring commercial airports and commercial airlines to employ portable equipment to deice commercial aircraft immediately prior to takeoff by placing deicing equipment close to the departure end of the active runway. In addition, the Secretary shall undertake research to develop new techniques and to develop more efficient fluids and technologies for deicing.

SEC. 304. AIRCRAFT NOISE RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a research program to develop new technologies for quieter subsonic jet aircraft engines and airframes.

(b) GOAL.—The goal of the research program established by subsection (a) is to develop by the year 2000 technologies for subsonic jet aircraft engines and airframes which would permit a subsonic jet aircraft to operate at reduced noise levels.

(c) PARTICIPATION.—In carrying out the program established by subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of representatives of the aviation industry and academia.

(d) REPORT TO CONGRESS.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress, on an annual basis during the term of the program established by subsection (a), a report on the progress being made under the program toward meeting the goal described in subsection (b).

SEC. 305. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary of Transportation, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

TITLE IV—AVIATION INSURANCE

SEC. 401. INSURANCE FOR DEPARTMENTS AND AGENCIES OF THE UNITED STATES.

(a) IN GENERAL.—Section 1304(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1534(a)) is amended—

(1) by inserting after "under this title" the following: ", including insurance to cover any risk from the operation of an aircraft while such aircraft is engaged in intrastate, interstate, or overseas air commerce"; and

(2) by adding at the end the following new sentence: "In addition, such department or agency may, with the approval of the President, procure such insurance to cover any risk arising from the provision of goods or services directly related to and necessary for an operation of an aircraft covered by insurance procured under the preceding sentence if such operation is in the performance of a contract of such department or agency or is for the purpose of transporting military forces or materiel on behalf of the United States pursuant to an agreement between the United States and a foreign government.".

(b) CONFORMING AMENDMENT.—Section 1302(a)(3) of such Act (49 U.S.C. App. 1532(a)(3)) is amended by striking "Insurance" and inserting "Subject to section 1304(a), insurance".

SEC. 402. EXTENSION OF PROGRAM.

Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1542) is amended by striking "1992" and inserting "1997".

SEC. 403. ADMINISTRATION OF AVIATION INSURANCE PROGRAM.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958 during the Persian Gulf conflict for the purpose of determining methods of improving the efficiency of the administration of such program by reducing the paperwork and time period required for provision of insurance under such program.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the review conducted under subsection (a), together with any recommendations of the Comptroller General for improving the efficiency of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958.

SEC. 404. CONTINUATION OF AVIATION INSURANCE LAWS.

Notwithstanding any other provision of law, the provisions of title XIII of the Federal Aviation Act of 1958 and all insurance policies issued by the Secretary of Transportation under such title, as in effect on September 30, 1992, shall be treated as having continued in effect until the date of the enactment of this Act.

TITLE V—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND

SEC. 501. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.

Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 1992" and inserting "October 1, 1995", and

(2) by striking in subparagraph (A) "(as such Acts were in effect on the date of the enactment of the Aviation Safety and Capacity Expansion Act of 1990)" and inserting "(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)".

SEC. 502. CLARIFICATION OF TRUST FUND REVENUES.

(a) IN GENERAL.—Paragraph (1) of section 9502(e) of the Internal Revenue Code of 1986 (relating to special rules for transfers into trust fund) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 11213 of the Revenue Reconciliation Act of 1990 on the date of the enactment of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1958, civil aviation passed a milestone. It became in that year the Nation's leading mode of transportation, surpassing both rail and buses.

By January 1, 1990, aviation had passed another milestone: Domestic air travelers, during 1989, were forced to endure 117 million hours of delay, costing the economy $5 billion.

Civil aviation in America stood at an infrastructure capacity crossroads.

O'Hare Airport had earned the dubious distinction of being the first airport in the Nation to suffer 100,000 hours of delay. Closing in on O'Hare's honors were airports at Denver and Atlanta.

Twenty-one other airports had accumulated up to 50,000 hours of delay each, with 18 others in line to join them.

Airlines told the Aviation Subcommittee that if delay could be reduced just 5 hours a day, each carrier could save $80,000 a day.

There were two fixes available for this capacity-congestion problem: First, to expand the physical capacity of airport runways, taxiways, and parking aprons, and second, to modernize the air traffic control and navigation system technology. Both would be expensive, but both would return enormous benefits, an estimated $90 billion in savings and benefits to air travelers and air carriers over the decade of the 1990's.

The investments and capacity in air traffic technology would also keep America at the leading edge of aviation science and also the preeminent competitor worldwide in aviation technology.

Our Subcommittee on Aviation did not shrink from the challenge. We tackled the responsibility of answering these urgent needs by crafting legislation, enacted into law later that year, to provide financing of airport capacity improvements totaling $50 billion over the balance of the decade, and $25 billion in air traffic and weather and navigation technology advances into the year 2000.

The bill that the gentleman from Pennsylvania [Mr. CLINGER] and I bring to the floor tonight extends those authorizations for an additional 3 years, with some fine tuning and enhancement based upon the experience of the last 2 years.

□ 2230

Fundamentally, Mr. Speaker, this is the same bill, H.R. 4691, which already passed the House by a vote of 410 to 2 on May 19, earlier this year. We bring it up tonight, I would say, in the nature of a conference report incorporating in to this bill important provisions of a companion bill pending in the Senate. Through this procedure we hope to expedite final action in both bodies on this legislation which is so important to economic growth and improvement of aviation which is a $600 billion sector of our Nation's economy.

Mr. Speaker, I include for the RECORD a summary of the key provisions of this bill.

MAJOR PROVISIONS OF H.R. 6093

1. Authorizes funding of $30 billion for fiscal years 1993–1995 for the Airport Improvement Program, the FAA's Facilities and Equipment Program, FAA Operations and FAA Research and Development. Draws down the surplus in the Airport and Airway Trust Fund by about $1.5 billion.
2. Continues and expands the program for federal assistance for the conversion of former military airports to civil use.
3. Expands the program for assistance for the development of terminals at small airports.
4. Provides funding for airport compliance with federal environmental legislation.
5. Provides funding for structures and equipment for aircraft de-icing.
6. Establishes minimum staffing levels for FAA aircraft inspectors and air traffic controllers.
7. Extends and expands the state block grant program for development of small airports.
8. Reforms FAA procurement procedures.
9. Establishes a commission to study the financial crisis of the airlines.
10. Renews the Aviation War Risk Insurance Program.

I would like to take this opportunity to thank my colleague, the gentleman from Pennsylvania [Mr. CLINGER], and the ranking member of the Aviation Subcommittee for his diligent work and hard effort that he has given from the outset of the scenario I described a moment ago. His thoughtful suggestions, his hard work, and marshalling the arguments and bringing together the people that had made possible the original legislation in tonight's version have been invaluable. He is a thoughtful, and constructive and productive Member of this body, but particularly this subcommittee has mastered the issues of aviation, and it is such a delight to be able to work with the gentleman from Pennsylvania [Mr. CLINGER].

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, first of all, want to express my thanks for the very kind words of my chairman who has been an enormously effective leader in the field of aviation for so many years and who has been instrumental in bringing this bill to the floor tonight, and it is important that this bill be brought to the floor tonight because we are perilously close, Mr. Speaker, to aborting a program that really has promise of addressing the recessionary problems that we are facing in this country. We are risking the loss of an enormous number of jobs if, in fact, the airport improvement program is allowed to be aborted or stultified at this particular point in time.

So, Mr. Speaker, I commend my chairman because he has recognized the importance of seeing this program reauthorized tonight, and of bringing this bill to the floor and, in effect, putting the ball in the court of the other body to act on this program before this body and the Congress as a whole adjourns sine die within the next 2 days.

I cannot believe that we, as responsible legislators, would really allow this program to terminate, or at least come to a temporary end, and I am confident that that will not be the case. But if it is not, it will clearly be largely the result of Chairman OBERSTAR's diligence and persistence in pursuing this and pushing us to the point at 10:30 at night to get this bill passed and to move it to the other body and, hopefully, have them act on it in an expeditious way.

Mr. Speaker, the airport improvement program is an entitlement program that disburses money, as we know, on a formula basis to commercial service airlines around the country. The funds are used to build and maintain our Nation's airport infrastructure such as runways, taxiways, terminal buildings, navigation equipment, and the like.

The program is fundamental to our air commerce industry. For fiscal year 1992, $1.9 billion was obligated from the aviation trust fund for AIP. Yesterday, October 1, marked the beginning of the new Federal fiscal year. On that date authorization for the AIP Program expired. Every commercial service airport in the country now faces really extreme financial distress unless Congress passes legislation reauthorizing the program so that the flow of funds is not seriously jeopardized any longer than it need be.

Literally tens of thousands of jobs are at stake, Mr. Speaker, if this program is not renewed. Airports are going to begin shutting down ongoing construction programs and laying off permanent employees. The AIP program represents an important source of funding to help sustain important airport operation and development.

This House, as my chairman has indicated, has been diligent about meeting its legislative obligations, acting on this very important piece of legislation some months ago. The Committee on Public Works and Transportation did report out a reauthorization bill to the House on April 8, and on May 19 the House, as the gentleman from Minnesota [Mr. OBERSTAR] indicated, passed this bill by an overwhelming margin of 410 to 2. Sadly, as has been reported, the other body has thus far failed to act on this legislation.

So, we stand here tonight, Mr. Speaker, to ask Members to favorably consider this legislation to reauthorize the airport improvement program under suspension of the rules, a procedure that we would not normally want to pursue in this area because this is an important program.

The bill before us tonight, H.R. 6093, contains many of the same provisions as the gentleman from Minnesota [Mr. OBERSTAR] has indicated of H.R. 4691. It also includes provisions from the companion Senate bill, S. 2642, not in conflict with the House bill, and I would just stress that we have tried to go the extra mile. We have gone, we think, more than halfway in addressing the interests of the other body and including in this, as the gentleman from Minnesota [Mr. OBERSTAR] indicated, hopefully a conference report bill that we are introducing tonight.

We have gone more than halfway to try to accommodate the interests of the other body by including those provisions out of their bill in this bill, and we hope that this will overcome what we have perceived as some intransigence on their part to deal with this very important legislation. We are compelled to take this measure through the House again in an effort to salvage, and really that is what we are about tonight. We are trying to salvage the airport improvement program, frankly because of the inaction of the other body in this regard.

So, I support this bill very, very strongly. It is vital to our air commerce industry. I ask all Members to support the bill as well.

Mr. OBERSTAR. Mr. Speaker, I would like to express my very deep appreciation to the staff on both sides of our subcommittee for their diligent work on this ultima aura that, as the gentleman from Pennsylvania [Mr. CLINGER] said, is so vital to the continuity of aviation in our country.

Mr. Speaker, I wish to clarify that Section 511(h)(2) of the Airport and Airway Improvement Act of 1982 (AAIA), as amended, does not apply to car rental firms doing business at an airport for the purposes of determining compliance with any requirement imposed pursuant to section 511(a)(17) of AAIA. Administration of DBE assurance for car rental firms shall be governed by section 511(h)(3) of AAIA, as amended.

In addition, I note that Section 511(h)(3)(C) of AAIA, as amended, provides that nothing in the law on DBE assurance "shall require a car rental firm to change its corporate structure to provide for direct ownership arrangements." For example, a car rental firm is not required, but is permitted, by the DBE assurance sections 511(a)(17) and 511(h) of the AAIA, as amended, to transfer corporate assets or engage in joint ventures, partnerships or subleases.

Mr. ROE. Mr. Speaker, H.R. 6093 is absolutely essential legislation for our Nation's aviation transportation system. America needs jobs and this bill means productive, real jobs.

I applaud the efforts of Subcommittee Chairman JIM OBERSTAR of Minnesota, and ranking Republican members JOHN PAUL HAMMERSCHMIDT of Arkansas and BILL CLINGER of Pennsylvania for their diligence and continuing efforts to ensure that this important legislation becomes law.

The bill is very similar to H.R. 4691, the Airport and Airway Safety, Capacity, Noise Improvement, and Inermodal Transportation Act of 1992, which passed the House last may on a 410 to 2 vote.

We are bringing this bill to the House floor again with minor adjustments based on the Senate companion measure. The Senate committee has reported a bill, but has yet to get it cleared for floor action.

We are using this strategy because it is absolutely critical that we enact this aviation authorization bill this year. Our Nation's aviation system is too important to our economy to allow the authorization to expire.

In this bill, we take the major step of bringing the aviation system into the intermodal transportation system we created last year. The continued development and expansion of the intermodal transportation system, including aviation, is essential for our Nation's ability to compete in the global economy of the 21st century.

The bill authorizes 3 years of funds for grants for the upgrading of our Nation's airport modernization of the air traffic control system, the operational expenses of Federal Aviation Administration, and aeronautical research and development.

The bill authorizes funding of more than $30 billion to improve the safety and capacity of our aviation infrastructure. It is estimated that the Airport Grant Program established by the bill will create or sustain approximately 100,000 jobs.

Events of recent years have caused a serious and deep concern on the committee about the condition and future of our Nation's airlines. This bill establishes a commission to study the financial condition of the airline industry, the adequacy of competition, and the impediments to a financially strong and competitive airline industry.

We must take the steps necessary to ensure that our Nation's airlines remain strong and competitive. We must not stay idle while one airline after another disappears from the skies.

The bill is vital to our Nation's transportation system and our economy. A vote for this bill is a vote for jobs.

I urge passage of H.R. 6093, and ask unanimous consent to revise and extend my remarks.

Mr. HAMMERSCHMIDT. Mr. Speaker, last May, this body passed an aviation reauthorization bill, H.R. 4691. That bill provided funding of the airport improvement and other aviation programs. It also made some legislative changes to those programs to help improve both large and small airports and to make the aviation system safer for everyone to use.

This bill was developed after extensive hearings and lengthy markups in subcommittee and committee. It was brought to the floor in May under an open rule. As I said at that time, Chairmen ROE and OBERSTAR, as well as the ranking member, Mr. CLINGER, are to be commended for their hard work in developing this legislative package.

Unfortunately, that bill is now stalled in the other body. A bill, S. 2642, has been reported out of committee. Unfortunately, they have been unable or unwilling to bring it to the floor.

If an aviation reauthorization bill is not passed, the FAA will be unable to make grants for airport improvements. Taxes that passengers have already paid will sit in the trust fund unused. Our efforts to improve airport infrastructure will grind to a halt. But most importantly, jobs will be lost. With the economic problems facing us now, that is unconscionable.

Therefore, in order to try to salvage the Airport Improvement Program, we have combined the best elements of the House and Senate bills. That is the legislation we bring before the House today.

It contains most of the provisions in the bill that was passed by the House last May. It also contains most of the provisions that were reported by the Senate committee in August. Where there was a conflict between the two bills, we did our best to resolve the differences fairly to both bodies.

For example, the House bill was a 2-year authorization and the Senate bill was for 3 years. In that case, we adopted the Senate's approach. In other provisions, such as those benefiting small airports and cargo hubs, we adopted the House approach.

Mr. Speaker, I believe the bill before us now is a fair and reasonable compromise. Hopefully, if we pass it now, the Senate can soon do the same and we will have ensured that important airport improvements will continue to move forward.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLTER). The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 6093 as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AUTHORIZING PRESENTATION OF NATIVE AMERICAN INDIAN PROGRAM ON THE CAPITOL GROUNDS

Mr. SAVAGE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 367) authorizing the presentation of a program on the Capitol grounds.

The Clerk read as follows:

H. CON. RES. 367

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. PROGRAM ON THE CAPITOL GROUNDS.

On October 12, 1992, the Morning Star Foundation and the 1992 Alliance (in this resolution referred to as the "non-Federal sponsor"), may present on the Capitol grounds a program known as the "Native Voices: 500 Years After".

SEC. 2. REQUIREMENT FOR WRITTEN AGREEMENT.

The non-Federal sponsor may construct and use structures and equipment on the Capitol grounds, and otherwise make arrangements for presentation of the program, only in accordance with a written agreement between the non-Federal sponsor and the Architect of the Capitol.

SEC. 3. CONDITIONS.

The program shall be carried out in accordance with such conditions as the Architect of the Capitol and the Capitol Police Board may prescribe. Such conditions, to be included in the agreement under section 2, shall include the following:

(1) CAPITOL GROUNDS.—Only that portion of the Capitol grounds comprising the upper Senate park may be used for the program.

(2) ADMISSION.—The program shall be open for admission to the general public without charge.

(3) EXPENSES AND LIABILITIES.—The non-Federal sponsor shall assume full responsibility for all expenses incident to activities associated with the program and shall indemnify, hold harmless, and defend the United States against any loss, damage, claim, or other liability incident to such activities.

(4) LIMITATION ON REPRESENTATIONS.—The non-Federal sponsor shall ensure that no person who supports presentation of the program by contributing amounts or products to the non-Federal sponsor will represent, either directly or indirectly, that such support in any way constitutes approval or endorsement by the Federal Government of such person or any product or service offered by such person.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. Savage] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognized the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Speaker, I yield myself such time as I may consume.

On October 12 of this year, Mr. Speaker, the Morning Star Foundation and the 1992 Alliance will present a program on the Capitol Grounds. This program, known as Native Voices 500 Years After, will provide an excellent educational opportunity for all Americans to be enriched by the culture, tradition, and ceremonies of the indigenous people of what is now the United States of America. Thus it is especially appropriate that this program take place on October 12, 1992, the 500th anniversary of the voyage of Christopher Columbus whose wake was poisoned with barbaric African slavery and Indian genocide.

□ 2240

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am filling in for the gentleman from Oklahoma [Mr. INHOFE], the ranking member on the Committee on Public Buildings and Grounds, who was unable to be with us this evening.

Mr. Speaker, I rise in support of House Concurrent Resolution 367, which will authorize the Morning Star Foundation and the 1992 Alliance to sponsor a program entitled Native Voices: 500 Years After, on the Grounds of the Capitol on October 12, 1992.

This event will be an opportunity for all Americans to learn of the important contributions made by Native Americans. As we celebrate the 500th anniversary of the arrival of Christopher Columbus to the Americas, it is most appropriate that we include in our observances the role played by Native Americans in the history of our country.

Given that all the necessary requirements of the Architect of the Capitol have been met regarding this event, I support House Concurrent Resolution 367 and urge my colleagues to do likewise.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAVAGE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RICHARDSON). The question is on the motion offered by the gentleman from Illinois [Mr. SAVAGE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 367.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAVAGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Concurrent Resolution 367.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965 AMENDMENTS

Mr. KOLTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4157) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

The Clerk read as follows.

H.R. 4157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL DEVELOPMENT INVESTMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Public Works and Economic Development Act Amendments of 1992".

SEC. 102. STATEMENT OF PURPOSE.

Section 2 of the Public Works and Economic Development Act of 1965 is amended by adding at the end the following:

"Congress further declares that changing national and global economies have created new problems and challenges for the Nation; that between 1982 and 1992 the United States has become a debtor rather than a creditor nation and has been running a trade deficit; that United States export of industrial and manufacturing jobs to other nations has reached an alarming level; and that, therefore, the Federal Government, recognizing that the private sector remains the ultimate generator of employment and economic growth, should promote balanced national growth and economic development by providing Federal aid to overcome infrastructure neglect in distressed areas, to encourage private capital investment, business stability, and expansion by helping the Nation's industrial and commercial resources become more competitive in national and international markets.".

SEC. 103. AMENDMENT TO TITLES I THROUGH VII OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.

The Public Works and Economic Development Act of 1965 is amended by striking titles I through VII and inserting the following:

"TITLE I—DEVELOPMENT INVESTMENT ASSISTANCE

"SEC. 101. DEVELOPMENT INVESTMENT ASSISTANCE.

"(a) GRANTS.—Upon application of an applicant qualifying under section 102 and subject to the provisions of this title, the Secretary is authorized to make a grant to such applicant for one or more of the following:

"(1) CONSTRUCTING AND IMPROVING PUBLIC FACILITIES.—Construction, repair, rehabilitation, and improvement of public facilities, including demolition of existing structures and other site preparation measures, and the acquisition of land and other public works improvements to encourage and support private development.

"(2) REVOLVING LOAN FUNDS.—Establishment of revolving loan funds to promote establishment and growth of small businesses and to retain firms and entrepreneurs which contribute to the creation, retention, and expansion of private sector jobs.

"(3) EMPLOYEE STOCK OWNERSHIP PLANS.—Establishment of revolving loan funds to promote establishment of qualified employee ownership organizations which prevent economic dislocation, facilitate economic adjustment, or contribute to economic diversification and long-term economic vitality.

"(b) TECHNICAL ASSISTANCE.—Upon application of an applicant qualifying under section 102 and subject to the provisions of this title, the Secretary may provide technical assistance for improving and enhancing economic development.

"SEC. 102. QUALIFYING APPLICANTS AND LIMITATIONS ON LOCATIONS OF PROJECTS.

"(a) APPLICANTS FOR DISTRESSED LOCAL GOVERNMENTS.—The following entities may apply for assistance under section 101 for projects and activities to be carried out in the jurisdictional area of a unit of local government which meets the requirements of section 104:

"(1) STATE GOVERNMENT.—The State in which the unit of local government is located may apply if—

"(A) such unit has a population of less than 50,000; and

"(B) such unit is located outside the boundaries of an economic development district.

"(2) LOCAL GOVERNMENT.—The unit of local government may apply; except that—

"(A) in any case in which the unit of local government has a population of less than 50,000 and is located outside the boundaries of an economic development district, such unit must consult the State in the preparation of the grant application; and

"(B) in any case in which the unit of local government is located within the boundaries of an economic development district, such unit must consult such district in the preparation of the grant application.

"(3) ECONOMIC DEVELOPMENT DISTRICT.—The economic development district in which the unit of local government is located may apply.

"(4) ECONOMIC DEVELOPMENT ORGANIZATION.—A private or public nonprofit organization established for economic development purposes and representing an area within the jurisdictional area of the unit of local government may apply if—

"(A) such unit has a population of 50,000 or more;

"(B) such unit is located outside the boundaries of an economic development district; and

"(C) the grant application has been approved by such unit.

"(b) APPLICATIONS FOR INDIAN LANDS.—An Indian tribe may apply for assistance under section 101 for projects and activities to be carried out on lands owned by, or held in trust for, such tribe if such lands meet the requirements of section 104.

"(c) APPLICATIONS FOR POCKETS OF POVERTY.—The following entities may apply for assistance under section 101 for projects and activities to be carried out in an area which meets the requirements of section 104 and is located in the jurisdictional area of a unit of local government which has a population of 50,000 or more and does not meet such requirements:

"(1) LOCAL GOVERNMENT.—The unit of local government may apply; except that in any case in which the unit of local government is located within the boundaries of an economic development district, such unit must consult such district in the preparation of the grant application.

"(2) DEVELOPMENT ORGANIZATION AS APPLICANT.—A private or public nonprofit organization established for economic development purposes and representing the area meeting the requirements of section 104 may apply if such organization consults the unit of local government in the preparation of the grant application.

"SEC. 103. APPLICATION FOR GRANT.

"(a) CONTENTS.—An application for assistance under this title shall include, but need not be limited to—

"(1) a certification that the area over which the applicant has jurisdiction meets the requirements of section 104; except that—

"(A) in any case in which the applicant is a State, economic development district, or an organization described in section 102(a)(4), the certification must be for the area over which the concerned unit of local government has jurisdiction;

"(B) in any case in which the applicant is an Indian tribe, the certification must be for lands owned by, or held in trust for, such Indian tribe; and

"(C) in any case in which the applicant is an organization described in section 102(c)(2), the certification must be for the area such organization represents;

"(2) a certification relative to the performance of any responsibilities which the Secretary has agreed to accept under section 306; and

"(3) a development investment strategy prepared in accordance with section 105.

"(b) FACTORS TO BE CONSIDERED IN APPROVAL PROCESS.—In approving applications for assistance under this title, the Secretary shall give consideration to—

"(1) the severity of distress in the area for which the grant is to be made;

"(2) the extent to which the grant will result in increased, or more stabilized, permanent employment in such area;

"(3) the ratio of private sector investments committed in such area to the amount of the grant applied for;

"(4) the extent to which the appropriate State and local governments have undertaken or agree to undertake other related actions to encourage economic development and the expansion of employment opportunities;

"(5) the effectiveness of the development investment strategy and the degree to which the proposed project contributes to its implementation (including the strategy's relationship to economic problems identified in the strategy), expands employment opportunities in the existing labor market, provides incentives to retain private businesses, expands or improves public facilities, and encourages private investment; and

"(6) the extent to which the strategy and activities are consistent with State and local goals and contribute to long-term economic growth and private sector employment opportunities and establish an overall strengthened economic and business environment which will be self-sustaining.

"(c) LIMITATION ON ASSISTANCE FACILITATING RELOCATIONS.—No assistance may be provided under this title for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation would not significantly and adversely affect employment in, or the economic base of, the area from which the industrial or commercial plant or facility would be leaving.

"SEC. 104. DISTRESS REQUIREMENTS.

"(a) CERTIFICATION.—In order to be eligible for assistance under this title, the applicant must certify that the area which is required by section 102 to meet the requirements of this section meets one or more of the following criteria:

"(1) The area has a per capita income of 80 percent or less of the national average.

"(2) The area has an unemployment rate 1 percent above the national average percentage for the most recent 24-month period for which statistics are available.

"(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

"(b) DOCUMENTATION OF DISTRESS.—Documentation of distress shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by the Secretary unless it is determined to be inaccurate. The most recent statistics available must be used.

"SEC. 105. DEVELOPMENT INVESTMENT STRATEGY.

"(a) PREPARATION AND CONTENTS.—Except as provided in subsection (b), an applicant for assistance under this title shall prepare a development investment strategy for the area which is required by section 102 to meet the requirements of section 104. The development investment strategy must—

"(1) identify the economic development problems sought to be addressed by the grant;

"(2) identify past, present, and projected future economic development investments in such area and public and private participants and sources of funding for such investments;

"(3) identify the extent to which the development investment strategy takes into account—

"(A) availability of developable land and space in the area;

"(B) public works, public service, and development facilities in the area;

"(C) availability of low-cost capital;

"(D) tax policy on investments in the area;

"(E) level of skill of the labor force; and

"(F) ability of State and units of local government to provide financial assistance in the management and implementation of the strategy;

"(4) set forth a strategy for addressing the economic problems identified in paragraph (1) and discusses the manner in which the strategy will solve such problems;

"(5) provide a description of the projects necessary to implement the strategy, an estimate and analysis of the costs and anticipated benefits of implementing the strategy, and an estimate of the timetables for completion of such projects;

"(6) provide a summary of public and private resources which are expected to be available for such projects; and

"(7) provide a comprehensive plan which demonstrates participation in all phases of the development and implementation of the development investment strategy by a representative percentage of small business concerns owned and controlled by socially and economically disadvantaged individuals, as defined by section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

"(b) CONSULTATION OF STATE OR ECONOMIC DEVELOPMENT DISTRICT.—In any case in which a unit of local government is the eligible applicant under section 102(a)(2), the unit of local government shall consult the State or economic development district, respectively, in the preparation of a development investment strategy.

"(c) APPROVAL OF DEVELOPMENT ORGANIZATION'S STRATEGY.—In any case in which a private or public nonprofit development organization within a unit of local government is the eligible applicant under section 102(c)(2), the organization must consult the unit of local government in the preparation of the organization's development investment strategy.

"SEC. 106. LIMITATIONS ON REVOLVING LOAN FUNDS.

"(a) PURPOSES AND USES OF GRANTS.—Grants under section 101(a) shall be for the purposes of stimulating small business development and promoting economic growth which contributes to an improved local tax base and the creation of permanent employment opportunities. Such grants may only be made to establish or recapitalize a revolving loan fund which will be used only—

"(1) for making loans or guaranteeing loans to small businesses for initial or working capital, or the purchase, rehabilitation or expansion of facilities or equipment; and

"(2) for making loans or guaranteeing loans to businesses if a relatively small amount of capital is needed to complete financing necessary to retain the business in the area.

"(b) DISTRESS REQUIREMENTS.—A grant made under section 101(a)(2) shall be made on the condition that the revolving loan fund established or recapitalized pursuant to such grant shall be used only for providing assistance described in subsection (a) in areas which meet the requirements of section 104.

"(c) LIMITATION ON AMOUNT OF GRANT.—No grant for the establishment or recapitalization of a revolving loan fund under section 101(a)(2) shall be made for more than $1,000,000.

"(d) CREDIT ELSEWHERE TEST.—No loan or guarantee shall be made from a revolving loan fund established or recapitalized pursuant to a grant under section 101(a)(2) unless the financial assistance applied for is not otherwise available from private lenders on terms which in the opinion of the administrator of the revolving loan fund will permit the accomplishment of the project.

"(e) TERMS OF GRANTS.—

"(1) USE ASSURANCES.—Any applicant for a grant for establishment or recapitalization of a revolving loan fund under section 101(a)(2) shall give assurances that amounts of any loan which are repaid to the fund will be available only for the purposes set forth in subsection (a).

"(2) REPAYMENT ASSURANCES.—No loan or guarantee may be made from a revolving loan fund established or recapitalized pursuant to a grant under section 101(a)(2) unless the applicant for such loan or guarantee provides reasonable assurance of repayment of the loan.

"(3) GRANTEE AS ADMINISTRATOR.—The grantee of any grant for establishment or recapitalization of a revolving loan fund under section 101(a)(2) shall administer the fund.

"(f) CONSIDERATION OF PAST PERFORMANCE.—In determining whether or not to make a grant for recapitalization of a revolving loan fund established or recapitalized pursuant to a grant under section 101(a)(2), the Secretary shall consider past performance of such fund.

"SEC. 107. FEDERAL SHARE.

"(a) CONSTRUCTION AND IMPROVEMENT PROJECTS.—The amount of any grant for a project described in section 101(a)(1) shall be that amount which when added to amounts available from all other sources is sufficient to complete such project. In no event shall the amount of any such grant exceed 50 percent of such cost of completing the project as determined at the time of the grant application. The Secretary may increase the maximum percentage of a grant from 50 percent to not more than 80 percent of the costs of completing a project described in section 101(a)(1) for an area which the Secretary determines is one of the most distressed of the areas meeting the distress requirements of section 104; except that the Secretary may not increase such percentage for more than 25 percent of the grants made in any fiscal year. In developing guidelines for determining which areas are the most distressed, the Secretary shall consider whether (1) the median family income for the area for the most recent 24-month period for which data is available is less than or equal to 75 percent of the national average median family income for such period, or (2) the average unemployment rate for the area for such period is greater than or equal to 2 times the national average unemployment for such period. No additional funds shall be granted or otherwise made available under this Act for any project described in section 101(a)(1) for which a grant has been made under this Act.

"(b) ESTABLISHMENT OF REVOLVING LOAN FUNDS.—The amount of any grant for the establishment of a revolving loan fund under section 101(a) shall not exceed an amount which is equal to the amount of funds available from all other sources for the establishment of such revolving loan fund. The amount of any additional grant for the recapitalization of a revolving loan fund previously established with a grant under section 101(a)(2) shall not exceed an amount which is equal to ⅓ of the amount of funds available from all other sources for such recapitalization.

"(c) INDIAN TRIBES.—In the case of a grant to an Indian tribe under section 101(a), the Secretary may reduce or waive any non-Federal share required by this section.

"SEC. 108. LIMITATIONS.

"(a) OBLIGATIONS IN A STATE.—Except for expenditures to Indian tribes, not more than 15 percent of the appropriations made for a fiscal year pursuant to this title may be expended in any one State.

"(b) OBLIGATIONS TO A PERSON.—The Secretary shall not obligate more than $4,000,000 in any fiscal year to any person (including any State or local government or public organization) for grants under this title, other than grants for establishment of qualified employee ownership organizations.

"SEC. 109. COMMUNITY DEVELOPMENT CORPORATIONS.

"(a) GRANTS.—The Secretary may make grants to community development corporations to assist small businesses by reducing the interest rates for economic development activities to be carried out by such businesses in areas meeting the distress requirements of section 104.

"(b) AGGREGATE AMOUNT.—The aggregate amount of grants under this section may not exceed $10,000,000 in any fiscal year.

"SEC. 110. OBLIGATION OF FUNDS.

"(a) BY MAY 31.—Not later than May 31 of each fiscal year, the Secretary shall obligate for grants under this title not less than 50 percent and not more than 60 percent of the funds appropriated for such fiscal year pursuant to this title.

"(b) BY SEPTEMBER 30.—Not later than September 30 of each fiscal year, the Secretary shall obligate for assistance under this title the remaining funds appropriated for such fiscal year pursuant to this title.

"SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this title, to be available until expended, $200,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995. Not more than 25 percent of the amount appropriated pursuant to this section for any fiscal year shall be expended to carry out section 101(a)(2).

"TITLE II—INVESTMENT STRATEGY, PLANNING, EVALUATION, AND DEMONSTRATION

"SEC. 201. INVESTMENT STRATEGY AND PLANNING.

"(a) GRANTS FOR ECONOMIC DEVELOPMENT PLANNING.—The Secretary is authorized to make grants for economic development planning, including the preparation of development investment strategies under section 105 and the payment of administrative expenses, to—

"(1) any State,

"(2) any economic development district,

"(3) any Indian tribe,

"(4) any county if the jurisdictional area of such county meets the requirements of section 104 and is located outside of the boundaries of an economic development district, and

"(5) any other unit of local government with a population of 50,000 or more if the jurisdictional area of such unit meets such requirements and is located outside of the boundaries of an economic development district.

The Secretary is also authorized to make grants for preparation of a development investment strategy under section 105 to any unit of local government with a population of 100,000 or more if the jurisdictional area of such unit meets the requirements of section 104 and, in any case in which such unit is located within the boundaries of an economic development district, such unit consults the district in the preparation of the investment strategy.

"(b) COMPREHENSIVE PLANNING REQUIREMENT.—Planning carried out under this section shall be a part of a comprehensive planning process and shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program.

"(c) PREPARATION OF STATE PLANS.—Any State economic development plan prepared with assistance under this section shall be prepared by the State with the active participation of units of local government and economic development districts located in whole or in part within such State and shall set goals for economic development within such State.

"(d) ANNUAL STATE REPORTS.—Each State receiving assistance under this section shall submit to the Secretary an annual report on the planning process assisted under this section.

"(e) DISTRICT AND LOCAL PLANS CONSISTENT WITH STATE PLAN.—Any economic development planning by an economic development district or a unit of local government for which a grant is made under this section shall consider the State economic development plan for the State in which such district or unit is located.

"(f) COORDINATION OF RESOURCES.—Grants under this section shall be used, to the maximum extent possible, to provide coordination of investment for community facilities, economic development, manpower training, and transportation services.

"(g) ENCOURAGEMENT OF ASSISTANCE.—Each applicant for assistance under this section is encouraged to provide project planning, financial analysis, marketing, management, feasibility studies, and other technical and financial assistance to communities and neighborhoods within its boundaries.

"SEC. 202. EVALUATION AND DEMONSTRATION.

"(a) EVALUATION OF DEVELOPMENT INVESTMENT EFFORTS.—The Secretary is authorized to conduct a program of evaluation of Federal, State, and local development investment efforts in order to—

"(1) assist in determining the causes of unemployment, underemployment, severe economic adjustment problems, and chronic distress in areas and regions of the United States; and

"(2) assist in formulating, implementing, or improving programs at the National, State, or local levels which are designed to increase employment in private firms, assist depressed industry sectors, or otherwise promote economic development or adjustment.

"(b) DEMONSTRATION PROGRAMS.—

"(1) IN GENERAL.—The Secretary is authorized to conduct demonstration programs to test the feasibility of new ways to increase productivity and growth designed to make the steel industry and related industries more competitive, to encourage the use and development of innovative technology and research in economic development, to match the labor force with projected labor markets, to improve United States competitiveness, and to encourage economic diversity and regional balance.

"(2) REPORTS.—Not later than 90 days after completion of each demonstration program conducted under this subsection, the Secretary shall transmit to Congress a report on the results of such program.

"(c) ADMINISTRATION.—Programs authorized under subsections (a) and (b) of this section may be carried out by the Secretary acting through the staff of the Department of Commerce, in cooperation with or by the provision of funding to other departments or agencies of the Federal Government, or by contract.

"(d) GRANTS FOR MANAGEMENT AND TECHNICAL ASSISTANCE.—The Secretary is authorized to make grants to colleges, universities, and other organizations to establish and support ongoing programs which provide to businesses and units of local government management and technical assistance for the purposes of promoting productivity, economic development, and employment opportunity.

"SEC. 203. FEDERAL SHARE.

"(a) ECONOMIC DEVELOPMENT PLANNING.—The amount of any grant under section 201 may not exceed 75 percent of the cost of economic development planning or of the preparation of a development investment strategy.

"(b) MANAGEMENT AND TECHNICAL ASSISTANCE.—The amount of any grant under section 202(d) may not exceed 75 percent of the cost of establishing and supporting the ongoing management and technical assistance program.

"(c) DETERMINATION OF NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of costs under this section, the Secretary shall give consideration to all contributions both in cash and in kind, including space, equipment, and services.

"(d) INDIAN TRIBES.—In the case of a grant to an Indian tribe under section 201, the Secretary may reduce or waive any non-Federal share required by this section.

"SEC. 204. OBLIGATION OF FUNDS.

"Not later than December 31 of each fiscal year, the Secretary shall obligate for grants under section 201, 90 percent of the funds appropriated for such fiscal year pursuant to this title, other than those funds made available for purposes of section 202. The remainder of such funds shall be obligated during such fiscal year only for making grants under section 201 in areas meeting the criteria set forth in section 104(a)(3).

"SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title, to be available until expended, $50,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995.

"(b) LIMITATION ON AMOUNT FOR SECTION 202.—Of sums authorized to be appropriated under subsection (a) of this section, not to exceed $13,000,000 in fiscal year 1993 and not to exceed $15,000,000 in each of fiscal years 1994 and 1995 shall be available for purposes of section 202.

"TITLE III—ADMINISTRATION

"SEC. 301. DEFINITIONS.

"For purposes of this Act, the following definitions apply:

"(1) ECONOMIC DEVELOPMENT DISTRICT.—The term 'economic development district' means—

"(A) an economic development district designated on or before January 1, 1992, under section 403(a)(1) of the Public Works and Economic Development Act of 1965; and

"(B) any district within a State which is designated by the Secretary, which district is of sufficient size or population and contains sufficient resources to foster economic development on a scale involving more than one county and does not contain within its boundaries any part of another economic development district designated under subparagraph (A) or under this subparagraph.

"(2) JURISDICTIONAL AREA.—The term 'jurisdictional area' means the area over which a unit of local government has jurisdiction.

"(3) INDIAN TRIBE.—The term 'Indian tribe' means the governing body of an Indian tribe, an Indian authority or tribal organization or entity, an Alaska Native village, or any Indian group which is recognized as an Indian tribe by the Secretary of the Interior, except that the term 'Indian tribe' shall also include those bodies, authorities, organizations, entities, or groups not recognized by the Secretary of the Interior, if such body, authority, organization, entity, or group is recognized as a tribe or other similar appropriate entity by the State in which it is located and such State holds land in trust on behalf of such tribe or other similar appropriate entity.

"(4) QUALIFIED EMPLOYEE OWNERSHIP ORGANIZATION.—The term 'qualified employee ownership organization' includes a qualified employee trust as defined in section 3(c)(2) of the Small Business Act, except that—

"(A) such term shall not be limited to plans maintained by small business concerns or to loans guaranteed under such Act;

"(B) in the case of any form of financial assistance, the principles of section 3(c)(2)(B) of such Act shall apply under regulations prescribed by the Secretary; and

"(C) there shall be periodic reviews of the role, in the management of the concern involved, of employees to whose account stock is allocated.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"(6) SMALL BUSINESS CONCERN.—The term 'small business concern' means a business that is independently owned and operated, is not dominant in its field of operations, and meets such other criteria as the Secretary, after consultation with the Administrator of the Small Business Administration, may by regulation establish, including numbers of employees and dollar volume of business by industrial classes.

"(7) STATE.—The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas.

"(8) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, town, parish, village, or other general purpose political subdivision of a State.

"SEC. 302. APPOINTMENT OF ASSISTANT SECRETARY.

"The Secretary shall administer this Act with the assistance of an Assistant Secretary of Commerce, established by section 601 of the Public Works and Economic Development Act of 1965. Such Assistant Secretary shall perform such functions as the Secretary may prescribe.

"SEC. 303. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

"The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment. The Secretary may make provisions for such consultation with interested departments and agencies as he may deem appropriate in the performance of the functions vested in him by this Act.

"SEC. 304. ADMINISTRATION OF ASSISTANCE.

"No grant shall be approved under this Act unless the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

"SEC. 305. POWERS OF THE SECRETARY.

"(a) LIST OF POWERS.—In performing his duties under this Act, the Secretary is authorized to do the following:

"(1) Adopt, alter, and use a seal, which shall be judicially noticed.

"(2) Hold such hearings, sit and act at such times and places, and take such testimony, as the Secretary may deem advisable.

"(3) Request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act. Each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

"(4) Acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized by this Act.

"(5) Procure by contract the temporary or intermittent services of experts and consultants or organizations therefor as authorized by section 3109(b) of title 5, United States Code, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) in accordance with section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"(6) Sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne, or final, shall be issued against the Secretary or property of the Secretary.

"(7) Establish such rules, regulations, and procedures as the Secretary may deem appropriate in carrying out the provisions of this Act.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act (including subsection (a)(6)) shall be construed to except the activities under this Act from the application of sections 517, 547, and 2679 of title 28, United States Code.

"SEC. 306. CERTIFICATION.

"(a) ACCEPTANCE.—The Secretary may discharge any of his responsibilities relative to a project for which a grant may be made under title I of this Act by accepting a certification by the applicant of the applicant's performance of such responsibilities.

"(b) RESCISSION OF ACCEPTANCE.—Acceptance by the Secretary of an applicant's certification under this section may be rescinded by the Secretary at any time if, in the opinion of the Secretary, it is necessary to do so.

"(c) REGULATION.—The Secretary shall issue such guidelines and regulations as may be necessary to carry out this section.

"SEC. 307. SAVINGS PROVISIONS.

"(a) AFFECT ON PROCEEDINGS.—No suit, action, or other proceeding lawfully commenced by or against the Secretary or Assistant Secretary or any other officer in his or her official capacity or in relation to the discharge of his or her official duties under the Public Works and Economic Development Act of 1965 shall abate by reason of the taking effect of the amendment by section 103 of the Public Works and Economic Development Act Amendments of 1992, but the court may, on a motion or supplemental petition filed at any time within 12 months after the effective date of such amendment, showing a necessity for the survival of such suit, action, or proceeding to obtain a settlement of the questions involved, allow such suit, action, or proceeding to be maintained by or against the Secretary or Assistant Secretary or such other officer of the Department of Commerce as may be appropriate.

"(b) EXISTING REGULATIONS AND PROCEEDINGS.—All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, before the effective date of such amendment, by any agency, officer, or office pertaining to any functions, powers, and duties under the Public Works and Economic Development Act of 1965 shall continue in full force and effect after such effective date until modified or rescinded by the Secretary or such other officer of the Department of Commerce as, in accordance with applicable law, may be appropriate.

"SEC. 308. ANNUAL REPORT.

"The Secretary shall make a comprehensive and detailed annual report to Congress of operations under this Act for each fiscal year beginning after the year ending September 30, 1992. Such report shall be printed and shall be transmitted to Congress not later than February 1 of the year following the fiscal year with respect to which such report is made.

"SEC. 309. PREVAILING RATE OF WAGE.

"(a) GENERAL RULE.—All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, commonly known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a–276a-5).

"(b) ASSURANCE.—The Secretary shall not extend any financial assistance under this Act for any project without first obtaining adequate assurance that the standards required by subsection (a) will be maintained upon the construction work.

"(c) FUNCTION OF SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the standards required by subsection (a), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. App.), and section 2 of the Act of June 13, 1934 (48 Stat. 948; 40 U.S.C. 276c).

"SEC. 310. RECORD OF APPLICATIONS.

"The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of each application approved for a grant under this Act, which shall be kept available for public inspection during the regular business hours of the Department of Commerce. The following information shall be posted in such list as soon as each application is approved:

"(1) The name of the applicant.

"(2) The amount and duration of the grant for which application is made.

"(3) The purposes for which the proceeds of the grant are to be used.

"SEC. 311. RECORDS AND AUDIT.

"(a) GENERAL RULES.—

"(1) RECORDS.—Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which—

"(A) fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

"(B) review the efficiency, economy, and effectiveness of the project carried out under this Act.

"(2) REPORTS TO SECRETARY.—Not later than January 11 and July 11 of each year, each recipient shall transmit a report to the Secretary containing all information prescribed under paragraph (1) which relates to all activities carried out during the preceding period relating to grants made to it under this Act. Each report submitted in January of each year shall include an audited statement of all funds spent on the project or undertaking during the preceding fiscal year. Such statement shall be prepared in accordance with chapter 75 of title 31, United States Code, or agency regulations governing the audit of nonprofits.

"(b) ACCESS TO INFORMATION.—For the purpose of reviewing the efficiency, economy, and effectiveness of programs carried out under the provisions of the Act, including audit and examination, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of any recipient, subrecipient, contractor, or subcontractor that are pertinent to assistance received under this Act.

"SEC. 312. NONDISCRIMINATION REQUIREMENTS.

"In administering this Act, the Secretary may not—

"(1) discriminate in favor of or against any qualified applicant based on the fact that the area in which the project would be located is either rural or urban in character;

"(2) create separate allocations of funds to provide assistance for urban and rural areas unless such allocations are based on objective findings of relative levels of distress in areas qualified for assistance under this Act; or

"(3) deny assistance to a qualified applicant based on the fact that the project area is located in a State which has a low level of unemployment.

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated for salaries and administrative expenses to carry out the provisions of this Act $26,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995. Appropriations under this Act shall remain available until expended. Any contract entered into pursuant to this Act shall be effective only to such extent and in such amounts as may be provided in advance in an appropriation Act.".

SEC. 104. AMENDMENT TO TITLE IX OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.

Section 905 of the Public Works and Economic Development Act of 1965 is amended to read as follows:

"SEC. 905. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this title $50,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995.".

SEC. 105. AMENDMENT TO SHORT TITLE OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.

The Public Works and Economic Development Act of 1965 is amended by striking "That this Act may be cited as the 'Public Works and Economic Development Act of 1965'." and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Development Investment Act'.".

TITLE II—APPALACHIAN REGIONAL DEVELOPMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Appalachian Regional Development Act Amendments of 1992".

SEC. 202. FINDINGS AND PURPOSES.

Section 2 of the Appalachian Regional Development Act of 1965 is amended—

(1) in subsection (a) by striking the period at the end of the 6th sentence and inserting "and in severely distressed and underdeveloped counties and areas lacking resources for basic services."; and

(2) by adding at the end the following new subsection:

"(c) The Congress further finds and declares that, while substantial progress has been made in fulfilling many of the objectives of this Act, rapidly changing national and global economics over the past decade have created new problems and challenges for rural areas throughout the Nation and especially for the Appalachian region. Thus, the problems of the region are not only to provide the infrastructure necessary to economic and human resource development, to develop its industry, and to generate a diversified regional economy, but to make the region's industrial and commercial resources more competitive in national and world markets. It is, therefore, also the purpose of this Act to provide a framework for coordinating Federal, State, and local initiatives to respond to the economic competitive challenge through improving the skills of the region's manpower, adapting and applying new technologies for the region's businesses, and improving the access of the region's businesses to the technical and financial resources necessary to their development while continuing to address the need to provide basic services for the more disadvantaged areas of the region so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across this Nation.".

SEC. 203. AUTHORIZATIONS FOR ADMINISTRATIVE EXPENSES.

Section 105(b) of the Appalachian Regional Development Act of 1965 is amended by striking the period at the end and inserting the following: ", and not to exceed $3,800,000 per fiscal year for each of fiscal years 1993, 1994, and 1995. Of amounts appropriated pursuant to the preceding sentence for each of fiscal years 1993, 1994, and 1995, not to exceed $1,300,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff.".

SEC. 204. EXTENSION OF LEASE TERMS.

Section 106(7) of the Appalachian Regional Development Act of 1965 is amended by striking "1982" and inserting "1995".

SEC. 205. HIGHWAY SYSTEM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(g) of the Appalachian Regional Development Act of 1965 is amended by striking the period at the end and inserting the following: "; and $144,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995.".

(b) FEDERAL SHARE.—

(1) GENERAL RULE.—Section 201(h)(1) of such Act is amended by striking "70 per centum" and inserting "80 percent".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to projects approved after March 31, 1979.

SEC. 206. DEFINITIONS.

(a) UPDATING OF COVERED FEDERAL GRANT-IN-AID PROGRAMS.—The first sentence of section 214(c) of the Appalachian Regional Development Act of 1965 is amended by striking "December 31, 1980" and inserting "October 1, 1996".

(b) LIMITATION ON COVERED ROAD PROJECTS.—The second sentence of such section is amended by inserting "authorized by title 23, United States Code" after "road construction".

SEC. 207. PROGRAM DEVELOPMENT CRITERIA.

Section 224(a) of the Appalachian Regional Development Act of 1965 is amended by inserting before the semicolon at the end of paragraph (1) the following: "or in a severely distressed and underdeveloped county or area lacking resources for basic services".

SEC. 208. REMOVAL OF LIMITATION.

Section 224(b) of the Appalachian Regional Development Act of 1965 is amended—

(1) by striking "(2) to finance" and all that follows through "(3)" and inserting "(2)"; and

(2) by striking "(4)" and inserting "(3)".

SEC. 209. MAXIMUM FEDERAL SHARE.

Section 224 of the Appalachian Regional Development Act of 1965 is amended by adding at the end the following new subsection:

"(d) MAXIMUM FEDERAL SHARE.—Notwithstanding any other provision of this Act, after September 30, 1992, grants made with funds authorized under this Act shall not exceed 50 percent of the costs of any project approved under this Act (except projects under section 201); except that, notwithstanding any limitation of any other Federal law, such grants may increase the Federal contribution to any project being carried out under such other law and eligible for financial assistance under this Act to such percentage as the Commission determines appropriate within the limitations of this Act. The Commission may increase the maximum percentage of a grant from 50 percent to not more than 80 percent of the costs of a project approved under this Act for a county which the Commission determines is one of the most distressed counties in the Appalachian region; except that the Commission may not increase such percentage for more than 25 percent of the grants made in any fiscal year.".

SEC. 210. GRANTS FOR ADMINISTRATIVE EXPENSES AND DEMONSTRATION PROJECTS.

(a) GENERAL RULE.—Section 302(a)(3) of the Appalachian Regional Development Act of 1965 is amended—

(1) by inserting after "technical assistance" the following: "(including technical assistance for business development and stabilization and application of technologies and productivity improvement)";

(2) by inserting after "training programs" the following: "(including on-site employee training and programs to upgrade employability of the region's people)"; and

(3) by inserting after "demonstrations" the following: "(including demonstrations of service consolidations and other methods of increasing efficiency of local governments, the establishment and operation by States, public agencies, or nonprofit development organizations of revolving funds for business assistance loans, the establishment and operation of business incubators and the provision of industrial facilities and equipment by public agencies and nonprofit organizations on such terms (including terms of reasonable recovery of grant funds upon resale) as are approved by the Commission, and the acquisition and development of land)".

(b) LIMITATIONS ON DEMONSTRATION GRANTS.—Subsection (b)(1) of such section is amended—

(1) by striking ", (3), or (4)," and inserting "or (4),";

(2) by inserting "or economic" after "energy"; and

(3) by striking the second sentence and inserting the following: "Funds in energy enterprise development loan funds established with grants previously approved by the Commission under this section may, upon approval of the Commission pursuant to section 303, after the date of the enactment of the Appalachian Regional Development Act Amendments of 1992, be made available for the purposes authorized in subsection (a)(3).".

SEC. 211. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM.

Section 401 of the Appalachian Regional Development Act of 1965 is amended by adding at the end the following: "In addition to the appropriations authorized in section 105 for administrative expenses and in section

201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the Commission, to be available until expended, to carry out this Act, $37,500,000 per fiscal year for each of fiscal years 1993, 1994, and 1995.".

SEC. 212. DEFINITION OF APPALACHIAN REGION.

The 12th undesignated paragraph of section 403 of the Appalachian Regional Development Act of 1965, relating to Virginia, is amended—

(1) by inserting "Montgomery," after "Lee,"; and

(2) by inserting "Roanoke, Rockbridge," after "Pulaski,".

SEC. 213. EXTENSION OF TERMINATION DATE.

Section 405 of the Appalachian Regional Development Act of 1965 is amended by striking "1982" and inserting "1995".

SEC. 214. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE COMMISSION.—If the Appalachian Regional Commission, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so desires, the Commission is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this Act that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Commission shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this Act for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitation for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Commission shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1993 and 1994 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to which the United States is a party. The Commission shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SECRETARY.—The term "Commission" means the Appalachian Regional Commission.

(2) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KOLTER] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. BENTLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KOLTER].

Mr. KOLTER. Mr. Speaker, I yield myself such time as I may consume.

I rise in behalf of H.R. 4157 and urge members to support it.

As chairman of the Subcommittee on Economic Development, I am pleased to join my colleagues on the Committee on Public Works and Transportation and the Committee on Banking, Finance and Urban Affairs in bringing this bill to the House. I want to thank Chairman BOB ROE, and ranking member, JOHN PAUL HAMMERSCHMIDT, of the Public Works Committee, and HELEN DELICH BENTLEY, ranking member on the subcommittee, for their help and support on this issue and others that came before us.

This bill should be familiar to many of you. Title I strikes titles I through VIII of the existing Public Works and Economic Development Act and replaces them with provisions substantially similar to bills which overwhelmingly passed the House in the last five Congresses—by 340 to 82 in the 102d. It improves existing legislation and provides grants for new construction or improvement of public facilities as well as grants for revolving loan funds to assist business growth, for economic development and strategy planning, and for technical and management assistance. Titles VIII, IX and X of the existing law are retained.

Title IX, has long been one of EDA's most active and flexible programs. It provides economic adjustment assistance to help areas overcome long-term economic deterioration [LTED] as well as areas threatened or impacted by sudden and severe economic dislocation [SSED] such as military base closures, major plant closings, defense industry cutbacks, and natural disasters. In fact, EDA is currently operating under an agreement with the Department of Defense Office of Economic Adjustment using $50 million provided in the Defense Authorization and Defense Appropriations Acts of the last Congress specifically for defense-related adjustment activities. Funds were also recently made available in the Supplemental Appropriations Act for title IX assistance to States and local communities affected by Hurricane Andrew and Typhoon Omar.

Title II of H.R. 4157, amends the Appalachian Regional Development Act. It provides for the Appalachian Regional Commission's Development Highway System and the area development programs and adds three counties in Virginia to the legal definition of the Appalachian region.

Authorizations for the Public Works and Economic Development Act programs would be $300 million for each fiscal year 1993, 1994, and 1995 for development, planning, and economic adjustment programs and $26 million annually for salaries and expenses.

For ARC, annual authorizations for the 3 fiscal years would be $144 million for highways, $37.5 million for area development programs, and $3.8 million for administrative expenses.

Given the present state of our economy, the need is greater than ever for this Federal effort to assist disadvantaged rural and urban areas promote economic growth and help the private sector create new jobs. Also, as our economy increasingly is involved in worldwide markets, it is imperative that we pursue a variety of strategies to help all areas of the country become competitive in the global economy of the 21st century.

I urgently request your support in passing H.R. 4157.

Mr. Speaker, I reserve the balance of my time.

□ 2250

Mrs. BENTLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my first order of business this evening is to commend the gentleman from Pennsylvania for his leadership as chairman of the Public Works and Transportation Subcommittee on Economic Development during the 102d Congress, and for his help and hard work in drafting the legislation under consideration, H.R. 4157. I want to tell the gentleman from Pennsylvania how much I will miss working with him in the future. I also want to thank Chairman ROE and Mr. HAMMERSCHMIDT, ranking minority member of the full committee for their leadership and assistance.

Mr. Speaker, as the ranking minority member of the Subcommittee on Economic Development, I rise in support of H.R. 4157.

This legislation authorizes $276 million annually for the Economic Development Administration and $185 million annually for the Appalachian Regional Commission for fiscal years 1993, 1994, and 1995.

Both agencies were created by the Congress in 1965 to provide Federal assistance for economically distressed urban and rural areas throughout the United States, and, hopefully, to spur economic renewal and growth.

Our committee held 3 days of hearings on this legislation and heard testimony from various public and private entities about the successes and continued need for these programs.

Mr. Speaker, EDA and ARC, and the programs these agencies administer, are the safety nets for many Americans in need—safety nets that remain in place despite efforts over the past 11 years to dismantle them.

EDA and ARC programs are positive initiatives designed to generate economic growth, generate jobs, and help improve the standard of living of those people living in the most economically depressed areas of our Nation.

As the subcommittee states in the report accompanying H.R. 4157,

> Given the present state of our economy and the future outlook, the need is greater than ever for a federal role to assist distressed urban and rural areas to promote economic growth and deal with a serious matter of national importance—namely, how to help the private sector create new jobs.
>
> Direct funding is required to get economic initiatives moving. Experience has shown that long-lasting economic development leading to creation to good paying jobs requires continual activity, a systematic building process based on a variety of strategies and the on-going planning and nurturing of many people and organizations.

Mr. Speaker, H.R. 4157 would enhance EDA and ARC programs designed to assist that process.

The Subcommittee and the full committee, I believe, has improved upon previous legislative efforts to reauthorize EDA and ARC, legislative efforts that overwhelmingly were passed by the House, but, unfortunately, died because of Senate inaction.

The bill amends the often-criticized current procedure of over-designating areas eligible for EDA assistance and it will target more closely economic development assistance to depressed areas.

Mr. Speaker, H.R. 4157 is an excellent bill—urgently needed by many communities throughout the Nation, and I strongly urge all of my colleagues to vote for this most critical piece of legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I thank the gentlewoman for yielding time to me.

I rise in very strong support of H.R. 4157.

First of all, I want to commend the gentleman from Pennsylvania [Mr. KOLTER] and the ranking member, the gentlewoman from Maryland [Mrs. BENTLEY] for bringing this legislation to the floor tonight.

It is a program which I have been closely involved with for a great many years, and I really appreciate the persistence of the gentleman from Pennsylvania [Mr. KOLTER] in attempting to get this program reauthorized. It deserves to be. It has been a good program, one that I think has stood the test of time and should be reauthorized tonight.

I really sought membership on the Committee on Public Works and Transportation because of my interest in the Economic Development Administration and what I thought it really could do and had done to foster private sector employment in this country. In a former life, I served as the chief counsel of the Economic Development Administration and observed firsthand how the programs worked, the grant program, the Public Works Grant Program, the title 9 Program to address sudden and severe increase in unemployment in various areas.

Contrary to what some of my Republican colleagues in the administration felt, that it was not an effective program, I really observed how we have, in fact, with a very modest investment of Federal funds, been able to leverage a tremendous amount of private sector employment. That is what this is all about.

It really is one of the few programs, coupled with the Appalachian Regional Commission funds, it is really one of the few programs that we have at the Federal level anymore that is designed to foster private sector employment, which is what I thought we should be all about. So I think this is a good program.

As I say, I have seen firsthand how effective it has been in various titles. I think the fact that the gentlewoman from Maryland [Mrs. BENTLEY] alluded to, that one of the things that we were criticized for in EDA, which was that too many areas of the country were qualified for EDA assistance but were not really distressed areas, that once they were identified as what we called a development area, they never got disqualified, and even though they became affluent.

This bill takes care of that. It does recognize that areas can be assisted and should no longer be qualified for EDA assistance so that the money can be directed to those areas that really need it. So this is something that I have regretted for a long time, is that my own administration has been unwilling or unable to see the benefits that this program has brought.

I just commend both of my colleagues for bringing it to the floor tonight.

Mr. KOLTER. Mr. Speaker, I yield myself such time as I may consume.

I sure wish that if the hour were not so late I could join my colleagues from the other side in talking about the virtues of the EDA programs and the ARC programs. We could talk for hours.

However, time is late.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. BENTLEY. Mr. Speaker, I yield myself such time as I may consume.

Before concluding, I want to thank and commend the majority staff, Carl Lorenz, Marty Downie, and John Ferrera, and especially Susan Fry and Bill Lally of the minority staff for their outstanding service and hard work.

Again, Mr. Speaker, I want to tell my chairman how much I enjoyed working with him.

Mr. ROE. Mr. Speaker, I would first like to pay my complements to JOHN PAUL HAMMERSCHMIDT of Arkansas, ranking member of the Committee on Public Works and Transportation, JOE KOLTER of Pennsylvania, chairman of our Subcommittee on Economic Development, and HELEN DELICH BENTLEY of Maryland, the subcommittee's ranking Republican member. This is the last time that I will work with these distinguished members on this important legislation and I commend them on their excellent effort on this bill.

As a former chairman of the Economic Development Subcommittee, I am quite familiar with the good works of the Economic Development Administration and the Appalachian Regional Commission which are reauthorized under this bill.

Mr. Speaker, I am sure that our colleagues have heard me speak on many occasions about the importance of investment in our Nation's public works. From such projects, our Nation derives immediate benefit from increased jobs and public facilities for our citizens, and long-term benefit from enhanced efficiency, productivity, and competitiveness. Reauthorization of these programs is especially important because the Economic Development Administration and the Appalachian Regional Commission direct public investment and job creation activities toward those communities which most desperately need them. H.R. 4157 continues authorization for these vital programs which were originally signed into law in 1965. During the past 27 years, EDA and ARC have improved the lot of millions of American citizens.

Title I of the bill, the National Development Investment Act, provides tools to local communities that need special assistance to resolve their economic problems. Under the Public Works and Economic Development Act, the Economic Development Administration has provided funding for distressed communities through construction, repair, and improvement of public facilities, revolving loan funds to assist small business creation and expansion, Employee Stock Ownership Programs to prevent economic displacement, technical assistance, and emergency relief for the victims of economic dislocation and natural disaster.

Title II reauthorizes the Appalachian Regional Commission in line with policies endorsed by the Appalachian Governors. The commission is a fine example of cooperation among the various levels of Government. It is comprised of the Governors of the 13 States within the region, and a Federal cochairman who is appointed by the President the administration supports funding for the ARC in its fiscal 1993 budget.

The commission has overseen the construction of 2,181 miles of the Appalachian Highway Corridor System which is authorized at a total of 3,025 miles. The corridor system is the most important aspect of attempts to diversify the Appalachian economy, attract new business, and improve the quality of life through-

out the region. The ARC has also provided support for business, civic, and communications infrastructure, waste and water treatment facilities, rural and primary health care facilities, educational consortia, and many other projects.

In addition to the obvious benefits of this program, Mr. Speaker, many of the jobs that are created will affect the construction industry, which has been one of those hardest hit by the current recession and by commercial overbuilding in the 1980's. Economists and construction leaders testifying before our committee this year estimated that, as a result of the commercial building glut, high double digit unemployment in the construction industry will continue for several years. Relief to this crucial industry will be a most important and beneficial side effect of these programs.

In conclusion, Mr. Speaker, although such programs as EDA and ARC have improved the lot of so many Americans, these difficult times require that we be ever more vigilant in supporting the economic strength of our Nation. These programs are crucial to our economy because they seek to address the chronic poverty and isolation which drain the resources of the Nation as a whole. Elevating the quality of life of these citizens will add to the prosperity of all Americans by making distressed communities, and therefore our country, more productive and more competitive.

Mr. HAMMERSCHMIDT. Mr. Speaker, once again we have a bill before us to reauthorize the programs of the Economic Development Administration [EDA] and the Appalachian Regional Commission [ARC].

Since 1965, these programs have provided the impetus for the revitalization of economically depressed areas across the country. Over the years, legitimate concerns have been raised about these programs, and the Public Works and Transportation Committee has worked diligently, and in bipartisan fashion, to address those concerns.

Several significant reforms are made by this bill. Authorization levels are considerably reduced from the peak levels of the late 1970's. Eligibility criteria have been narrowed so that limited funds are targeted to the most distressed areas, and consideration is directed to be given to those projects with the greatest potential for success. Long-term designations of distress are eliminated and replaced with a requirement for annual certification. Most importantly, the legislation requires comprehensive, coordinated planning between State and local governments in order to insure that long-term, successful economic development strategies are implemented.

H.R. 4157 also extends the highway and area development programs of the Appalachian Regional Commission, programs which have contributed significantly to economic improvement in one of the most economically depressed areas of the country. Meaningful gains in the region made over the years have been threatened by technological changes, an increasingly global marketplace, and the recent national economic slowdown. To forestall that threat, continued funding is provided for area redevelopment efforts, and for continued construction and improvement of the Appalachian Development Highway System, the system established to end the isolation of the Appalachian region.

While one can argue over various provisions of an EDA/ARC reauthorization bill, and over certain programmatic aspects, there really should be no argument as to the validity of needs in economically distressed communities throughout this country. The challenges facing those communities is quite varied. For some, economic improvement is limited because of crumbling public works infrastructure, while others have suffered the shock of losing major industries and hundreds or thousands of jobs. In addition, many areas across the Nation are facing economic upheaval because of the occurrence of major disasters or military base closures and defense industry cutbacks. For all of those areas, there is little hope for economic improvement without some measure of federal support.

H.R. 4157 represents an important effort toward providing the support needed by distressed communities. It authorizes $200 million a year over 3 years for grants for the construction, repair and rehabilitation of vital infrastructure facilities, as well as to create revolving loan funds to provide seed capital to stimulate the growth of small businesses. The bill also requires the development of comprehensive, long-term economic recovery strategies, and provides funding to aid the planning process. The active participation of the private sector, without whom true economic growth is impossible, is encouraged to the maximum extent. Finally, the title IX economic adjustment program, which has become increasingly important in providing both general and defense related economic adjustment assistance, as well as economic aid to communities recovering from disasters, is retained.

I would like to commend Chairman BOB ROE; our economic development subcommittee chairman, JOE KOLTER, and the ranking Republican member HELEN BENTLEY, for their leadership in crafting this legislation. The House has expressed strong support in the five previous Congresses for similar legislation, and I hope to see that support continued today.

Mr. MINETA. Mr. Speaker, I rise to express my strong support for H.R. 4157, A bill to reauthorize and amend the programs administered by the Economic Development Administration [EDA] and those of the Appalachian Regional Commission [ARC]. This bill is similar to those reported by the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs and passed by the House in the five previous Congresses.

Title I of the Bill, the National Development, Investment Act, provides assistance to encourage economic diversification, adjustment and development in economically distressed areas. It modifies, improves on and updates the programs currently administered by the Economic Development Administration. It helps local communities struggling to rebuild their economic resources and encourages active participation and coordination of the private sector and other public units in developing long-term strategies to deal with economic problems and create jobs.

Title II of H.R. 4157 reauthorizes funding for the highway and non-highway programs of the Appalachian Regional Commission. It provides the commission with the tools to address current challenges facing the region from changing national and international economies, to provide for basic needs of the region's most severely distressed areas, and to encourage regionwide investment that can promote economic growth and improve the standard of living of the region's citizens.

The bill provides authorizations for fiscal years 1993, 1994 and 1995. For the National Development Investment Act, annual authorizations would be $300 million for development facilities, planning and investment strategy and economic adjustment, and $26 million for salaries and expenses. For the Appalachian Regional Commission programs, annual funding would be $37.5 million for non-highway programs, $144 million for the development highway system programs and $3.8 million for salaries and expenses.

Authorizations for both these programs expired on September 30, 1982; however, funds have been made available each year since then through budget and appropriations measures. The authorization levels contained in this bill are considerably less than pre-1982 levels and that reflects the committee's concern about our Federal deficit problems.

At the same time, however, the committee is committed to maintaining a Federal role to help disadvantaged local areas bolster neglected infrastructure, undertake a variety of economic development projects and encourage this start up or expansion of small businesses that can create jobs.

Evaluations of existing programs received during committee hearings have provided convincing evidence that these regional and subregional development projects have served a national economic and social purpose. The Federal dollars spent have attracted other investment dollars from non-federal sources and the private sector and have been effective in helping the private sector retain and create jobs. The result is that more tax dollars have been returned to Federal, State and local treasuries than went out.

This legislation represents a positive approach to dealing with some of our Nation's most pressing problems. I urge your support to pass H.R. 4157.

Mrs. LLOYD. Mr. Speaker, I rise in strong support of H.R. 4157, legislation to revise and extend the Public Works and Economic Development Act and the Appalachian Regional Development Act of 1965. The importance of this bill to businesses and communities in the Third District of Tennessee and around the country cannot be understated.

This bill allows funds to be directed towards projects and programs to assist communities in providing services, attracting new businesses and creating much needed jobs. In many cases, were it not for these programs, basic services in some communities would be severely limited. We must not turn our back on these areas and this bill allows us to address many of their problems head on.

I believe the Federal Government can be a partner with communities. Through these programs, the Federal Government can give smaller or economically distressed communities some support so they can take that first step towards productivity and economic stability.

If we want new directions for our economy, and our future, and most of us do, I am convinced that our Nation must make investments that will pay real and lasting dividends. These programs are investments.

The projects that will be authorized through this bill create incentives and opportunities that are not otherwise available. Loan funds for business assistance, establishment of business incubators, community infrastructure projects, employee training, and many other programs that encourage and promote a strong and thriving economic community.

In these difficult economic times, we need the programs which this legislation supports now more than ever. I have seen and heard first hand the wonderful improvements and results that can be achieved through these initiatives and I am glad we have the opportunity before us today to continue this good work. I urge your support for this important piece of legislation. Thank you.

Mr. ROGERS. Mr. Speaker, let me first commend the authors for putting together this important legislation, and working to get it to the floor. I rise in support of this bill.

The EDA and the ARC help those pockets of the Nation which struggle to improve economically, but which face much tougher obstacles to self-sufficiency. The part of the Nation I represent—eastern Kentucky—remains isolated. We are still losing coal jobs in the mines, losing textile jobs in the cut and sew shops, and constantly working to replace those jobs with new opportunities. But in these areas, efforts to break out of generations of poverty are difficult at best.

EDA and the ARC have played essential roles in those instances where the cycle of poverty has been broken, where chances to prosper have been tapped, and where our hard work has paid off.

A small water line, funded by an EDA grant, can mean hundreds of jobs if it attracts a new company or plant. Revolving loans to dozens of small businesses have helped to build a business infrastructure in towns where none existed. EDA works. The proof can be found in my Kentucky district, and in many others across the country.

The Appalachian Regional Commission responds to like circumstances. The ARC region encompasses many straddled, poverty-stricken counties, in areas where redoubled efforts are needed on the part of all officials—Federal, State, and local—if our livelihoods are to improve. Like the EDA, the ARC programs give our communities and our local volunteers a chance to lift themselves up, with just a little assistance.

Here is an example where a shot in the arm from the ARC has made an incredible difference in the lives of our people. In eastern Kentucky, a high dropout rate remains in our schools. Education has suffered and with it the region. So we went to work to address the problem. With $50,000 in seed money from the ARC, local volunteers launched a major education improvement initiative that grew into a self-sufficient, multi-county organization. Five years from inception, it still exists, involving hundreds of volunteers, giving assistance to teachers and students, giving those who need it a jump start towards a high school diploma or an equivalency degree. Many who otherwise would have dropped out have stayed in, finishing their work, helping themselves and helping their home communities.

This is merely one example. There are many, many others. And the bill before us would produce many more. H.R. 4157 authorizes $300 million annually for EDA programs, ranging from public works grants to technical assistance. Title II of the bill authorizes $185.3 million annually for the Appalachian Regional Commission, for development initiatives and highway construction. Both programs have been funded over the years, absent authorization. But programs suffer, despite continued funding, when they remain unauthorized for extended periods. It is important to renew these missions, and the Committee on Public Works and Transportation has rightly done so in bringing this bill to the House.

I urge my colleagues to vote for this bill, and to provide the guts for structural change that our communities need for the decades ahead. Support H.R. 4157.

Mr. RAHALL. Mr. Speaker, I rise in support of H.R. 4157, the reauthorization of the Economic Development and Appalachian Regional Commission programs. It is my hope, as it has been since 1982, that we can bring this bill to enactment and rely on it for future funding of these vital economic development programs, rather than continue to rely on the appropriations process.

I will note one thing of concern, and that is the authorization level for the ARC. The bill authorizes a spending level of $185 million for the ARC. In this year's Energy and Water Appropriations Conference Agreement, while we did not get an increase for ARC above fiscal year 1992's level, it was level-funded at $190 million for the coming fiscal year.

It was my hope that perhaps the authorization level would be increased to at least today's funding level of $190 million.

In the interest of time, I will quickly reiterate that the reauthorization of the EDA and the ARC is of utmost importance, particularly as we continue to try to climb out of the economic recession and continue our mighty struggle to create jobs and attend to our infrastructure's renovation and rehabilitation needs at the same time. It is timely and appropriate for us to take action to approve H.R. 4157 today.

This committee is to be commended, and I do commend it and its leadership, because it is the only committee that has acted quickly and strongly with anything remotely resembling jobs legislation throughout the 102d Congress, which encompasses the entire recession period. I say this in reference to our highway bill, our water resources and development legislation, and now this bill calling for continued funding authority for local economic development opportunities provided both under EDA and ARC. These are job-creating initiatives, and will help tremendously in helping put the unemployed back to work and put an end to the recession.

I commend our excellent chairman, BOB ROE and our ranking minority member JOHN PAUL HAMMERSCHMIDT for their leadership throughout this Congress and over all the years as they serve with distinction in their capacities as stewards of public works and transportation initiatives to serve our country.

I commend also our colleague, JOE KOLTER, for his perseverance in getting an EDA/ARC reauthorization bill to full committee markup, and we share with him the nostalgia of this last time he will be among us to preside over the Subcommittee on Economic Development, or on the floor of this body he has served so well. I was privileged to travel to Chairman KOLTER's district last year for a hearing on the ARC reauthorization, and to share with him and his constituency West Virginia's continuing need for ARC programs and funding, as one of the 13 Appalachian States, and to let them know that I understood Pennsylvania's needs as well. The people of Appalachia continue to live in those quiet, rural hamlets far from society's mainstream, on the land that they may not own, but which they love, in an area known to the world as the poverty pocket of the United States, but known to them as home.

I take my hat off to the leadership of our able chairman of the Subcommittee on Water Resources, HENRY NOWAK and commend his leadership too on behalf of water resources development and clean water initiatives over the years, for guiding one more, one last, Water Resources bill to the floor for enactment, and which passed last week by an overwhelming majority vote of 326 to 87.

Each of our departing Public Works chairmen will be sorely missed, but will remain in our hearts as personal friends and as chief architects of major legislation of urgent need and enormous human benefit in our States and congressional districts for many years to come. I thank each of you for your sense of fairness, your willingness to listen and to turn your attention to our individual State need. I commend your integrity, and your reliability, for even when you have to say no to some of our project requests, you have said no with all due respect for our position, and complete understanding of our diverse reasons for our position, and complete understanding of our diverse reasons for seeking your accommodation. Gracious to a fault, each of you have acted in ways which were all we could hope for from your respective chairs, and for which I have always been and will remain deeply appreciative.

I strongly recommend H.R. 4157 to my colleagues and urge that it passes.

Mr. MINETA. Mr. Speaker, this body considered and passed H.R. 4157, the Public Works and Economic Development Act of 1965, under suspension last Friday. The bill is an important one which authorizes programs for local economic adjustment strategies, including those for areas experiencing long-term economic deterioration and areas which are victims of sudden and severe economic dislocation. I wanted to emphasize a portion of the committee report which discussed the economic adjustment program being administered by EDA with funds made available through the Defense Authorization Act and the Defense Appropriations Act. The report urged EDA and the Office of Economic Adjustment to give consideration to using these funds in cases of military base closures where the land and facilities are being transferred for use by an educational institution.

Specifically mentioned in the report was Fort Ord which is located on the Monterey Peninsula in California. Of significance is the proposed use of some of the land and facilities at Fort Ord that will be available for transfer to establish a comprehensive 4-year institution of public higher education. The California State University is proposing to use this site for the location of a 25,000 full-time student, residential campus with a central academic focus on the sciences and languages. Of critical importance to the establishment of such a campus is the transfer of not only the land and barracks to be converted into academic lecture and laboratory space, but the housing for conversion into dormitories and faculty residences. Without these facilities, especially the housing, the location of a campus on the Fort Ord property is not feasible or reasonable.

In order to develop the site and facilities to a point which would accommodate academic facility and housing requirements, these facilities would have to be brought up to code to meet current seismic, fire/life/safety and ADA regulations. Renovating, rehabilitating and converting these academic and housing facilities would have an economic impact on the local community through the purchase of goods and services, including the use of local skilled and non-skilled workers and the purchase of materials for construction. Even after the development and buildout stages, there will be considerable residual economic impact on the community.

It is important that as we move to close and downsize our military bases, we examine carefully the impact on the local community, and look to projects that present an opportunity to provide a relatively quick turnaround for use of the transferred property and facilities and have a strong potential to hold and retain the economic base of those communities. Establishing an institution of public higher education is one such project. We should be supportive of those efforts which have the potential of positively effecting the economic health of an area which is faced with the loss of a military base, and provide the resources necessary to assure that these projects achieve the anticipated positive results. Projects that have this kind of potential should not be ignored and should be the focus of the kinds of activities funded through the EDA with defense appropriations. I believe that with such a focus, the outcome can be nothing but beneficial to all involved.

Mrs. BENTLEY. Mr. Speaker, I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. RICHARDSON). The question is on the motion offered by the gentleman from Pennsylvania [Mr. KOLTER] that the House suspend the rules and pass the bill, H.R. 4157.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KOLTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 2300

CHICAGO'S 1992 QUINCENTENNIAL COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, this year, on Monday, October 12, on the 500th anniversary of the discovery of America by the great Italian explorer, Christopher Columbus, the Joint Civic Committee of Italian Americans once again will sponsor the Chicago Columbus Day parade, the greatest patriotic parade in the city of Chicago, celebrating the 500th anniversary of the discovery of America by Christopher Columbus. The theme of this year's parade is: "A Tribute to Christopher Columbus—the Quintessential Explorer," and will emphasize the mingling of peoples, sharing of civilizations and emergence of new nations that took place in the Western Hemisphere as a consequence of Columbus' achievement.

This year we are delighted that film, television, and recording star, Frankie Avalon, will be joining us as the guest of honor. Other participants in the parade will include Mayor Richard M. Daley of the city of Chicago; Gov. Jim Edgar of the State of Illinois; Anthony Bottalla, chairman of the Quincentennial Columbus Day Parade; Dr. Stefano Cacciaguerra, Consul General of Italy; Hon. Jose' Maria deAristegui, Consul General of Spain; Dominic DiFrisco, president of the Joint Civic Committee of Italian Americans; Michael Coli, chairman of the board of trustees of Joint Civic Committee of Italian Americans; and many other civic and political dignitaries, as well as myself.

I understand that Mayor Daley will issue a proclamation next week, and Governor Edgar and President George Bush have already issued proclamations commemorating the 500th anniversary of the discovery of America by Christopher Columbus. The text of these proclamations follow:

COLUMBUS DAY, 1992

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A half-millennium ago, one man who dared to defy the pessimists and naysayers of his day made an epic journey that changed the course of history. That man was Christopher Columbus, and the account of his first voyage to the Americas provides us with timeless lessons about faith and courage in the face of the unknown, about the power of individuals to make a difference, and about the rewards of cultural and commercial exchange among nations.

Behind the larger-than-life legends that have evolved around Columbus is an ordinary, fallible man who achieved extraordinary, unforgettable things—and through qualities that any of us might well emulate today.

As with all progress, Columbus' great journey began with learning and hard work. Before he became a master mariner, Columbus was first a diligent student and deckhand who gained his knowledge and skills in Lisbon, then Europe's leading center of overseas exploration. Thus it was with both a strong foundation and a profound sense of higher purpose that Christopher Columbus set sail toward the horizon. If we are to continue to cross new frontiers today, we must not only cherish knowledge and learning, as did the peoples of the Renaissance, but also have faith and courage in the face of the unknown.

Although Columbus was slow to shrink from ridicule and adversity, he was quick to seize an opportunity; and when the Spanish monarchs Ferdinand V and Isabella I agreed to support his daring enterprise, this brave son of Genoa quickly readied the *Niña*, the *Pinta*, and the *Santa Maria* for their long ocean voyage. The story of Columbus is, therefore, a fitting prologue to our American narrative, for the history of the United States is filled with accounts of individuals who made a difference because they had the freedom, the opportunities, and the wherewithal to do so.

Columbus' first voyage to the Americas took just 33 days, yet it refuted centuries-old myths and transformed the lives of generations to come. The great encounter that was made possible by Columbus and his crew linked peoples on both sides of the Atlantic in a long and fruitful exchange of knowledge, resources, and ideas that continues to this day. Hence, on Columbus Day we celebrate both the rich heritage of America's native peoples and the development of the United States as a Nation of immigrants.

Finally, I am pleased to note that in many schools, teachers and students are planning to observe this Columbus Day with a special celebration of the 100th anniversary of our Pledge of Allegiance to the flag. Written in honor of Columbus Day a century ago, the Pledge has inspired generations of Americans to a greater love of country. As we celebrate the legacy of Columbus and the diverse cultural heritage of the United States, it is fitting that we also recall our many blessings—and responsibilities—as "one Nation, under God, indivisible, with liberty and justice for all."

The Congress, by joint resolution of April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October of each year as "Columbus Day."

Now, therefore, I, George Bush, President of the United States of America, do hereby proclaim October 12, 1992, as Columbus Day. I encourage all Americans to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day.

In witness whereof, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

GEORGE BUSH.

PROCLAMATION

Whereas, Christopher Columbus and other distinguished Italians have played a significant role in the growth of civilization; and

Whereas, the strong traditions and rich culture of our Italian-American citizens are recognized by many Americans; and

Whereas, Italian-Americans have contributed greatly to Illinois' arts, politics, sports, and socioeconomic life; and

Whereas, in October, the Joint Civic Committee of Italian Americans (JCCIA) will celebrate Italian Heritage Month with a variety of activities, including a parade on October 12;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1992 as Italian Heritage Month in Illinois.

Mr. Speaker, Chicago's Columbus Day celebration will begin at 10 a.m. with a concelebrated mass at Holy Name Cathedral, 730 North State Street, Chicago. Arrangements for this year's mass have been made by the Reverend Lawrence Cozzi, C.S., chairman of the religious program and organizations committee, and Rev. Donald Craig. The main celebrant will be His Eminence The Most Reverend Joseph Cardinal Bernardin, Archbishop of Chicago.

Concelebrants at the mass will include: Rev. Lawrence Cozzi, C.S., administrator of Scalabrini Village, the Italian American Old Peoples Residence in Northlake, IL; Rev. Nicholas Marra of St. Lucy's Church in Chicago; Rev. Vincent Zarlenga of St. Vincent Ferrer in River Forest, IL; Rev. John DiVita, Our Lady of Pompeii Church, Chicago; Rev. Gino Dalpiaz, director, Italian Cultural Center, Stone Park, IL; and Deacon Frank DeVita, Divine Providence Parish, Westchester, IL.

An introduction before the mass will be given by Theresa Petrone, the coordinator of this year's parade and the cochairperson of the programs and arrangements committee.

Lectors will be JoAnne Spata, president of the JCCIA women's division and Naomi Serpico, president of the JCCIA west suburban women's division. Prayer of the faithful will be offered by Norman Boccio and Ben Affetto. Lori Ardito, president of the JCCIA young adult division, will be the commentator.

Norman Boccio will be the carrier-of-the-cross, and members of the offertory procession will include Lisa M. Amendola, Melrose Park, IL, queen of the Columbus Day parade; Phil Sciacqua, who will portray Christopher Columbus in this year's parade; Marie Palello, executive secretary of the JCCIA and chairperson of the bands, marchers, transportation, and floats committee; Marge Porcelli, secretary of the JCCIA and Mary Spallitta, chairperson of the authentic Italian costumes committee.

Music will be provided by the Holy Name Cathedral choir. Serving as ushers will be Nick Bianco, John DeBella, Michael Palello, Lawrence Spallitta, and Ron Onesti. The Fourth Degree Knights of Columbus will serve as the honor guard, including Michael Gill, master, fourth degree, and Joseph Nardi, admiral, LaSalle Assembly.

The 2-hour parade will step off at Dearborn and Wacker Drive in Chicago at 12:45 p.m. It will be televised live by WGN–TV, channel 9, and via delayed telecast by WLS–TV, channel 7, from 1 to 2:30 p.m. on October 18. Narrating the telecast for WLS–TV will be MaryAnn Childers and Jim Gibbons, and narrating for WGN–TV will be Tom Skilling, meteorologist, joined by Dominic DiFrisco, president of the JCCIA and Theresa Petrone, vice chairman of the board of trustees of the JCCIA. Both this year are also serving as chairpersons of the program and arrangements committee.

Over 200 floats, bands and marching units will participate in this gala celebration. Included in this group will be: Fort Sheridan Army Band, Great Lakes Training Center Navy Band, Alden Hebron High School and Middle School Band, American Flag Coalition Marchers, American Indian Center Marchers, Amundsen Youth Motivation Band and Marchers, Bloom Trail High School Band, Bolingbrook High School Band, Boy Scout Troop 63—Drum and Bugle Corps, Bridgeview Starlets Baton Marchers, Brother Rice High School Marching Crusaders, Carl Sandburg Tiger Band, Cass Junior High School Marching Band and Flag Corps, Channahon High School Band, Chicago Amerital Unico Marchers, Clinton Junior High Marching Band, Connie's Pizza Marchers, Christopher Columbus Elementary School Marchers, Crystal lake South Marching Band, Curie High School Marching Band, Doll Horse Training Stable Costumed Riders, Duconia DuPage County Italian American Club Marchers, Englewood All Star Gladiators, Fastbreak Freestyle Trick Team, Flashie the Clown and Flashie, Jr., Friends of Aurelia Pucinski Marchers, Flirtette Twirlers Baton Corps, Fremont School Marching Band, Gioia and Rosary College Italian Club Marchers, Grimmer Middle School Band, Holy Cross Crusader Band, Hinckly Big Rock Marching Royals, Hubert H. Humphrey Middle School Band, Independence Junior High Patriots Band, Italian-American Labor Council of Greater Chicago Marchers, State of Illinois Italian-American War Veterans and Ladies Auxiliary Color Guard and Marchers, Italian Catholic Federation Marchers, Italo American National Union Marchers, Italo-American Soccer Club—Maroons and Ladies Club Marchers, Jane Addams Middle School Band, Joliet Central High School Band, Justinian Society of Lawyers Marchers, Lithuanians of America Marchers, Lakeview Betterment Club Marchers, Lane Technical Marching Band, Lincoln Park High School Marching Band, Lockport Township High School Band, Lucchesi Nel Mondo Association Marchers, Maine South High School Italian Club Marchers, Mariners Black Sheep Squadron Color Guard, Marist High School Redskin Marching Band, Marshall Lindsey Dancing Majorettes, Mazzini Verdi Club Marchers, McHenry Warrior Marching Band, Mokena Junior High School Marching Meteors, Mother Theodore Guerin High School Italian Club Marchers, Monico's Marchers, NAS Glenview Color Guard, Near Northwest Civic Committee Boy Scout Troop 59, New Frontier of Culture Band, Italian Club Notre Dame High School for Girls Marchers, Norwegian National League of Chicago Marchers, Oak Lawn Community High School Marching Band, O'Quinn Gladiators, Plano High School Cheerleaders, Porter Township High School Band, Prospect High School Italian Club, Puerto Rican Congress of Mutual Aid Marchers and Dancers, Queen of the Universe Marching Band, Resurrection High School Marchers, Riverside Brookfield High School Band, Rogers High School Raider Marching Band, St. Francis Borgia Baton Corps, St. Joseph Men and Women's Auxiliary Marchers, Saints of Soul Community Youth Band, St. Lawrence Queen of Peace High School Band, Shabbona High School Marching Band, Spanish Association of the Midwest, South Shore Drill Team, Somonauk Marching Bobcats, Springfield High School Marching Band, TNT Marching Band, Troy Junior High Marching Band, Warrior Marching Band, World Apostolate of Fatima—Blue Army U.S.A.—Marchers, Giochi I. Della Gioventu Marchers, Oak Park River Forest High School Italian Exchange Students from Italy, Blue Knights Law Enforcement Motorcycle Club, Elston High School Band, Chicago Vocational High School Band, J.J. McCarthy Reserve Center 4th Marine Division Color Guard.

Other floats will carry members of the Italian-American community wearing traditional costumes from various regions in Italy, coordinated by Mary Spallitta, chairman of the costume committee. In addition, featured in the parade will be Phil Sciacqua, portraying Christopher Columbus, and Angela Petrone, portraying Queen Isabella of Spain.

Congressman MARTY RUSSO, past parade chairman, will serve as grand marshal of the parade, and Louis Rago will serve as parade marshal. Other chairmen and cochairmen include: Pat Naples, chairman of the quincentennial committee; Ann Sorrentino, chairman of the quincentennial cuisine culture committee; Rev. Lawrence Cozzi, C.S., chairman of the religious program.

The television sponsors of this year's parade include: Ferrara Pan Candy Co.; Hilton Hotel Corp.; Alitalia Airlines; American United Cab Co.; Commonwealth Edison; Joe Gentile Chrysler Plymouth; Dominick's Finer Foods; Anheuser Busch, Drury Lane, Oakbrook; American Airlines, and Celozzi-Ettleson Chevrolet dealers.

One of the highlights of the Chicago Columbus celebration is the selection each year of the queen of the parade. Judged on her beauty, poise, and personality, Lisa M. Amendola was chosen to reign as this year's Italian-American community queen. Members of the queen's court include: Rosa Blasi, Mount Prospect, IL; Lisa Marie Chesters, Hanover Park, IL; Ann Helene De Julio, Chicago, IL; Dina Marie Fazio, Elmwood Park, IL; Tara Fonsino, Arlington Heights, IL; Paula Piazza, Chicago, IL; and Elena Ventrella, Addison, IL.

The chairman of the queen's contest is Joseph Bianco. Judges for the contest include: Carlo Beninati, portrait painter; Gloria G. Coco, associate judge of the Circuit Court of Cook County; Maria Paonessa, owner of Maria Paonessa Salon 2000; Gianpaolo Borgna, regional manager, Central USA, passenger division for Alitalia Airlines; Dave McBride, news director for station Q–101; Rose Becker, president and owner of Mother/Daughter Fashion Design Team, and Rosemarie Andolino, 1988 Italian-American queen for the Columbus Day parade. Prizes for the 1992 queen are a roundtrip to Italy donated by Alitalia Airlines; a $1,000 cash award given by the Joint Civic Committee of Italian Americans; a $250 cash award given by Greater Chicago UNICO; a wrist watch donated by Metro Sales, an oil portrait donated by Carlo Beninati; a gift certificate from Chicago to Chicago, River Forest, IL; a scholarship to John Paris Modeling School; an alligator briefcase donated by Theresa Petrone; and a beauty treatment donated by the Maria Paonessa Salon 2000.

The Joint Civic Committee of Italian Americans, under the able leadership of its president, Dominic DiFrisco, chairman of the board of trustees, Michael Coli, and executive director, Fred Randazzo, is comprised of more than 65 Italo-American civic organizations in the Chicagoland area and sponsors the Columbus Day parade and related activities. Founded in 1952 to fight prejudice and discrimination toward Italian-Americans, the Joint Civic Committee of Italian Americans has grown over the past four decades into a formidable organization for addressing the broad social, cultural, and educational concerns of more than one-half million Italian Americans living in the metropolitan area of Chicago.

The quincentennial Columbus Day celebration will close with a reception at the Como Inn Restaurant in Chicago at 3:30 p.m., in honor of the guests, the officers, the committee chairmen, and members who are participating in making the 1992 quincentennial Columbus Day parade a monumental success.

On this 22d celebration of Columbus Day as a national legal holiday, as the honorary parade chairman of the quincentennial Columbus Day parade, I would like to take this opportunity to commend the members and officers of the Joint Civic Committee of Italian Americans for their outstanding efforts in making this year's quincentennial Columbus Day parade a memorable and exciting event.

The officers and members of the 1992 Columbus Day parade committee are as follows:

1992 COLUMBUS DAY PARADE COMMITTEE

Columbus Day Parade Committee: Anthony Bottalla, General Chairman; Congressman Frank Annunzio, Honorary Chairman; Congressman Marty Russo, Grand Marshal; Louis Rago, Parade Marshal.

Special Assistants to the Chairman: Fred Bartoli, Mike Epifanio, Dominic Gobel, and Mike Coli.

JCCIA Officers; Dominic DiFrisco, President; Fred Mazzei, 1st Vice President; Thomas C. Baratta, 2nd Vice President; Pat Naples, 3rd Vice President; Joe Annunzio, 4th Vice President; Emil Venuti, 5th Vice President; Ken Kolnicki, Treasurer; Tena Amico, Secretary; Lawrence Spallitta, Sergeant-At-Arms; Fred V. Randazzo, Executive Director; and Rev. Lawrence Cozzi, C.S., Chaplain.

Board of Trustees: Michael Coli, Chairman; Congressman Frank Annunzio, Vice Chairman; and Theresa Petrone, Vice Chairman.

Executive Committee: Leonard Amari, Laurie Ardito, Richard Caifano, John Coli, Rev. Gino Dalpiaz, C.S.; Carl DeMoon, Anthony Fornelli, Sam Garnello, Pat Pavini, Theresa Petrone, Charles J. Porcelli, John Serpico, Naomi Serpico, and JoAnne Spata.

Women's Division Officers: JoAnne Spata, President; Mary Ann Ciolfi, 1st Vice President; Gina Scafani, 2nd Vice President; Tomasina Perry, Recording Secretary; Marie Palello, Corresponding Secretary; Priscilla Laino, Treasurer; and Judi Guzaldo, Advisor.

West Suburban Women's Division Officers: Naomi Serpico, President; Mary Conti, 1st Vice President; Rose McVittie, 2nd Vice President; Libby Hannigan, Treasurer; Dolores Sennebogen, Secretary; Ann Sorrentino, Corresponding Secretary; and Lilia Juarez, Advisor.

Young Adults Division Officers: Lauri Ardito, President; John Peluso, Treasurer; Joe Panzica, Secretary; and Lynn Gigliotti, Corresponding Secretary.

Quincentennial Committee: Pat Naples, Chairman.

Chaplain: Rev. Lawrence C. Cozzi, C.S.

Theme Coordinator: Theresa Petrone.

Religious Programs and Organizations: Rev. Lawrence C. Cozzi, C.S., Chairman; Linda Piatkiewicz, Nick Bianco, Mike Palello, Lawrence Spallitta, John DeBella, and Ron Onesti.

Quincentennial Cuisine Culture: Josephine Bianco, Chairman; Anita Louise Bianco, Marie Palello, Margaret Porcelli, Theresa Petrone, Mike Palello, JoAnne Spata, Fred Randazzo, Marilyn Fredericks, and Nick Bianco.

Authentic Italian Costumes: Mary Spallitta, Chairman; Lilia Jurez, Elena Frigoletti, and Tena Amico.

Finance and Souvenir Book: Margaret Porcelli, Chairman; Marie Palello, Co-Chairman; and Angeline Annunzio.

Floats, Bands, and Marchers: Marie Palello, Chairman; and Margaret Porcelli, Co-Chairman.

Float Personnel: Lawrence Spallitta, Chairman; and Norman Boccio, Co-Chairman.

Television Sponsors: Michael Coli.

Parade Marshals: Louis Rago, Chairman; Mike Palello; Nick Bianco, John De Bella, Neil Francis, and Commander Ettore DiVito.

Reviewing Stand Commentators: JoAnne Spata, Lori Ardito, Robert Allegrini, Mark Farina, and Joe Annunzio.

Staff Photographer: Sam Bruno.

Public Relations: Fred Randazzo.

TRIBUTE TO SERGEANT MAJOR C.A. "MACK" McKINNEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, C.A. "Mack" McKinney is retiring from his position as Legislative Counsel for the Non-Commissioned Officers Association of the United States of America. I want to pay a well-deserved tribute to Mack for his many years of dedicated service.

I had occasion recently to reexamine Mack McKinney's biography. I never realized it before, but in one way or another, Mack has spent his entire adult life either in or working for the Military.

Born in Indiana, in 1925, he entered the U.S. Marine Corps in 1942, at the height of the Second World War. After graduating from Radio Operators School, he saw action in the Pacific theater where he participated in the invasions of the Marshall Islands and Okinawa.

Following the war, Mack had a succession of assignments, each entailing greater and greater responsibility. Among these were his assignment as the first chief of Military Police of the newly opened Marine Corps Training Center, 29 Palms, CA in 1952. Thereafter, he was promoted to Master Sergeant and was given a succession of First Sergeant assignments at ever larger commands. Somehow, in between these assignments, he found time to get married, become a Grand Knight of the Knights of Columbus, and serve both the Corps and his community in a variety of positions.

During the Vietnam war, Mack served as the camp Sergeant Major of 4th Logistical Command, Red Beach in South Vietnam.

Following the war, he was assigned as station manager of the Marine Corps recruiting station, San Antonio, TX. It was in Texas that he first became actively involved with the Marine Corps League. There, through his efforts he would reestablish the league's presence, would be elected chairman of its national convention and its first department of Texas Commandant.

In September 1971, Mack retired from his beloved Marine Corps and commenced his second career as Legislative Director of the Non-Commissioned Officers Association [NCOA]. He was responsible for opening the association's first Washington office in Arlington, VA and eventually guided the association's efforts on Capitol Hill where he inaugurated the now famous NCOA Congressional reception.

In his role as Legislative Director of the NCOA, he became the voice of the enlisted person to Congress. His testimonies in over 100 hearings had a profound effect on how Congress viewed enlisted personnel in all services. Among his major accomplishments in this role were his efforts to secure passage of a home loan program that restored eligibility to veterans when they purchased second or subsequent homes; the successful fight for enlisted separation pay, an 18 year effort which finally bore fruit in 1991; and, his efforts in securing passage of much needed changes to the survivor benefit program and CHAMPUS. Perhaps the greatest accomplishment came in 1981 when Congress was convinced to pass a targeted military pay raise focused on the top three enlisted grades to relieve the compression in the pay tables.

Through his stewardship, the Non Commissioned Officers Association played a vital role as staunch advocates of legislative initiatives to maintain readiness and improve the quality of life for all members of the military community—active, reserve, and retired, plus their families and survivors.

In recent years, Mack played an active role in guiding the legislative efforts of the military coalition, a nationally recognized group of 24 military organizations representing some 3½ million people. I won't describe all of his accomplishments in this role, but will briefly focus on the few to illustrate the breadth of his concern for military members. He forcefully supported strengthening the underpinning of the Montgomery GI Bill and thus provided a solid foundation for our Nation's future leaders by providing the opportunity for a college education for more than 1 million young men and women who otherwise might have been denied that opportunity. Mack was ever mindful of the adverse effects on morale and retention caused by broken commitments and inadequate compensation. He always stood up for and championed the causes of fairness and equity. His leadership efforts to defeat the imposition of user fees in military health care facilities, to preserve COLAs and to provide adequate military pay raises for all personnel are especially noteworthy. Most recently, he fought for and helped win the battle for a transition plan that provides a benefits package for those personnel and their families who are prematurely forced out of active service as a result of the dramatic force drawdown presently underway.

I am sure you will all agree, the word leadership is often applied to those who do not deserve it. In Sgt. Maj. Mack McKinney's case, just the opposite is true. He has been, in every sense of the word, a leader: in the Marine Corps, the NCOA, the Marine Corps League, the Military Coalition and the entire active and retired community. Our wishes go with him and his wife, Rosemarie, for an active retirement and continued success. From this Army man to a Marine's Marine—Semper Fi, Mack!

THE ROLE OF THE PRESIDENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentlemen from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, by way of letting people who follow the electronically covered proceedings of this House know something about the Congressman that is going to be addressing them for the better part of this hour, let me say something about when the gentlemen from New York [Mr. OWENS] and I first crossed paths, and what an honor it is to be speaking on this floor and seeing you before me at a little higher level, the way I watched you when I was 30 years of age and you were 29, speaking in front of the Lincoln Memorial preceding Dr. Martin Luther King, Rev. Dr. Martin Luther King, on August 28, 1963.

It is amazing how we meet or see people in life and our paths come to cross again. I never dreamed I would have the honor of serving with you in this distinguished body. I slept out in that parking lot in August 1954, 9 years before I saw you give a stirring address as a dedicated young civil rights worker, trying to change the history of our beloved country, and I would say to the gentlemen that he certainly did.

When I was out in that parking lot at 21 years of age, midway between my T-6 pilot training at Bartow, FL, and going to jet school at College Station in Brian Air Force Base, a base that was built to serve the great Texas A&M Aggies that were going into World War II at a tremendous rate, I swore out in that parking lot to my three friends, one of whom died giving his life for his country in Vietnam, that I was going to return here some day as a U.S. Congressman.

That great march in August 1963 was about the most upbeat I have ever felt about my country and its potential for the future. I was there out of respect for the fighter pilots that I had flown with who were of African-American descent: the man who checked me out on F–100's, Bill Wilson, who is now a medical doctor somewhere in this country, and went through medical school. He was from Ohio, as I recall. Ed LaBelle, who flew in the 21st Squadron next door under jet ace Steve Bittinger, who I mentioned last night is following these proceedings of the House and my special orders.

I just want to tell the Members a story that happened later in the year that maybe will help people understand the incredibly high esteem that I have for the office of President of the United States.

When President John F. Kennedy was shot, I was home writing a screen play about the first Americans that were in Vietnam. My screen play was called, "The Thirteenth Marine," and then the 82d Marine. I was going to make him a man from the 82d Airborne who was the 82d man killed in Vietnam.

When it came over the television that President John F. Kennedy, who had restarted the Green Berets, had been killed, there was a short wait and then it was announced that he was killed, I was living in Westwood, CA. I went across the street and made a visit in church, prayed that somehow or other I was hearing an insane Martian landing type broadcast.

I went over and told the sister superior of the grade school where all five of my children were in attendance then, and then came back to the house, and shed many tears. My wife was working as an actress on a movie set. They shut down the set. She came home, watched television all that night. My agent and good friend, Michael Patrick Casey, called me and said, "Why don't we go back to Washington, DC?"

We did, together, We scraped together the one-way fare. He took a bus home. I hitchhiked home on Air National Guard airplanes as an officer. I wore my Captain's uniform, winter blues. It was the first time I had come back to Washington since that march on Washington that you and I were at, Mr. Speaker.

I could not believe what I was witnessing. In front of the White House we waited. The drums began to roll. The President's body came out on the catafalque in the same carriage that had carried Abraham Lincoln more than a century before, almost a century before, and I was standing in front of that White House.

I remember a black family was next to us. The father was holding his little 2-year-old up. His 3-year-old son could not see. I picked him up, put him on my shoulders, and I tell the Members, that memory is burned in my brain more beautifully than any blow-up of any color photograph in my life, standing there in my Air Force uniform with that young black son of that American family next to me, holding him so he could see the President's casket go by.

I said goodbye to the family, ran up on foot to St. Matthew's Cathedral, where my middle daughter was married to Richard Koben that New Year's Eve of 1979, and I cried through that ceremony, cut out of the church early with Michael Patrick Casey, followed the casket across Memorial Bridge, worked our way up around to the burial site of President John F. Kennedy, and I said to my friend, "Mike, I want you to go over and busy those Secret Service people. I want to move out on that knoll so I can see this and remember it the rest of my life."

I moved out on the knoll. I could hear this little controversy behind me when they turned around and saw what I had done. Then these agents started to come out toward me. Just then the music began to play the Star Spangled Banner slowly. I came to attention, saluted, and then they let me alone.

When all of the Members of the then-Congress passed by, and the U.S. Senate, the Supreme Court judges, there was a handsome, tall, spit-and-polished Green Beret colonel who was in command of the honor guard at the funeral. He looked around. The official people had all passed by, and he turned to America and pulled his heels together smartly, and he made a sweeping gesture with his arm, like the gravesite is open to the Nation.

I was the closest person to him on that knoll on the north side of Arlington. I moved down and I, Mr. Speaker, was the first American citizen, other than the official party of the Congress of the United States, the Cabinet, and the Supreme Court Justices, to stand in front of President John F. Kennedy's grave, because I was a Roman Catholic and proud of him as our first Catholic President.

I knelt down, said an Our Father, a Hail Mary, a Glory Be, and a small prayer to St. Joseph, the guardian of families. I blessed myself, stood up, gave what I hoped was the best salute I have ever given in my life, took a step back, and left that scene.

The night before I had gone through a long wait to come into the rotunda and see the President lying in state with a sharp young Coast Guardsman, Marine, Navy, Air Force, Army men in honorable attendance. It took me 2½ hours with Mike to get through that line. When I went through it was like a dream. I was in a daze.

I said, "Michael, I am going to do something. I am going to jump the line here and go through this again," because again, I was in my Air Force captain's uniform and I was able to get through the line a little more quickly the second time. I slowed my mind down and my life down so I could memorize those images of President Kennedy lying where Douglas MacArthur would lie less than a year later, where other Presidents have lain there since; our own Claude Pepper, at almost 89 years of age; where Lincoln had lain in state; all of these great men.

It is because of my utter deep, deep feeling about the importance of the office of the presidency of the United States and the spiritual aspects of this role model, our President, the leader of the free world, the Commander-in-

Chief of all of our young men and women called upon to give their lives in a moment's notice, that I come to this well night after night, keeping these wonderful people here late after a long and tough day and apologizing to them now, and begging their forbearance, because we are going to be adjourning in a few days and I just must discuss the importance of this presidency and why I feel exactly like Colonel Holmes, Eugene Holmes, in that letter released to the press September 7 of last month and virtually ignored coast-to-coast except by a few conservative groups here and there, ignored in the main by all the electronic media when Colonel Holmes said that this young man who had sat in his living room for 2 hours and deceived him by not telling him, not telling Colonel Holmes that he, young Bill Clinton at age 23, had been arranging demonstrations in Washington, DC, here for the Moratorium Committee in 1969, the summer thereof.

□ 2310

That he had used a ruse involving a created naval officer's commission the year before to get to go off to graduate school when there no longer was a 1-D deferral for graduate school, and then arranged demonstrations in England during his first year when he actually went to class, and that he intended to go back and arrange demonstrations in England, a foreign country that was sending his merchant marine ships that they could not control carrying supplies to help shoot down our airplanes, kill our men in the jungle, and slaughter women and children in villages up and down South Vietnam, Laos, and Cambodia. He did not tell Colonel Holmes what he planned to do in England. He certainly did not tell him that he planned to do a sweep of European cities, including Oslo where we have him established to be on December 12, and Moscow where his own staffers down there in Arkansas, in between lying and saying he never went to Moscow, and they are now admitting dates. His guru, a lady who has been his constant associate and chief of staff when he was governor, and who has now taken over as chief researcher, but that really means she is the last word and who organized east Texas with Governor Clinton back in 1972 for Senator McGovern running for the presidency, this lady called up to New York and at 7:30 in the morning from Arkansas to talk to my former colleague, Ed Koch, and to tell him that I was making up things, and distorting facts.

So before I turn this special order over to a U.S. Air Force colonel who spent almost 7 years in Hanoi, and who was severely tortured, and who spent between 3½ and 4 years in solitary confinement without ever seeing the face of another American, I just want to set the record straight for people who may be tuning in tonight for the very first time, Mr. Speaker, and I want them to know this, that when his campaign senior staff says that I am making up things, and I have no documentation, let me talk about four dates here.

October 15, 1969, Clinton, exactly half of his 46 years, then 23, organized antiwar demonstrations in London, England. One footnote. Ed Koch joined the Army when he was 18, just like George Bush. George Bush was born on June 12, 1924 and Ed Koch was born on December 12, 1924, precisely 6 months younger than George Bush, and they both joined at 18. Ed Koch, while he was still a teenager, wore the three stripes of the Army sergeant in combat in Europe, and he was out of the Army at 20 years of age. Actually the war was over while Ed Koch, former Member of Congress, former mayor of New York City for three terms, was still a teenager. I wonder if Ed Koch, and I am going to ask him this in the morning if he will have the decency to put me on his show, and I know he will, he is a straight shooter, and I am going to ask him, "Ed, did you feel like a man at 19," having led several platoons of men as an Army sergeant as an assistant platoon leader, or "Did you feel like a boy," like Clinton at age 23 when he did all of this. Boy is how he described himself to Ted Koppel on Lincoln's Birthday this year, February 12.

Back to where I left off, October 15, 1969. Clinton organized antiwar demonstrations in a foreign country, England, London, Grosvenor Square in front of the U.S. Embassy.

What is our source? Clinton's December 3, 1969 letter that I mentioned a minute ago to Col. Eugene Holmes, which Clinton claims, "I wrote from England." Clinton said that "After I left Arkansas last summer," 1969, "I went to Washington to work in the National Headquarters of the Moratorium. Then to England to organize Americans here, in England, for demonstrations here." He repeats "here" twice.

October 15 and 16. Clinton gave me those dates. I am sorry that I did not come across this months ago. November 16, 1969. Clinton organized antiwar demonstrations in London, England. Source? Again, Clinton's December 3, 1969 letter to Colonel Holmes, and I will put that letter in the RECORD at the end of my remarks as a reference point for anybody who wants to get ahold of this CONGRESSIONAL RECORD. I will also put in there Colonel Holmes's letter to America which has been virtually ignored by the dominant media culture, dated September 7, last month.

In addition to Clinton's own letter to Colonel Holmes in December 1969, there is Clinton's role as a leader in this November 16 demonstration, as described in the book "Peace Eyes" by Fr. Richard McSorley, far leftwing radical priest who still holds court down at Georgetown, a school that I admire some of the time, and his partner down there, our former colleague for 10 years, Father Drinen, who was also a big apologist for Hanoi, and all of the Communist countries around the world, as a matter of fact. I wonder if he has changed his song since the collapse, the dissolving of the evil force it was, of the motherland to Lenin and Stalin, and communist Moscow. I have not seen him around lately. We would cancel each other out on votes on morality and religious issues, particularly life. I called him Father Death most of the time, because we overlapped during four of his 10 years.

The fourth date, on or about December 12, 1969, Clinton arrived in Oslo with Father McSorley where they met with the peace movement. I use that word the way they did not use it, sarcastically, peace movement activists. Where did I get again the information? Again from "Peace Eyes" by Fr. Richard McSorley. What I discovered today by reading this book, and I have it right here, that the title of the book published in 1978 was taken out of the mouth of Bill Clinton, because Clinton commented in Norway to Father McSorley, "Isn't this a great way to see a country, through the eyes of all of these peace activists," most of whom were pro-Hanoi, pro-war activists as long as it was the Communists pursing the war from the north to the south, trying to conquer the south, just like the Communists pursued the war from North Korea into South Korea to conquer the south and kill their own people. So the title of the book comes out of Bill Clinton's observation that December.

Now December 31, 1969, through the admissions of his own senior staff to some journalists, while they are telling other journalists lies, that I am lying here on the House floor, they admit Clinton was in Moscow. The best reference that I can send to anybody who is interested, Mr. Speaker, is a Knight-Ridder newspaper article, after I had begun this reaching out with the truth to my fellow citizens, a Knight-Ridder article September 25, 1992, and in a June 12, 1989 Gazette article, 3½ years ago the Arkansas Gazette, retitled the Arkansas Democrat Gazette, where Clinton acknowledged he traveled to the Soviet Union and described his visit as a friendly time, a good atmosphere, a period of detente. And I put that letter in the RECORD earlier, and anybody who is interested can get that.

Attached is an article from the October 14, 1969 Times of London which describes Hanoi's support for the nationwide moratorium in England. Here the moratorium was on its own, I guess. This was the rally held on October 15 that Clinton bragged in his letter to Colonel Holmes, "I have been having these demonstrations. You probably wouldn't like me now if you knew that."

Colonel Holmes says in his letter last month Clinton would never have qualified to be an officer in the military in any of our services, ever, to this day. And now he is set up to be Commander in Chief.

In a letter to Colonel Holmes, Clinton acknowledged he worked at the National Headquarters of the Moratorium in Washington, DC, during the summer of 1969, and then went to organize demonstrations in London October 15, November 16, and I found out on also the 17th and the 18th. Hanoi's support was directed knowingly or unknowingly by Bill Clinton and his fellow organizers in Grosvenor Square, and probably at Oxford, and who knows at what other places.

Here is the article from the Times of London, one of the oldest papers in the world, October 14, the 22d anniversary of us breaking the sound barrier, guys, October 16.

"Hanoi salutes U.S. antiwar campaign from Albert Dupuy." Hanoi, October 13, Now here is an Agency France press release from Hanoi: "United States movement of protests against the Vietnam War is to reach its culmination on Wednesday with a nationwide moratorium, and it has been enthusiastically welcomed in North Vietnam, here and in London, and in Oslo and in Stockholm." The newspapers are filled with articles accompanied by photographs showing antiwar demonstrations, and in particular the clashes in Cleveland and Chicago. He is still reading Vietnamese words. In an article headlined "Hail to the Autumn Struggle," Hoang Minh Gian, the Minister of Culture who is chairman of the Vietnamese Committee on Solidarity, a member of the Secret Police, obviously, full title Vietnamese Committee on Solidarity, and the American people, we had POW's tortured to force them to meet with these jerks.

He expressed gratitude and encouragement to the dear friends of the Vietnamese in the United States denouncing Nixon's policy of prolonging and intensifying the war while hanging on to the puppet government of south Vietnam. That was the French reporter, Mr. Depuy; Mr. Gian wrote the Vietnamese warmly acclaim and support with all their strength the struggle engaged in by opponents of the war, and he continues that we wish to have relations of friendship and equality with the people of the United States; we do nothing which could stain the honor of the United States. It is the United States which sends troops to conduct aggression against South Vietnam. We demand that they be withdrawn completely, rapidly, without conditions, leaving the South Vietnamese people to settle their own affairs. That was the Agency France Presse. Bob Dornan's comment: You mean, to kill them, to assassinate them, to see them drown at sea, to rip their teeth out of their face if there is gold in them, and the killing fields of Cambodia, millions of bodies and skulls strewing the roadsides from Phnom Penh to Vietnam and west from Phnom Penh to the Thai border. That is how the savage Communists wanted to be left to their own devices.

Now, I have got enough stuff here for a special order tomorrow night and the next night. I am going to put in the CONGRESSIONAL RECORD what I call Bill Clinton's run from honor, a story of deception and deceit which is a carefully worked out, and I will be honing it and updating it, record, a chronology, from August 19, 1964, when Clinton first registers for the draft at 18 years of age all the way up to September 7, 1992, Colonel Holmes' letter. I am going to put that in the RECORD at the end.

Now, my good friend, the gentleman from Texas [Mr. JOHNSON]; SAM, I do not want to be corny here, and I might start to interview you, because, you know, I did for a living for 7 years before I came to Congress, and that is what enabled me to slip over at my own expense seven times to Vietnam after my first trip, making eight trips, when I went over delivering a rescue seaplane out of March Air Force Base, and dying to be back in the fighter cockpit following into battle the likes of you.

SAM, how many years did you have in Austin as a State legislator?

Mr. JOHNSON of Texas. Nearly 8, 7½.

Mr. DORNAN of California. You won a special election to come here when our pal, Steve Bartlett, became mayor of Dallas?

Mr. JOHNSON of Texas. Right. One of the honors of my life.

Mr. DORNAN of California. SAM, you told me the other day that you got shot down, and then I am just going to turn it over to you, that you got shot down on a mission where you sat waiting for a C–130 to land from somewhere, I guess Ton Son Nhut or Saigon, to bring you your bombs? That is how poorly run the war was. You were sitting in an F–4 waiting for his bombs, "DUKE," to come on a C–130 and be unloaded, taken over on carts by young kids, strapped to your wings, and on that mission, just tell me how you got shot down and what date.

Mr. JOHNSON of Texas. Well, it was April 16, 1965.

Mr. DORNAN of California. My wife's birthday.

Mr. JOHNSON of Texas. I am sorry, 1966. I was in Saigon working for General Westmoreland, a friend of ours.

Mr. DORNAN of California. So this was your second tour?

Mr. JOHNSON of Texas. Right; right. Before we get into this, you were talking about the great black heritage that we have: Chappie James, and you may have known him, Mr. Speaker, he was a great friend of mine and a leader in the Air Force. You knew him, I know.

Mr. DORNAN of California. First four-star African-American general in the Air Force and one heck of a human being and a natural fighter pilot filled with bravado and fun.

Mr. JOHNSON of Texas. He was a great, great guy. You know, the reason I bring the name up is because you were talking about that heritage earlier, but he more or less bid me adios when I left the United States to go back to Vietnam the second time before I got shot down, and when I got out, the first call I had when I set foot on the land of this United States of America was from Chappie James right here in Washington, DC——

Mr. DORNAN of California. Wow.

Mr. JOHNSON of Texas. Welcoming me back, soldier, you know.

Mr. DORNAN of California. Sure.

Mr. JOHNSON of Texas. And I just could not resist bringing that to your attention, too, Mr. Speaker, because it was one of those things that we cherish in our American heritage and what makes our President so important to what we do.

You asked, I was shot down by ground fire, probably one of those radar guns that that guy up in New York, now, that stayed in the Soviet Union for 40 years developed for the Russian hierarchy.

Mr. DORNAN of California. We had a press conference about him the other day out here.

Mr. JOHNSON of Texas. Yes; yes. Anyway, we had been on a road reccy and ended up over a truck park, and it was a big one, and they were ferrying boats across the river, and we were going to lay the bombs in on those ferries and, you know how that is done, and I sent my wing man up, and I went down and got hit. It was that simple.

Mr. DORNAN of California. SAM, or radar, Soviet-built, radar-directed flak?

Mr. JOHNSON of Texas. Yes. I do not know, quad 40's or 50's or something, and they, you know, I do not know, I took three or four hits, enough to lift us off the seat, and we were carrying napalm at the time, because that was one of the only loads they happened to have on that C–130 you described a little earlier, so we were down about 30–40 feet off the ground when we first took hits and managed to pull up going about 650 knots.

Mr. DORNAN of California. Did your back-seater get out?

Mr. JOHNSON of Texas. You know, that is another whole story in itself. I know, I saw our wing man, "DUKE," "DUKE" the Great over here, CUNNINGHAM, come in, and the back-seater, of course, in those days, you each had your own ejection handle, but later they modified the airplanes, as you know, so the front-seater could pop them both out, but the guy tried to get out, and you would not believe it, BOB, but he pulled the handle and was sitting there, "Duke," looking at nothing, but a cord about that long, and the seat did not fire, and it mesmerized him. He did not get out. I told him again to get out, and he did not, so I went out. When I did, it shook him to his senses. He managed to push himself down in the seat, and we were at negative g. It has gone full forward, and got this, and I sensed, and I went through Army jump school, so I have a feel for where I was. I was about 800 feet, I think, when I got out.

Mr. DORNAN of California. That will get you about one or two swings.

Mr. JOHNSON of Texas. Yes. The chute popped. It was a hard opening at that speed. I just had time to check it and see it was all right and look down and see him get out before the airplane hit the ground.

Mr. DORNAN of California. As the next step, as to your war story, with a peacetime story, so people understand I know what you are talking about. I went out at 500 knots, 450, and I broke my back from the seat, I broke my hip, and just had a new one a year ago from a hard landing, had about 40 stitches in my face. When you go out, everybody sees ejections in the films, and you are straight and level, you get everything squared away, boom, you are out, but when your aircraft is tumbling or falling like that, that is why so many POW's broke their arms and legs, because when a SAM missle hits you, it turns your airplane into a big piece of junk and shrapnel in the sky, and when you go out at those speeds, you land on the ground and you need medical help, and instead of giving medical help, they used prisoners' wounds to exacerbate their torture.

So did your back-seater make it to the ground OK?

Mr. JOHNSON of Texas. Yes. He broke his back. I think the chute opened just barely in time for him. I broke an arm and a shoulder and a back.

Mr. DORNAN of California. You never got good medical treatment for it ever?

Mr. JOHNSON of Texas. Zero.

Mr. DORNAN of California. Until you got back?

Mr. JOHNSON of Texas. Zero. Well, you know, the Vietnamese are like, I think, most Communists were in those days; they just put on a white smock and became a doctor. Would you like to be a doctor, Dr. BOB?

Listen, I would just like to say how many people remember what they were doing back in 1970. You know, in 1970, that was about the time that the 11 of us who were in Alcatraz put there because they claimed we were threatening to overthrow the Vietnamese Government inside the prison, we were isolated in the prison camp that was stuck down below the surface about 3 feet, believe it or not, right in the middle of their equivalent to our Pentagon, their headquarters in Hanoi.

Mr. DORNAN of California. What rank were you ?

Mr. JOHNSON of Texas. I was listed as a major when I got shot down. I was a lieutenant colonel really, and they never picked up on that.

Mr. DORNAN of California. Let me just briefly explain what Alcatraz was: 11 men whom they call hard-headed, Robbie Reisner would have been with you, but he was so severely tortured and ill that they just left him in a lump in his cell. They took two younger jocks that had escaped, Coker and McKnight. The rest of them were Senator Jeremiah Denton, who served 6 beautiful years here, James Bond Stockdale, was he with you ?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. He is now the Vice President under Ross Perot.

Mr. JOHNSON of Texas. Yes.

□ 2330

You talked to Ross this morning, did you not?

Mr. JOHNSON of Texas. I did.

Mr. DORNAN of California. Well, since you are his Congressman, there is something I want you to talk to him about.

Mr. JOHNSON of Texas. Let us get this straight, that I am supporting President Bush in this election.

Mr. DORNAN of California. But you did not beat up on your friend Ross, tell him to get out of the race; it is just he knows you are a solid Bush guy and he thought you were going to chew him out.

Mr. JOHNSON of Texas. I told him he had better put his hip boots on because it may get deep before it is over.

Mr. DORNAN of California. I told a story in this House several times over 16 years. One of the 11 men was Ron Stewart, Air Force pilot. He said goodbye to you, God bless you, GBU, with a broom.

Mr. JOHNSON of Texas. Right.

Mr. DORNAN of California. But you never saw him again.

Mr. JOHNSON of Texas. No.

Mr. DORNAN of California. But his remains are home over in Arlington.

Mr. JOHNSON of Texas. We found out when we came on the airplane, Shields told us——

Mr. DORNAN of California. Roger Shields.

Mr. JOHNSON of Texas. Yes. Roger Shields, State Department.

Mr. DORNAN of California. He testified over in the hearings.

Mr. JOHNSON of Texas. Exactly. Just last week.

Mr. DORNAN of California. A few days ago.

Mr. JOHNSON of Texas. Yes. That was the first time we found out what happened to the stores that were on the airplane.

Mr. DORNAN of California. SAM, let me ask you something. It is no secret that I look up to you guys who fought wars behind me, like George Bush, and after me, like you guys. I am stuck in between. I cannot pick my birthdate. But I just want to establish something that is embarrassing to guys like you. DUKE, you grab the microphone because I should have asked you this last night when you said you were going to turn your medals upside down.

Let me ask you: Forget all the service ribbons and commendation medals and good-conduct medals, just give me combat decorations. You were nominated for the Medal of Honor. Let me say politics, politics, what they called after the Pearl Harbor debacle when the Army and Navy could not talk together, I learned a new word years ago, "Army/Navy punctillio." Friction, little bit of jealousies, and, as far as I am concerned, when you are nominated for a Medal of Honor, you got it. So what is your highest decoration?

Mr. CUNNINGHAM. Navy Cross.

Mr. DORNAN of California. One Navy Cross.

Mr. CUNNINGHAM. Two Silver Stars.

Mr. DORNAN of California. Two Silver Stars. How many Air Medals?

Mr. CUNNINGHAM. 15 Air Medals.

Mr. DORNAN of California. 15 Air Medals.

Mr. CUNNINGHAM. Yes.

Mr. DORNAN of California. Purple Heart?

Mr. CUNNINGHAM. Purple Heart.

Mr. DORNAN of California. And you came very close, depending on tides, because you came down in the water, right, on May 10, 1972?

Mr. CUNNINGHAM. That is why I have so much respect for people like SAM. The most fear I ever had in my life was when I was hit by a Soviet surface-to-air missile, called an SA-2. And I did not know if I was going to survive or be a prisoner of war. The most fear I have ever had in my life, SAM, was the thought that I was going to be a POW. There were also two things that they told us that would keep us alive, when we went through POW training at camp. One of those was having a good family back home that you could come back to, and the other was a faith in God. I did not have those then, but I have them now.

Mr. JOHNSON of Texas. God bless you.

Mr. DORNAN of California. How many combat missions did you go to?

Mr. CUNNINGHAM. 299½, BOB. I was shot down on my 300th mission over North Vietnam.

Mr. DORNAN of California. That was a sortie, one sortie you did not sortie, that is the French, out of the area.

What combat mission were you shot down on?

Mr. JOHNSON of Texas. Twenty-five, and I had sixty-five in Korea.

Mr. DORNAN of California. Sixty-five in Korea and twenty-five in Vietnam. It is unusual on the 25th mission that you guys get shot down, it is usually on 1 to 10 and then the odds catch up with them at 80 and 90 or 100.

Mr. CUNNINGHAM. That is the Air Force guys.

Mr. DORNAN of California. Let me just embarrass you for a second, SAM. Your highest combat decoration?

Mr. JOHNSON of Texas. Silver Star; I had a couple of them.

Mr. DORNAN of California. A couple of Silver Stars?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. Distinguished Flying Crosses?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. How many Air Medals? You cannot beat 15.

Mr. JOHNSON of Texas. No, no, I can remember six.

Mr. DORNAN of California. Did they know that you were decorated when they got their hands on you?

Mr. JOHNSON of Texas. No, they did not.

Mr. DORNAN of California. So what did they do? DUKE, if you would bear with me. When they pick you up on the ground and pick up your backseater man—what is your backseater's name? Where is he today?

Mr. JOHNSON of Texas. He is in Arizona, Tucson.

Mr. CUNNINGHAM. Mine was Willy Driscoll.

Mr. DORNAN of California. Your guy in the back, the all-important guy in the back, an Air Force GIB, "guy in the back," when he is looking, lying there with his back broken, do they just load you two guys in a cart, or how did they get you there?

Mr. JOHNSON of Texas. No, no, they kept us separated for the whole time.

Mr. DORNAN of California. You never laid eyes on them until you got out?

Mr. JOHNSON of Texas. One time when we were forced together because the Navy blew up a bridge ahead of us and we could not get across it. So they commandeered a Bhuddish pagoda and put us in there. They kept the guard between us. They were trying to play one against the other.

Mr. DORNAN of California. Right; he has told me this, he has told me that?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. And this is April 16, 1966?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. Do you recall how many planes had been shot down by then?

Mr. JOHNSON of Texas. I was the 69th prisoner of war.

Mr. DORNAN of California. Good grief.

Mr. JOHNSON of Texas. I do not know how many planes had been shot down at that time.

Mr. DORNAN of California. The final figures of reliefees, if you do not count the 24 in the south, it came up to like 690 prisoners?

Mr. JOHNSON of Texas. I think it was 571.

Mr. DORNAN of California. I am sorry, 571 in the north and 24 guys in the south, who actually were rare. Most guys in the south died. One doctor who came back in that 24 said he had over 30 men die in his arms because of maltreatment and bad treatment.

Mr. CUNNINGHAM. Can I make a point, BOB?

Mr. DORNAN of California. Sure.

Mr. CUNNINGHAM. We voted to give the troops our support in Desert Storm. I went on a strike just south of Vinh, it was called Operation Crowd Deep, and we could not get word to go in, Congress would not let us do it. It was overcast. We called back and said we cannot go in over the overcast because of the surface-to-air missiles. And Congress said, they came back and said, "You have those 3 days or none."

So we had to go in. And we lost over 30 airplanes because of decisions here in this body. That is why I think I relished and promised that someday if ever I was in a position to make those changes. Can you imagine with someone like Governor Clinton, who was in the Soviet Union, and both SAM and I were shot down with Soviet weapons. Bill Clinton was in the Soviet Union protesting the same war that we almost gave up our lives for.

Mr. JOHNSON of Texas. Riding trains, eating black bread, galivanting around Moscow, right? Bill Clinton.

Larry Chesle was my backseater.

Mr. DORNAN of California. A young Mormon?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. He was one who wrote one of the first books that I read out of the 20 books that you gentlemen wrote. Larry's was just a simple one. He was not tortured as much, because he was a junior officer. But his book was the first one that gave me a setting for—what was it called? "Seven Years in Hanoi," just a simple title. Then I began to read the books of the senior naval Air Force officers.

Mr. CUNNINGHAM. One of the best books you can read is by Major James Rowe, who is the same military officer who was killed in the Philippines just a couple of years ago. It is called "Five Years to Freedom." He spent 5 years as a prisoner and then escaped, and I will tell you, it is fantastic.

Mr. DORNAN of California. I got to know Nick Rowe very well because I put him on my show three times in 1969 and 1970, the 2 years that we are discussing here, with Clinton. He had death threats leaving my show sometimes. He was a prisoner from October 1963—we did not even know that we had live prisoners in October 1963. That would be when Mr. Lewis was in the chair, that would be between Martin Luther King march and the month before Kennedy was assassinated, Nick Rowe was captured. Five years later, thanks to the likes of some of these people that Clinton has hired, like David Ishland, his cover was blown that he was not an engineer, that he was a West Point graduate. He was to be executed in the morning. And even though he had escaped 5 times and had been recaptured, obviously he was motivated to go for broke, this was it. He got away. He was out in a field. Nick was short in stature, maybe 5'6" or 5'7". He was in black pajamas. Here comes an Army Cobra about to zap him, and he waves his hands and as dirty as he was, those Cobra guys get down in the weeds, the guy looked at his face and he said, "Whoa." He did not fire, but he did circle around. And that was 5 years later, November 1968. I had him on my television show with his wife about 6 months later. Believe me, he worked his tail off for you, SAM, over and over to get him back.

Mr. CUNNINGHAM. I think this is important. I got a call from the Washington Post today to ask why I thought that you were doing these special orders. People were not aware—we got almost 2,000 calls in the office today, all very supportive, thanking you for what you are doing, BOB. But the press out there has suppressed the truth. And the facts and the figures that are coming across to the American people of Governor Clinton's involvement not only in the antiwar protest but dodging the draft, turning down his responsibility in ROTC, not graduating from Oxford. I did not know those figures or the letter that was written to his draft board. And I told them, I said, first of all, BOB DORNAN is a patriot and a hero in my eyes. Second, he believes in what he is doing because the American people are not aware of the facts and figures. When SAM and I were shot down, Governor Clinton was in the Soviet Union coddling the same Soviets that had KGB, that had interrogators in the prisoner-of-war camps along with Cubans that were interrogating and torturing men like SAM JOHNSON.

Mr. DORNAN of California. Yeltsin, a real hero of the Soviet Union today, who stood on that tank a year ago August, on the 20th or 21st of August, and thought he might die, he stood right there at that same spot where Winston Churchill stood and the Marquis de LaFayette, where MacArthur stood for his good-bye speech, and all our Presidents address us, he stood right there and said, "My predecessors may have brought Americans from Vietnam to the Soviet Union, prisoners that never made it into the Hanoi structure or system of all those satellite camps."

Mr. CUNNINGHAM. And Governor Clinton lauded that kind of action.

Mr. DORNAN of California. And may have been in Moscow when somebody was sitting in the Lupyan Prison.

Mr. CUNNINGHAM. Can you conceive him being President of this country?

Mr. DORNAN of California. Well, I am going to sit down for a minute, because I want you two guys to go back and forth and let this peacetime fighter pilot butt out, but I want to set the scene, and here is what I want you to talk about.

Mr. Speaker, here is a picture of a man named David Ifshin. He was appointed in April to be the Senior Policy Advisor to the Clinton for President Campaign. Here is David Ifshin in Hanoi in 1970, the same year that Clinton was there in January. He is there later in the year. He went through Moscow, a flight to India for refueling, then into Rangoon, a Communist country at the time, nonstop Rangoon to old Hanoi, and here he is standing next to Pham Van Dong, who manipulated the Paris Peace Talks.

Mr. CUNNINGHAM. This guy is with Clinton's staff today, as an antiwar protestor, the North Vietnamese, the same people who were torturing SAM JOHNSON and shooting us down.

Mr. JOHNSON of Texas. Well, he is a close friend, one of his key political foreign affairs advisors, as well as a lawyer, posing for photographs that BOB has just shown you, serving as a mouthpiece for Communist propaganda on Radio Hanoi, denouncing his own country and servicemen.

Ifshin made a radio broadcast urging the American troops to refuse to fight, and he said,

> I realize after this trip to Hanoi that the United States Government does not go to South Vietnam to fight for democracy or to defend the right of the people. They go there and send us to murder the people of Vietnam.

It sounds like what the Communists were telling us there to make one large U.S. military base, not to defend the United States, but to aggressively threaten other countries.

You know, that is an action bordering on treason, not unlike that one of our previous friends, I guess we would call her, Jane Fonda did sitting on top of a gun.

If this latest revelation does not shed some light on the shadows of Bill Clinton's past, I do not know what will.

David Ifshin is Clinton's type of political bad company. Clinton surrounds himself with cronies and liberal revolutionaries.

I do not criticize anyone for not serving in the Armed Forces. Everybody is entitled to their own ambitions and political opinions. That is what makes America American.

But what turns my stomach is these men's blatant disregard for American lives.

Many in their generation took political stands of one sort of another, but they did not go to Russia, the Soviet Union.

You know, the Soviet Union at that time had not even launched a mission to the Moon and we had, and yet these guys stood over there and said how friendly the Soviet Union was to this country.

I mean, both Clinton and Ifshin did that.

They were not friendly to us. They were helping Vietnam fight that war and the Vietnamese told us that we had not gone to the Moon. It was not until I got back and talked to my friend, Buz Aldrin, that I found out what really happened up there.

They said the Soviets had gotten there and the United States did not make it.

It was like them telling us we were going to be there all of our lives when Lyndon Johnson stopped the bombing in North Vietnam.

So I think the difference comes with the character of people. The Democratic nominee for President does not possess the basic integrity to admit he opposed the war, asking for special loopholes and favors along the way, and the Democrats top political advisor, David Ifshin, who committed the ultimate disgrace of putting himself at the service of the Communist enemy.

Mr. DORNAN of California. It is treason, that is flat out treason.

Mr. JOHNSON of Texas. Well, I could go on and on.

Mr. DORNAN of California. Go on, please.

Mr. JOHNSON of Texas. Well, I think the issues are so important to our Presidential race, and the issues are truth, integrity, and the basic values of being an American citizen.

Do you love your country? I do, you do and DUKE does, I know. All three of us, regardless how crippled up we are, we would go fight for it again tomorrow if we had to.

Mr. DORNAN of California. In a heartbeat.

Mr. JOHNSON of Texas. You know, I think we need to take a long look at all our choices for President and make sure that we do not forget who stands for America and who does not.

Mr. DORNAN of California. DUKE, that article I just gave you, is that the London Times one, the one down there with that face of Ifshin, where he looks like Lyndon?

Mr. CUNNINGHAM. We had names when we were pilots, both during the war and after. We call them DRCPD. That is Dirty Rotten Communist Pinko, and because of respect for this House, I will not tell you what D stands for.

But this individual, if we could have had him in our sights along with the other people, the antiwar protestors, BOB, we hated these individuals as fighting men and women in the armed services worse than we did the enemy that we were fighting.

I had more respect for the men that I fought against and we shot down in combat than I did for men like this that Clinton surrounded himself with and Bill Clinton who avoided the draft now is lying about it.

Let me tell you a real quick story. It is about one of SAM JOHNSON'S colleagues when he was a prisoner of war, if I can get through this.

There was a POW that took and knitted an American flag on the inside of his shirt and every time the POW's would get together, he would turn that shirt inside out so that they could meet under that flag.

Well, that was great until the Vietnamese guards broke in and found the man and they saw the shirt hanging over the meeting and they tore it to shreds. They took him out and brutally beat him, some of the same Soviets, same Cubans, they yanked this man for 4 hours, and when they drug his body back in, his bloody body, with broken bones, his friends, his fellow colleagues, and POW's put him over in a corner on a bale of straw. They did not think he was going to survive the night. They went back over in their corner after they had comforted him. They heard a stirring in the corner, BOB, and they looked over and here was that broken body. The POW had drug himself to the floor and started knitting another American flag, and people like Bill Clinton that disgrace this country and people like this—

Mr. DORNAN of California. Ifshin.

Mr. CUNNINGHAM. Ifshin, that he has surrounded himself with, if he sets foot in this Chamber, I will never ever wear those medals and I will turn them face down.

Mr. DORNAN of California. Until we replace him.

Let me focus on something here and see if you gentlemen would agree with me on this. If some misguided young person decided that the killing or even the political manipulation was too much to bear and they said, "I have nothing to do with the Communists in Vietnam. They probably are awful. I just want my soldiers to come home and I want this war to end." You would put that person in a different category than somebody who went to Moscow, or a conscientious objector. A person that was a pure peace worker, or as Bill Buckley writes in his column, like Joan Baez, who said she was sorry and wrong when she saw the killing fields and saw the boat people, Joan Baez marched on the White House, and as a young Congressman, young meaning new Congressman, in 1979, I went with her. We knelt in front of the White House on the north side. There was BOB DORNAN, a liberal Republican, failed to show up, he told me about it, so I went to Joan and he was not there.

Joan Baez covered Newsweek Magazine, as a matter of fact. Joan Baez, a Buddist Monk, a Vietnamese Catholic priest, and BOB DORNAN.

President Carter, to his credit, came out of the White House through the north portico, came up to the fence and actually climbed up on the bottom rung.

Mr. CUNNINGHAM. President Carter was a military man.

Mr. DORNAN of California. He was an Annapolis graduate.

He said, "I will order the 7th Fleet to start picking up refugees."

Now, Joan Baez never apologized for her impulse toward peace, but she condemned the enemy.

They ran a full-page ad in one of the New York Times or Wall Street Journal papers, and Jane Fonda refused to sign it, as did Noam Chomsky, Tom Hayden. You found out in 1979 about the killing fields, 1978 and 1979, who the real pro-Hanoi workers were.

□ 2350

Now Jane Fonda, although Hayden has never apologized; after she got rid of him and gave him $15 million to get lost—he had a Clinton problem: Trying to nail every stewardess he laid his eyes on. They used to tell me this story, this was up between Sacramento and LA, call them banana nose and laugh about why they think he would be successful with us. He felt sorry for Jane.

But she has apologized. When she tried to make that movie in Connecticut, a half an apology, she said, "I shouldn't have gone to Hanoi. I hurt a lot of people's feelings. I didn't mean that. I was very naive. I didn't think some things through." But that was as far as she could go. No condemnation of the killing fields, the Communists, the massacre of 68,000 people who loved us and worked with us, but at least it is half an apology.

Clinton cannot apologize for his trip to Moscow because he is so wrapped up in his web of deception, if he apologized for something, people would go: What? They would accept the apology, but they would not vote for him to be the Commander in Chief, to lay the wreath on the Tomb of the Unknown Soldier, sailors and marines for all the wars of this century.

That is the catch-22 that this guy has gotten himself into.

Ifshin, David Ifshin, and the article the gentleman has there by Bill Buckley, was written in 1984 when Ifshin was, get this, chief of legal counsel for the Mondale-Ferarro campaign. Later he was hired by the Dukakis campaign.

Mr. JOHNSON of Texas. And senior political advisor.

Mr. DORNAN of California. Then, and then Mickey Kantor, who I have gotten along with, debated on television, Democratic operative from LA, Jerry Brown's campaign manager for his Presidential run before this time he shifted to Clinton because he figured a moderate might win—well, I am telling my friend, Mickey Kantor, "You aren't ever going to convince me, Mickey, this guy is a moderate. This is a George McGovern, radical, leftwing, pro-Hanoi who, because he was born in Arkansas, knew that he had to learn to talk moderate or conservative speech because he lost his first race to our colleague who still serves here, JOHN P. HAMMERSCHMIDT." He lost the Governor's race 4 years later, although he won Lieutenant Governor in 1978.

This issue never came up in Arkansas in the Governor's race when he made his comeback in 1982, 1984, and then they went to 4-year terms, so he was elected in 1986 and 1990. Why? Because he had a simple total distortion of the truth. He said, "I submitted myself to the draft." Not true. "I drew a 311 in the lottery on December 1, 1969, and by a sheer fluke," that is a quote this year, "by a sheer fluke I never got called up, but I liked the military. I have always admired it. Gosh, maybe I would have liked to have gone."

All of this is improper because on December 1, he drew his number; on the 2d he wrote to Yale, where his mother said he always intended to go anyway. On the 3d he wrote this mawkish, disgusting, deceitful, lying letter to Colonel Holmes.

Mr. CUNNINGHAM. These are documented dates.

MR. DORNAN of California. On the 12th, or thereabouts, he is in Oslo, Norway, visiting with peace people, that is, pro-Hanoi activists, prowar people pulling for a Communist government, a Socialist government, in Southeast Asia, also for Cambodia and Laos and Thailand and Malaysia and Singapore when they got around to it, and somewhere between December 12 and December 31, he shows up in Moscow, 26 degrees below zero, dead of winter, and stays there for how long? He says through his mouthpiece, to his senior staffers, a week. How do we know a week?

ABC national television showed no interest today. They called me, said, "What do you got? We're not interested."

Post: So far Washington Post not interested. So far New York Times not interested. So far Wall Street Journal will not answer my calls. So far LA Times not interested. Jack Nelson, Washington senior man for the LA Times, referred me to a local reporter who is a good man. Maybe he will do a story.

I do not know what is going on here with the American media, but I am beginning to believe in my gut, gentlemen, that the bias this time is deeper and more disgusting than anything that Agnew talked about November 13, in Des Moines, IA, of that same year, a month before Clinton left for Moscow. Six weeks before that excellent speech of Agnew, written by Pat Buchanan, as a matter of fact, about the nattering nabobs of negativism and how big media twists the news, they looked like little pussycats in 1969 compared to the raw, ugly bias in the dominant media culture today. Clinton is their candidate, and they need to carry him with all of his flaws and warts and his association with KGB agents in Moscow.

Whether or not he knew it, it was irrelevant. I will give him the benefit of the doubt on that.

Mr. CUNNINGHAM. He would not qualify under our intelligence records to serve in this body.

Mr. DORNAN of California. He could not serve on the Permanent Select Committee on Intelligence if he was in this body, and he tried to get here in 1974 when he was 28. He could not serve. That was only 5 years after that he was running for the U.S. Congress. He could not get a secret, let alone a top secret or a code word clearance, and he could never be commissioned in the military because of this record. If he has wanted an officer's commission, if he has levelled with Colonel Holmes, come home in January 1970, they would have grilled him on that Russian trip, and then they would have said, "Look, we haven't got time to fiddle with you, buddy. We've got other good kids from Arkansas. We're going to take other people. We'll take a high school diploma farm kid over you. Get out of our sight." But he was worried about political viability.

This guy, Ifshin; I do not understand this. This was a press release in——

Mr. CUNNINGHAM. Can I read this?

Mr. DORNAN of California. Please do.

Mr. CUNNINGHAM. This is the first time, and I am reading where the gentleman highlighted it. That is why my eyes fells on it.

Mr. DORNAN of California. Sure.

Mr. CUNNINGHAM. Mr. Ifshin, a member of good standing in the antiwar movement went in response to an invitation from the Communist government of Hanoi to help negotiate, was known then memorably as the people's peace treaty. In sum, Mr. Ifshin went to Hanoi at the behest of the Government with which his country was at war and there made pronouncements that, whether he willed it or not, made useful propaganda for Hanoi radio.

Mr. JOHNSON of Texas. Yes, he signed the people's peace treaty, for goodness sake, without any official——

Mr. DORNAN of California. And they were trying to get some of you to sign that thing, as I recall.

Now in Alcatraz was there even a PA system——

Mr. CUNNINGHAM. Is he going to be Clinton's Secretary of Defense?

Mr. DORNAN of California. Look. That guy will end up so high in the State Department, and then he will go before a Senate committee for confirmation, which is already loaded with the majority party, and they will be battling over there, one after another, as Clinton's true colors come out and he tries to take these birds of a feather that he really runs with because, if he makes it on November 3, next month, if he makes it, do my colleagues know what the battle cry is going to be with all of these people who have felt kind of treasonous, properly so, all these years? They are going to say, "We made it. One of ours, one of ours who got to Moscow," and his friends got all the way to Hanoi to betray their country, "one of ours has made it," and the media will grovel, all these light types, that the flower children of the 1960's are now in control of the greatest nation in the Free World——

Mr. JOHNSON of Texas. They announced in the Clinton campaign that Ifshin, this broker known traitor guy, will take an active role in the development of foreign and other policy areas——

Mr. DORNAN of California. Wait a minute. I just——

Mr. CUNNINGHAM. The gentleman brought up a point last night. What effect is this going to have, not only on our veterans who are held in esteem in this country, but what about our active duty military knowing that Clinton, who turned his back on this country and has had someone like Ifshin in defense when we have active duty men and women serving this country, the same people that turned their back on him, and we might ask our friend, the gentleman from Texas [Mr. JOHNSON] how he thinks it would affect the veterans in the current military.

Mr. DORNAN of California. What do you think, SAM?

Mr. JOHNSON of Texas. I think they would be appalled. It would be in my view awfully hard to get somebody to come into the military to defend this country with somebody like that.

Mr. DORNAN of California. Does the gentleman know what I just recalled about Ifshin? I forgot for a moment what he did for Dukakis.

The Buckley column, with his quotes over radio Hanoi asking men to betray their country, throw down their arms, same thing they got Fonda to do 2 years later in July 1972. He was chief legal counsel for Mondale, 1984, but in 1988, for Dukakis, he was the chief of the transition team. When they came out of their convention 17 points ahead, were planning on winning, they put this traitor in charge of the transition team to fill 75,000 jobs that are listed in what is called in this city the Plum Book as big as a phonebook. He would have say over Presidential ambassadorial appointments, and liberal Presidents always tend to push the statute, but traditional 40 percent break or less, of Presidential appointees or political appointees, if my colleagues want to put a bad title on it, as opposed to career Foreign Service officers.

Right now, under President Bush, because he was on board at China and the United Nations, he has got it down to a lower percentage out of respect for career Foreign Service people, out of our 160 embassies out of about 170 nations in the world where we have an embassy in the present. There are only 36 Presidential appointments. Every one of those good people, including the key countries of Japan, Germany, London, Rome, Paris, Oslo, Belgium, Switzerland, 36 of those people are going to be called home in just a couple of months if Clinton wins, and 75,000 people across this country will lose their jobs, and the McGovernites will be back in position again as they infiltrated and dominated 90 percent of the Carter years giving us that 24-percent interest rate and 14½ inflation rate.

We are in for, as Betty Davis says, a "fasten your seat belt, you're in for a bumpy ride." It is going to be a brutal 4 years, particularly on the military.

□ 2400

Maybe Ifshin is already planning to be head of the transition team if they pull it off.

Mr. CUNNINGHAM. Truth, integrity, and character.

Mr. DORNAN of California. As I said last night, duty, honor, country. I still have a certain respect for a guy like David Harris, who was Joan Baez' husband at the time, a student body president at Stanford. By the way, Ifshin was the student body president at Syracuse when they had riots up there, and then he became president of the, what was that association, the National Association of Student Leaders, or something, turned into a radical proHanoi arm. Whatever happened to that group, by the way? I have not heard from them in a decade or so.

No, what we are on the edge of here is a nightmare. What I am finding that I am getting angrier about, not bitter, just plain old anger, is the media does not think what these people calling and writing to our offices, and since you joined me last night, wait until you see what happens to your mailbox in a day or two.

Mr. CUNNINGHAM. We have had 2,000 phone calls today, all positive.

Mr. DORNAN of California. Wait until you see the mail coming in. Not just from veterans, but mothers, gold star mothers, people who wondered why we were never able to win. And we know that the war was fought in the halls of this place.

Mr. CUNNINGHAM. I have had Democrats call today and said they are not going to support this guy. They did not know. And that is why it is important that you are bringing these documented facts to the American people, because the press will not do it.

I would like to ask my friend SAM JOHNSON, the great SAM JOHNSON from Dallas, TX, SAM, what do you think, and maybe this is an unfair question, but if you in prison with your other members could have got ahold of Jane Fonda, Tom Hayden, Clinton, and this rascal, what would you have done to him?

Mr. JOHNSON of Texas. Ifshin? Well, we talked about bringing them back on a plane with us and kind of easing them out the door at about 40,000 feet.

Mr. CUNNINGHAM. I know you say that in jest, but I also know that if the POW's would have had their way, there were a lot of people that would have been tried for treason in this country.

Mr. DORNAN of California. I think they should have been.

Mr. CUNNINGHAM. Including a member that was a turncoat prisoner of war that was in Jerry Brown's cabinet along with Jane Fonda and Tom Hayden.

The SPEAKER pro tempore (Mr. VISCLOSKY). The time of the gentleman has expired.

PATRIOTISM AND AMERICAN POLITICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. JOHNSON] is recognized for 60 minutes.

Mr. JOHNSON of Texas. Mr. Speaker, I think we need to just make a couple of more statements here. I think 1970 may seem a lifetime ago to some, but it will never be long enough to erase the shameful act of the two Americans that played politics with their own countrymen, and that is what we are talking about.

Mr. Clinton, BOB, said, and he is talking about Russia in 1970, "Relations between our two countries were pretty good then. It was a time of détente."

Mr. DORNAN of California. It was not.

Mr. JOHNSON of Texas. Get off my back. "And the American Moon landing had just been shown on Soviet television. So it was a very friendly time." And he says, "I love riding the trains in Russia and the black bread, too."

Now, come on. In that timeframe, and I recall, and we talked about it a little earlier, the likes of Jim Stockdale in California, Jerry Denton in Alabama, and I, were sitting in a Vietnamese prison camp, and we were not riding the trains and eating black bread. We were eating rice and pig fat and watching rats.

Mr. DORNAN of California. And sometimes watching the Vietnamese guards pour gasoline on the rats and set them on fire and laugh as they would run to their death.

Mr. JOHNSON of Texas. Well, I watched them kill dogs that way, too, with gasoline.

Mr. DORNAN of California. Let me read a press release from today, not a press release, a press statement, out of Little Rock, today, dated October 2.

"An Arkansas newspaper editor asked if Clinton went to Moscow while a college student." While a college student? He was not going to class. He was ditching his whole last year at Oxford. He was taking the money and not doing the work. I have said that every night for a week, and not one of them has contradicted what I have said here. All they just say is "DORNAN is not telling the truth." But they will not come up with one fact, and they will not tell us exactly how long he was in Moscow, whether he went in by a train or plane, who greeted him there, how did he get his visa? Was it at 10 Kensington Palace Gardens, at the Russian Embassy? Is that where he got it? Let me finish this.

Arkansas newspaper says did he go while a college student. "Ms. Betsy Wright sighed. * * *" Is that not interesting to see in a hard core news story? Sighed. "* * * * then said the Rhodes scholar," he never got his Oxford degree, "had traveled to the Soviet Union during a break in his studies at Oxford."

Yeah, a year break in his studies at Oxford. I repeat, he was in Oslo a few days before.

"Despite the rumors," I guess she is referring to me, "he was alone. He did not travel the peace train with the Berrigan brothers."

That was my speculation a long, long time ago, last Wednesday, when I had only the barest of information here.

It goes on to say, "The Roman Catholic priests were Vietnam War protesters dumping blood on the files of draft boards, sneaking onto a SAC base with sledge hammers and beating on the wings of a B-52."

Did you gentlemen happen to catch Bill Buckley's column last week? He says now here is the problem with Mrs. Clinton, Hilary. The news media love to characterize our convention as a festival of hate and fear, and that we were beating up on this poor innocent wife who really did not want to do anything but bake cookies. Nothing about the volunteer organizations that she belongs to that gave money to the Communist Sandinistas in Nicaragua.

Here is the way Bill Buckley starts off. I have never seen him get this rough.

> William Bennett raises a nice point when he writes in the current issue of National Review that a distinction should be made between the public and the private character of Bill Clinton. The private character has to do with whether or not he has lived scrupulously by his wedding vows. The public character has to do with whether he has deceived the American people. As a wag might put it, it is one thing to fornicate Gennifer Flowers; quite another to do so with the American public.

Here is the paragraph which former Secretary of Education and drug czar William Bennett makes his point.

The SPEAKER pro tempore. (Mr. VISCLOSKY). The Chair would remind the gentleman from California about the decorum of the House. The Chair will not diminish current protections against references to the President, Vice President, and Senators. The Chair acknowledges that under the precedence and practices of the House a greater degree of latitude does not exist with respect to references to nominated candidates for President and Vice President who are not incumbents or Members of Congress.

However, the Chair believes that in order to maintain decorum in the House, certain minimal standards of propriety in debate should apply to all nominated candidates for President and Vice President.

Thus, the record and character of such candidates may be properly debated without references which constitute a breach of decorum.

Mr. DORAN of California. Mr. Speaker, that ruling came down last week. Could I ask a question? Was anyone in this House consulted? Did we ever vote on that rule, or was it just arbitrarily handed down by the Speaker?

□ 0010

The SPEAKER pro tempore. (Mr. VISCLOSKY). The Chair has an obligation to maintain the dignity and decorum of the House. Words such as "liar" and "fornication" have been used in the debate, and the Chair has determined that that is a breach of the decorum of the House.

Mr. DORNAN of California. I was quoting from a distinguished columnist and national figure. Has been on television since I was in my early twenty's.

The SPEAKER pro tempore. The Chair cannot read, but the Chair can hear the words.

Mr. DORNAN of California. I will not continue.

Would it be, could I ask unanimous consent that Mr. Buckley's column be put in the RECORD, would that uphold the decorum of the House?

The SPEAKER pro tempore. That would not be proper to insert in the RECORD something that it would be improper to say on the floor.

Mr. DORNAN of California. Mr. Speaker, I agree. I will not put Mr. William F. Buckley, Jr.'s column in, a columnist for United Press Syndicate, in hundreds of American newspapers, but I will talk to Bill about it and tell him to not be so blatant in his writing so I can get it in the RECORD.

Here is the problem that comes from the legislative affairs office of the Secretary of Defense. He called me and said that he wants me to call a three-star general to request an amicus brief by the Department of Defense to support a lawsuit by a student's mother who wants to overturn in New York the Rochester School Board's decision not to allow military recruiters at any Rochester high school.

The reason that the courts have blocked temporarily Rochester high schools from allowing Army, Navy, Air Force military recruiters to seek young enlisted men and women for the military is these recruiters are not allowed to recruit out of the closet, outspoken, activist homosexuals, male or female.

In brief, the New York School Board made a decision on December 9 to impose such a ban in all the Rochester district high schools. A very brave, 17-year-old Rochester student and his mother have sued the city school district because of the ban and won in the New York Supreme Court. Now the parent and child are winning.

He gives me three pages from the New York Supreme Court decision, which I have read, not being a lawyer, it still is easily understood. However, the Rochester School Board has appealed the decision.

This is Jack Kemp country, for the 18 years he was a Congressman in Buffalo and Rochester. A number of leftist organizations are helping in the appeal against the New York Supreme Court, including the "Committee on Lesbians and Gay Men in the Legal Profession," and the Association of the Bar of the City of New York, the New York Civil Liberties Union Foundation, the Society of American Law Teachers and the Bar Association for Human Rights of Western New York.

Here is what is amazing. The Governor of Arkansas has aggressively gone after the proabortion vote, has said something that no candidate has ever said in the history of this Nation, that they will have a litmus test, that they will ask a nominee to the Supreme Court, prior to any decisions about a decision that will probably be heard, what he is going to do. And if he or she gives the wrong answer, they are out. They do not get to go before the Democrat-controlled other Chamber.

Then he says he will sign an Executive order within days, sort of the way President Carter kept his promise to immediately give amnesty to the draft dodgers, but he was qualified. He did not give it to all of them. I do not think this guy, if we had known, this guy David Ifshin would have qualified. He probably had a 4-F. He did not care too much about his political viability because he planned his life to run cover, to kind of craft, to suck up into the slot of someone.

Mr. CUNNINGHAM. Did he have a bad knee?

Mr. DORNAN of California. He was planning on drafting or sucking up behind the tailpipe of somebody like the Governor of Arkansas.

Mr. JOHNSON of Texas. You have got to have some proficiency to even suck up.

Mr. DORNAN of California. I did not mean to use a flying metaphor with two top pilots here.

President Clinton has said—I mean Governor Clinton, I hope that is not a Freudian slip.

Mr. CUNNINGHAM. That is a misspeak.

Mr. DORNAN of California. Governor Clinton has said with an Executive order, which he can do with his pen, he will order the Army, Navy, Air Force, and Marine Corps and the Coast Guard, which is under DOD in wartime, under the Department of Transportation in peacetime, he will order them to start recruiting out of the closet, activist lesbians and male homosexuals. That will destroy the morale, particularly an Executive order signed by a draft dodger who has been hiding his draft dodging.

This is the kind of thing America does not know about, and the networks will not tell this country. And that is why, SAM, tomorrow, you have already gotten a bunch of calls tonight, that is why tomorrow you are not going to be able to call your office in the morning. I could not call my office.

Mr. CUNNINGHAM. Where did he make those statements?

Mr. DORNAN of California. This is only a week old, a memorandum for me to call this lieutenant general and get him to file an amicus brief with the mother and the student.

Mr. CUNNINGHAM. What I want to do is show people that this is not something you are making up. It is documented.

Mr. DORNAN of California. Because the President, if it turns out to be Clinton, will order, the New York Supreme Court decision will be moot because he will order every—you know how motivationally inclined recruiters are. They look for the sharpest noncommissioned officers in the military, in the Navy and Air Force and Army, because these are what the parents see when a young person says, "I am inclined to go into military service. I would like you to meet my recruiter." Particularly if they are 17, maybe have been in a little trouble or juvenile, rambunctiousness, and a judge says, "Why don't you join the Marine Corps." And he has good parents. He is a victim of peer pressure maybe. They go down to meet the recruiter.

These are good-looking men and women, militarily sharp, intelligent.

To get an order from the President of the United States, next January, "I want you to actively recruit these people," I am telling you, Americans do not know what is going on in this election because the news media has picked their candidate. And are ripping the guts out of George Bush every time they get a chance.

Let me tell you what I am upset with. I have had a couple of media people hint, am I doing this in coordination from the White House. I have not had a single call or contact with the White House or on this subject material with our White House liaison in the last 10 days.

As a matter of fact, not even a thank you card, not even an awareness call. We understand what is going on.

To tell you the truth, the frustration in a lot of calls coming in to me, because generally we are inching dangerously close to that point, about 3 weeks out from the election, where the news media will then, through public pressure, when asked to discuss this, they will say, "I guess in an act of last-minute desperation, in a lunge toward negative, dirty campaigning, Congressmen DORNAN, JOHNSON, CUNNINGHAM, at the behest of the White House, are desperately seeking to bring up some pseudo-charges against Clinton about going to Moscow or dealing with oro-Hanoi war workers or organizing demonstrations in a foreign country against his nation and his policies which would have precluded him from ever becoming a corporal or a private first class, let alone an officer, let alone Commander in Chief."

What is frustrating me and why I am so late doing this, because generally we should have been doing this 2, 3, 4 months ago. We should have interjected ourselves, as Republicans, into the primary process of the majority party in this House, a great party through most of history, Thomas Jefferson's party, and maybe helped Senator BOB KERREY, a Medal of Honor winner who got his Medal of Honor not because of combat efficiency, because he led his men into an ambush. Just as President Kennedy got his PT boat cut in half on his very first combat mission, but showed his heroism and got his Navy Cross for rescuing his men who were drowning in the water, although he lost two.

Where did KERREY show his mettle and courage? Because bleeding to death, he made sure every enlisted kid was helicoptered off that island in Natran Harbor until he allowed himself to be helicoptered out.

I met him, of all bizarre places, in the men's john at the American Legion hall in Manchester, NH.

I said, "BOB, good to meet you. It is an honor I look up to guys like you. You are going to beat the pants off this draft dodger, aren't you?" Of course.

I went over to see him at a Senate hearing. I slipped in next to him and I said, "Have you ever read the Flowers tapes where he acknowledges his apology to Cuomo? It is he; have you really looked at it?"

I did not have a tenth of this stuff. He says, "I will never endorse that draft dodger."

He was out there on the grassy triangle on the House and Senate side the other day with a bunch of other honorable war veterans, and he rose from this House, so lusting to hold that White House, the Senate and the Congress, the House is not good enough for them.

☐ 0020

They are ready to overlook all this stuff. They are not thinking it through, these men of conscience. They are letting their conscience dictate to them to not be part of this process.

With Ross Perot in the process, I want you to help me, DUKE, and SAM. I want you to help me get to this terrific American naval hero, James Bond Stockdale, and ask Jim if he will not make his mission as Ross Perot's winning man to bring out what we are trying to bring out here before this also Medal of Honor winner, Stockdale, Medal of Honor for combat inside the prison cells from his torture.

We do not want this country to end up confused, with high school kids saying, "Come on, smoke this joint. You know, the President did, and you know he inhaled."

Mr. CUNNINGHAM. James Stockdale is probably one of the few real American heroes that we have. He is an honorable man. I have known Admiral Stockdale and his wife, Sibyl.

Mr. JOHNSON of Texas. Sibyl is great. Can't you say there is only one candidate that actually dodged the draft?

Mr. DORNAN of California. Of the six candidates now, we have a Medal of Honor winner and a naval officer, Ross Perot is a naval officer, George Bush is a naval officer, AL GORE served, which was an act of bravery because his father was voting against the war and lost his seat in 1970. Although AL was only there 6 months as a newspaper reporter, it was an extra ounce of character to go.

Mr. JOHNSON of Texas. But he went.

Mr. DORNAN of California. Yes, he went and wore the Nation's uniform. If he didn't get shot at, he covered the heroes and respected the ones that did, although there is a new story coming out about his Desert Storm vote, but we cannot comment on Senators. That they have to get through calling our offices.

Today is the 2d. There are 29 days left in this month, and we do not count the 3d. There are just 2 actions day next month. Thirty-one days and it is all over, counting tomorrow. Then we start voting across this country.

I want to apologize for not doing this on the floor months ago. Here is my weak excuse. I thought the White House would be doing it; I mean, the campaign. I thought my friend DAN QUAYLE, my classmate from 1976, Bob Walker's classmate, GEPHARDT is my classmate, AL GORE is my classmate, I thought DAN would be out on the trail doing this. I thought Jim Baker would be doing this.

Jim Baker, Mr. Speaker, if I had him here I would be on my knees to him, "Do this. We have to let this soak in. We cannot do it 10 days from now." The media are going to push it in our face, I repeat, "Desperate last-minute attempt at smearing Clinton's record."

Why hasn't this been brought out by all these talented people in our own party, with 75,000 jobs of good men and women all around the world, most of them concentrated in the executive branch here? Why haven't they been bringing this out?

I had intended tonight, until you two heroes offered to join me, to do a whole hour on the economic shenanigans, the middle-income taxpayer problems. I will do that tomorrow.

Mr. CUNNINGHAM. That is probably the real crux of the importance, BOB. I look forward to that special order, to show the economics, not only the effect on the military but the cut in defense. People like this on his staff are going to be making decisions, not only how it is going to affect the military, but the President has vowed to cut defense only 30 percent; I say only 30 percent, and in most States that is devastating to the economy. Can you imagine, and that equates to $50 billion, can you imagine a Governor that wants to cut defense by $250 billion, not only how it will affect the readiness of this country?

I do not think any of us think there will not be another conflict in 20 years. Every man and woman in this country that has a young son or a young daughter that may be thrust into that, or in the past, would they want their children subjected under fire to no equipment, ill training, and with low morale?

I think the economics and how it will affect this country, most people are mad. Today I go in my district and they are mad as hornets. They are losing jobs. The economy is bad. The recession is bad. I think it is very, very important that we address in another special order how this economy will be affected, and the military.

Mr. JOHNSON of Texas. Clintonomics is nothing but a disaster waiting to happen. As you know, it does not address the budget. It does not address balancing the checkbook.

Mr. DORNAN of California. That is what keeps Perot motivated.

Mr. CUNNINGHAM. One thing, it makes me mad every single day, especially when the Governor comes out and says, "Look, the President moved his lips." Ronald Reagan used to tell the other side of the aisle basically where to go, and when they did not achieve his economic policy, then he would go to the American people. George Bush tried to conciliate and work the other side of the aisle. In that conciliation he said, "Ok, I will raise taxes," and this is what that deal was. I do not think the American people understand it, Mr. Speaker.

What the President's deal, when he moved his lips, was that for every dollar that comes in, and we want to balance the budget today, and they are talking about raising taxes to do it, but the deal that the President made was that for every dollar that comes in we will cut spending by $3. They are spending $9 today. The military construction where they said just last week that we voted on, we came in under the President's budget and they belt themselves on the chest, but if we look at the pork barrel projects that went into individual Members because of all that Members said, that we are drawing back from Europe, they said, "Let us have a peace dividend." The peace dividend is going to individual pork within individual Members' districts, not toward the deficit.

Mr. DORNAN of California. Let me enlist your help in something. First of all, in a battle between a great Irish politician from Boston and our Whip, before he was Whip, about using these special orders to communicate with the American people, a privilege for the lowly minority status of those of us in the Republican Party who have been stripped of all of the powers of the minority that I recall having here in 1977 and 1978.

Mr. CUNNINGHAM. Under the Committee on Rules.

Mr. DORNAN of California. Where I thought "What a great Congress, what a great country, that I can come here as a minority member and amend things on the floor all the time." I passed 40 amendments in my first 2 or 3 years. I do not think I have passed that many in the following 10 years, the way the rules have been tightened down here.

This is what a gentleman said who used the complimentary word, he said he was riveted to his set. He is an Academy Award caliber actor. I would not mention his name on the floor if you guys tortured me, because Hollywood is so radically far left.

Mr. CUNNINGHAM. I know who it is.

Mr. DORNAN of California. This man's career is doing pretty well. No more clues.

He called me with this suggestion. "I need your help."

Mr. CUNNINGHAM. It is not Charlton Heston.

Mr. DORNAN of California. He said, "Congressman, I know you said about a million people are watching live;" no dead people are watching except our friends in heaven. He said, "Over a million live Americans, most of them with us on this." I have received one-half of 1 percent negative calls, and some of them have been polite, trying to understand. They were for Clinton, and trying to understand why they have not found this out, am I making it up.

He said, "I understand there are a million people watching, but Congressman, when you are alone on the floor, or anybody is alone, Mr. GONZALEZ on the other side, there is a feeling that I am watching a man speaking about Jesus, truth, or religion on a corner." You know, he is right. You respect his effort. He has a cup. You walk by and you put a dime in it, but you feel sorry for him.

He said, "No matter how many times you say," and I usually start off every special order by saying, "Don't worry when the cameras pan an empty Chamber, don't worry, there are plenty of Members listening in the offices." The gentleman from Michigan [Mr. BROOMFIELD] told me he has been watching every night for a week at home, a man who has been here since 1956, retiring with all his flags flying and his honor intact; here is what this very distinguished craftsman in the art said.

He said, "Why can't you get your caucus to have 50, 60, 70 Members on the floor," we have only got 3 days to go, in a final special order where DUKE takes one lectern, you take the other, I take one, DUNCAN HUNTER takes that one, we have available the other leadership mikes over there, three of them, and we have this big, mass colloquy, and people see Republicans together discussing these serious issues, following the decorum of the House.

I have assiduously, over the last 2 days, and you two guys slipped, I should have warned you, no lying, but I learned from SAM GEJDENSON after the Speaker came down with his arbitrary rule, unvoted upon, that I will basically support, SAM GEJDENSON got right and said, "When is President Bush going to start telling the truth?" he didn't call him a liar, but he was asking when he was going to start telling the truth, which inherently means the President is lying.

So I got right up and I said, "Well done, my colleague from Connecticut. When is Bill Clinton going to start telling the truth about his draft? I am doing a special order tonight.

So that is the way we do it now around here. No more "liar"; a little rough, Bill Buckley's column. I will call Bill up in the morning, chew him out, and say, "Use another word. Use French, you have 'liaison, dangerous liaison.'"

Mr. CUNNINGHAM. May I ask a question, BOB? Is this the same individual that wrote the rule, and I do not know where the rule came from, is this the same one that said there was no problem with the House bank, that said there was no problem with the House post office?

□ 0030

Mr. DORNAN of California. I stumbled on a few of those things, and he has got his own problems in his own party hanging on to leadership. But I just wonder if you guys would help me go to our Browning automatic rifle, BAR, the highest firepower in the infantry squadron from the Second World War. BOB MICHEL proudly wears the Bronze Star, which you guys both have, and under it the Purple Heart, which you both have. Let us go to BOB and say BOB, instead of having our conference call over in room 2167, arguing about how we are going to create our leadership when we may be smaller than we are right now if the President does not close this gap, and I do not care if it is 9 points, or 21 points, the clock is ticking, and we are running out of time, let us have our conference call right here on the House floor, Sunday, or Saturday evening in front of all of America and discuss these issues. Because I can tell you what some of our sharper Members are traveling around the country like me for challengers and making most of the speeches for President Bush, they are agreeing with me that we may lose 48 Republican seats or more, about 10 or 12 incumbents and about 30 other challengers by one point, a negative coattail. In other words, President Bush not only not having coattails, but a deadening effect on our races. And we will have plenty of room in the little snack bar to get a hot dog or a tuna sandwich, because there are going to be about 143 of us, which is what was here when I came under President Jimmy Carter and watched our economy and the misery index go right in the dumpster. Will you help me ask BOB, and I am saying it openly so that all Americans can write to their Republican Congressmen and say get on the floor Sunday night, when the election is 29 days away, and help support Congressman DORNAN and these Navy and Air Force heroes discussing what we are up against, this impending disaster, if Ifshin is the head of the transition team picking Americans for 70,000 jobs across this country. What about doing that Sunday evening, DUKE?

Mr. CUNNINGHAM. I will be happy to.

Can I shift just a little bit. I would like to shift and take a look at 2 years ago when I joined this body, and just a few years before that I worked at the Navy Fighter Weapons School, which is called Top Gun.

Mr. DORNAN of California. Everybody knows that.

Mr. CUNNINGHAM. And our whole thrust was the Sino-Soviet fighter pilots and fighting Soviet tactics and deterring the nuclear threat. I would like the Speaker to reflect and think back just 5 years ago, 4 years ago of what this country's potential of going to war and nuclear war was. A few years ago one of the items that I asked of what was one of the main concerns of the American people, it was nuclear warfare.

The presidency under President Bush, take a look at the Soviet wall that has come down. That means a lot to the American people. Take a look at that fleeting away.

Remember during Desert Storm when the missiles were coming, and we had our Patriots stop them, and people were thinking what would our children do, what fear would we have, what fear would we have if that is a nuclear weapon. And during President Reagan and during President Bush that threat has gone away.

I want to ask you do you think that if Clinton had been President for those years that this could ever have been achieved?

Mr. DORNAN of California. If Admiral Crowe, highly decorated for staff work, all of his career submarines were never called into combat, and that is not his fault, if he were President we would be sitting here right now seeing these ineffectual sanctions not working, and Iraq, because that war ended a year ago February, Iraq would now have a nuclear device. They would have biological and chemical warfare that would give you nightmares. The NBC, nuclear, biological, chemical warfare they almost developed, and we still do not know where their secret places are hidden because they are jockeying around and jacking around the entire U.N. investigation team.

Mr. CUNNINGHAM. If the President had not acted in Desert Storm, can you conceive of the price of gasoline and heating oil with winter coming up, and the people that would not have heating. And in this country we actually have people that die because they cannot afford fuel. And how many lives would we have lost just because of our oil stores being drained in this country?

This is what I am referring to as we talked about the ills of Governor Clinton. But I would like to reflect just a little bit on what the administration has done for this country that is also the positives. Look at the Soviet wall that has come down. Look at foreign policy. I want to tell you in the 2 years that I have been here I have seen this House shut down. And what you are talking about, there is quite often where we are not even allowed to bring up an amendment under the rules, and the President's economic policies, his domestic policies are shut down by this body.

And he has focused a lot on foreign policy because he did not have to deal with the U.S. Congress. But look at the things that he has done. Look at the Soviet Union, and look at the direction that they are going to become a democracy. Look at the potential of free trade in this country. And if we do not get involved in free trade in the next decade, we are going to be lost, with 400 million people in Europe, and the Asian community is being very proactivist. And if this country does not ally itself, I personally feel we are going to die economically.

The President is trying to make these changes. He is trying to make changes in education.

My wife is a principal.

Mr. DORNAN of California. My brother is a high school teacher.

Mr. CUNNINGHAM. She used to be a teacher and I used to be a teacher. And I think we have got very good teachers and very good programs in this country, hundreds and thousands of programs. But something is wrong, and we need to take a look at it, and the President is trying to do that.

But I sit on the Education and Labor Committee, and his ideas and his thoughts have not been allowed to come forward.

Mr. DORNAN of California. Listen to the letter Clinton wrote to Colonel Holmes, Bataan death march survivor, 28 days before Clinton left for Moscow. You see, I have this new frame of reference, that his whole team admits 28 days before he left for Moscow he writes this first, and he said there was a time when not many people had more information about Vietnam at hand than I did. Now he is describing himself to Koppel as a boy, but he is Mr. Smart. He has got all of the facts, and hardly anybody in the country knew as much as he did, working as an intern for Fulbright for 3 months.

Then a few paragraphs later, five paragraphs later he says, lecturing this Bataan death march survivor of 3½ years' captivity, and I would not say these men were tortured any more than the handful of you who took the worst of it, and you had 3½ years in solitary confinement. I do not know of anybody in World War II that had that many, but you know, I know you tip your hat to these heroes, because 40 percent did not come home. The Japanese killed off 40 percent of our POW's. We only lost 1 percent of Hitler's stalag camps, at least.

Mr. JOHNSON of Texas. And those guys were the real heroes, and they protected our rights, and the right that we have right now for this speech.

Mr. DORNAN of California. That is correct, our right to speak right now.

Here is boy Clinton lecturing this lifetime, career military colonel about warfare. He says to Colonel Holmes, "Now, the draft was justified in World War II because the life of the people collectively was at stake. Individuals had to fight if the Nation was to survive."

We could have cut a deal at any time with Japan or with Hitler. It would have been an ignominious sellout, but we could have said well, we will be safe for a while, peace in our time. Hitler even was willing to cut a deal with England, and said you let me rule here and you will have the British Isles, and I will let you keep your empire, but make sure that I get those colonies here and here. But he said we had to fight if the Nation was to survive and for the life of the country and a way of life.

"Vietnam is no such case," Colonel Holmes, he says. "Nor was Korea an example where, in my opinion, certain military action was justified."

You wasted your time with your six missions in Korea.

"But the draft was not, for the reasons stated above." I left out the paragraph where he attacks the draft. He says now imagine someone being called up in a Desert Storm type, or Panama, or Grenada liberation-type military effort under President Clinton, imagine that you are a GI coming before say a squadron, or a CO, or a running top gun, and some guy says DUKE, or Skipper, CO, my wife and I have been talking this over, and we have a new little baby, and now we have three kids, and the baby cries with us all the time, and here's my orders. And I am reading from the letter of when he was 23 years old, a boy, and he says, "No government really rooted in limited parliamentary democracy should have the power to make its citizens fight, kill and die in a war they oppose, a war which may even be wrong, a war which in my case does not involve immediately peace and freedom of the Nation. I don't think Panama involves or Grenada involves my freedom." He doesn't think the soldiers who were executed by the Communist guerrillas in Honduras a year ago, shot at point-blank range after their helicopter crash going back to Honduras from El Salvador, he does not think they should have been there. They could have registered on their own an individual problem. Then the next paragraph is Vietnam, and Vietnam is no such case.

Then Clinton goes on.

□ 0040

> Because of my opposition to the draft and the war, my future trip coming up to Moscow in 4 weeks, I have got sympathy with those who are not willing to fight, kill, and maybe die for their country (i.e., the particular policy of a particular government) right or wrong. Two of my friends at Oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board, a letter which I am more proud of than anything else I wrote at Oxford last year.

I hope in 1968 and 1969 he went to class and wrote something else other than this. There are no term papers to be turned in at Oxford. There are no quizzes, no exams, so maybe that is the only thing he wrote to help some Mississippi privileged young man over there in England beat his draft board.

Why has not the White House found this guy? I mean, the political arm of the White House, the campaign, now that Jim Baker is there with all his skills from being Secretary of State. Why have they not found this Mississippi man? Why can I not find out his name, and why can I not go down there and interview him? I am telling you I am not going to forget this for the rest of my life that I have been out here, until you guys joined me, trying to bring some truth to the American people about a man who is not worthy to tell the President's own Marine Corps band or the Army band or the Singing Sergeants or the Army violins to play any song. How can this man stand in the sound of a John Philip Sousa song written in the 1890's when my dad was a little boy, how can he have the authority to do that with this mixed track record and surrounding himself with traitors like David Ifshin?

No, the country ought to somehow or other figure out how to force the 740 papers plus dailies across this country to print this Moscow thing and some reporter somewhere, some man or woman has to have the guts to say to him, and where's my notes on what I would say to him, to simply say this, "We know you were in Oslo, Norway, Mr. Governor, somewhere around December 12, 1969, or thereafter, and we know you showed up in Moscow on December 31. Your staff tells us this. They say you stayed until on or about January 7. Accordingly to Father McSorley, whom you were with in Oslo, you met with so-called peace groups. Did you meet with peace groups in the Soviet Union?

Mr. CUNNINGHAM. Is this where they organized the skulls with our pilots and the eyes——

Mr. DORNAN of California. That was at the embassy in London. McSorley was present there. "McSorley named his book after you. You were seeing the world through peace eyes. What did your peace eyes see when you got to Moscow at 26 degrees below? Where did you go after Norway and before you got to Moscow? There's about 3 weeks in there where you were rummaging around Europe meeting with these people who were all pro-Ho Chi Minh who had died 2 months before on December 3, 1969; who did you meet with, Governor? What did you do there? Was it more peace work, sir, and regarding Moscow, where did you stay? Who paid for it? Who did you meet with?" Et cetera, et cetera, et cetera. "Now, given what we know about your activities in London, Mr. Governor, did you not say in your letter to Holmes you organized those demonstrations, and did you not brag you led them? Tell us about that? Did you organize the singing? Did you sing these chants against LBJ, how many babies did you kill today, Ho, Ho, Ho Chi Minh, the Viet Cong is going to win? Did you sing that? Now, as you revealed in the Oslo trip, it does not take a great deal of imagination to figure out what you might have been doing in Moscow. Now, tell us about your pattern of behavior. Who did you meet with in Moscow? Are you willing, as a man, to admit that they might have been KGB agents who manipulated the whole peace movement in their country at least?"

Over here, the KGB documents say they did not have to do much to encourage people here. They had themselves whipped into such a frenzy partly by the political manipulation of our military, and then the people unfortunately, and America has learned better now, but they blamed our military people. They dropped bags of feces, and that is a medical word, Mr. Speaker, they dropped bags of feces off the Golden Gate Bridge on the deck of aircraft carriers like your *Constellation* or like the *Oriskany*. I still have not gotten around to reading the book "The Heart of a Man."

The point is: Why are not the media asking about his wanderings around Europe and going into the enemy capital that totally funded and actually, as it did in Korea, which they are admitting now, Soviet documents are admitting now that they ordered the North Koreans to cross over the 38th parallel on June 25, 1950, and that was a Stalin-run operation, and when he died on March 5, 1953, a couple of months after I was on Air Force active duty, Eisenhower was the new President and had the wherewithal to see this thing through with seven words which we never had the guts to use in Vietnam, "No restriction as to weapons or territory." Bingo, July 27, 1953, before I could even get into pilot training, the war was over.

Now, what did he do? Where was his heart? Here is his catch-22. If he tells the truth, which is as plain as the nose on our faces, he loses the election. If he hides the truth and thereby submerges his honor——

Mr. CUNNINGHAM. And the press does not bring it out.

Mr. DORNAN of California. The press has complicity in this. Then he wins the Presidency and does not have the moral authority to tell anybody in the military to do anything. He does not have the moral authority to tell a kid in high school not to smoke pot when he is going on MTV with junior, junior, junior high school kids and telling them, "I am going to get you condoms," and I have to listen to these children on MTV, that sleazy network that puts out that Madonna anti-Christian garbage, I have to watch this guy stroking junior high school kids as though they could vote, telling them he is going to get them condoms.

Yes, DUKE.

Mr. CUNNINGHAM. BOB, how does a man like Governor Clinton stand up before the American people, hold up his right hand and say,"I swear," swear with what character, "I swear to defend the Constitution," and in that Constitution in the preamble it says provide for the common defense, which he has not. How does he stand up and swear to that, to defend it against all enemies which he turned his back on this country, foreign and domestic, and if you look at the domestic record of Arkansas, which is a disaster, he is a domestic enemy, and he was an enemy to this country and to me and to SAM when we almost gave our lives in Vietnam and over 58,000 all of which names are on that wall? How does a person like that with any reflection in his heart stand up and make a pledge like that after what he has done to this country?

Mr. DORNAN of California. Gentlemen, what do you say we give these good, hard-working folks here a break and yield back some of this time?

I do not know if you gentlemen want to join any more special orders. I am going to do one Saturday and Sunday, and that is about a wrap for the 102d Congress. There is not much heavy lifting around here at Christmas time.

We will be back in January with the 103d Congress if we all get reelected. I think all of us have pretty fair races, so it is more God and health problems than anything to see us back. But help me with BOB MICHEL, our World War II combat infantryman. He was wearing his combat infantryman badge today. Ask BOB to help us get a small crowd here so we do not embarrass the million people who are watching us.

You know, if this were a stage, we would have a penlight, and they would not be panning this Chamber and there would be a little more focus and attention. That panning of the Chamber, I repeat for the umpteenth time, was done to demean any Member of this Congress, any man or woman who comes in that well for a special order, which until it is wiped out, and there is a little movement to do that, to eliminate our 1-minute pressure valve at the beginning of the day, and to eliminate these special orders which was one of the last privileges in the minority, and until that happens, I state again, it is an ugly, offensive breach of decorum to have the camera, under the Speaker's orders alone, pan this Chamber to embarrass us, that we are fools and idiots in here, in a cave of wind speaking to no one.

Over a million Americans are watching us tonight. Let them go to their local papers and local TV channels and see if we can get proper coverage locally that we cannot get out of the island of Manhattan where there is this dominant media culture of liberals, most of them, almost every one of them who dodged the draft.

I said here weeks ago, ask one of these network executives, "What is your branch of service," and their eyes will glaze over. This is their candidate. These are the people in their sitcoms who paper over and make light of Christian values like respecting your marriage vows.

This is their candidate, and they are pushing him in our face, and I want the Americans across this country, with a few days left, to demand that this be covered and that some man or woman have the guts to pin down this frozen smile, jackanapes, all biting his lower lip, and his fake jogging with that spare tire around his middle, ask this man what he did in Moscow, and what KGB agents he met with, and let him plead ignorance on that point. I will accept it if he did not know what he was doing, Boy Clinton, but if Ed Koch, he was a 19-year-old combat veteran, and I am going to straighten him out if nobody else in the New York market will. I am going to as many radio interviews as I can about this country and turning down about 50 a day, I might add.

You guys have anything left to say? I will be back tomorrow.

Mr. CUNNINGHAM. BOB, I would like to personally thank you again. We would not have to do this if it were being properly covered in the media.

Why is not the media bringing these same facts that you found out in an important, in what I think is the most important position in this country? You would think that the people that print and record candidates' character, integrity, and those who take responsibility would dig in that.

□ 0050

And if they would be doing your job, you would not have to do this. I want to personally thank you. I know thousands of calls I got in the office today, every single one of them was supportive.

Mr. DORNAN of California. One little promise. Yesterday I mentioned one of your citizens, Roger Staubach. I think he was born in Ohio, Cincinnati, but he adopted your State. I got his records here, his Vietnamese records. What a guy, to give up 4 years after Annapolis. He graduated in 1965, and he was in Vietnam when Clinton was out with a deferment.

Mr. CUNNINGHAM. I want you to know that he was a Navy quarterback.

Mr. DORNAN of California. That is right, Navy quarterback. Heisman Trophy winner in his junior year. And I have got Ted Williams, an unbelievable baseball record, stats; enshrined in the Baseball Hall of Fame, as is Roger and Ted Williams.

Mr. JOHNSON of Texas. Ted Williams flew in Korea.

Mr. DORNAN of California. That is right. We discussed that last night before you started watching. Ted bellied in. I will put those records into the RECORD about these two great heroes to show the difference between somebody, a great star athlete in baseball and also in football, who give up the best years of their youth to serve their country, that is duty, honor, country. I would put a title on all our remarks tonight: "Why Is the Truth Crushed by Major American Media?"

Mr. JOHNSON of Texas. With honor and integrity at the fore, I just want to thank you for bringing up Roger's name. Roger is cochairman of my campaign, as a matter of fact.

So I thank the Speaker for awarding us the time and give back the balance of the time.

CONFERENCE REPORT ON H.R. 707, FUTURES TRADING PRACTICES ACT OF 1992

Mr. DE LA GARZA submitted the following conference report and statement on the bill (H.R. 707) to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service to governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes:

CONFERENCE REPORT (H. REPT. 102-978)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 707), to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Futures Trading Practices Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References to the Commodity Exchange Act.

TITLE I—LIMITATIONS ON CERTAIN TRADING PRACTICES

Sec. 101. Dual trading.
Sec. 102. Restrictions on trading among members of broker associations.
Sec. 103. Broker association disclosure.

TITLE II—ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES

Sec. 201. Duties of contract markets; audit trails.

Sec. 202. Commission oversight; deficiency orders.
Sec. 203. Oral Orders.
Sec. 204. Telemarketing fraud.
Sec. 205. Undercover operations and enforcement.
Sec. 206. Self-regulatory organization disciplinary committees and governing boards.
Sec. 207. Required registration of floor traders.
Sec. 208. Enhancement of registration requirements.
Sec. 209. Enforcement of civil money penalties.
Sec. 210. Ethics training for registrants.
Sec. 211. Nationwide service of process and venue.
Sec. 212. Increased penalties.
Sec. 213. Contract market emergency actions.
Sec. 214. Prohibition against insider trading.
Sec. 215. Qualifications of Commissioners.
Sec. 216. Commission operations.
Sec. 217. Prohibition on voting by interested members.
Sec. 218. Study of assessments on transactions.
Sec. 219. Competitiveness study.
Sec. 220. Computerized futures trading.
Sec. 221. Money penalties in civil court actions.
Sec. 222. Civil damages; liability of futures commission merchants.
Sec. 223. Customer restitution.
Sec. 224. Complaints against registered persons; class action suits.
Sec. 225. Penalties study and guidelines.
Sec. 226. Publication of Commission opinions.
Sec. 227. Suspension of registrants charged with felonies.
Sec. 228. Appeals by registered futures associations.
Sec. 229. Risk assessment for holding companies.

TITLE III—ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

Sec. 301. Subpoena authority.
Sec. 302. Cooperation with foreign futures authorities.
Sec. 303. Investigative assistance to foreign futures authorities.
Sec. 304. Disclosure of information received from foreign futures authorities.
Sec. 305. Disclosure of information to foreign futures authorities.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS; TECHNICAL AMENDMENTS; EFFECTIVE DATE

Sec. 401. Authorization of appropriations.
Sec. 402. Technical amendments.
Sec. 403. Effective date.
Sec. 404. Definitions.

TITLE V—INTERMARKET COORDINATION

Sec. 501. Margin on stock index futures.
Sec. 502. Exemptive authority.

SEC. 2. REFERENCES TO THE COMMODITY EXCHANGE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

TITLE I—LIMITATIONS ON CERTAIN TRADING PRACTICES

SEC. 101. DUAL TRADING.

(a) PROHIBITION.—Section 4j (7 U.S.C. 6j) is amended—

(1) by redesignating paragraphs (1) and (2) as subsections (b) and (c), respectively;

(2) in subsection (b), as so redesignated, by striking "The Commission shall within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required," and inserting "If, in addition to the regulations issued pursuant to subsection (a), the Commission has reason to believe that dual trading-related or facilitated abuses are not being or cannot be effectively addressed by subsection (a), the Commission shall"; and

(3) by inserting a new subsection (a) to read as follows:

"(a)(1) The Commission shall issue regulations to prohibit the privilege of dual trading on each contract market which has not been exempted from such regulations under paragraph (3). The regulations issued by the Commission under this paragraph—

"(A) shall provide that the prohibition of dual trading thereunder shall take effect not less than 30 days after the issuance of the regulations;

"(B) shall provide for exceptions, as the Commission determines necessary and appropriate, to ensure fairness and orderly trading in affected contract markets, including—

"(i) transition measures and a reasonable phase-in period,

"(ii) exceptions for spread transactions and the correction of trading errors,

"(iii) allowance for a customer to designate in writing not less than once annually a named floor broker to execute orders for such customer, notwithstanding the regulations to prohibit the privilege of dual trading required under this paragraph, and

"(iv) other measures reasonably designed to accommodate unique or special characteristics of individual boards of trade or contract markets, to address emergency or unusual market conditions, or otherwise to further the public interest;

"(C) shall establish procedures for the application for an issuance of exemptions under paragraph (3) which, among other things, shall specify the relevant data required to be submitted by the board of trade with each application;

"(D) shall specify the methodology by which it shall determine the average daily trading volume on a contract market for purposes of paragraph (4) based on a moving daily average of either 6 or 12 months; and

"(E) shall establish an expeditious procedure to revoke an exemption granted under paragraph (3) providing sufficient notice, opportunity for hearing, and findings to assure fundamental fairness.

"(2) As used in this section, the term 'dual trading' means the execution of customer orders by a floor broker during any trading session in which the floor broker executes any trade in the same contract market for—

"(A) the account of such floor broker;

"(B) an account for which such floor broker has trading discretion; or

"(C) an account controlled by a person with whom such floor broker is subject to trading restrictions under section 4j(d).

"(3) The Commission shall exempt a contract market from the regulations issued under paragraph (1), either unconditionally or on stated conditions (including stated periods of time) relevant to the attainment or maintenance of compliance with the standards in subparagraphs (A) and (B), upon finding that—

"(A) the trade monitoring system in place at the contract market satisfies the requirements of section 5a(b) with regard to violations attributable to dual trading at such contract market; or

"(B)(i) there is a substantial likelihood that a dual trading suspension would harm the public interest in hedging or price basing at such contract market, and

"(ii) other corrective actions, such as those described in section 8e, are sufficient and appropriate to bring the contract market into compliance with the standard in subparagraph (A).

"(4)(A) The regulations issued by the Commission under paragraph (1) shall not apply to any contract market in which the Commission determines that the average daily trading volume is less than the threshold trading level established for the contract market under this paragraph.

"(B) The threshold trading level shall be set initially at 8,000 contracts.

"(C) The Commission may, by rule or order—

"(i) increase, or

"(ii) at any time following the date three years after the date of enactment of this paragraph, decrease,

the threshold trading level for specific contract markets after taking into consideration the actual or potental effects of a dual trading ban on the public interest in hedging or price basing at the affected contract market.

"(D) The Commission shall provide the affected contract market with adequate notice of any such increase or decrease.

"(5) Before the Commission denies an application for an exemption under paragraph (3) or exempts a contract market subject to conditions, it shall—

"(A) provide the affected board of trade with notice of the reason or reasons that the application was not approved as submitted, including—

"(i) any reason the Commission has to believe that the trade monitoring system in place at the contract market does not satisfy the requirements of paragraph (3)(A) and the basis for such reason;

"(ii) any corrective action or actions, such as those described in section 8e, that the Commission believes the affected contract market must take to satisfy the requirements of paragraph (3)(A), and an acceptable timetable for such corrective action; and

"(iii) any conditions or limitations that the Commission proposes to attach to the exemption under paragraph (3);

"(B) provide the affected board of trade with an opportunity for a hearing through submission of written data, views, or arguments and, under terms set by the Commission at the request of the board of trade, through an oral presentation of views and comments to the Commission, in order to make the demonstration required under paragraph (3) or otherwise to petition the Commission with respect to its application; and

"(C) make findings, based on the information, views, and arguments place before it in connection with the application, as to whether—

"(i) the standard in either paragraph (3)(A) or (3)(B) applies; and

"(ii) any conditions or limitations which the Commission proposes to attach under paragraph (3) are appropriate in light of the purposes of this subsection.

The Commission shall publish in the Federal Register notice of any exemptive petitions filed under paragraph (3) and any proposed or final actions the Commission may take on such petitions.

"Unless the Commission determines that more immediate action is appropriate in the public interest, any Commission order denying an application or exempting a contract market conditionally shall not take effect for at least 20 days following the issuance of the order.

"(6) Violation of an order issued under this subsection shall be considered a violation of an order of the Commission for purposes of—

"(i) establishing liability and assessing penalties against a contract market or any director, officer, agent, or employee thereof under section 6b or 6c; or

"(ii) initiating proceedings under section 5b or 6(a).

"(7) Any board of trade which has applied to the Commission to exempt a contract market from the regulations issued under paragraph (1) may obtain judicial review of any final action of the Commission to deny such application, to

issue an exemption subject to conditions, or to revoke an exemption, only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5, United States Code.

"(8)(A) The Commission shall issue the regulations required under paragraph (1) not later than 270 days after the enactment of this section. If, prior to the effective date of the prohibition on dual trading under such regulations, a board of trade submits to the Commission an application for an exemption for a contract market under paragraph (3), the Commission shall not apply the prohibition against dual trading under paragraph (1) to the contract market until the Commission has approved or denied the application.

"(B) The Commission shall approve or deny any application for an exemption under paragraph (3) within 75 days after receipt of the application, or as soon as practicable.".

SEC. 102. RESTRICTIONS ON TRADING AMONG MEMBERS OF BROKER ASSOCIATIONS.

(a) IN GENERAL.—Section 4j (7 U.S.C. 6j) is amended by adding at the end the following new subsection:

"(d)(1) Except as provided in paragraph (2), a floor broker may not execute an order of a customer if such floor broker knows the opposite party to the transaction to be a floor broker or floor trader with whom such trader or broker has a relationship involving trading on such contract market as—

"(A) a partner in a partnership;

"(B) an employer or employee; or

"(C) such other affiliation as the Commission may specify by rule.

"(2) Paragraph (1) shall not apply—

"(A) if the Commission has adopted rules that the Commission certifies to Congress require procedures and standards designed to prevent violations of this Act attributable to the trading described in paragraph (1); or

"(B) to any contract market that has implemented rules designed to prevent violations of this Act attributable to the trading desribed in paragraph (1), except that, if the Commission determines, by rule or order, that such rules are not adequate to prevent such violations, paragraph (1) shall become effective with respect to such contract market after a resonable period determined by the Commission.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective 270 days afte the date of enactment of this Act.

SEC. 103. BROKER ASSOCIATION DISCLOSURE.

Subsection (a) of section 5a (7 U.S.C. 7a) (as amended by sections 201(a)(1) and 217 of this Act) is further amended—

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(13) provide for disclosure to the contract market and the Commission of any trade, business, or financial partnership, cost-, profit-, or capital-sharing agreements or other formal arrangement among or between floor brokers and traders on such contract market where such partnership agreement or arrangement is material and known to the floor broker or floor trader;".

TITLE II—ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES

SEC. 201. DUTIES OF CONTRACT MARKETS: AUTIT TRIALS.

(a) IN GENERAL.—Section 5a (7 U.S.C. 7a) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b)(1) Each contract market shall maintain and utilize a system to monitor trading to detect and deter violations of the contract market's rules and regulations committed in the making of trades and the execution of customer orders on the floor or subject to the rules of such contract market. The system shall include—

"(A) physical observation of trading areas;

"(B) audit trial and recordkeeping systems able to capture esential data on the terms, participants, and sequence of transactions (including relevant data on unmatched trades and outtrades);

"(C) systems capable of reviewing, and used to review, data on trades effectively on a regular basis to detect violations committed in making trades and executing customer orders on the floor or subject to the rules of such contract market, including—

"(i) all types of violations attributable to dual trading; and

"(ii) to the full extent feasible, as determined by the Commission, all other types of violations involving the making of trades and the execution of customer orders;

"(D) the use of information gathered through such system on a consistent basis to bring appropriate disciplinary actions against violators;

"(E) the commitment of resources to such system necessary for such system to be effective in detecting and deterring such violations, including adequate staff to develop and prosecute disciplinary actions; and

"(F) the assessment of meaningful penalties against violators and the referral of appropriate cases to the Commission.

"(2) The audit trail system of the contract market shall, consistent with Commission regulations, accurately record—

"(A) the times of trades in increments of no more than 1 minute in length; and

"(B) the sequence of trades for each floor trader and broker.

"(3) Beginning 3 years after the date of enactment of this subsection, the audit trail system of each contract market, except as provided in paragraph (5) and except to the extent the Commission determines that circumstances beyond the control of the contract market prevent compliance despite the contract market's affirmative good faith efforts to comply, shall—

"(A) for all trades, record accurately and promptly the essential data on terms, participants, and times as required by the Commission by rule, including the time of execution of such trade, through a means that—

"(i) records such data in a form which cannot be altered except in a manner that will leave a complete and independent record of such alteration;

"(ii) continually provides such data to the contract market;

"(iii) identifies such time, to the extent practicable as determined by the Commission—

"(I) independently of the person making the trade;

"(II) through a mechanism that records the time automatically when entered by the person making the trade; or

"(III) through such other means that will capture a similarly reliable time; and

"(iv) is adequately precise to determine, to the extent practicable as determined by the Commission by rule or order—

"(I) the sequence of all trades by each floor trader; and

"(II) the sequence of all trades by each floor broker; and

"(B) to the extent practicable as determined by the Commission by rule or order, for customer trades, record the time that each order is received on the floor of the board of trade, is received by the floor broker for execution (or when such order is transmitted in an extremely rapid manner to the broker), and is reported from the floor of the board of trade as executed, through a means that—

"(i) records such times in a form which cannot be altered except in a manner that will leave a complete and independent record of such alteration;

"(ii) continually provides such data to the contract market;

"(iii) identifies such time—

"(I) independently of the person making the trade or processing the order;

"(II) through a mechanism that records the time automatically when entered by the person making the trade or processing the order, as appropriate; or

"(III) through such other means as will capture a similarly reliable time; and

"(iv) is adequately precise to determine—

"(I) the sequence in which, for each futures commission merchant, floor broker, or member firm, as applicable, all orders are received on and reported from the floor of the contract market; and

"(II) the sequence in which orders are received by each floor broker for execution.

"(4) The Commission may, by rule, establish standards under which the audit trail systems required under paragraph (3) shall record, to the extent practicable—

"(A) the sequence of all trades made by all floor traders and floor brokers; and

"(B) the interval between the time of receipt and the time of execution of each order by the floor broker executing the order.

"(5)(A) The Commission shall, by rule or order, make exemptions from the requirements of paragraph (3)—

"(i) for an exchange with respect to which the Commission finds that—

"(I) the volume of trading on such exchange is relatively small and the exchange has demonstrated substantial compliance with the objectives of such paragraph; and

"(II) the trade monitoring system at such exchange otherwise maintains a high level of compliance with this subsection; and

"(ii) to the extent determined appropriate by the Commission, for categories of customer orders with respect to which the Commission finds that such orders are transmitted to and reported from the trading pit in an extremely rapid manner such that substantial compliance with the objectives of paragraph (3) can be otherwise achieved.

"(B) For purposes of subparagraph (A)(i)(I) the Commission shall find that the volume of trading at an exchange is relatively small if, among other things, the Commission determines that the average daily trading volume for each contract market for which the board of trade is designated is less than the threshold trading level established for the contract market under section 4j(a)(4).

"(6) Any rule or order adopted by the Commission under paragraphs (4) and (5) shall become effective 30 legislative days or 90 calendar days, whichever is later, after submission of such rule or order to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. For purposes of this paragraph, the term 'legislative day' means any day on which either House of Congress is in session.

(b) Study.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Commodity Future Trading Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agri-

culture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains—

(A) an assessment of the progress of each contract market in developing and implementing systems to record the times of transactions independently, precisely, and completely as required under section 5a(b) of the Commodity Exchange Act (as added by subsection (a) of this section); and

(B) recommendations as to whether any extension of time for the completion of such systems or any modification of the standards contained in such section is appropriate.

(2) GAO Views.—The Comptroller General of the United States shall state to Congress the views of the Comptroller General with regard to the issues addressed in such report.

(c) AUDIT TRAIL COMPLIANCE AS CONDITION FOR CONTRACT MARKET DESIGNATION.—Section 5 (7 U.S.C. 7) is amended by—

(1) indenting the left margin of subdivisions (a) through (g) by 2 ems;

(2) striking "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", and "(g)", and inserting "(1)", "(2)", "(3)", "(4)", "(5)", "(6)", and "(7)", respectively; and

(3) adding at the end the following:

"(8) When such board of trade demonstrates that every contract market for which such board of trade is designated complies with the requirements of section 5a(b).".

SEC. 202. COMMISSION OVERSIGHT; DEFICIENCY ORDERS.

(a) IN GENERAL.—The Act is amended by inserting after section 8d (7 U.S.C. 12d) the following new section:

"SEC. 8e. COMMISSION OVERSIGHT; DEFICIENCY ORDERS.

"(a) ASSESSMENTS.—At least once every 2 years, to the extent practicable, the Commission shall assess whether the trade monitoring system of each contract market satisfies section 5a(b).

"(b) DEFICIENCY ORDERS.—

"(1) CAUSES.—The Commission may issue a proposed deficiency order in accordance with paragraph (2), or take such other administrative or enforcement action as the Commission determines is appropriate, if, based on its assessment or on other information, the Commission at any time has reason to believe that a contract market's trade monitoring system implemented pursuant to section 5a(b) does not satisfy one or more of the requirements of such section.

"(2) CONTENTS.—A proposed deficiency order issued under this subsection shall specify—

"(A) the deficiencies the Commission has reason to believe exist in the trade monitoring system of the contract market and a statement of reasons supporting the Commission's belief that those deficiencies exist;

"(B) the corrective action that the Commission believes that the contract market must take and an acceptable timetable for such corrective action; and

"(C) a date, not less than 20 days from the date of issuance of the proposed deficiency order, when such deficiency order will become final, subject to subsection (d).

"(3) REMEDIES.—On becoming final, the Commission deficiency order may—

"(A) require the contract market to—

"(i) institute appropriate improvements in its trade monitoring system necessary to correct the deficiencies noted therein;

"(ii) satisfy stated objective performance criteria to correct such deficiencies;

"(iii) upgrade or reconfigure existing systems for collecting or processing relevant data on trading and trader or broker activity, including, where appropriate, the commitment of additional resources; or

"(B) revoke any exemption of the contract market from the regulations prohibiting the privilege of dual trading under section 4j(a), if the deficiency noted in such deficiency order relates to—

"(i) the audit trail system the contract market is required to maintain under paragraphs (2), (3), or (4) of section 5a(b); or

"(ii) the prevention, detection, or disciplining of violations attributable to such trading at such contract market, subject to the standards, exceptions, and duration provisions of section 4j(a); or

"(C) take any combination of the actions described in subparagraphs (A) and (B).

"(4) REMOVAL.—If the Commission finds, after notice and opportunity for a hearing on the record prior to such deficiency order becoming final, that a named officer, director, committee member, or employee of such contract market has willfully—

"(A) violated this Act, the rules or regulations of the Commission thereunder, or the rules of such contract market;

"(B) abused the authority of such person; or

"(C) without reasonable justification or excuse, failed to enforce compliance with any provision of the rules of such contract market by any member or person associated with a member thereof,

the Commission may issue a deficiency order under this section to remove such officer, director, committee member, or employee.

"(5) DESIGNATION AS CONTRACT MARKET.—Notwithstanding section 6, during the period that a proposed or final deficiency order under this section is in effect, the Commission may refrain from approving any application for designation as a contract market made by the board of trade whose contract market is the subject of such deficiency order.

"(6) DELEGATION.—The Commission shall not delegate the authority to issue deficiency orders under this subsection.

"(c) RESCISSION, MODIFICATION, OR DELAY OF DEFICIENCY ORDERS.—Before any proposed deficiency order issued by the Commission under subsection (b) may become final, the Commission shall—

"(1) provide the affected contract market with an opportunity for a hearing through submission of written data, views, or arguments and, under terms set by the Commission at the request of the contract market, through an oral presentation of views and comments to the Commission, in order to petition the Commission to rescind, modify, or delay such deficiency order; and

"(2) rule on such petition, not less than 20 days before the deficiency order takes effect, making findings, as appropriate, as to whether—

"(A) the deficiencies cited by the Commission have been corrected or are being corrected under an expeditious timetable acceptable to the Commission;

"(B) the trade monitoring system of the contract market is deficient as noted in the deficiency order; or

"(C) the timetable for corrective action by the contract market in the proposed deficiency order, and the particular corrective action proposed, is appropriate in light of the deficiencies noted and the purposes of this Act.

"(d) PENALTIES.—Violation of a final deficiency order issued under subsection (c) shall be considered a violation of an order of the Commission for purposes of—

"(1) establishing liability and assessing penalties against a contract market or any director, officer, agent, or employee thereof under section 6b or 6c; or

"(2) initiating proceedings under section 5b or 6(a).

"(e) JUDICIAL REVIEW.—

"(1) PERSONS.—Any person, other than a contract market, aggrieved by a deficiency order issued under subsection (b)(4), may obtain review of such deficiency order when issued by the Commission under the terms and conditions in section 6(b).

"(2) CONTRACT MARKETS.—Any contract market that has petitioned the Commission to rescind, modify, or delay any proposed deficiency order issued under subsection (b) may obtain judicial review of any final such deficiency order only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5, United States Code.".

SEC. 203. ORAL ORDERS.

(a) IN GENERAL.—Section 4c (7 U.S.C. 6c) is amended by adding at the end the following new subsection:

"(g) The Commission shall adopt rules requiring that a contemporaneous written record be made, as practicable, of all orders for execution on the floor or subject to the rules of each contract market placed by a member of the contract market who is present on the floor at the time such order is placed.".

(b) EFFECTIVE DATE.—The commission shall adopt the rules required by the amendment made under subsection (a) within 270 days after the date of enactment of this Act.

SEC. 204. TELEMARKETING FRAUD.

(a) IN GENERAL.—Section 17(p) (7 U.S.C. 321(p)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) establish special supervisory guidelines to protect the public interest relating to the solicitation by telephone of new futures or options accounts and make such guidelines applicable to those members determined to require such guidelines in accordance with standards established by the Commission consistent with this Act. Such guidelines may include a requirement that, with respect to a customer with no previous futures or commodity options trading experience, the member may not enter an order for the account of such customer for a period of 3 days following opening of the account and receipt of a signed acknowledgment by the customer of receipt of a risk disclosure statement.".

(b) IMPLEMENTATION.—The guidelines required under section 17(p)(4) of the Commodity Exchange Act (as added by subsection (a) of this section) shall be submitted by a futures association registered with the Commodity Futures Trading Commission on the date of enactment of this Act to the Commission for the approval of the Commission not later than 180 days after the date of enactment of this Act.

SEC. 205. UNDERCOVER OPERATIONS AND ENFORCEMENT.

Section 8(a) of the Commodity Exchange Act (7 U.S.C. 12(a)) is amended by—

(1) inserting "(1)" after "(a)"; and

(2) adding at the end the following:

"(2) In conducting investigations authorized under this subsection or any other provision of this Act, the Commission shall continue, as the Commission determines necessary, to request the assistance of and cooperate with the appropriate Federal agencies in the conduct of such investigations, including undercover operations by such agencies. The Commission and the Department of Justice shall assess the effectiveness of such undercover operations and, within 2 years of the date of enactment of the Futures Trading Practices Act of 1992, shall recommend to Congress any additional undercover or other authority for the Commission that the Commis-

sion or the Department of Justice believes to be necessary.".

SEC. 206. SELF REGULATORY ORGANIZATION DISCIPLINARY COMMITTEES AND GOVERNING BOARDS.

(A) CONTRACT MARKETS.—

(1) GOVERNING BOARDS AND DISCIPLINARY COMMITTEES.—Subsection (a) of section 5a (7 U.S.C. 7a) (as amended by sections 201(a)(1) and 217 of this Act) is further amended by adding at the end the following new paragraphs:

"(14)(A) provide for meaningful representation on the governing board of the contract market's board of trade of a diversity of interests, including—

"(i) futures commission merchants;

"(ii) producers of, and consumers, processors, distributors, or merchandisers of, principal commodities traded on the board of trade;

"(iii) floor brokers and traders; and

"(iv) participants in a variety of pits or principal groups of commodities traded on the exchange.

"(B) provide that no less than 20 percent of the regular voting members of such board be comprised of nonmembers of such contract market's board of trade with—

"(i) expertise in futures trading, or the regulation thereof, or in commodities traded through contracts on the board of trade; or

"(ii) other eminent qualifications making such person capable of participating in and contributing to board deliberations.

"(C) provide that no less than 10 percent of the regular voting members of such board be comprised where applicable of farmers, producers, merchants, or exporters of principal commodities traded on the exchange;

"(15)(A) provide on all major disciplinary committees for a diversity of membership sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of disciplinary proceedings and the assessment of penalties.

"(B) Consistent with Commission rules, a major disciplinary committee hearing a disciplinary matter shall include—

"(i) a majority of qualified persons representing a trading status other than that of the subject of the proceeding; and

"(ii) where appropriate to carry out the purposes of this Act, qualified persons who are not members of the exchange.

"(C) For purposes of this paragraph, a trading status on a contract market may include, consistent with Commission rules, such categories as (i) floor brokers and traders; (ii) producers, consumers, processors, distributors, or merchandisers of commodities, (iii) futures commission merchants; and (iv) members of the aforementioned categories who participate in particular contract markets or principal groups of commodities on the board of trade.

"(D) If a contract market takes final disciplinary action against a member for a violation that involves the execution of a customer transaction and results in financial harm to such customer, the contract market shall promptly inform the futures commission merchant identified on the records of such contract market as having cleared such transaction, and such futures commission merchant shall promptly inform the person identified on its records as the owner of the account for which such transaction was executed, of the disciplinary action and the principal facts thereof;

"(16) provide that no member found by the Commission, a contract market, a registered futures association, or a court of competent jurisdiction to have committed any violation of this Act or any other provision of law that would reflect on the fitness of the member may serve on any contract market oversight or disciplinary panel for an appropriate period (as defined by Commission rule); and".

(2) Major disciplinary rule violations.—Section 8c (7 U.S.C. 12c) is amended—

(A) by redesignating subsections (1) through (4) as subsections (a) through (d);

(B) in subsection (a), as so redesignated—

(i) by striking "(A)" and inserting "(1)"; and

(ii) by striking "(B)" and inserting "(2)";

(C) in subsection (c), as so redesignated, by striking "subsection (2)" each place it appears and inserting "subsection (b)";

(D) in subsection (d), as so redesignated, by striking "subsection (1)" and inserting "subsection (a)"; and

(E) by adding at the end the following:

"(e)(1) The Commission shall issue regulations requiring each contract market to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such contract market.

"(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any individual who is found to have committed any major violation from service on the governing board of any contract market or registered futures association, or on any disciplinary committee thereof.".

(b) Registered Futures Associations.—

(1) Governing boards and disciplinary committees.—Section 17(b) (7 U.S.C. 21(b)) is amended—

(A) in subparagraphs (A) and (B) of paragraph (3) by striking "or" at the end;

(B) in paragraphs (3)(D), (4)(A), (4)(B), (4)(C), (4)(D), (4)(F), (5), (6), (7), (8), (9), (9)(A), (9)(B), and (9)(D) by striking the period at the end and inserting a semicolon;

(C) in paragraphs (4)(E), (9)(C), and (10) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraphs:

"(11) such association provides for meaningful representation on the governing board of such association of a diversity of membership interests and provides that no less than 20 percent of the regular voting members of such board be comprised of qualified nonmembers of or persons who are not regulated by such association.

"(12)(A) such association provides on all major disciplinary committees for a diversity of membership sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of disciplinary proceedings and the assessment of penalties.

"(13) A major disciplinary committee hearing a disciplinary matter shall include—

"(A) qualified persons representing segments of the association membership other than that of the subject of the proceeding; and

"(B) where appropriate to carry out the purposes of this paragraph, qualified persons who are not members of the association.".

(2) MAJOR DISCIPLINARY RULE VIOLATIONS.—Section 17 (7 U.S.C. 21), as amended by section 204, is amended by inserting after subsection (p) the following:

"(q)(1) The Commission shall issue regulations requiring each registered futures association to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such registered futures association.

"(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any member of a registered futures association who is found to have committed any major violation from service on the governing board of any registered futures association or contract market, or on any disciplinary committee thereof.".

(c) IMPLEMENTATION.—Not later than 270 days after the date of enactment of this Act, the Commodity Futures Trading Commission shall adopt such rules as are necessary to carry out the amendments made by subsections (a) and (b), including rules that—

(1) specify membership categories that shall be represented on disciplinary panels;

(2) define "major disciplinary committee" for purposes of sections 5a(a)(15) and 17(b)(12) of the Commodity Exchange Act (as added by subsections (a) and (b), respectively); and

(3) specify the conditions under which such panels shall include qualified persons who are not members of the exchange or association, which shall include at a minimum—

(A) any disciplinary action where the subject of such action is a member of the contract market or association governing board or of any major disciplinary committee of such contract market or association; and

(B) any disciplinary action based on facts related to a claim that the subject of such action manipulated or attempted to manipulate the price of a commodity or future or option.

SEC. 207. REQUIRED REGISTRATION OF FLOOR TRADERS.

(a) REQUIREMENT.—Section 4e (7 U.S.C. 6e) is amended to read as follows:

"Sec. 4e. It shall be unlawful for any person to act as floor trader in executing purchases and sales, or as floor broker in executing any orders for the purchase or sale, of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this Act, with the Commission as such floor trader or floor broker and such registration shall not have expired nor been suspended nor revoked.".

(b) CONFORMING AMENDMENTS.—The Act is amended—

(1) in sections 4f(1), 4g(1), and 6d(1) (7 U.S.C. 6f(1), 6g(1), 13a–2(1)), by striking "or floor broker" and inserting "floor broker, or floor trader";

(2) in section 6d(8)(A) (7 U.S.C. 13a–2(8)(A)), by inserting ", floor trader," after "floor broker";

(3) in section 8a(1), (7 U.S.C. 12a(1)), by striking "and floor brokers" and inserting "floor brokers, and floor traders"; and

(4) in sections 8a(2)(C)(i), 8a(2)(D)(ii), and 8a(3)(E)(ii) (7 U.S.C. 12a(2)(C)(i), 12a(2)(D)(ii), and 12a(3)(E)(ii)), by inserting "floor trader," after "floor broker,".

(c) REGULATIONS.—The amendments made by this section shall become effective 180 days after the date of enactment of this Act, and the Commodity Futures Trading Commission shall issue any regulations necessary to implement the amendments made by this section no later than 180 days after the date of enactment of this Act.

SEC. 208. ENHANCEMENT OF REGISTRATION REQUIREMENTS.

(a) INJUNCTIONS.—Section 8a(2)(C)(ii) (7 U.S.C. 12a(2)(C)(ii)) is amended to read as follows:

"(ii) engaging in or continuing any activity where such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gambling, or any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 4c or 19, or concerning securities".

(b) CERTAIN VIOLATIONS OF LAW.—Section 8a(2)(D)(iv) (7 U.S.C. 12a(2)(D)(iv)) is amended by—

(1) inserting "1001," after "152,";

(2) striking "or" after "1342,";

(3) inserting "1503, 1623, 1961, 1962, 1963, or 2314," after "1343,"; and

(4) inserting ", or section 7201 or 7206 of the Internal Revenue Code of 1986" after "Code".

(c) Other Violations of Law.—Section 8a(2)(E) (7 U.S.C. 12a(2)(E)) is amended—

(1) by striking "by any court of competent jurisdiction," and inserting "in a proceeding brought"; and

(2) in clause (i) by inserting "chapter 96 of title 18 of the United States Code," after "1977,".

(d) Registration Revocation Based on Inaccurate Statements.—Section 8a(2)(G) (7 U.S.C. 12a(2)(G)) is amended by—

(1) striking "subparagraphs (A) through (F) of this paragraph," and inserting "this paragraph and paragraph (3),";

(2) striking "material" the first place it appears and inserting "materially"; and

(3) striking "application" and inserting "application or any update thereto".

(e) General Felony Convictions.—Section 8a(3)(D) (7 U.S.C. 12a(3)(D)) is amended by—

(1) inserting "pleaded guilty to or" after "person";

(2) inserting a comma after "section" the first place it appears;

(3) striking "within ten years preceding the filing of the application or at any time thereafter,";

(4) striking ", including a felony"; and

(5) striking ", more than" and inserting "more than".

(f) Special Felony Convictions.—Section 8a(3)(E) (7 U.S.C. 12a(3)(E)) is amended—

(1) by inserting "pleaded guilty to or" after "person";

(2) by striking "within two years preceding the filing of the application for registration or at any time thereafter"; and

(3) in clause (iv) by inserting ", or section 7203, 7204, 7205, or 7207 of the Internal Revenue Code of 1986" after "Code".

(g) Registration Denied or Conditioned Based on Inaccurate Statements.—Section 8a(3)(G) (7 U.S.C. 12a(3)(G)) is amended by—

(1) striking "material" the first place it appears and inserting "materially";

(2) striking the comma after "application";

(3) inserting "or any update thereto," after "application";

(4) striking "thereunder, or" and inserting "thereunder,"; and

(5) inserting "or in any registration disqualification proceeding" after "Commission".

(h) Non-Federal Criminal Conduct.—Section 8a(3)(H) (7 U.S.C. 12a(3)(H)) is amended by inserting ", in a United States military court," after "State court".

(i) Existing Restrictions on Memberships.—Section 8a(3)(J) (7 U.S.C. 12a(3)(J)) is amended by—

(1) striking "or" after "association," the first place it appears;

(2) inserting "or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program," after "organization," the first place it appears;

(3) striking "or" after "association," the second place it appears; and

(4) striking "organization;" and inserting "organization, or foreign regulatory body;".

SEC. 209. ENFORCEMENT OF CIVIL MONEY PENALTIES.

(a) Money Penalties.—Section 6 (7 U.S.C. 8 et seq.) is amended—

(1) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively;

(2) by inserting "(a)" after "Sec. 6.";

(3) in subsection (a), as so redesignated, by striking "paragraph (a)" and inserting "subsection (b)";

(4) in subsection (d), as so redesignated—

(A) by striking "paragraph (b) of this section" and inserting "subsection (c)"; and

(B) by striking "section 6(b) of this Act" and inserting "subsection (c)"; and

(5) by amending subsection (e), as so redesignated, to read as follows:

"(e)(1) In determining the amount of the money penalty assessed under subsection (c), the Commission shall consider the appropriateness of such penalty to the gravity of the violation.

"(2) Unless the person against whom a money penalty is assessed under subsection (c) shows to the satisfaction of the Commission within 15 days from the expiration of the period allowed for payment of such penalty that either an appeal as authorized by subsection (c) has been taken or payment of the full amount of the penalty then due has been made, at the end of such 15-day period and until such person shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made—

"(A) such person shall be prohibited automatically from trading on all contract markets; and

"(B) if such person is registered with the Commission, such registration shall be suspended automatically.

"(3) If a person against whom a money penalty is assessed under subsection (c) takes an appeal and if the Commission prevails or the appeal is dismissed, unless such person shows to the satisfaction of the Commission that payment of the full amount of the penalty then due has been made by the end of 30 days from the date of entry of judgment on the appeal—

"(A) such person shall be prohibited automatically from trading on all contract markets; and

"(B) if such person is registered with the Commission, such registration shall be suspended automatically.

If the person against whom the money penalty is assessed fails to pay such penalty after the lapse of the period allowed for appeal or after the affirmance of such penalty, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.".

(b) Conforming Amendments.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended—

(1) in section 2(a)(1)(B)(iv)—

(A) in subclause (I) by striking "section 6(b)" and inserting "section 6(c)"; and

(B) in subclause (II) by striking "section 6(a)" and inserting "section 6(b)";

(2) in section 5(6), as so redesignated by section 201(c)(2), by striking "paragraph (b) of section 6" and inserting "section 6(c)";

(3) in section 5b by striking "paragraph (a) of section 6" and inserting "section 6(b)";

(4) in section 6a(1) by striking "paragraph (a) of section 6" and inserting "section 6(b)";

(5) in section 6b by striking "paragraph (a) of section 6" and inserting "section 6(b)";

(6) in section 8a—

(A) in the first proviso to paragraph (2) by striking "section 6(b)" and inserting "section 6(c)";

(B) in the second proviso to paragraph (3) by striking "section 6(b)" and inserting "section 6(c)"; and

(C) in paragraph (4) by striking "section 6(b)" each place it appears and inserting "section 6(c)";

(7) in section 14(e) by striking "paragraph (b) of section 6" and inserting "section 6(c)"; and

(8) in section 17—

(A) in subsection (b)—

(i) in paragraph (3)(B) by striking "section 6(b)" and inserting "section 6(c)"; and

(ii) in paragraph (4)(F) by striking "subsection (b) of section 6" and inserting "section 6(c)";

(B) in subsection (i)(4) by striking "section 6(b)" and inserting "section 6(c)"; and

(C) in subsection (o)(4) by striking "section 6(b)" and inserting "section 6(c)".

SEC. 210. ETHICS TRAINING FOR REGISTRANTS.

(a) Mandatory Training for Registrants.—Section 4p (7 U.S.C. 6p) is amended by —

(1) inserting "(a)" after "sec. 4p."; and

(2) adding at the end the following:

"(b) The Commission shall issue regulations to require new registrants, within 6 months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under this Act, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable Federal or state law, rule or regulation.".

(b) Regulations.—The Commodity Futures Trading Commission shall issue the regulations required by section 4p(b) of the Commodity Exchange Act, as added by subsection (a), no later than 180 days after the date of enactment of this Act.

SEC. 211. NATIONWIDE SERVICE OF PROCESS AND VENUE.

Section 22(c) (7 U.S.C. 25(c)) is amended to read as follows:

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action shall be brought not later than 2 years after the date the cause of action arises. Any action brought under subsection (a) of this section may be brought in any judicial district wherein the defendant is found, resides, or transacts business, or in the judicial district wherein any act or transaction constituting the violation occurs. Process in such action may be served in any judicial district of which the defendant is an inhabitant or wherever the defendant may be found.".

SEC. 212. INCREASED PENALTIES.

(a) Felony Violations.—Section 9 (7 U.S.C. 13) is amended—

(1) by—

(A) striking subsections (a), (b), and (c);

(B) redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(C) inserting before subsection (c), as redesignated, the following new subsections:

"(a) It shall be a felony punishable by a fine of not more than $1,000,000 (or $500,000 in the case of a person who is an individual) or imprisonment for not more than 5 years, or both, together with the costs of prosecution, for:

"(1) Any person registered or required to be registered under this Act, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to such person's use or to the use of another, any money, securities, or property having a value in excess of $100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts or which otherwise was received from any customer, client, or pool participant in connection with the business of such person. The word 'value' as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

"(2) Any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market, or to corner or attempt to corner any such commodity or knowingly to deliver or cause to be delivered for transmission through the mails or interstate

commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, or knowingly to violate the provisions of section 4, section 4b, subsections (a) through (e) of subsection 4c, section 4h, section 40(1), or section 19.

"(3) Any person knowingly to make, or cause to be made, any statement in any application, report, or document required to be filed under this Act or any rule or regulation thereunder or any undertaking contained in a registration statement required under this Act, or by any contract market or registered futures association in connection with an application for membership or participation therein or to become associated with a member thereof, which statement was false or misleading with respect to any material fact, or knowingly to omit any material fact required to be stated therein or necessary to make the statements therein not misleading.

"(4) Any person willfully to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry to a contract market, board of trade, or futures association designated or registered under this Act acting in furtherance of its official duties under this Act.

"(5) Any person willfully to violate any other provision of this Act, or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, but no person shall be subject to imprisonment under this paragraph for the violation of any rule or regulation if such person proves that he had no knowledge of such rule or regulation.

"(b) Any person convicted of a felony under this section shall be suspended from registration under this Act and shall be denied registration or reregistration for 5 years or such longer period as the Commission may determine, and barred from using, or participating in any manner in, any market regulated by the Commission for 5 years or such longer period as the Commission shall determine, on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.";

(2) in subsection (c) (as redesignated by paragraph (1) of this section) by striking "$100,000" and inserting "$500,000"; and

(3) in subsection (d) (as redesignated by paragraph (1) of this section) by striking "$100,000" and inserting "$500,000".

(b) OTHER VIOLATIONS.—Sections 6(c) and 6(d) (7 U.S.C. 9 and 13b), as such subsections are redesignated by section 209, are each amended by striking "$100,000" each place it appears and inserting "the higher of $100,000 or triple the monetary gain to such person".

(b) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b (7 U.S.C. 13a) is amended—

(1) by striking "$100,000" each place it appears and inserting "$500,000"; and

(2) in the last sentence, by striking "the appropriateness of such penalty to the net worth of the offending person and".

SEC. 213. CONTRACT MARKET EMERGENCY ACTIONS.

(a) PRIOR COMMISSION NOTIFICATION REQUIRED.—Section 5a(a)(12) (7 U.S.C. 7a(12)), as redesignated by section 201, is amended—

(1) by striking "(12) except" and inserting "(12)(A) except"; and

(2) by striking the last two sentences of paragraph (12)(A), as so redesignated, and inserting the following:

"(B)(i) The Commission shall issue regulations to specify the terms and conditions under which, in an emergency as defined by the Commission, a contract market may, by a two-thirds vote of its governing board, make a rule (hereinafter referred to as an 'emergency rule') effective on a temporary basis without prior Commission approval, or without compliance with the 10-day notice requirement under subparagraph (A), or during any period of review by the Commission, if the contract market makes every effort practicable to notify the Commission of such emergency rule, along with a complete explanation of the emergency involved, prior to making the emergency rule effective. If the contract market does not provide the Commission with such notification and explanation before making the emergency rule effective, the contract market shall provide the Commission with such notification and explanation at the earliest possible date. The Commission may delegate the power to receive such notification and explanation to such individuals as the Commission determines necessary and appropriate.

(ii) Within 10 days of the receipt from a contract market of notification of such an emergency rule and an explanation of the emergency involved, or as soon as practicable, the Commission shall determine whether it is appropriate either—

"(I) to permit such rule to remain in effect during the pendency of the emergency, or

"(II) to suspend the effect of such rule pending review either under the procedures of subparagraph (A) or otherwise.

The Commission shall submit a report on its determination and the basis thereof with respect to such emergency rule to the affected contract market, to the Committee on Agriculture of the House of Representatives and the Committee Agriculture, Nutrition, and Forestry of the Senate. If the report is submitted more than 20 days after the Commission's receipt of notification of such an emergency rule from a contract market, the report shall explain why submission within such 10-day period was not practicable. A determination by the Commission to suspend the effect of a rule under this subparagraph shall be subject to judicial review on the same basis as an emergency determination under section 8a(9). Nothing in this paragraph shall be construed to limit the authority of the Commission under section 8a(9);".

(b) REGULATIONS.—The Commodity Futures Trading Commission shall issue regulations to implement section 5a(12)(B) of the Commodity Exchange Act, as added by subsection (a), no later than 180 days after the date of enactment of this Act. Until the effective date of such regulations, any regulation of the Commission that implements the last 2 sentences of section 5a(12), as such sentences were in effect immediately before the date of enactment of this Act, shall remain in effect.

SEC. 214. PROHIBITION AGAINST INSIDER TRADING.

(a) IN GENERAL.—Section 9 (7 U.S.C. 13) is amended by adding at the end the following:

"(f) It shall be a felony for any person—

(1) who is an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association, in violation of a regulation issued by the Commission, willfully and knowingly to trade for such person's own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of, or willfully and knowingly to disclose for any purpose inconsistent with the performance of such person's official duties as an employee or member, any material nonpublic information obtained through special access related to the performance of such duties.

(2) willfully and knowingly to trade for such person's own account, or for or on behalf of any account, in contracts for future delivery or options thereon on the basis of any material nonpublic information that such person knows was obtained in violation of paragraph (1) from an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association.

Such felony shall be punishable by a fine of not more than $500,000, plus the amount of any profits realized from such trading or disclosure made in violation of this subsection, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.".

(b) REGULATIONS.—The Commodity Futures Trading Commission shall issue regulations to implement the amendment made by subsection (a) not later than 360 days after the date of enactment of this Act.

SEC. 215. QUALIFICATIONS OF COMMISSIONERS.

Section 2(a)(2)(A) (7 U.S.C. 4a(a)(1)) is amended by striking the second and third sentences and inserting the following: "The Commission shall be composed of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall—

"(i) select persons who shall each have demonstrated knowledge in futures trading or its regulation, or the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services rights and interests covered by this Act; and

"(ii) seek to ensure that the demonstrated knowledge of the Commissioners is balanced with respect to such areas.".

SEC. 216. COMMISSION OPERATIONS.

Section 12(b)((7 U.S.C. 16(b)) is amended—

(1) by designating the first through third sentences as paragraphs (1) through (3), respectively; and

(2) by adding at the end of the following new paragraph:

"(4) The Commission may request (in accordance with the procedures set forth in subchapter II of chapter 31 of title 5, United States Code) and the Office of Personnel Management shall authorize pursuant to the request, eight positions in the Senior Executive Service in addition to the number of such positions authorized for the Commission on the date of enactment of this sentence.".

SEC. 217. PROHIBITION ON VOTING BY INTERESTED MEMBERS.

Subsection (a) of section 5a (7 U.S.C. 7a) (as amended by sections 201(a) and 206(a)(1) of this Act) is further amended by adding at the end the following:

"(17)(A) provide for the avoidance of conflict of interest in deliberations by the governing board and any disciplinary and oversight committees. In order to comply with this subparagraph, each contract market shall adopt rules and procedures to require, at a minimum, that

"(i) any member of a governing board or a disciplinary or other oversight committee must abstain from confidential deliberations and voting on any matter where the named party in interest is the member, the member's employer, the member's employee, or any other person that has a business, employment, or family relationship with the member that warrants abstention by the member;

"(ii) any member of a governing board or a disciplinary or other oversight committee must abstain from voting on any significant action that would not be submitted to the Commission

for its prior approval, if as determined in accordance with regulations promulgated by the Commission, the member knowingly has a direct and substantial financial interest in the result of the vote, based either on positions held personally or at an affiliated firm;

"(iii) prior to the deliberations of the governing board, disciplinary board, or other oversight committee, acting directly or indirectly through an authorized member or contract market official, the positions of the members of such board or committee, and positions of the firm or firms with which such members are affiliated, are reviewed (provided, however, that no contract market or official, employee, member, other than the member whose position or positions are being reviewed, or agent thereof shall be subject to liability, except for liability in an action initiated by the Commission, for having conducted this review and for having taken or not taken further action); and

"(iv) the board or committee shall clearly reflect, in the minutes of such meeting, that the review required in clause (iii) occurred and any decisions by a member to abstain or by the board or committee whether to direct a member or members to abstain from deliberations or voting on the matter before the board or committee.

Any member prohibited from voting on a rule pursuant to this paragraph shall not be included in determining whether there has been a two-thirds vote of members of the governing board or committee as required by subparagraph (12).

"(B) For the purposes of this paragraph, the term 'significant action that would not be submitted to the Commission for its prior approval' includes—

"(i) any nonphyscial emergency rule; or

"(ii) any changes in margin levels designed to respond to extraordinary market conditions that are likely to have a substantial affect on prices in any contract traded on such contract market,

but does not include any rule not submitted for prior Commission approval because such rule is unrelated to terms and conditions of any contract traded on such market.

"(C) Notwithstanding the provisions of subparagraph (A)(ii), the Commission shall issue rules establishing the conditions under which a member of a board or committee who is required to abstain from voting on a significant action, as provided in subparagraph (A)(ii), may participate in deliberations on that action prior to such vote, where the member's participation is consistent with the public interest.".

SEC. 218. STUDY OF ASSESSMENTS ON TRANSACTIONS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine whether—

(1) it is feasible to fund some or all of the enforcement and market surveillance activities of the Commodity Futures Trading Commission, as required by the amendments to the Commodity Exchange Act made by the Futures Trading Practices Act of 1992, through the imposition of an assessment on commodity futures and options transactions executed pursuant to the Commodity Exchange Act; and

(2) a program of assessment-based funding for some or all of such enforcement and market surveillance activities would better provide resources to the Commodity Futures Trading Commission to enable the Commission to—

(A) protect the interests of market users (including hedgers and speculators), producers of commodities traded on the futures markets, and the general public; and

(B) maintain and enhance the credibility of such futures and options markets.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the Comptroller General's determinations pursuant to subsection (a), together with any appropriate recommendations for the implementation of such a program of assessment-based funding for some or all of the Commodity Futures Trading Commission's enforcement and market surveillance activities.

SEC. 219. COMPETITIVENESS STUDY.

(a) IN GENERAL.—No later than 18 months following the enactment of this Act, the Commodity Futures Trading Commission shall study the competitiveness of boards of trade over which it has jurisdiction compared with the boards of trade (or their foreign equivalent) over which foreign futures authorities, as defined in section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)), have jurisdiction, and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of its findings with respect to—

(1) the overall competitive status of United States boards of trade in the world market;

(2) a comparison of applicable statutes, rules, or regulations as they relate to futures and options administered and enforced by the Commission and those administered and enforced by foreign futures authorities;

(3) any trends in, or movements of, volume of futures and options trading to or from United States boards of trade during the period of the study, and whether such trends or movements, if any, were the result of the adoption of statutes, regulations, or other enforcement mechanisms in foreign countries or the United States, as opposed to other competitive, economic, regional, or commercial factors;

(4) any significant harms or risks to the public interest, market users, traders, and commerce in relation to futures or options traded on such foreign boards of trade which may result from the absence of statutes, regulations, or other enforcement mechanisms in foreign countries or the United States or disparities in regulatory protections offered by United States and foreign authorities; and

(5) any recommendations the Commission may have as a result of the study to enhance the competitive status of United States boards of trade in the world market, or to enhance the regulation of markets in the global environment, that will not impair customer confidence in United States boards of trade.

(b) COOPERATION.—To promote the efficient use of resources, the Commission shall endeavor, as it determines appropriate, to obtain the assistance of the General Accounting Office, the Office of the United States Trade Representative, or other appropriate offices of the Federal Government in order to obtain information with regard to trading at foreign boards of trade and the regulation of such boards of trade by foreign futures authorities.

SEC. 220. COMPUTERIZED FUTURES TRADING.

(a) INTERNATIONAL COMPETITIVENESS OF ELECTRONIC TRADING SYSTEMS.—Section 12 (7 U.S.C. 16) (as amended by section 303 of this Act) is further amended by adding at the end the following new subsection:

"(g) Consistent with its responsibilities under section 18, the Commission is directed to facilitate the development and operation of computerized trading as an adjunct to the open outcry auction system. The Commission is further directed to cooperate with the Office of the United States Trade Representative, the Department of the Treasury, the Department of Commerce, and the Department of State in order to remove any trade barriers that may be imposed by a foreign nation on the international use of electronic trading systems.".

(b) STUDY—The Commodity Futures Trading Commission shall conduct a study to assess—

(1) the progress made under initiatives to conduct trading in futures and options subject to the jurisdiction of the Commission under the Commodity Exchange Act through systems of computers or by other electronic means; and

(2) whether the experience with such systems of trading indicates that they may be useful or effective to enhance access to the futures and options markets by potential market participants, improve the ability of the Commission to audit the activities of the futures and options markets, reduce the opportunity for trading abuses, and otherwise be in the public interest or raise other related issues.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection (a), together with any appropriate recommendations.

SEC. 221. MONEY PENALTIES IN CIVIL COURT ACTIONS.

Section 6c (7 U.S.C. 13c) is amended—

(1) by designating the first, second, third, fourth, fifth, and sixth sentences as subsections (a), (b), (c), (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) (as so designated) the following new subsection:

"(d)(1) In any action brough under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation a civil penalty in the amount of not more than the higher of $100,000 or triple the monetary gain to the person for each violation.

"(2) If a person on whom such a penalty is imposed fails to pay the penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover the penalty by action in the appropriate United States district court.".

SEC. 222. CIVIL DAMAGES; LIABILITY OF FUTURES COMMISSION MERCHANTS.

(a) DUTIES OF CONTRACT MARKETS.—Subsection (a)(11) of section 5a (7 U.S.C. 7a) (as amended by section 201(a)(1) of this Act) is further amended—

(1) by striking "(i)" and inserting "(A)";

(2) by striking "voluntary and (ii)" and inserting "voluntary, (B)"; and

(3) by inserting after the word "market" the following: ", and (C) in the case of a claim arising from a violation in the execution of an order on the floor of a contract market, such procedure shall provide, to the extent appropriate—

"(i) for payment of actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(ii) where the violation is willful and intentional, for payment to the customer of punitive or exemplary damages, in addition to losses proximately caused by the violation, in an amount equal to no more than two times the amount of such losses. If punitive or exemplary damages are awarded against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of such order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy the award of punitive or exemplary dam-

ages if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation;".

(b) COMPLAINTS AGAINST REGISTERED PERSONS.—Section 14(a) (7 U.S.C. 18(a)) is amended by striking "awarding actual damages proximately caused by such violation." and inserting "awarding—

"(1) actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(2) in the case of any action arising from a willful and intentional violation in the execution of an order on the floor of a contract market, punitive or exemplary damages equal to no more than two times the amount of such actual damages. If an award of punitive or exemplary damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation.".

(c) REGISTERED FUTURES ASSOCIATIONS.—Section 17(b)(10) (7 U.S.C. 21(b)(10)) (as amended by section 206(b)(1) of this Act) is further amended—

(1) by striking "(i)" and inserting "(A)";

(2) by striking "voluntary and (ii)" and inserting "voluntary, (B)"; and

(3) by inserting after the word "association" the following: ", and (C) in the case of a claim arising from a violation in the execution of an order on the floor of a contract market, such procedure shall provide, to the extent appropriate—

"(i) for payment of actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(ii) where the violation is willful and intentional, for payment to the customer of punitive or exemplary damages, in addition to losses proximately caused by the violation, in an amount equal to no more than two times the amount of such losses. If punitive or exemplary damages are awarded against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of such order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy the award of punitive or exemplary damages if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation".

(d) PRIVATE RIGHTS OF ACTION.—Section 22(a) (7 U.S.C. 25(a)) is amended by adding at the end the following new paragraph:

"(3) In any action arising from a violation in the execution of an order on the floor of a contract market, the person referred to in paragraph (1) shall be liable for—

"(A) actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(B) where the violation is willful and intentional, punitive or exemplary damages equal to no more than two times the amount of such actual damages. If an award of punitive or exemplary damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation.".

SEC. 223. CUSTOMER RESTITUTION.

The tenth sentence of section 6(c) (7 U.S.C. 9) (as redesignated by section 209(a)(1) of this Act) is amended—

(1) by inserting "(1)" after "may" the first place it appears;

(2) by striking "and, if" and inserting "(2) if";

(3) by striking "may suspend" and inserting "suspend";

(4) by striking "and may" and inserting "(3)"; and

(5) by inserting before the period the following: "and (4) require restitution to customers of damages proximately caused by violations of such persons".

SEC. 224. COMPLAINTS AGAINST REGISTERED PERSONS; CLASS ACTION SUITS.

Section 14(a) (7 U.S.C. 18(a)) (as amended by section 222(b) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following new paragraph:

"(2)(A) An action may be brought under this subsection by any one or more persons described in this subsection for and in behalf of such person or persons and other persons similarly situated, if the Commission permits such actions pursuant to a final rule issued by the Commission.

"(B) Not later than 270 days after the date of enactment of this paragraph the Commission shall propose and publish for public comment such rules as are necessary to carry out subparagraph (A). In developing such rules, the Commission shall consider the potential impact of such actions on resources available to the reparations system established under this Act and the relative merits of bringing such actions in Federal court.".

SEC. 225. PENALTIES STUDY AND GUIDELINES.

(a) STUDY.—The Commodity Futures Trading Commission shall study the penalties the Commission imposes against persons found to have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.) and the penalties imposed by contract markets and registered futures associations against persons found to have violated their respective rules established under such Act.

(b) REPORT. Not later than 2 years after the date of enactment of this Act, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under subsection (a). The report shall—

(1) include an analysis of whether systematic differences exist among penalties imposed by various contract markets and registered futures associations for similar offense, and, if so, the causes of such differences;

(2) propose industry-wide guidelines or rules to make penalty levels among contract markets and registered futures associations consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses; and

(3) propose guidelines or rules to make Commission penalty levels consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses.

SEC. 226. PUBLICATION OF COMMISSION OPINIONS.

Section 2(a)(9) (7 U.S.C. 4a(h)) is amended by adding at the end the following new subparagraph:

"(C) Whenever the Commission issues for official publication any opinion, release, rule, order, interpretation, or other determination on a matter, the Commission shall provide that any dissenting, concurring, or separate opinion by any Commissioner on the matter be published in full along with the Commission opinion, release, rule, order, interpretation, or determination.".

SEC. 227. SUSPENSION OF REGISTRANTS CHARGED WITH FELONIES.

Section 8a (7 U.S.C. 12a) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11)(A) by written notice served on the person and pursuant to such rules, regulations, and orders as the Commission may adopt, to suspend or modify the registration of any person registered under this Act who is charged (in any information, indictment, or complaint authorized by a United States attorney or an appropriate official of any State) with the commission of or participation in a crime involving a violation of this Act, or a violation of any other provision of Federal or state law that would reflect on the honesty or the fitness of the person to act as a fiduciary (including an offense specified in subparagraph (D) or (E) of paragraph (2)) that is punishable by imprisonment for a term exceeding 1 year, if the Commission determines that continued registration of the person may pose a threat to the public interest or may threaten to impair public confidence in any market regulated by the Commission.

"(B) Prior to the suspension or modification of the registration of a person under this paragraph, the person shall be afforded an opportunity for a hearing at which the Commission shall have the burden of showing that the continued registration of the person does, or is likely to, pose a threat to the public interest or threaten to impair public confidence in any market regulated by the Commission.

"(C) Any notice of suspension or modification issued under this paragraph shall remain in effect until such information, indictment, or complaint is disposed of or until terminated by the Commission.

"(D) On disposition of such information, indictment, or complaint, the Commission may issue and serve on such person an order pursuant to paragraph (2) or (4) to suspend, restrict, or revoke the registration of such person.

"(E) A finding of not guilty or other disposition of the charge shall not preclude the Commission from thereafter instituting any other proceedings under this Act.

"(F) A person aggrieved by an order issued under this paragraph may obtain review of such order in the same manner and on the same terms and conditions as are provided in section 6(b).".

SEC. 228. APPEALS BY REGISTERED FUTURES ASSOCIATIONS.

Section 17(i)(4) (7 U.S.C. 21(i)(4)) is amended by striking "(other than a registered futures association)".

SEC. 229. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.

Section 4f (7 U.S.C. 6f) (as amended by section 207(b)(1) of this Act) is further amended—

"(1) by redesignating paragraphs (1) and (2) as subsections (a) an (b), respectively;

"(2) in subsection (b) (as so redesignated), by striking "this paragraph (2)" and inserting "this subsection"; and

"(3) by adding at the end the following new subsection:

"(c)(1) As used in this subsection:

"(i) The term 'affiliated person' means any person directly or indirectly controlling, controlled by, or under common control with a futures commission merchant, as the Commission, by rule or regulation, may determine will effectuate the purposes of this subsection.

"(ii) The term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(2)(A) Each registered futures commission merchant shall obtain such information and make and keep such records as the Commission, by rule or regulation, prescribes concerning the registered futures commission merchant's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its affiliated persons, other than a natural person.

"(B) The records required under subparagraph (A) shall describe, in the aggregate, each of the futures and other financial activities conducted by, and the customary sources of capital and funding of, those of its affiliated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of the futures commission merchant, including its adjusted net capital, its liquidity, or its ability to conduct or finance its operations.

"(C) The Commission, by rule or regulation, may require summary reports of such information to be filed by the futures commission merchant with the Commission no more frequently than quarterly.

"(3)(A) If, as a result of adverse market conditions or based on reports provided to the Commission pursuant to paragraph (2) or other available information, the Commission reasonably concludes that the Commission has concerns regarding the financial or operational condition of any registered futures commission merchant, the Commission may require the futures commission merchant to make reports concerning the futures and other financial activities of any of such person's affiliated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the futures commission merchant.

"(B) The Commission, in requiring reports pursuant to this paragraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission or to a contract market or other self-regulatory organization with primary responsibility for examining the registered futures commission merchant's financial and operational condition.

"(4)(A) In developing and implementing reporting requirements pursuant to paragraph (2) with respect to affiliated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to the written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish the comment and response in the Federal Register at the time of publishing the adopted rule.

"(B)(i) Except as provided in clause (ii), a registered futures commission merchant shall be considered to have complied with a recordkeeping or reporting requirement adopted pursuant to paragraph (2) concerning an affiliated person that is subject to examination by, or reporting requirements of, a Federal banking agency if the futures commission merchant utilizes for the recordkeeping or reporting requirement copies of reports filed by the affiliated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes (12 U.S.C. 161), section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.), section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)), section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467(a)(b)), or section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844).

"(ii) The Commission may, by rule adopted pursuant to paragraph (2), require any futures commission merchant filing the reports with the Commission to obtain, maintain, or report supplemental information if the Commission makes an explicit finding that the supplemental information is necessary to inform the Commission regarding potential risks to the futures commission merchant. Prior to requiring any such supplemental information, the Commission shall first request the Federal banking agency to expand its reporting requirements to include the information.

"(5) Prior to making a request pursuant to paragraph (3) for information with respect to an affiliated person that is subject to examination by or reporting requirements of a Federal banking agency, the Commission shall—

"(A) notify the agency of the information required with respect to the affiliated person; and

"(B) consult with the agency to determine whether the information required is available from the agency and for other purposes, unless the Commission determines that any delay resulting from the consultation would be inconsistent with ensuring the financial and operational condition of the futures commission merchant or the stability or integrity of the futures markets.

"(6) Nothing in this subsection shall be construed to permit the Commission to require any futures commission merchant to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained in the report.

"(7) No information provided to or obtained by the Commission from any Federal banking agency pursuant to a request under paragraph (5) regarding any affiliated person that is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than as provided in section 8 or section 8a(6)), without the prior written approval of the Federal banking agency.

"(8) The Commission shall notify a Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of any futures commission merchant to any affiliated person thereof that is subject to examination by or reporting requirements of the Federal banking agency.

"(9) The Commission, by rule, regulation, or order, may exempt any person or class of persons under such terms and conditions and for such periods as the Commission shall provide in the rule, regulation, or order, from this subsection and the rules and regulations issued under this subsection. In granting the exemption, the Commission shall consider, among other factors—

"(A) whether information of the type required under this subsection is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(7))), a State insurance commission or similar State agency, the Securities and Exchange Commission, or a similar foreign regulator;

"(B) the primary business of any affiliated person;

"(C) the nature and extent of domestic or foreign regulation of the affiliated person's activities;

"(D) the nature and extent of the registered futures commission merchant's commodity futures and options activities; and

"(E) with respect to the registered futures commission merchant and its affiliated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States futures markets.

"(10) Information required to be provided pursuant to this subsection shall be subject to section 8. Except as specifically provided in section 8 and notwithstanding another provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection, or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any affiliated person of a registered futures commission merchant.

"(11) Nothing in paragraphs (1) through (10) shall be construed to supersede or to limit in any way the authority of powers of the Commission pursuant to any other provision of this Act or regulations issued under this Act.".

TITLE III—ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

SEC. 301. SUBPOENA AUTHORITY.

The third sentence of section 6(c) (7U.S.C. 15) (as redesignated by section 209(a)(1)) is amended—

(1) by striking "Act and" and inserting "Act,"; and

(2) by striking "Act, any" and inserting "Act, and for the purpose of any action taken under section 12(f), any".

SEC. 302. COOPERATION WITH FOREIGN FUTURES AUTHORITIES.

Section 12(a) (7 U.S.C. 16(a)) is amended by inserting after "thereof," the following: "any foreign futures authority, any department or agency of a foreign government or political subdivision thereof,".

SEC. 303. INVESTIGATIVE ASSISTANCE TO FOREIGN FUTURES AUTHORITIES.

Section 12 (7 U.S.C. 16) is amended by adding at the end the following:

"(f)(1) On request from a foreign futures authority, the Commission may, in its discretion, provide assistance in accordance with this section if the requesting authority states that the requesting authority is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws, rules or regulations relating to futures or options matters that the requesting authority administers or enforces. The Commission may conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States.

"(2) In deciding whether to provide assistance under this subsection, the Commission shall consider whether—

"(A) the requesting authority has agreed to provide reciprocal assistance to the Commission in futures and options matters; and

"(B) compliance with the request would prejudice the public interest of the United States.

"(3) Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign futures authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation, or in providing any other assistance to a foreign futures authority, pursuant to this section. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.".

SEC. 304. DISCLOSURE OF INFORMATION RECEIVED FROM FOREIGN FUTURES AUTHORITIES.

Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended—

(1) by adding at the end of subsection (a)(1) (as so redesignated by section 205(1)), the following:

"The Commission shall not be compelled to disclose any information or data obtained from a foreign futures authority if—

"(A) the foreign futures authority has in good faith determined and represented to the Commission that disclosure of such information or data by that foreign futures authority would violate the laws applicable to that foreign futures authority; and

"(B) the Commission obtains such information pursuant to—

"(i) such procedure as the Commission may authorize for use in connection with the administration or enforcement of this Act; or

"(ii) a memorandum of understanding with that foreign futures authority;

except that nothing in this subsection shall prevent the Commission from disclosing publicly any information or data obtained by the Commission from a foreign futures authority when such disclosure is made in connection with a congressional proceeding, an administrative or judicial proceeding involving a receiver appointed in a judicial proceeding commenced by the United States or the Commission, in any receivership proceeding commenced by the United States or the Commission, or in any proceeding under title 11 of the United States Code in which the Commission has intervened or in which the Commission has the right to appear and be heard. Nothing in this subsection shall be construed to authorize the Commission to withhold information or data from Congress. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of section 552."; and

(2) by adding at the end of subsection (b) the following:

"This subsection shall not apply to the disclosure of data or information obtained by the Commission from a foreign futures authority.".

SEC. 305. DISCLOSURE OF INFORMATION TO FOREIGN FUTURES AUTHORITIES.

Section 8(e) (7 U.S.C. 12(e)) is amended—

(1) in the fifth sentence—

(A) by inserting after "jurisdiction," the first place it appears the following: "any foreign futures authority,"; and

(B) by inserting after "such" the following: "foreign futures authority,"; and

(2) in the last sentence—

(A) by inserting after "information to a" the following: "foreign futures authority or to a";

(B) by inserting after "disclosed by such" the following: "foreign futures authority,"; and

(C) by inserting after "or agency thereof" the following: ", or foreign futures authority,".

TITLE VI—AUTHORIZATION OF APPROPRIATIONS; TECHNICAL AMENDMENTS; EFFECTIVE DATE

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out this Act—

"(1) $53,000,000 for fiscal year 1993; and

"(2) $60,000,000 for fiscal year 1994.".

SEC. 402. TECHNICAL AMENDMENTS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended—

(1) by striking "commission" in—

(A) section 4a (as amended by paragraph (2)) each place it appears, other than in subsection (d), as so redesignated;

(B) section 6(b), as so redesignated by section 209(a)(1), each place it appears;

(C) section 6(c), as so redesignated by section 209(a)(1);

(D) section 13(c);

and inserting "Commission";

(2) in section 4a (7 U.S.C. 6a)—

(A) in subsection (1) by striking "subparagraphs 2 (A) and (B)" and inserting "paragraphs (1) and (2) of subsection (b)";

(B) in subsection (3) by striking "subsection (1)" and inserting "subsection (a)";

(C) by redesignating subsections (1) through (5) as subsections (a) through (e), respectively; and

(D) in subsection (b), as so redesignated, by redesignating paragraphs (A) and (B) as paragraphs (1) and (2), respectively.

(3) in section 4b—

(A) by redesignating subdivisions (A) through (D) as subdivisions (i) through (iv), respectively;

(B) by striking "(a)", and "(c)", and inserting "(A)", "(B)", and "(C)", respectively;

(C) by inserting "(a)" after "Sec. 4b.";

(D) by inserting "(b)" before "Nothing in this section or"; and

(E) by inserting "(c)" before "Nothing in this section shall";

(4) in section 4c(d)(2)—

(A) in subparagraph (A)(iv) by striking "(15 U.S.C. 78c(a)(12))" and inserting "(15 U.S.C. 78c(a)(12))"; and

(B) in the matter following subparagraph (C) by striking "section (2)(a)" and inserting "section 2(a)";

(5) in section 4g (7 U.S.C. 6g)—

(A) by redesignating subsections (1) through (6) as subsections (a) through (f), respectively; and

(B) in subsection (c), as so redesignated, by striking "subsection (2)" and inserting "subsection (b)";

(6) in section 6(c), as so redesignated by section 209(a)(1), by striking "offending person." and inserting "offending person";

(7) in section 6(c), as so redesignated by section 209(a)(1), and in section 8(f) by striking "subpena" and "subpenas" each place they appear and inserting "subpoena" and "subpoenas", respectively;

(8) in section 6a, as amended by section 209(b)(4), by redesignating subsections (1) and (2) as subsections (a) and (b), respectively;

(9) by striking "the Secretary of Agriculture or"—

(A) in the first sentence of section 6(b), as so redesignated by section 209(a)(1);

(B) in the first sentence of section 6(c), as so redesignated by section 207(a)(1); and

(C) in section 13(c);

(10) in section 8a—

(A) in paragraph (5) by striking "and" at the end; and

(B) in paragraph (7) by striking "matters as:" and inserting "matters as—";

(11) in section 14(g) by striking "fifteen months" the second place it appears and inserting '15-months";

(12) in section 17—

(A) in subsection (a) by indenting the left margin of paragraphs (1) and (2) by 2 ems; and

(B) in subsection (1)(2)(B)—

(i) by striking "the Commodity Exchange" and inserting "this"; and

(ii) by striking the period at the end and inserting "; and";

(13) by striking section 21;

(14) in section 22(a)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by striking "clauses (A) through (D)" and inserting "subparagraphs (A) through (D)"; and

(ii) in subparagraph (D) by striking "clause (B)" and inserting "subparagraph (B)"; and

(B) in paragraph (2) by striking "17b(10)" and inserting "17(b)(10)"; and

(15) by striking section 23.

SEC. 403. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

SEC. 404. DEFINITIONS.

(a) In General.—The Act is amended by inserting after the first section (7 U.S.C. 1) the following new section:

"SEC. 1a. DEFINITIONS.

"As used in this Act:

"(1) BOARD OF TRADE.—The term 'board of trade' means any exchange or association, whether incorporated or unincorporated, of persons who are engaged in the business of buying or selling any commodity or receiving the same for sale on consignment.

"(2) COMMISSION.—The term 'Commission' means the Commodity Futures Trading Commission established under section 2(a)(2).

"(3) COMMODITY.—The term 'commodity' means wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils) cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in Public Law 85–839 (7 U.S.C. 13–1), and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.

"(4) COMMODITY POOL OPERATOR.—The term 'commodity pool operator' means any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, except that the term does not include such persons not within the intent of the definition of the term as the Commission may specify by rule, regulation, or order.

"(5) COMMODITY TRADING ADVISOR.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'commodity trading advisor' means any person who—

"(i) for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic *media, as to the value of or the advisability of trading in—*

"(I) any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market;

"(II) any commodity option authorized under section 4c; or

"(III) any leverage transaction authorized under section 19; or

"(ii) for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the activities referred to in clause (i).

"(B) EXCLUSIONS.—Subject to subparagraph (C), the term 'commodity trading advisor' does not include—

"(i) any bank or trust company or any person acting as an employee thereof;

"(ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher;

"(iii) any floor broker or futures commission merchant;

"(iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees;

"(v) the fiduciary of any defined benefit plan that is subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.);

"(vi) any contract market; and

"(vii) such other persons not within the intent of this paragraph as the Commission may specify by rule, regulation, or order.

"(C) INCIDENTAL SERVICES.—Subparagraph (B) shall apply only if the furnishing of such services by persons referred to in subparagraph (B) is solely incidental to the conduct of their business or profession.

"(D) Advisors.—The Commission, by rule or regulation, may include within the term 'commodity trading advisor', any person advising as to the value of commodities or issuing reports or analyses concerning commodities if the Commission determines that the rule or regulation will effectuate the purposes of this paragraph.

"(6) CONTRACT OF SALE.—The term 'contract of sale' includes sales, agreements of sale, and agreements to sell.

"(7) COOPERATIVE ASSOCIATION OF PRODUCERS.—The term 'cooperative association of producers' means any cooperative association, corporate, or otherwise, not less than 75 percent in good faith owned or controlled, directly or indirectly, by producers of agricultural products and otherwise complying with the Act of February 18, 1922 (42 Stat. 388, chapter 57; 7 U.S.C. 291 and 292), including any organization acting for a group of such associations and owned or controlled by such associations, except that business done for or with the United States, or any agency thereof, shall not be considered either member or nonmember business in determining the compliance of any such association with this Act.

"(8) FLOOR BROKER.—The term 'floor broker' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market.

"(9) FLOOR TRADER.—The Term 'floor trader' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, purchases, or sells solely for such person's own account, any commodity for future delivery on or subject to the rules of any contract market.

"(10) FOREIGN FUTURES AUTHORITY.—The term 'foreign futures authority' means any foreign government, or any department, agency, governmental body, or regulatory organization empowered by a foreign government to administer or enforce a law, rule, or regulation as it relates to a futures or options matter, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce a law, rule, or regulation as it relates to a futures or options matter.

"(11) FUTURE DELIVERY.—The term 'future delivery' does not include any sale of any cash commodity for deferred shipment or delivery.

"(12) FUTURES COMMISSION MERCHANT.—The term 'futures commission merchant' means an individual, association, partnership, corporation, or trust that—

"(A) is engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market; and

"(B) in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

"(13) INTERSTATE COMMERCE.—The term 'interstate commerce' means commerce—

"(A) between any state, territory, or possession, or the District of Columbia, and any place outside thereof; or

"(B) between points within the same state, territory, or possession, or the District of Columbia, but through any place outside thereof, or within any territory or possession, or the District of Columbia.

"(14) INTRODUCING BROKER.—The term 'introducing broker' means any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant) engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

"(15) MEMBER OF A CONTRACT MARKET.—The term 'member of a contract market' means an individual, association, partnership, corporation, or trust owning or holding membership in, or admitted to membership representation on, contract market or given members' trading privileges thereon.

"(16) PERSON.—The term 'person' imports the plural or singular, and includes individuals, associations, partnerships, corporations, and trusts."

(b) CONFORMING AMENDMENTS.—SECTION 2(a)(1)(A) (7 U.S.C. 2 AND 4) IS AMENDED—

(1) by striking "For the purposes" and all that follows through: "Provided, That the Commission" and inserting "(i) The Commission";

(2) by striking: "And provided further, That, except" and inserting a period and "Except";

(3) by redesignating clauses (i) and (ii) of the third sentence (as in effect before the amendments made by this subsection) as subclauses (I) and (II), respectively;

(4) by designating the fifth sentence (as in effect before the amendments made by this subsection) as clause (ii);

(5) by striking the sixth and seventh sentences (as in effect before the amendments made by this subsection);

(6) by designating the eighth sentence (as in effect before the amendments made by this subsection) as clause (iii); and

(7) by striking the ninth sentence (as in effect before the amendments made by this subsection) through the end of the subparagraph.

TITLE V—INTERMARKET COORDINATION

SEC. 501. MARGIN ON STOCK INDEX FUTURES.

Section 2(a)(1)(B) (7 U.S.C. 2a) is amended by adding at the end the following new clause:

"(vi)(I) Notwithstanding any other provision of this Act, any contract market in a stock index futures contract (or option thereon) shall file with the Board of Governors of the Federal Reserve System any rule establishing or changing the levels of margin (initial and maintenance) for the Stock index futures contract (or option thereon).

"(II) The Board may at any time request any contract market to set the margin for any stock index futures contract (or option thereon) at such levels as the Board in its judgment determines are appropriate to preserve the financial integrity of the contract market or its clearing system or to prevent systemic risk. If the contract market fails to do so within the time specified by the Board in its request, the Board may direct the contract market to alter or supplement the rules of the contract market as specified in the request.

"(III) Subject to such conditions as the Board may determine, the Board may delegate any or all of its authority under this clause only to the Commission.

"(IV) Nothing in this clause shall supersede or limit the authority granted to the Commission in section 8a(9) to direct a contract market, on finding an emergency to exist, to raise temporary emergency margin levels on any futures contract or option on the contract covered by this clause.

"(V) Any action taken by the Board, or by the Commission acting under the delegation of authority under subclause III, under this clause directing a contract market to alter or supplement a contract market rule shall be subject to review only in the Court of Appeals where the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. The review shall be based on the examination of all information before the Board or the Commission, as the case may be, at the time the determination was made. The court reviewing the action of the Board or the Commission shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

SEC. 502. EXEMPTIVE AUTHORITY.

(a) IN GENERAL.—Section 4 (7 U.S.C. 6) is amended—

(1) in subsection (a), by striking "It shall be unlawful" and inserting "Unless exempted by the Commission pursuant to subsection (c), it shall be unlawful"; and

(2) by adding at the end the following new subsections:

"(c)(1) In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including any board of trade designated as a contract market for transactions for future delivery in any commodity under section 5 of this Act) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a), or from any other provision of this Act (except section 2(a)(1)(B)), if the Commission determines that the exemption would be consistent with the public interest."

"(2) The Commission shall not grant any exemption under paragraph (1) from any of the re-

quirements of subsection (a) unless the Commission determines that—

"(A) The requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and

"(B) the agreement, contract, or transaction—

"(i) will be entered into solely between appropriate persons; and

"(ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

"(3) For purposes of this subsection, the term 'appropriate person' shall be limited to the following persons or classes thereof:

"(A) A bank or trust company (acting in an individual or fiduciary capacity).

"(B) A savings association.

"(C) An insurance company.

"(D) An investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.).

"(E) A commodity pool formed or operated by a person subject to regulation under this Act.

"(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K) of this paragraph.

"(G) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisers Act of 1940 (15 U.S.C. 80a–1 et seq.), or a commodity trading advisor subject to regulation under this Act.

"(H) Any governmental entity (including the United States, any state, or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the foregoing.

"(I) A broker-dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another appropriate person.

"(J) A futures commission merchant, floor broker, or floor trader subject to regulation under this Act acting on its own behalf or on behalf of another appropriate person.

"(K) Such other persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections.

"(4) During the pendency of an application for an order granting an exemption under paragraph (1), the Commission may limit the public availability of any information received from the applicant if the applicant submits a written request to limit disclosure contemporaneous with the application, and the Commission determines that—

"(A) the information sought to be restricted constitutes a trade secret; or

"(B) public disclosure of the information would result in material competitive harm to the applicant.

"(5) The Commission may—

"(A) promptly following the enactment of this subsection, or upon application by any person, exercise the exemptive authority granted under paragraph (1) with respect to classes of hybrid instruments that are predominantly securities or depository instruments, to the extent that such instruments may be regarded as subject to the provisions of this Act; or

"(B) promptly following the enactment of this subsection, or upon application by any person, exercise the exemptive authority granted under paragraph (1) effective as of October 23, 1974, with respect to classes of swap agreements (as defined in section 101 of title 11, United States Code) that are not part of a fungible class of agreements that are standardized as to their material economic terms, to the extent that such agreements may be regarded as subject to the provisions of this Act.

Any exemption pursuant to this paragraph shall be subject to such terms and conditions as the Commission shall determine to be appropriate pursuant to paragraph (1).

"(d) The granting of an exemption under this section shall not affect the authority of the Commission under any other provision of this Act to conduct investigations in order to determine compliance with the requirements or conditions of such exemption or to take enforcement action for any violation of any provision of this Act or any rule, regulation or order thereunder caused by the failure to comply with or satisfy such conditions or requirements.".

(b) COMPETITIVE FAIRNESS.—Section 15 (7 U.S.C. 19) is amended by striking "regulations," and inserting "regulation (including any exemption under section 4(c) or 4c(b)),".

(c) CONFORMING AMENDMENT.—Section 12(e)(2)(A) (7 U.S.C. 16(e)(2)(A)) is amended by inserting after "market," the following: "or, in the case of any State or local law that prohibits or regulates gaming or the operation of 'bucket shops' (other than antifraud provisions of general applicability), that is not a transaction or class of transactions that has received or is covered by the terms of any exemption previously granted by the Commission under subsection (c) of section 4 of this Act,".

From the Committee on Agriculture, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

E de la Garza,
Glenn English,
Harley O. Staggers, Jr.,
Richard H. Stallings,
Dave Nagle,
Bill Sarpalius,
Tim Johnson,
Jerry Huckaby,
Dan Glickman,
Timothy J. Penny,
Mike Espy,
Jill L. Long,
Charles W. Stenholm,
Robin Tallon,
Tom Coleman,
Bob Smith,
Steve Gunderson,
Larry Combest,
Wayne Allard,
Bill Barrett,
Jim Nussle,
John A. Boehner,
Pat Roberts,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 263 and title III of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Frank Annunzio,
Stephen L. Neal,
Carroll Hubbard, Jr.,
John J. LaFalce,
Mary Rose Oakar,
Chalmers P. Wylie,
Jim Leach,
Bill McCollum,
Marge Roukema,

As additional conferees from the Committee on Energy and Commerce, for consideration of section 263 and title III of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Edward J. Markey,
James H. Scheuer,
Mike Synar,
Dennis E. Eckart,
Jim Slattery,
Norman F. Lent,
Matthew J. Rinaldo,
Carlos J. Moorhead,
Don Ritter,
Managers on the Part of the House.

Patrick Leahy,
David L. Boren,
Howell Heflin,
Kent Conrad,
Richard G. Lugar,
Robert Dole,
Thad Cochran,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 707) to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

[Notes.—(1) The parentheticals following each item number designate the location of the provision in the House bill (H), Senate amendment (S), or Conference reported bill (C), as appropriate.

(2) Any references to "the Act" in this statement of managers is a referee to the Commodity Exchange Act, unless otherwise specifically provided.]

1. Short title and table of contents (H 1; S 1; C 1)

The House bill provides that this Act may be cited as the "Commodity Futures Improvements Act of 1992".

The Senate amendment provides that this Act may be cited as the "Futures Trading Practices Act of 1991".

The Conference substitute adopts the Senate provision with an amendment changing the date to 1992.

2. Dual trading—Restriction (H 101; S 202; C 101)

The House bill requires the Commodity Futures Trading Commission (Commission) to issue regulations prohibiting dual trading by floor brokers in any contract market with an average daily trading volume greater than the threshold trading level—subject to certain exceptions—and requires a broker to stipulate at the beginning of each trading session whether he or she is trading for the broker's own or for customers' accounts. The regulations must provide for transition measures, as determined necessary by the Commission in the public interest, for a contract market when volume increases to or above, or decreases below, the threshold trading level. Notwithstanding other provisions, the House bill requires the Commission to make a determination, as it deems necessary, whether or not dual trading should be allowed in contract markets where it is not prohibited. The House bill also preserves the ability of each contract market to set terms and conditions more restrictive than those set by the Commission. Under the House bill regulations implementing the dual trading ban must be issued within 270 days from the date of enactment. Regulations on exemptions must be issued within 240 days.

The Senate amendment adds a new section 8e(c) to the Commodity Exchange Act (Act) to provide that, within 18 months of enactment, the Commission is to suspend the privilege of dual trading on any contract market which fails to meet relevant standards. The Senate amendment provides that any dual trading suspension is to remain in effect until the Commission finds that conditions that would otherwise have allowed dual trading to continue are met. The Senate amendment also requires the Commission to report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry whenever a deficiency order is issued or suspension of dual trading at a contract market is ordered and requires the Commission to make annual reports regarding steps undertaken to carry out the section.

The Conference substitute adopts the House provision with an amendment to apply regulations prohibiting dual trading to any contract market unless an exemption is explicitly granted (except that the dual trading ban shall not apply to any contract market with an average daily trading volume below the threshold trading level). The threshold trading level is to be set initially at 8,000 contracts per day. The Commission may approve increases in the threshold level for specific contract markets during the first 3 years after enactment. Beginning 3 years after the date of enactment, the Commission may approve increases or decreases in the threshold trading level. The Conference substitute requires that the Commission provide adequate notice of any change in the threshold that will have an impact on trading at a contract market. This notice should be adequate, at a minimum, to allow the affected contract market to take the appropriate response to the increase or decrease, including, where applicable, (1) to adjust its trading, audit trail, and other practices to accommodate the new threshold; (2) to challenge the new threshold; (3) to apply for an exemption under new section 4j(a)(3) of the Act; or (4) to take such other actions necessary to implement the new threshold. The Conference substitute provides that the regulations implementing the prohibition of dual trading may take effect not less than 30 days after their issuance, and must include specified transition measures and a phase-in period. The regulations must also include measures designed to accommodate unique or special characteristics of individual markets. Once in effect, the regulations shall apply to any contract market for which an explicit exemption has not been granted.

The Conferees note that the amendments to section 4j of the Commodity Exchange Act included in the Conference substitute, as well as both the House bill and the Senate amendment, are not intended to override or call into question the broad authority currently granted to the Commission under section 4j(1) to determine whether or not to permit dual trading by floor brokers and, if so, under what conditions. However, the Conferees intend that new section 4j(a) will provide the primary means by which the Commission will address violations attributable to dual trading.

3. Dual trading—Definition (H 101; S 202; C 101)

The House bill requires that the Commission promulgate a definition of the term "dual trading."

The Senate amendment defines "dual trading" as the "execution of customer orders by a floor broker on any trading day during which the floor broker has executed any trade in the same contract market for—(1) the account of the follow broker; (2) an account for which the broker has trading discretion; or (3) an account controlled by a person with whom such broker is subject to trading restrictions under section 4j(3)."

The Conference substitute adopts the Senate provision with a technical amendment.

4. Dual trading—Exception (H 101; S 202; C 101)

The House bill makes an exception from the dual trading restriction for contract markets with trading of less than 7,000 contracts per day (based on a 6-month moving average) and gives the Commission discretion to alter the threshold for specific contract markets giving consideration to the effects of the ban on liquidity, price volatility, bid-ask spreads, and the public interest. The House bill requires notification of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry whenever a change in the threshold is made. The House bill also provides for exceptions from the dual trading ban for spread trades and trades to correct errors, and in cases where customers specifically authorize an individual broker to dual trade on their behalf. The House bill further requires the Commission to exempt from the dual trading ban any contract market which shows that it has an audit trail system that will detect violations associated with dual trading and is fully verifiable, if the Commission determines that such an exception is in the public interest. The House bill requires the Commission to act on a contract market's exemption request within 60 days of receipt.

The Senate amendment requires that dual trading be suspended under a deficiency order unless it is found that: (a) the contract market is in compliance with the self-regulatory (audit trail and other) standards required by the bill or (b) that there is a substantial likelihood that a dual trading suspension would harm the public interest in hedging and price basing at such contract market and that other remedies are not appropriate. The Senate amendment also authorizes the Commission to make exceptions to ensure fairness and orderly trading in a contract market.

The Conference substitute adopts the House provision with amendments relating to exemptions from the ban on dual trading. It requires the Commission to grant an exemption from the ban for a contract market: (1) that meets the Conference substitute's trade monitoring system requirements; or (2) with regard to which the Commission finds that banning dual trading would be harmful to the public interest, and for which the Commission finds that other corrective actions are sufficient to bring the contract market into compliance with the trade monitoring system requirements. As noted above, under the Conference substitute the ban on dual trading would not apply with respect to any contract market with average daily trading volume below the threshold trading level. Under the Conference substitute, the audit trail standards and dual trading provisions are linked both in terms of substance and timing. The Conferees believe that audit trail systems should evolve and improve over time. The Conferees therefore are not requiring contract markets initially to implement an independent, precise and complete audit trail in order to be allowed to continue dual trading on a specific contract market. Instead, the Conferees expect that existing audit trail systems that qualify under section 5a(b)(2) of the Act, if implemented effectively and diligently, would meet the initial audit trail requirements for a dual trading exemption insofar as those systems are capable of detecting, and are being used in any disciplinary actions for prosecuting, violations attributable to dual trading. When the second phase of the audit trail standard (the independent, precise and complete test) takes effect in three years, the heightened audit trail standard would be applied, for the first time, in the context of the dual trading exemption standard.

The Conference substitute establishes procedures under which a contract market may apply for an exemption from the prohibition on dual trading and authorizes the Commission to approve or deny an application for exemption or to approve the application subject to conditions. It requires the Commission to give notice and opportunity for a hearing to any board of trade if an application for an exemption is to be denied or conditionally approved and specifies findings the Commission must make in considering an application for an exemption. The Conference substitute also provides procedures for judicial review of any final Commission action with respect to an exemption application. Exemption may be revoked by the Commission upon a finding, after providing notice and opportunity for a hearing to the affected board of trade, that a condition of the exemption is not being met. An application for an exemption must be acted on within 75 days of its receipt or as soon as is practicable. To make efficient use of resources, the Commission may develop a timetable to coordinate its review of applications for exemptions under this paragraph with the completion of any Commission review of the affected board of trade's trade monitoring system. In any event, the Conferees intend that action on these applications be expeditious—within 75 days where practicable—particularly where a dual trading ban has been imposed and a board of trade is attempting to demonstrate that it has satisfied the requirements to have the prohibition lifted. The prohibition would not initially take effect with regard to a particular contract market which has applied for an exemption until the Commission either approves conditionally or denies the application. The Conference substitute requires the Commission to publish in the Federal Register notice of exemptive petitions and any proposed and final actions on such petitions. "Proposed actions" in this context are intended to include actions of significance that would normally be published in the Federal Register or otherwise subject to review or comment by the general public or the petitioner. The Conference substitute requires a 20 day delay on the effective date of a Commission order denying an application or granting a conditional exemption unless more expeditious action is necessary.

5. and 6. Broker Associations (H 102; S 211; C 102)

The House bill prohibits a member of a broker association from executing a customer trade where the opposite position is taken by another member of the association. The House bill also prohibits a member of a broker association from executing trades with another member of the association in any case where such transactions constitute more than 25 percent of the broker's transactions in any month and authorizes the Commission to prohibit other broker association practices were appropriate. The Commission's regulations must include a definition of the term "broker association." The House bill preserves the authority of the Commission and contract markets to implement regulations on broker associations which are more restrictive than those in the bill. Under the House bill, regulations required to implement the provision must be issued within 270 days from the date of enactment. The House bill also requires a Commission report to Congress. Under the House bill, Commission regulations may provide for exceptions to broker association trading restrictions in cases of trades executed through trading systems where the identity of the opposite broker is unknown.

The Senate amendment prohibits a floor broker from executing customer order transactions with an affiliated broker or a broker with whom he or she has an employment relationship, partnership, or affiliation, if the broker knows of the association at the time of the trade. The provision of the Senate amendment is to take effect 270 days after enactment. Under the Senate amendment, broker association trading restrictions are not to apply if the Commission adopts rules which it certifies are designed to deter abuses. Neither would the restriction apply in the case of a contract market that has adopted restrictive rules, unless the Commission determines that the rules are not adequate.

The Conference substitute adopts the Senate provision. The Conferees anticipate that, in adopting rules under this provision, the Commission should take into account the availability of existing data collection systems which can be used effectively for compliance purposes under this section in order to avoid duplicative registration requirements.

7. Broker Associations—Disclosure (S 212; C 103)

The House bill contains no similar provision.

The Senate amendment requires each contract market to provide for disclosure to the exchange and to the Commission of any business or financial arrangement between floor brokers and traders where the arrangement is material and known to the floor brokers or traders.

The Conference substitute adopts the Senate provision.

8. Audit trail—Standard (H 201; S 201 & S 202; C 201 & C 202)

The House bill requires each contract market to maintain a single record for each trade showing time of execution, quantity, and other information required by the Commission. Each record must enable the contract market to rapidly construct an accurate description of each transaction executed on the contract market. Under the House bill, the time of execution of each trade is to be stated in increments of not more than

(1) 1 minute in length by no later than 1 year from date of enactment; and

(2) 30 seconds in length within 3 years after enactment.

The House bill also provides that a board of trade shall not be designated as a contract market for a new contract unless all of its existing contract markets are in compliance with the audit trail requirements.

The Senate amendment imposes standards for implementation of audit trails recording times of trades in increments of not more than 1 minute in length and also requires that, within 3 years of the date of enactment, each contract market have an audit trail system that records trading data in a form which—

(1) cannot be altered;

(2) provides data to the market on a continuous basis;

(3) to the extent practicable, identifies among other things the time of a given trade independently of the trader and establishes the time at which customer trading orders are delivered to an exchange floor for execution.

The Senate amendment authorizes the Commission to establish standards under which the required audit trail records must show the sequence of all trades made by all traders and brokers at a given exchange and the interval between the time of receipt and time of execution of each order by the floor broker. The Senate amendment requires the Commission to biennially assess compliance with audit trail and other contract market duties and requires the Commission to issue a deficiency order to any market not in compliance. The Senate amendment requires remedial action including, where appropriate, suspension of dual trading in a contract market which fails to demonstrate compliance.

The Conference substitute adopts the Senate provision with amendments to: (1) grant the Commission authority to determine the extent to which a contract market need not meet the standard where the Commission determines that circumstances beyond the control of the contract market prevent compliance despite the contract market's affirmative good faith efforts to comply; and (2) provide that a board of trade shall not be designated as a contract market for a new contract unless all of its existing contracts are in compliance.

The Conferees understand that a number of exchanges plan to develop the technologies and systems needed to implement the audit trail requirements of the Conference substitute; other exchanges plan to acquire the audit trail technology from another party. The Conferees expect the Commission to apply the "affirmative good faith efforts" test in an equitable manner in both of these and in other appropriate situations which may arise where an exchange is developing the technologies and systems to implement the audit trail requirements and to situations where an exchange is acquiring the audit trail technology from another party and in other appropriate situations.

The Conferees have authorized the Commission to adopt regulations providing for sequencing of all trades and recording of the time interval between a floor broker's receipt of an order and the execution of such order. The determination of whether such regulations are necessary to effectuate the audit trail objectives set forth in the new statutory provisions is left to the Commission. The Conferees intend, however, that any regulations adopted by the Commission would be compatible with the pit trading system currently prevalent in United States futures markets, insofar as regulations would apply to such trading. If the Commission determines such regulations to be necessary, this provision confirms the Commission's authority to promulgate such regulations.

The Conferees intend that under the Conference substitute, a board of trade may satisfy the initial burden of demonstrating that each of its designated contract markets complies with trade monitoring system requirements of section 5a(b) of the Act, subject to requests for further information by the Commission, by showing that it has maintained an ongoing record of compliance with those requirements. Evidence of this record of compliance could include—

(1) a description of the trade monitoring system in place at the board of trade and the compliance history of that system;

(2) the findings regarding that trade monitoring system under the Commission's most recent rule enforcement or other similar review;

(3) the absence of any recent or pending Commission enforcement actions, deficiency order actions or other administrative actions with respect to the board of trade's designated contract markets, or, if appropriate, information addressing the status or findings of any such actions;

(4) the existence of any order issued by the Commission exempting the board of trade's designated contract markets from the dual trading prohibition under section 4j(a)(1) of the Act and the board of trade's record of compliance with any conditions attached to that order; and

(5) such other information as the Commission determines necessary.

9. Audit Trail—Reports (H 201(a); S 202(b); C 201(b))

The House bill requires a Commission compliance status report to be submitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry within 180 days of enactment. The House bill also requires the Commission to determine whether the audit trail standards imposed have enabled rapid reconstruction of trades in an accurate and verifiable manner and whether recording and reconstruction can be accomplished on a real time basis through the use of improved technologies or other means. The House bill also requires a report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry relating to those determinations no later than 5 years after enactment.

The Senate amendment requires that within 2 years of enactment, the Commission must submit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry a report assessing progress in each contract market in complying with audit trail requirements. It also requires the GAO to submit views regarding the report.

The Conference substitute adopts the Senate provision.

10. Audit Trail—Exemptions (S 201(a); C 201)

The House bill contains no similar provision.

The Senate amendment requires that the Commission, to the extent appropriate, exempt low volume exchanges from certain audit trail requirements as long as they substantially comply with the objectives of the audit trail requirements and otherwise maintain a high level of compliance with the subsection. The Senate amendment also requires the Commission, to the extent it determines appropriate, to exempt categories of customer orders transmitted to and reported from a trading area in an extremely rapid manner and that substantially comply with the trade monitoring system requirements.

The Conference substitute adopts the Senate provision with an amendment to require the Commission to grant an exemption from the trade monitoring system requirements with respect to an exchange if trading volume at each contract market on the exchange is relatively small—including if it is below the threshold trading level for each contract market at the exchange—and the Commission finds that the trade monitoring system at the exchange otherwise maintains a high level of compliance.

11. Audit Trail—Oral orders (S 203(a); C 203)

The House bill has no similar provision.

The Senate amendment requires the Commission to issue rules that require a contemporaneous written record be made, as practicable, of all orders placed by a member present on the floor of a contract market for execution by another member.

The Conference substitute adopts the Senate provision. The Conferees understand that if a written order is prepared as required for customers under Commission regulations, then that record would satisfy the requirements of this provision.

12. Additional contract market duties (S 201(a); C 201)

The House bill has no similar provision.

The Senate amendment requires that each contract market maintain and utilize a system to monitor floor trading. Each system must include: physical observation of trading areas; audit trail systems; systems to review audit trail data on a regular basis to detect violations; use of such information consistently to bring appropriate disciplinary actions; the commitment of adequate resources; and the assessment of meaningful penalties.

The Conference substitute adopts the Senate provision.

13. Deficiency orders (S 202(a); C 202)

The House bill has no similar provision.

The Senate amendment requires that within 18 months of enactment and at least biennially thereafter, the Commission must conduct an assessment regarding the trade monitoring system of each contract market to determine whether or not it satisfies the requirements contained in section 5a(b) of the Act (as added by section 201(a) of the Senate amendment). The Senate amendment also requires that the Commission issue a deficiency order to any contract for which it has reason to believe that the contract market's trade monitoring system does not satisfy one or more of such requirements. A deficiency order must specify the deficiencies which the Commission has reason to believe exist, the corrective action the contract market must take, a timetable for such action, and a date upon which the deficiency order will become final.

The Conference substitute adopts the Senate provision with amendments to:

(1) clarify that the bill authorizes, but does not require, the Commission to issue a deficiency order to any contract market for which the Commission has reason to believe the trade monitoring system does not meet the requirements;

(2) clarify that new section 8e(a) of the Act requires the Commission to assess the trade monitoring systems at each contract market at least once every 2 years, to the extent practicable; and

(3) authorize the Commission to use other administrative or enforcement actions to bring the contract market's trade monitoring system into compliance with the requirements of new section 5a(b).

The Conferees intend that the authority for the Commission to "take such other administrative or enforcement action as the Commission determines is appropriate" grant the Commission maximum flexibility to enforce the requirements under section 5a(b) of the Act, including the authority to provide for the satisfaction of section 5a(b) requirements through informal discussion or negotiation with the contract market, as well as through formal agency action.

14. Deficiency orders—Penalties (S 202(a); C 202)

The House bill has no similar provision.

The Senate amendment provides that once an order becomes final, the Commission may impose one or more of the following requirements on a contract market:

(1) that trade monitoring system improvements be made;

(2) that the contract market satisfy stated objective performance criteria to correct deficiencies;

(3) that the contract market upgrade or reconfigure systems for collecting or processing relevant data; and

(4) that dual trading be suspended on the contract market.

The Senate amendment authorizes the commission to use the deficiency order procedure to remove an officer, director, or employee of a contract market who has willfully violated the Act, abused his or her authority, or failed to enforce compliance without reasonable justification. During the period that a proposed or final deficiency order is in effect, the Commission may refrain from approving any application for designation as a contract market made by the exchange whose contract market is the subject of the order.

The Conference substitute adopts the Senate provision with an amendment clarifying that a deficiency order may be used to revoke an exemption from the dual trading prohibition.

15. Deficiency orders—Review (S 202(a); C202)

The House bill has no similar provision.

The Senate amendment provides a procedure through which a contract market may seek review of a deficiency order including the right to petition the Commission to rescind, modify, or delay the order. The Senate amendment requires that the Commission rule on the petition no less than 20 days prior to the order's taking effect. The Senate amendment also provides that, for purposes of establishing liability and penalties, a violation of a deficiency order is to be considered a violation of an order of the Commission. The Senate amendment also establishes a procedure under which a contract market or other aggrieved person may seek judicial review of a deficiency order.

The Conference substitute adopts the Senate provision with conforming amendments.

16. Deficiency orders—Reports to Congress (S 202(a))

The House bill has no similar provision.

The Senate amendment requires that the Commission report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry regarding the issuance of any proposed or final deficiency order or any decision to suspend the privilege of dual trading. It also requires the submission of annual reports to the committees regarding action under new section 8e of the Act regarding deficiency orders and Commission oversight.

The Conference substitute deletes the Senate provision.

17. Telemarketing fraud (H 202; S 273; C 204)

The House bill requires each registered futures association to adopt a rule specifying the factors it will consider in determining whether to take disciplinary action to require a member to adopt special supervisory procedures relating to telephone solicitation for new futures or options customer accounts. The procedures would provide at a minimum that a member may not enter any order for a new customer solicited by telephone until 3 days after the customer signs a risk acknowledgement statement.

The Senate amendment requires futures associations to establish supervisory guidelines for telephone solicitation. The guidelines may require that a member may not enter an order for a new customer solicited by telephone until 3 days after the customer signs a risk acknowledgement statement. The Senate amendment requires submission of guidelines to the Commission for approval no later than 180 days after enactment.

The Conference substitute adopts the Senate provision.

18. Undercover operations (H 203; S 265; C 205)

The House bill directs the Commission to continue to request assistance from and cooperate with appropriate Federal agencies in the conduct of undercover investigations.

The Senate amendment allows the Commission to authorize, by order, specific employees to carry out undercover investigations into possible violations of the Act. Prior to issuing an order, the Commission must notify the Attorney General. The Commission may not issue an order unless it has first requested that the Attorney General conduct the proposed undercover investigation and the Attorney General has declined to do so. The Senate amendment also requires that the Commission adopt regulations for undercover investigations that are similar to regulations issued by the Attorney General for the conduct of undercover investigations.

The Conference substitute adopts the House provision with an amendment to include a requirement that the Commission and the Department of Justice assess the effectiveness of undercover operations relating to investigations carried out under the Act. The Conference substitute also requires that, within two years from the date of enactment, the two agencies make recommendations to Congress with regard to any additional undercover or other authority for the Commission which either agency believes to be necessary.

19. Disciplinary Committees—Contract markets (H 203; S 221; C 206(a)(1))

The House bill requires the establishment in each contract market of a system of disciplinary committees composed of trading members or board of trade staff. The House bill provides that in no instance may more than half of the members of a disciplinary committee be of the same trading status as the person who is the subject of the disciplinary action. The three trading statuses are: (1) floor broker or floor trader; (2) a member other than a member who acts primarily as a floor broker or a floor trader; and (3) staff members of the board of trade. It provides that a disciplinary committee may have a smaller hearing panel and requires the Commission to issue regulations within 180 days from enactment requiring each contract market to provide public notification regarding disciplinary actions.

The Senate amendment requires each contract market to provide for a diversity of membership on all disciplinary committees. The Senate amendment specifies that a disciplinary committee hearing a major disciplinary matter must include persons from segments of the exchange membership other than that of the person who is the subject of the disciplinary proceeding, including, where appropriate, persons who are not members of the exchange to include a case in which a director or committee member is the subject of the disciplinary action or where the case involves facts related to a manipulation of market prices.

The Conference substitute adopts the Senate provision with an amendment to clarify references to members from differing "segments" with revised language based on the House bill's "trading status" formulation. The Conference substitute also clarifies that, in appropriate situations, members of the contract market that participate in trading pits or principal groups of commodities other than those directly involved in a proceeding may comprise the majority of a disciplinary committee's membership.

20. Disciplinary actions—Contract markets—Customer notification (S 221; C 206(b)(1))

The House bill has no similar provision.

The Senate amendment requires that if a final action is taken by a contract market with respect to a disciplinary matter involving a trader regarding an action that affects a customer, the customer must be notified of the key facts and of the action taken.

The Conference substitute adopts the *Senate* provision.

21. Board memberships and Disciplinary Committees—Contract markets (H 204; S 221; C 206(a)(2))

The House bill requires that each contract market, in accordance with regulations, publish a list of major rule violations committed on that contract market. The House bill requires the Commission to issue regulations within 180 days of enactment to preclude membership on any governing board or disciplinary committee of any member found to have committed any major violations of contract market rules.

The Senate amendment prohibits the participation on any contract market governing board by any individual found to have violated commodity or any other laws reflecting on their fitness.

The Conference substitute adopts the House provision with an amendment to incorporate provisions of the Senate amendment with respect to individuals found to have violated commodity or other laws reflecting on their fitness.

22. Board memberships—Diversity of membership and outside members (H 204(c); S 221; C 206)

The House bill requires that at least 20% of the members of any contract market or registered futures association governing board be outside members as defined by the Commission.

The Senate amendment requires each contract market to provide for meaningful representation on its board of diverse interests including futures commission merchants, producers and consumers, floor brokers and traders, and representatives of a variety of the commodities traded. The Senate amendment also includes a requirement that at least 20% of the members of the board of a contract market be individuals who are not contract market members and that at least 10% of the board must consist of farmers, producers, merchants, or exporters of principal commodities traded on the exchange. Under the Senate amendment, an applicant for registration as a futures association must provide for a diversity of membership on its governing boards and disciplinary committees (including the requirement that 20% of the Board be non-members or non-regulated persons). The Senate amendment also requires the Commission to adopt regulations for the implementation of the section within 270 days from the date of enactment.

The Conference substitute adopts the Senate provision with an amendment to clarify that not less than 20% of the regular voting members of contract market and registered futures association boards must be outside members. Regular voting members are those members that routinely vote on matters before the Board, rather than those eligible to vote only in the event of a tie vote.

23. Registered futures associations—Publication of violations and participation of rules violators (H 204(b); C 206(b)(2))

The House bill requires the Commission, by regulation issued within 180 days of enactment, to require each registered futures association to publish a list of major rule violations and to preclude from membership on a disciplinary committee or governing board any individual who has been found to have committed any major violation.

The Senate amendment has no similar provision.

The Conference substitute adopts the House provision.

24. Floor trader registration (H 205; S 231; S 232; S 261; C 207)

The House bill defines the term "floor trader" as anyone who trades in a contract market solely for his or her own account. It prohibits contract market trading by a floor trader unless the person is registered under the Act. The House bill subjects floor traders to reporting requirements and provides that floor traders are not to be subject to certain actions brought under State jurisdiction. The House bill authorizes the Commission to register floor traders and to refuse to register floor traders in certain circumstances. The Commission must issue regulations not later than 180 days after the date of enactment.

The Senate amendment similarly defines the term "floor trader" in section 261. The registration, reporting, and State jurisdiction provisions are identical to provisions of the House bill.

The Conference substitute adopts the House provision with an amendment to include the Senate definition and harmonize the effective dates.

The Conferees note that while current Commission rules require that floor brokers must renew their registration every two years, such frequent renewals are not needed to fulfill the purposes underlying the registration of floor traders. The central goal of requiring registration of floor traders is to assure that these individuals are subject to the same background fitness checks as other Commission registrants and to allow the Commission to act with respect to the person's registration in appropriate cases. The Conferees encourage the Commission to develop means of maintaining the up-to-date status of floor trader registrations that are less frequent than the system of two-year renewals required of floor brokers who execute purchases and sales for customer accounts.

25. Enhancement of registration requirements (H 206; S 267; C 208)

The House bill authorizes the Commission to refuse to register or to revoke the registration of any person: who is enjoined by a court from engaging in certain illegal activities; who has been convicted of certain felonies; or whose activity is restricted by a foreign futures regulatory authority.

The Senate amendment has an identical provision.

The Conference substitute adopts the House provision.

26. Assessment and enforcement of civil money penalties (H 207; S 244; C 209)

The House bill reorganizes section 6 of the Act. It requires the Commission, in determining the amount of any civil money penalty, to consider the appropriateness of the penalty to the gravity of the violation. The House bill removes provisions in current law requiring that the Commission consider the appropriateness of the size of the penalty to the size of the business or economic strength of the individual subject to the action. The House bill provides that fifteen days after a penalty is assessed for a violation of the Act, an individual who has not paid the penalty nor filed a notice of appeal is to be restricted from trading on any contract market and the individual's registration is to be revoked.

The Senate amendment contains provisions which are substantially the same as the House provision.

The Conference substitute adopts the House provision.

27. Ethics training (H 208; S 264; C 210)

The House bill requires registrants to attend periodic training sessions to ensure that they understand their ethical responsibilities. The Commission has 180 days from enactment to issue regulations.

The Senate amendment is identical to the House provisions except that the Commission would be allowed 270 days to issue regulations.

The Conference substitute adopts the House provision.

28. Nationwide service of process and venue (H 209; S 274; C 211)

The House bill specifies the judicial districts in which a private right of action may be brought under section 22 of the Act and provides that process may be served in the judicial district of which the defendant is an inhabitant or wherever the defendant may be found.

The Senate amendment includes provisions making identical modifications in existing law.

The Conference substitute adopts the House provision.

29. Monitoring of Hedge Exemptions (H 210)

The House bill requires the Commission to issue regulations that require each contract market to monitor closely the trading activities of any person holding a hedge exemption. It also requires the contract market to take appropriate action when it finds that anyone with such an exemption has a position which is not a bona fide hedging position, and preserves the authority of the Commission and contract markets to restrict transactions and positions in accordance with established limits on trading. Regulations are to be promulgated to implement the provision within 180 days from date of enactment.

The Senate amendment has no similar provision.

The Conference substitute deletes the House provision. The House provision would require the Commission to issue regulations requiring contract markets to monitor closely the trading activities of any person "granted an exemption" from the speculative position limits which section 4a of the Act authorizes the Commission to set. Subsequent to the passage of the House bill, the Commission approved permanent rules of the Chicago Board of Trade (CBT) setting exchange limits for those contract markets that previously had only Commission-set limits. Thus, by voluntarily adopting its own speculative position limits for these commodities, the CBT is already specifically required by the Act and Commission regulations to administer and monitor its granting of hedge exemptions and has authority to address violations of such exemptions—the intent of the House provision. Additionally, the Commission, through its regular rule enforcement review process retains and uses its authority to monitor exchange compliance monitoring of hedge exemptions they grant.

The Conferees agreed to delete the House provision from the bill in recognition of the actions taken since the bill was first passed by the House. In essence, a hedge exemption monitoring system to help police against abuses has been put in place since House action, in particular, at the CBT where concerns which originally prompted the House provision were noticed. In light of these actions, the provision would add little practical authority to the Commission or to exchanges. Nonetheless, in deleting the provision, it remains the intent of the Conferees that the Commission and exchanges remain diligent in exercising monitoring and enforcement authority to prevent abuses of hedge exemptions.

30. Increased penalties (H 211; S 243; C 212)

The House bill imposes increased monetary penalties for felony violations of the Act. In particular, the House bill: increases the penalty for embezzlement to $1 million for corporations and $500,000 for individuals; increases the penalty for manipulation of prices to $1 million for corporations and $500,000 for individuals; and increases the fine for a Commissioner or Commission employee engaging in trading or disclosing insider information to $500,000.

The Senate amendment alters the penalty structure for civil as well as felony violations. The Senate amendment: increases penalties for violation of the Act from $100,000 to the higher of $100,000 or triple the monetary gain attained illegally; increases the penalty for failure of a contract market or registered futures association to comply with its rules of government to $500,000; and deletes a provision of existing law directing that the penalty be appropriate to the net worth of the offending person.

The Conference substitute adopts the House provision with an amendment to increase penalties for civil violations as required in the Senate amendment.

31. Contract market emergency actions (H 212; C 213)

The House bill requires the Commission to issue regulations which specify the terms and conditions under which a contract market (by a two-third votes of its governing board) may declare a market emergency. It also requires notification by the contract market to the Commission prior to implementation of any emergency action. Where prior notification is not feasible, notification must be made by the earliest possible date. The House bill requires that within ten days of receiving such notification (or as soon as is practicable), the Commission is to approve or disapprove the emergency rule and report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission is required to promulgate regulations implementing the provision within 90 days of the date of enactment.

The Senate amendment includes no similar provision.

The Conference substitute adopts the House provision with an amendment. Under the Conference substitute the Commission must, within ten days of receipt of notification, or as soon as practicable thereafter, determine whether it is appropriate either:

(1) to permit the emergency rule to remain in effect; or

(2) to suspend the effect of such rule pending review.

The Conference substitute requires that the Commission submit a report to Congress regarding any such determination, and the basis thereof, within 10 days of receipt of notification from the contract market. If the Commission's report to Congress is submitted after the ten day period has elapsed, the report shall include the Commission's explanation as to why submission within the ten day period was not practicable. The Conference substitute specifies the judicial review process that would apply to a determination by the Commission to suspend an emergency rule.

32. Insider trading (H 213; S 269; C 214)

The House bill makes it a felony for any person who is an employee or board member of a board of trade to disclose material, nonpublic information for any purpose other than the performance of the person's official duties. It also makes it a felony for an individual to trade for his or her own account on the basis of material, nonpublic information regarding a trade by a person to whom the individual is a principal or employee if the trade to be conducted by the person to whom the individual is a principal or employee is to be in excess of reporting levels established by the Commission. The House bill also makes to a felony to disclose information related to a trade in excess of reporting levels to any individual for the purpose of assisting the individual in executing a trade for his or her own account. A violation is punishable by a fine of up to $100,000 plus profits realized and imprisonment for up to 3 years. The Commission is required to issue regulations within 360 days from the date of enactment.

The Senate amendment makes it a felony for any employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association, in violation of a regulation issued by the Commission, to willfully and knowingly trade on that information or to disclose the information for a purpose inconsistent with the person's official duties.

The Conference substitute adopts the Senate provision with an amendment. In addition to the explicit felony violation in the Senate amendment, the substitute makes it a felony for any person to willfully and knowingly trade for his or her own account on the basis of material, nonpublic information which the individual knows was obtained illicitly from an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association. The substitute makes a violation subject to a penalty of up to $500,000 and imprisonment of up to five years, or both. A violator may also be subject to costs of prosecution as part of the penalty.

Under the Conference substitute, the Commission is required to issue regulations implementing the provision no later than 360 days after the date of enactment.

33. Qualifications of commissioners (H 214; C 215)

The House bill requires that each Commissioner have demonstrated knowledge in futures trading or its regulation and in the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights, and interests covered by the Act and that the President, in appointing members to the Commission, seek to ensure that the demonstrated knowledge of the Commissioners is balanced with respect to these areas.

The Senate amendment includes no similar provision.

The Conference substitute adopts the House provisions with an amendment to clarify that the President must nominate prospective Commissioners who meet the demonstrated knowledge test.

34. Commission operations (S 102; C 216)

The House bill has no similar provision.

The Senate amendment amends section 12(b) of the Act to authorize the Commission to hire up to 8 additional Senior Executive Service employees which the Office of Personnel Management shall authorize.

The Conference substitute adopts the Senate provision.

35. Margins on stock index instruments (H 215)

The House bill requires the Commission to monitor initial and maintenance margins on stock index futures to maintain the integrity of the futures markets, and to protect the public interest. It directs the Commission to take such action as it deems necessary to require sufficient margin levels if a determination is made that they are not properly established and present a clear and present danger to the integrity of the markets and the public interest. The House bill also provides that if the Commission takes such action, it may then require that the contract market submit to the commission all rules relating to margin levels for the Commission's approval.

The Senate amendment has no similar provision.

The Conference substitute deletes the House provision.

36. Monitoring of index arbitrage trading (H 216)

The House bill requires the Commission to monitor index arbitrage and related program trading strategies to ensure that such trading does not threaten the integrity of the futures markets, create excess volatility, nor otherwise adversely affect the public interest. The House bill expresses the sense of Congress that if the Commission determines that arbitrage trading presents a clear and present danger to the integrity of the market, it should take such action pursuant to its existing authority as it deems necessary to ensure that such arbitrage trading does not present such a clear and present danger.

The Senate amendment has no similar provision.

The Conference substitute deletes the House provision.

37. Prohibition on voting by interested members (H 217; S 221; C 217

The House bill provides that no member of a contract market governing board or committee thereof may vote on any contract market rule if it is determined that the member or the legal entity of which the member is an officer or employee or of which the member owns a substantial interest, or a legal entity affiliated with the member have a direct financial interest in the subject matter of the rule.

The Senate amendment requires each contract market to provide for the avoidance of conflict of interest in all deliberations by the governing board and any disciplinary and oversight committees. At a minimum, a member of such a board or committee may not vote on an issue in which he or she is the named party in interest. The Senate amendment also provides that, before taking emergency market action, the governing board, directly or through an authorized person, shall review the positions of all members and their affiliated firms and shall consider whether any member must abstain from participating due to those positions.

The Conference substitute adopts the Senate provision with an amendment. The Conference substitute requires that each contract market's conflict of interest rules require: that a board or committee member abstain from a vote on any significant action if he or she knowingly has a direct and substantial financial interest in the subject matter of the vote; that the board or committee itself or a designated staff member review the market positions of each member of the board or committee prior to deliberations on any significant action; and that the minutes of the meeting reflect that such a position review has taken place. The Conference substitute further provides that no contract market, or authorized member or contract market official, employee or agent thereof, shall be liable for having conducted a review of a member's market position and taken or not taken further action regarding that member's participation in the deliberation at issue, except for an action brought by the Commission charging violations of the Act based on allegations that the contract market or its official employees or agent that conducted the review failed to conduct an adequate review under this subparagraph or used or disclosed any information obtained in the review process for any purpose inconsistent with that person's official duties. The Conference substitute also requires the Commission to issue regulations specifying the conditions under which a member who is required to abstain from voting may participate in the deliberations of the board or committee.

The Conferees intend that, for purposes of this provision, any member of a governing board or a disciplinary or other oversight committee would be considered to be "affiliated" with a firm:

(1) where such member serves as an employee, officer, or director; or

(2) that is the parent company as determined by the Commission of any firm of which the member is an employee, officer, or director.

38. Study of Agricultural commodity contract delivery points (H 218; S 275)

The House bill requires GAO to conduct a study of the provision for and functioning of delivery on agricultural futures contracts and requires a report on the study within 1 year from date of enactment.

The Senate amendment is substantially the same as the House provision except that it specifies two additional aspects which should be studied.

The Conference substitute deletes both the House and Senate provisions. The Managers note that in response to the request of the Chairman of the House Committee on Agriculture, the General Accounting Office has published a report on the subject addressed in the House bill and Senate amendment. The report—"Chicago Futures Markets: Selecting Agricultural Futures Delivery Points Involves Tradeoffs," U.S. General Accounting Office, Washington, D.C., GAO, GGD-91-84—was released in June, 1991.

39. Assessments on transactions (H 219; S 103; C 218)

The House bill requires GAO to conduct a study on the feasibility of funding Commission activities through collection of fees on futures and options transactions; requires a report on the study within 1 year from date of enactment.

The Senate amendment requires the Commission to promulgate regulations containing a schedule of appropriate fees to be assessed against "persons benefiting from services rendered and activities and functions performed by the Commission"; provides that receipts from fees are not to exceed $3.9 million in fiscal year 1992, $7.8 million in fiscal year 1993, $13.8 million in fiscal year 1994, $20.8 million in fiscal year 1995, and $21.7 million in fiscal year 1996.

The Conference substitute adopts the House provision.

40. International competitiveness (H 220; C 219)

The House bill requires the Commission to study the competitiveness of U.S. boards of trade compared with foreign boards of trade and requires a report within 18 months.

The Conference substitute adopts the House provision with an amendment. The Commission is to include in its study consideration of whether trends in foreign markets are the result of regulatory action as opposed to other competitive, economic, regional, or commercial factors. The Conference substitute also directs the Commission to analyze whether significant risk is imposed on the public and on market users in foreign countries as a result of lack of regulatory safeguards. The Conference substitute also directs the Commission to make efficient use of available resources by requesting the assistance of other Federal entities including the General Accounting Office and the Office of the U.S. Trade Representative.

41. Computerized trading (H 221; S 270; C 220)

The House bill requires the Commission to conduct a study regarding the feasibility of having all futures contracts traded electronically and requires a report within two years from date of enactment. The House bill also requires that the Commission establish a pilot program to collect information on an encourage the use of computerized and electronic trading.

The Senate amendment directs the Commission to facilitate the development and operation of computerized trading as an adjunct to open outcry and directs Commission to cooperate with U.S. trade officials in removing trade barriers on international use of electronic trading systems.

The Conference substitute adopts the Senate provision with an amendment to provide for a progress report consistent with the House bill.

42. Money penalties in civil court actions (H 222; 245; C 221)

The House bill authorizes the Commission to seek a court's imposition of a civil money penalty of up to the higher of $100,000 or triple the monetary gain to a charged individual in the same action in which an injunction is sought for a civil violation under the Act.

The Senate amendment is nearly identical to the House provision.

The Conference substitute adopts the Senate provision.

43. Civil Damages; Liability of future commission merchants (S 241; C 222)

The House bill contains no similar provision.

The Senate amendment requires each contract market and registered futures association to have in place procedures for customers to be awarded actual damages for claims arising from a contract market rule violation in the execution of an order for a floor trade. In addition, punitive damages of up to twice the amount of actual damages may be awarded where it is found that the violation was willful and intentional. In each case, if a floor broker found to be responsible for the violation does not pay the award, the futures commission merchant (FCM)—who selected the broker for execution of the trade may be made responsible for paying the award to the customer, except that the FCM would not be responsible for paying punitive damages unless the FCM willfully and intentionally selected the floor broker to facilitate the violation. The Senate amendment includes a similar provision which applies to private actions brought by futures customers in Federal court or under Commission reparations procedures.

The Conference substitute adopts the Senate provision with an amendment to clarify that customers need not proceed against floor brokers for actual damages prior to proceeding against the FCM.

The Conferees note that under the Senate amendment, a futures commission merchant who selected a floor broker to execute a customer order and who is responsible under section 2(a)(1) of the Act for the floor broker's violation in executing the order, may have been required to satisfy any award to the customer only "if the floor broker fails to do so."

By its references to floor brokers whom the futures commission merchant selects, the Senate amendment is directed to the conduct of so-called independent floor brokers with whom the futures commission merchant has some contractual or other selection arrangement.

The Conferees were concerned that section 241 of the Senate amendment, by conditioning a futures commission merchant's liability for payment of actual damages only "if the floor broker fails to do so," may have been read as requiring the customer to proceed first against the "independent" broker for actual damages even if the customer establishes that the broker was acting within the scope of the agency under section 2(a)(1). This would have been a retreat from a customer protection aspect of existing section 2(a)(1) under which customers may proceed against a firm without the necessity of also suing the employee. Moreover, in Commission reparations cases, firms are held jointly and severally liable for the damage award with their non-employee agents. By striking this conditional language with respect to actual damages, the Conferees intend to make this provision consistent with these current practices.

44. Customer restitution (S 242; C 223)

The House bill has no similar provision.

The Senate amendment provides that the Commission may require that any person found to have violated the Act pay restitution to customers in the amount of damages proximately caused by violations of such person.

The Conference substitute adopts the Senate provision.

45. False information to SROs (S 246; C 212(a))

The House bill contains no similar provision.

The Senate amendment makes it a felony to supply false information to a self-regulatory organization. A violation is punishable by a fine of up to $100,000 or imprisonment of up to 5 years, or both.

The Conference substitute adopts the Senate provision with an amendment to include penalty levels from House bill.

46. Willful violations; false and misleading statements (S 247; C 212)

The House bill contains no similar provision.

The Senate amendment provides that anyone who knowingly and willfully commits any violation of the Act or regulations thereunder or submits false information in any application, report or document required to be filed under the Act is to be subject to a fine of up to $500,000 or imprisonment of up to 5 years, or both.

The Conference substitute adopts the Senate provision with amendments to:

(1) include the penalty levels from the House bill: and (2) clarify that generally the provision would apply to violations which are committed willfully, but that no person would be subject to imprisonment for the violation of any rule or regulation if he or she proves that he or she had no knowledge of such rule or regulation. The structure parallels the scienter standard under the similar provision of the Securities and Exchange Act of 1934 (15 USC 78ff) (see *U.S.* v. *Dixon*, 536 F2d 1388 (2d Cir., 1976)).

47. Complaints against registered persons; class action suits (S 248; C 224)

The House bill has no similar provision.

The Senate amendment authorizes individuals similarly situated to file suits for violations of the Act as class action suits if the Commission has adopted final rules to permit such actions. The Senate amendment requires that the Commission propose rules within 270 days from the date of enactment.

The Conference substitute adopts the Senate provision.

48. Penalties study and guidelines (S 249; C 225)

The House bill contains no similar provision.

The Senate amendment requires the Commission to study penalties imposed for violation of the Act and provides that not later than 2 years after date of enactment, the Commission is to report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on the results of the study. The report shall propose industry wide penalty guidelines or rules to make penalties consistent among exchanges. In addition, it shall propose guidelines or rules to make Commission penalties consistent.

The Conference substitute adopts the Senate provision with an amendment to include registered futures associations.

In adopting this provision, the Conferees intend for the Commission to adopt and publish guidelines, subject to public notice and comment, to govern the imposition of civil penalties in Commission administrative actions. The Conferees believe that registrants should not be subject to the maximum penalty which may be imposed in a Commission administrative action when the violation is of a less serious nature. The Conferees expect that these guidelines will establish maximum tiers of civil penalties which may be imposed for different types of violations, with the higher tiers available only with respect to violations of a more serious nature such as those involving fraud or manipulation, substantial losses to another person or substantial gains to the person responsible for the violation, or reckless disregard of regulatory requirements. Through these guidelines, the Conferees expect the Commission to clarify that occasional violations of certain other regulatory obligations will not be subject to the higher tiers of civil monetary penalties.

49. Foreign futures authority—definition (H 301; S 261; C 404)

The House bill defines foreign futures authority.

The Senate amendment is nearly identical to the House provision.

The Conference substitute adopts the Senate provision

50. Foreign futures authority—subpoenas (H 302; S 251; C 301)

The House bill gives the Commission and ALJs authority to issue subpoenas and take certain actions to assist foreign futures authorities in investigations.

The Senate amendment is nearly identical to the House provision.

The Conference substitute adopts the Senate provision.

51. Foreign futures authority—cooperation (H 303; S 254; C 302)

The House bill authorizes the Commission to cooperate with any foreign futures authority.

The Senate amendment is identical to the House provision.

The Conference substitute adopts the House provision.

52. Foreign futures authority—investigative assistance (H 304; S 255; S 256; C 303)

The House bill authorizes the Commission to assist any foreign futures authority in any investigation that the authority is conducting into possible violations of its nation's futures trading laws and authorizes the Commission to conduct any investigation it deems to be necessary to assist in the authority's request. The House bill also authorizes the Commission to accept payment and reimbursement from a foreign futures authority for services provided.

The Senate amendment is nearly identical to House provisions.

The Conference substitute adopts the House provision. The Conference substitute authorizes the Commission, in its discretion, to provide assistance to a foreign futures authority which is conducting an investigation relating to a futures or options matter that the foreign authority administers or enforces.

Although the new subsection (f)(1) of section 12 authorizes the Commission to provide such assistance without regard to whether the facts stated in the request would also constitute a violation of any U.S. law, the Conferees intend that this authority only be exercised in conjunction with the future requirement that compliance with the request should not prejudice the public interest of the United States, as stated in the new subsection (f)(2)(B).

The Conferees are sensitive to the novel nature of the power being granted to the Commission to require a United States citizen to respond to any inquiry rooted in a matter that is not itself a violation of United States law. The Conferees emphasize, therefore, that in a case where there is no clear interest of the United States to be discerned by cooperation with the inquiry, the Conferees expect that the Commission will not grant the request. The Conferees expect that the Commission's regulatory focus will continue to be the protection of the interest of the United States in an orderly and fair marketplace.

In making this determination, the Commission would consider, among other things, the existence of appropriate safeguards against possible abuse or overuse of the procedure by foreign authorities, the need to obtain reciprocal cooperation from foreign authorities, and the demands of such requests by foreign authorities on the Commission's own resources. The Conferees understand that, in using this new authority, the Commission will follow the requirements of its rules relating to the gathering of information, including rules governing investigations found in 17 C.F.R., Part 11.

For example, the rules relating to compulsory process require that the Commission itself issue an order authorizing the use of subpoenas in each particular investigation and designating the specific staff who may issue such subpoenas. Further, a Commission order authorizing the use of subpoenas must include a general description of the scope of the investigation. In this regard, the Conferees understand that such an order issued under this new authority will, at a minimum, identify specifically the provisions of foreign law that form the basis of the investigation. The Commission also is required to make a copy of the order available for inspection by any person who is required to provide documents or testimony pursuant to a subpoena. The Conferees also understand that, in the event that the recipient of a subpoena issued to assist a foreign authority chooses not to comply, the Commission must vote on whether to authorize an application to enforce the subpoena in Federal district court.

53. Foreign futures authority—disclosure of information received from foreign futures authorities (H 305; S 252; C 304)

The House bill specifies that the Commission is not to be compelled to disclose any information or data obtained from a foreign futures authority except that it cannot withhold information from Congress or in a judicial proceeding. Under the House bill provisions of the Act allowing Commission to disclose information are not to apply to information obtained from a foreign futures authority.

The Senate amendment states that the provisions of the Act allowing the Commission to disclose information are not to apply to information obtained from a foreign futures authority.

The Conference substitute adopts the House provision with an amendment to clarify that this provision of the Act is a statute described in subsection (b)(3)(B) of section 552, title 5, U.S. Code (the Freedom of Information Act). Recent years have brought a dramatic increase in the number and volume of futures contracts traded worldwide, and an increasing economic interdependence among financial markets worldwide. As a process of globalization of the futures markets continue, the Commission's international cooperative efforts with foreign futures regulatory and self-regulatory authorities in enforcement matters have increased greatly. The Conferees believe that these efforts are an important component of the Commission's accomplishment of its enforcement responsibilities under the Act.

The Commission currently cooperates with a wide range of foreign regulatory, self-regulatory and criminal authorities in enforcement matters, via formal and informal information sharing arrangements. In the past two years, the Commission has signed five memoranda of understanding (MOUs) with regulatory counterparts in the United Kingdom, France, Canada, and Brazil, covering information sharing and assistance for the full range of Commission enforcement concerns. These MOUs are important tools in the Commission's efforts to enforce effectively the Commodity Exchange Act in an increasingly international environment. The Conferees understand that the Commission will enter into additional MOUs with regulatory authorities in other countries.

The Conferees are aware that the Commission has been unable to bring into force and may be unable to agree upon MOUs with certain foreign authorities because of conflicts between the confidentiality requirements of foreign laws and the Freedom of Information Act (FOIA). Similar conflicts also exist because of the possibility that the Commission could be required to disclose confidential records obtained from a foreign authority pursuant to a subpoena issued to the Commission in an action to which the Commission is not a party. These conflicts arise because some foreign laws require that documents provided to a foreign authority must, under certain circumstances, be kept confidential, unless disclosure is necessary or required in the course of an investigation or enforcement action brought by that authority. The Commission, of course, must comply with FOIA, valid court orders requiring production of Commission records, and other laws that may preclude withholding documents provided by foreign authorities from the public.

The Conference substitute would eliminate these potential conflicts by amending section 8 of the Commodity Exchange Act to enable the Commission to maintain the confidentiality of certain information received from foreign futures authorities. This provision is crucial to the Commission's ability to negotiate additional MOUs, as well as to bring into forces its existing MOU with its counterpart authority in France. I order to facilitate the cooperation of foreign authorities in providing the Commission with investigate assistance, the Conferees believe that documents furnished to the Commission should be exempt from disclosure if the foreign authority represents to the Commission that it has made a good faith determination that the disclosure of the documents would violate the confidentiality requirements of its country's laws.

54. Foreign futures authority—disclosure of information to foreign futures authorities (H 306; S 253; C 305)

The House bill permits the Commission to furnish information regarding the Commission's investigations upon the request of a foreign futures authority.

The Senate amendment is nearly identical to the House provision.

The Conference substitute adopts the Senate provision.

55. Authorization (H 401; S 101; C 401)

The House bill authorizes the appropriation of $48.5 million for fiscal year 1992 and $53 million for fiscal year 1993.

The Senate amendment authorizes the appropriation of $48.3 million for fiscal year 1992, $56.1 million for fiscal year 1993, $61.9 million for fiscal year 1994, $68.2 million for fiscal year 1995, and $79.1 million for fiscal year 1996.

The Conference substitute adopts the House provision with an amendment to authorize appropriations to carry out the Commodity Exchange Act of $53 million for fiscal year 1993 and $60 million for fiscal year 1994.

56. Technical Amendments (H 402; C 402)

The House bill includes technical amendments.

The Senate amendment has no similar provision.

The Conference substitute adopts the House provisions.

57. Effective date (H 403; S 401; C 403)

The House bill provides that the Act and amendments made by it are to take effect on the date of enactment.

The Senate amendment states that except as otherwise provided, the provisions are to take effect on the date of enactment.

The Conference substitute adopts the Senate provision.

58. Definitions (S 261; C 404)

The House bill has no similar provision.

The Senate amendment reorganizes current sec. 2(a) of the Act and includes definitions of "foreign futures authority" and "floor trader."

The Conference substitute adopts the Senate provision.

New section 1a of the Act, as added by section 404(a) of the Conference substitute, reorganizes the definitions that heretofore were included in section 2(a) of the Act. In adopting this provision the Conferees do not intend to imply that the current definitions are in any way altered by their recodification here.

The Conferees would like to clarify, however, that transactions involving the sale of any cash commodity for deferred shipment or delivery (forward contracts) are excluded from the term "future delivery" under section 2(a)(1)(A) of the Act.

To the extent that *Bybee* v. *A-Mark Precious Metals, Inc.*, 945 F.2d 309 (9th Cir. 1991), can be read to imply that certain contracts may simultaneously be futures contracts and forward contracts, the Conferees emphasize that this misinterprets a long-existing interpretation of law. Under the Commodity Exchange Act, forward contracts and futures contracts are separate categories and have been since the original enactment of futures statutes decades ago.

The *A-Mark* decision has raised the concern that scam artists will rely on the decision to market off-exchange futures in the guise of cash forward contracts. To address that concern, the Conferees encourage the Commission and the states to continue to pursue fraud and illegal off-exchange sale of futures under section 12(e) and other recognized legal precedents, such as *Commission* v. *Co Petro Marketing Group*, 680 F.2d 573 (9th Cir. 1982), another Ninth Circuit decision which the *A-Mark* court itself confirmed. Section 2(a)(1)(A) of the Act expressly declares that the term "future delivery," reenacted in the Conference substitute as new section 1a(11) of the Act, "shall not include any sale of any cash commodity for deferred shipment or delivery," i.e., cash forwards. The jurisdiction of any state or other Federal authority which otherwise has jurisdiction over any such forward contract is not precluded.

59. Publication of Commission opinions (S 206; C 226)

The House bill contains no similar provision.

The Senate amendment provides that whenever the Commission issues an opinion, release, rule, order, interpretation, or other determination, publication shall be made of any Commissioner's separate opinion or dissent.

The Conference substitute adopts the Senate provision.

60. Access by GAO to information maintained by SROs (S 266)

The House bill contains no similar provision.

The Senate amendment provides GAO with access to and the right to examine all records (except those relating to open position data unless at the request of the House or Senate Agriculture Committee) in the possession of any contract market, clearinghouse, or registered futures association under the same terms and conditions as the Commission. The Senate amendment also directs the GAO to maintain the same level of confidentiality for information made available as does the Commission and provides that the Comptroller General's right of access under the section is to be enforceable pursuant to 31 USC 716.

The Conference substitute deletes the Senate provision.

61. Suspension of registrants charged with felonies (S 268; C 227)

The House bill contains no similar provision.

The Senate amendment authorizes the Commission to suspend or modify the registration of any person charged with certain violations of the Act or other Federal or State laws. Action can only be taken after a hearing.

The Conference substitute adopts the Senate provision.

62. Interests of producers of agricultural commodities (S 271)

The House bill has no similar provision.

The Senate amendment directs the Commission, in carrying out the Act, to endeavor to serve the interest of agricultural producers.

The Conference substitute deletes the Senate provision.

63. Appeals by registered futures associations (S 272; C 228)

The House bill contains no similar provision.

The Senate amendment strikes the parenthetical provisions of section 17 of the Act which prohibits registered futures associations from appealing certain decisions.

The Conference substitute adopts the Senate provision.

64. Risk Assessment for holding company systems (S 263; C 229)

The House bill has no comparable provision.

The Senate amendment empowers the Commission to adopt rules or regulations to require futures commission merchants (FCMs): (1) to provide reports to the Commission regarding the activities of affiliated persons that are reasonably likely to affect materially the financial or operational condition of such entities; and (2) to obtain information and make and keep records concerning the FCM's policies, procedures or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its affiliated persons.

The Commission generally could require from FCMs summary reports of such information no more frequently than quarterly, although further reports may be required based upon adverse market conditions, or based on questions raised by the routine reports filed by the FCM or other available information.

Under the Senate amendment, an "affiliated person" is defined as any person directly or indirectly controlling, controlled by or under common control with an FCM, as the Commission determines by rule or regulation will effectuate the purposes of this section.

An FCM would be deemed to be in compliance with such recordkeeping or reporting requirements with respect to affiliated persons that are banks (including foreign banks), savings and loan associations, bank holding companies and savings and loan holding companies (and their subsidiaries which are not registered securities brokers or dealers), if such FCM provides copies of reports filed by such affiliated persons with their banking regulatory agency. The Commission may adopt rules requiring FCMs to obtain, maintain or report supplemental information if the Commission explicitly finds that such supplemental information is necessary to assess potential risks to FCMs. The Commission must also first request the appropriate banking regulatory agency to expand its reporting requirements to include such supplemental information.

The Senate amendment requires that the Commission notify the Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of an FCM to an affiliated persons thereof which is subject to examination by or reporting requirements of the Federal banking agency.

Under the Senate amendment, the Commission may provide exemptions from the reporting requirements either conditionally or upon specified terms and conditions or for stated periods upon considering, among other factors—

(1) whether information of the type required is available from a supervisory agency, a State insurance commission or similar state agency, the Securities and Exchange Commission, or a similar foreign regulator;

(2) the primary business of the affiliated person;

(3) the nature and extent of domestic or foreign regulation of the affiliated person's activities;

(4) the nature and extent of the FCM's commodity futures and options activities; and

(5) with respect to the FCM and its affiliated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in U.S. futures markets.

The Senate amendment provides that the Commission must treat any information reported, or supplied to it by any domestic or foreign regulatory agency, under this provision as information subject to the confidentiality provisions of section 8 of the Commodity Exchange Act (Act), which generally prevents disclosure to third parties.

Nothing contained in this section shall be construed to supersede or limit in any way the authority or powers of the Commission pursuant to any other provision of the Act or regulations promulgated thereunder.

The Conference substitute adopts the Senate provision.

The Conference substitute establishes recordkeeping and reporting requirements for futures commission merchants to assist the Commission in monitoring their exposure to risk from the activities of affiliates. This section is essentially identical to the risk assessment report and recordkeeping requirements established for holding company affiliates of broker-dealers under the Market Reform Act of 1990. Thus, in the case of affiliated persons who are subject to the examination or reporting requirements of a Federal banking agency, the Conference substitute establishes an alternative procedure for futures commission merchants to comply with the legislation's recordkeeping and reporting requirements. To utilize this alternative, a futures commission merchant may obtain copies of reports of condition and similar reports filed by the affiliated persons with the appropriate Federal banking agency. However, a futures commission merchant is not required under any circumstances to obtain copies of examination reports. Moreover, it is not a condition of this procedure that a futures commission merchant obtain or furnish to the Commission copies of reports, such as the F.R. 2068 filed with the Board of Governors of the Federal Reserve System, that are subject to confidentiality procedures similar to or more stringent than those applicable to examination reports.

65. Margins on stock index futures (S 301; C 501)

The House bill has no similar provision.

The Senate amendment requires any contract market in a stock-index futures contract (or option thereon) to file with the Board of Governors of the Federal Reserve System (Board) any rule setting or changing levels of margin (initial or maintenance) for such contract. The Board may at any time request the contract market to set margin for any stock index futures contract (or option thereon) at such levels as the Board in its judgment determines are appropriate to preserve the financial integrity of the contract market or its clearing system or to prevent systemic risk. If the contract market fails to do so within the time specified by the Board in its request, the Board may direct the contract market to alter or supplement its rules as specified in the request.

Under the Senate amendment, the Board is authorized, subject to such conditions as it may determine, to delegate any or all of its authority under this subsection only to the Commission. The Commission's existing authority to direct a contract market, upon finding an emergency to exist, to raise temporary emergency margin levels on any such futures contract (or option thereon) is maintained.

The Senate amendment provides that any action taken by the Board under this section directing a contract market to alter or supplement a margin rule is subject to review only in the Court of Appeals where the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. This review is to be based upon an examination of all information before the Board at the time the determination was made. The court reviewing the Board's action may not enter a stay or order of mandamus unless it has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

The Conference substitute adopts the Senate provision with an amendment to provide that the judicial review provisions relating to an action taken by the Board of Governors of the Federal Reserve System will also apply to an action taken by the Commission under delegated authority.

66–69. Exemptive Authority (S 302; C 502)

The Senate amendment proposes to add new subsections (c) through (e) to section 4 of the Act. New section 4(c) authorizes the Commission, by rule, regulation, or order, to exempt any agreement, contract, or transaction (including persons or class or persons involved with such transaction), or class thereof, from the exchange-trading or any other requirements of the Act other than section 2(a)(1)(B). The exemption may be unconditional or subject to stated terms, conditions, or time periods. To grant an exemption, the Senate amendment provides that the Commission must first determine after notice and opportunity for hearing that it would be consistent with the public interest.

The Senate amendment also provides that the Commission may not grant an exemption from the exchange-trading requirement of the Act unless the person seeking the exemption demonstrates to the Commission's satisfaction that the exemption would be consistent with the public interest and with the purposes of the Act and that the agreement, contract or transaction—

(1) will be entered into solely between institutional participants;

(2) will be entered into in connection with a line of business or for hedging or risk managment purposes; and

(3) will not have a material adverse affect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the Act.

The Senate amendment limits "institutional participants" to the following persons or classes of persons that the Commission determines have the financial and other qualifications to fulfill the terms and conditions of the agreement, contract, or transaction:

(1) A bank or trust company (acting in an individual or fiduciary capacity);

(2) A savings and loan association;

(3) An insurance company;

(4) A registered investment company;

(5) A regulated commodity pool;

(6) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000 or the obligations of which under the agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by certain specified entities;

(7) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, registered investment advisor, or registered commodity trading advisor;

(8) If otherwise authorized to engage in such transactions by law, any governmental entity (including the United States, any state, or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the above;

(9) A registered securities broker-dealer acting on its own behalf or on behalf of another institutional participant;

(10) A registered futures commission merchant, floor broker, or floor trader acting on its own behalf or on behalf of another institutional participant; and

(11) Other persons that the Commission determines have such financial and other qualifications.

The Senate amendment requires, in new section 4(d) of the Act, that, to the extent any such agreements may be considered to be subject to regulation under the Act, the Commission, following notice and opportunity for a hearing, grant an exemption for swap agreements (effective as of October 23, 1974) from all prohibitions and requirements of the Act, if:

(a) the Commission determines the exemption is consistent with the public interest;

(b) each party to the swap is a person included in one of the categories listed in the definition of "institutional participant";

(c) the creditworthiness of any party having an actual or potential future obligation under the swap agreement would be a material consideration in entering into or determining the terms, including pricing, cost or credit enhancement terms, of the swap agreement; and

(d) the swap agreement is not one of a fungible class of agreements that is standardized as to its material economic terms and is not entered into and traded on or through a multilateral transaction execution facility; provided that the foregoing shall not be deemed to preclude any arrangement or facility, between or among parties to swap agreements, that provides for netting of payment obligations resulting from swap agreements.

The Senate amendment provides, in new section 4(e) of the Act, for the Commission to maintain authority to conduct investigations to determine compliance with the conditions or requirements of any exemption issued and to take enforcement actions for violations of the Act, or any rules, regulations, or orders caused by failure to comply with such conditions or requirements.

The Conference substitute adopts new section 4(c) of the Act as proposed by the Senate amendment, with an amendment. Under the Conference substitute, in order to promote responsible economic or financial innovation and fair competition, the Commission may, by rule, regulation, or order, after notice and opportunity for hearing (on its own initiative or an application of any person, including any board of trade designated as a contract market for transactions for future delivery under section 5 of the Act), grant an application to exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to section 4(a) of the Commodity Exchange Act, either unconditionally or on stated terms and conditions or for stated periods, either retroactively or prospectively or both, from any of the requirements of the Act (except for section 2(a)(1)(B)) if the Commission determines that such an exemption would be consistent with the public interest.

The Commission is not permitted to issue an exemption to section 2(a)(1)(B) of the Act—the so-called Johnson-Shad jurisdictional accord. By this limitation, the Conferees do not intend to call into question the legality of securities-based swap or other transactions, which occur in the private marketplace at the present time, that do not violate the Accord.

The Conference substitute adopts the Senate provision which prohibits the Commission from granting an exemption from the exchange-trading requirement of the Act unless it determines that the requirement should not be applied and that the exemption would be consistent with the public interest and the purposes of the Commodity Exchange Act.

Under the Conference substitute, new section 4(c)(1) requires that the Commission make a determination, before exempting any agreement, contract, or transaction from any provisions of the Act, that the exemption would be consistent with the public interest. The Conferees intend this public interest test to include the national public interests noted in the Act, the prevention of fraud and the preservation of the financial integrity of markets, as well as the promotion of responsible economic or financial innovation and fair competition.

With respect to exemptions from the exchange-trading requirements of section 4(a), the Conference substitute further requires that the Commission determine that the exemption be consistent with the purposes of this Act. The Conferees intend for this reference to the "purposes of the Act" to underscore their expectation that the Commission will assess the impact of a proposed exemption on the maintenance of the integrity and soundness of markets and market participants.

At the same time, new section 4(c)(1) states that the granting of general exemptive authority is intended to promote responsible economic and financial innovation and fair competition. The Conferees intend that the Commission, in considering fair competition, will implement this provision in a fair and even-handed manner to products and systems sponsored by exchanges and non-exchanges alike. The Conferees expect that, in this process, the Commission will apply consistent standards based on the underlying facts and circumstances of the transactions and markets being considered and may make distinctions between exchanges and other markets, taking into account the particular facts and circumstances involved, consistent with the public interest and the purposes of this Act, where such distinctions are not arbitrary and capricious.

New section 4(c)(2)(B)(i) prohibits the granting of an exemption from the exchange-trading requirement unless the agreement, contract, or transaction will be entered into solely between appropriate persons.

New section 4(c)(2)(B)(ii) requires that the Commission, before granting an exemption to the exchange-trading requirement, make a determination that the agreement, contract, or tranaction in question will not have a material adverse affect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act. In making this determination, the Conferees intend that the Commission will look at the potential impact of the new product on such regulatory concerns as market surveillance, financial integrity of participants, protection of customers, and trade practice enforcement. The Conferees do not intend for this provision to allow an exchange or any other existing market to oppose the exemption of a new product solely on grounds that it may compete with or draw market share away from that existing market.

The Conference substitute includes among those covered by the term "appropriate person" generally those individuals and entities described under the term "institutional participant" in the Senate provision. New section 4(c)(3)(K) provides that the term "appropriate person" shall include persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections.

The list in new section 4(c)(3) of categories of appropriate persons who may enter into agreements, contracts, or transactions exempted by the Commission from the exchange-trading requirement of section 4(a) is intended to be exhaustive—exempted products may not be offered to or traded by persons who do not fall within one of the stated categories. At the same time, the Conferees intend that the Commission, in stating terms or conditions of an exemption for a product under new section 4(c)(1), may in appropriate cases limit the offering or trading of the product to only some—but not all—of the listed categories. Not every instrument will be appropriate for every listed category of participants in every case. Determining whether particular categories of participants are appropriate for particular instruments will be part of the Commission's responsibility to determine that a proposed exemption is consistent with the public interest.

New section 4(c)(3)(K) recognizes that agreements, contracts, or transactions may be conducted with persons who do not qualify under subparagraphs (A) through (J), when the Commission determines that there are adequate financial or other protections in place against fraud or other illegal conduct. This authority is consistent with the Commission's plenary authority with respect to commodity option transactions, including its authority to permit the issuance, offer, sale and trading of any commodity option under the Act that also may be subject to securities, banking or other applicable laws.

The Conference substitute, in new section 4(c)(4), authorizes the Commission to limit the availability to the public of any information received from an applicant that may be regarded as a trade secret or that would, if made public, otherwise result in material competitive harm to the applicant. In this regard, the Conferees recognize that in reviewing exemptive applications for innovative products, the Commission may determine to withhold from public disclosure trade secrets or other information (including information regarding the product) that may cause competitive harm if made public. Such a determination would be consistent with the Commission's current practice regarding confidential information under the Commodity Exchange Act and under the Freedom of Information Act. The Conferees anticipate that the Commission shall make public, subject to applicable laws, any final order issued pursuant to new section 4(c)(1).

The Conference substitute specifically provides (in new section 4(c)(5)) that the Commission may use its general exemptive authority under new section 4(c)(1) with respect to hybrid instruments and swap agreements.

The Conference substitute also provides, in new section 4(d), that in granting an exemption, the Commission retains its authority to conduct investigations in order to determine compliance with the requirements or conditions of the exemption and to take enforcement action for any violation of any provision of the Act or any rule, regulation or order thereunder caused by the failure to comply with or satisfy such conditions and requirements.

Section 502 of the Conference substitute amends section 15 of the Act. Section 15 of the Act currently requires that the Commission take into consideration the public interest to be protected by the antitrust laws and to endeavor to take the least anticompeitive means of achieving the objectives of the Act in issuing any order or adopting any rule or regulation under the Act. The Conference substitute confirms that the Commission's responsibility in this area includes the consideration of any exemption under new section 4(c).

In applying section 15 to exemptive orders, the Conferees expect the Commission to prevent unreasonable restraints of trade or monoplies consistent with the public interests served by the antitrust laws. Commission exemptive actions also should reflect the least anticompetitive means of exempting persons or transactions from the provisions of the Act.

Section 502(c) of the Conference substitute amends section 12(e)(2)(A) of the Act to provide that any State or local law that prohibits or regulates gaming or the operation of "bucket shops" (other than anti-fraud provisions of general applicability) shall not apply with respect to a transaction or class of transactions that has received or is covered by an exemption granted by the Commission under section 4(c). It thus provides legal certainty under both the Act and state gaming and bucket shop laws for transactions covered by the terms of an exemption.

In granting exemptive authority to the Commission under new section 4(c), the Conference recognize the need to create legal certainty for a number of existing categories of instruments which trade today outside of the forum of a designated contract market. These instruments may contain some features similar to those of regulated exchange-traded products but are sufficiently different in their purpose, function, design, or other characteristics that, as a matter of policy, traditional futures regulation and the limitation of trading to the floor of an exchange may be unnecessary to protect the public interest and may create an inappropriate burden on commerce.

The provision included in the Conference substitute is designed to give the Commission broad flexibility in addressing these products either generically or on an individualized, case-by-case basis. Because of the important public policy concerns that have underlaid the Act for sixty years, the Conferees expect the Commission generally to use this authority sparingly. Trading in off-exchange "derivative" instruments has ballooned over the past decade. The total notional principal amount of swaps alone is currently estimated as approximately $4 trillion. This growth and proliferation has spawned many questions of how best to regulate the new markets. Studies are underway by the General Accounting Office and other public and private parties which will be useful to Congress in considering these larger issues of regulatory policy in coming years.

The goal of providing the Commission with broad exemptive powers is not to prompt a wide-scale deregulation of markets falling within the ambit of the Act. Rather, it is to give the Commission a means of providing certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner. Except as discussed below, the Conferees do not intend for the Commission to use this authority to grant broad exemptions from the Act for instruments or markets before these studies are completed and Congress has ultimately decided the issues raised by them.

In this respect, the Conferees expect and strongly encourage the Commission to use its new exemptive powers promptly upon enactment of this legislation in four areas where significant concerns of legal uncertainty have arisen: (1) hybrids, (2) swaps, (3) forwards, and (4) bank deposits and accounts.

Beyond these particular categories, the Conferees intend for the general exemptive authority included in the substitute to allow the Commission to respond to future developments in the marketplace to avoid disruption and promote responsible economic and financial innovation, with due regard for the continued viability of the marketplace and considerations related to systemic risk in financial markets.

The Conferees emphasize that the decision to replace the structure of the Senate amendment—which contained separate exemption or exclusion provisions for swaps, hybrids, and deposits—with a centralized, broad general exemptive provision in no way detracts from the Conferees' intent that the Commission indeed act and act swiftly with respect to these products. Nor should the fact that new section 4(c)(5) of the Act is stated in permissive rather than mandatory terms be interpreted to diminish the expectation of the Conferees that the Commission will proceed.

Hybrids.—New section 4(c)(5)(A) authorizes the Commission to exercise its exemptive authority with respect to classes of hybrid instruments that are predominantly securities or depository instruments, to the extent that such instruments may be considered to be subject to regulation under the Act. As with any exemption issued under this provision the Commission retains the authority to set terms and conditions of this exemption based on the standards in section 4(c) (1) and (2), including consistency of the exemption with the public interest.

Swaps

New section 4(c)(5)(B) authorizes the Commission, to the extent that these instruments may be considered to be subject to regulation under the Act, to exercise its exemptive authority to fashion an exemption for swap agreements (effective as of October 23, 1974) that are not part of a fungible class of agreements that are standardized as to their material economic terms. Again, as with any exemption issued under this provision, the Commission retains the authority to set terms and conditions of this exemption based on the standards in section 4(c) (1) and (2), including consistency of the exemption with the public interest. Thus the Commission may impose conditions on this exemption beyond those of lack of fungibility and standardization.

Forwards

One court has found transactions in the Brent crude oil market to be futures contracts. See *Transnor (Bermuda) Limited* v. *BP North America Petroleum*, 738 F. Supp. 1472 (1990). In response, the Commission has issued a statutory interpretation to the effect that certain transactions in that market qualify as sales of cash commodities for deferred shipment or delivery, that is, forward contracts, and, as such, are not subject to regulation under the Act.

Many markets of this nature are international in scope; foreign parties are already engaging in such transactions free of restraints imposed by the Act that may create competitive disadvantages for U.S. participants.

Without expressing a view regarding the applicability of the Commission's statutory interpretation, the Conferees encourage the Commission to review this situation and these contracts to determine whether exemptive or other action should be taken.

Deposits

The Conferees also encourage and expect the Commission to exercise its exemptive authority with respect to certain bank products such as demand deposits, time deposits, or transaction accounts (as defined in subsections (b)(1), (c)(1), and (e), respectively, of section 204.2 of title 12, Code of Federal Regulations (12 CFR 204.2)) whether indexed or otherwise, to the extent that such instruments may be considered to be subject to regulation under the Act. The Conferees anticipate that this exemption would apply to deposits or accounts offered by: an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act; an insured credit union as defined in section 101 of the Federal Credit Union Act; or a Federal or state branch or agency of a foreign bank as defined in section 1 of the International Banking Act. Again, as with any exemption issued under this provision, the Commission retains the authority to set terms and conditions of this exemption based on the standards in section 4(c) (1) and (2), including consistency of the exemption with the public interest.

The Conferees do not intend that the exercise of exemptive authority by the Commission would require any determination beforehand that the agreement, instrument, or transaction for which an exemption is sought is subject to the Act. Rather, this provision provides flexibility for the Commission to provide legal certainty to novel instruments where the determination as to jurisdiction is not straightforward. Rather than making a finding as to whether a product is or is not a futures contract, the Commission in appropriate cases may proceed directly to issuing an exemption.

In granting the Commission such exemptive authority, the Conferees make no decision concerning whether swaps and hybrids are futures subject to regulation under the Act. If the Commission does not, or has not granted, an exemption to an instrument, this fact alone should not be construed to mean that such instrument is subject to the Act. Finally, the Conferees note that the exemptive authority being provided to the Commission is in respect to the Act only, and that in exempting an instrument from the Act the Commission cannot exempt it from applicable securities and banking laws and regulations.

STUDY OF SWAPS, AND OFF-EXCHANGE DERIVATIVES TRADING

With the intention of providing legal certainty to certain segments of financial markets mentioned above, the Conferees have granted the Commission sufficient authority to allow the trading for products that are contracts for the sale of a commodity for future delivery, notwithstanding the fact that trading of such products is not compatible with one or more of the regulatory restrictions of the Act. In developing this authority, the Conferees have found that it would be useful in the development of legislation relating to markets for derivative financial products to acquire more extensive and specific information in their regard than is currently available.

Therefore, the Conferees direct that the Commission—with the cooperation of and in consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System—conduct a comprehensive study to determine:

(1) the size, scope, activities, and potential risks presented by the markets for swaps and other off-exchange derivative financial products;

(2) the need for additional regulatory controls that should be applicable to the products described in paragraph (1);

(3) how any such regulatory controls could be implemented in a cost-effective manner;

(4) the public policy implications of the decisions in *Krommenhoek* v. *A-Mark Precious Metals Inc.*, 945 F.2nd 309 (9th Cir. 1991) and *Laszlo N. Tauber, M.D.* v. *Salomon Forex Inc., et al.* (E.D. Va., June 1, 1992, Appeal Pending, Case no. 92-1406 (4th Cir.)) is upheld on appeal; and

(5) whether a single Federal regulatory agency should regulate the exchange or off-exchange trading of, and markets for, futures, options, swaps, derivative products, and securities.

The Conferees direct that, not later than one year after the date of enactment of the Futures Trading Practices Act of 1992, the Commission shall submit to Congress a report including:

(1) the determinations made in the study; and

(2) any recommendations of the Commission regarding the regulation of the trading of the studied products and contracts.

70. Hybrid Instruments—Generally (S 303)

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(h) to the Act to provide that nothing in the Act will be considered to govern or in any way be applicable to any transaction meeting the following requirements:

(1) to the extent that the instrument has an embedded or otherwise attached commodity option, the instrument derives less than 50 percent of its value at the date of issuance from the value of the commodity option, and

(2) to the extent that an instrument has an embedded or otherwise attached contract of sale of a commodity for future delivery, at the date of issuance it is expected that less than 50 percent of the value gained from and payable on the instrument will be due to movement in the price of the commodity or commodities specified in the instrument or in the terms and conditions of the transaction pursuant to which the instrument was issued.

The new subsection (b) contained in the Senate amendment specifies that it shall not affect any other exclusion or exemption from the Act of any transaction, including exemptions granted by any rule, regulation or order, and that, except as noted above, nothing therein shall affect the jurisdiction granted to the Commission by the Act over any transaction.

The Conference substitute deletes the Senate provision, although the provisions of the Conference substitute giving the Commission general exemptive authority will allow the Commission to grant exemptions with respect to certain hybrid instruments.

71. Hybrid Instruments—Bank deposits (S 303)

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(i) to the Act, to provide that nothing in that Act will be considered applicable to any deposit (as defined under the Federal Reserve Act and regulations in effect on the date of enactment) offered by—

(1) an insured depository institution;

(2) an insured credit union; or

(3) a Federal or state branch of a foreign bank.

The Conference substitute deletes the Senate provision, although the provisions of the Conference substitute giving the Commission general exemptive authority will allow the Commission to grant exemptions with respect to certain bank deposits and accounts.

72. Hybrid Instruments—Loans (S 303)

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(j) to the Act to provide that nothing in the Act will be considered applicable to any loans made by—

(1) an insured depository institution;

(2) an insured credit union; or

(3) a Federal or state branch of a foreign bank, or to any loan that is a consumer credit transaction subject to the Truth in Lending Act.

The Conference substitute deletes the Senate provision, although section 502 of the Conference substitute giving the Commission general exemptive authority will allow the Commission to grant exemptions with respect to certain bank deposits and accounts.

73. Index Participations (S 304)

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(f)(2) to the Act to provide that nothing in the Act will be deemed to govern or in any way be applicable to any contract traded on a national securities exchange whereby any party to the contract acquires any interest in a stock index participation unit approved for trading by the Securities and Exchange Commission by order dated April 11, 1989, or pending such approval on or prior to December 31, 1990.

The Conference substitute deletes the Senate provision.

74. Registration (S 304)

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(f)(3) which directs the Commission to utilize its existing authority under the Act to facilitate the registration of any person who is a "person associated with a broker or dealer'; or "associated person of a broker or dealer," as those terms are defined in section 3(a)(18) of the Securities Exchange Act of 1934, or the purposes of marketing stock-index futures (or options thereon) to the public.

The Conference substitute deletes the Senate provision.

From the Committee on Agriculture, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
GLENN ENGLISH,
HARLEY O. STAGGERS, Jr.,
RICHARD H. STALLINGS,
DAVE NAGLE,
BILL SARPALIUS,
TIM JOHNSON,
JERRY HUCKABY,
DAN GLICKMAN,
TIMOTHY J. PENNY,
MIKE ESPY,
JILL L. LONG,
CHARLES W. STENHOLM,
ROBIN TALLON,
TOM COLEMAN,
BOB SMITH,
STEVE GUNDERSON,
LARRY COMBEST,
WAYNE ALLARD,
BILL BARRETT,
JIM NUSSLE,
JOHN A. BOEHNER,
PAT ROBERTS,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 263 and title III of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEPHEN L. NEAL,
CARROLL HUBBARD, Jr.,
JOHN J. LAFALCE,
MARY ROSE OAKAR,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,

As additional conferees from the Committee on Energy and Commerce, for consideration of section 263 and title III of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
JAMES H. SCHEUER,
MIKE SYNAR,
DENNIS E. ECKART,
JIM SLATTERY,
NORMAN F. LENT,
MATTHEW J. RINALDO,
CARLOS J. MOORHEAD,
DON RITTER,

Managers on the Part of the House.

PATRICK LEAHY,
DAVID L. BOREN,
HOWELL HEFLIN,
KENT CONRAD,
RICHARD G. LUGAR,
ROBERT DOLE,
THAD COCHRAN,

Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 5482

Mr. FORD of Michigan, submitted the following conference report and statement on the bill (H.R. 5482), to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-973)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5482), to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rehabilitation Act Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

Sec. 101. Findings and purpose.
Sec. 102. Definitions.
Sec. 103. Allotment percentage.
Sec. 104. Nonduplication.
Sec. 105. Administration of the Act.
Sec. 106. Reports.
Sec. 107. Evaluation.
Sec. 108. Review of applications.
Sec. 109. Carryover.
Sec. 110. Client assistance information.
Sec. 111. Traditionally underserved populations.

Subtitle B—Vocational Rehabilitation Services

Sec. 121. Policy; authorization of appropriations.
Sec. 122. State plans.
Sec. 123. Determinations of eligibility and individualized written rehabilitation program.
Sec. 124. Scope of vocational rehabilitation services.
Sec. 125. Non-Federal share for construction.
Sec. 126. State Rehabilitation Advisory Council.
Sec. 127. Evaluation.
Sec. 128. Monitoring and review.

Sec. 129. Expenditure of certain amounts.
Sec. 130. Training of employers with respect to Americans with Disabilities Act of 1990.
Sec. 131. Reallotment.
Sec. 132. Payments to States.
Sec. 133. Client assistance program.
Sec. 134. Innovation and expansion grants.
Sec. 135. Study of needs of American Indians with handicaps.
Sec. 136. Review of data collection system.
Sec. 137. Exchange of data.
Sec. 138. Effective date.

TITLE II—RESEARCH

Sec. 201. Declaration of purpose.
Sec. 202. Authorization of appropriations.
Sec. 203. National Institute on Disability and Rehabilitation Research.
Sec. 204. Interagency committee.
Sec. 205. Research.
Sec. 206. Rehabilitation Research Advisory Council.

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

Sec. 301. Declaration of purpose; organization.
Sec. 302. Training.
Sec. 303. Community rehabilitation programs for individuals with disabilities.
Sec. 304. Loan guarantees.
Sec. 305. Comprehensive rehabilitation centers.
Sec. 306. General grant and contract requirements.
Sec. 307. Authorization of appropriations for special projects and supplementary services.
Sec. 308. Special demonstration programs.
Sec. 309. Migratory workers.
Sec. 310. Special recreational programs.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

Sec. 401. Establishment of National Council on Disability.
Sec. 402. Duties of National Council.
Sec. 403. Compensation of National Council members.
Sec. 404. Staff of National Council.
Sec. 405. Administrative powers of National Council.
Sec. 406. Authorization of appropriations.

TITLE V—RIGHTS AND ADVOCACY

Sec. 501. Rights and advocacy.
Sec. 502. Effect on existing law.
Sec. 503. Employment of individuals with disabilities.
Sec. 504. References to the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Employment under Federal contracts.
Sec. 506. Nondiscrimination under Federal grants and programs.
Sec. 507. Secretarial responsibilities.
Sec. 508. Interagency Disability Coordinating Council.
Sec. 509. Electronic and information technology accessibility guidelines.
Sec. 510. Protection and advocacy of individual rights.

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Subtitle A—Community Service Employment Pilot Program for Individuals With Disabilities

Sec. 601. Pilot program.
Sec. 602. Treatment of personal assistance services costs.
Sec. 603. Definitions.
Sec. 604. Authorization of appropriations.

Subtitle B—Projects With Industry

Sec. 611. Projects With Industry.
Sec. 612. Business opportunities for individuals with disabilities.
Sec. 613. Authorization of appropriations.

Subtitle C—Supported Employment Services for Individuals With Severe Disabilities

Sec. 621. Supported employment.

TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

Sec. 701. Services and centers.
Sec. 702. Effective date.
Sec. 703. Independent living services for older individuals who are blind.

TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

Sec. 801. Special demonstrations and training projects.

TITLE IX—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

Sec. 901. Congressional findings.
Sec. 902. Continued operation of Center.
Sec. 903. Audit, monitoring, and evaluation.
Sec. 904. Authorization of appropriations.
Sec. 905. Definitions.
Sec. 906. Construction of Act, effect on agreements.
Sec. 907. Establishment of a program.
Sec. 908. Technical and conforming amendments.

Subtitle B—Other Programs

Sec. 911. Committee for Purchase From People Who Are Blind or Severely Disabled.
Sec. 912. Individuals With Disabilities Education Act.
Sec. 913. Technology-Related Assistance for Individuals With Disabilities Act of 1988.
Sec. 914. President's Committee on Employment of People With Disabilities.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

SEC. 101. FINDINGS AND PURPOSE.

Section 2 (29 U.S.C. 701) is amended to read as follows:

"FINDINGS; PURPOSE; POLICY

"SEC. 2. (a) FINDINGS.—Congress finds that—

"(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

"(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

"(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination;

"(C) make choices;

"(D) contribute to society;

"(E) pursue meaningful careers; and

"(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

"(4) increased employment of individuals with disabilities can be achieved through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

"(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

"(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purposes of this Act are—

"(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

"(A) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(B) independent living centers and services;

"(C) research;

"(D) training;

"(E) demonstration projects; and

"(F) the guarantee of equal opportunity; and

"(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with severe disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of a parent, a family member, a guardian, an advocate, or an authorized representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.".

SEC. 102. DEFINITIONS.

(a) DESIGNATED STATE AGENCY.—Section 7(3) (29 U.S.C. 706(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(2) by striking "(3)" and inserting the following:

"(3)(A) The term 'designated State agency' means an agency designated under section 101(a)(1)(A).

"(B)".

(b) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—Section 7(4) (29 U.S.C. 706(4)) is amended—

(1) by striking "rehabilitation facility" each place the term appears and inserting "community rehabilitation program";

(2) by striking "means" and inserting "includes"; and

(3) by striking "such facilities)" and inserting "facilities for community rehabilitation programs)".

(c) EMPLOYMENT OUTCOME.—Section 7(6) (29 U.S.C. 706(6)) is amended to read as follows:

"(6) The term 'employment outcome' means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act.".

(d) DRUG.—Section 7 (29 U.S.C. 706) is amended—

(1) by striking paragraph (5);

(2) by redesignating paragraphs (4) and (6) as paragraphs (6) and (5), respectively;

(3) by inserting paragraph (6) (as so redesignated by paragraph (2) of this subsection) before paragraph (7);

(4) by redesignating paragraph (22) as paragraph (4); and

(5) by inserting paragraph (4) (as so redesignated by paragraph (4) of this subsection) after paragraph (3).

(e) FEDERAL SHARE.—Section 7(7) (29 U.S.C. 706(7)) is amended—

(1) in subparagraph (A), by striking "80 percent" and inserting "78.7 percent";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(4) in subparagraph (B) (as redesignated by paragraph (3) of this subsection), by striking "section 301(b)(3)" each place the term appears and inserting "section 111(a)(3)".

(f) INDIVIDUAL WITH DISABILITIES.—Section 7(8) (29 U.S.C. 706(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "handicaps" and inserting "a disability";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "handicap" and inserting "impediment"; and

(C) in clause (ii)—

(i) by striking "reasonably be expected to";

(ii) by striking "employability" and inserting "an employment outcome"; and

(iii) by striking "titles I and III" and inserting "titles I, II, III, VI, and VIII";

(2) in subparagraph (B)—

(A) by striking "(C) and (D)" and inserting "(C), (D), (E), and (F)";

(B) by striking "handicaps" and inserting "a disability"; and

(C) by striking "titles IV and V" and inserting "sections 2, 14, and 15, and titles IV and V";

(3) in subparagraph (C)—

(A) in clause (i), by striking "handicaps" and inserting "a disability";

(B) in clause (ii), by striking "handicaps" and inserting "a disability";

(C) in clause (iv)—

(i) by striking "handicapped student" and inserting "student who is an individual with a disability and"; and

(ii) by striking "nonhandicapped students" and inserting "students who are not individuals with disabilities"; and

(D) in clause (v) by striking "handicaps" and inserting "a disability"; and

(4) by adding at the end the following:

"(E) For the purposes of sections 501, 503 and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.".

(g) NONPROFIT.—Section 7(10) (29 U.S.C. 706(10)) is amended by striking "with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by" and inserting "with respect to a community rehabilitation program, means a community rehabilitation program carried out by".

(h) PERSONAL ASSISTANCE SERVICES.—Section 7 (29 U.S.C. 706) is amended—

(1) by striking paragraph (13);

(2) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(3) by inserting after paragraph (10) the following:

"(11) The term 'personal assistance services' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.".

(i) REHABILITATION TECHNOLOGY.—Section 7(13) (29 U.S.C. 706(13)) (as so redesignated by subsection (h)(2)) is amended—

(1) by striking "rehabilitation engineering" and inserting "rehabilitation technology"; and

(2) by adding at the end the following: "The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.".

(j) INDIVIDUAL WITH A SEVERE DISABILITY.—Section 7(15) (29 U.S.C. 706(15)) is amended—

(1) in subparagraph (A)—

(A) by striking "subparagraph (B)" and inserting "subparagraph (B) or (C)";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "employability" and inserting "an employment outcome"; and

(C) in clause (iii), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) For purposes of title VII, the term 'individual with a severe disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) For purposes of section 13 and title II, the term 'individual with a severe disability' includes an individual described in subparagraph (A) or (B).".

(k) STATE.—Section 7(16) (29 U.S.C. 706(16)) is amended to read as follows:

"(16) The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).".

(l) SUPPORTED EMPLOYMENT.—Section 7(18) (29 U.S.C. 706(18)) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.".

(m) PUBLIC OR NONPROFIT.—Section 7(19) (29 U.S.C. 706(19)) is amended to read as follows:

"(19) The term 'public or nonprofit', with respect to an agency or organization, includes an Indian tribe.".

(n) ADDITIONAL DEFINITIONS.—Section 7 (29 U.S.C. 706) (as amended by subsection (d)(4)) is amended by adding at the end the following new paragraphs:

"(22) The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign the priority described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

"(B) to the extent additional data is necessary, a comprehensive assessment (including the administration of the assessment) of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment—

"(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual;

"(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

"(I) existing information; and

"(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

"(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(iv) may include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

"(C)(i) referral;

"(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

"(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited pur-

pose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

"(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

"(23) The term 'assistive technology device' has the meaning given such term in section 3(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(1)), except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (8)(A).

"(24) The term 'assistive technology service' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section—

"(A) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (8)(A); and

"(B) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.

"(25) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological, and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

"(26) The term 'disability' means—

"(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(B) for purposes of sections 2, 14, and 15, and titles II, III, IV, V, and VIII, a physical or mental impairment that substantially limits one or more major life activities.

"(27) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(28)(A) The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

"(ii) who is not a member of the State Rehabilitation Advisory Council described in section 105;

"(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(29) The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(30) The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

"(vi) personal assistance services, including attendant care and the training of personnel providing such services;

"(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

"(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

"(ix) education and training necessary for living in a community and participating in community activities;

"(x) supported living;

"(xi) transportation, including referral and assistance for such transportation;

"(xii) physical rehabilitation;

"(xiii) therapeutic treatment;

"(xiv) provision of needed prostheses and other appliances and devices;

"(xv) individual and group social and recreational services;

"(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

"(xvii) services for children;

"(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

"(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

"(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

"(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

"(31)(A) The term 'individuals with disabilities' means more than one individual with a disability.

"(B) The term 'individuals with severe disabilities' means more than one individual with a severe disability.

"(C) The term 'individuals with the most severe disabilities' means more than one individual with the most severe disability.

"(32) The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(33) The term 'ongoing support services' means services—

"(A) provided to individuals with the most severe disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(iii) job development and placement;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(34) The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

"(35) The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(o) TECHNICAL AMENDMENT.—Section 101 (29 U.S.C. 721) is amended—

(1) by striking "clause" each place the term appears and inserting "paragraph";

(2) by striking "subclause" each place the term appears and inserting "subparagraph"; and

(3) by striking "clauses" and inserting "paragraphs".

(p) CONFORMING AMENDMENTS; INDIVIDUALS WITH DISABILITIES.—

(1) The title of the Act (29 U.S.C. 701 et seq.) is amended—

(A) by striking "those with the most severe handicaps" and inserting "individuals with the most severe disabilities"; and

(B) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(2) The table of contents relating to the Act is amended—

(A) by striking the item relating to section 501 and inserting the following:

"Sec. 501. Employment of individuals with disabilities.";

(B) by striking the item relating to the title heading for title VI and inserting the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

and

(C) by striking the item relating to the part heading for part A of title VI and inserting the following:

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR INDIVIDUALS WITH DISABILITIES".

(3) Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (13) (as so redesignated by subsection (h)(2)) by striking "handicaps" and inserting "disabilities";

(B) in paragraph (15)(A)—

(i) by striking "severe handicaps" and inserting "a severe disability"; and

(ii) by striking "handicaps (as defined in paragraph (8))" and inserting "a disability"; and

(C) in paragraph (17) by striking "handicaps" and inserting "disabilities".

(4) The last sentence of section 13 (29 U.S.C. 712) is amended by striking "handicaps" and inserting "disabilities".

(5) Section 14(a) (29 U.S.C. 713(a)) is amended by striking "handicaps" and inserting "disabilities".

(6) Section 15 (29 U.S.C. 714) is amended—

(A) in subsections (a) and (b) by striking "handicaps" each place such term appears and inserting "disabilities";

(B) in subsection (a)(2) by striking "handicapping conditions" and inserting "disabilities"; and

(C) in subsection (c) by striking "the Handicapped" and inserting "Individuals with Disabilities".

(7) Section 101(a) (29 U.S.C. 721(a)) is amended—

(A) in paragraph (1)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities";

(ii) in subparagraph (A)(i)—

(I) by striking "the blind" each place such term appears and inserting "individuals who are blind"; and

(II) by striking "the adult blind" and inserting "adults who are blind"; and

(iii) in subparagraph (B), by striking "the blind" and inserting "individuals who are blind";

(B) in paragraph (2)(B) by striking "the blind" and inserting "individuals who are blind";

(C) in paragraphs (2), (4), (5), (6), (10), (11), (12), (21), and in the matter preceding paragraph (16), by striking "handicaps" each place such term appears and inserting "disabilities";

(D) in paragraph (9) by striking "handicaps" and inserting "a disability";

(E) in paragraph (13)(B) by striking "with handicaps whose handicapping conditions arises from a disability sustained" and inserting "with a disability whose disability was sustained";

(F) in paragraph (20)—

(i) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(ii) by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(G) in paragraph (22)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "handicaps" and inserting "disabilities".

(8) Subsections (c) and (d) of section 102 (29 U.S.C. 722 (c) and (d)) are amended by striking "handicaps" and inserting "a disability".

(9) Section 103 (29 U.S.C. 723) is amended—

(A) in the matter preceding paragraph (1) in subsection (a), and in subsection (b)(2), by striking "handicaps" and inserting "a disability";

(B) except as provided in subparagraph (A), by striking "handicaps" each place such term appears and inserting "disabilities";

(C) in subsection (a)—

(i) in subparagraph (E) of paragraph (4), by striking "suffering from" and inserting "with";

(ii) in paragraph (6), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iii) in paragraph (8), by striking "the blind" and inserting "individuals who are blind"; and

(D) in subsection (b)(4)—

(i) by striking "the blind" and inserting "individuals who are blind"; and

(ii) by striking "the deaf" and inserting "individuals who are deaf".

(10) Section 112 (29 U.S.C. 732) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(11) Section 130 (29 U.S.C. 750) is amended—

(A) in subsections (a) and (b)(1)(B) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(B) in subsection (b)(1)(B) by striking "individuals with handicaps" and inserting "individuals with disabilities".

(12) Section 202 (29 U.S.C. 761a) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (c)(1) by striking "the Handicapped" and inserting "Disability".

(13) Subsections (b) and (c) of section 203 (29 U.S.C. 761b (b) and (c)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(14) Section 204 (29 U.S.C. 762) is amended—

(A) in subsection (b)—

(i) in paragraph (4), by striking "individuals suffering from" and inserting "individuals with";

(ii) in paragraph (8)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities";

(iii) in paragraph (10), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iv) in paragraph (11)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "children with severe handicaps" each place such term appears and inserting "children who are individuals with severe disabilities"; and

(B) except as provided in subparagraph (A), by striking "handicaps" each place such term appears and inserting "disabilities".

(15) Section 300 (29 U.S.C. 770) is amended—

(A) in paragraph (2) by striking "handicaps" and inserting "disabilities"; and

(B) in paragraph (3)—

(i) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities";

(ii) by striking "older blind individuals, and deaf individuals" and inserting "older individuals who are blind, and individuals who are deaf";

(iii) by striking "workers with handicaps" and inserting "workers who are individuals with disabilities"; and

(iv) by striking "farmworkers with handicaps" and inserting "farmworkers who are individuals with disabilities".

(16) Section 302 (29 U.S.C. 772) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) in subsections (b) and (c) by striking "handicaps" each place such term appears and inserting "disabilities".

(17) Section 303(a) (29 U.S.C. 773(a)) is amended by striking "handicaps" and inserting "disabilities".

(18) Section 304 (29 U.S.C. 774) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (b)(2)(B), by striking "handicap" and inserting "disability".

(19) Section 305(a) (29 U.S.C. 775(a)) is amended—

(A) in paragraph (1), by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in paragraph (2) by striking "the deaf" and inserting "individuals who are deaf".

(20) Subsections (f) and (h) of section 306 (29 U.S.C. 776 (f) and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(21) Section 311 (29 U.S.C. 777a) is amended—

(A) in subsection (a), by striking "handicaps" each place such term appears and inserting "disabilities";

(B) in subsection (c)(1), by striking "with handicaps" and inserting "who are individuals with disabilities";

(C) in subsection (d)(3), by striking "handicaps" and inserting "disabilities"; and

(D) in subsection (e)—

(i) in paragraph (1), by striking "with severe handicaps" and inserting "who are individuals with severe disabilities"; and

(ii) in paragraph (4)(B), by striking "youths with severe handicaps and youths with mild handicaps" and inserting "youths who are individuals with severe disabilities and other youths with disabilities".

(22) Section 312 (29 U.S.C. 777b) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(23) Section 314 (29 U.S.C. 777d) is amended—

(A) in the section heading, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(B) in subsection (a)(1), by striking "blind persons" and inserting "individuals who are blind and";

(C) in subsection (a)(2)—

(i) by striking "available to blind persons" and inserting "available to individuals who are blind";

(ii) by striking "needs of blind persons" and inserting "needs of such individuals"; and

(iii) by striking "to assist blind persons" and inserting "to assist such individuals"; and

(D) in paragraphs (1), (2), (5), and (6) of subsection (c), by striking "blind persons" and inserting "individuals who are blind".

(24) Section 315 (29 U.S.C. 777e) is amended—

(A) in the section heading, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF";

(B) in subsection (a), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(C) in subsection (b)(1), by striking "to the maximum number of deaf individuals feasible" and inserting "to the maximum feasible number of individuals who are deaf";

(D) in subsection (c), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf"; and

(E) in subsection (d), by striking "deaf individuals" and inserting "individuals who are deaf and".

(25) Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(B) by striking "peers without handicaps" and inserting "peers who are not individuals with disabilities".

(26) Section 400(a) (29 U.S.C. 780(a)) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(27) Section 401(a) (29 U.S.C. 781(a)) is amended—

(A) in paragraph (4), by striking "individuals with handicaps and" each place such term appears; and

(B) in paragraphs (5), (6), and (7), by striking "handicaps" each place such term appears and inserting "disabilities".

(28) Section 403(a)(1) (29 U.S.C. 783(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(29) Section 501 (29 U.S.C. 791) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES";

(B) in subsection (a), by striking "Handicapped Employees" and inserting "Employees who are Individuals with Disabilities";

(C) in subsections (a), (b), (c), (d), and (f), by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(D) in subsection (b), by striking "employees with handicaps" and inserting "employees who are individuals with disabilities".

(30) Subsections (a), (c), (g), and (h) of section 502 (29 U.S.C. 792 (a), (c), (g), and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(31) Section 503 (29 U.S.C. 793) is amended—

(A) in subsection (a), by striking "handicaps as defined in section 7(8)" and inserting "disabilities"; and

(B) in subsection (b)—

(i) by striking "individual with handicaps" and inserting "individual with a disability"; and

(ii) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(32) Section 504 (29 U.S.C. 794) is amended in subsection (a)—

(A) by striking "handicaps" and inserting "a disability"; and

(B) by striking "handicap" and inserting "disability".

(33) Title VI is amended in the title heading by striking "HANDICAPS" and inserting "DISABILITIES".

(34) Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

(35) Part A of title VI is amended in the part heading, by striking "HANDICAPS" and inserting "DISABILITIES".

(36) Subsections (a) and (b) of section 611 (29 U.S.C. 795 (a) and (b)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(37) Section 615(a)(1) (29 U.S.C. 795d(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(38) Section 616(2) (29 U.S.C. 795e(2)) is amended, by striking "handicaps" and inserting "disabilities".

(39) Section 622 (29 U.S.C. 795h) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) by striking "handicaps" and inserting "disabilities".

SEC. 103. ALLOTMENT PERCENTAGE.

Section 8(a)(1) (29 U.S.C. 707(a)(1)) is amended—

(1) by striking "The" and inserting "For purposes of section 110, the"; and

(2) by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau (until the Compact of Free Association with Palau takes effect)".

SEC. 104. NONDUPLICATION.

The second sentence of section 10 (29 U.S.C. 709) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

SEC. 105. ADMINISTRATION OF THE ACT.

(a) TRAINING.—Section 12(a)(2) (29 U.S.C. 711(a)(2)) is amended by inserting before the semicolon the following: ", including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)".

(b) ISSUANCE OF REGULATIONS.—Section 12 (29 U.S.C. 711) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following:

"(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

"(e)(1) Not later than 120 days after the date of the enactment of the Rehabilitation Act Amendments of 1992, the Secretary shall receive public comment and promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services, and of vocational rehabilitation services providers, by an individual with a disability, consistent with the individualized written rehabilitation program of the individual under section 102.

"(2) Regulations under paragraph (1) shall include the following:

"(A) Procedures that States must adopt to ensure that the services provided under this Act are of sufficient scope and quality, that the costs of such services and the length of time such services are provided are reasonable, and that such services are available in a timely manner.

"(B) Procedures that prevent fraud, waste, and abuse.

"(C) Procedures to assure that services are provided in the most integrated settings.

"(D) Procedures to assure that rehabilitation providers comply with State guarantees, such as—

"(i) affirmative action procedures with respect to the employment of individuals with disabilities;

"(ii) standards governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services; and

"(iii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client.

"(E) Standards to be adhered to by providers to help ensure the integrity of services.

"(F) Guidelines for assisting individuals with disabilities and for providing information about available vocational rehabilitation service providers, especially for assisting—

"(i) individuals with cognitive and other disabilities who, due to the nature of the disability, require support and assistance in fully implementing the selection and procurement of services; and

"(ii) the parents, family members, guardians, advocates, or authorized representatives of the individuals.".

SEC. 106. REPORTS.

The fourth sentence of section 13 (29 U.S.C. 712) is amended by inserting "including types of rehabilitation technology services provided," after "types of services provided,".

SEC. 107. EVALUATION.

Section 14 (29 U.S.C. 713) is amended—

(1)(A) by striking "Commissioner" the first place such term appears and inserting "Secretary, in consultation with the Commissioner,"; and

(B) except as provided in subparagraph (A), by striking "Commissioner" each place such term appears and inserting "Secretary";

(2) in the third sentence of subsection (a)—

(A) by striking "program and" and inserting "program,";

(B) by striking "and the characteristics" and inserting ", the characteristics"; and

(C) by inserting before the period ", and the employment outcomes to be attained";

(3) in subsection (b) by striking "shall," and all that follows through "obtain" and inserting "shall obtain"; and

(4)(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following subsection:

"(f)(1) To assess the linkages between vocational rehabilitation services and economic and non-economic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

"(2) The study shall address factors related to attrition and completion of the program through

which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

"(3) The study shall be planned to cover the period beginning on the application of the individuals for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.".

SEC. 108. REVIEW OF APPLICATIONS.

(a) TRANSFERS.—Section 16(b) (29 U.S.C. 715(b)) is amended by striking "one-half of".

(b) COMPENSATION.—Section 18 (29 U.S.C. 717) is amended by striking "the rate provided for grade GS–18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

SEC. 109. CARRYOVER.

(a) IN GENERAL.—The Act is amended by inserting after section 18 (29 U.S.C. 717) the following new section:

"SEC. 19. CARRYOVER.

"(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, section 509, part C of title VI, or part B or C of chapter 1 of title VII, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

"(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 18 the following:

"Sec. 19. Carryover.".

SEC. 110. CLIENT ASSISTANCE INFORMATION.

(a) IN GENERAL.—The Act is amended by inserting after section 19 (as added by section 109(a)) the following new section:

"SEC. 20. CLIENT ASSISTANCE INFORMATION.

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 19 (as added by section 109(b)) the following:

"Sec. 20. Client assistance information.".

SEC. 111. TRADITIONALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—The Act is amended by inserting after section 20 (as added by section 110(a)) the following section:

"SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.

"(a) FINDINGS.—With respect to the programs authorized in titles II through VIII, the Congress finds as follows:

"(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

"(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be severely disabled.

"(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

"(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of preservice training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

"(b) OUTREACH TO MINORITIES.—

"(1) POLICY.—The Commissioner shall develop a policy to mobilize the resources of the Nation to prepare minorities for careers in vocational rehabilitation, independent living, and related services.

"(2) FOCUS.—This policy shall focus on—

"(A) the recruitment of minorities into the field of vocational rehabilitation counseling and related disciplines; and

"(B) financially assisting Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority enrollment is at least 50 percent to prepare students for vocational rehabilitation and related service careers.

"(3) PLAN.—

"(A) DEVELOPMENT.—The Commissioner shall develop a plan to provide outreach services and other related activities (such as cooperative efforts) to the entities described in subparagraph (B) in order to enhance the capacity and increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under titles I through VIII.

"(B) ENTITIES.—The entities referred to in subparagraph (A) are—

"(i) Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority student enrollment is at least 50 percent;

"(ii) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

"(iii) underrepresented populations.

"(C) FUNDING.—For the purpose of implementing the plan required in subparagraph (A), the Commissioner shall, for each of the fiscal years 1993 through 1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in titles II through VIII of this Act, except programs authorized under title IV or V.

"(3) EFFORT.—The Commissioner shall exercise the utmost authority, resourcefulness, and diligence to meet the requirements of this section.

"(4) REPORT.—

"(A) IN GENERAL.—Not later than January 31 of each year, starting with fiscal year 1994, the Commissioner shall prepare and submit to Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year.

"(B) CONTENTS.—The report shall include—

"(i) a full explanation of any progress toward meeting the goals of this section; and

"(ii) a plan to meet the goals, if necessary.

"(5) DEMONSTRATION.—In awarding grants, contracts, or cooperative agreements under titles I, II, III, VI, VII, and VIII, and section 509, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 20 (as added by section 110(b)) the following item:

"Sec. 21. Traditionally underserved populations.".

Subtitle B—Vocational Rehabilitation Services

SEC. 121. POLICY; AUTHORIZATION OF APPROPRIATIONS.

(a) FINDINGS; PURPOSE; POLICY.—Section 100 (29 U.S.C. 720) is amended—

(1) in the section heading, by striking "PURPOSE" and inserting "POLICY"; and

(2) by striking subsection (a) and inserting the following:

"(a)(1) Congress finds that—

"(A) work—

"(i) is a valued activity, both for individuals and society; and

"(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

"(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

"(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

"(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

"(i) discrimination;

"(ii) lack of accessible and available transportation;

"(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

"(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

"(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities; and

"(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

"(2) The purpose of this title is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational re-

habilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

"(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

"(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

"(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

"(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational rehabilitation services they receive.

"(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

"(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.

"(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

"(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.".

(b) Reauthorization.—Section 100 (29 U.S.C. 720) is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) For the purpose of making grants to States under part B (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

"(2) There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 1993 through 1997.";

(2) in subparagraphs (A) and (B) of subsection (c)(2), by striking "authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be" each place the term appears and inserting "to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount"; and

(3) in subsection (d)(1)(B)—

(A) by striking "1992" the first place the term appears and inserting "1997"; and

(B) by striking "or the amount authorized to be appropriated for such program for fiscal year 1992, whichever is higher,".

(c) Table of Contents.—The table of contents relating to the Act is amended by striking the item relating to section 100 and inserting the following:

"Sec. 100. Declaration of policy; authorization of appropriations.".

SEC. 122. STATE PLANS.

(a) Period.—The first sentence of section 101(a) (29 U.S.C. 721(a)) is amended by striking "for a three-year period" and all that follows and inserting the following: "for a 3-year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this title, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary.".

(b) State Agency.—Section 101(a)(1)(A) (29 U.S.C. 721(a)(1)(A)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by inserting before the semicolon at the end the following: ", and (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa".

(c) Plans; Policies; Methods.—Section 101(a)(5) (29 U.S.C. 721(a)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking "existing rehabilitation facilities to the maximum extent feasible;" and inserting "community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services,"; and

(B) in clause (ii), by inserting before "and shall be consistent" the following: "in accordance with criteria established by the State,";

(2) in subparagraph (B), by inserting before the semicolon the following: ", including the use of funds under part C of title VI to supplement funds under part B of this title to pay for the cost of services leading to supported employment"; and

(3) by striking subparagraph (C) and inserting the following:

"(C) describe—

"(i) how a broad range of rehabilitation technology services will be provided at each stage of the rehabilitation process;

"(ii) how a broad range of such rehabilitation technology services will be provided on a statewide basis; and

"(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;".

(d) Program Compliance.—Section 101(a)(6)(B) (29 U.S.C. 721(a)(6)(B)) is amended by inserting before the semicolon at the end the following: ", with section 504 of this Act, and with the Americans with Disabilities Act of 1990".

(e) Personnel.—Section 101(a)(7) (29 U.S.C. 721(a)(7)) is amended to read as follows:

"(7)(A) include a description (consistent with the purposes of this Act) of a comprehensive system of personnel development, which shall include—

"(i) a description of the procedures and activities the State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

"(I) the number and type of personnel that are employed by the State agency in the provision of vocational rehabilitation services, including ratios of counselors to clients; and

"(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the field, and other relevant factors;

"(ii) where appropriate, a description of the manner in which activities will be undertaken through this section to coordinate the system of personnel development with personnel development under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the institutions of higher education within the State that are preparing rehabilitation professionals, including—

"(I) the numbers of students enrolled in such programs; and

"(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year;

"(iv) a description of the development, updating, and implementation of a plan that—

"(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

"(II) provides for the coordination and facilitation of efforts between the designated State unit and institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) and professional associations to recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

"(v) a description of the procedures and activities the State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

"(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and

"(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1992;

"(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including professionals and paraprofessionals, needed within the State agency to carry out this part are appropriately and adequately prepared and trained, including—

"(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

"(ii) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated State unit that meet appropriate professional requirements in the State; and

"(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client;".

(f) AVAILABILITY OF COMPARABLE SERVICES AND BENEFITS.—Section 101(a)(8) (29 U.S.C. 721(a)(8)) is amended by striking "except that" and all that follows and inserting "except that such a determination shall not be required—

"(A) if the determination would delay the provision of such services to any individual at extreme medical risk; or

"(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;".

(g) USE OF EXISTING INFORMATION.—Section 101(a)(9) (29 U.S.C. 721(a)(9)) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(2) by striking "(9) provide that" and inserting "(9) provide that—

"(A) to the maximum extent appropriate, and consistent with the requirements of this Act, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;";

(3) in subparagraphs (B), (C), and (D) (as so redesignated by paragraph (1) of this subsection), by indenting the subparagraphs to the same measure as subparagraph (A); and

(4) in subparagraphs (B) and (C) (as so redesignated), by striking the comma at the end and inserting a semicolon.

(h) REPORTS.—Section 101(a)(10) (29 U.S.C. 721(a)(10)) is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) in subparagraph (A) (as so designated by paragraph (1) of this subsection), by adding "and" after the semicolon at the end; and

(3) by adding at the end the following subparagraph:

"(B) provide that reports under subparagraph (A) will include information on—

"(i) the number of such individuals who are evaluated and the number rehabilitated;

"(ii) the costs of administration, counseling, provision of direct services, development of community rehabilitation programs, and other functions carried out under this Act; and

"(iii) the utilization by such individuals of other programs pursuant to paragraph (11);".

(i) INTERAGENCY COOPERATION.—Section 101(a)(11) (29 U.S.C. 721(a)(11)) is amended—

(1) by striking "(11) provide for entering into cooperative arrangements" and inserting "(11)(A) provide for interagency cooperation";

(2) in subparagraph (A) (as so designated by paragraph (1) of this subsection) by striking ", and the Carl D. Perkins Vocational Education Act);" and inserting "(20 U.S.C. 1400 et seq., the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938, (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.);"; and

(3) by adding at the end the following:

"(B) provide that cooperation under subparagraph (A) shall include, to the extent practicable, means for providing training to staff of the agencies described in subparagraph (A) as to the availability and benefits of, and eligibility standards for, vocational rehabilitation services, in order to enhance the opportunity of individuals receiving the services described in subparagraph (A) to obtain vocational rehabilitation services; and

"(C) in providing for interagency cooperation under subparagraph (A), provide for such cooperation by means including, if appropriate—

"(i) establishing interagency working groups; and

"(ii) entering into formal interagency cooperative agreements that—

"(I) identify policies, practices, and procedures that can be coordinated among the agencies (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals);

"(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

"(III) include all additional components necessary to ensure meaningful cooperation and coordination;".

(j) COMMUNITY REHABILITATION PROGRAMS.—Section 101(a)(12) (29 U.S.C. 721(a)(12)) is amended—

(1) in subparagraph (A), by striking "facilities" and inserting "programs"; and

(2) in subparagraph (B), by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(k) CONTINUING STATEWIDE STUDIES.—Section 101(a) (29 U.S.C. 721(a)) is amended—

(1) in the matter preceding paragraph (16) by striking "provide for continuing" and inserting "(15) provide for continuing"; and

(2) in paragraph (15) (as so designated by paragraph (1) of this subsection)—

(A) in subparagraph (A), by striking "conducting";

(B) in subparagraph (B)—

(i) by striking "capacity and condition of rehabilitation facilities, plans for improving such facilities," and inserting "capacity and effectiveness of community rehabilitation programs, plans for improving such programs,"; and

(ii) by striking "and" after the semicolon at the end;

(C) in subparagraph (C), by inserting "and" after the semicolon at the end; and

(D) by adding at the end the following subparagraph:

"(D) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation system;".

(l) REVIEW AND EFFORTS.—Section 101(a)(16) (29 U.S.C. 721(a)(16)) is amended to read as follows:

"(16) provide for—

"(A)(i) at least annual review and reevaluation of the status of each individual with a disability placed in an extended employment setting in a community rehabilitation program (including a workshop) or other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)), to determine the interests, priorities, and needs of the individual for employment, or training for competitive employment, in an integrated setting in the labor market; and

"(ii) input into the review and reevaluation by the individual with a disability, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual, if the individual requests, desires, or needs assistance;

"(B) maximum efforts, including the identification of vocational rehabilitation services, reasonable accommodations, and other support services, to enable such an individual to benefit from training or to be placed in employment in an integrated setting; and

"(C) services designed to promote movement from extended employment to integrated employment, including supported employment, independent living, and community participation;".

(m) CONSTRUCTION.—Section 101(a)(17) (29 U.S.C. 721(a)(17)) is amended—

(1) in the matter preceding subparagraph (A), by striking "where such State plan includes provisions for the construction of rehabilitation facilities" and inserting "if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs"; and

(2) in subparagraph (C), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(n) VIEWS CONSIDERED.—Section 101(a)(18) (29 U.S.C. 721(a)(18)) is amended by striking "and providers of vocational rehabilitation services" and inserting "providers of vocational rehabilitation services, and the Director of the client assistance program under section 112".

(o) STRATEGIC PLAN.—Section 101(a)(19) (29 U.S.C. 721(a)(19)) is amended by inserting before the semicolon the following: ", and for developing and updating the strategic plan required under part C".

(p) PUBLIC COMMENT.—Section 101(a)(23) (29 U.S.C. 721(a)(23)) is amended—

(1) in subparagraph (A), by inserting after "comment on the State plan" the following: "before development of the plan by the State";

(2) by striking "and" before "(B)"; and

(3) by inserting before the semicolon the following: ", and (C) provide satisfactory assurances that the State agency will consult with the Director of the client assistance program under section 112 in the formulation of policies governing the provision of vocational rehabilitation services consistent with the State plan and other revisions".

(q) GOALS AND PUBLIC EDUCATION.—Section 101(a)(24) (29 U.S.C. 721(a)(24)) is amended to read as follows:

"(24) contain plans, policies, and procedures to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(C)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

"(A) facilitate the development and accomplishment of—

"(i) long-term rehabilitation goals;

"(ii) intermediate rehabilitation objectives; and

"(iii) goals and objectives related to enabling a student to live independently before the student leaves a school setting,

to the extent the goals and objectives described in clauses (i) through (iii) are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services;

"(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 103(a)(14) to an individual, consistent with the individualized written rehabilitation program of the individual; and

"(C) provide that such plans, policies, and procedures will address—

"(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

"(ii) procedures for outreach to and identification of youth in need of such services; and

"(iii) a timeframe for evaluation and followup of youth who have received such services;".

(r) USE OF SUPPORTED EMPLOYMENT FUNDS.—Section 101(a)(25) (29 U.S.C. 721(a)(25)) is amended to read as follows:

"(25) provide assurances satisfactory to the Secretary that the State has an acceptable plan

for carrying out part C of title VI, including the use of funds under that part to supplement funds under part B of this title for the cost of services leading to supported employment;".

(s) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 101(a) (29 U.S.C. 721(a)) is amended by adding at the end the following new paragraphs:

"(26) describe the manner in which on-the-job or other related personal assistance services will be provided to assist individuals with disabilities while the individuals are receiving vocational rehabilitation services;

"(27) describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established;

"(28) identify the needs and utilization of community rehabilitation programs under the Act commonly known as the Wagner-O'Day Act (41 U.S.C. 46 et seq.);

"(29) describe the manner in which individuals with disabilities will be given choice and increased control in determining their vocational rehabilitation goals and objectives;

"(30) describe the manner in which students who are individuals with disabilities and who are not in special education programs can access and receive vocational rehabilitation services, where appropriate;

"(31) describe the manner in which assistive technology devices and services will be provided, or worksite assessments will be made as part of the assessment for determining eligibility and vocational rehabilitation needs of an individual;

"(32) describe the manner in which the State will modify the policies and procedures of the State based on consumer satisfaction surveys conducted by the State Rehabilitation Advisory Council;

"(33) provide for coordination and working relationships with the Statewide Independent Living Council established under section 705 and independent living centers within the State;

"(34) provide satisfactory assurances to the Commissioner that the State—

"(A) has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this title; and

"(B) will use at least 1.5 percent of the allotment of the State under part B for the uses described in section 123;

"(35)(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities; and

"(B) provide satisfactory assurances that the system in no way impedes such accomplishment; and

"(36) provide satisfactory assurances to the Commissioner that—

"(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105;

"(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

"(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the designated State agency to such advice and recommendations (including explanations with respect to advice and recommendations that were rejected); and

"(iv) the designated State unit transmits to the Council—

"(I) all plans, reports, and other information required under the Act to be submitted to the Commissioner;

"(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

"(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings;

"(B) an independent commission—

"(i) is responsible under State law for overseeing the operation of the designated State agency;

"(ii) is consumer-controlled by persons who—

"(I) are individuals with physical or mental impairments that substantially limit major life activities; and

"(II) represent individuals with a broad range of disabilities;

"(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

"(iv) undertakes the function set forth in section 105(c)(3); or

"(C) in the case of a State that, under section 101(a)(1)(A)(i), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan—

"(i) an independent commission is responsible under State law for overseeing both such agencies and meets the requirements of subparagraph (B)(ii); or

"(ii)(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

"(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind.".

(t) TECHNICAL AMENDMENT.—Section 101 (29 U.S.C. 721) is amended by striking subsections (c) and (d).

SEC. 123. DETERMINATIONS OF ELIGIBILITY AND INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.

(a) ELIGIBILITY.—Section 102(a) (29 U.S.C. 722(a)) is amended to read as follows:

"(a)(1) An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(8)(A); and

"(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

"(2) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(3) Determinations made by officials of other agencies, particularly the education officials described in section 101(a)(24), regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A), shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

"(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the assessment described in subparagraph (C)(iii)(II), of section 7(22).

"(5)(A) The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive the services unless—

"(i) the designated State unit notifies the individual that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual agrees that an extension of time is warranted; or

"(ii) such an extended evaluation is required.

"(B) The determination of eligibility shall be based on the review of existing data described in section 7(22)(A)(i), and, to the extent necessary, the preliminary assessment described in section 7(22)(A)(iii).

"(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

"(A) the reasons for such a determination;

"(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(C) the availability of services provided by the client assistance program under section 112 to the individual.".

(b) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102(b) (29 U.S.C. 722(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the designated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22) (if such assessment is necessary) and ensure that—

"(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

"(I) such eligible individual (or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual); and

"(II) the vocational rehabilitation counselor or coordinator; and

"(ii) such program meets the requirements set forth in subparagraph (B).

"(B) Each individualized written rehabilitation program shall—

"(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

"(ii) include a statement of the long-term rehabilitation goals based on the assessment for determining eligibility and vocational rehabilitation needs described in section 7(22)(B), including an assessment of career interests, for the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;

"(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through such assessment carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

"(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service;

"(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate rehabilitation objectives and long-term rehabilitation goals for the individual; and

"(III) if appropriate, include a statement of the specific on-the-job and related personal assistance services to be provided to the individual, and, if appropriate and desired by the individual, the training in managing, supervising, and directing personal assistance services to be provided to the individual;

"(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

"(vi) provide for—

"(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

"(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

"(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

"(viii) include the terms and conditions under which goods and services described above will be provided to the individual in the most integrated settings;

"(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

"(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

"(xi) include, if necessary, an amendment specifying—

"(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

"(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xiii) provide a description of the availability of a client assistance program established pursuant to section 112;

"(xiv) to the maximum extent possible, be provided in the native language, or mode of communication, of the individual, or, in an appropriate case, of a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual; and

"(xv) include information identifying other related services and benefits provided pursuant to any Federal, State, or local program that will enhance the capacity of the individual to achieve the vocational objectives of the individual.

"(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual."; and

(2) in paragraph (2), by inserting after the first sentence the following: "Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program. Such revisions or amendments shall not take effect until agreed to and signed by the individual with a disability, or, if appropriate, by a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.".

(c) TECHNICAL AMENDMENTS.—Section 102(c) (29 U.S.C. 722(c)) is amended—

(1) by striking "Commissioner shall also insure" and inserting "Director of the designated State unit shall also ensure"; and

(2) in paragraph (2), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22)".

(d) SELECTION OF IMPARTIAL HEARING OFFICER.—Section 102(d) (29 U.S.C. 722(d)) is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) The impartial hearing officer shall be selected to hear a particular case—

"(i) on a random basis; or

"(ii) by agreement between—

"(I) the Director of the designated State unit and the individual with a disability; or

"(II) in an appropriate case, the Director and a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.

"(C) The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by—

"(i) the designated State unit; and

"(ii)(I) the members of the State Rehabilitation Advisory Council established under section 105 who were appointed under one of subparagraphs (E) through (H) of section 105(b)(1);

"(II) the commission described in subparagraph (B) or (C)(i) of section 101(a)(36); or

"(III) the commissions described in section 101(a)(36)(C)(ii).";

(2) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

"(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision.

"(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.";

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) Unless the individual with a disability so requests, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.".

SEC. 124. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) IN GENERAL.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;";

(2) in paragraph (2)—

(A) by striking "referral,";

(B) by inserting "work-related" before "placement services";

(C) by inserting before "followup," the following: "job search assistance, placement assistance, job retention services, personal assistance services, and";

(D) by striking "maintain or regain employment" and inserting "maintain, regain, or advance in employment"; and

(E) by striking ", and other services" and all that follows through "under this Act";

(3) in paragraph (3)—

(A) by striking "and services" and inserting "and such services"; and

(B) by striking ": Provided, That" and inserting ", except that";

(4) in paragraph (4)(A)—

(A) by striking "handicap to employment," and inserting "impediment to employment,"; and

(B) by striking "substantially reduce the handicap" and inserting "reduce such impediment to employment";

(5) in paragraph (5), by striking ", not exceeding the estimated cost of subsistence, during rehabilitation" and inserting "for additional costs incurred while participating in rehabilitation";

(6) by striking "and" at the end of paragraph (11);

(7) in paragraph (12), by striking "engineering services." and inserting "technology services;"; and

(8) by adding at the end the following:

"(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this Act;

"(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

"(15) on-the-job or other related personal assistance services provided while an individual with a disability is receiving services described in this section; and

"(16) supported employment services.".

(b) ADDITIONAL VOCATIONAL REHABILITATION SERVICES.—Section 103(b) (29 U.S.C. 723(b)) is amended—

(1) in paragraph (1)—

(A) by striking "in the case" and inserting "In the case"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in paragraph (2)—

(A) by striking "the construction" and all that follows through "rehabilitation facilities)" and inserting the following: "The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs)";

(B) by striking the semicolon at the end and inserting a period; and

(C) by adding at the end the following sentence: "Such programs shall be used to provide services that promote integration and competitive employment.";

(3) in paragraph (3)—

(A) by striking "the use of" and inserting "The use of"; and

(B) by striking "; and" and inserting a period;

(4) in paragraph (4), by striking "the use of" and inserting "The use of"; and

(5) by adding at the end the following paragraph:

"(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.".

SEC. 125. NON-FEDERAL SHARE FOR CONSTRUCTION.

Section 104 (29 U.S.C. 724) is amended—

(1) by striking "costs of construction or establishment of a public or nonprofit rehabilitation facility" and inserting "costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program"; and

(2) by striking "construction or establishment of a facility" and inserting "establishment of such a program or construction of such a facility".

SEC. 126. STATE REHABILITATION ADVISORY COUNCIL.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following:

"SEC. 105. STATE REHABILITATION ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in subparagraph (B) or (C) of section 101(a)(36), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Advisory Council (referred to in this section as the 'Council') in accordance with this section.

"(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) COMPOSITION.—The Council shall be composed of—

"(A) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

"(B) at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(c)(9));

"(C) at least one representative of the client assistance program established under section 112;

"(D) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

"(E) at least one representative of community rehabilitation program service providers;

"(F) four representatives of business, industry, and labor;

"(G) representatives of disability advocacy groups representing a cross section of—

"(i) individuals with physical, cognitive, sensory, and mental disabilities; and

"(ii) parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(H) current or former applicants for, or recipients of, vocational rehabilitation services.

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(8)(B); and

"(B) not employed by the designated State unit.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving rehabilitation goals and objectives under this title;

"(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

"(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

"(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x-4(e));

"(6) advise the State agency designated under section 101(a)(1) and provide for coordination and the establishment of working relationships between the State agency and the Statewide Independent Living Council and centers for independent living within the State; and

"(7) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Advisory Council determines to be appropriate, that are comparable to the other functions performed by the Council.

"(d) RESOURCES.—

"(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

"(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

"(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

"(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

"(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

"(g) COMPENSATION AND EXPENSES.—The Council may use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

"(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(i) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 104 the following:

"Sec. 105. State Rehabilitation Advisory Council.".

"Sec. 105. State Rehabilitation Advisory Council.".

SEC. 127. EVALUATION.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) (as amended by section 126(a)), is further amended by adding at the end the following:

"SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this title.

"(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede the accomplishment of the purpose and policy of this title.

"(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

"(b) COMPLIANCE.—

"(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

"(2) PROGRAM IMPROVEMENT.—

"(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

"(B) REVIEW.—The Commissioner shall—

"(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

"(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

"(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

"(d) REPORT TO CONGRESS.—Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 105 (as added by section 126(b)) the following:

"Sec. 106. Evaluation standards and performance indicators.".

SEC. 128. MONITORING AND REVIEW.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) (as amended by sections 126(a) and 127(a)), is further amended by adding at the end the following:

"SEC. 107. MONITORING AND REVIEW.

"(a) IN GENERAL.—

"(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

"(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) strategic plans and updates;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction surveys described in section 101(a)(32);

"(G) information provided by the State Rehabilitation Advisory Council established under section 105;

"(H) reports; and

"(I) budget and financial management data.

"(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) on-site visits, including on-site reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Advisory Council;

"(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(35) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d) REVIEW.—

"(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner

under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) STANDARDS OF REVIEW.—

"(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 6(c) (29 U.S.C. 705(c)) is amended by striking "101" and inserting "107".

(2) The table of contents relating to the Act is amended by inserting after the item relating to section 106 (as added by section 127(b)) the following:

"Sec. 107. Monitoring and review.".

SEC. 129. EXPENDITURE OF CERTAIN AMOUNTS.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by the preceding sections, is further amended by adding at the end the following:

"SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.

"(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

"(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 107 (as added by section 128(b)(2)) the following:

"Sec. 108. Expenditure of certain amounts.".

SEC. 130. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by the preceding sections, is further amended by adding at the end the following:

"SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

"A State may expend payments received under section 111—

"(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

"(2) to inform employers of the existence of the program and the availability of the services of the program.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 108 (as added by section 129(b)) the following:

"Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.".

SEC. 131. REALLOTMENT.

(a) TERRITORIES.—Section 110(a) (29 U.S.C. 730(a)) is amended—

(1) in paragraph (3), by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau"; and

(2) by adding at the end the following new paragraph:

"(5) The Republic of Palau may receive allotments or allocations under this section only until the Compact of Free Association with Palau takes effect.".

(b) REALLOTMENT.—Section 110(c) (29 U.S.C. 730(c)) is amended by adding at the end the following:

"(4) If the Commissioner determines, under paragraph (1), that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the payment shall remain available for reallotment to other States until reallotted.".

(c) RESERVATION.—Section 110(d) (29 U.S.C. 730(d)) is amended by striking paragraph (2) and inserting the following:

"(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

"(A) not less than one-third of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1993 and 1994; and

"(B) not less than one-half of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1995, 1996, and 1997.".

SEC. 132. PAYMENTS TO STATES.

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(including any additional payment to it under section 110(b))"; and

(B) by striking "State plan." and inserting "State plan and development and implementation of the strategic plan as provided in section 101(a)(34)(A). Any State that receives such an amount shall expend, for development and implementation of the strategic plan, not less than the percentage of the allotment of the State referred to in section 101(a)(34)(B).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "(and any additional payment under subsection (b))"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

"(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year."; and

(3) by adding at the end the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a))), in such State.

"(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.".

SEC. 133. CLIENT ASSISTANCE PROGRAM.

(a) ADVOCACY.—Section 112(a) (29 U.S.C. 732(a)) is amended—

(1) in the first sentence—

(A) by striking "to assist such clients" and inserting "to assist and advocate for such clients";

(B) by inserting "and advocacy" after "including assistance"; and

(C) by inserting before the period in the first sentence the following: "and to facilitate access to the services funded under this Act through individual and systemic advocacy";

(2) by amending the second sentence to read as follows: "The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs."; and

(3) by inserting after the second sentence the following: "In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.".

(b) REDESIGNATION OF AGENCY.—Section 112(c)(1) (29 U.S.C. 732(c)(1)) is amended by striking subparagraph (B) and inserting the following:

"(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(i) the Governor has given the agency 30 days notice of the intention to make such redes-

ignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment; and

"(iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.".

(c) Minimum State Allotments.—Section 112(e)(1) (29 U.S.C. 732(e)(1)) is amended—

(1) in subparagraph (B), by striking "and the Trust Territory of the Pacific Islands." and inserting "and the Republic of Palau, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.";

(2) in subparagraph (C), by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau"; and

(3) in subparagraph (D)—

(A) in clause (i), by striking "$75,000" and inserting "$100,000"; and

(B) in clause (ii)—

(i) by striking "subsection (c)," and inserting "clause (i),";

(ii) by striking "minimum allotment under subparagraph (A)" and inserting "minimum allotments under subparagraphs (A) and (B)"; and

(iii) by striking "fiscal year by more than" and all that follows and inserting "fiscal year.".

(d) Report.—Section 112(g) (29 U.S.C. 732(g)) is amended by adding at the end the following new paragraphs:

"(5) Each such report shall contain information on the number of requests the client assistance program under this section receives annually, the number of requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.

"(6) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.".

(e) Authorization of Appropriations.—Section 112 (29 U.S.C. 732) is amended—

(1) by striking subsection (h);

(2) by redesignating subsection (i) as subsection (h); and

(3) in subsection (h) (as so redesignated by paragraph (2) of this subsection) by striking "$7,100,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section.".

SEC. 134. INNOVATION AND EXPANSION GRANTS.

(a) Amendment.—Part C of title I (29 U.S.C. 740 et seq.) is amended to read as follows:

"Part C—Innovation and Expansion Grants

"SEC. 120. STATE ELIGIBILITY.

"Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this title shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 101 and the supplement to the State plan submitted under part C of title VI.

"SEC. 121. CONTENTS OF STRATEGIC PLANS.

"(a) Purpose and Policy.—The strategic plan shall be designed to achieve the purpose and policy of this title and carry out the State plan and the supplement to the State plan submitted under part C of title VI.

"(b) Contents.—The strategic plan shall include—

"(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

"(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

"(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement to the State plan submitted under part C of title VI;

"(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

"(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

"SEC. 122. PROCESS FOR DEVELOPING STRATEGIC PLANS.

"(a) Period and Updates.—The strategic plan shall cover a 3-year period and shall be updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 105, individuals with disabilities, and other interested parties.

"(b) Recommendations.—Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

"(c) Consideration of Recommendations.—The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

"(d) Procedure.—The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) as the plan is being implemented.

"(e) Dissemination.—The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

"SEC. 123. USE OF FUNDS.

"A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

"(1) programs to initiate and expand employment opportunities for individuals with severe disabilities in integrated settings that allow for the use of on-the-job training to promote the objectives of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.);

"(2) programs or activities to improve the provision of, and expand, employment services in integrated settings to individuals with sensory, cognitive, physical, and mental impairments who have traditionally not been served by the State vocational rehabilitation agency;

"(3) programs and activities to maximize the ability of individuals with disabilities to use rehabilitation technology in employment settings;

"(4) programs and activities that—

"(A) assist employers in accommodating, evaluating, training, or placing individuals with disabilities in the workplace of the employer consistent with provisions of this Act and title I of the Americans with Disabilities Act of 1990; and

"(B) may include short-term technical assistance or other effective strategies;

"(5) programs and activities that expand and improve the extent and type of client involvement in the review and selection of the training and employment goals of the client;

"(6) programs and activities that expand and improve opportunities for career advancement for individuals with severe disabilities;

"(7) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this title and independent living services provided under title VII;

"(8) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

"(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

"(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education, and continuing education, and businesses, industry, and labor organizations, in order to create and facilitate cooperation in—

"(i) planning and implementing services; and

"(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

"(C) improve the ability of professionals, clients, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

"(9) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this title, including serving, among others, individuals with the most severe disabilities;

"(10) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

"(11) support the provision of training and technical assistance to clients, business, industry, labor, community rehabilitation programs, and others regarding the implementation of the amendments made by the Rehabilitation Act Amendments of 1992, of title V of this Act, and of the Americans with Disabilities Act of 1990; and

"(12) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

"SEC. 124. ALLOTMENTS AMONG STATES.

"(a) In General.—

"(1) States.—

"(A) Population basis.—Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part (not including sums used in accordance with section 101(a)(34)(B)), the Commissioner shall make an allotment to each State whose State plan has been approved under section 101 of an amount bearing the same ratio to such sums as the pop-

ulation of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than $200,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $200,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) ADJUSTMENT FOR INFLATION.—For purposes of determining the minimum amount of an allotment under paragraph (1)(B), the amount $200,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B) as increased under subsection (a)(3), or to provide allotments in accordance with subsection (a)(2)(B), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of one percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the purposes of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to part C of title I and inserting the following:

"PART C—INNOVATION AND EXPANSION GRANTS

"Sec. 120. State eligibility.
"Sec. 121. Contents of strategic plans.
"Sec. 122. Process for developing strategic plans.
"Sec. 123. Use of funds.
"Sec. 124. Allotments among States.".

SEC. 135. STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.

(a) REPEAL.—Part D of title I is amended by repealing section 131 (29 U.S.C. 751).

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 131.

SEC. 136. REVIEW OF DATA COLLECTION SYSTEM.

(a) REVIEW.—The Commissioner of the Rehabilitation Services Administration (in this section referred to as the 'Commissioner') shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), particularly data on clients of the programs under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(2) DATA ELEMENTS.—In conducting the review, the Commissioner shall examine the feasibility of collecting and reporting under the system information, if such information can be determined, regarding—

(A) other program participation by clients during the 3 years prior to application;

(B) the number of jobs held, hours worked, and earnings received by clients in the 3 years prior to application to a program under the Rehabilitation Act of 1973;

(C) the types of major and secondary disabilities of clients;

(D) the dates of the onset of disabilities of clients;

(E) the severity of the disabilities of clients;

(F) the sources of referral of clients to programs under such Act;

(G) the hours worked by clients;

(H) the size and industry code of the place of employment of clients at the time of entry into such a program and at the termination of services under the program;

(I) the number of services provided under the programs and the cost of each service;

(J) the types of public support received by the clients;

(K) the primary sources of economic support and amounts of public assistance received by the clients before and after receiving the services;

(L) whether the clients are covered by health insurance from any source and whether health insurance is available through the employment of the client;

(M) the supported employment status of the client; and

(N) the reasons for terminating the services.

(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

(d) VIEWS.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of vocational rehabilitation services, professionals in the field of vocational rehabilitation, clients and organizations representing clients, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) PUBLICATION AND SUBMISSION OF REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall publish the recommendations in the Federal Register and shall prepare and submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

SEC. 137. EXCHANGE OF DATA.

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 712), and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.

SEC. 138. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) STATE PLAN.—The Secretary of Education shall implement the amendments made by section 122 of this Act to section 101 of the Rehabilitation Act of 1973 (29 U.S.C. 721), as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973, but not later than October 1, 1993.

TITLE II—RESEARCH

SEC. 201. DECLARATION OF PURPOSE.

Section 200 (29 U.S.C. 760) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the long-range plan for research developed under section 202(g);

"(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

"(A) the procurement process for the purchase of rehabilitation technology;

"(B) the utilization of rehabilitation technology on a national basis; and

"(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently;

"(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

"(A) generated by research, demonstration projects, training, and related activities; and

"(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties;

"(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in productive work; and

"(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1)—

(A) by striking "other than expenses to carry out section 204" and inserting "which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204"; and

(B) by striking "fiscal year 1987" and all that follows through the semicolon and inserting "each of fiscal years 1993 through 1997;"; and

(2) by striking paragraph (2) and inserting the following:

"(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 203. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

(a) ESTABLISHMENT.—Section 202(a) (29 U.S.C. 761a(a)) is amended—

(1) in the first sentence—

(A) by striking "In order" and all that follows through "there" and inserting "(1) There"; and

(B) by striking the period at the end and inserting the following: ", in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204;

"(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities."; and

(2) by striking the second sentence and inserting the following:

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).".

(b) RESPONSIBILITIES.—Section 202(b) (29 U.S.C. 761a(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals;";

(2) by striking paragraph (4) and inserting the following:

"(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

"(A) public and private entities, including—

"(i) elementary and secondary schools (as defined in paragraphs (8) and (21), respectively, of section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891 (8) and (21)); and

"(ii) institutions of higher education;

"(B) rehabilitation practitioners;

"(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

"(D) the parents, family members, guardians, advocates, or authorized representatives of the individuals;";

(3) by striking paragraph (6) and inserting the following:

"(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(4) in paragraph (7), by striking "; and" and inserting ", including dissemination activities;";

(5) in paragraph (8)—

(A) by inserting "the Health Care Financing Administration," after "the Bureau of the Census,";

(B) by inserting "widely" before "disseminating";

(C) by striking "and others to assist in the planning and evaluation" and inserting ", individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and others to assist in the planning, assessment, and evaluation"; and

(D) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following paragraphs:

"(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

"(10) conducting research to examine the relationship between the provision of specific services and long-term vocational outcomes; and

"(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).".

(c) DIRECTOR.—

(1) IN GENERAL.—Section 202(c)(1) (29 U.S.C. 761a(c)(1)) is amended—

(A) in the first sentence, by striking "appointed by the President, by and with the advice and consent of the Senate." and inserting "appointed by the Secretary, except that the person serving as the Director on the date of the enactment of the Rehabilitation Act Amendments of 1992 may, at the pleasure of the President, continue to serve as Director."; and

(B) by striking the fourth sentence.

(2) QUALIFICATIONS.—Section 202(c)(2) (29 U.S.C. 761a(c)(2)) is amended—

(A) by inserting after the first sentence the following: "The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration.";

(B) in the sentence beginning "The Deputy Director shall be compensated"—

(i) by striking "the rate provided for grade GS–17 of the General Schedule under section 5332" and inserting "the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382"; and

(ii) by striking "or disability of the Director" and inserting "of the Director or the inability of the Director to perform the essential functions of the job"; and

(C) by striking the last sentence.

(d) FELLOWSHIPS.—Section 202(d) (29 U.S.C. 761a(d)) is amended by inserting ", including individuals with disabilities," after "fellows".

(e) SCIENTIFIC REVIEW.—Section 202(e) (29 U.S.C. 761a(e)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking "rehabilitation field." and inserting the following: "rehabilitation field (including experts in the independent living field) competent to review research grants and programs, including knowledgeable individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. The Director shall solicit nominations for such peer review groups from the public and shall publish the names of the individuals selected. Individuals comprising each peer review group shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review."; and

(3) by adding at the end the following:

"(2) In providing for such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities, and from the parents, family members, guardians, advocates, or authorized representatives of the individuals.".

(f) USE OF FUNDS.—Section 202 (29 U.S.C. 761a) is amended by striking subsection (f) and inserting the following:

"(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.".

(g) LONG-RANGE PLAN.—Section 202(g) (29 U.S.C. 761a(g)) is amended—

(1) in the matter preceding paragraph (1), by striking "within eighteen months after the effective date of this section";

(2) in paragraph (1), by striking "problems encountered" and all that follows and inserting "full inclusion and integration into society of individuals with disabilities, especially in the area of employment;";

(3) by striking "and" at the end of paragraph (2);

(4) by striking the period at the end of paragraph (3) and inserting "; and"; and

(5) by adding at the end the following new paragraphs:

"(4) be developed in consultation with the Rehabilitation Research Advisory Council established under section 205 and after full consideration of the input of individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, organizations representing individuals with disabilities, providers of services furnished under this Act, and researchers in the rehabilitation field;

"(5) specify plans for widespread dissemination of research results in accessible formats to rehabilitation practitioners, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals;

"(6) specify plans for widespread dissemination of research results that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs under this Act;

"(7) be developed by the Director—

"(A) in coordination with the Commissioner; and

"(B) in consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), the Interagency Committee on Disability Research established under section

203, individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and any other persons or entities the Director considers appropriate; and

"(8) be revised, in the manner required by this section—

"(A) at least once every 5 years; and

"(B) at any time determined to be necessary by the Director.".

(h) RESEARCH PROGRAM.—Section 202(i)(2) (29 U.S.C. 761a(i)(2)) is amended by striking "this section" and inserting "this title".

(i) PEDIATRIC REHABILITATION RESEARCH.—Section 202(j) (29 U.S.C. 761a(j)) is amended—

(1) in paragraph (1), by striking "for the establishment of" and inserting "to support"; and

(2) in paragraphs (2) and (3), by striking "establish" and inserting "support".

(j) REHABILITATION RESEARCHERS.—Section 202(k) (29 U.S.C. 761a(k)) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act.".

(k) RECOMMENDATIONS AND STUDY.—Section 202 (29 U.S.C. 761a) is amended by striking subsections (l) and (m).

SEC. 204. INTERAGENCY COMMITTEE.

(a) ESTABLISHMENT.—Section 203(a)(1) (29 U.S.C. 761b(a)(1)) is amended by inserting "the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services," after "designees): the Director,".

(b) IDENTIFICATION, ASSESSMENT, AND COORDINATION.—Section 203(b) (29 U.S.C. 761b(b)) is amended by striking "The" and inserting "After receiving input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, the".

(c) REPORT.—Section 203(c) (29 U.S.C. 761b(c)) is amended by striking ", not later than" and all that follows through "shall" and inserting "shall annually".

SEC. 205. RESEARCH.

(a) IN GENERAL.—Section 204(a) (29 U.S.C. 762(a)) is amended—

(1) in the first sentence, by striking "demonstrations," and all that follows and inserting "demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under this Act. In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, VI, VII, and VIII."; and

(2) in the last sentence—

(A) by inserting after "Such projects" the following: ", as described in the State plans submitted by State agencies,";

(B) by striking "special problems of homebound and institutionalized individuals" and inserting "studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized"; and

(C) by striking the period at the end and inserting the following: ", particularly individuals with disabilities, and individuals with the most severe disabilities, who are members of populations that are unserved or underserved by programs under this Act.".

(b) RESEARCH ACTIVITIES.—Section 204(b) (29 U.S.C. 762(b)) is amended—

(1) by redesignating paragraphs (4) through (15) as paragraphs (5) through (16), respectively;

(2) by striking the matter preceding paragraph (1) and all that follows through paragraph (3) and inserting the following:

"(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the specialized research or demonstration activities described in paragraphs (2) through (16).

"(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

"(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

"(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(B) The Centers shall conduct research and training activities by—

"(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

"(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, through conferences, workshops, public education programs, in-service training programs, and similar activities.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

"(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation related courses of study for credit; and

"(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

"(K) To be eligible to receive a grant under this paragraph, each such institution or provider shall—

"(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

"(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(N) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

"(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

"(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

"(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

"(ii) demonstrating and disseminating—

"(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

"(II) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or

"(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

"(I) consumer responsive and individual and family centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

"(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with severe disabilities.

"(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with programs established under the Technology-Related Assistance to Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

"(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

"(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

"(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

"(I) Early childhood services, including early intervention and family support.

"(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

"(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

"(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

"(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the parents, family members, guardians, advocates, or authorized representatives of users of rehabilitation technology.

"(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(G) Each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

"(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

"(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

"(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and organizations receiving financial assistance under this paragraph;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.";

(3) in paragraphs (5) through (16) (as so redesignated by paragraph (1) of this subsection), by striking "Conduct of" the first place in each such paragraph that the term appears and inserting "Research grants may be used to conduct";

(4) in paragraph (9) (as so redesignated by paragraph (1) of this subsection), to read as follows:

"(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.";

(5) in paragraph (12)(A) (as so redesignated by paragraph (1) of this subsection), by inserting "assessment," after "early intervention,"; and

(6) in paragraph (13) (as so redesignated by paragraph (1) of this subsection)—

(A) in the matter preceding subparagraph (A), by striking "developing the employment potential" and inserting "addressing the employment needs"; and

(B) in subparagraph (B), by striking "potential" and inserting "needs".

SEC. 206. REHABILITATION RESEARCH ADVISORY COUNCIL.

(a) COUNCIL.—Title II (29 U.S.C. 760 et seq.) is amended by adding at the end the following new section:

"REHABILITATION RESEARCH ADVISORY COUNCIL

"SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the long-range plan required by section 202(g).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. At least one-half of the members shall be individuals with disabilities or parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive

full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) PAYMENT AND EXPENSES.—

"(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by inserting after the item relating to section 204 the following:

"Sec. 205. Rehabilitation Research Advisory Council.".

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

SEC. 301. DECLARATION OF PURPOSE; ORGANIZATION.

(a) PURPOSE.—Section 300 (29 U.S.C. 770) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (4), (3), (2), and (5), respectively;

(2) by inserting paragraphs (2) and (3) (as so redesignated by paragraph (1) of this subsection), respectively, before paragraph (4) (as so redesignated by paragraph (1) of this subsection);

(3) by inserting before paragraph (2) the following:

"(1) authorize grants and contracts to—

"(A) ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

"(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

"(C) provide training and information to individuals with disabilities, the parents, families, guardians, advocates, and authorized representatives of the individuals, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;";

(4) in paragraph (2) (as so redesignated by paragraph (1)) by striking "and" at the end;

(5) in paragraph (3) (as so redesignated by paragraph (1)) by striking "training" and inserting "rehabilitation"; and

(6) in paragraph (4) (as so redesignated by paragraph (1)) by striking "construction" and all that follows and inserting "development and improvement of community rehabilitation programs; and".

(b) ORGANIZATION.—Title III (29 U.S.C. 770 et seq.) is amended—

(1) by striking the headings for the title and part A of the title and inserting the following:

"TITLE III—TRAINING AND
DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY
REHABILITATION PROGRAMS";

(2) by striking section 301 (29 U.S.C. 771);

(3) by redesignating sections 300, 302, 303, and 304 (29 U.S.C. 770, 772, 773, and 774) as sections 301, 303, 304, and 302, respectively; and

(4) by inserting section 302 (as so redesignated by paragraph (3) of this subsection) after section 301.

(c) CONFORMING AMENDMENTS.—The table of contents relating to title III is amended to read as follows:

"TITLE III—TRAINING AND
DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY
REHABILITATION PROGRAMS

"Sec. 301. Declaration of purpose.
"Sec. 302. Training.
"Sec. 303. Vocational rehabilitation services for individuals with disabilities.
"Sec. 304. Loan guarantees for community rehabilitation programs.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 314. Reader services for individuals who are blind.
"Sec. 315. Interpreter services for individuals who are deaf.
"Sec. 316. Special recreational programs.".

SEC. 302. TRAINING.

(a) TRAINING GRANTS AND CONTRACTS.—

(1) CERTAIN PROJECTS.—Section 302(a) (29 U.S.C. 774(a)) (as so redesignated by section 301(b)(3)) is amended in the first sentence—

(A) in the matter preceding paragraph (1)—

(i) by inserting after "traineeships, and related activities" the following: ", including the provision of technical assistance,"; and

(ii) by inserting ", and other services provided under this Act," after "rehabilitation services";

(B) in paragraph (1), by striking "specially" and inserting "specifically";

(C) in paragraph (2), by inserting before the comma at the end the following: ", including needs for rehabilitation technology services";

(D) in paragraph (3)—

(i) by striking "comprehensive services for independent living" and inserting "independent living services"; and

(ii) by striking "and" at the end;

(E) by redesignating paragraph (4) as paragraph (5); and

(F) by inserting after paragraph (3) the following: "(4) personnel specifically trained to deliver services, through supported employment programs, to individuals with the most severe disabilities, and";

(2) CERTAIN REQUIREMENTS; APPLICATION FOR ASSISTANCE.—Section 302(a) (29 U.S.C. 774(a)), as amended by paragraph (1), is amended—

(A) by striking the second and third sentences;

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(C) by inserting "(1)" after the subsection designation; and

(D) by adding at the end the following paragraphs:

"(2) Grants and contracts under paragraph (1) may be expended for scholarships, with necessary stipends and allowances.

"(3) In carrying out this subsection, the Commissioner shall furnish training regarding the services provided under this Act, and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of section 504 of this Act, title I of the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act that are related to work incentives for individuals with disabilities.

"(4) The Commissioner, in carrying out this subsection, shall make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

"(5) No grant shall be awarded under this section unless the applicant has submitted an application to the Commissioner in such form, and in accordance with such procedures, as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train persons so as to reflect the diverse populations of the United States, as part of the effort to increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide rehabilitation services.".

(b) PROJECTS.—Section 302(b) (29 U.S.C. 774(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

"(B) Projects described in subsection (a) may include—

"(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

"(ii) projects to train personnel to provide—

"(I) services to individuals with specific disabilities or specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

"(II) job development and job placement services to individuals with disabilities;

"(III) supported employment services, including services of employment specialists for individuals with disabilities;

"(IV) specialized services for individuals with severe disabilities; or

"(V) recreation for individuals with disabilities; and

"(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities."; and

(2) in paragraph (3)(A)—

(A) by inserting ", for any academic year beginning after June 1, 1992," after "who receives a scholarship"; and

(B) by striking clause (i) and inserting the following:

"(i) maintain employment—

"(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

"(II) on a full- or part-time basis; and

"(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this section was received,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and".

(c) TECHNICIAN TRAINING; CAREER ADVANCEMENT AND COMPETENCY-BASED TRAINING.—Section 302 (29 U.S.C. 774) is amended—

(1) by redesignating subsections (d) through (f) as subsections (f) through (h), respectively; and

(2) by inserting after subsection (c) the following subsections:

"(d) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the development of rehabilitation technician programs. Such programs shall be designed to train local employees, who are recruited from or reside in a community historically unserved or underserved by programs providing vocational rehabilitation services under this Act, to be liaisons between the community and vocational rehabilitation counselors. The rehabilitation technician program shall provide a mechanism through which individuals with disabilities residing in remote, isolated settings can successfully access vocational rehabilitation services.

"(e)(1) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the formation of consortia or partnerships of public or nonprofit private entities for the purpose of providing opportunities for career advancement or competency-based training to current employees of public or nonprofit private agencies that provide services to individuals with disabilities. Such opportunities shall include certificate or degree granting programs in vocational rehabilitation services and related services.

"(2) An entity that receives a grant under paragraph (1) may use the grant for purposes including—

"(A) establishing a program with an institution of higher education to develop creative new programs and coursework options, or to expand existing programs, concerning the fields of vocational rehabilitation services and related services, including—

"(i) providing release time for faculty and staff for curriculum development; and

"(ii) paying for instructional costs and start-up and other program development costs;

"(B) establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, and county employees, and volunteers, who—

"(i) have demonstrated a commitment to working in the fields described in clause (i); and

"(ii) are enrolled in a program relating to such a field at an institution of higher education;

"(C) supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in such fields; and

"(D) identifying existing public or private agency and labor union personnel policies and benefit programs that may facilitate the ability of employees to take advantage of higher education opportunities, such as leave time and tuition reimbursement.

"(3) In making grants for projects under paragraph (1), the Commissioner shall ensure that the projects shall be geographically distributed throughout the United States in urban and rural areas.

"(4) The Commissioner shall, for the purpose of providing technical assistance to States or entities receiving grants under paragraph (1), enter into a cooperative agreement through a separate competition with an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of employees to serve individuals with disabilities through the use of consortia or partnerships established for the purpose of retraining the existing work force and providing opportunities for career enhancement.

"(5) The Commissioner may conduct an evaluation of projects funded under this subsection.

"(6) During the period in which an entity is receiving financial assistance under paragraph (1), the entity may not receive financial assistance under paragraph (4).".

(d) OFFICE OF DEAFNESS AND COMMUNICATIVE DISORDERS.—Section 302(f) (29 U.S.C. 774(f)) (as so redesignated by subsection (c)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(ii) by striking "Office of Information and Resources for Individuals With Disabilities" and inserting "Office of Deafness and Communicative Disorders"; and

(iii) by striking "grants under this section" and inserting "grants"; and

(B) by striking the second sentence; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "this section" and inserting "paragraph (1)";

(B) in subparagraph (B), by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(C) in subparagraph (C), by adding "and" after the semicolon at the end;

(D) by striking subparagraph (D); and

(E) by redesignating subparagraph (E) as subparagraph (D).

(e) COMPENSATION OF EXPERTS AND CONSULTANTS.—Section 302(g) (29 U.S.C. 774(g)) (as so redesignated by subsection (c)) is amended—

(1) in paragraph (1), by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2), by striking "the daily rate payable for grade GS-18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382"; and

(3) by adding at the end the following:

"(3)(A) Subject to subparagraph (B), at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used, directly or indirectly, for projects for in-service training of rehabilitation personnel, including projects designed—

"(i) to address recruitment and retention of qualified rehabilitation professionals;

"(ii) to provide for succession planning;

"(iii) to provide for leadership development and capacity building; and

"(iv) for fiscal years 1993 and 1994, to provide training regarding the amendments to this Act made by the Rehabilitation Act Amendments of 1992.

"(B) If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1992 by other recipients of funds under this section, the Commissioner may allocate less than 15 percent of the sums described in subparagraph (A) to designated State agencies for such in-service training.".

(f) RELATIONSHIP TO TRAINING ACTIVITIES.—Section 302 (29 U.S.C. 774) (as amended by subsection (c)) is amended by adding at the end the following:

"(i)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund training activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund the training activities described in section 803.

"(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.".

SEC. 303. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (29 U.S.C. 772(a)) (as so redesignated by section 301(b)(3)) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

(b) ESTABLISHMENT.—Section 303(b) (29 U.S.C. 772(b)) is amended—

(1) in paragraph (1)—

(A) by striking "training services" and inserting "rehabilitation services or employment support services"; and

(B) by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

"(A) For purposes of this section, vocational rehabilitation services shall include—

"(i) training with a view toward career advancement;

"(ii) training (including on-the-job training) in occupational skills; and

"(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

"(I) are related to training described in clause (i) or (ii); and

"(II) are required by the individual to engage in such training."; and

(B) in subparagraph (B)—

(i) by inserting after "(B)" the following new sentence: "Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.";

(ii) in the second sentence (as placed pursuant to clause (i) of this subparagraph), by striking ", and such allowances" and all that follows and inserting a period; and

(iii) in the last sentence—

(I) by striking "training services" and inserting "vocational rehabilitation services"; and

(II) by striking "gainful and suitable" and inserting "competitive"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "gainful and suitable employment" and inserting "competitive employment, or to place or retain such individual in competitive employment";

(B) in subparagraph (B)—

(i) by striking "suitable for and";

(ii) by striking "training" each place the term appears and inserting "vocational rehabilitation"; and

(iii) by striking "rehabilitation facility" and inserting "community rehabilitation program";

(C) in subparagraph (C), by striking "training" and inserting "vocational rehabilitation"; and

(D) in subparagraph (D), by striking "rehabilitation facility and the training" and inserting "community rehabilitation program and the vocational rehabilitation".

(c) ADDITIONAL GRANTS.—Section 303 (29 U.S.C. 772) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) The Commissioner is also authorized to make grants, upon applications approved by the designated State agency, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs."; and

(3) in subsection (d)(1) (as so redesignated by paragraph (1))—

(A) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) by striking "such facilities" and inserting "such programs".

(d) CONFORMING AMENDMENT.—The heading of section 303 (29 U.S.C. 772) is amended by striking "TRAINING" and inserting "REHABILITATION".

SEC. 304. LOAN GUARANTEES.

Section 304 (29 U.S.C. 773) (as so redesignated by section 301(b)(3)) is amended—

(1) in the heading for the section, by striking "REHABILITATION FACILITIES" and inserting "COMMUNITY REHABILITATION PROGRAMS";

(2) in subsection (a), by striking "facilities for" and inserting "community rehabilitation"; and

(3) in subsection (b)—

(A) by inserting "under special circumstances and" after "may,"; and

(B) by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

SEC. 305. COMPREHENSIVE REHABILITATION CENTERS.

Section 305 (29 U.S.C. 775) is amended—

(1) in subsection (d)(1), by striking "facility" and inserting "center"; and

(2) in subsection (g), by striking "1987," and all that follows and inserting "1993 through 1997.".

SEC. 306. GENERAL GRANT AND CONTRACT REQUIREMENTS.

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking "section 302" and inserting "section 303";

(2) in subsection (b)(4), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs";

(3) in subsection (f), by striking "rehabilitation facility" and inserting "facility for a community rehabilitation program"; and

(4) in subsection (h), by striking "establishing facilities" and inserting "developing or improving community rehabilitation programs".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.

Section 310 (29 U.S.C. 777) is amended—

(1) by striking "(a)" after "310.";

(2) by striking "and 316" and inserting "312, and 316";

(3) by striking "$15,860,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(4) by striking subsection (b).

SEC. 308. SPECIAL DEMONSTRATION PROGRAMS.

(a) GRANTS.—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and, where appropriate, constructing facilities"; and

(B) by striking "blind or deaf individuals," and all that follows and inserting the following: "individuals who are members of populations that are unserved or underserved by the programs under this Act, individuals who are blind, and individuals who are deaf,";

(2) in paragraph (2), by striking "new careers);" and inserting "new careers and career advancement);";

(3) in paragraph (3), by striking "and, where appropriate, renovating and constructing facilities"; and

(4) by striking the matter after and below paragraph (4).

(b) CERTAIN REQUIREMENTS.—Section 311 (29 U.S.C. 777a) is amended by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively.

(c) SPECIAL PROJECTS AND DEMONSTRATIONS PROVIDING SUPPORTED EMPLOYMENT.—Section 311(c) (29 U.S.C. 777a(d)) (as so redesignated by subsection (b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(ii) by inserting before the period the following: ", including continuation of determinations of the effectiveness of natural supports or other alternatives to providing extended employment services";

(B) in subparagraph (B)—

(i) by striking "and" before "(iii)"; and

(ii) in clause (iii), by striking "community-based rehabilitation facilities" and inserting "community rehabilitation programs"; and

(C) by adding at the end the following subparagraph:

"(C) Not less than two such grants shall serve individuals who either are low-functioning and deaf or low-functioning and hard-of-hearing.";

(2) in paragraph (3)(A), by striking ", 1988, and on each subsequent June 1" and inserting "of each year"; and

(3) in paragraph (4), by striking "$9,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

(d) MODEL STATEWIDE TRANSITIONAL PLANNING SERVICES.—Section 311(d) (29 U.S.C. 777a(e)) (as so redesignated by subsection (b)) is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(3) in paragraph (3)(A) (as redesignated by paragraph (2) of this subsection)—

(A) by striking clause (ii); and

(B) by striking the clause designation; and

(4) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by striking "$450,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(e) RELATIONSHIP TO DEMONSTRATION ACTIVITIES.—Section 311 (29 U.S.C. 777a), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(e)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund demonstration programs, projects, and activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund programs, projects, and activities described in section 802.

"(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.".

SEC. 309. MIGRATORY WORKERS.

(a) COLLABORATION.—The first sentence of section 312 (29 U.S.C. 777b) is amended—

(1) by inserting "(a)" after "312."; and

(2) by inserting "to nonprofit agencies working in collaboration with such State agency," after "section 101,".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 312 (29 U.S.C. 777b) is amended by adding at the end the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section.".

SEC. 310. SPECIAL RECREATIONAL PROGRAMS.

(a) GRANTS.—Section 316(a) (29 U.S.C. 777f(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "part or all" and inserting "the Federal share"; and

(ii) by inserting "employment," before "mobility,"; and

(B) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(2) in paragraph (2), by striking "a minimum of a three-year period." and inserting "a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.";

(3) in paragraph (3), by striking "to be made, and that" and all that follows and inserting "to be made."; and

(4) by adding at the end the following new paragraphs:

"(4) To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project will be made generally available; and

"(B) the means by which the service program will be continued after Federal assistance ends.

"(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) The Commissioner shall, not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1992, develop means to objectively evaluate, and encourage the replication of, activities assisted by this section.

"(7) The Commissioner shall require each recipient of a grant under this section to annually prepare and submit a report on the results of the activities assisted by the grant. The Commissioner shall not make financial assistance avail-

able to a grant recipient for a subsequent year until the Commissioner has received and evaluated such a report from the recipient regarding the current year.

"(8) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of programs funded by this section.

"(9) The Federal share of the costs of the recreation programs shall be 100 percent for the first year of the grant, 75 percent for the second year, and 50 percent for the third year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(b) (29 U.S.C. 777f(b)) is amended by striking "$2,330,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

TITLE IV—NATIONAL COUNCIL ON DISABILITY

SEC. 401. ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.

(a) IN GENERAL.—Section 400(a) (29 U.S.C. 780(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)";

(B) by inserting after the first sentence the following:

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs.";

(C) in the last sentence, by striking "At least five members" and inserting "A majority of the members"; and

(D) by adding at the end the following sentence: "The members of the National Council shall be broadly representative of minority and other individuals and groups."; and

(2) by striking paragraph (2) and inserting the following:

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.".

(b) TERMS.—Section 400(b) (29 U.S.C. 780(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis."; and

(2) by striking paragraph (2) and inserting the following:

"(2)(A) No member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. Members may serve after the expiration of their terms until their successors have taken office.

"(B) As used in this paragraph:

"(i) The term 'full term' means a term of 3 years.

"(ii) The term 'date of initial service' means, with respect to a member, the date on which the member is sworn in.".

SEC. 402. DUTIES OF NATIONAL COUNCIL.

(a) DUTIES.—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;";

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (8), (9), and (10);

(3) by inserting after paragraph (3) the following paragraph:

"(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;";

(4) in paragraph (5) (as so redesignated by paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking "all policies, programs, and activities" and inserting "policies, programs, practices, and procedures";

(B) in subparagraph (B), by inserting "and regulations" after "statutes"; and

(C) in the matter following subparagraph (B), by striking "activities, and statutes" and inserting "practices, procedures, statutes, and regulations";

(5) in paragraph (6) (as so redesignated by paragraph (2) of this subsection), by striking "and activities" and all that follows and inserting "practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(6) by inserting after paragraph (6) (as redesignated by paragraph (2) of this subsection) the following paragraph:

"(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);";

(7) in paragraph (8) (as so redesignated by paragraph (2) of this subsection), to read as follows:

"(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 400(a)(2);";

(8) in paragraph (9) (as so redesignated by paragraph (2) of this subsection), to read as follows:

"(9) not later than March 31 of each year, prepare and submit to the Congress and the President a report containing a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8);";

(9) in paragraph (10) (as redesignated by paragraph (2) of this subsection), by striking the period and inserting "; and"; and

(10) by adding at the end the following:

"(11) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.".

(b) REPORT.—Section 401(b) (29 U.S.C. 781(b)) is amended to read as follows:

"(b)(1) Not later than October 31, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

"(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.".

SEC. 403. COMPENSATION OF NATIONAL COUNCIL MEMBERS.

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "rate of basic pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

SEC. 404. STAFF OF NATIONAL COUNCIL.

Section 403(b)(1) (29 U.S.C. 783(b)(1)) is amended by striking "annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

SEC. 405. ADMINISTRATIVE POWERS OF NATIONAL COUNCIL.

Section 404 (29 U.S.C. 784) is amended by adding at the end the following subsection:

"(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

Section 405 (29 U.S.C. 785) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

TITLE V—RIGHTS AND ADVOCACY

SEC. 501. RIGHTS AND ADVOCACY.

(a) TITLE.—Title V (29 U.S.C. 790 et seq.) is amended by striking the title heading and inserting the following:

"TITLE V—RIGHTS AND ADVOCACY".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to the title heading for title V and inserting the following:

"TITLE V—RIGHTS AND ADVOCACY".

SEC. 502. EFFECT ON EXISTING LAW.

(a) REPEAL.—Title V (29 U.S.C. 790 et seq.) is amended by repealing section 500.

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 500.

SEC. 503. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

(a) ESTABLISHMENT.—Section 501(a) (29 U.S.C. 791(a)) is amended—

(1) in the first sentence, by striking "the Secretary of Veterans Affairs, and" and inserting "the Director of the Office of Personnel Management, the Secretary of Veterans Affairs"; and

(2) by amending the second sentence to read as follows: "Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons of

the Committee or the Director or Chairman shall serve as the sole chairperson of the Committee, as the Director and Chairman jointly determine, from time to time, to be appropriate.".

(b) STANDARDS.—Section 501 (29 U.S.C. 791) is amended by adding at the end the following new subsection:

"(g) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.".

SEC. 504. REFERENCES TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(1) in the matter preceding subparagraph (A) of subsection (a)(1), by striking "the 'Board'" and inserting "the 'Access Board'";

(2) by striking "the Board" each place the term appears and inserting "the Access Board"; and

(3) by striking "The Board" each place the term appears and inserting "The Access Board".

(b) COMPOSITION.—Section 502(a) (29 U.S.C. 792(a)) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least a majority"; and

(B) in subparagraph (B), by inserting after clause (xi) the following:

"(xii) Department of Commerce.";

(2) in paragraph (2)(A)—

(A) in the first sentence—

(i) by inserting "(i)" after "(A)"; and

(ii) by striking "three years" and inserting "4 years, except as provided in clause (ii)";

(B) in the second sentence, by striking "four" and inserting "at least three"; and

(C) by adding at the end the following:

"(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

"(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

"(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

"(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.";

(3) in paragraph (3), by striking "such an" and inserting "a Federal"; and

(4) in paragraph (5)(A), by striking "the daily rate prescribed for GS–18 under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(c) FUNCTION.—Section 502(b) (29 U.S.C. 792(b)) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service), including enforcing all standards under such Act, and ensuring that all waivers and modifications to the standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

"(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

"(9) make to the President and to the Congress such recommendations for legislative and administrative changes as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5); and

"(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities.".

(d) INVESTIGATIONS AND HEARINGS.—Section 502(d) (29 U.S.C. 792(d)) is amended—

(1) in paragraph (1), in the first sentence—

(A) by striking "In carrying out" and all that follows through "shall conduct" and inserting "The Access Board shall conduct"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(e) INTERAGENCY AGREEMENTS.—Section 502(f) (29 U.S.C. 792(f)) is amended—

(1) by striking "(f) The departments" and inserting the following:

"(f)(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

"(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

"(C) The Access Board may arrange to carry out the technical assistance responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

"(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

"(2) The departments"; and

(2) in the second sentence of paragraph (2) (as so designated by paragraph (1) of this subsection)—

(A) by striking "subsection" and inserting "paragraph";

(B) by striking "Secretary" and inserting "Chairperson"; and

(C) by striking "the daily pay rate for a person employed as a GS–18 under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(f) REPORT.—Section 502(g) (29 U.S.C. 792(g)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated by paragraph (1) of this subsection)—

(A) in the second sentence, by striking "clauses (5) and (6) of subsection (b) of this section" and inserting "paragraphs (8) and (9) of such subsection"; and

(B) by striking the third sentence and all that follows; and

(3) by adding at the end the following:

"(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

(g) REPORT CONTAINING ASSESSMENT.—Section 502(h) (29 U.S.C. 792(h)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated by paragraph (2) of this subsection), by striking the second and third sentences; and

(4) by adding at the end the following paragraph:

"(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (5) and (7) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

"(B) The Access Board shall publish regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 502(i) (29 U.S.C. 792(i)) is amended by striking "fiscal years 1987 through 1992" and all that follows and inserting "fiscal years 1993 through 1997.".

SEC. 505. EMPLOYMENT UNDER FEDERAL CONTRACTS.

(a) CONTRACTS.—Section 503(a) (29 U.S.C. 793(a)) is amended—

(1) by striking "$2,500" each place the term appears and inserting "$10,000"; and

(2) in the first sentence, by striking ", in employing persons to carry out such contract,".

(b) WAIVER.—Section 503(c) (29 U.S.C. 793(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.

"(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.".

(c) STANDARDS AND PROCEDURES.—Section 503 (29 U.S.C. 793) is amended by adding at the end the following:

"(d) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201-12204 and 12210), as such sections relate to employment.

"(e) The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.".

SEC. 506. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.

Section 504 (29 U.S.C. 794) is amended by adding at the end the following new subsection:

"(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.".

SEC. 507. SECRETARIAL RESPONSIBILITIES.

(a) ACCESS.—Subsections (a) and (c) of section 506 (29 U.S.C. 794b) are amended by inserting "Access" before "Board" each place the term appears.

(b) COMMUNITY REHABILITATION PROGRAMS.—Section 506(a)(1) (29 U.S.C. 794b(a)(1)) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(c) COMPENSATION.—Section 506(b) (29 U.S.C. 794b(b)) is amended by striking "the rate of basic pay payable for grade GS–18 of the General Schedule, under section 5332" and inserting "the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(d) CONFORMING AMENDMENT.—Section 506(c) (29 U.S.C. 794b(c)) is amended by striking "502(h)(2)" and inserting "502(h)(1)".

SEC. 508. INTERAGENCY DISABILITY COORDINATING COUNCIL.

(a) IN GENERAL.—Section 507 (29 U.S.C. 794c) is amended to read as follows:

"SEC. 507. INTERAGENCY DISABILITY COORDINATING COUNCIL.

"(a) ESTABLISHMENT.—There is hereby established an Interagency Disability Coordinating Council (hereafter in this section referred to as the 'Council') composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and such other officials as may be designated by the President.

"(b) DUTIES.—The Council shall—

"(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder;

"(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal Government responsible for promoting the full integration into society, independence, and productivity of individuals with disabilities; and

"(3) carry out such studies and other activities, subject to the availability of resources, with advice from the National Council on Disability, in order to identify methods for overcoming barriers to integration into society, independence, and productivity of individuals with disabilities.

"(c) REPORT.—On or before July 1 of each year, the Interagency Disability Coordinating Council shall prepare and submit to the President and to the Congress a report of the activities of the Council designed to promote and meet the employment needs of individuals with disabilities, together with such recommendations for legislative and administrative changes as the Council concludes are desirable to further promote this section, along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with disabilities. Nothing in this section shall impair any responsibilities assigned by any Executive order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the item relating to section 507 and inserting the following item:

"Sec. 507. Interagency Disability Coordinating Council.".

SEC. 509. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

(a) GUIDELINES.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

"(a) GUIDELINES.—The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce information and data, and have access to information and data, comparable to the information and data, and access, respectively, of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

"(b) COMPLIANCE.—Each Federal agency shall comply with the guidelines established under this section.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 508 and inserting the following:

"Sec. 508. Electronic and information technology accessibility guidelines.".

SEC. 510. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

(a) IN GENERAL.—Title V (29 U.S.C. 790 et seq.) is amended by adding at the end the following new section:

"SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

"(a) PURPOSE.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

"(1) are ineligible for client assistance programs under section 112; and

"(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

"(b) APPROPRIATIONS LESS THAN $5,500,000.—

"(1) ALLOTMENTS.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

"(1) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

"(2) ALLOTMENTS.—For any such fiscal year, after the reservation required by paragraph (1) has been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for such individuals.

"(3) SYSTEMS WITHIN STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

"(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted not less than $50,000 for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(5) ADJUSTMENT FOR INFLATION.—

"(A) STATES.—For purposes of determining the minimum amount of an allotment under paragraph (3)(B), the amount $100,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(B) CERTAIN TERRITORIES.—For purposes of determining the minimum amount of an allotment under paragraph (4)(B), the amount $50,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(d) PROPORTIONAL REDUCTION.—Amounts necessary to provide allotments to systems within States in accordance with subsection (c)(3)(B) as increased under subsection (c)(5), or to provide allotments in accordance with subsection (c)(4)(B) as increased in accordance with subsection (c)(5), shall be derived by proportionately reducing the allotments of the remaining systems within States under subsection (c)(3), but with such adjustments as may be necessary to prevent the allotment of any such remaining systems within States from being thereby reduced to less than the greater of $100,000 or one-third of one percent of the sums made available for purposes of this section for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(5).

"(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

"(f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

"(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

"(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

"(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) or client assistance programs under section 112;

"(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State;

"(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

"(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

"(g) CARRYOVER AND DIRECT PAYMENT.—

"(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State involved under this section, unless the State provides otherwise.

"(2) CARRYOVER.—Any amount paid to a State for a fiscal year that remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year for the purposes for which such amount was paid.

"(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(i) ELIGIBILITY FOR ASSISTANCE.—As used in this section, the term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

"(j) ADMINISTRATIVE COST.—An eligible system may not use more than 5 percent of any allotment under subsection (c) for the cost of administration of the system required by this section.

"(k) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

"(l) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 508 the following item:

"Sec. 509. Protection and advocacy of individual rights.".

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Subtitle A—Community Service Employment Pilot Program for Individuals With Disabilities

SEC. 601. PILOT PROGRAM.

(a) DEFINITION.—Section 611(a) (29 U.S.C. 795(a)) is amended by striking "section 7(8)" and inserting "section 7(8)(A)".

(b) PERSONAL ASSISTANCE SERVICES.—Section 611(b)(1)(K) (29 U.S.C. 795(b)(1)(K)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 602. TREATMENT OF PERSONAL ASSISTANCE SERVICES COSTS.

Section 613(c) (29 U.S.C. 795b(c)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 603. DEFINITIONS.

Section 616 (29 U.S.C. 795e) is amended—

(1) by adding "and" at the end of paragraph (1);

(2) by striking "; and" at the end of paragraph (2) and inserting a period; and

(3) by striking paragraph (3).

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 617 (29 U.S.C. 795f) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

Subtitle B—Projects With Industry

SEC. 611. PROJECTS WITH INDUSTRY.

(a) IN GENERAL.—Section 621(a) (29 U.S.C. 795g(a)) is amended to read as follows:

"(a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

"(2) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

"(A) provide for the establishment of business advisory councils, which shall—

"(i) be comprised of—

"(I) representatives of private industry, business concerns, and organized labor; and

"(II) individuals with disabilities and their representatives;

"(ii) identify job and career availability within the community;

"(iii) identify the skills necessary to perform the jobs and careers identified; and

"(iv) prescribe training programs designed to develop appropriate job and career skills for individuals with disabilities;

"(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment and career advancement in the competitive market;

"(C) provide job placement and career advancement services;

"(D) to the extent appropriate, provide for—

"(i) the development and modification of jobs and careers to accommodate the special needs of such individuals;

"(ii) the distribution of rehabilitation technology to such individuals; and

"(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

"(E) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

"(3) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A). In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this Act. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or their representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect information on—

"(A) the numbers and types of individuals with disabilities served;

"(B) the types of services provided;

"(C) the sources of funding;

"(D) the percentage of resources committed to each type of service provided;

"(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

"(F) the extent of capacity building activities, including collaboration with business and industry and other organizations, agencies, and institutions;

"(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

"(H) the number of project participants who were terminated from project placements and the duration of such placements.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities; or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients; and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.".

(b) AGREEMENT.—Section 621(b) (29 U.S.C. 795g(b)) is amended to read as follows:

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.".

(c) EVALUATION.—Section 621(d) (29 U.S.C. 795g(d)) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

"(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

"(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations."; and

(2) by redesignating paragraph (4) as paragraph (3).

(d) ADMINISTRATION.—Subsections (e) through (h) of section 621 (29 U.S.C. 795g) are amended to read as follows:

"(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

"(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2) The Commissioner shall to the extent practicable ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

"(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

"(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

"(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) The term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).".

(e) TECHNICAL AMENDMENT.—Section 621 (29 U.S.C. 795g) is amended by striking subsection (i).

SEC. 612. BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) in the heading for part B, by striking "AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS";

(2) by redesignating section 622 as section 641;

(3) by inserting section 641 (as so redesignated) after section 638; and

(4) by inserting before such section 641 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 641 (as so redesignated by subsection (a)(2) of this section) is amended—

(1) by inserting "(a)" before "The Commissioner"; and

(2) by adding at the end the following:

"(b) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the 1993 through 1997 fiscal years.".

(c) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section—

(1) by striking the item relating to the part heading for part B of title VI and inserting the following:

"PART B—PROJECTS WITH INDUSTRY";

(2) by striking the item relating to section 622; and

(3) by inserting after the item relating to section 638 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES".

"Sec. 641. Business opportunities for individuals with disabilities.".

SEC. 613. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) by redesignating section 623 as section 622; and

(2) in section 622 (29 U.S.C. 795i) (as so redesignated by paragraph (1) of this subsection) by striking "section 621, $16,070,000" and all that follows and inserting "this part, such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by inserting after the item relating to section 621 the following:

"Sec. 622. Authorization of appropriations.".

Subtitle C—Supported Employment Services for Individuals With Severe Disabilities

SEC. 621. SUPPORTED EMPLOYMENT.

(a) PROGRAM.—Title VI is amended by striking part C (29 U.S.C. 795j et seq.) and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"SEC. 631. PURPOSE.

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

"SEC. 632. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

"(A) no State shall receive less than $250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"SEC. 633. AVAILABILITY OF SERVICES.

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, title I, or subsection (c) or (f) of section 311 may not be used to provide extended services to individuals who are eligible under this part or title I.

"SEC. 634. ELIGIBILITY.

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with the most severe disabilities; and

"(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 102(b)(1)(A), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual.

"SEC. 635. STATE PLAN.

"(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) CONTENTS.—Each such plan supplement shall—

"(1) designate each agency that the State designated under section 101(a)(1) as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(5), with respect to the rehabilitation and career needs of individuals with severe disabilities and the need for supported employment services, including needs related to coordination and use of information within the State relating to section 618(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1418(b)(1)(C));

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

"(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) that the comprehensive assessments of individuals with severe disabilities conducted under section 102(b)(1)(A) and funded under title I will include consideration of supported employment as an appropriate rehabilitation objective;

"(C) an individualized written rehabilitation program, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilitation program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized written rehabilitation program;

"(E) services provided under an individualized written rehabilitation program will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided on-site; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

"SEC. 636. RESTRICTION.

"Each State agency designated under section 635(b)(1) shall collect the client information required by section 13 separately for supported employment clients under this part and for supported employment clients under title I.

"SEC. 637. SAVINGS PROVISION.

"(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

"(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

"SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by striking the items relating to part C and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"Sec. 631. Purpose.
"Sec. 632. Allotments.
"Sec. 633. Availability of services.
"Sec. 634. Eligibility.
"Sec. 635. State plan.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.".

TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

SEC. 701. SERVICES AND CENTERS.

The Act is amended—

(1) by striking title VII (29 U.S.C. 796 et seq.); and

(2) by adding at the end the following new title:

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"CHAPTER 1—INDIVIDUALS WITH SEVERE DISABILITIES

"PART A—GENERAL PROVISIONS

"SEC. 701. PURPOSE.

"The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

"(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

"(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

"(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal programs, and programs funded through non-Federal sources.

"SEC. 702. DEFINITIONS.

"As used in this chapter:

"(1) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with disabilities; and

"(B) provides an array of independent living services.

"(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

"SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.

"Services may be provided under this chapter to any individual with a severe disability, as defined in section 7(15)(B).

"SEC. 704. STATE PLAN.

"(a) IN GENERAL.—

"(1) REQUIREMENT.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

"(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) PERIODIC REVIEW AND REVISION.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the provision of State independent living services;

"(B) the development and support of a statewide network of centers for independent living; and

"(C) working relationships between—

"(i) programs providing independent living services and independent living centers; and

"(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

"(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

"(2) provide administrative support services for programs under parts B and C;

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

"(d) OBJECTIVES.—The plan shall—

"(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

"(2) explain how such objectives are consistent with and further the purpose of this chapter.

"(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this chapter to individuals with severe disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

"(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

"(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

"(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

"(i) COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

"(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

"(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

"(j) COORDINATION OF SERVICES.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

"(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

"(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

"(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

"(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with

disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

"(4)(A) maintain records that fully disclose—

"(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

"(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

"(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

"(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

"(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

"(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

"SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within another State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments, within 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State; and

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—The Council shall be composed of members—

"(A) who provide statewide representation;

"(B) who represent a broad range of individuals with disabilities;

"(C) who are knowledgeable about centers for independent living and independent living services; and

"(D) a majority of whom are persons who are—

"(i) individuals with disabilities described in section 7(8)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) DUTIES.—The Council shall—

"(1) jointly develop and submit (in conjunction with the designated State agency) the State plan required in section 704;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(e) PLAN.—

"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section, with funds made available under this chapter and part C of title I and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

"SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

"(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

"(i) to the Secretary shall be deemed to be references to the Commissioner; and

"(ii) to section 101 shall be deemed to be references to section 704.

"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

"(c) ON-SITE COMPLIANCE REVIEWS.—

"(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under part C and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis.

"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

"(C) ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not a government employee; and

"(ii) has experience in the operation of centers for independent living.

"(d) REPORTS.—The Commissioner shall include, in the annual report required under sec-

tion 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

"PART B—INDEPENDENT LIVING SERVICES

"SEC. 711. ALLOTMENTS.

"(a) In General.—

"(1) States.—

"(A) Population basis.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) Maintenance of 1992 amounts.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) Minimums.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

"(2) Certain territories.—

"(A) In general.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) Allotment.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) Adjustment for inflation.—For purposes of determining the minimum amount of an allotment under paragraph (1)(C), the amount $275,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(b) Proportional Reduction.—Subject to subsection (a)(1)(B), amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B), or in accordance with subsection (a)(1)(C) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2)(B), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $275,000 or one-third of one percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) Reallotment.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

"(a) Payments.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) Federal Share.—

"(1) In general.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

"(2) Non-Federal share.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(3) Determination.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"SEC. 713. AUTHORIZED USES OF FUNDS.

"The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

"(1) to provide independent living services to individuals with severe disabilities;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living;

"(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

"(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

"(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

"SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"PART C—CENTERS FOR INDEPENDENT LIVING

"SEC. 721. PROGRAM AUTHORIZATION.

"(a) In General.—From the funds appropriated for fiscal year 1994 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

"(b) Training.—

"(1) Grants; contracts; other arrangements.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of such funds.

"(2) Allocation.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(3) Funding priorities.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(4) Review.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(5) Prohibition on combined funds.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

"(c) In General.—

"(1) States.—

"(A) Population basis.—Except as provided in subparagraphs (B) and (C) and after the reservation required by subsection (b) has been made, from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) Maintenance of 1992 amounts.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) Minimums.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal

year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

"(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

"(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraph (1)(C) by such percentage change in the Consumer Price Index For All Urban Consumers.

"(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"(e) TRANSITION RULES.—

"(1) RESERVATION.—

"(A) FISCAL YEAR 1993.—For fiscal year 1993, the Commissioner shall first reserve from the funds appropriated to carry out this part, not less than 1.8 percent, and not more than 2 percent, of such funds, whichever is greater, for training, technical assistance, and transition assistance, to centers for independent living.

"(B) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

"(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

"(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this part.

"(C) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(D) PROHIBITION ON COMBINED FUNDS.—An entity that receives funds under this paragraph shall comply with subsection (b)(5) with respect to the funds.

"(2) IN GENERAL.—

"(A) GRANTS.—After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this part, the Secretary is authorized to make grants to eligible agencies described in subparagraph (B) to operate centers for independent living.

"(B) AGENCIES.—

"(i) FISCAL YEAR 1992 RECIPIENTS.—Private nonprofit agencies that received funding directly or through subgrants or contracts under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 shall receive assistance under this part for fiscal year 1993 if the agencies submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993 such agencies will meet the standards described in section 725(b) and that contain the assurances described in section 725(c). In determining whether a center meets the standards described in section 725(b), the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

"(ii) OTHER AGENCIES.—Private nonprofit agencies that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 may receive assistance under this part for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B).

"(C) PRIORITY.—The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel and the involvement of individuals with severe disabilities;

"(v) budgets and cost-effectiveness;

"(vi) an evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs,

consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—Beginning on October 1, 1993, the director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B).

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with severe disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

"(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 724. CENTERS OPERATED BY STATE AGENCIES.

"(a) FISCAL YEAR 1993.—

"(1) IN GENERAL.—Notwithstanding section 702(1), if—

"(A) no nonprofit private agency—

"(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(ii) obtains approval of the application under section 722 or 723; and

"(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992,

the State may apply to the Commissioner for assistance under section 721(e)(2) for the conduct, administration, and evaluation of such a center.

"(2) COMPLIANCE.—A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this part, other than the requirement that the center be a private nonprofit agency.

"(b) FISCAL YEAR 1994 AND SUCCEEDING FISCAL YEARS.—A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

"SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access of individuals with severe disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities, including individuals with disabilities who are members of populations that are unserved or underserved by programs under this Act). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with severe disabilities who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with severe disabilities.

"(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services specified in section 7(30)(B).

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with severe disabilities.

"(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with severe disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with severe disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with severe disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with severe disabilities receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with severe disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with severe disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with severe disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

"SEC. 726. DEFINITIONS.

"As used in this part, the term 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

"SEC. 727. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

SEC. 702. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) Centers for Independent Living.—The provisions of part C of chapter 1 of title VII of the Rehabilitation Act of 1973 (as added by section 701 of this Act), shall not apply with respect to fiscal year 1992 for programs receiving assistance under part B of such chapter, as in effect on the day before the date of enactment of this Act. The provisions of such part B shall continue to apply for such programs with respect to fiscal year 1992.

(c) State Plan.—The Secretary of Education shall implement the provisions of section 704 of the Rehabilitation Act of 1973 (as amended by section 701 of this Act), as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), but not later than October 1, 1993.

SEC. 703. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

(a) Services.—Title VII (29 U.S.C. 796 et seq.) is amended by adding at the end the following:

"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

"SEC. 751. DEFINITION.

"For purposes of this chapter, the term 'older individual who is blind' means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

"SEC. 752. PROGRAM OF GRANTS.

"(a) In General.—

"(1) Authority for grants.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

"(2) Designated state unit.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(1)(A)(i).

"(b) Contingent Competitive Grants.—Beginning with fiscal year 1994, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants under subsection (a) shall be discretionary grants made on a competitive basis to States.

"(c) Contingent Formula Grants.—

"(1) In general.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

"(2) Allotments.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

"(d) Services Generally.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

"(1) providing independent living services to older individuals who are blind;

"(2) conducting activities that will improve or expand services for such individuals; and

"(3) conducting activities to help improve public understanding of the problems of such individuals.

"(e) Independent Living Services.—Independent living services for purposes of subsection (d)(1) include—

"(1) services to help correct blindness, such as—

"(A) outreach services;

"(B) visual screening;

"(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(4) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(5) guide services, reader services, and transportation;

"(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

"(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

"(8) other independent living services, as defined in section 7(30).

"(f) Matching Funds.—

"(1) In general.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

"(2) Determination of amount contributed.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) Certain Expenditures of Grants.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

"(h) Requirement Regarding State Plan.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

"(i) Application for Grant.—

"(1) In general.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

"(2) Contents.—An application for a grant under this section shall contain—

"(A) an assurance that the designated State unit described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the designated State unit operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

"(i) the number and types of older individuals who are blind and are receiving services;

"(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

"(iii) the sources and amounts of funding for the operation of each project or program;

"(iv) the amounts and percentages of resources committed to each type of service provided;

"(v) data on actions taken to employ, and advance in employment, qualified individuals with severe disabilities, including older individuals who are blind; and

"(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

"(B) an assurance that the designated State unit will—

"(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

"(ii) engage in—

"(I) capacity-building activities, including collaboration with other agencies and organizations;

"(II) activities to promote community awareness, involvement, and assistance; and

"(III) outreach efforts; and

"(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

"(j) Amount of Formula Grant.—

"(1) In general.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

"(A) the amount determined under paragraph (2); and

"(B) the amount determined under paragraph (3).

"(2) Minimum allotment.—

"(A) States.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

"(i) $225,000; and

"(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

"(B) Certain territories.—In the case of Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) Formula.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

"(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

"(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

"(4) Disposition of certain amounts.—

"(A) Grants.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

"(B) Amounts.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

"(i) the failure of any State to submit an application under subsection (i);

"(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

"(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

"(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

"SEC. 753. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to title VII and inserting the following:

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"CHAPTER 1—INDIVIDUALS WITH SEVERE DISABILITIES

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. Eligibility for receipt of services.
"Sec. 704. State plan.
"Sec. 705. Statewide Independent Living Council.
"Sec. 706. Responsibilities of the Commissioner.

"PART B—INDEPENDENT LIVING SERVICES

"Sec. 711. Allotments.
"Sec. 712. Payments to States from allotments.
"Sec. 713. Authorized uses of funds.
"Sec. 714. Authorization of appropriations.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Program authorization.
"Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 724. Centers operated by State agencies.
"Sec. 725. Standards and assurances for centers for independent living.
"Sec. 726. Definitions.
"Sec. 727. Authorization of appropriations.

"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

"Sec. 751. Definition.
"Sec. 751. Program of grants.
"Sec. 752. Authorization of appropriations.".

TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

SEC. 801. SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS.

(a) IN GENERAL.—The Act (29 U.S.C. 701 et seq.) is amended by adding at the end the following title:

"TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

"SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEMONSTRATION PROJECTS.—There are authorized to be appropriated to carry out section 802, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(b) TRAINING INITIATIVES.—There are authorized to be appropriated to carry out section 803, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"SEC. 802. DEMONSTRATION ACTIVITIES.

"(a) TRANSPORTATION SERVICES GRANTS.—

"(1) GRANTS.—The Commissioner shall make grants to States and to public or nonprofit agencies and organizations for the purpose of providing transportation services to individuals with disabilities who—

"(A)(i) are employed or seeking employment; or

"(ii) are receiving vocational rehabilitation services from public or private organizations; and

"(B) reside in geographic areas in which fixed route public transportation or comparable paratransit service is not available.

"(2) USE OF GRANT.—The Commissioner may make a grant under this subsection only if the applicant involved agrees that transportation services under this subsection will be provided on a regular and continuing basis between—

"(A) the home of the individual; and

"(B) the place of employment of the individual, the place where the individual is seeking employment, or the place where the individual is receiving vocational rehabilitation services.

"(3) CHARGES.—The Commissioner may make a grant under paragraph (1) only if the applicant involved agrees that, in providing transportation services under this subsection—

"(A) a charge for the transportation will be imposed on each employed eligible individual who uses the transportation; and

"(B) the amount of the charge for an instance of use of the transportation for the distance involved will be in a fair and reasonable amount that is consistent with fees for comparable services in comparable geographic areas.

"(4) REPORT.—The Commissioner may make a grant under this subsection only if the applicant involved agrees to prepare and submit to the Commissioner, not later than December 31 of the fiscal year following the fiscal year for which the grant is made, a report containing—

"(A) a description of the goals of the program carried out with the grant;

"(B) a description of the activities and services provided under the program;

"(C) a description of the number of eligible individuals served under the program;

"(D) a description of methods used to ensure that the program serves the eligible individuals most in need of the transportation services provided under the program; and

"(E) such additional information as the Commissioner may require.

"(5) CONSTRUCTION.—Nothing in this subsection may be construed as limiting the rights or responsibilities of any individual under any other provision of this Act, under the Americans with Disabilities Act of 1990, or under any other provision of law.

"(b) PROJECTS TO ACHIEVE HIGH QUALITY PLACEMENTS.—

"(1) SPECIAL PROJECTS AND DEMONSTRATIONS.—The Commissioner shall make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations related to vocational rehabilitation outcomes. Such projects and demonstrations may include activities providing alternatives to case closure practice and identifying and implementing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with the most severe disabilities.

"(2) CERTAIN REQUIREMENTS.—Each recipient of such a grant shall—

"(A) identify, develop, and test exemplary models that can be replicated; and

"(B) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.

"(c) EARLY INTERVENTION DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Commissioner shall make grants to public or nonprofit agencies and organizations to carry out demonstration programs designed to demonstrate the utility of early intervention in furnishing vocational evaluation, training, and counseling services to working adults recently determined to have chronic and progressive diseases that may be severely disabling, such as multiple sclerosis.

"(2) GRANT ACTIVITIES.—In carrying out a demonstration program under paragraph (1), an eligible entity shall conduct a program intended to demonstrate the effectiveness of such early intervention in improving the job retention of the working adults or in facilitating the entry of the working adults to new careers and employment. The demonstration program shall test a number of alternative service systems, including an employer assistance program, a system involving early intervention by State vocational rehabilitation agencies, and a private nonprofit agency joint venture with an employer or State vocational rehabilitation agency.

"(d) TRANSITION DEMONSTRATION PROJECTS.—

"(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(3) EVALUATION.—An agency or organization that receives a grant under this subsection shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

"(e) BARRIERS TO SUCCESSFUL REHABILITATION OUTCOMES FOR MINORITIES.—The Commissioner may award grants to public or nonprofit agencies and organizations—

"(1) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with disabilities from minority backgrounds, and develop and evaluate policy, research, and training strategies for overcoming the barriers;

"(2) to conduct a study to examine the factors that have created significant under-representation of individuals from minority backgrounds in the rehabilitation professions, including such underrepresentation among researchers, and develop and evaluate policy, research, and training strategies for overcoming the underrepresentation; and

"(3) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with neurological or other related disorders, and examine how the hidden or episodic nature of the disability affects eligibility and the provision of services.

"(f) STUDIES, SPECIAL PROJECTS, AND DEMONSTRATION PROJECTS TO STUDY MANAGEMENT AND SERVICE DELIVERY.—

"(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstra-

tion projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(g) DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.—

"(1) GRANTS.—The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

"(2) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the grant only—

"(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

"(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects;

"(3) APPLICATION.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) a description of—

"(i) how the applicant intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

"(ii) how the applicant intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

"(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals to be achieved;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

"(4) AWARD OF GRANTS.—In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration the—

"(A) diversity of strategies used to increase client choice, including selection among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(5) RECORDS.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

"(6) DIRECT SERVICES.—At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

"(7) EVALUATION.—The Commissioner shall conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this subsection for the fiscal year.

"(8) DEFINITIONS.—For the purposes of this subsection:

"(A) DIRECT SERVICES.—The term 'direct services' means vocational rehabilitation services, as described in section 103(a).

"(B) ELIGIBLE CLIENT.—The term 'eligible client' means an individual with a disability, as defined in section 7(8)(A), who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.

"(h) NATIONAL COMMISSION ON REHABILITATION SERVICES.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Subject to the availability of appropriations, there is hereby established a National Commission on Rehabilitation Services (referred to in this section as the 'National Commission') for the purpose of studying the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this Act, and submitting to the President and to Congress recommendations that will further the successful employment outcomes, independence, and integration of individuals with disabilities into the workplace and community.

"(B) COMPOSITION.—

"(i) QUALIFICATIONS.—The National Commission shall consist of 15 members who are recognized by knowledge, experience, and education as experts in the field of rehabilitation. At least a majority of the members of the National Commission shall be individuals with disabilities representing a cross-section of individuals with different types of disabilities.

"(ii) APPOINTMENT.—Members of the National Commission shall be appointed as follows:

"(I) PRESIDENTIAL APPOINTEES.—Five members shall be appointed by the President, or, if the President delegates the authority to make the appointment, by the Secretary of Education.

"(II) SENATE APPOINTEES.—Five members shall be appointed by the president pro tempore of the Senate, with the advice and approval of the Majority Leader and Minority Leader of the Senate.

"(III) HOUSE OF REPRESENTATIVES APPOINTEES.—Five members shall be appointed by the Speaker of the House of Representatives with the advice and approval of the Majority Leader and Minority Leader of the House of Representatives.

"(C) TERM.—Members shall be appointed for the life of the National Commission.

"(D) VACANCIES.—Any vacancy in the National Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(E) CHAIRPERSON.—The National Commission shall select a Chairperson from among its members.

"(F) MEETINGS.—The National Commission shall meet at the call of the Chairperson, but not less often than four times each year.

"(G) QUORUM.—Ten members of the National Commission shall constitute a quorum.

"(H) COMMITTEES.—The Chairperson, upon approval by the National Commission, may establish such committees as the Chairperson determines to be necessary to fulfill the duties of the National Commission.

"(2) DUTIES.—

"(A) STUDIES AND ANALYSES.—The National Commission shall conduct studies and analyses with respect to—

"(i) the effectiveness of vocational rehabilitation and independent living services in enhancing the employment outcomes of individuals with disabilities;

"(ii) the adequacy of research and training activities in fostering innovative approaches that further the employment of individuals with disabilities;

"(iii) the capacity of supported employment and independent living services in promoting the integration of individuals with disabilities into the workplace and community;

"(iv) methods for enhancing access to services authorized under this Act by minorities who are individuals with disabilities and individuals with disabilities who are members of populations that have traditionally been unserved or underserved by programs under this Act that provide such vocational rehabilitation services and independent living services;

"(v) means for enhancing interagency coordination among Federal and State agencies to promote the maximization of employment-related programs, services, and benefits on behalf of individuals with disabilities; and

"(vi) such other issues as the National Commission may identify as relevant to promoting the employment, independence, and integration of individuals with disabilities.

"(B) POLICY ANALYSES.—The National Commission shall conduct policy analyses to—

"(i) develop options for improving fiscal equity in the allotment of grants under section 110;

"(ii) provide guidance on implementing the order of selection described in section 101(a)(5)(A); and

"(iii) address the shortage of rehabilitation professionals.

"(C) REPORTS.—

"(i) INTERIM REPORT.—Not later than January 30, 1995, the National Commission shall prepare and issue a comprehensive interim report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results of the studies and analyses described in subparagraphs (A) and (B) and specific recommendations for amendments to this Act needed to promote the provision of comprehensive vocational rehabilitation and independent living services on behalf of individuals with disabilities.

"(ii) FINAL REPORT.—Not later than January 30, 1997, the National Commission shall prepare and issue a comprehensive final report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results and recommendations described in clause (i).

"(3) POWERS.—

"(A) HEARINGS.—The National Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the National Commission determines to be necessary to carry out its functions.

"(B) INFORMATION.—

"(i) FEDERAL ENTITIES.—The National Commission may secure directly from any Federal department or agency such information (including statistics) as the National Commission considers necessary to carry out the functions of the National Commission. Upon request of the Chairperson of the National Commission, the head of such department or agency shall furnish such information to the National Commission.

"(ii) OTHER ENTITIES.—The National Commission may secure, directly or by contract or other means, such additional information as the National Commission determines to be necessary from universities, research institutions, foundations, State and local agencies, and other public or private agencies.

"(C) CONSULTATION.—The National Commission is authorized to consult with—

"(i) any organization representing individuals with disabilities;

"(ii) public or private service providers;

"(iii) Federal, State, and local agencies;

"(iv) individual experts;

"(v) institutions of higher education involved in the preparation of vocational rehabilitation services personnel; and

"(vi) such other entities and persons as will aid the National Commission in carrying out its duties.

"(4) COMPENSATION AND TRAVEL EXPENSES.—

"(A) COMPENSATION.—Each member of the National Commission who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the National Commission. Members of the National Commission who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(B) TRAVEL EXPENSES.—Each member of the National Commission may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(5) STAFF.—

"(A) APPOINTMENT.—

"(i) STAFF DIRECTOR.—The Chairperson of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate a staff director of the National Commission. The employment of the staff director shall be subject to confirmation by the National Commission. The staff director shall be appointed from among individuals who are experienced in the planning, administration, or operation of vocational rehabilitation and independent living services or programs.

"(ii) ADDITIONAL PERSONNEL.—The staff director of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate such additional personnel as may be necessary, but not more than ten full-time equivalent positions, to enable the National Commission to carry out its duties.

"(B) COMPENSATION.—The Chairperson of the National Commission may fix the compensation of the staff director, and the staff director may fix the compensation of the additional personnel, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, except that the rate of pay for the staff director and other personnel may not exceed the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

"(6) COOPERATION.—The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the national commission in carrying out its duties. The National Commission may utilize the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement, upon the consent of the heads of such agencies.

"(7) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the National Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(8) TERMINATION.—The National Commission shall terminate not later than 90 days following the submission of the final report as described in paragraph (2)(C)(ii).

"(i) MODEL PERSONAL ASSISTANCE SERVICES SYSTEMS.—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.

"(j) DEMONSTRATION PROJECTS TO UPGRADE WORKER SKILLS.—

"(1) GRANTS.—Consistent with the purposes of section 621, the Commissioner may make grants to partnerships or consortia that include private business concerns or industries to pay for the Federal share of developing and carrying out model demonstration projects for workers with disabilities who need new or upgraded skills to adapt to emerging technologies, work methods, and markets and to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

"(2) PERIOD.—Grants made under this subsection shall be for 3-year periods.

"(3) APPLICATION.—Any partnership or consortia desiring to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) information identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of developing and carrying out the project;

"(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of section 621(a)(2);

"(iii) the partnership or consortium will disseminate information on the model program conducted;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

"(v) the partnership or consortium will prepare and submit an evaluation report containing data specified by the Commissioner at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

"(4) DEFINITION.—For the purposes of this subsection, the term 'workers with disabilities' shall mean individuals with disabilities who are working in competitive employment and who need new or upgraded skills to improve their employment and career advancement opportunities.

"(k) MODEL SYSTEMS REGARDING SEVERE DISABILITIES.—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model systems of comprehensive service delivery to individuals with severe disabilities, other than spinal cord injuries, requiring a multidisciplinary system of providing vocational and other rehabilitation services, where the Commissioner determines that the development of such systems is needed.

"SEC. 803. TRAINING ACTIVITIES.

"(a) DISTANCE LEARNING THROUGH TELECOMMUNICATIONS.—

"(1) GRANTS.—The Commissioner shall award at least three grants to eligible institutions of higher education, to support the formation of regional partnerships with other public or private entities for the purpose of developing and implementing in-service training programs, including certificate or degree granting programs concerning vocational rehabilitation services and related services, for vocational rehabilitation professionals through the use of telecommunications.

"(2) APPLICATIONS.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) a detailed explanation of how the applicant will utilize interactive audio, video, and computer technologies between distant locations to provide in-service training programs to the region;

"(B) a description of how the applicant intends to utilize and build upon existing telecommunications networks within the region to be served;

"(C) a copy of all agreements governing the division of functions within the partnership, including an assurance that all States within the region will be served;

"(D) a copy of a binding commitment entered into between the partnership and each entity that is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, that stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area to be served within a reasonable time and at a charge that is in accordance with State law;

"(E) a description of the curriculum to be provided, frequency of providing service, and sites of service;

"(F) a description of the need to purchase or lease—

"(i) computer hardware and software;

"(ii) audio and video equipment;

"(iii) telecommunications terminal equipment; or

"(iv) interactive video equipment;

"(G) an assurance that the partnership will use not less than 75 percent of the amount of the grant for instructional curriculum development and programming; and

"(H) a description of the means by which the project will be evaluated.

"(3) AWARD OF GRANTS.—In awarding grants under paragraph (1), the Commissioner shall take into consideration the sparsity of State populations in the region to be served.

"(4) DEFINITIONS.—For the purposes of this subsection:

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means any institution of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel.

"(B) INTERACTIVE VIDEO EQUIPMENT.—The term 'interactive video equipment' means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

"(C) REGION.—The term 'region' means one of the ten regions served by the Rehabilitation Services Administration.

"(D) REHABILITATION PROFESSIONALS.—The term 'rehabilitation professionals' means personnel described in section 301(a)(1).

"(b) BRAILLE TRAINING PROJECTS.—

"(1) ESTABLISHMENT.—The Commissioner shall make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of Braille for personnel

providing vocational rehabilitation services or educational services to youth and adults who are blind.

"(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

"(A) development of Braille training materials; and

"(B) in-service or pre-service training in the use of Braille and methods of teaching Braille to youth and adults who are blind.

"(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) PARENT INFORMATION AND TRAINING PROGRAMS.—

"(1) GRANTS.—The Commissioner is authorized to make grants through a separate competition to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals, who live in the area to be served, particularly those who are members of populations that have been unserved or underserved by programs under this Act.

"(2) USE OF GRANTS.—An organization that recieves a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals to—

"(A) better understand vocational rehabilitation and independent living programs and services;

"(B) provide followup support for transition and employment programs;

"(C) communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

"(D) provide support in the development of the individualized written rehabilitation program;

"(E) provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

"(F) understand the provisions of this Act, particularly provisions relating to employment, supported employment, and independent living.

"(3) AWARD OF GRANTS.—The Commissioner shall ensure that grants under this subsection shall—

"(A) be distributed geographically to the greatest extent possible throughout all States; and

"(B) be targeted to individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

"(4) ELIGIBLE ORGANIZATIONS.—In order to receive a grant under this subsection, a private nonprofit organization shall—

"(A) submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization to—

"(i) coordinate and work closely with parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431); and

"(ii) effectively conduct the training and information activities authorized under this subsection;

"(B)(i) be governed by a board of directors—

"(I) that includes professionals in the field of vocational rehabilitation; and

"(II) on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

"(ii)(I) have a membership that represents the interests of individuals with disabilities; and

"(II) establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

"(C) serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(5) CONSULTATION.—Each private nonprofit organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

"(6) COORDINATION.—The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431).

"(7) REVIEW.—

"(A) QUARTERLY REVIEW.—The board of directors or special governing committee of a nonprofit private organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

"(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the nonprofit private organization during the preceding fiscal year.

"(d) TRAINING REGARDING IMPARTIAL HEARING OFFICERS.—The Commissioner may award grants to public or nonprofit agencies and organizations to provide training designed to provide impartial hearing officers with the skills necessary to fairly decide appeals under this Act.

"(e) RECRUITMENT AND RETENTION OF URBAN PERSONNEL.—The Commissioner may award grants to public or nonprofit agencies and organizations to develop and demonstrate innovative methods to attract and retain professionals to serve in urban areas in the rehabilitation of individuals with disabilities, including individuals with severe disabilities.

"(f) CERTAIN REQUIREMENTS.—The requirements of subsections (a) (except the first sentence), (b), and (c), of section 302, and paragraphs (1) and (2) of subsection (g) of such section, shall apply with respect to grants made available under this section, other than subsection (c). The requirements of section 306 shall apply with respect to grants made available under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by adding at the end the following:

"TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

"Sec. 801. Authorization of appropriations.
"Sec. 802. Demonstration activities.
"Sec. 803. Training activities.".

TITLE IX—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

SEC. 901. CONGRESSIONAL FINDINGS.

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

(1) in paragraph (2), by inserting ", the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing," after "1960's"; and

(2) in paragraph (5), by striking "invested approximately $10,000,000" and inserting "made a substantial investment".

SEC. 902. CONTINUED OPERATION OF CENTER.

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) in subsection (a) (as so redesignated by paragraph (2))—

(A) by striking "pursuant to section 313 of the Rehabilitation Act of 1973" and inserting "prior to the date of enactment of this Act"; and

(B) by striking "(c)" and inserting "(b)"; and

(4) in subsection (b) (as so redesignated by paragraph (2))—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following new paragraph:

"(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;".

SEC. 903. AUDIT, MONITORING, AND EVALUATION.

Section 204 of the Helen Keller National Center Act (29 U.S.C. 1903) is amended in subsection (a) by striking "at such time as the Secretary shall prescribe" and inserting "within 15 days following the completion of the audit and acceptance of the audit by the Center".

SEC. 904. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended in subsection (a) by striking "1987 through 1992" and inserting "1993 through 1997".

SEC. 905. DEFINITIONS.

Section 206 of the Helen Keller National Center Act (29 U.S.C. 1905) is amended—

(1) in paragraph (1), by striking "section 313 of the Rehabilitation Act of 1973 and continued under"; and

(2) in paragraph (2), to read as follows:

"(2) the term 'individual who is deaf-blind' means any individual—

"(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

"(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

"(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

"(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and perform-

ance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

"(C) meets such other requirements as the Secretary may prescribe by regulation; and".

SEC. 906. CONSTRUCTION OF ACT, EFFECT ON AGREEMENTS.

Section 207 of the Helen Keller National Center Act (29 U.S.C. 1906) is amended by striking "Industrial Home for the Blind, Incorporated" and inserting "Helen Keller Services for the Blind, Incorporated".

SEC. 907. ESTABLISHMENT OF A PROGRAM.

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

"SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the 'Endowment Fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b) FEDERAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

"(2) AMOUNT OF PAYMENT.—Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

"(c) INVESTMENTS.—

"(1) IN GENERAL.—The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(2) LIMITATIONS.—

"(A) FEDERALLY INSURED INVESTMENTS AND OTHER INVESTMENTS.—The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York.

"(B) REAL ESTATE.—The Endowment Fund corpus and income may not be invested in real estate.

"(C) CONFLICT OF INTEREST.—The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

"(D) ENCUMBRANCES.—The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) IN GENERAL.—For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

"(2) OPERATIONAL AND COMMERCIAL EXPENSES.—

"(A) IN GENERAL.—The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

"(B) LIMITATION.—The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

"(3) LIMITATIONS AND WAIVER OF LIMITATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

"(B) EXCEPTION.—The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by a natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) REPORTING REQUIREMENTS.—

"(1) FINANCIAL RECORDS.—The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

"(2) AUDIT AND REPORT.—

"(A) AUDIT.—The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 204(a) (29 U.S.C. 1903(a)).

"(B) REPORT.—The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

"(3) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

"(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

"(g) DEFINITIONS.—For the purposes of this section:

"(1) ENDOWMENT FUND.—The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

"(2) ENDOWMENT FUND CORPUS.—The term 'Endowment Fund corpus' means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

"(3) ENDOWMENT FUND INCOME.—The term 'Endowment Fund income' means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended.".

SEC. 908. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEAF-BLIND INDIVIDUALS.—Paragraphs (1) through (4) of section 202, and section 203(b)(3) (as so redesignated by paragraphs (2) and (4)(A) of section 902), of the Helen Keller National Center Act (29 U.S.C. 1901 and 1902(b)(3)) are amended by striking "deaf-blind individuals" each place the term appears and inserting "individuals who are deaf-blind".

(b) DEAF-BLIND INDIVIDUAL.—Section 203(b)(1) of such Act (29 U.S.C. 1902(b)(1)) (as so redesignated by section 902(2)) is amended by striking "deaf-blind individual" and inserting "individual who is deaf-blind".

(c) DEAF-BLIND YOUTHS AND ADULTS.—

(1) Sections 202(4), 203(a) (as so redesignated by section 902(2)), and 206(1) of such Act (29 U.S.C. 1901(4), 1902(a), and 1905(1)) are amended by striking "Deaf-Blind Youths and Adults" each place the term appears and inserting "Youths and Adults who are Deaf-Blind".

(2) Section 203 of such Act (29 U.S.C. 1902) is amended in the section heading by striking "DEAF-BLIND YOUTHS AND ADULTS" and inserting "YOUTHS AND ADULTS WHO ARE DEAF-BLIND".

Subtitle B—Other Programs

SEC. 911. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.

(a) WAGNER-O'DAY ACT.—Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "from the Blind and Other Severely Handicapped" and inserting "From People Who Are Blind and Severely Disabled".

(b) SMALL BUSINESS ACT.—Section 15(c)(1)(A) of the Small Business Act (15 U.S.C. 644(c)(1)(A)) is amended by striking " from the Blind and Other Severely Handicapped" and inserting " From People Who Are Blind or Severely Disabled".

SEC. 912. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) TRAINING OR RETRAINING.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communications needs of such individuals.".

(b) NOTICE.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall issue a Notice of Inquiry concerning the definition of the term "serious emotional disturbance" as used in the Individuals with Disabilities Education Act.

(2) PUBLIC COMMENT.—The Secretary of Education shall provide a public comment period of at least 90 days and shall request and consider—

(A) comments from the public on the need to revise the definition of the term in the regulations implementing such Act; and

(B) comments from the public on whether the term as used in such Act should be changed and

on whether the substitution of the term "emotional and behavioral disorders" would be appropriate, or whether some other term should be used.

(3) DEFINITION.—The Notice of Inquiry shall contain the following proposed definition for use in the regulations implementing such Act:

"(1) As used in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)):

"(A) The term 'serious emotional disturbance' means a disability that is—

"(i) characterized by behavioral or emotional response in school programs so different from appropriate age, cultural, or ethnic norms that the responses adversely affect educational performance, including academic, social, vocational or personal skills;

"(ii) more than a temporary, expected response to stressful events in the environment;

"(iii) consistently exhibited in two different settings, at least one of which is school-related; and

"(iv) unresponsive to direct intervention applied in general education, or the condition of a child is such that general education interventions would be insufficient.

"(B) The term includes such a disability that co-exists with other disabilities.

"(C) The term includes a schizophrenic disorder, affective disorder, anxiety disorder, or other sustained disorder of conduct or adjustment, affecting a child, if the disorder affects educational performance as described in paragraph (1).

"(2) The term 'seriously emotionally disturbed' means, with respect to a child, that the child has a serious emotional disturbance.".

(4) REPORT.—The Secretary shall, within 10 months after the date of enactment of this Act, prepare a report containing a summary of the public comments described in paragraph (2)(B) received as a result of the Notice of Inquiry, and recommendations concerning whether such Act should be amended. The report shall be submitted to the appropriate committees of Congress, including the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, and the Subcommittee on Disability Policy of the Committee on Labor and Human Resources of the Senate.

SEC. 913. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 is amended—

(1) in section 221(a)(1) (29 U.S.C. 2251(a)(1)), by striking "nonprofit or for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,";

(2) in section 222(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,"; and

(3) in section 231(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,".

SEC. 914. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

The Joint Resolution entitled "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (36 U.S.C. 155a) is amended—

(1) by striking "handicapped persons" and inserting "persons with disabilities";

(2) by striking "the handicapped" and inserting "such persons";

(3) by striking "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991," and inserting "for each of the fiscal years 1993, 1994, 1995, 1996, and 1997,"; and

(4) by striking "The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.".

And the Senate agree to the same.

WILLIAM D. FORD,
PAT WILLIAMS,
MAJOR R. OWENS,
DONALD M. PAYNE,
JOSÉ E. SERRANO,
WM. JEFFERSON,
ED PASTOR,
BILL GOODLING,
CASS BALLENGER,
SCOTT KLUG,
RANDY "DUKE" CUNNINGHAM,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
BROCK ADAMS,
ORRIN HATCH,
DAVE DURENBERGER,
JIM JEFFORDS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5482) to extend and improve the Rehabilitation Act of 1973, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

GENERAL PROVISIONS AND VOCATIONAL REHABILITATION SERVICES

1. SHORT TITLE OF P.L. 93-112.

The House bill, but not the Senate amendment, changes the short title of P.L. 93-112 from the Rehabilitation Act of 1973 to the "Vocational Rehabilitation, Employment, and Independent Living Act of 1992."

The House recedes.

2. AMENDATORY REFERENCES

With slightly different wording, both the House bill and the Senate amendment specify that references in this bill shall be considered to be made to the underlying Act.

The House recedes.

3. FINDINGS, PURPOSE, AND POLICY FOR ENTIRE ACT

Both the House bill and the Senate amendment amend the purpose section of the Act. The House amendment specifies findings and purpose; the Senate amendment specifies findings, purpose, and policy.

(a) Findings

(i) The House bill specifies there are 43,000,000 Americans with disabilities and attributes the increase in the number of persons with disabilities to the aging of the population. The Senate amendment specifies that there are millions of Americans with disabilities and the number is increasing.

The House recedes.

(ii) The House bill includes statistics on the number of working age persons with disabilities and the number who are unemployed as an indication that individuals with disabilities constitute one of the most disadvantaged groups in society.

The Senate recedes with an amendment striking language in the House bill adding section 2(a) (2) to the Act and inserting: "individuals with disabilities constitute one of the most disadvantaged groups in society."

(iii) The Senate amendment explains that disability is a natural part of the human experience and in no way diminishes the exercise of basic rights, including the right to live independently and pursue meaningful careers.

The House recedes.

(iv) The House bill includes a finding that the provision of specific services can increase employment of persons with disabilities.

The Senate recedes.

(v) Both the House bill and the Senate amendment include a finding regarding the continued discrimination encountered by individuals with disabilities, but use slightly different language.

The House recedes.

(vi) Both the House bill and the Senate amendment include a finding on the Nation's goals in regard to individuals with disabilities, but use different language.

The House recedes.

(b) Purpose and policy

(i) With different wording, both the House bill and the Senate amendment specify that the purpose of the Act is to maximize employment, economic self-sufficiency, independence, and integration and inclusion of individuals with disabilities. The House amendment uses the term "maximize" and the Senate use the term "empower." Slightly different wording is used to describe the strategies through which these objectives will be achieved.

The House recedes to the Senate with an amendment to section 2(b) of the Act, as added by the Senate bill, striking "achieve" and inserting "maximize employment," before "economic self-sufficiency."

(ii) The House bill specifies additional purposes:

(A) provide comprehensive employment opportunities and eliminate segregation and unemployment;

(B) direct the provision of traditional rehabilitation services to recognize and acknowledge career choices; and

(C) ensure that the federal government plays a leadership role in promoting the employment of individuals with disabilities.

The House recedes on (A) and (B) and the Senate recedes on (C).

(iii) The Senate amendment, but not the House bill, includes a policy statement for the entire Act that specifies that all activities under the Act should be carried out consistent with the principles of

(A) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers based on informed choice;

(B) respect for privacy and equal access (including the use of accessible formats);

(C) inclusion, integration, and full participation;

(D) support and involvement of families and other authorized representatives if an individual with a disability requests, desires, or needs such support; and

(E) support for individual and systemic advocacy and community involvement.

The House recedes.

4. APPOINTMENT OF THE COMMISSIONER OF THE REHABILITATION SERVICES ADMINISTRATION

The House bill, but not the Senate amendment, deletes the provision making the Commissioner of the Rehabilitation Services Administration a Presidential appointee, except that the current Commissioner may continue to serve at the pleasure of the President. Under the House bill, future Commissioners would be appointed by the Secretary.

The House recedes.

5. DEFINITION OF DESIGNATED STATE AGENCY

The Senate amendment, but not the House bill, includes in the definition section the term "designated State agency" and cross references the current description set forth in section 101(a)(1)(A) of the Act.

The House recedes.

6. DEFINITION OF "ESTABLISHMENT OF A REHABILITATION FACILITY"

The Senate amendment, but not the House bill, changes the term "establishment of rehabilitation facilities" to "establishment of community rehabilitation facilities."

The House recedes.

7. EVALUATION OF REHABILITATION POTENTIAL

Both the House bill and the Senate amendment change the term and definition of "evaluation of rehabilitation potential."

(a) The Term

The House bill changes the term to "evaluation of rehabilitation needs"; the Senate amendment changes the term to "assessment for determining eligibility and vocational rehabilitation services."

The House recedes.

(b) The text of the term

The House bill keeps the basic structure of current law and makes the following changes:

(i) The assessment must be used to determine that the individual has a substantial impediment to employment and that vocational rehabilitation services are needed.

(ii) The assessment must be completed within 60 days except under specified circumstances.

(iii) Where appropriate, the assessment must include an assessment of an individual's needs for supported employment to determine whether the individual can attain a successful employment outcome.

(iv) The assessment must include a comprehensive diagnostic study covering a number of specific areas with information collected limited to that which is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program and to the maximum extent possible and appropriate and in accordance with confidentiality requirements, existing information and information obtained from the family should be the primary source of information.

(v) The assessment must include an appraisal of an individual's patterns of work behavior and ability to acquire, among other things, occupational skills with assistive technology devices and services, as appropriate.

(vi) The assessment must include any goods or services provided for the purposes of ascertaining the nature of the disability and whether, with the aid of assistive technology devices and services, it may reasonably be expected that the individual can benefit from vocational rehabilitation services.

(vii) The assessment must include, where appropriate, the provision of rehabilitation engineering services, including assistive technology devices and services.

The Senate amendment completely restructures the provision and makes several changes. The term means, as appropriate in each case:

(i) a review of existing data to determine whether the individual is eligible and to assign the appropriate priority in those States that use an order of selection;

(ii) to the extent additional data is necessary to make such determinations, a preliminary assessment;

(iii) to the extent additional data is necessary, a comprehensive assessment, including the need for supported employment, to determine the individual's goals, objectives, and nature and scope of needed vocational rehabilitation services;

(iv) a description of the components of the comprehensive assessment that are similar to the provisions in the House bill described in the "diagnostic study";

(v) where appropriate, the provision of rehabilitation technology services to assess and develop the capacities of the individual to perform in a work environment;

(vi) a restatement of the extended evaluation provision in current law.

The House recedes to the Senate with an amendment inserting after "comprehensive assessment" in section 7(22)(B)(i) of the Act, as added by the Senate amendment, the following: "is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual;". The amendment also adds to (7)(22)(A) in the appropriate place that existing information should be used to the maximum extent possible and appropriate and in accordance with confidentiality requirements.

8. DRUG

The Senate amendment moves the location of the term without making any substantive changes.

The House recedes.

9. EMPLOYABILITY

(a) The Senate amendment, but not the House bill, changes the term "employability" to "employment outcome."

The House recedes.

(b) The House bill retains the language in current law that "with respect to an individual, a determination that, with the provision of vocational rehabilitation services, the individual is likely to enter or retain, as a primary objective, full-time employment, and when appropriate, part-time employment, consistent with the capabilities or abilities of the individual" and amends the remainder of the current definition by adding that "to the greatest extent practicable, [employment should be] within the competitive integrated labor market or to satisfy the vocational outcome of supported employment." The House bill also adds that "such term includes the establishment of intermediate objectives leading to the support of improved employment outcomes, including the ability to function more independently in a work situation or at home or in the community and the completion of training, including higher and continuing education programs."

The Senate amendment rewrites the definition to read as follows: "with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act."

The House recedes.

10. FEDERAL SHARE (MATCHING)

The House bill continues the "two-tiered" State match provision in current law. The Senate amendment provides for a single State match of 78.7 percent.

The House recedes.

11. DEFINITION OF THE TERM "INDIVIDUAL WITH A DISABILITY"

(a) Individual with a disability in general

The House bill amends the second part of the definition to read "can attain a successful employment outcome pursuant to titles I, III, and VI." The term "successful employment outcome" is a defined term (See note 19). The Senate amendment amends the second part to read "can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to titles I, II, III, VI, and VIII of the Act."

The House recedes.

(b) Individual with a disability, titles IV and V

Except with respect to the use of different cross-references, both the House bill and the Senate amendment update the terminology.

The House recedes.

(c) Individual with a disability, title V

(i) The House bill references a "student with a disability" and "students without a disability"; the Senate amendment refers to a "student who is an individual with a disability" and "students who are not individuals with disabilities."

The House recedes.

(ii) The House bill deletes the term "currently" before the phrase "is engaging in the illegal use of drugs."

The House recedes.

(iii) The Senate amendment, but not the House bill, adds the exclusion set forth in the Americans with Disabilities Act for certain groups for the purposes of sections 501, 503, and 504.

The House recedes.

12. NONPROFIT

The Senate amendment, but not the House bill, changes the reference in the definition of "nonprofit" from "rehabilitation facilities" to "community rehabilitation programs."

The House recedes.

13. PERSONAL ASSISTANCE SERVICES

Both the House bill and the Senate amendment add a definition for "personal assistance services." The definitions generally include the same concepts, but they are worded differently.

The Senate recedes to the House and the House recedes to the Senate with an amendment specifying: "the term 'personal assistance services' means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job."

14. REHABILITATION TECHNOLOGY

(a) The Senate amendment, but not the House bill, changes the term "rehabilitation engineering" to "rehabilitation technology."

The House recedes.

(b) The House bill and the Senate amendment both specify that the defined term includes assistive technology devices and assistive technology services. The Senate amendment also specifies that the term includes rehabilitation engineering.

The House recedes.

15. COMMUNITY REHABILITATION PROGRAM

Both the House bill and the Senate amendment include the same definition of the term "community rehabilitation program" with the minor difference that the House bill includes the phrase "including assistive technology devices and assistive technology services" after rehabilitation technology and the Senate amendment does not.

The House recedes.

16. INDIVIDUAL WITH A SEVERE DISABILITY

(a) In general

(i) The Senate amendment changes the word "employability" to "employment outcome."

The House recedes.

(ii) The Senate amendment replaces the term "evaluation of rehabilitation potential" with a reference to "an assessment for determining eligibility and vocational rehabilitation needs."

The House recedes.

(b) For purposes of title VII

The Senate amendment, but not the House bill, rewords the definition of "individual with a severe disability" for purposes of title VII.

The House recedes.

(c) For purposes of section 13 and title II

The Senate amendment, but not the House bill, includes a definition of "individual with a severe disability" for purposes of section 13 and title II.

The House recedes.

17. DEFINITION OF THE TERM "STATE"

With slightly different wording, both the House bill and the Senate amendment amend the definition of "State".

(a) The House bill, but not the Senate amendment, specifies that the term State includes the several States.

The Senate recedes.

(b) The House bill makes reference to the Northern Mariana Islands. The Senate amendment makes reference to the Republic of the Marshall Islands and the Federated States of Micronesia.

The Senate recedes.

(c) The House bill also specifies that the designated State agency for Samoa shall be the Governor. See note 41 for the comparable provision in the Senate amendment.

The Senate recedes.

(d) The House bill references the Commonwealth of Puerto Rico; the Senate amendment references Puerto Rico.

The Senate recedes.

(e) The House bill specifies that Palau is considered a State "until the Compact of Free Association takes effect" and the Senate bill specifies that Palau is a State "pending ratification of the Compact of Free Association."

The Senate recedes with a technical modification.

18. PUBLIC OR NONPROFIT AGENCY OR ORGANIZATION

The Senate amendment, but not the House bill, makes a technical change to the definition.

The House recedes.

19. SUCCESSFUL EMPLOYMENT OUTCOME

The House bill, but not the Senate amendment, adds a definition for a new term "successful employment outcome." The term means the successful completion of goals in the individualized written rehabilitation program, including the completion of such documentable outcomes as the ability to function more independently within the workplace, at home or in the community, the completion of training, including higher and continuing education programs and a minimum of 60 days of successful employment.

The House recedes.

20. ONGOING SUPPORT SERVICES

(a) The Senate amendment includes "a particularized assessment supplementary to the comprehensive assessment"

The House recedes.

(b) The House bill adds to those who may be contacted as part of followup services advocates and authorized representatives; the Senate does not include advocates and specifies legal representatives rather than authorized representatives.

The Senate recedes to the House and the House recedes to the Senate with an amendment specifying that: "followup services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;".

21. TRANSITION SERVICES

Both the House bill and the Senate amendment include similar definitions of "transition services" with only minor drafting differences.

The Senate recedes.

22. ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES

The Senate amendment uses the same definitions of assistive technology devices and assistive technology services from the Technology Act, while the House bill incorporates the Technology Act definitions by reference.

The Senate recedes with a technical and conforming amendment.

23. IMPARTIAL HEARING OFFICER

The Senate amendment, but not the House bill, adds a definition of "impartial hearing officer."

The House recedes.

24. INDEPENDENT LIVING CORE SERVICES AND INDEPENDENT LIVING SERVICES

The Senate amendment includes definitions for these terms in the general definition section applicable to the entire Act. The House bill includes similar definitions (without using the phrase "core services") but includes the definitions in title VII of the Act. The differences between the House bill and the Senate amendment are set out in the notes under title VII of the Act.

The House recedes to the Senate moving a blended definition to the general definition section.

25. DISABILITY.

The Senate amendment, but not the House bill, includes a definition for the term "disability."

The House recedes.

26. INDIVIDUALS WITH DISABILITIES

The Senate amendment, but not the House bill, adds clarifications of the terms "individuals with disabilities," "individuals with severe disabilities," and "individuals with the most severe disabilities."

The House recedes.

27. SUPPORTED EMPLOYMENT SERVICES

The Senate amendment, but not the House bill, adds a definition of "supported employment services."

The House recedes.

28. TERMINOLOGY

With minor differences, the House bill and the Senate amendment update the terminology used in the Act.

The House recedes with amendments.

29. ALLOTMENT PERCENTAGE

The Senate amendment, but not the House bill, changes the reference to the Trust Territory of the Pacific Islands to the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

The Senate recedes to the House with an amendment deleting "the Republic of the Marshall Islands" and all that follows and inserting "Palau (until the Compact of Free Association takes effect)".

30. AUDIT

The House bill, but not the Senate amendment, adds the phrase "a fiscal audit of" after "pertinent to."

The House recedes.

31. NONDUPLICATION

The Senate amendment, but not the House bill, changes the reference to "rehabilitation facilities" to "community rehabilitation programs."

The House recedes.

32. ADMINISTRATION OF THE ACT

(a) Training.

The House bill, but not the Senate amendment, specifies that the Commissioner may provide short-term training and technical instruction "including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)."

The Senate recedes.

(b) Regulations—selection and procurement of services

Both the House bill and the Senate amendment provide for the promulgation of regulations establishing criteria pertaining to the selection of vocational rehabilitation services and the procurement of such services, with several differences.

(i) The House bill amends section 12 of the Act; the Senate amendment includes a freestanding provision.

The Senate recedes.

(ii) The House bill provides a time period of 120 days from the date of enactment for the receipt of public comment and the promulgation of regulations.

The Senate recedes.

(iii) The House bill provides for the Commissioner to promulgate the regulations, the Senate amendment provides for the Secretary to do so.

The House recedes.

(iv) The House bill provides that the regulations shall pertain to service providers while the Senate amendment pertains to services.

The Senate recedes to the House and the House recedes to the Senate.

(v) The House bill includes:

(A) goods as well as services,

(B) sufficient scope and quality,

(C) reasonableness of costs, reasonableness of length of time provided, timeliness of provision,

(D) prevention of fraud, waste, and abuse,

(E) procedures to assure that services are provided in the most integrated settings,

(F) procedures to assure compliance with State guarantees,

(G) guidelines for the use of out of State and religiously affiliated providers, and

(H) standards to ensure the integrity of services and guidelines for assisting individuals particularly individuals with cognitive disabilities.

The Senate bill includes:

(A) sufficient scope and quality,

(B) reasonableness of costs, and

(C) prevention of fraud, waste, and abuse.

The Senate recedes to the House with amendments, including an amendment requiring the promulgation of regulations establishing the criteria within 120 days and an amendment striking "guidelines for the use of out of State and religiously affiliated providers."

(c) Regulations-order of selection

The Senate amendment, but not the House bill, includes a provision directing the Secretary of Education to promulgate regulations regarding the implementation of the provision in the Act pertaining to the order of selection. This provision is included as a free standing provision.

The House recedes.

33. REPORTS

(a) The Senate amendment, but not the House bill, includes types of rehabilitation technology services provided in the reporting requirements.

The House recedes.

(b) The House bill includes a number of additional reporting requirements not included in the Senate amendment including marital status, household makeup and earnings, disability specifics, and more employment information, number of jobs, hours worked, and earnings in the three years prior to application, types of public support received, primary source of economic support, whether covered by health insurance after receiving services, and supported employment status.

The House recedes with an amendment moving some of the data requirements to the section requiring review of data collection. The Conferees note that many of these data elements must be considered as part of the review of data required by the House bill and the Senate amendment. See Note 75.

34. EVALUATION

(a) The House bill, but not the Senate amendment, provides that the Secretary, not the Commissioner (current law) is responsible for conducting evaluations of programs.

The Senate recedes with an amendment specifying that the Secretary shall conduct the evaluation "in consultation with the Commissioner". The Conferees wish to emphasize that evaluations conducted under this section must be limited to evaluations of programs currently authorized under the Act.

(b) The House bill, but not the Senate amendment, provides that the opinions of participants shall be obtained, that the statewide assessment of rehabilitation needs shall include the active participation of rehabilitation service providers.

The Senate recedes.

(c) The House bill, but not the Senate amendment, directs the Secretary to verify through on-site review of records that the State is following an order of selection.

The House recedes to the Senate with an amendment moving to section 107 (pertaining to monitoring and review) the requirement in the House bill that the Commissioner verify through on-site review of records that the State is following the rules governing order of selection set forth in section 101(a)(5)(A) of the Act.

(d) The House bill, but not the Senate amendment, directs the Secretary to undertake a longitudinal study of a national sample of rehabilitation applicants.

The Senate recedes with an amendment adding "continue to."

35. REVIEW OF APPLICATIONS

(a) The Senate amendment, but not the House bill, increases the cap on review costs from ½ of 1% to 1%.

The House recedes.

(b) The Senate amendment, but not the House bill, specifies the compensation rate for non-Federal reviewers.

The House recedes.

36. CARRYOVER

With slightly different wording, both the House bill and the Senate amendment provide for carryover of funds to the next fiscal year for formula grant programs authorized under the Act.

The House recedes to the Senate with an amendment adding a new subsection (b) to section 19: "(b) Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated."

37. NOTIFICATION REGARDING CLIENT ASSISTANCE PROGRAM

With slightly different wording, both the House bill and the Senate amendment provide that all programs and projects shall provide information on client assistance programs.

The House recedes.

38. TRADITIONALLY UNDERSERVED POPULATIONS

The House bill, but not the Senate amendment, provides that the Commissioner shall develop and implement a policy to prepare minorities for careers in rehabilitation and a plan to provide outreach services to certain entities. For purposes of implementing the plan, the Commissioner shall, for each fiscal year 1993–1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in titles II through VII of the Act. The Commissioner shall submit a report to Congress.

The Senate recedes to the House with an amendment in subsection (b)(2)(C): after "titles II through VII of this Act" insert "except programs authorized under title IV or title V".

39. FINDINGS, PURPOSE, AND POLICY FOR TITLE I OF THE ACT

The House bill amends the statement of purpose for title I in current law by adding the phrase in quotations: The purpose of this title is to authorize grants to assist States to meet the current and future needs of individuals with a disability, so that such individuals may prepare for and engage in gainful employment "as a means to living independently" to the extent of their capabilities.

The Senate amendment strikes the current provision and replaces it with a provision setting forth findings, purpose and policy for title I.

The House recedes.

40. AUTHORIZATION OF APPROPRIATIONS

(a) Basic State Grant.

The House bill authorizes under section 100(b) (1) $1,839,852,000 for fiscal year 1993 and amounts determined by a formula for fiscal years 1994 through 1997; under section 100(b) (2) (as redesignated), such additional sums as may be necessary through fiscal year 1997; under section 100(b) (3) (as redesignated), in no event more than $1,875,512,100 for fiscal year 1993 and an amount determined by formula for the fiscal years 1994–1997.

The Senate amendment authorizes "such sums" for 1993 through 1997 and makes necessary conforming changes.

The House recedes.

(b) Innovation and Expansion.

The House bill deletes the separate authorization for part C pertaining to innovation and expansion grants. The Senate amendment retains the separate authorization of appropriations and extends the provisions to cover fiscal years 1993–1997.

The House recedes.

41. IN GENERAL (STATE PLAN)

(a) The House bill amends section 101(a) of the Act to provide that the State shall include information demonstrating that public hearings have been held on the State plan. Comparable provisions exist in current law (section 101(a)(23)(A)) and amendments thereto in the Senate amendment discussed under note 55.

The House recedes.

(b) The Senate amendment provides for adjustments in the timing for the submission of State plans so that the submission of State plans under other Federal laws can coincide with the State plan required by this title.

The House recedes.

42. STATE AGENCY (STATE PLAN)

The Senate amendment, but not the House bill, provides that the appropriate head of government of the Marshall Islands, Micronesia: and Palau shall be the designated State agency. See note 17(c) for the comparable provision in the House bill.

The Senate recedes.

43. PLANS, POLICIES, METHODS (STATE PLAN)

(a) With slightly different wording, both the House bill and the Senate amendment provide that the State will provide an explanation of how services will be provided to all who are eligible. The House bill also specifies "or else describe the order of selection it will follow."

The House recedes.

(b) The Senate amendment, but not the House bill, provides that the States shall establish criteria for determining who are individuals with the most severe disabilities.

The House recedes.

(c) The House bill, but not the Senate amendment, provides that the State's study of the broad variety of means for providing services to individuals with the most severe disabilities should include the use of funds under part C of title VI to supplement funds under part B of title I for the cost of services leading to supported employment.

The Senate recedes.

(d) The Senate amendment modifies current law by providing that the State plan shall describe how rehabilitation technology services will be provided and the training that will occur. The House bill retains current law, but adds that the State must describe how a broad range of assistive technology devices and services will be provided.

The House recedes with an amendment inserting "a broad range of" before "rehabilitation technology services".

44. FACILITIES COMPLIANCE (STATE PLAN)

The Senate amendment, but not the House bill, provides that facilities must comply with section 504 of the Act and with the Americans with Disabilities Act of 1990.

The House recedes with an amendment changing the title to "Program Compliance".

45. PERSONNEL (STATE PLAN)

(a) With a number of differences, both the House bill and the Senate amendment provide that the State plan must describe a comprehensive system of personnel development.

(i) The House bill requires:

(A) a description of how the State will ensure an adequate supply of personnel,

(B) a description of how the State's personnel training activities will be coordinated with IDEA,

(C) a system of determining the institutions of higher education in the State that are preparing personnel,

(D) a plan to address current and future personnel needs, and recruitment and retention and

(E) a description of plans to ensure that all personnel employed by the State are appropriately and adequately trained and prepared.

The Senate amendment requires a comprehensive system of personnel development for professionals and paraprofessionals employed by the State agency, which system shall include:

(A) a plan to address current and projected personnel needs and to coordinate and facilitate efforts to recruit, prepare, and retain qualified personnel and

(B) a description of procedures and activities the State will undertake to ensure that all personnel needed by the State agency are appropriately and adequately prepared, including training regarding the Rehabilitation Act Amendments, surveys to determine training needs, a system for the continuing education of personnel and procedures for acquiring and disseminating knowledge from research.

The Senate recedes to the House with amendments. First, section 101(a)(7)(A)(ii) is amended by inserting "where appropriate" before the phrase "a description". Second, section 101(a)(7)(E)(ii) is amended by inserting after "research and other sources" the following "including training regarding the amendments to the Rehabilitation Act made by the Rehabilitation Act Amendments of 1992".

(b) With different language, both the House bill and the Senate amendment require policies and procedures to establish and maintain personnel standards.

The House recedes to the Senate with an amendment inserting after the term "personnel" the following: "(including professionals and paraprofessionals)". Section 101(a)(7)(B), as added by the Senate amendment, is amended in (B) by striking "needed by the State agency" and inserting "needed within the State agency"; and in (B)(ii) by adding "within the designated State unit" after "personnel". Section 101(a)(7)(C), as added by the Senate amendment, is amended by adding "within the designated State unit" after "personnel".

46. COMPARABLE BENEFITS AND SERVICES (STATE PLAN)

With drafting differences, both the House bill and the Senate amendment provide that a determination of comparable benefits is not required if a job placement would be lost due to the delay. The Senate amendment, but not the House bill, limits the provision to situations where the job placement is "immediate."

The House recedes.

The Conferees intent that there is nothing in the language of the Rehabilitation Act to require, or even to allow, the application of a comparable services determination with respect to taped texts, and any contrary position or policy is not appropriate. The Committee expects the Rehabilitation Services Administration to reflect that the comparable services and benefits exception applies to alternative format books accessible by computer (sometimes call E-text) as well as to taped books.

47. USE OF EXISTING INFORMATION (STATE PLAN).

The Senate amendment, but not the House bill, adds an assurance that existing information will be used to the maximum extent appropriate and consistent with the requirements of the Act.

The House recedes.

48. STATE REPORTS (STATE PLAN)

The House bill, but not the Senate amendment, provides that State reports to the Commissioner will include certain data including the number of persons evaluated and rehabilitated and other factors, including the costs of administration, counseling, direct services, and facility development.

The Senate recedes to the House with an amendment deleting "facilities" and inserting "community rehabilitation programs.

49. INTERAGENCY COOPERATION

(a) The House bill, but not the Senate amendment, changes the reference to the Perkins Act to the Carl D. Perkins Vocational and Applied Technology Education Act.

The Senate recedes.

(b) The Senate amendment, but not the House bill, adds the Committee on Purchases of Blind-Made Products to the list of programs with whom the State shall provide cooperative arrangements.

The House recedes.

(c) The House bill, but not the Senate amendment, adds to the cooperative arrangements that the arrangements shall include training of staff of other programs regarding rehabilitation services.

The Senate recedes.

(d) The Senate amendment, but not the House bill, provides that means of interagency cooperation include, if appropriate, establishing interagency working groups and entering into formal interagency agreements that identify areas of coordination and identify available resources and define respective financial responsibility.

The House recedes.

50. COMMUNITY REHABILITATION PROGRAMS (STATE PLAN)

The Senate amendment, but not the House bill, changes the reference from rehabilitation facilities to community rehabilitation programs.

The House recedes.

51. STATEWIDE STUDIES (STATE PLAN)

(a) The Senate amendment, but not the House bill, changes the reference to rehabilitation facilities to community rehabilitation programs.

The House recedes.

(b) The House bill, but not the Senate amendment, provides that statewide studies shall include outreach procedures to identify and serve those from minority backgrounds and those who have been unserved and underserved.

The Senate recedes.

52. EXTENDED EMPLOYMENT (STATE PLAN)

(a) The House bill specifies that the review and reevaluation must occur "at least" on an annual basis; the Senate amendment specifies "annual."

(b) The Senate amendment, but not the House bill, specifies that input from the individual or their family should be included in the review and reevaluation of extended employment.

(c) The Senate amendment makes reference to community rehabilitation programs; the House bill adds "within, through, or outside" such programs.

(d) The House bill makes reference to the needs of such individuals for employment or training in the competitive labor market; the Senate amendment makes reference to the "interests, priorities, and needs of such individuals for their employment, or training for competitive employment, in integrated settings in the labor market."

(e) With respect to maximum efforts, the House bill includes the identification of services as well as the provision of vocational services, as well as reasonable accommodations, and other support services to enable such individuals to benefit from training or to be placed in employment in integrated settings. The House bill also includes transition services to promote integration, including supported employment, independent living and community participation.

The Senate amendment includes the provision of vocational rehabilitation services, designed to promote movement from extended employment to integrated employment (including supported employment).

The Senate recedes to the House and the House recedes to the Senate with an amendment blending the two provisions.

53. VIEWS CONSIDERED (STATE PLAN)

Drafted differently, both the House bill and the Senate amendment add the client assistance program director to those whose views should be considered.

The Senate recedes.

54. USE OF STUDIES AND EVALUATIONS (STATE PLAN)

The Senate amendment, but not the House bill, specifies that evaluations and studies must be used to not only amend the State plan (current law) but the strategic plan as well.

The House recedes.

55. FORMULATION OF STATE PLAN

(a) The House bill, but not the Senate amendment, adds that the State plan must include an assurance that the State will consult with the Director of the client assistance program regarding the formulation of policies.

The Senate recedes.

(b) The Senate amendment, but not the House bill, adds that public input must be sought before the development of the State plan.

The House recedes.

56. TRANSITION FROM EDUCATION TO REHABILITATION (STATE PLAN)

With different language, both the House bill and the Senate amendment specify that the State plan must include plans, polices, and methods for the transition of students to vocational rehabilitation.

The House bill requires provisions for determining the lead agency and personnel responsible, the procedures for outreach to and identification of those who need transition services, and a time frame for evaluation and followup should be included.

The Senate amendment includes that there should be a cooperative agreement designed to facilitate the accomplishment of the goals and objectives identified in the individualized education program and to facilitate the transition to vocational rehabilitation.

The House recedes to the Senate with amendments. First, the House strikes "independent living" and inserts "live independently". Second, House amendment adds a new subparagraph (C) to read as follows:

"(C) provide that such plans, policies, and procedures will address—

(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

(ii) procedures for outreach to and identification of youth in need of such services; and

(iii) a timeframe for evaluation and follow-up of youth who have received such services;".

57. ACCEPTABLE PLAN FOR PART C OF TITLE VI (STATE PLAN)

The House bill, but not the Senate amendment, adds that the State plan must include an assurance specifying that funds under part C of title VI will be used to supplement title I funds for supported employment.

The Senate recedes.

58. ADDITIONAL PROVISIONS IN THE STATE PLAN

The House bill, but not the Senate amendment, adds State plan assurances that describe:

(a) how personal assistance services will be provided,

(b) how cooperative agreements are established with private nonprofit vocational rehabilitation service providers,

(c) the needs and use of community rehabilitation programs with regard to the Javits-Wagner O'Day Act,

(d) how clients are given choice and increased control,

(e) how non-special education students with disabilities can access and receive services,

(f) how technology devices and services or worksite assessments are provided during assessment of needs,

(g) how the Advisory Council recommendations are addressed,

(h) how the State responds to consumer satisfaction surveys and,

(i) how at least one job development specialist has been employed to provide specified services.

The Senate amendment, but not the House bill, adds State plan assurances that provide

(j) for coordination with the Statewide Independent Living Council,

(k) the development of a strategic plan to expand and improve services,

(l) a system for evaluating personnel performance that facilitates the goals of the title,

(m) work with disability organizations, business, industry, and labor to expand employment opportunities including providing technical assistance on the amendments and the Americans with Disabilities Act.

The Senate recedes on (a), (b), (c), (d), (e), (f), (h), and (m). The House recedes on (g) and (i), and (j). With respect to (k), the House recedes with an amendment adding the following: "will use at least 1.5 percent of the allotment of the State under part B for the uses described in section 123."

With respect to (l), the House recedes to the Senate. The Senate bill provides that the designated State unit shall describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities. It is the intent of the Conferees that such system may include standards such as the ability to function more independently in a work situation or at home or in the community and the completion of training, including higher and continuing education programs.

59. ASSURANCE IN THE STATE PLAN REGARDING ADVISORY COUNCIL

Both the House bill and the Senate amendment add an assurance regarding the establishment of a State advisory council.

(a) The House bill refers to the council as the "Rehabilitation Consumer and Business Advisory Council. The Senate amendment refers to the Council as the "State Rehabilitation Advisory Council."

The House recedes.

(b) The House bill specifies that the designated State unit must consider advice relating to the State plan under this title, innovation and expansion grant applications and State plan for independent living and any State rules of general applicability. The Senate amendment specifies that the designated State agency and the designated State unit must consider advice regarding the strategic plan.

The House recedes.

(c) The House bill specifies that State must include, among other things, a summary of advice in an annual report. The Senate amendment specifies that this information must be included in the State plan.

The House recedes.

(d) The Senate amendment, but not the House bill, specifies the information that the State must provide to the advisory council.

The House recedes.

(e) With slightly different wording, the House bill and the Senate amendment provide a State that has a consumer-controlled commission need not establish an advisory council.

The House recedes.

60. ELIGIBILITY

(a) The House bill specifies that the individualized written rehabilitation program is developed jointly, agreed upon and signed by the vocational rehabilitation counselor and the individual and, if appropriate, a parent, family member, guardian, advocate, or authorized representative and that a copy of the plan and any amendments be provided to the individual in an accessible format. (The Senate amendment has a comparable provision in section 102(b)(1)(C), as amended).

The House recedes.

(b) With minor drafting differences, the Senate revision of section 102(a) and the House additions to section 102(a) regarding eligibility and presumptions are the same with the following exceptions:

(i) The Senate amendment, but not the House bill, requires extended evaluation in those cases where ineligibility may be found on the basis of severity.

The House recedes.

(ii) The Senate amendment includes a time frame for determinations, the House bill includes a similar provision in the definition of "evaluation of rehabilitation needs," with the difference that the timeframe in the Senate amendment applies to the preliminary evaluation used to determine eligibility and the timeframe in the House amendment applies to the preliminary and comprehensive evaluation used to determine both eligibility and the nature and scope of services required.

The House recedes.

(iii) The Senate amendment, but not the House bill allows for an exception to the timeframe in cases where an extended evaluation is required. The House bill retains the extended evaluation provision in current law.

The House recedes.

(iv) The Senate amendment provides that the determination of eligibility shall be based on a review of existing data and, as necessary, a preliminary assessment.

The House recedes.

(v) The Senate amendment specifies that the State shall insure that ineligibility determinations made prior to the initiation of the individualized written rehabilitation program shall include the reasons, the rights and remedies available, and the availability of the client assistance program (this provision is similar to current law, which is not amended by the House bill).

The House recedes.

61. INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

Both the House bill and the Senate amendment make changes to the requirements of the individualized written rehabilitation plan in section 102(b).

The changes to the Act in the House bill include—

(i) assessment of rehabilitation needs designed to maximize the capacity of the individual to achieve integrated employment leading to living independently,

(ii) assessment of career interests and needs which goals shall, to the maximum extent appropriate, include placement in integrated settings,

(iii) clarifying that rehabilitation engineering services includes assistive technology devices and services,

(iv) clarification that services must be provided, to the maximum extent appropriate, in integrated work settings,

(v) the views and choices of the individual and if appropriate the parent,

(vi) to the maximum extent possible, be provided in the native language, or mode of communication of the individual and if appropriate the parent,

(vii) where appropriate include a statement of the specific on-the job and related personal assistance services,

(viii) where appropriate and desired by the individual, training in managing, supervising and directing personal assistance services,

(ix) identification of other related services and benefits, and

(x) specification of services requested and denied and the reasons for such denial.

The provisions in the Senate amendment include:

(i) timeframe for completing comprehensive assessment (if necessary) after eligibility has been established,

(ii) individualized written rehabilitation program jointly developed, agreed upon, and signed by the individual or parent or other specified individual if appropriate,

(iii) the terms and conditions under which goods and services will be provided,

(iv) the identity of and the process for determining service providers,

(v) the individual's statement about how they were involved in the process of determining the plan, and

(vi) the reasons an individual with an individualized written rehabilitation program has become ineligible and the rights and remedies available to that individual.

Drafted slightly differently, both the House bill and the Senate amendment specify that any revisions or amendments shall be incorporated into or affixed to the individualized written rehabilitation program. The House bill, but not the Senate amendment, specifies that such revisions shall be signed.

The House recedes to the Senate with amendments. First section 102(b)(1)(B)(ii) is amended to read as follows: "(ii) include a statement of the long-range rehabilitation goals based on the assessment for determining eligibility and vocational rehabilitation needs described in section 7(22)(B), including an assessment of career interests, for the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;".

Second, section 102(b)(1)(B)(iv) is amended by adding a new subclause (III) to read as follows: "(III) if appropriate, include a statement of the specific on-the-job and related personal assistance services to be provided to the individual and, if appropriate and desired by the individual, the training in managing, supervising, and directing personal assistance services to be provided to the individual;".

Third, at the end of subparagraph (viii), add "in the most integrated settings."

Fourth, add a new subparagraph (xiv) and a new subparagraph (xv) to read as follows:

"(xiv) to the maximum extent possible, be provided in the native language, or mode of communication, of the individual or, in an appropriate case, of a parent, family member, guardian, advocate, or authorized representative, of such individual;"

"(xv) include information identifying other related services and benefits provided pursuant to any Federal, State, or local program that will enhance the capacity of the individual to achieve the vocational objectives of the individual;".

Finally, amend section 102(b) (2) by adding the following additional sentence: "Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program. Such revisions or amendments shall not take effect until agreed to and signed by the individual with a disability, or, if appropriate, by a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.".

62. REVIEW DETERMINATIONS OF INELIGIBILITY

The Senate amendment, but not the House bill, specifies that the Director of the State program rather than the Commissioner shall review determinations of ineligibility.

The House recedes.

The Senate amendment, but not the House bill, makes a conforming change in section 102(c) (2).

The House recedes.

63. DUE PROCESS PROCEDURES

(a) Continuation of services

With different phrasing, both the House bill and the Senate amendment provide that pending an administrative appeal, the individual must continue to receive services. The Senate bill does not require continuation under certain circumstances such as misrepresentation.

The House recedes with an amendment inserting after "unless the individual with a disability" the following ", in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual".

(b) Qualifications of the hearing officer

The House bill specifies that the impartial hearing officer must be certified as having completed a training program conducted by the State unit in conjunction with the client assistance program. The House bill also specifies other qualifications of the individual. For the comparable provision in the Senate bill see the note on the definition of the term impartial hearing officer.

The House recedes.

(c) Selection of hearing officers

With slightly different wording, the House bill and the Senate amendment specify the procedure for selecting hearing officers.

The House recedes with an amendment inserting the phrase in Note 63(a) after "and the individual with a disability".

(d) Decision of the hearing officer and review by State

The House bill specifies that the decision of the hearing officer shall be final. The Director may not overturn or modify a decision which supports the individual's position unless he or she concludes, based on clear and convincing evidence, that the hearing officer's decision is contrary to Federal or State law. The Senate amendment specifies that the Director may not overturn or modify a decision of a hearing officer that supports the position of the individual unless the Director concludes, based on clear and convincing evidence that the decision is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

The House recedes.

(e) Data

The House bill, but not the Senate amendment, requires that the data required must include how many requests the client assistance program receives annually, how many requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.

The Senate recedes with an amendment moving the provision to section 112 of the Act pertaining to client assistance programs.

64. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) Assessment

The Senate amendment strikes the current section 103(a) (1) of the Act and inserts the following: "an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology." The House bill makes conforming language changes, and specifies that the assessment should be based on relevant existing reports to the maximum extent appropriate, that the individual's self assessment should be considered where appropriate, and that the assessment should include the individual's need for supported employment.

The House recedes.

(b) Miscellaneous services

The Senate amendment moves two phrases from paragraph (2) to paragraph (13): referral and other services designed to help individuals with disabilities secure needed services from other agencies. The House bill, but not the Senate amendment, adds that phrase "work-related" to describe placement services and explains that such services include job search assistance, placement, job retention, and personal assistance services.

The House recedes to the Senate and the Senate recedes to the House.

(c) Additional miscellaneous services

The House bill adds transition services to paragraph (3). The Senate amendment makes technical changes to paragraph (3).

The House recedes.

(d) Conforming changes

The House bill, but not the Senate amendment, makes conforming language changes to paragraph (4).

The Senate recedes.

(e) Maintenance

The Senate amendment, but not the House bill, specifies in paragraph (5) that maintenance is for additional costs incurred while participating in rehabilitation.

The House recedes.

(f) Technology and services for specified groups

The House bill strikes paragraphs (11) and (12) and inserts new language.

The new paragraph (11) replaces the phrase "telecommunications, sensory and other technological aids and devices" with "rehabilitation engineering and assistive technology devices and services, including such products as environmental control units, augmentative communication, computers and computer input devices and telecommunication devices."

The new paragraph (12) replaces "rehabilitation engineering" with the phrase "services for individuals with sensory, mobility and/or cognitive impairments."

The Senate amendment retains paragraph (11) and changes the term in paragraph (12) from "rehabilitation engineering" to "rehabilitation technology."

The House recedes.

(g) Transition services

With different phrasing, both the House bill and the Senate amendment add transition services to the list.

The House recedes.

(h) Personal assistance services

With different phrasing, both the House bill and the Senate amendment add personal assistance services to the list.

The Senate recedes to the House with an amendment inserting after "on-the-job" the following "or other related".

(i) Supported employment services

The Senate amendment, but not the House bill, adds to the list supported employment services.

The House recedes.

(j) Group services

The House bill, but not the Senate amendment, provides that in subsection (b) of section 103, vocational rehabilitation services include those services provided for groups (current law) or "for the employment of an individual in an integrated work setting within the competitive labor market."

The House recedes.

(k) Community rehabilitation programs

The House bill, but not the Senate amendment, adds that under section 103(b), the sums providing community rehabilitation program services shall be used to provide services that promote integration and competitive employment.

The Senate recedes.

(l) Americans With Disabilities Act assistance

The House bill, but not the Senate amendment, adds technical assistance and support services to business on the Americans with Disabilities Act as part of the list of services.

The Senate recedes.

(m) Technical changes

The House bill, but not the Senate amendment, makes technical drafting changes to section 103(b).

The Senate recedes.

65. NON-FEDERAL SHARE FOR CONSTRUCTION

The Senate amendment, but not the House bill, makes conforming changes to Section 104.

The House recedes.

66. EVALUATION

With slightly different wording, both the House bill and the Senate amendment add a new section on evaluation. In addition to some drafting differences, the substantive differences are:

(a) The House bill titles the section "Evaluation Standards," the Senate titles the section "Evaluation Standards and Performance Indicators."

The House recedes.

(b) The Senate amendment, but not the House bill, specifies that the standards are to facilitate and in no way impede the accomplishment of the purposes of this title.

The House recedes.

(c) The Senate amendment, but not the House bill, specifies that the Commissioner shall publish a notice of intent to regulate and the proposed standards and indicators in the Federal Register for public comment.

The House recedes.

(d) The Senate amendment, but not the House bill, specifies that the Commissioner shall provide technical assistance to the State in cases where the State does not meet the standards and indicators.

The House recedes.

67. STATE ADVISORY COUNCIL

(a) Title

The House bill refers to the Council as the "State Rehabilitation Consumer and Business Advisory Council." The Senate amendment refers to the Council as the "State Rehabilitation Advisory Council."

The House recedes.

(b) Independent commissions; separate commissions

With slightly different wording, the House bill and the Senate amendment recognize the exception for States that have an independent commission and the discretion to form two councils in States with a commission for the blind.

The House recedes.

(c) Effective date

The House bill, but not the Senate amendment provides that this provision does not go into effect until one year from the date of enactment of the Rehabilitation Act Amendments of 1992.

The House recedes. Both the House bill and the Senate amendment include a provision authorizing the use of existing councils for one year after the date of enactment of the Rehabilitation Act Amendments of 1992. The Conferees do not intend for this provision to delay in any way the formation and implementation of State Rehabilitation Advisory Councils. This provision is merely designed to avoid unnecessary disruption.

(d) Composition

(i) With slightly different wording, both the House bill and the Senate amendment provide that the membership must include the chair or designee of the Statewide independent living council; a representative from the parent training center, the client assistance program, and community rehabilitation programs; representatives from a cross section of the disability community and current and former applicants for or recipients of vocational rehabilitation services. The Senate amendment, but not the House bill includes in the disability advocacy groups those that represent parents, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty representing themselves.

(ii) The House bill specifies that there shall be four representatives of business, industry, and labor. The Senate amendment specifies that there must be at least one member of business and industry and at least one member from labor.

(iii) The Senate amendment, but not the House bill, specifies that the Council must include a vocational rehabilitation counselor.

The Senate recedes to the House and the House recedes to the Senate with an amendment. The amendment shall include the following subparagraphs from the Senate amendment: (A), (B), (C), (D) as modified to read as follows: "at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency"; (H), and (I). The amendment shall include the following provisions from the House bill: (D) and (E).

(e) Appointment

The Senate amendment, but not the House bill, specifies that the appointing authority must appoint members after soliciting recommendations from a broad range of specified organizations.

The House recedes.

(f) Qualifications

With slightly different wording, both the House bill and the Senate amendment specify that a majority of the council must be individuals with disabilities.

The House recedes.

(g) Chairperson

Both the House bill and the Senate amendment specify that the chairperson should be selected from among the membership. However, the House bill includes an exception in States where the Governor does not have a veto power.

The Senate recedes with an amendment using the Senate language set out in the title pertaining to independent living.

(h) Terms of appointment

The House bill specifies that the Governor shall provide for term limits and staggered terms. The Senate amendment specifies that a member shall serve for not more than 3 years with no member serving more than two consecutive full terms. The Senate amendment also calls for staggered terms.

The House recedes.

(i) Vacancies

The Senate amendment, but not the House bill, specifies the procedure for filling vacancies.

The House recedes.

(j) Meetings

The House bill specifies that the Council shall meet at least 4 times a year and in such places as it deems necessary to conduct business. The meetings must be publicly announced and open and accessible to the general public.

The Senate amendment specifies that in addition to convening at least 4 times to conduct meetings, the Council may conduct forums or hearings as are considered appropriate. The meetings shall be open to the public unless there is a valid reason for an executive session.

The House recedes.

(k) Budget/resources

The House bill specifies that the director of the State agency and the council shall prepare a budget to reimburse members for reasonable expenses, to pay compensation to members under specified circumstances, to hire staff and obtain the services of support staff. The State must reserve an amount not to exceed $200,000. Funds may not be used to defray the expense of members who are employees of State agencies or representatives of business, industry, and labor.

The Senate amendment specifies that the Council shall prepare, in conjunction with the designated State unit, a plan for the provision of resources, including staff and other personnel, relying to the maximum extent possible on existing resources. Disagreements between the Council and the designated State unit regarding the resources necessary shall be resolved by the Governor or appointing agency. The Senate amendment also specifies that the Council will have supervisory responsibility over staff and personnel, consistent with State law and such personnel who work for the designated State unit may not be assigned duties that create a conflict of interest. The Senate amendment also specifies policies governing compensation and expenses of the council.

The House recedes. The Conferees expect that the State Rehabilitation Advisory Council will be fully independent from the State vocational rehabilitation agency even while relying, to the maximum extent possible, on existing resources from the State vocational rehabilitation agency to provide staff and other personnel. The Conferees expect that staff provided by the State vocational rehabilitation agency, when assigned to work for the Council, will work solely on behalf of the Council and will not be assigned duties that create a conflict of interest. The Conferees expect that administrative arrangements made in the State will be consistent with this expectation so that each State Rehabilitation Advisory Council can operate independently.

(l) Functions of the council

(i) The House bill specifies that the Council shall review, analyze, and advise the designated State unit on matters relating to a specified list. The Senate amendment specifies that such function shall be with respect to the performance of the responsibilities of the unit under the title with particular emphasis on a specified list that is comparable to the list in the House bill.

The House recedes.

(ii) With slightly different wording, both the House bill and the Senate amendment specify the function relating to the preparation of applications, plans, and reports.

The House recedes.

(iii) With slightly different wording, both the House bill and the Senate amendment provide for the preparation of a report. The House bill provides that the report should be to the Governor; the Senate amendment provides that the report should be to the Governor or the appropriate State entity.

The House recedes.

(iv) With slightly different wording, both the House bill and the Senate amendment specify that the Council must coordinate with other councils.

The House recedes.

(v) The House bill, but not the Senate amendment includes additional responsibility to coordinate with the statewide independent living council.

The Senate recedes.

(vi) The Senate amendment, but not the House bill, authorizes the Council to perform other functions consistent with the purposes of the title.

The House recedes.

68. SOCIAL SECURITY REIMBURSEMENT PAYMENTS

The House bill specifies that Social Security reimbursement payments may be used to carry out programs under title I, part C of title VI, and title VII. The Senate amendment provides that any State that used, during fiscal year 1992, such payments for allowable expenditures under the Act may continue such use until October 1, 1994.

The Senate recedes.

69. TRAINING OF EMPLOYERS

The House bill, but not the Senate amendment, adds a new section allowing the States to provide a program to train employers regarding the Americans with Disabilities Act. The Senate amendment addresses this in the State plan requirements, by the provision of technical assistance.

The Senate recedes.

70. MONITORING AND REVIEW

With slightly different wording, both the House bill and the Senate amendment add a new section relating to monitoring and review.

The House recedes.

71. STATE ALLOTMENTS

(a) The House bill, but not the Senate amendment, deletes section 110(a)(4) pertaining to the amount of a State's allotment.

The House recedes.

(b) The Senate amendment, but not the House bill, makes a technical change to section 110(a)(3) pertaining to the territories.

The House recedes to the Senate with an amendment striking "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association takes effect)".

(c) The House bill, but not the Senate amendment, deletes section 110(b)(1) pertaining to the amount of a State's allotment.

The House recedes.

(d) The Senate amendment, but not the House bill, provides for funds that will not be used by a State to remain available for reallotment until they are reallotted.

The House recedes.

(e) The House bill, but not the Senate amendment, increases the percentage allotted to carry out part D to not less than ½ of 1% to not more than 1.5%.

The Senate recedes to the House with an amendment specifying that the minimum shall be increased to 1/3 of 1 percent for fiscal years 1993 and 1994 and then increased to 1/2 of 1 percent for fiscal years 1995, 1996, and 1997.

72. PAYMENTS TO STATES

The Senate amendment, but not the House bill, adds a paragraph to specify the level of Federal match for construction projects.

The House recedes.

73. CLIENT ASSISTANCE PROGRAM

(a) Advocacy

With different language, the House bill and the Senate amendment specify that services may include "advocacy." The House adds that the advocacy may be individual and systemic.

The Senate recedes.

(B) AUTHORIZED FUNCTIONS.

(i) The House bill, but not the Senate amendment, provides that the program shall provide information on the available services under the Act and the Americans with Disabilities Act to individuals within the State with disabilities, particularly individuals traditionally underserved by rehabilitation programs.

The Senate recedes to the house with an amendment inserting "title I of" before "the Americans with Disabilities Act".

(ii) The Senate amendment, but not the House bill, provides that the program may provide assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

The House recedes.

(c) Redesignation

With different wording, the House bill and the Senate amendment specify the procedures that must be followed with respect to redesignation of client assistance programs. The Senate amendment, but not the House bill, provides that the agency may appeal to the Commissioner in cases where the Governor's redesignation is not for good cause.

The House recedes to the Senate with an amendment inserting "30 days" before "notice" in section 112(c)(1)(B)(i).

(d) Territories

The Senate amendment, but not the House bill, makes a technical change to section 112(e)(1)(B) and (C) pertaining to the territories.

The Senate recedes to the House with an amendment that is identical to the amendment described in Note 71(b).

(e) Minimum allotments

The House bill, but not the Senate amendment, changes the minimum allotment for the States in section 112(e)(1)(D) from $75,000 to $100,000. The House bill, but not the Senate amendment, adds discretion for the Commissioner to increase the allotment for American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

The Senate recedes with an amendment striking the "Trust territory of the Pacific Islands" and inserting "The Republic of Palau (until the Compact of Free Association takes effect)".

(f) Confidentiality

The House bill, but not the Senate amendment, provides in section 112(g) for the confidentiality of individuals requesting assistance from client assistance programs.

The Senate recedes.

(g) Authorization of Appropriations

The House bill authorizes $9,434,000 for fiscal year 1993, and such sums thereafter. The Senate amendment provides for such sums for fiscal years 1993 through 1997.

The House recedes.

(h) Transfer to title V

The House bill, but not the Senate amendment, transfers section 112 to section 500 of the Act.

The House recedes.

74. INNOVATION AND EXPANSION

(a) State allotments

(i) The House bill, but not the Senate amendment, specifies that from the sums available under section 110(e) each State must use 1.5% of such funds for activities relating to innovation and expansion. The Senate maintains the separate authorization (see note 71(c)).

The House recedes with an amendment. See Note 74(f).

(ii) The House bill specifies that each State's allotment shall be based on its relative population with a minimum of $100,000 or one-quarter of 1 percent, whichever is greater. The Senate amendment uses relative population but includes a $200,000 minimum or one-third of 1 percent and includes a formula for other jurisdictions. The Senate amendment also includes a provision to adjust the minimum upwards based on Consumer Price Index and a provision relating to proportional reductions.

The House recedes.

(iii) With slightly different wording, both the House bill and the Senate amendment specify procedures for reallotment.

The House recedes.

(b) Application

The House bill specifies that any State desiring to receive assistance under part C must prepare and submit an application. The application must describe activities it plans to undertake to achieve long-term success in expanding and improving vocational rehabilitation services, including supported employment.

The Senate amendment specifies that effective October 1, 1993, a State desiring to receive assistance under part C and part B must prepare and submit a statewide strategic plan for the same purposes set out in the House bill. The Senate amendment also specifies the content of the strategic plan.

The House recedes.

(c) Process for developing application/plan

(i) The House amendment specifies that the application shall cover a 3 year period and funds appropriated shall remain available until expended. The application must be reviewed annually to reflect the activities achieved and input from the State Rehabilitation Consumer and Business Advisory Council. The Senate bill specifies that the strategic plan shall cover a three year period and shall be updated on an annual basis to reflect actual experience and input from both the State Rehabilitation Advisory Council and the State Independent Living Council.

The House recedes.

(ii) The House bill provides for public hearings and input from the State Rehabilitation Consumer and Business Advisory Council prior to the development of the application. The Senate bill provides for similar input but also includes the State Independent Living Council.

The House recedes.

(iii) With slightly different wording, the House bill and the Senate amendment specify a procedure for addressing recommendations by Councils that have been rejected.

The House recedes.

(iv) The Senate amendment, but not the House bill, specifies that the strategic plan must be widely disseminated.

The House recedes.

(v) The House bill, but not the Senate amendment, specifies that the State must describe the activities it has undertaken in its State plan. For the comparable provisions in the Senate amendment see the notes on the State plan.

The House recedes.

(vi) The House bill, but not the Senate amendment, specifies that the Commissioner must pay the State its full allotment if it outlines the authorized activities consistent with part C and section 101.

The House recedes.

(d) Use of funds

The House bill specifies that the Commissioner shall pay the State or at the option of the State agency to a public or nonprofit agency or organization funds under this part. The Senate amendment specifies that a State may use funds directly or by grant, contract, or other arrangement.

The House recedes.

(e) Authorized uses

(i) The House bill, but not the Senate amendment, specifies that the State must carry out no less than one of the programs or activities set forth in the legislation.

The House recedes.

(ii) The House bill lists the following programs and activities:

On-the job training to promote the intent of the Americans with Disabilities Act,

Expand opportunities for traditionally unserved populations with specified disabilities,

Programs to maximize the use of rehabilitation technology, including assistive technology devices and services in employment settings,

Assisting employers in the employer's workplace consistent with the Americans with Disabilities Act, including short term technical assistance or other effective strategies,

Expand consumer involvement,

Expand opportunities for career advancement.

The Senate bill lists the following programs and activities:

Improve working relationships between vocational rehabilitation services and independent living services,

Expand opportunities by redesigning existing service options for individuals with the most severe disabilities,

Expand opportunities for classes of individuals who have unusual or complex rehabilitation needs,

Programs to maximize the use of rehabilitation technology,

Improve the service delivery system and working relationships with other agencies and entities through a range of activities,

Improve the evaluation system,

Support the comprehensive system of personnel development,

Support training of consumers, business, industry, and labor regarding the Rehabilitation Act Amendments of 1992, title V of this Act, and the Americans with Disabilities Act,

Support the funding of the State Rehabilitation Advisory Council and the State independent living council.

The Senate recedes to the House and the House recedes to the Senate with an amendment. The amendment incorporates all of the provisions in section 121(b) of the House bill and the authorized uses set out in section 123 of the Senate amendment with the exception of paragraph (2).

(iii) The House bill, but not the Senate amendment, specifies that the Commissioner may require that any portion of a State's allotment be expended in connection with only such projects as have first been approved by the Commissioner.

The House recedes.

(f) Earmarking; authorization of appropriations

The House bill, but not the Senate amendment, specifies that for fiscal year 1993–1997, the Commissioner shall reserve from the amount appropriated under section 100(b) a sum of not less than 1.5 percent to carry out the purposes of part C. The Senate amendment authorizes to be appropriated "such sums" for fiscal years 1993–1997.

The House recedes with an amendment to section 111(a) (1) of the Act specifying that the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under State plan for that State approved under section 101, including expenditures for the administration of the State plan "and development and implementation of the strategic plan as provided in section 101(a)(34)(A). Any State that receives such an amount shall expend, for development and implementation of the strategic plan, not less than the percentage of the allotment referred to in section 101(a)(34)(B)."

75. REVIEW OF DATA COLLECTION SYSTEM

With slightly different wording, both the House bill and the Senate amendment include a new section pertaining to a review of the data collection system.

(a) The House bill requires the Secretary of Education to undertake the review, while the Senate amendment requires the Commissioner of the Rehabilitation Services Administration to do the review.

The House recedes.

(b) The House bill, but not the Senate amendment, requires that within 18 months of enactment the recommendation shall be published in the Federal Register.

The Senate recedes to the House with an amendment. The amendment specifies that the Commissioner must include in the review of the current system for collecting and reporting data, consideration of adding the following data elements (see Note 33(b)): when it can be determined, other program participation during 3 years prior to application, number of jobs, hours worked and earnings in 3 years prior to application; type of major and secondary disability; date of onset of disabling condition; severity of disability; sources of referral; hours worked; size of place of employment and industry code at time of entry into the program and at the termination of service; number and cost of each service provided; types of public support received by the client; primary sources of economic support and amounts of public assistance received before and after receiving services; whether covered by health insurance from any source and whether health insurance is available through client's employment; supported employment status; and reasons for terminating services.

76. EXCHANGE OF DATA

The Senate amendment, but not the House bill, requires a memorandum of understanding between the Secretary of Education and the Secretary of the Department of Health and Human Services regarding the exchange of data of mutual importance of clients of the vocational rehabilitation program.

The House recedes.

77. EFFECTIVE DATE FOR STATE PLAN

The Senate recedes to the House and the House recedes to the Senate adding the following provision relating to effective dates for title I of the Act: "The Secretary of Education shall implement the amendments made by section 112 of this Act to section 101 of the Rehabilitation Act of 1973, as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973, but not later than October 1, 1993."

RESEARCH

1. TITLE

The Senate amendment, but not the House bill, changes the title from "Research and Training" to "Research."

The House recedes.

1A. DECLARATION OF PURPOSE (INDEPENDENT LIVING)

The House bill, but not the Senate amendment, amends paragraph (1) of the current Declaration of Purpose by adding "independent living".

The House recedes.

2. DECLARATION OF PURPOSE (ASSISTIVE TECHNOLOGY DEVICES)

The House bill, but not the Senate amendment, amends paragraph (2) of the current Declaration of Purpose to change the term "devices".

The House recedes.

3. DECLARATION OF PURPOSE (FULL INCLUSION AND INTEGRATION)

The Senate amendment, but not the House bill, rewrites the first two paragraphs of the Declaration of Purpose to emphasize "full inclusion and integration" into society as the goal of projects funded under this title, with particular emphasis on improving the effectiveness of services under the Act and a comprehensive and coordinated approach, pursuant to the new long-range plan required by these amendments (see note 26).

The House recedes.

4. DECLARATION OF PURPOSE (PROCUREMENT OF TECHNOLOGY)

The House bill, but not the Senate amendment, amends paragraph (3) of the Declaration of Purpose to emphasize improvement of procurement processes for purchase of assistive technology devices and services, more utilization of same on a national level, and encouragement of adaptations or customizations.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads "(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to the procurement process for the purchase of rehabilitation technology; the utilization of rehabilitation technology on a national basis; and specific adaptations or customizations of products to enable individuals with disabilities to live more independently;"

5. DECLARATION OF PURPOSE (INFORMATION DISSEMINATION)

The House bill amends the Declaration of Purpose section to emphasize increased access to scientific and technological information and to encourage the collection, management and availability of assistive technology and related information "on a community and statewide level".

The Senate amendment amends the Declaration of Purpose to emphasize the widespread distribution of "practical information" generated by research and related activities in "usable formats" regarding "state-of-the-art" practices, improvements in services under the Act and new knowledge to a range of involved individuals.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads "(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information generated by research, demonstration projects, training, and related activities; and regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities to rehabilitation professionals, individuals with disabilities, and other interested parties;".

6. DECLARATION OF PURPOSE (EMPLOYMENT STRATEGIES)

The House bill, but not the Senate amendment, amends the Declaration of Purpose to emphasize identification of effective strategies to enhance productive employment opportunities.

The Senate recedes.

7. DECLARATION OF PURPOSE (RESEARCH OPPORTUNITIES)

The House bill, but not the Senate amendment, amends the Declaration of Purpose to emphasize a number of activities to increase opportunities for researchers who are members of traditionally underserved populations.

The Senate recedes to the House with an amendment that reads: "(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities."

8. DECLARATION OF PURPOSE (TRANSFER OF TECHNOLOGY)

The Senate amendment, but not the House bill, amends the Declaration of Purpose to emphasize the transfer and utilization of technology to enable more independent living.

The Senate recedes.

9. AUTHORIZATION OF APPROPRIATIONS

The House recedes.

10. NIDRR RESPONSIBILITIES (GENERAL)

The Senate amendment, but not the House bill, amends the purpose subsection for the

National Institute on Disability and Rehabilitation Research (hereinafter NIDRR) to clarify the responsibilities of the Institute and to restructure the subsection.

The House recedes.

11. NIDRR RESPONSIBILITIES (DISSEMINATION OF RESEARCH INFORMATION)

In slightly different ways, both the House bill and the Senate amendment expand the list of individuals and organizations to whom information is to be disseminated.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: "(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to other Federal, State, tribal, and local public agencies; private organizations engaged in research relating to rehabilitation or providing rehabilitation services; rehabilitation practitioners; and individuals with disabilities and the parents, family members, guardians, advocates, and authorized representatives of the individuals;".

12. NIDRR RESPONSIBILITIES (DISSEMINATION OF EDUCATION MATERIALS)

The House bill amends the current provision on dissemination to retain the improvement of "quality of life" caveat in the current statute but require "widespread" dissemination of the information to an expanded group of individuals or entities.

The Senate amendment amends the current provision to emphasize information "on ways to maximize the full inclusion and integration into" society and a number of other areas of individuals with disabilities.The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: "(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to public and private entities including elementary and secondary schools and institutions of higher education; rehabilitation practitioners; individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved and underserved by programs under this Act); and the parents, family members, guardians, advocates, and authorized representatives of the individuals;".

13. NIDRR RESPONSIBILITIES (CONFERENCES, WORKSHOPS, AND SEMINARS)

The House bill amends the current provision on conferences, workshops and seminars by retaining the current emphasis, but adding consumer training and expanding the areas to be covered.

The Senate amendment amends the current provision to authorize activities directed to provide training on "full inclusion and integration" into society and a number of other areas of individuals with disabilities.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: "(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social selfsufficiency of individuals with disabilities."

14. NIDRR RESPONSIBILITIES (ANNUAL REPORT)

The Senate amendment, but not the House bill, amends the requirement to keep Congress informed to require an annual report to the President and the appropriate committees of Congress and specifies the information to be provided.

The Senate recedes.

15. NIDRR RESPONSIBILITIES (DISSEMINATION ACTIVITIES)

Technical difference.

The Senate recedes.

16. NIDRR RESPONSIBILITIES (COOPERATIVE STUDIES)

The House bill amends the current provision on cooperative production of studies and reports to expand the populations to be informed and to include assessment in the topics to be considered.

The Senate amendment adds the Health Care Financing Administration to the list of Federal agencies to be involved, requires "widespread" dissemination and expands the list of populations to be informed.

The Senate recedes to the House with amendments striking "consumers" and inserting "individuals with disabilities," inserting "the Health Care Financing Administration," after "the Bureau of the Census," and inserting "widely" before "disseminating".

17. NIDRR RESPONSIBILITIES (CONSUMER SATISFACTION RESEARCH)

The House bill, but not the Senate amendment, adds "consumer satisfaction" to the research areas.

The Senate recedes.

18. NIDRR RESPONSIBILITIES (LONG-TERM OUTCOMES RESEARCH)

The House bill, but not the Senate amendment, adds research into the relationship of the provision of specific services and long-term vocational outcomes.

The Senate recedes.

19. NIDRR RESPONSIBILITIES (COORDINATION WITH ATTORNEY GENERAL)

The Senate amendment, but not the House bill, adds coordination with the Attorney General regarding coordination in activities related to implementation of the Americans with Disabilities Act of 1990 to the responsibilities of NIDRR.

The House recedes.

20. APPOINTMENT OF DIRECTOR OF NIDRR

The House bill, but not the Senate amendment, changes the Director of NIDRR from a Presidential appointment to a Secretarial appointment.

The Senate recedes.

21. QUALIFICATIONS OF DEPUTY DIRECTOR

The Senate amendment, but not the House bill, amends the provision relating to the Director of NIDRR to delete the requirement that the Director should be guided by the general policies of the National Council on Disability, to require that the Deputy Director have "substantial experience" in rehabilitation and in research administration, and to modify the provisions on rates of pay.

The House recedes.

22. RESEARCH FELLOWSHIPS

Technical difference.

The House recedes.

23. PEER REVIEW

The House bill, but not the Senate amendment, amends the provision relating to review committees to expand the pool of knowledgeable individuals to be considered and to require the Director to solicit nominations for the committees from the public and to publish the names of committee members.

The Senate recedes to the House with an amendment striking "rehabilitation field" and inserting the following: "rehabilitation field (including experts in the independent living field) competent to review research grants and programs, including knowledgeable individuals with disabilities and the parents, family members, guardians, advocates, and authorized representatives of the individuals. The Director shall solicit nominations for such peer review groups from the public and shall publish the names of the individuals selected. Individuals comprising each peer review group shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review. (2) In providing such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities, and from the parents, family members, guardians, advocates, and authorized representatives of the individuals."

The Conferees intend that only the names of the peer reviewers will be published. The Conferees do not intend for the Secretary to publish the names of the reviewers of specific applications or projects. The time of such publication shall be after such review has been conducted.

24. PEER REVIEW

The Senate amendment, but not the House bill, amends the provision relating to review by changing the placement of the panels, and expanding the pool of knowledgeable individuals to be considered for service on the panels, and to require the Secretary to provide training and to provide for input from consumers.

The Senate recedes.

25. LIMITATION ON DIRECT EXPENDITURES

Technical difference.

The Senate recedes.

26. LONG RANGE PLAN (GENERAL)

The Senate amendment, but not the House bill, amends the provision relating to the long-range research plan to delete its submission to Congress within 18 months of the date of enactment of this Act and to change the emphasis for research to be conducted from identification of problems encountered to identification of methods for "full inclusion and integration" of individuals with disabilities into society and a number of other areas.

The House recedes.

27. LONG RANGE PLAN (REQUIREMENTS)

The House bill adds to the plan elements involving widespread dissemination of results in accessible formats to a range of individuals, particularly those from minority or traditionally underserved populations.

The Senate amendment adds to the plan elements involving widespread dissemination of results in practical, usable formats to a range of individuals, including those from diverse cultural and ethnic backgrounds or unserved or underserved populations, and specifies that the plan be developed in consultation with the Rehabilitation Research Advisory Board established by the Senate amendment (see note 59) and the National Council on Disability and other named officials and that it be updated at least once every 5 years or as necessary.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads after paragraph (4) in the Senate amendment: "(5) specify plans for widespread dissemination of research results in accessible formats to rehabilitation practitioners, individuals with disabilities, and the parents, family members, guardians, advocates, and authorized representatives of the individuals; (6) specify plans for widespread dissemination of research results that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs under this Act;", and renumbers the paragraphs (6) and (7) in the Senate amendment as paragraphs (7) and (8).

28. INTERAGENCY COOPERATION

The Senate amendment, but not the House bill, clarifies the provision on cooperation to cover the entire Title.

The House recedes.

29. PEDIATRIC, PACIFIC BASIN, AND RURAL RESEARCH

The House bill strikes the current separate authority for a program for pediatric rehabilitation research and a Research and Training Center in the Pacific Basin.

The Senate amendment modifies the provision relating to pediatric rehabilitation, the Pacific Basin and the delivery of rehabilitation services to rural areas to continue support of these programs.

The House recedes.

30. TRAINING OF REHABILITATION RESEARCHERS

The House bill amends the training provision to emphasize support for the "implementation and objectives of this Act".

The Senate amendment amends the training provision to specifically include individuals with disabilities and to emphasize support to "improve the effectiveness of services authorized under this Act."

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: Section 202(k) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act."

31. INTERAGENCY COMMITTEE

The Senate amendment, but not the House bill, amends the provision on the Interagency Committee to expand its membership, to require input from consumers and to delete the outdated report requirement.

The House recedes.

32. RESEARCH (GENERAL)

The Senate amendment, but not the House bill, amends the general directive relating to research activities to change the emphasis to development of methods, procedures and technology to maximize the "full inclusion and integration into society" and other life areas of individuals with disabilities (particularly the most severe disabilities) and to improve the effectiveness of services provided under this Act. Gives directive to emphasize research that supports certain titles of the Act.

The House recedes.

33. RESEARCH (STATE NEEDS)

The House bill, but not the Senate amendment, amends the provision relating to the determination of research emphasis to place weight on the needs as determined by States (as described through State plans).

The Senate recedes.

34. RESEARCH (UNSERVED OR UNDERSERVED POPULATIONS)

The Senate amendment, but not the House bill, amends the provision on research to clarify research on individuals who are homebound or institutionalized and to require particular attention to individuals from populations who are unserved or underserved.

The House recedes.

35. RESEARCH AND TRAINING CENTERS (INTEGRATED PROGRAM OF RESEARCH)

The House bill, but not the Senate amendment, amends the current provision relating to the responsibilities of the Rehabilitation Research and Training Centers to add providing an integrated program of research and providing technical assistance to a range of individuals and entities through workshops and other stated activities.

The House recedes to the Senate with an amendment amending the first sentence in section 202(b)(2)(A) of the Senate amendment to read: "Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which shall—".

36. RESEARCH AND TRAINING CENTERS (RESEARCH PROJECTS)

The Senate amendment, but not the House bill, rewrites this section which allows grants to pay all or part of the costs of the research projects authorized.

The House recedes.

37. RESEARCH AND TRAINING CENTERS (COLLABORATION)

The Senate amendment, but not the House bill, restates the authority for the Rehabilitation Research and Training Centers to allow them to be operated in collaboration with providers of rehabilitation services. Some technical language differences.

The House recedes.

38. RESEARCH AND TRAINING CENTERS (PURPOSE)

The House bill requires each Center to structure its research based upon specific needs in its geographic area, including, where appropriate, consideration of both rural and urban issues.

The Senate amendment requires each Center to conduct research and training on a coordinated and advanced basis, targeted toward the production of "new knowledge" that will improve rehabilitation methodology and service delivery, alleviate or stabilize disabling conditions, and promote maximum social and economic independence, provide training to enhance more efficient provision of services and provide other training programs.

The House recedes to the Senate with an amendment striking "and" at the end of (2)(B)(ii), striking the period at the end of (iii) and adding at the end of (2)(B)(iii), "; and (iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the parents, family members, guardians, advocates, and authorized representatives of the individuals, through conferences, workshops, public education programs, in-service training programs, and similar activities."

39. RESEARCH AND TRAINING CENTERS (AREAS OF RESEARCH)

The House bill specifically mentions individuals with mental retardation in the provision on living in the community.

The Senate amendment specifically includes "disability policy" as an area for research and specifies the continuation of certain research activities. Also, one technical difference on drafting language.

The House recedes to the Senate with an amendment adding after individuals with disabilities in (vi) the phrase "including individuals with mental retardation and other developmental disabilities."

40. RESEARCH AND TRAINING CENTERS (REQUIREMENTS)

The Senate amendment, but not the House bill, adds to the Rehabilitation Research and Training Centers provision requirements that training may be provided either directly or indirectly and that grants must be of sufficient size, scope, and quality to carry out the required activities. The Senate amendment, but not the House bill, also rewrites the requirements of current law.

The House recedes.

41. RESEARCH AND TRAINING CENTERS (GRANT APPLICATIONS)

The Senate amendment, but not the House bill, includes grant provisions relating to length, application submission, and review and rewrites the provision in indirect costs.

The House recedes to the Senate with an amendment inserting an additional subparagraph that reads "In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers."

42. RESEARCH AND TRAINING CENTERS (COMPETITIVE GRANTS)

The House bill, but not the Senate amendment, makes a technical and conforming change.

The House recedes.

43. REHABILITATION ENGINEERING RESEARCH CENTERS (GENERAL)

The House bill authorizes the establishment and support of Rehabilitation Engineering Research Centers to develop and disseminate innovative methods of applying a range of advanced research relating to technology and the solution of rehabilitation problems. Research could be in cooperation with public and nonprofit organizations to produce new scientific knowledge, methods, equipment, and devices. Research could also be to develop and disseminate innovative delivery models for cost-effective provision of rehabilitation engineering and assistive technology services in urban and rural areas to promote utilization of such services and devices, and to meet the employment and independent living needs of individuals with severe disabilities, to cooperate and coordinate with designated State agencies on information exchange and utilization of rehabilitation engineering and assistive technology, demonstrate and disseminate cost-effective delivery models, and to provide rehabilitation research training.

The Senate amendment authorizes the use of research grants to establish and support Rehabilitation Technology Research and Resource Centers operated by or in collaboration with institutions of higher education or nonprofit private organizations to conduct research demonstration projects and training activities regarding rehabilitation engineering, assistive technology devices and assistive technology services. The purpose would be to enhance the opportunities for, better meet the needs of, and address the barriers to individuals with disabilities in a number of areas. Such a center shall carry out research in a number of stated areas, including new and emerging technologies and design and usability of mass market products. Such Centers shall be consumer responsive and individual and family centered, and promote prompt utilization of a broad range of technologies, particularly in urban and rural settings. The amendment stipulates training activities.

The Senate recedes to the House and the House recedes to the Senate with an amendment combining the two versions.

44. REHABILITATION ENGINEERING RESEARCH CENTERS (AREAS OF FOCUS)

The Senate amendment, but not the House bill, gives specific "areas of focus" for the centers' activities.

The Senate recedes to the House and the House recedes to the Senate. See note 43.

45. REHABILITATION ENGINEERING RESEARCH CENTERS (ADVISORY COMMITTEES)

The Senate amendment, but not the House bill, requires each Center to have an Advisory Committee, with certain requirements, including the provision that a majority be individuals with disabilities (or their representatives) who are consumers of services. The centers are to coordinate with other Federal, State, and local agencies, to respond to the needs of all individuals who may benefit from the technology, to promote interchange of information and other data, and to prepare and submit reports and application amendments as required.

The Senate recedes to the House and the House recedes to the Senate. See note 43.

46. REHABILITATION ENGINEERING RESEARCH CENTERS (GRANT REQUIREMENTS)

The Senate amendment, but not the House bill, contains certain Center grant requirements and limits.

The Senate recedes to the House and the House recedes to the Senate. See note 43.

47. SPINAL CORD INJURY PROJECTS (GENERAL)

Technical difference, relating to the wording concerning the spinal cord injury research projects and the individuals to receive information.

The Senate recedes to the House with an amendment striking from (A)(i) "to practitioners, consumers" and all that follows and inserting "to rehabilitation practitioners, individuals with spinal cord injury, the parents, family members, guardians, advocates, and authorized representatives of such individuals, and organizations receiving financial assistance under this paragraph."

48. SPINAL CORD INJURY PROJECTS (OUTREACH)

Technical difference.

The Senate recedes.

49. SPINAL CORD INJURY PROJECTS (GEOGRAPHIC DISTRIBUTION)

Technical difference.

The Senate recedes.

50. RESEARCH (AUTHORITIES)

The Senate amendment, but not the House bill, makes a technical and conforming change to each research authority to change the current directive "Conduct" to the phrase "Research grants may be used to conduct".

The House recedes.

51. RURAL AND URBAN PERSONNEL PROJECTS

The House bill, but not the Senate amendment, amends the provision relating to personnel to add the term "urban".

The Senate recedes to the House with an amendment placing the authority for projects to attract and retain urban personnel in title VIII.

52. CHILDREN AND OLDER INDIVIDUALS WITH DISABILITIES PROJECTS

The Senate amendment, but not the House bill, includes an authority to conduct research on rehabilitation for children or older individuals with disabilities, including projects on adjustment by older workers with disabilities who are leaving the work force.

The House recedes.

53. PRESCHOOL RESEARCH PROJECTS

The House bill, but not the Senate amendment, amends the authority for preschool age research to include "assessment" to the allowable activities.

The Senate recedes.

54. MODEL TRAINING CENTERS

The House bill, but not the Senate amendment, amends the provision on training centers by replacing the terms "employment potential" and "potential" with the terms "employment needs" and "needs".

The Senate recedes to the House with an amendment changing the word "developing" to "addressing".

55. RESEARCH (STUDIES REGARDING BARRIERS TO REHABILITATION)

The House bill, but not the Senate amendment, adds three authorities for studies involving barriers to successful rehabilitation outcomes for individuals from minority backgrounds, factors which have created significant underrepresentation of minorities in rehabilitation professions, and factors which have created barriers to successful rehabilitation outcomes for individuals with neurological or related disorders.

The Senate recedes to the House with an amendment placing these authorities in title VIII.

56. SITE VISITS

The Senate amendment, but not the House bill, allows the Director to waive the site visit in certain instances involving grants above a certain level.

The Senate recedes.

57. RESEARCH (REHABILITATION TECHNOLOGY)

The Senate amendment, but not the House bill, makes a technical conforming change.

The Senate recedes.

58. NATIONAL COMMISSION ON EDUCATION AND REHABILITATION OF INDIVIDUALS WHO ARE BLIND AND VISUALLY IMPAIRED

The House bill, but not the Senate amendment, establishes a National Commission on Education and Rehabilitation of Individuals Who are Blind and Visually Impaired (hereinafter referred to as the Commission). The provision includes findings and requirements for the makeup of the Commission, including the appointment authority and the requirements for a majority to be blind or visually impaired consumers and that nominations for these positions be solicited and reviewed. The Commission shall study a range of issues, including but not limited to: the nature, quality, and adequacy of infant and early childhood education programs; elementary, secondary, postsecondary, adult and continuing education programs; and vocational rehabilitation, independent living, supported employment and other employment-related programs for individuals who are blind or visually impaired. Provisions regarding terms, vacancies, the selection of the chair, and other administrative and staff issues are included. Within 18 months, the Commission is to report its findings and recommendation for Federal policy and programs to the President and the Congress.

The House recedes.

59. RESEARCH ADVISORY COUNCIL

The Senate amendment, but not the House bill, establishes within the Department of Education a Rehabilitation Research Advisory Council (hereinafter referred to as the Council). The Council shall advise the Director on the establishment of research priorities as required for the long-range plan under section 202. The section includes provisions relating to appointment, terms of office, vacancies, compensation, and other administrative and staff provisions.

The House recedes with amendments striking the phrase "The Secretary shall establish" in section 205 (a) and inserting "Subject to the availability of appropriations, the Secretary shall establish" and striking subsection (f) providing compensation and expenses for the members of the Council and inserting a provision providing an honorarium and travel expenses for the members of the Council.

SUPPLEMENTARY SERVICE AND COMMUNITY REHABILITATION PROGRAMS TRAINING AND DEMONSTRATION PROJECTS

60. TITLE

Technical difference.

The House recedes.

61. DECLARATION OF PURPOSE (REORGANIZATION)

Technical difference.

The House recedes.

62. DECLARATION OF PURPOSE (GENERAL)

The Senate amendment, but not the House bill, reorganizes the Declaration of Purpose section and adds a new paragraph relating to a number of specific training activities.

The House recedes.

63. DECLARATION OF PURPOSE (REORGANIZATION)

Technical difference.

The House recedes.

64. DECLARATION OF PURPOSE (VOCATIONAL REHABILITATION SERVICES)

The Senate amendment, but not the House bill, amends the provision by deleting "training" and inserting "rehabilitation".

The House recedes.

65. DECLARATION OF PURPOSE (CONSTRUCTION)

Technical difference—see note 61, above.

The House recedes.

66. REORGANIZATION OF TITLE

The Senate amendment, but not the House bill, moves the current provisions under current Title III into a different order and adds a Table of Contents change. NOTE—there is no section 300.

The House recedes.

67. TRAINING (TECHNICAL ASSISTANCE)

The House bill amends the activities under training to include technical assistance.

The Senate recedes.

The Senate amendment specifies that the areas for training include "other services provided under this Act".

The House recedes. The Conferees understand that the regulations governing training grants under this section require that there be evidence of current professional accreditation by the designated accrediting agency in the professional field in which grant support is being requested. The Conferees strongly support the maintenance of this requirement to assure that the professionals who receive training under this section are adequately prepared to provide quality services to individuals with disabilities.

68. TRAINING (JOB DEVELOPMENT AND PLACEMENT PERSONNEL)

The Senate amendment, but not the House bill, amends the training requirement by deleting "specially" and inserting "specifically".

The House recedes.

69. TRAINING (REHABILITATION TECHNOLOGY PERSONNEL)

The House bill includes individuals "specifically" trained to provide rehabilitation technology services, and specifically references assistive technology devices and services. The Senate amendment has a similar amendment, but does not include the references.

The House recedes.

70. TRAINING (INDEPENDENT LIVING PROGRAM PERSONNEL)

The Senate amendment, but not the House bill, amends the term relating to independent living.

The House recedes.

71. TRAINING (SUPPORTED EMPLOYMENT PROGRAM PERSONNEL)

Technical difference on wording relating to supported employment programs.

The Senate recedes.

72. TRAINING (IMPARTIAL HEARING OFFICERS)

The House bill, but not the Senate amendment, expands the training areas to include impartial hearing officers.

The Senate recedes to the House with an amendment placing this authority in title VIII.

73. TRAINING (SCHOLARSHIPS)

The House bill, but not the Senate amendment, stipulates that funds under this section may be used for scholarships with necessary stipends and allowances.

The Senate recedes.

74. TRAINING (PERSONNEL FROM UNDERREPRESENTED GROUPS)

The House bill amends the provision relating to "due regard for training individuals with handicaps" to require submission of a detailed plan on the recruitment and training of individuals with disabilities and persons who are from other underrepresented groups so as to increase the number of such individuals providing services. These plans are to reflect the diverse populations in the State.

The Senate amendment amends the same provision to require submission of a detailed plan "to recruit and train members of minority groups and individuals with disabilities".

The Senate recedes to the House with an amendment striking "persons to reflect" and all that follows and inserting "persons so as to reflect the diverse populations of the United States, as part of the effort to increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide rehabilitation services."

75. TRAINING (REQUIREMENTS)

The House bill adds the requirement that the Commissioner provide training in the provisions of titles II and XVI of the Social Security Act related to work incentives.

The Senate amendment specifically requires training in the provisions of this Act and does not include the House referenced provisions.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: in the last sentence, by striking ", in addition" and all that follows and inserting "furnish training regarding the services provided under this Act, and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of section 504 of this Act, title I of the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act that are related to work incentives for individuals with disabilities."

76. TRAINING (HISTORICALLY BLACK COLLEGES AND UNIVERSITIES)

The House bill, but not the Senate amendment, requires that the Commissioner, in carrying out this subsection on training, utilize Historically Black Colleges and Universities and other institutions of higher education with at least a 50 percent minority student population.

The Senate recedes.

77. TRAINING (TARGETED PERSONNEL)

The Senate amendment, but not the House bill, rewrites the provision on training priorities and (1) strikes the terms "rehabilitation engineering" and "workshop and facility administration" and replaces them with "rehabilitation technology" and "community rehabilitation personnel" and adds the caveat "vocational" to the term "rehabilitation counseling", and (2) strikes the phrases "specialized personnel in providing services to blind and deaf individuals", and ", including homebound and institutionalized individuals and individuals with handicaps with limited English-speaking ability", and replaces them with "personnel to provide services to individuals with specific disabilities or specific impediments to rehabilitation." Also, a technical difference with the House bill on language relating to unserved or underserved populations.

The House recedes.

78. TRAINING (PAYBACK OF SCHOLARSHIPS)

Technical difference, relating to length of required service.

The House recedes to the Senate with an amendment inserting an effective date for the changes in this provision.

The Conferees intend that a nonprofit agency or organization performing a broad range of services for individuals with disabilities should be included in the "nonprofit rehabilitation agency or related agency" that fulfills the employment obligation in lieu of paying back scholarships under this provision. The Conferees intend that the regulations regarding the payback provision should reflect the goal of attracting students to work in State agency or nonprofit rehabilitation programs.

79. TRAINING (REHABILITATION TECHNICIANS)

The House bill, but not the Senate amendment, requires the Commissioner to make two grants to support training of community liaisons.

The Senate recedes.

80. TRAINING (CAREER ENHANCEMENT/ COMPETENCY BASED TRAINING PROJECTS)

The House bill, but not the Senate amendment, requires the Commissioner to make two grants to support training for career enhancement or competency based training for current employees. The provision includes grant and administrative provisions and stipulates the activities to be supported.

The Senate recedes.

81. TRAINING (PROJECTS FOR EXISTING PERSONNEL)

The House bill, but not the Senate amendment, requires the Commissioner to enter into a cooperative agreement through a separate competition to support the grants authorized under this section (see note 80).

The Senate recedes.

82. TRAINING (INTERPRETERS)

The House bill amends the provision relating to interpreters by deleting the "Office of Information and Resources for Individuals with Disabilities" and inserting "Office of Deafness and Communicative Disorders".

The Senate recedes.

The Senate amendment amends the provision on interpreters to include services for individuals who are deaf-blind, to delete the limitation to 12 programs, and by striking the training requirement.

The House recedes.

83. TRAINING (COMPENSATION OF EXPERTS AND CONSULTANTS)

The Senate amendment, but not the House bill, amends the provision on compensation to delete "rehabilitation facilities" and insert "community rehabilitation programs" and to change the rate of compensation.

The House recedes.

84. TRAINING (INFORMATION AND TRAINING GRANTS)

The House bill, but not the Senate amendment, authorizes grants to provide training to individuals with disabilities and their families to enable them to more effectively work with rehabilitation professionals. The paragraph includes program, application and administrative provisions.

The Senate recedes to the House with amendments placing this authority in title VIII, striking from (e)(1) the phrase "particularly those who are members of groups that have been traditionally underserved." with the phrase "particularly those who are members of populations that have been unserved or underserved by programs under this Act.", striking subparagraph "(B)" and inserting "(B) be governed by a board of directors that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals or, if the nonprofit does not have such a board, such an organization shall have a membership which represents the interests of individuals with disabilities, and shall establish a special governing committee to operate the training and information programs under this section, that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals.", and adding provisions in the Senate amendment regarding submission of applications (5)(B) and review (7) not in the House bill.

85. TRAINING (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

86. TRAINING (INSERVICE TRAINING SET-ASIDE)

The Senate amendment, but not the House bill, reserves not less than 20 percent of the funds appropriated for this section (except where this would lead to a decrease in funding for ongoing projects, in which case a lesser amount would be reserved) for recruitment and retention, leadership training, and succession planning and training on these amendments.

The House recedes to the Senate with an amendment (1) striking in (2)(A) "at least 20 percent" and all that follows through "including projects designed—" and inserting "at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used either directly or indirectly for projects for inservice training of rehabilitation personnel, including projects designed—". Nothing in this section prohibits other public and nonprofit entities from providing the inservice training.

87. INDIVIDUALS WITH DISABILITIES EDUCATION ACT (TRAINING)

The House bill, but not the Senate amendment, amends the Individuals With Disabilities Education Act to allow the training of regular classroom teachers who provide services to individuals who are deaf in meeting the needs of such individuals.

The House recedes.

88. TRAINING (TABLE OF CONTENTS)

Technical difference relating to the Table of Contents.

The House recedes.

89. COMMUNITY REHABILITATION PROGRAMS (REHABILITATION TECHNOLOGY)

Technical difference.

The House recedes.

90. COMMUNITY REHABILITATION PROGRAMS (WEEKLY ALLOWANCE)

Technical difference.

The Senate recedes.

91. COMMUNITY REHABILITATION PROGRAMS (AMOUNT OF ALLOWANCE)

Technical difference.

The Senate recedes.

92. COMMUNITY REHABILITATION PROGRAMS (GRANT RECIPIENTS)

Technical difference.

The Senate recedes.

93. LOAN GUARANTEES (TITLE)

Technical difference.

The Senate recedes.

94. COMMUNITY REHABILITATION PROGRAMS (TABLE OF CONTENTS)

Technical difference relating to the Table of Contents.

The House recedes.

95. COMPREHENSIVE REHABILITATION CENTERS (GENERAL)

The Senate amendment, but not the House bill, amends the provision on comprehensive rehabilitation centers by striking "facility" and inserting "center".

The House recedes.

96. COMPREHENSIVE REHABILITATION CENTERS (AUTHORIZATION OF APPROPRIATIONS)

Technical difference on the drafting of the authorization of appropriations.

The House recedes.

97. SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

98. SPECIAL DEMONSTRATIONS (UNSERVED AND UNDERSERVED)

The House bill, but not the Senate amendment, amends the special demonstration programs authority to include grants to expand and improve services to unserved or underserved populations, and to add career advancement.

The Senate recedes to the House with an amendment striking the phrase "blind or deaf individuals and individuals who are unserved or underserved by the vocational rehabilitation system" and substituting the phrase "individuals who are members of populations that are unserved or underserved by the programs under this Act, individuals who are blind, and individuals who are deaf,".

99. SPECIAL DEMONSTRATIONS (CONSTRUCTION AND RENOVATION)

The Senate amendment, but not the House bill, amends the special demonstration programs authority to delete renovation and construction.

The House recedes.

100. SPECIAL DEMONSTRATIONS (CHOICE)

The House bill, but not the Senate amendment, authorizes grants to increase consumer control in the rehabilitation process, including selection of the providers of vocational rehabilitation services. Program and activity requirements are included, and administrative, application, funding and evaluation caveats are part of the provision.

The Senate recedes to the House with amendments placing this authority in title VIII, striking the word "control" wherever it appears and inserting the word "choice" and by striking the word "consumer" wherever it appears and inserting the word "client", in (7)(B) add the phrase "as defined in section 7(8) (A)" after "an individual with a disability", and in (8) add the phrase "the cost effectiveness of the project," after "implementation issues,".

101. SPECIAL DEMONSTRATIONS (TRANSPORTATION)

The House bill, but not the Senate amendment, requires the Commissioner to make grants to fund projects to provide transportation services for eligible individuals. Eligibility requirements, and application and administrative caveats are included. Nothing in this provision is to be interpreted as limiting the rights or responsibilities under any other provision of this Act or the Americans With Disabilities Act of 1990, or any other provision of law.

The Senate recedes to the House with an amendment placing this authority in title VIII.

102. SPECIAL DEMONSTRATIONS (CASE CLOSURE).

The House bill, but not the Senate amendment, authorizes grants to develop alternatives to traditional case closure practice.

The Senate recedes to the House and the House recedes to the Senate with an amendment placing this authority in title VIII and with an amendment that reads: "The Commissioner shall make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations related to vocational rehabilitation outcomes. Such projects and demonstrations may include activities providing alternatives to case closure practice and identifying and implementing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with the most severe disabilities. Each recipient of such a grant shall (1) identify, develop, and test exemplary models that can be replicated; and (2) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities."

103. SPECIAL DEMONSTRATIONS (APPROPRIATE INCENTIVES)

The Senate amendment, but not the House bill, authorizes grants to provide appropriate incentives to vocational rehabilitation counselors to achieve high quality placements.

The Senate recedes to the House and the House recedes to the Senate. See note 102.

104. SPECIAL DEMONSTRATIONS (YOUTHS WITH DISABILITIES)

The House bill, but not the Senate amendment, amends the term referring to the Individuals with Disabilities Education Act. The Senate recedes.

105. SPECIAL DEMONSTRATIONS (SUPPORTED EMPLOYMENT)

The Senate amendment, but not the House bill, amends the special projects relating to supported employment by deleting the terms "rehabilitation facilities" and "community based rehabilitation facilities" and inserting the term "community rehabilitation programs" both places.

The House recedes.

106. SPECIAL DEMONSTRATIONS (NATURAL SUPPORTS)

The House bill, but not the Senate amendment, amends the special projects relating to supported employment to add the effectiveness of natural supports to the activities involved.

The Senate recedes to the House with an amendment that moves this provision to section 311(d)(1)(A) and inserts the word "continuing".

107. SPECIAL DEMONSTRATIONS (SUPPORTED EMPLOYMENT PROJECTS FOR INDIVIDUALS WHO ARE LOW FUNCTIONING AND DEAF OR HARD-OF-HEARING)

The House bill, but not the Senate amendment, requires that no less than two grants shall be made to serve low-functioning and hard-of-hearing individuals.

The Senate recedes.

108. SUPPORTED EMPLOYMENT (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

109. SPECIAL DEMONSTRATIONS (SERVICES FOR ADULTS WHO ARE DEAF)

The House bill, but not the Senate amendment, authorizes grants to provide a range of services (which must include educational and training services not otherwise available) to low-functioning adults who are deaf (including those with other disabling conditions).

The Senate recedes.

110. SPECIAL DEMONSTRATIONS (TRANSITIONAL PLANNING SERVICES)

The Senate amendment, but not the House bill, amends the transitional' grant provision by striking the paragraph authorizing a separate grant to a predominately rural western State.

The Senate recedes.

111. TRANSITIONAL PLANNING SERVICES (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

112. SPECIAL DEMONSTRATIONS (EARLY INTERVENTION FOR ADULTS WITH CHRONIC, PROGRESSIVE DISEASE)

The House bill, but not the Senate amendment, adds an authority for grants to serve working adults who are recently determined as having a chronic and progressive disease which may be severely disabling. Grants shall be to facilitate job retention or entry into new careers and employment.

The Senate recedes to the House with an amendment placing this authority in title VIII.

113. SPECIAL DEMONSTRATIONS (DISTANCE LEARNING THROUGH TELECOMMUNICATIONS)

The House bill, but not the Senate amendment, requires the Commissioner to make at least three grants to institutions of higher education to form regional partnerships to provide inservice training through telecommunications. Application, grant, definitions, and administrative caveats are included.

The Senate recedes to the House with an amendment placing this authority in title VIII.

114. NATIONAL COMMISSION ON REHABILITATION SERVICES

The House bill, but not the Senate amendment, establishes a National Commission on Rehabilitation Services to study the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this Act. The Commission shall submit recommendations to the President and the Congress regarding revisions to the Act designed to further the employability, independence, and integration of persons with disabilities into the workplace and the community. The provision describes the duties and administrative provisions of the Commission, and sets forth provisions for the composition, the appointments (including the chairperson) and compensation of members and staff.

The Senate recedes to the House with amendments placing this authority in title VIII, striking the phrase "There is hereby established" in (k)(1) and inserting the phrase, "Subject to the availability of appropriations, there is hereby established", striking the word "eighteen" in (2)(A) and inserting the word "fifteen", by striking in (2)(B) the word "six" each time it appears and inserting the word "five", and striking subparagraph (5)(A) and inserting a provision providing an honorarium and travel expenses for the members of the Commission.

115. MIGRATORY WORKERS (GRANT RECIPIENTS)

The Senate amendment, but not the House bill, amends the provision relating to migratory workers to allow grants to nonprofit agencies working in collaboration with the designated State agency.

The House recedes.

116. MIGRATORY WORKERS (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

117. SPECIAL RECREATIONAL PROGRAMS (FEDERAL SHARE)

Technical difference relating to the Federal share (see note 127).

The House recedes.

118. SPECIAL RECREATIONAL PROGRAMS (PARTICIPANTS)

The House bill, but not the Senate amendment, includes a change in terms.

The House recedes.

119. SPECIAL RECREATIONAL PROGRAMS (ACTIVITIES)

Technical difference.

The Senate recedes.

120. SPECIAL RECREATIONAL PROGRAMS (GRANT PERIOD)

The Senate amendment, but not the House bill, allows the Commissioner to waive the three year limitation on the special recreational programs.

The House recedes. The Conferees intend that the waiver provision, if exercised, would allow the entity to recompete.

121. SPECIAL RECREATIONAL PROGRAMS (EVALUATION SYSTEM)

The House bill, but not the Senate amendment, requires development of an evaluation system within 180 days of enactment. The Senate recedes.

122. SPECIAL RECREATIONAL PROGRAMS (GRANTEE'S ANNUAL REPORT)

The House bill, but not the Senate amendment, requires an annual report from the grantee, making continuation of the grant contingent upon submission and evaluation.

The Senate recedes.

123. SPECIAL RECREATIONAL PROGRAMS (ASSURANCES)

Technical difference in drafting.

The Senate recedes.

124. SPECIAL RECREATIONAL PROGRAMS (DISSEMINATION)

The Senate amendment, but not the House bill, requires the application for a recreation grant to include a description of how the results of the project will be made generally available. Also, there are technical differences in the drafting of the provision requiring the submission of proof that the project will be continued after the cessation of Federal funding.

The House recedes.

125. SPECIAL RECREATIONAL PROGRAMS (COMMISSIONER'S ANNUAL REPORT)

The House bill, but not the Senate amendment, requires an annual report by the Commissioner.

The Senate recedes.

126. SPECIAL RECREATIONAL PROGRAMS (CONTINUATION OF SERVICES)

The House bill requires the grantee to maintain the same level of services in the second and third year of the project as provided in the first year.

The Senate amendment requires the grantee to provide "the same level of services over a 3 year project period".

The House recedes.

127. SPECIAL RECREATIONAL PROGRAMS (FEDERAL SHARE)

The House bill sets the Federal share in a project as 100 percent the first year, 75 percent the second year and 50 percent the third year.

The Senate amendment sets the Federal share in a project as 90 percent the first year, 75 percent the second year and 50 percent the third year.

The Senate recedes.

128. SPECIAL RECREATIONAL PROGRAMS (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

129. RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

130. DEMONSTRATION PROJECTS (CHOICE)

The Senate amendment, but not the House bill, authorizes in title VIII grants to States and public and nonprofit agencies and organizations to fund projects to increase client choice, including the choice of providers of vocational rehabilitation services (see note 100). Activities, application, administrative and evaluation caveats are included in the provision.

The Senate recedes.

131. DEMONSTRATION PROJECTS (TRANSITION)

The Senate amendment, but not the House bill, authorizes in title VIII grants to public and nonprofit agencies and organizations to fund projects to provide community based, coordinated services to facilitate transition of individuals with disabilities from rehabilitation hospital or nursing (or similar) programs to programs providing independent living services. Activities, application, evaluation, and administrative caveats are included in the provision.

The House recedes.

132. STUDIES, SPECIAL PROJECTS, AND DEMONSTRATION PROJECTS TO STUDY MANAGEMENT AND SERVICES DELIVERY

The Senate amendment, but not the House bill, authorizes in title VIII grants to study, or conduct projects related to, management or delivery systems under this Act.

The House recedes.

133. DEMONSTRATION PROJECTS (UPGRADE WORKER SKILLS)

The Senate amendment, but not the House bill, authorizes in title VIII grants to partnerships or consortia including private employers to upgrade workers skills to ensure that individuals with disabilities remain competitive in the work force. Period, application, activity, definition, and Federal share limitation caveats are included in the provision.

The Senate recedes.

134. TRAINING INITIATIVES

The Senate amendment, but not the House bill, authorizes in title VIII grants to meet unmet and emerging needs in the area of rehabilitation training. This would be done through the establishment and support of rehabilitation training projects in a wide range of areas and involving individuals who are entering the field(s) or who are upgrading or adding to current skills. Projects could be conducted by a broad range of methods. Application and administration caveats are included in the provision.

The Senate recedes.

135. INFORMATION AND TRAINING GRANTS

The Senate amendment, but not the House bill, authorizes in title VIII grants to provide information and training to specified individuals to enable them to work more effectively with professionals in meeting their vocational rehabilitation needs (see note 84). Application, administrative, eligibility, consultation, review, and definition caveats are included in the provision.

The Senate recedes.

136. BRAILLE TRAINING GRANTS

The Senate amendment, but not the House bill, authorizes in title VIII grants to provide training to service providers in the use of Braille.

The House recedes to the Senate with an amendment striking the word "may" in the first sentence and inserting the word "shall."

137. RESEARCH INITIATIVES

The Senate amendment, but not the House bill, authorizes in title VIII additional research grants: 1) to establish a Rehabilitation Technology Research and Resource Center to conduct research in areas not otherwise covered under the Research provision of the Act but identified as emerging program trends and technologies, as identified through public and Rehabilitation Advisory Council input, 2) to establish model programs involving comprehensive, multi-disciplinary services similar to those authorized for individuals with spinal cord injuries, and 3) to establish model personal assistance and other programs.

The House recedes with an amendment deleting subparagraph (a)(2) relating to a Rehabilitation Technology Research and Resource Center.

138. SEPARATE BUDGET ACCOUNT

The Senate amendment, but not the House bill, establishes in title VIII a separate budget account for the purpose of accounting for appropriations and authorizations under this title.

The House recedes to the Senate with an amendment in the appropriate place of both sections 302 and 311 of title III that reads: "(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund special training initiatives, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund the special training initiatives described in section 803. (2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII." The amendment to section 311 is the same with the exception that the reference to "special training initiatives," is a reference to "special demonstration programs, projects, and activities."

NATIONAL COUNCIL ON DISABILITY

1. COMPOSITION OF THE COUNCIL

The House bill, but not the Senate amendment, specifies that the members of the Council shall be broadly representative of minority and other specified individuals and groups.

The Senate recedes.

2. PURPOSE

The Senate amendment, but not the House bill, rewrites the purpose section to make in comport with the Americans with Disabilities Act.

The House recedes.

3. TERMS

(a) The Senate amendment, but not the House bill, modifies the provisions governing the appointment of the initial council.

The House recedes.

(b) Both the House bill and the Senate amendment provide for term limits. The House bill, but not the Senate amendment, specifies that members serving on the date of enactment of the Rehabilitation Act Amendments of 1992 may be reappointed for an additional term.

The House recedes to the Senate with an amendment specifying that no member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. The amendment also clarifies that the term "full term" means a term of three years and the term "date of initial service" means with respect to a member, the date on which the member is sworn in.

4. DUTIES OF THE COUNCIL

(a) Research

The House bill specifies that advice to National Institute on Disability Rehabilitation Research should be with respect to "policies and conduct"; the Senate amendment refers to "policies and administration."

The Senate recedes.

(b) Interagency Disability Coordinating Council

The House bill, but not the Senate amendment, specifies that the National Council should identify priorities for the Interagency Council.

The Senate recedes to the House with an amendment that adds the following paragraph: "(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities,".

(c) General policies and programs

The Senate amendment, but not the House bill, inserts the phrase "policies, programs, practices, and procedures" instead of the phrase "all policies, programs, and activities."

The House recedes.

(d) Facilitation of policies

The Senate amendment, but not the House bill, strikes current law (section 401(a)(5) and makes it more generic by assessing whether Federal policies and procedures facilitate or impede the promotion of policies articulated in the statement of purpose.

The House recedes.

(e) Recommendations to policymakers

With slightly different wording, the House bill and the Senate amendment specify the authority of the National Council to make recommendations to Federal officials.

The Senate recedes.

(f) Americans With Disabilities Act Watch Centers

The House bill, but not the Senate amendment, directs the Council to establish Americans With Disabilities Act Watch Centers.

The Senate recedes to the House with an amendment striking the phrase "establish and operate Americans with Disabilities Act Watch Centers".

(g) Report of activities

The House bill, but not the Senate amendment requires an annual report describing the activities and accomplishments of the Council.

The Senate recedes.

(h) National disability policy progress report

(i) With slightly different wording, the House bill and the Senate amendment direct the National Council to issue an annual report regarding the status of national disability policy in the country.

The Senate recedes.

(ii) The Senate amendment, but not the House bill, specifies that the report shall be referred to as "National Disability Policy: A Progress Report."

The House recedes.

(iii) The House bill specifies that the report must be submitted not later than October 31, 1993 and annually thereafter; the Senate amendment sets the date as October 30.

The Senate recedes.

(iv) The House bill refers to the Congress and the Senate amendment refers to the appropriate committees of the Congress.

The Senate recedes to the House with an amendment inserting in the first sentence of (b)(1) the phrase "the appropriate committees of" before "the Congress".

(v) In addition to the specific topics listed in the House bill, the Senate amendment includes training, prevention, and early intervention.

The House recedes.

(vi) The Senate amendment, but not the House bill, specifies that the National Council shall include in a report submitted not later than October 30, 1995, information about the implementation of the Rehabilitation Act Amendments of 1992.

The Senate recedes.

5. COMPENSATION OF MEMBERS

The House bill specifies level 4 of the Senior Executive Service as the appropriate reference for compensation of members; the Senate amendment references level V.

The Senate recedes.

6. COMPENSATION OF STAFF

(a) Number of staff

The Senate amendment, but not the House bill, lifts the cap on the number of staff.

The Senate recedes. The Conferees intend that funds made available under this title will not be used to permit the indiscriminate travel and attendance at international conferences held abroad. Therefore, the Conferees intend that only 1 member from the National Council may be designated to attend no more than two international disability conferences if the Board determines that these conferences are relevant in providing significant knowledge and information to directly affect disability policy in the United States.

(b) Compensation

The House bill specifies level 4 of the Senior Executive Service as the appropriate reference for compensation of temporary or intermittent staff; the Senate amendment references level V.

The Senate recedes.

7. USE OF PERSONNEL OF FEDERAL AGENCIES

The House bill, but not the Senate amendment, authorizes the National Council to use staff, information, and facilities from Federal agencies.

The Senate recedes.

PROVISIONS RELATED TO RIGHTS AND ADVOCACY

1. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS PROGRAM

(a) Location

The House bill, but not the Senate amendment, moves the PAIR program from title VII of the Act to Title V.

The Senate recedes.

(b) Purpose

With slightly different wording, the House bill and the Senate amendment include a similar purpose statement for the PAIR program.

The Senate recedes. The Conferees intend that eligible persons for PAIR services include those persons who have experienced discrimination covered by the Americans with Disabilities Act.

(c) System requirements

(i) The House bill, but not the Senate amendment, specifies that an eligible system must submit an application when the grant is discretionary.

The Senate recedes to the House with an amendment striking the phrase "when the grant is discretionary" from subsection (b).

(ii) The House bill specifies that the eligible system must have in effect a system to protect and advocate for the rights of individuals with disabilities and have specified general authorities. The Senate bill specifies that the system must have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act.

The Senate recedes to the House and the House recedes to the Senate with an amendment blending the two provisions.

(iii) The House bill, but not the Senate amendment, specifies that the eligible system must provide information on and make referrals to programs addressing the needs of individuals with disabilities in the State.

The Senate recedes.

(iv) With slightly different wording, the House bill and the Senate amendment specify that an eligible system must develop a statement of objectives and priorities and establish a grievance procedure.

The Senate recedes.

(d) Disclosure

The House bill, but not the Senate amendment, includes limitations on the disclosure of the identity of personally identifiable information pertaining to individuals requesting assistance.

The Senate recedes.

(e) Assurances

With slightly different wording, the House bill and the Senate amendment, include a supplement, not supplant provision. The Senate amendment, but not the House bill, also authorizes the Commissioner to require additional assurances. See below under the definition of eligible system for the comparable provision in the House bill.

The Senate recedes to the House and the House recedes to the Senate with an amendment that moves this provision to the section on applications and specifies that the eligible system must provide assurances to the Secretary that funds made available under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purpose for which Federal funds are provided and not to supplant such non-Federal funds.

(f) Definition of eligible system

With slightly different wording, the House bill and the Senate amendment include a definition of the term "eligible system."

The House recedes.

The House bill, but not the Senate amendment, specifies that the assurances provided by the Governor for part C of the Developmental Disabilities Assistance and Bill of Rights Act shall be the same for this section.

The House recedes.

The Senate amendment, but not the House bill, specifies that in order to be eligible, an entity must meet the requirements of section 734, as added by the Senate amendment.

The House recedes.

(g) Nature of the program based on appropriation level

The House bill makes the program a competitive grant program when appropriations are less than $10 million and a formula grant program when the appropriation is $10 million or more. In both cases, the purpose is to develop outreach strategies and plan and implement programs. The Senate amendment establishes a formula grant program, regardless of the appropriation level, but specifies that when the appropriation is less than $5.5 million, the responsibilities include planning, outreach, and carrying out the program.

The Senate recedes to the House with an amendment. The amendment includes the Senate trigger of $5.5 million; the House policy of making the program competitive when the appropriation is less than $5.5 million; and the Senate policy of making the program a formula grant when the appropriation level is at or exceeds $5.5 million.

(h) State allotments when appropriations less than specified amount

The Senate amendment, but not the House bill, specifies that when the appropriations are less than $5.5 million, each eligible system is entitled to an equal amount, subject to a limitation applicable to certain systems for fiscal year 1993. Territories are not eligible.

The Senate recedes. See (g) above.

(i) State allotments when appropriations equal or exceed a specified amount

The House bill specifies that when the appropriation equals or exceeds $10 million, the funds shall be allotted among the States by formula on the basis of population, with a minimum allotment of $100,000 or one-third of 1 percent, whichever is greater. Territories shall be allotted $50,000. Minimum allotments may be increased in accordance with the policy set forth in section 142(b) (2) of the Developmental Disabilities Assistance and Bill of Rights Act.

The Senate amendment specifies that when the amount of appropriations equals or exceeds $5.5 million, after making reservations for training and technical assistance, the Secretary may make allotments on the same basis as in the House bill (with slightly different phrasing).

The House recedes.

The Senate amendment, but not the House bill, includes a provision relating to reallotment.

The House recedes.

(j) Delegation

The Senate amendment, but not the House bill, authorizes the Secretary of Education to delegate the administration of the program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

The House recedes.

(k) Unobligated funds

The House bill, but not the Senate amendment, specifies that unobligated funds remain available for obligation for the next fiscal year.

The Senate recedes.

(l) Administrative costs

The House bill, but not the Senate amendment, specifies that a State may not use more than 5 percent of any allotment for the cost of monitoring the administration of the system.

The Senate recedes.

(m) Reporting

The House bill, but not the Senate amendment, requires the submission of an annual report to Congress.

The Senate recedes.

(n) Authorization of appropriations

The House bill authorizes for appropriation $1,109,000 for fiscal year 1993 and such sums thereafter. The Senate amendment specifies "such sums" fiscal years 1993–1997.

The House recedes.

(o) Reservation for training and technical assistance

The House amendment reserves 2 percent. The Senate amendment reserves between 1.8 and 2.2 percent.

The House recedes.

2. TITLE

Both the House bill and the Senate amendment change the name of the title of title V.

The Senate recedes.

3. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES AT THE FEDERAL LEVEL (SECTION 501 OF THE ACT)

(a) Interagency Committee

With minor differences, both the House bill and the Senate amendment provide authority for the Joint chairmanship of the Interagency Committee.

The House recedes.

(b) Standards

The Senate amendment, but not the House bill, provides that the standards used for nonaffirmative action employment discrimination shall be the same standards used under the Americans with Disabilities Act.

The House recedes.

4. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (SECTION 502 OF THE ACT)

(a) References

The Senate amendment, but not the House bill, provides for the Architectural and Transportation Barriers Compliance Board to be referred to as the "Access Board."

The House recedes.

(b) Members of the Board

With a minor drafting difference, both the House bill and the Senate amendment require that seven of the members of the Board will be persons with disabilities.

The Senate recedes.

(c) Staggered terms

With minor drafting differences, both the House bill and the Senate amendment provide for staggered terms for the Board.

The Senate recedes.

(d) Compensation level

The Senate amendment, but not the House bill, makes a technical change to paragraph (3) and to the compensation level in paragraph (5) (A).

The House recedes to the Senate with an amendment setting the compensation level at Senior Executive Service, Level IV.

(e) Functions of the Board

With minor drafting differences, both the House bill and the Senate amendment list the functions of the Board.

The Senate recedes.

(f) Interagency agreements

With minor drafting differences, both the House bill and the Senate amendment provide for interagency agreements. The Senate amendment, but not the House bill, authorizes the Access Board to transfer funds to another entity for technical assistance.

The House recedes.

(g) Compensation of experts

The Senate amendment, but not the House bill, provides a technical change in the level of compensation for experts and consultants of the Board.

The House recedes to the Senate with an amendment setting the compensation level at Senior Executive Service, Level IV.

(h) Reporting.

With minor drafting differences, both the House bill and the Senate amendment provide for reports from the Board to the Congress.

The Senate recedes.

(i) Gifts etc.

With minor drafting differences, both the House bill and the Senate amendment specify that the Board will publish regulations regarding gifts, etc. and the appearance of a conflict of interest.

The Senate recedes with a technical amendment.

(j) Authorization of appropriations

With minor drafting differences both the House bill and the Senate amendment authorize such sums not to exceed $3,000,000 for fiscal years 1993 through 1997.

The Senate recedes to the House and the House recedes to the Senate with an amendment. Section 502(i) is amended by striking "fiscal years 1987 through 1992," and all that follows in current law (including the $3.5 million ceiling) and inserting "fiscal years 1993 through 1997."

5. EMPLOYMENT UNDER FEDERAL CONTRACT (SECTION 503 OF THE ACT)

(a) Trigger

The Senate amendment, but not the House bill, increases the trigger for section 503 from $2,500 to $10,000.

The House recedes.

(b) Scope of provision

The Senate amendment, but not the House bill, strikes the phrase "in employing persons to carry out such contract" from section 503(a).

The House recedes.

(c) Waiver

The Senate amendment, but not the House bill, specifies that the Secretary of Labor may waive the requirements of the affirmative action clause under certain circumstances.

The House recedes.

(d) Standards and procedures

The Senate amendment, but not the House bill, specifies that the standards used to determine nonaffirmative action employment discrimination shall be the same standards used under the Americans with Disabilities Act. The Senate amendment also directs the Secretary to develop coordination procedures.

The House recedes.

6. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS (SECTION 504 OF THE ACT)

The Senate amendment, but not the House bill, specifies that the standards used to determine whether section 504 has been violated in a complaint alleging employment discrimination shall be the same standards applied under the Americans with Disabilities Act. The House recedes.

7. SECRETARIAL RESPONSIBILITIES (SECTION 506 OF THE ACT)

The Senate amendment, but not the House bill, makes several technical amendments.

The House recedes.

8. INTERAGENCY COORDINATING COUNCIL (SECTION 507 OF THE ACT)

The House bill, but not the Senate amendment, includes several changes to the Interagency Coordinating Council.

(a) The Council shall be under the direction of the National Council on Disability.

The Senate recedes with an amendment striking the phrase ", under the direction of the National Council on Disability,".

(b) Additional members are specified.

The Senate recedes.

(c) Functions are expanded to include: developing and implementing agreements regarding the promotion of coordination in all activities of Federal entities to achieve the full integration, independence, and productivity of individuals with disabilities and carrying out studies and other activities as directed by the National Council on Disability.

The Senate recedes to the House with an amendment striking,, the phrase ", as directed by the National Council on Disability"and inserting ", with advice from the National Council on Disability,".

(d) The House bill, but not the Senate amendment, specifies that the report must include activities regarding promoting and meeting the employment needs of individuals with disabilities. The Report should include comments submitted by the National Council on Disability.

The Senate recedes.

9. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES (SECTION 508 OF THE ACT).

(a) Title

The Senate amendment, but not the House bill, amends the title of the section to read ""Electronic and Information Technology Accessibility Guidelines."

The House recedes.

(b) Standards

With slightly different wording, the House bill and the Senate amendment specify the standards.

The House recedes.

EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

1. TITLE.

Technical Difference—The House bill title is singular and the Senate amendment title is plural. The House bill but not the Senate amendment has a Subtitle A, Community Service Pilot Program.

The Senate recedes.

2. SHORT TITLE

The House bill but not the Senate amendment strikes "handicaps" and inserts "disabilities".

The Senate recedes.

3. PILOT PROGRAMS (ELIGIBILITY)

Technical difference.

The House recedes.

4. PILOT PROGRAMS (COSTS)

The Senate amendment but not the House bill strikes "attendant care" and inserts "personal assistance services".

The House recedes.

5. PILOT PROGRAMS (INCOME EXCEPTION)

The Senate amendment but not the House bill strikes "attendant care" and inserts "personal assistance services"

The House recedes.

6. PILOT PROGRAMS (ATTENDANT CARE DEFINITION)

The House bill but not the Senate amendment strikes the term "mentally retarded" and inserts "other individuals with a severe disability" in the definition of attendant care. The Senate amendment strikes the entire definition of attendant care.

The House recedes.

7. PILOT PROGRAM (AUTHORIZATION OF APPROPRIATIONS)

The House bill extends the authorization from fiscal years 1994 through 1997 and the Senate amendment extends the authorization from fiscal years 1993 through 1997.

The House recedes..

8. PROJECTS WITH INDUSTRY (GENERAL)

The House bill but not the Senate amendment makes this a Subtitle B, Projects with Industry.

The Senate recedes.

9. PROJECTS WITH INDUSTRY (PURPOSE)

The Senate amendment rewrites the purpose while the House bill only adds career opportunities to the purpose.

The House recedes to the Senate with an amendment adding the phrase "and career" after the word "job" the first three times it appears, and adding the phrase "and career advancement" after the phrase "Job placements".

10. PROJECTS WITH INDUSTRY (GRANTEES)

The Senate amendment but not the House bill adds Indian tribes and tribal organizations to the list of entities that can jointly establish a project.

The House recedes to the Senate with an amendment adding the phrase "and career" after the word "job" wherever it appears.

11. PROJECTS WITH INDUSTRY (REQUIREMENTS)

The House bill but not the Senate amendment adds career, career opportunities and career advancement to the project requirements.

The House recedes.

12. PROJECTS WITH INDUSTRY (BUSINESS ADVISORY COUNCILS)

The Senate amendment but not the House bill adds individuals with disabilities to the business advisory council.

The House recedes to the Senate with an amendment adding the phrase "and career" after the word "job" each time it appears and the phrase "and careers" after the word "jobs" each time it appears.

13. PROJECTS WITH INDUSTRY (TRAINING PROGRAMS)

The Senate amendment but not the House bill prescribes training programs designed to develop job skills appropriate for individuals with disabilities.

The House recedes to the Senate with an amendment adding the phrase "and career" after the word "job" each time it appears and the phrase "and careers" after the word "jobs" each time it appears.

14. PROJECTS WITH INDUSTRY (TRAINING IN WORK SETTINGS)

Technical difference.

The House recedes to the Senate with an amendment adding the phrase "and career advancement" after the word "employment" and after the phrase "job placement".

15. PROJECTS WITH INDUSTRY (REHABILITATION TECHNOLOGY)

The Senate amendment but not the House bill provides for the distribution of rehabilitation technology and strikes "special aids, appliances, or adapted equipment".

The House recedes.

16. PROJECTS WITH INDUSTRY (MODIFICATION OF FACILITIES)

Technical difference.

The House recedes.

17. PROJECTS WITH INDUSTRY (SUPPORT SERVICES)

Technical difference.

The House recedes to the Senate with an amendment adding the phrase "and career advancement" after the word "employment".

18. PROJECTS WITH INDUSTRY (ELIGIBILITY)

The Senate amendment but not the House bill states the requirements for eligibility to receive services under this program, requires the grant recipient to make eligibility determinations, and gives a 60 day time limit for the State unit to determine if eligibility is inappropriate.

The House recedes.

19. PROJECTS WITH INDUSTRY (GRANT AGREEMENTS GENERALLY)

The Senate amendment but not the House bill requires the Commissioner to enter into agreements with the grant recipients.

The House recedes.

20. PROJECTS WITH INDUSTRY (GRANT AGREEMENT REQUIREMENTS)

The Senate amendment but not the House bill requires the agreement to include a description to annually conduct a review and evaluation of the project in accordance with the standards developed by the Commissioner.

The House recedes.

21. PROJECTS WITH INDUSTRY DATA (NUMBER SERVED)

Technical difference.

The House recedes.

22. PROJECTS WITH INDUSTRY DATA (SERVICES PROVIDED)

Technical difference.

The House recedes.

23. PROJECTS WITH INDUSTRY DATA (PERCENTAGE OF RESOURCES)

Technical difference.

The House recedes.

24. PROJECTS WITH INDUSTRY DATA (OUTCOMES)

Technical difference.

The House recedes.

25. PROJECTS WITH INDUSTRY DATA (CAPACITY BUILDING)

The Senate amendment but not the House bill adds business and industry to the list of organizations for capacity building activities.

The House recedes.

26. PROJECTS WITH INDUSTRY DATA (COMPARISON WITH PRIOR YEARS)

Technical difference.

The House recedes.

27. PROJECTS WITH INDUSTRY DATA (PLACEMENTS TERMINATED)

The Senate amendment but not the House bill requires the review and evaluation to collect data on the number of project participants terminated from project placements and the duration of such placement.

The House recedes.

28. PROJECTS WITH INDUSTRY (TECHNICAL ASSISTANCE TO EMPLOYERS)

The Senate amendment but not the House bill allows the grant recipient the authority to provide technical assistance to assist employers in hiring individuals with disabilities, improve relationships between grant recipients and employers or organized labor, or assist employers in understanding the ADA as it relates to employment. See note 49.

The House recedes.

29. PROJECTS WITH INDUSTRY ASSURANCES (MINIMUM WAGE)

Technical difference.

The House recedes.

30. PROJECTS WITH INDUSTRY ASSURANCES (TERMINATIONS)

The Senate amendment but not the House bill strikes section 621(b)(2).

The House recedes.

31. PROJECTS WITH INDUSTRY ASSURANCES (BENEFITS)

Technical difference.

The House recedes.

32. PROJECTS WITH INDUSTRY ASSURANCES (BENEFITS)

The Senate amendment but not the House bill requires that terms and benefits afforded to an individual with a disability be equal to those afforded to similarly situated coworkers of the individual.

The House recedes.

33. PROJECTS WITH INDUSTRY ASSURANCES (SEGREGATION)

Technical difference.

The House recedes.

34. PROJECTS WITH INDUSTRY (ANNUAL EVALUATION REPORT)

The Senate amendment but not the House bill requires that an annual evaluation report be submitted to the Commissioner.

The House recedes.

35. PROJECTS WITH INDUSTRY (EVALUATION STANDARDS AND INDICATORS)

Both the House bill and the Senate amendment strike 621(d)(1) and insert changes. The House bill requires each recipient to review and evaluate its project in accordance with the standards and indicators developed by the Commissioner and requires the Commissioner to revise the standards as necessary. The Senate amendment requires the Commissioner to develop standards for evaluation and requires the Commissioner to review and revise the evaluation standards as necessary.

The House recedes.

36. PROJECTS WITH INDUSTRY (REVISION OF STANDARDS)

The House bill requires that if the standards and indicators are revised, the Commissioner shall obtain and consider recommendations for such modifications from State Vocational Rehabilitation agencies, current recipients of agreements, individuals assisted by such recipients, professional organizations representing industry, organizations representing individuals with a disability and labor organizations. The Senate amendment requires that in revising the standards and evaluation, the Commissioner shall obtain and consider recommendations for such standards from the same organizations listed in the House bill with the addition of former grant recipients, professional organizations representing business and industry, individuals served by grant recipients, and organizations representing community rehabilitation program providers.

The House recedes.

37. PROJECTS WITH INDUSTRY (GRANT RENEWAL)

The Senate amendment but not the House bill allows renewal of a grant and requires the grant recipient to submit an application to the Commissioner in order to be eligible to receive a grant.

The House recedes.

38. PROJECTS WITH INDUSTRY (PROJECT DISTRIBUTION)

The Senate amendment but not the House bill requires the Commissioner, to the extent practicable, to assure an equitable distribution of payments among the States and new projects shall be awarded that will serve individuals with disabilities that are not currently served or are underserved by project.

The House recedes.

39. PROJECTS WITH INDUSTRY (ANNUAL REPORT REVIEW)

The Senate amendment but not the House bill requires the Commissioner to review each annual evaluation report and using the indicators determine whether the grant should be terminated, modified, or renewed.

The Senate recedes.

40. PROJECTS WITH INDUSTRY (CONTINUANCE OF GRANTS)

The House bill but not the Senate amendment requires the Commissioner to use program evaluation standards to assess project performance in order to award continuance grants in the 3rd, 4th, and 5th years and requires an equitable distribution among States to the extent practicable. The House bill requires that the grantee be in compliance with the evaluation standards under section 621(d)(1) and that each fiscal year the Commissioner shall include an analysis of grantees who have complied with the evaluation standards in the annual report to Congress.

The Senate recedes.

41. PROJECTS WITH INDUSTRY (REVIEW PROCESS)

The Senate amendment but not the House bill requires that indicators of what constitutes minimum compliance consistent with the evaluation standards be published in the Federal Register; requires each grant recipient to report to the Commissioner the extent to which they are in compliance with the evaluation standards; requires the Commissioner annually to conduct on-site reviews of at least 15 percent of the grant recipients selected at random; requires the Commissioner to use the indicators in determining compliance with the evaluation standards; outlines who is on the team to conduct the review and states conflict of interest language; requires the Commissioner in the annual report to Congress to analyze the extent to which the grant recipient is in compliance with the evaluation standards, allows the Commissioner to identify the grant recipients in the analysis, and requires the Commissioner to report the results of the on-site compliance reviews; authorizes the Commissioner to provide technical assistance to projects for the improvement or development of relationships with private industry or labor or the improvement of relationships with State Vocational Rehabilitation agencies and for planning the development of new projects.

The House recedes.

42. PROJECTS WITH INDUSTRY (DEFINITIONS)

The House bill strikes section 621(h). The Senate amendment amends section 621(h) to define the terms "agreement", "project", "grant recipient" and "workers with disabilities".

The House recedes to the Senate with an amendment striking definition "(4)" pertaining to "workers with disabilities".

43. JOB UPGRADE DEMONSTRATION PROJECTS

The House bill but not the Senate amendment authorizes the Commissioner to make grants to partnerships or consortia that include private business concerns or industries to develop model demonstration projects for workers with a disability who need new or upgraded skills to adapt to emerging technologies, work methods, and markets to ensure that such individuals possess the knowledge and skills necessary to compete in the work place. Outlines the length of the award and what information must be included in an application to receive an award.

The Senate recedes to the House with amendments placing this authority in title VIII and adding the phrase "and career advancement" after the word "employment" in section 621(i)(2) of the House bill.

44. BUSINESS OPPORTUNITIES (PLACEMENT)

The House bill but not the Senate bill creates Part D, Business Opportunities for Individuals with a Disability by redesignating section 622 as section 641.

The Senate recedes.

45. BUSINESS OPPORTUNITIES (HEADING)

Technical difference.

The Senate recedes.

46. BUSINESS OPPORTUNITIES (TABLE OF CONTENTS)

The House bill but not the Senate amendment updates the table of contents to reflect the change made in note 44.

The Senate recedes.

47. PROJECTS WITH INDUSTRY (AUTHORIZATION OF APPROPRIATIONS)

The House bill authorizes $21,042,000 for fiscal year 1993 and such sums for fiscal years 1994 through 1997 and the Senate amendment authorizes such sums for fiscal years 1993 through 1997.

The House recedes.

48. BUSINESS OPPORTUNITIES (AUTHORIZATION OF APPROPRIATIONS)

The House bill but not the Senate amendment authorizes such sums for fiscal years 1993 through 1997 to carry out Part D, Business Opportunities for Individuals with a Disability.

The Senate recedes.

49. TECHNICAL ASSISTANCE TO EMPLOYERS

The House bill but not the Senate amendment authorizes the Commissioner to enter into agreements with organizations representing individual employers, rehabilitation service providers, labor unions, and business or industry to provide technical assistance to assist employers in hiring individuals with a disability, improve or develop relationships between current or prospective projects with industry and employers and/or labor or assist employers in understanding and meeting the requirements of the Americans with Disabilities Act as it relates to employment. See note 28.

The House recedes.

50. TECHNICAL ASSISTANCE TO EMPLOYERS (TABLE OF CONTENTS)

The House bill but not the Senate amendment updates the table of contents to reflect changes made by note 49.

The House recedes.

51. SUPPORTED EMPLOYMENT (GENERAL)

Technical difference.

The House recedes.

52. SUPPORTED EMPLOYMENT (PURPOSE)

Both the House bill and the Senate amendment make amendments to the purpose. The House bill strikes "traditionally time-limited post-employment services leading to supported employment for individuals with severe disabilities" and inserts "for the provision of services leading to supported employment for individuals with a severe disability in the most integrated settings." The Senate amendment rewrites the purpose emphasizing that entities provide supported employment services for those individuals with the most severe disabilities who require supported employment services to enter or retain competitive.

The House recedes.

53. SUPPORTED EMPLOYMENT (FORMULA)

The Senate amendment but not the House bill has a formula that no State can receive less than $250,000 or one third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made whichever is greater and for a fiscal year in which the amounts appropriated under this part exceed by not less than $1 million the appropriations made to carry out this part in fiscal year 1992, no State shall receive less than $300,000 or one third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

The House recedes to the Senate with an amendment clarifying the formula.

54. SUPPORTED EMPLOYMENT (STATE DEFINITION)

The Senate amendment but not the House bill defines what is not a State which includes Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands and sets a minimum allotment for these entities not less than one-eighth of 1 percent except for Palau which shall be allotted not less than one eighth of 1 percent for the fiscal year, pending ratification of the Compact of Free Association. The House bill only makes a technical change from "the jurisdictions" to "each jurisdiction".

The Senate recedes.

55. SUPPORTED EMPLOYMENT (PLANNING GRANTS)

The House bill but not the Senate amendment retains current law allowing grants under this part to be used for planning activities for not more than 18 months and not to exceed $250,000.

The House recedes.

56. SUPPORTED EMPLOYMENT (FUNDS FOR EXTENDED SERVICES)

The Senate amendment but not the House bill provides that funds under this part may only be used to provide supported employment services to those individuals eligible to receive such services and that no funds provided by this part, title I or section 311(c) or 311(d) may be used to provide extended services to individuals who are eligible for services under this part or Title I.

The House recedes.

57. SUPPORTED EMPLOYMENT (ELIGIBILITY)

The Senate amendment but not the House bill prescribes the eligibility for this part to be an individual who is eligible for vocational rehabilitation services; and an individual is determined to be an individual with the most severe disabilities; and a comprehensive assessment of rehabilitation needs of the individual identifies supported employment as the appropriate rehabilitation objective for this individual.

The House recedes.

58. SUPPORTED EMPLOYMENT (STATE PLAN SUPPLEMENT)

The Senate amendment but not the House bill strikes the requirement that the State plan supplement for this part be for a three year period. Both the House bill and the Senate amendment strike language regarding traditionally time-limited postemployment services leading to supported employment. The House bill inserts "services authorized under this part" and the Senate amendment rewrites to emphasize supported employment services authorized under this Act to individuals who are eligible.

The House recedes.

59. SUPPORTED EMPLOYMENT (STATEWIDE ASSESSMENT)

The Senate amendment but not the House bill requires the plan to summarize the results of the comprehensive, statewide assessment of the rehabilitation needs of individuals with severe disabilities conducted under section 101(a)(5) of their amendment with respect to the need for supported employment services.

The House recedes to the Senate with an amendment inserting in (b)(2) the phrase "and career" after the phrase "assessment of the rehabilitation".

60. SUPPORTED EMPLOYMENT (DESCRIPTION OF SERVICES)

Technical difference.

The House recedes.

61. SUPPORTED EMPLOYMENT (COOPERATIVE AGREEMENTS)

The House bill requires that each designated State unit enter into cooperative agreements which demonstrate the capacity of the State to ensure collaboration by and funding from other State agencies and private nonprofit organizations to assist in the provision of supported employment services. The Senate amendment requires the supplement plan to demonstrate evidence of efforts to identify and make arrangements with other State agencies and other appropriate entities to assist in the provision of supported employment services.

The Senate recedes to the House and the House recedes to the Senate with an amendment inserting after the phrase "make arrangements" the phrase "(including entering into cooperative agreements)".

62. SUPPORTED EMPLOYMENT (IDENTIFICATION OF EXTENDED SERVICES)

The Senate amendment but not the House bill requires the State supplement plan to demonstrate evidence of efforts to identify and make arrangements with other public or nonprofit agencies within the State, employers, natural supports, and other entities to provide extended services.

The House recedes.

63. SUPPORTED EMPLOYMENT (TITLE I FUNDED SERVICES)

The Senate amendment but not the House bill requires assurances that funds under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive such services; that the comprehensive assessments conducted under section 102(b)(1)(A) of the Senate amendment will include consideration of supported employment as an appropriate rehabilitation objective; that the IWRP will be developed and updated using funds under Title I to specify the supported employment services to be provided, specify the extended services needed, and identify the source of extended employment services or if that cannot be done at the time of development of the IWRP, a statement describing that there is a reasonable expectation that such sources will become available; the State will use funds under this part to supplement, not supplant funds provided under Title I in providing supported employment services; job skills training will be provided on-site.

The House recedes.

63A. SUPPORTED EMPLOYMENT (SERVICES)

The House bill but not the Senate amendment strikes "traditionally time-limited post-employment services leading to supported employment" and inserts "services authorized under this part." The House recedes.

64. SUPPORTED EMPLOYMENT (COORDINATION OF SERVICES)

The House bill makes a technical change in the reference to the Individuals with Disabilities Education Act. The Senate amendment requires that services provided under an IWRP will be coordinated with services provided by other individualized plans established under other State and Federal laws.

The House recedes.

65. SUPPORTED EMPLOYMENT (ADMINISTRATIVE COSTS)

Technical difference.

The House recedes.

66. SUPPORTED EMPLOYMENT (OTHER INFORMATION)

Technical difference.

The House recedes.

67. SUPPORTED EMPLOYMENT (CAREER ADVANCEMENT)

The House bill but not the Senate amendment strikes "rehabilitation potential" and inserts "rehabilitation and career needs", adds "advance" in employment and strikes "rehabilitation potential" and inserts "rehabilitation needs".

The House recedes.

68. SUPPORTED EMPLOYMENT (ON-GOING SUPPORT SERVICES)

The House bill but not the Senate amendment limits on-going support services to a period of time prescribed by the Commissioner; authorizes extended on-going support services to be provided by other State agencies and private organizations or any other available source but stipulates that nothing in this section shall preclude an individual from again receiving post-employment services after the receipt of extended supported employment services.

The House recedes.

69. SUPPORTED EMPLOYMENT (DATA COLLECTION)

Technical difference.

The House recedes.

70. SUPPORTED EMPLOYMENT (SAVINGS PROVISION)

The House bill but not the Senate amendment strikes "Act" and inserts "part" and strikes "time-limited post-employment services leading to supported employment" and inserts "providing supported employment services." The Senate amendment rewrites this provision emphasizing that nothing shall prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

The House recedes.

71. SUPPORTED EMPLOYMENT (POST-EMPLOYMENT SERVICES)

The Senate amendment but not the House bill provides that nothing in this part shall prohibit a State from providing discrete post-employment services in accordance with the State plan under section 101 using funds through a State allotment under section 110 to an individual who is eligible under this part.

The House recedes.

72. SUPPORTED EMPLOYMENT (AUTHORIZATION OF APPROPRIATIONS)

The House bill authorizes $32,059,000 for fiscal year 1993 and such sums for fiscal years 1994 through 1997. The Senate amendment authorizes such sums for fiscal years 1993 through 1997.

The House recedes.

73. SUPPORTED EMPLOYMENT (TABLE OF CONTENTS)

The Senate amendment but not the House bill makes changes in the table of contents for Part C, Supported Employment.

The House recedes.

COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

1. TITLE

The House bill retains the current title for the part: "Comprehensive Services for Independent Living." The Senate amendment changes the title to: "Centers for Independent Living and Independent Living Services."

The House recedes to the Senate with an amendment changing the title of title VII to "Independent Living Services and Centers for Independent Living".

2. PURPOSE

(a) With minor drafting differences, both the House bill and the Senate amendment revise the purpose section for title VII.

The House recedes.

(b) The House bill and the Senate amendment reverse the order of the first two activities.

The Senate recedes.

(c) The House bill refers to "linkages" and includes a reference to linkages between State independent living rehabilitation service programs. The Senate amendment refers to "working relationships among" various entities.

The Senate recedes to the House with an amendment striking the words "linkages between" and inserting "working relationships".

3. DEFINITIONS

(a) Consumer control

With a minor drafting difference, both the House bill and the Senate amendment define "consumer control."

The House recedes.

(b) Designated State unit

The House bill, but not the Senate amendment, defines "designated State unit" for the purpose of title VII.

The Senate recedes.

(c) Independent living services

(i) Both the House bill and the Senate amendment define independent living services (definition in the Senate amendment is set out in the general definition section).

The House recedes.

(ii)The House bill defines independent living services that are required and then includes those services that are permissive. The Senate amendment uses the term "independent living core services" for those services that are required and "independent living services" for those services that are permissive.

The House recedes.

(iii) The House bill includes "training" in individual and system advocacy as a mandatory service; the Senate amendment refers to "individual and systems advocacy."

The House recedes.

(iv) The House bill, but not the Senate amendment includes a reference to "community group living."

The Senate recedes.

(v) The Senate amendment, but not the House bill, includes training and reference to life skills training under services for those with cognitive and sensory impairments.

The House recedes.

(vi) The Senate amendment includes "personal assistance services." The House amendment includes "personal assistance services, including attendant care."

The Senate recedes.

(vii) The House bill, but not the Senate amendment, includes surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services.

The Senate recedes.

(viii) The House bill, but not the Senate amendment, includes consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with a disability who have been traditionally underserved.

The Senate recedes.

(ix) The House bill, but not the Senate amendment, includes education and training necessary for living in the community and participating in community activities.

The Senate recedes.

(x) The House bill, but not the Senate amendment, includes appropriate job placement.

The House recedes.

(xi) The Senate amendment, but not the House bill, includes reference to supported living.

The House recedes.

(xii) The Senate amendment includes reference to transportation. The House bill includes reference to transportation, including referral and assistance for such transportation.

The Senate recedes.

(xiii) The Senate amendment includes "prostheses"; the House bill includes "needed prostheses".

The Senate recedes.

(xiv) The Senate amendment, but not the House bill, includes "health maintenance."

The Senate recedes.

(xv) The House bill, but not the Senate amendment, includes skills specifically designed for youths with a disability to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options.

The Senate recedes.

(xvi) The Senate amendment includes reference to "services for children". The House bill includes "services for children, including physical therapy, development of language and communications skills, and child development services."

The House recedes.

(xvii) The House bill, but not the Senate amendment, includes services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity and quality of life of individuals with a disability.

The Senate recedes.

(xviii) The House bill, but not the Senate amendment, includes community awareness programs to enhance the understanding and integration of individuals with a disability.

The Senate recedes.

4. ELIGIBILITY FOR SERVICES

The House bill includes a separate section specifying who is eligible for services under this section, generally restating the definition of "an individual with a severe disability" set out in the general definitions section. The Senate amendment relies on the definition of the term "individual with a severe disability" and specifies eligibility as subsection (e) of the State plan. The House amendment includes a comparable subsection in the State plan.

The Senate recedes to the House with an amendment striking the phrase "individual with a severe disability" and inserting "services may be provided under this chapter to any individual with a severe disability, as defined in section 7(15)(B)."

5. STATE PLAN

(a) Requirement to submit plan

The House bill entitles the subsection "IN GENERAL." The Senate amendment uses the title "ELIGIBILITY."

Senate recedes.

(b) Joint development and submission

(i) The House bill entitles this subsection "JOINT DEVELOPMENT". The Senate amendment entitles this subsection "SUBMISSION."

Senate recedes.

(ii) The House bill refers to "Jointly developed and signed." The Senate amendment refers to "jointly signed."

The Senate recedes.

(c) Periodic review and revision

(i) The House bill entitles this subsection "PERIODIC REVIEW AND REVISION." The Senate amendment entitles this subsection "REVIEW AND REVISION."

The Senate recedes.

(ii) The House bill and the Senate amendment reverse the order regarding the needs in the State.

The Senate recedes.

(iii) The House bill uses the phrase "linkages"; the Senate amendment uses the phrase "working relationships."

The House recedes.

(d) Date of submission, statewide council, designated State unit, objectives

With slightly different wording, both the House bill and the Senate amendment include the above topics in the State plan.

The House recedes.

(e) Independent living services, eligibility

With slightly different wording, both the House bill and the Senate amendment provide for an independent living plan for services under title VII except in certain cases.

(i) The Senate amendment requires that the individual sign a waiver stating that the plan is unnecessary; the House bill allows for the determination by the individual that the plan is unnecessary.

The House recedes.

(ii) The House bill provides for the plan to be agreed upon between the individual and the State and/or services providers; the Senate amendment provides for the agreement with an appropriate staff member of the services provider.

The House recedes.

(f) Scope of services

With slightly different language, both the House bill and the Senate amendment provide for the scope of services. The House bill adds that any arrangements made through grant or contract for providing services must be described in the State plan.

The House recedes to the Senate with an amendment adding at the end of (f): "If the State makes arrangements by grant or contract, for providing such services, such arrangements shall be described in the plan."

(g) Statewide network, award of grants to centers

With slightly different wording, the House bill and the Senate amendment include the above topics in the State plan.

The House recedes.

(h) Cooperation and coordination

(i) With regard to the coordination with other entities, the House bill includes the independent living rehabilitation service programs.

The Senate recedes.

(ii) The Senate amendment refers to "working relationships," while the House bill references "linkages."

The House recedes.

(iii) In terms of coordination between independent living services and centers, the House bill adds that this is in order to avoid unnecessary duplication with other Federal, State, and local programs.

The Senate recedes.

(i) Outreach

The House bill, but not the Senate amendment includes "Minorities and urban and rural areas" as illustrations of unserved and underserved populations.

The Senate recedes.

(j) Assurances

With slightly different wording, both the House bill and the Senate amendment specify assurances that must be made.

(i) The Senate amendment, but not the House bill, specifies that recipients of assistance under this title shall take affirmative action to employ qualified individuals with disabilities.

The House recedes.

(ii) The House bill, but not the Senate amendment, specifies that the entity must submit such reports with respect to such records as the Commissioner determines to be appropriate.

The Senate recedes.

(iii) The Senate amendment includes as an assurance that the applicant must hold public hearings. The House bill includes this provision as a separate provision in the State plan.

The House recedes.

(k) Administrative costs

The Senate amendment, but not the House bill, requires an assurance that no more than 5 percent of the funds available under this title will be used for administrative costs.

The Senate recedes.

6. INDEPENDENT LIVING COUNCIL

(a) Establishment

With slightly different wording, the House bill and the Senate amendment provide for the establishment of Statewide Independent Living Councils. The House bill stipulates that funds under this title shall pay for the Council. See note 8(c) for Senate provision.

The House recedes.

(b) Appointments

(i) With slightly different wording, the House bill and the Senate amendment provide for the appointment of members within 90 days.

The House recedes.

(ii) The House bill specifies that the members will be appointed from organizations representing a broad range of individuals with disabilities; the Senate amendment specifies that the members will be appointed after soliciting recommendations from these organizations.

The House recedes.

(c) Composition

(i) With different wording and location in the bills, both the House bill and the Senate amendment specify that the Council must provide for statewide representation, and the members must represent a broad range of individuals with disabilities and be knowledgeable about centers and services.

The House recedes.

(ii) With slightly different wording, the House bill and the Senate amendment specify the categories of persons that must and may be included.

The House recedes.

(iii) With slightly different wording, the House bill and the Senate amendment specify that the majority of the Council must be individuals with disabilities.

The House recedes.

(d) Chairperson

With slightly different wording, both the House bill and the Senate amendment specify policies governing the appointment of the chairperson.

The House recedes.

(e) Terms of appointment

The Senate amendment, but not the House bill, specifies that council members may only serve two consecutive full terms.

The House recedes.

(f) Vacancies

The Senate amendment, but not the House bill, provides that a vacancy on the council shall not affect the power of the remaining members to perform the duties of the Council.

The House recedes.

(g) Functions/duties

The House bill specifies that the Council shall "jointly" develop and submit the State plan (in conjunction with the designated State unit). The Senate amendment does not include the word "jointly" at the beginning of the sentence.

The Senate recedes.

(h) Hearings and forums

The Senate amendment specifies that the Council is authorized to hold hearings and forums. The House bill specifies under the subsection on "use of funds" that funds may be used for such activities.

The House recedes.

(i) Budget/resource plan

The House bill provides for the development of a budget for the Council and specifies that the Council may hire staff and obtain services of professional, technical, and clerical personnel. The Senate amendment provides for the development of a resource plan that will use, to the maximum extent possible, existing resources. The Senate amendment provides that the Council shall, consistent with State law, supervise and evaluate staff and other personnel.

The House recedes. The Conferees expect that the Council will be fully independent from the State vocational rehabilitation agency even while relying, to the maximum extent possible, on existing resources from the State vocational rehabilitation agency to provide staff and other personnel. The Conferees expect that staff provided by the State vocational rehabilitation agency, when assigned to work for the Council, will work solely on behalf of the Council and will not be assigned duties that create a conflict of interest. The Conferees expect that administrative arrangements made in the State will be consistent with this expectation so that each Council can operate independently.

7. RESPONSIBILITIES OF THE COMMISSIONER

The Senate amendment, but not the House bill, specifies the responsibilities of the Commissioner regarding approval of State plans, indicators, on-site compliance reviews, and reports.

The House recedes.

8. INDEPENDENT LIVING SERVICES PROGRAM

(a) Allotments

(i) With slightly different wording, the House bill and the Senate amendment specifies the policies governing allotments.

The House recedes.

(ii) The House bill sets the minimum allotment at $225,000; the Senate amendment sets the minimum at $275,000.

The House recedes.

(iii) The House bill, provides for the increase in the minimum amount of allotments based on the Consumer Price Index. The Senate amendment provides for an adjustment in the minimum allotment when the appropriations exceed the change in the CPR.

The Senate recedes.

(iv) The House bill and the Senate amendment use different terminology to describe the territories.

The Senate recedes.

(b) Payments to the States

With minor drafting and language differences, both the House bill and the Senate amendment provide for payments to the States and the Federal share. The Senate amendment, but not the House bill, includes cash and a description of in-kind in regard to the State match.

The House recedes.

(c) Authorized uses of grants

(i) With minor drafting and language differences, both the House bill and the Senate amendment specify authorized uses of funds. The House bill uses the term "may use"; the Senate amendment uses the term "shall use."

The Senate recedes.

(ii) The Senate amendment includes support of the Council in this section, the House bill includes it in the section establishing the Council.

The House recedes.

(iii) The House bill authorizes funds "to provide independent living services as defined by this title to individuals with a severe disability." The Senate amendment authorizes such funds "to provide independent living services."

The Senate recedes.

(iv) The House bill, but not the Senate amendment, specifies that minorities and urban and rural populations are included in unserved and cpu populations.

The Senate recedes.

(d) Authorization of appropriations

The House bill authorizes $14,654,000 for part B for 1993 and "such sums" thereafter. The Senate amendment authorizes "such sums" for the duration of the reauthorization.

The House recedes.

9. CENTERS FOR INDEPENDENT LIVING

(a) Definitions

The House bill, referring to an "eligible organization" and the Senate amendment, referring to an "eligible agency", both include the same definition.

The House recedes.

(b) Program authorization

The Senate amendment, but not the House bill, provides that from the funds appropriated, the Commissioner for fiscal year 1994 and thereafter shall allot such sums as may be necessary in accordance with the policies described below.

The House recedes.

(c) Allotments

(i) With slightly different wording, the House bill and the Senate amendment specify policies governing allotments.

The House recedes.

(ii) The House bill specifies that a "State shall be entitled to an allotment." The Senate amendment specifies that the "Commissioner shall make an allotment."

The House recedes.

(iii) The House bill provides for a minimum allotment of $275,000 while the Senate amendment provides a minimum of $500,000.

The House recedes to the Senate with an amendment striking "$500,000" and inserting $400,000 when the appropriation is $4 million or greater than the fiscal year 1992 appropriation for part B of title VII in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992 and $450,000 when the appropriation is $8 million or greater than the fiscal year 1992 appropriation under such part.

(iv) The House bill provides for maintenance of the fiscal year 1993 level while the Senate bill provides for maintenance of the 1992 level.

The House recedes.

(v) The House bill and the Senate amendment use different terminology to describe the territories.

The Senate recedes.

(vi) The Senate amendment, but not the House bill, provides for an inflation adjustment for minimum allotment States if the funds appropriated exceed the change in the Consumer Price Index.

The House recedes to the Senate with an amendment clarifying that the adjustment for inflation may begin with respect to making allotments for fiscal year 1994 and subsequent fiscal years.

(vii) The House bill provides for a proportional reduction in order to prevent a State receiving less than $200,000 while the Senate makes the same provision where a State would receive less than $500,000.

The House recedes to the Senate with an amendment striking "500,000" and inserting a reference to the minimums in note (9)(c)(iii).

(viii) Both the House bill and the Senate amendment provide for a reservation of funds for training and technical assistance. The Senate amendment provides for the reservation of the amount of the excess over the prior year's appropriation or $550,000 or 2% whichever is greater while the House bill provides for a 2% set aside.

The House recedes to the Senate with an amendment specifying that the amount must be between 1.8 percent and 2 percent.

(ix) The House bill provides for the review of grant applications by review panels "who have experience and knowledge in independent living programs." The Senate amendment specifies that such individuals must "have experience in the operation of centers for independent living."

The House recedes.

(x) With the minor difference that the House references this part and the Senate references this title, both the House bill and the Senate amendment prohibit the combining of funds.

The House recedes.

(d) Standards and assurances for centers

(i) The House bill, but not the Senate amendment, specifies that individuals with all different types of disabilities includes those who are unserved or cpu.

The Senate recedes.

(ii) With respect to goals, the House bill uses the term "facilitate" and the Senate amendment uses the term "assist".

The Senate recedes.

(iii) The Senate amendment specifies that centers must provide independent living core services and may provide other services; the House bill specifies that centers must provide independent living services.

The House recedes.

(iv) The Senate amendment, but not the House bill, provides that the centers must conduct resource development activities to obtain funding from sources other than title VII.

The House recedes.

(v) The House bill, but not the Senate amendment, specifies that with respect to affirmative action, the applicants for funds must comply with section 504 of this Act as well as section 503.

The House recedes.

(vi) The House bill, but not the Senate amendment, specifies that outreach to unserved and cpu populations should especially include those who are minorities and urban and rural populations.

The Senate recedes.

(vii) The House bill, but not the Senate amendment, specifies that training of unserved and cpu should include minorities and urban and rural populations.

The Senate recedes to the House with a technical amendment fixing the cross reference in assurance (12). The reference should be to (8), not (7).

(viii) The House bill specifies that the individual may determine that he or she does not need an independent living plan; the Senate amendment requires that the individual waive the plan in writing.

The House recedes.

(ix) The House bill, but not the Senate amendment, specifies that no funds may be allotted unless the Center is in compliance with the standards and assurances.

The Senate recedes.

(e) Grants to centers for independent living in States in which Federal funding exceeds State funding

(i) With different language, both the House bill and the Senate amendment specify that the Commissioner shall award grants to centers where the Federal funds for centers exceeds the State funds for centers.

The House recedes.

(ii) With two minor differences, both the House bill and the Senate amendment specify who is an eligible entity, existing eligible entities, new centers for independent living, and the order of priorities. The differences are that the House refers to eligible organizations and the Senate refers to eligible agencies and uses cross references.

The House recedes.

(iii) The Senate amendment, but not the House bill, specifies that priority shall be given to applications proposing to serve unserved or cpu areas of the State identified in the State plan.

The House recedes.

(iv) The Senate amendment, but not the House bill, specifies that centers receiving funds under part A of current law (or part B under the amendments) will be eligible to receive funds as a new center.

The House recedes.

(v) Both the House bill and the Senate amendment require the Commissioner to review the centers with the difference that the House bill requires the review "annually" and the Senate amendment requires the review "periodically".

The House recedes.

(vi) With minor drafting differences, both the House bill and the Senate amendment provide for termination of funds if the center fails to comply with the standards and assurances.

The House recedes.

(f) Grants to centers for independent living in States in which State funding equals or exceeds Federal funding

(i) Although worded differently, both the House bill and the Senate amendment provide that the director of the State unit may award grants to the centers in States where the State funding for centers equals or exceeds the Federal funds for centers. The Senate amendment authorizes the Commissioner to establish, by regulation, the proper fiscal year.

The House recedes to the Senate with an amendment to section 723(a)(1)(A)(i), as added by the Senate amendment, inserting after the section reference the following: "Beginning on October 1, 1993,".

(ii) Although worded differently, both the House bill and the Senate amendment provide for how determinations of who will award grants in subsequent years will be made in cases where the State does not continue to fund the centers at a level greater than the Federal funding.

The House recedes.

(iii) With drafting differences, both the House bill and the Senate amendment provide the procedure for the State to become the grantor of funds for centers and for the Commissioner to award the grants if the State does not apply to do so.

The House recedes.

(iv) With two minor differences, both the House bill and the Senate amendment specify who is an eligible entity, existing eligible entities, new centers for independent living, and the order of priorities. The differences are that the House refers to "eligible organizations" and the Senate refers to "eligible agencies" and uses cross references.

The House recedes.

(v) The Senate amendment, but not the House bill, specifies that centers receiving funds under part A of current law (or part B under the amendments) will be eligible to receive funds as a new center.

The House recedes.

(vi) Both the House bill and the Senate amendment require the director to review the centers with the difference that the House bill requires the review "annually" and the Senate amendment requires the review "periodically."

The House recedes.

(vii) The Senate amendment provides that funds will be terminated on the date of a final determination in cases of noncompliance unless the center submits a plan for compliance within 90 days and the plan is approved. The House bill provides that funds will be terminated within 90 days unless the center sooner complies with the standards and assurances.

The House recedes.

(viii) The House bill, but not the Senate amendment, specifies that a copy of the onsite compliance review shall be provided to the Commissioner. The Senate amendment uses the term "employee of a State agency." The House bill uses the term "employee of the State Vocational Rehabilitation Agency."

The Senate recedes with an amendment specifying an employee of the designated State agency.

(g) Centers operated by State agencies

The Senate amendment, but not the House bill, provides for certain centers operated by State agencies to continue to be eligible for funding under specified circumstances.

The House recedes.

(h) Authorization of appropriations

The House bill authorizes $29,928,000 for fiscal year 1993 and such sums thereafter for this section. The Senate amendment provides such sums for fiscal years 1993 through 1997.

The House recedes.

(i) Transition rules for fiscal year 1993

The House bill and the Senate amendment provide for transition to the new standards somewhat differently. These differences include: The House bill provides that centers must either comply with the standards or submit a plan for meeting the requirements by October 1, 1993. The Senate has a similar provision but only for those centers receiving funds in fiscal year 1992. With different language, both the House bill and the Senate amendment provide that centers receiving funds in fiscal year 1992 will be given priority. The Senate amendment, but not the House bill, specifies that agencies that did not receive funds in fiscal year 1992 must meet the standards and assurances.

The House recedes.

(j) Effective date

The Senate amendment, but not the House bill, specifies the effective date for this part.

The Senate recedes to the House and the House recedes to the Senate with an amendment authorizing the Commissioner to delay the effective date of the amendments to section 703 of the Act (pertaining to the State plan) made by the Rehabilitation Act Amendments of 1992 to no later than October 1, 1993.

10. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

(a) Placement in the act

The House bill continues to include this program in title VII; the Senate amendment places this program in title III.

The Senate recedes.

(b) Purpose

The House bill provides that the Commissioner may make grants for the purpose of providing services to older blind individuals; the Senate amendment provides that the grants are to provide independent living services and related services to older individuals who are blind to adjust to blindness by becoming more able to care for individual needs.

The Senate recedes.

(c) Definition

Although worded somewhat differently, both the House bill and the Senate amendment provide a definition of an older individual who is blind. The House bill uses the phrase older blind individual throughout while the Senate amendment uses the phrase older individual who is blind. The House bill uses the term "gainful employment"; the Senate amendment uses the term "competitive employment".

The House recedes.

(d) Designated State unit

The House bill, but not the Senate amendment, provides that the grant under this section must be administered solely by the designated State unit authorized to provide vocational rehabilitation services to the adult blind.

The Senate recedes.

(e) Competitive, formula grant

The House bill, but not the Senate amendment, provides that if the funds for this section equal or exceed $13,000,000 then the funds will be allotted to the States by formula.

The Senate recedes to the House with an amendment striking "In the case of any fiscal year" and inserting the phrase, "Beginning with fiscal year 1994, in the case of any fiscal year".

(f) Services authorized

(i) The House bill requires that the States agree to expend funds only to provide independent living services to older blind individuals, to conduct activities to improve or expand the services for such individuals and to improve public understanding of such individuals. The Senate amendment requires that the State expend the funds to provide independent living skills training, information and referral services, peer counseling, and individual advocacy training.

The Senate recedes to the House with an amendment adding to subsection (d) an additional paragraph that reads: "(7) independent living services including independent living skills training, information and referral services, peer counseling, and individual advocacy training:".

(ii) With minor drafting differences, both the House bill and the Senate amendment list independent living services that may be provided. The Senate amendment, but not the House bill also includes "other independent living services" in addition to those listed.

The House recedes.

(g) Matching funds

The House bill, but not the Senate amendment, specifies special rules for matching.

The Senate recedes.

(h) Grants to nonprofits

The House bill and the Senate amendment in different places and using slightly different language, authorize States to make grants to nonprofits. The Senate amendment, but not the House bill, provides that the State may make grants to other entities to conduct activities to improve or expand services and help improve public understanding and to provide independent living and related services.

The Senate recedes.

(i) State plan

The House bill, but not the Senate amendment, specifies that the State must seek to incorporate in the State plan any new methods and approaches relating to independent living services for older blind individuals.

The Senate recedes.

(j) Applications

With slightly different language both the House bill and the Senate amendment provide general requirements for applications under this part. The Senate amendment, but not the House bill, provides for the contents of the application.

The Senate recedes to the House with an amendment adding the paragraph (e)(2) relating to the specific contents of the grant application.

(k) State allotments

The House bill, but not the Senate amendment, provides for the amount of the formula grant in the event that the trigger is reached.

The Senate recedes.

(l) Authorization of appropriations

The House bill authorizes $6,713,000 for fiscal year 1993 and such sums thereafter. The Senate amendment authorizes such sums throughout the reauthorization period.

The House recedes.

Helen Keller National Center and Amendments to Other Acts

1. CONGRESSIONAL FINDINGS (INCIDENCE)

Technical difference.

The House recedes.

2. CONGRESSIONAL FINDINGS (INVESTMENT)

Technical difference.

The House recedes.

3. CONTINUED OPERATION OF CENTER (GENERAL)

The Senate amendment, but not the House bill, strikes the repeal of an obsolete provision and renumbers the subsequent provisions.

The House recedes.

4. CONTINUED OPERATION OF CENTER (PRIOR OPERATION)

Technical difference.

The House recedes.

5. CONTINUED OPERATION OF CENTER (CROSS-REFERENCE)

The Senate amendment, but not the House bill, amends a subsection reference, occasioned by the deletion in note 3.

The House recedes.

6. PURPOSES OF CENTER (NATIONAL REGISTRY)

The Senate amendment, but not the House bill, adds the requirement to maintain a national registry on information and data.

The Senate recedes.

7. ENDOWMENT FUND (PLACEMENT)

Technical difference, since the House adds the endowment provision in the middle of the Act and the Senate adds the provision at its end.

The House recedes.

8. ENDOWMENT FUND (ESTABLISHMENT)

Technical difference.

The House recedes.

9. ENDOWMENT FUND (FEDERAL PAYMENTS)

Technical difference involving citation of subsections.

The House recedes.

10. ENDOWMENT FUND (LAW GOVERNING)

The House bill uses the law of the State of New York.

The Senate amendment uses the law of the District of Columbia.

The Senate recedes.

11. ENDOWMENT FUND (CONFLICT OF INTEREST)

The Senate amendment, but not the House bill, includes a provision on conflict of interest.

The House recedes.

12. ENDOWMENT FUND (ENCUMBRANCE OF CORPUS)

The Senate amendment, but not the House bill, includes a provision prohibiting the encumbrance of the corpus.

The House recedes.

13. ENDOWMENT FUND (CORPUS EXPENDITURE)

The Senate amendment, but not the House bill, specifically authorizes the use of all monies after the expiration of the 20 year period. Also, some technical drafting differences.

The House recedes.

14. ENDOWMENT FUND (INCOME)

The House bill uses the term "accumulated endowment fund income".

The Senate amendment uses the term "aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure."

The House recedes.

15. ENDOWMENT FUND (WAIVER OF LIMITATIONS)

Technical difference.

The House recedes.

16. ENDOWMENT FUND (WAIVER CIRCUMSTANCES)

The House bill allows the Secretary to waive the 50 percent limitation on withdrawals where "* * * the Secretary determines * * *" same is a "necessary response to exceptional or uncontrollable circumstances * * *".

The Senate amendment allows the Secretary to waive the 50 percent limitation on withdrawals where "* * * the Center demonstrates to the Secretary's satisfaction * * *" that a specific set of circumstances has occurred or been met.

The House recedes.

17. ENDOWMENT FUND (REPORTING REQUIREMENTS)

The Senate amendment, but not the House bill, contains specific requirements on reporting and financial records.

The House recedes.

18. ENDOWMENT FUND (CORPUS DEFINED)

Technical difference.

The House recedes.

19. ENDOWMENT FUND (AUTHORIZATION OF APPROPRIATIONS)

The Senate amendment, but not the House bill, contains a separate authorization of appropriations.

The House recedes.

20. HELEN KELLER NATIONAL CENTER (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

21. DEFINITIONS (GENERAL)

The Senate amendment, but not the House bill, strikes the reference to the Rehabilitation Act.

The House recedes.

22. DEFINITIONS (VISUAL CRITERIA)

Technical difference—the House and Senate use different terms to define the same physical condition.

The House recedes with a technical amendment striking the phrase "or, if there is a field defect, central acuity of 20/200" and inserting "or a field defect".

23. DEFINITIONS (HEARING CRITERIA)

Technical difference.

The House recedes.

24. DEFINITIONS (FUNCTIONAL CRITERIA)

The Senate amendment, but not the House bill, adds the caveat that the combination of loss of vision and hearing are causing extreme difficulty in attaining independence, achieving psychosocial adjustment or obtaining a vocation.

The House recedes.

25. DEFINITIONS (PERFORMANCE ASSESSMENT)

Technical difference in referring to those who cannot be diagnosed accurately due to cognitive or behavioral conditions, and the Senate includes a requirement for functional and performance assessment in making that determination.

The House recedes.

26. DEFINITIONS (SECRETARIAL DEFINITION)

Technical difference in describing the Secretary's authority to define the term further.

The House recedes.

27. CONSTRUCTION OF ACT; EFFECT ON AGREEMENTS

Technical difference.

The House recedes.

28. INDIVIDUALS WHO ARE DEAF-BLIND

The Senate amendment, but not the House bill, makes a number of technical changes to the Act to conform terms.

The House recedes.

29. BUDGET ENFORCEMENT ACT

The House bill, but not the Senate amendment, adds a Budget Enforcement Act compliance provision providing a cap for programs in the Budget Enforcement Act account for Rehabilitation Services and Disability Research.

The House recedes.

30. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

The Senate amendment, but not the House bill, amends terms in the Wagner-O'Day Act and the Small Business Act.

The House recedes.

31. INDIVIDUALS WITH DISABILITIES EDUCATION ACT (TRAINING)

The Senate amendment, but not the House bill, amends the Individuals with Disabilities Education Act to authorize the training or retraining of regular teachers involved with individuals who are deaf in meeting the communication needs of such individuals. (See note 87 under "Supplementary Service and Community Rehabilitation Programs/Training and Demonstration Projects".)

The House recedes.

32. INDIVIDUALS WITH DISABILITIES EDUCATION ACT (SERIOUS EMOTIONAL DISTURBANCE)

The Senate amendment, but not the House bill, requires the Secretary of Education to issue a public Notice of Inquiry on the definition of "serious emotional disturbance", as used in the Individuals with Disabilities Education Act and the need for, and desirability of, amendment to same. A definition to be used in the solicitation of public comment is included and other administrative caveats are included. A report to Congress is required.

The House recedes to the Senate with an amendment striking in (b)(4) the phrase "within 7 months after the end of the comment period," and inserting "within 10 months after the date of enactment of this Act,".

33. TECHNOLOGY RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT

The Senate amendment, but not the House bill, amends the Technology Related Assistance for Individuals With Disabilities Act of 1988 by including institutions of higher education as entities eligible to receive funding.

The House recedes.

34. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

The Senate amendment, but not the House bill, makes a number of amendments to the Joint Resolution authorizing an appropriation for the work of the Presidents Committee on National Employ the Physically Handicapped Week relating to terms, policy direction and authorization of appropriation.

The House recedes.

WILLIAM D. FORD,
PAT WILLIAMS,
MAJOR R. OWENS,
DONALD M. PAYNE,
JOSÉ E. SERRANO,
WM. JEFFERSON,
ED PASTOR,
BILL GOODLING,
CASS BALLENGER,
SCOTT KLUG,
RANDY "DUKE" CUNNINGHAM,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
BROCK ADAMS,
ORRIN HATCH,
DAVE DURENBERGER,
JIM JEFFORDS,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

Mr. SENSENBRENNER (at the request of Mr. MICHEL), for today and until 12 noon tomorrow, on account of a death in the family.

Mr. BLACKWELL (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. TAYLOR of North Carolina, for 5 minutes, on October 5.

Mr. HASTERT, for 60 minutes, today.

Mr. BUNNING, for 60 minutes, on October 3.

Mr. ROGERS, for 60 minutes, on October 3.

(The following Members (at the request of Mr. KOLTER) to revise and extend their remarks and include extraneous material:)

Mr. HAYES of Illinois, for 5 minutes, today.

Mr. SMITH of Florida, for 5 minutes, today.

Mrs. UNSOELD, for 5 minutes, today.

Mr. RICHARDSON, for 5 minutes each day, for today and October 3, 4, and 5.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. NATCHER, for 60 minutes each day, on October 3 and 4.

Mr. ROSE, for 60 minutes, on October 3.

Mr. TAUZIN, for 60 minutes each day, on October 3, 4, and 5.

Ms. NORTON, for 60 minutes each day, on October 3, 4, and 5.

Mr. JOHNSON of Texas, for 60 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DORNAN of California) and to include extraneous matter:)

Mr. WELDON.
Mr. GEKAS.
Mrs. MORELLA.
Mr. SPENCE.
Mr. ZIMMER.
Mr. COUGHLIN.
Mr. BEREUTER.
Mr. SOLOMON in two instances.
Mr. GALLO.
Mr. CRANE.
Mr. GINGRICH.
Mr. OXLEY.
Mr. DANNEMEYER.
Mr. BLAZ.
Mr. RIDGE.
Ms. MOLINARI in two instances.
Mr. BARTON of Texas.
Mr. BLILEY in two instances.
Mr. CAMPBELL of California.
Mr. GILMAN in two instances.
Mr. GREEN of New York in three instances.
Mr. COMBEST.
Mr. GOODLING.
Mr. BALLENGER.
Mr. DREIER of California.

(The following Members (at the request of Mr. KOLTER) and to include extraneous matter:)

Mrs. LOWEY of New York.
Mr. FASCELL in five instances.
Mr. EARLY.
Mr. LEHMAN of California.
Mr. CONDIT.
Mr. NATCHER.
Mr. ROE in two instances.
Mr. DURBIN.
Mr. HAMILTON.
Mr. HUBBARD.
Mr. NEAL of Massachusetts in two instances.
Mr. YATES.
Mr. LIPINSKI in two instances.
Mr. LANTOS in two instances.
Mr. PANETTA in two instances.
Mr. MORAN.
Ms. OAKAR.
Mr. KILDEE.
Mr. SANGMEISTER.
Mr. SKELTON.
Mr. YATRON.
Mr. GEJDENSON in two instances.
Mr. TAUZIN.
Mr. MURTHA.
Mr. KOSTMAYER.
Mrs. BYRON.
Mr. ANDREWS of Texas.
Mr. WYDEN.
Mr. SANDERS.
Mr. SOLARZ.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 20. An act to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes; to the Committees on Government Operations and Rules.

S. 1664. An act to establish the Keweenaw National Historical Park, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1893. An act to adjust the boundaries of the Targhee National Forest, to authorize a land exchange involving the Kaniksu National Forest, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3100. An act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes.

H.R. 3508. An act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug.

H.R. 5673. An act to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research.

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War.

ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 52 minutes a.m.), the House adjourned until today, Saturday, October 3, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4347. A letter from the Acting Chairman, Federal Deposit Insurance Corporation, transmitting a feasibility study on authorizing insured and uninsured deposit accounts through a so-called "two-window" system, pursuant to Public Law 102-242, section 321(c) (105 Stat. 2370); to the Committee on Banking, Finance, and Urban Affairs.

4348. A letter from the Secretary of Education, transmitting a copy of Final Regulations—Assistance to States for the Education of Children with Disabilities Program and Preschool Grants Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4349. A letter from the Acting Assistant Secretary of State (Legislative Affairs), transmitting a memorandum of Justification for Presidential determination regarding the drawdown of defense articles and services for disaster relief to Pakistan, pursuant to Public Law 101-513, section 574(b) (104 Stat. 2042); to the Committee on Foreign Affairs.

4350. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5811. A bill to create a Supreme Court for the District of Columbia, and for other purposes (Rept. 102-975). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 592. Resolution waiving points of order against the conference report to accompany the bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act," and against the consideration of such conference report (Rept. No. 102-976). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 593. Resolution providing for consideration of the bill (S. 2681) relating to native Hawaiian health care, and for other purposes (Rept. 102-977). Referred to the House Calendar.

Mr. DE LA GARZA: Committee of Conference. Conference report on H.R. 707 (Rept. 102-978). Ordered to be printed.

Mr. ROSE: Committee on House Administration. H.R. 5575. A bill to authorize certain uses of real property acquired by the Architect of the Capitol for use by the Librarian of Congress and for other purposes; with amendments (Rept. 102-979). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4363. A bill to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons; with an amendment (Rept. 102-980). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4797. A bill to direct the U.S. Sentencing Commission to make sentencing guidelines for Federal criminal cases that provide sentencing enhancements for hate crimes (Rept. 102-981). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5304. A bill to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the modification in such other State court; with an amendment (Rept. 102-982). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5602. A bill granting the consent of the Congress to the Interstate Rail Passenger Network Compact (Rept. 102-983). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 1126. A bill to extend the coverage of certain Federal labor laws to foreign flagships; with an amendment (Rept. 102-984, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 3927. Referral to the Committee on Ways and Means extended for a period ending not later than October 6, 1992.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of title X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSE:

H.R. 6092. A bill to amend the Agricultural Act of 1949 with respect to the use of certain foreign currency proceeds; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. OBERSTAR (for himself and Mr. Clinger):

H.R. 6093. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, and 1995, and for other purposes; jointly, to the Committees on Public Works and Transportation, Science, Space, and Technology, and Ways and Means.

By Mr. GONZALEZ (for himself and Mr. Wylie):

H.R. 6094. A bill to improve supervision and regulation with respect to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SWETT:

H.R. 6095. A bill to amend title IX of the Federal Property and Administrative Services Act of 1949 to provide an architectural and engineering design competition for the construction, renovation, and repair of certain public buildings, and for other purposes; jointly, to the Committees on Government Operations and Public Works and Transportation.

By Mr. WYDEN:

H.R. 6096. A bill to provide for the certification of ambulatory surgery and emergency care facilities; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. CAMPBELL of Colorado (for himself, Mr. Evans, Mr. Faleomavaega, Mr. Abercrombie, Mr. Blackwell, Ms. Norton, Mr. Hochbrueckner, Mr. Espy, Mr. Rangel, Mr. Frost, Mr. Miller of California, Mr. Rhodes, Mr. Horton, Mr. Bereuter, Mr. Peterson of Minnesota, Mrs. Unsoeld, Mr. Dorgan of North Dakota, Mr. Hayes of Illinois, Mrs. Mink, Mr. Hertel, and Mr. Bustamante):

H.R. 6097. A bill to amend chapter 37 of title 38, United States Code, to establish a pilot program for furnishing housing loans to Native American veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DREIER of California:

H.R. 6098. A bill to prohibit direct Federal financial benefits and unemployment benefits for illegal aliens and to end Federal mandates for States to provide benefits for illegal aliens; to the Committee on the Judiciary.

By Mr. EMERSON:

H.R. 6099. A bill to remove inappropriate limitations on work requirements and to enhance waiver authority for welfare reform demonstration projects for the Food Stamp Program; to the Committee on Agriculture.

By Mr. GEKAS:

H.R. 6100. A bill to reform the United States health care delivery and financing system, to increase access to health care and affordable health insurance, to contain costs of health care in a manner that improves health care, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, the Judiciary, Education and Labor, and Rules.

By Mr. HENRY (for himself and Mr. Andrews of New Jersey):

H.R. 6101. A bill to amend the Occupational Safety and Health Act to provide for uniform warnings on personal protective equipment for occupational use, and for other purposes; to the Committee on Education and Labor.

By Mr. HUNTER:

H.R. 6102. A bill to facilitate the providing of loan capital to and investments in residential homebuilders and other small business concerns, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MILLER of Washington:

H.R. 6103. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Wenatchee River in Washington as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of Washington:

H.R. 6104. A bill to amend title 31, United States Code, to reduce the time period within which a member of the uniformed services or a Federal employee may make a claim against the Federal Government for losses to personal property incident to service when the personal property is in a commercial shipment or storage arranged or reimbursed by the Government; to the Committee on the Judiciary.

By Mr. NEAL of North Carolina:

H.R. 6105. A bill to establish a cabinet-level interagency task force to develop a comprehensive legislative proposal that coordinates and reforms all Federal programs that provide assistance to individuals with limited incomes; to the Committee on Government Operations.

By Mr. PAXON:

H.R. 6106. A bill to amend the Internal Revenue Code of 1986 to reduce capital gains taxes, to reinstate a 5-percent investment tax credit, and for other purposes; to the Committee on Ways and Means.

By Mr. RIDGE (for himself, Mr. Schulze, Mr. McDade, Mr. Murphy, Mr. Clinger, Mr. Santorum, Mr. Weldon, Mr. Yatron, Mr. Foglietta, Mr. Shuster, Mr. Gekas, and Mr. Gaydos):

H.R. 6107. A bill to amend section 123 of the Housing and Urban-Rural Recovery Act of 1983 to require coordination with community development funding organizations in carrying out eligible neighborhood development activities under the neighborhood development program, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RITTER (for himself and Mr. Gingrich):

H.R. 6108. A bill to establish a Bipartisan Commission on Total Quality Government; jointly, to the Committees on Government Operations House Administration, and Post Office and Civil Service.

By Mrs. SCHROEDER:

H.R. 6109. A bill to amend the Public Health Service Act to provide for grants to immunize children against vaccine-preventable diseases through programs established in elementary schools; to the Committee on Energy and Commerce.

By Mr. SHAW (for himself, Mrs. Johnson of Connecticut, Mr. Grandy, Mr. Emerson, and Mr. Armey):

H.R. 6110. A bill to authorize five local pilot projects for the development of community opportunity systems to demonstrate the potential for improving economic opportunity for low-income residents of the community through restructured programs providing services and benefits, and for meeting the identified priorities of the community and the needs of the individuals and families to be served; to the Committee on Government Operations.

By Mr. SHAW (for himself, Mrs. Johnson of Connecticut, and Mr. Grandy):

H.R. 6111. A bill to amend parts A and F of title IV of the Social Security Act to remove certain limitations on employment-related programs, to strengthen the requirement to cooperate in paternity establishment, and for other purposes; to the Committee on Ways and Means.

By Mr. STENHOLM (for himself, Mr. Boehner, and Mr. Herger):

H.R. 6112. A bill to amend the Egg Research and Consumer Information Act, to accomplish an expansion of exemption eligibility from assessments under this act and to authorize increased assessment rates if approved by producers; to the Committee on Agriculture.

By Mr. VALENTINE:

H.R. 6113. A bill to amend the Federal Transit Act, the Airport and Airway Improvement Program Act of 1982, and title 23, United States Code, to provide for utilization of the latest available census data in the administration of certain transportation programs; to the Committee on Public Works and Transportation.

By Mr. WALKER (for himself, Mr. Michel, Mr. Gingrich, Mr. Bliley, Mr. Campbell of California, Mr. Coble, Mr. Fawell, Mr. Goss, Mr. Lewis of Florida, Mr. Packard, Mr. Rhodes, Mr. Ritter, Mr. Rohrabacher, Mr. Sensenbrenner, Mr. Smith of Texas, Mr. Zimmer, Mr. Dornan of California, Mr. Ewing, Mr. Ballenger, Mr. Ireland, Mr. Camp, Mr. Hancock, Mr. Santorum, Mr. Oxley, Mr. Ravenel, Mr. Gekas, Mr. Doolittle, Mr. Kolbe, Mr. Nussle, Mr. Barton of Texas, Mr. Allen, Mr. Thomas of Wyoming, Mr. Upton, Mr. Zeliff, and Mr. Hefley):

H.R. 6114. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; jointly, to the Committee on Ways and Means and Government Operations.

By Mr. DURBIN:

H.J. Res. 558. Joint resolution congratulating the Springfield Commission on International Visitors for 30 years of superb service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. TAUZIN (for himself, Mr. Studds, Mr. Davis, Mr. Fields, and Mr. Young of Alaska):

H.J. Res. 559. Joint resolution honoring the Coast Guard Women's Reserve; to the Committee on Merchant Marine and Fisheries.

By Mr. LEWIS of Georgia (for himself and Mr. Broomfield):

H. Con. Res. 370. Concurrent resolution concerning the humanitarian crisis in Somalia; to the Committee on Foreign Affairs.

By Mr. OWENS of New York:

H. Con. Res. 371. Concurrent resolution to make corrections in the enrollment of the bill, H.R. 5482; considered and agreed to.

By Mr. DeLAY:

H. Con. Res. 372. Concurrent resolution expressing the sense of the Congress that the Postmaster General should not issue a commemorative postage stamp in honor of any individual who, at the time of his death, was a member of the Communist Party or was no longer a citizen of the United States because he had renounced his citizenship; to the Committee on Post Office and Civil Service.

By Mr. TORRICELLI (for himself and Mr. Burton of Indiana):

H. Con. Res. 373. Concurrent resolution expressing the sense of the Congress that the President should prohibit the acquisition of Allison Transmission, a division of General Motors Corp., by a foreign person; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and Foreign Affairs.

By Mr. MARTINEZ:

H. Res. 594. Resolution relating to the consideration of the Senate amendment to H.R. 5194; rules suspended; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 117: Mr. COMBEST and Mr. JONTZ.

H.R. 701: Mr. CAMPBELL of California.

H.R. 811: Mr. COX of California.

H.R. 875: Mr. COX of Illinois.

H.R. 1188: Mr. KOSTMAYER.

H.R. 1622: Mr. JENKINS.

H.R. 1886: Mr. SCHAEFER.

H.R. 2164: Mr. CAMP, Mr. BREWSTER, Mr. PANETTA, and Mr. GILLMOR.

H.R. 2348: Mr. PAXON.

H.R. 2511: Mr. LEHMAN of California.

H.R. 2528: Mr. JAMES.

H.R. 2595: Mr. CAMPBELL of California.

H.R. 2618: Mr. ROE, Mr. MINETA, Mr. HANSEN, Mr. DURBIN, Mrs. KENNELLY, Mr. SPENCE, Mr. SKEEN, Mr. BRUCE, and Mr. FAZIO.

H.R. 2643: Mr. CAMPBELL of California.

H.R. 2695: Mr. SHAYS.

H.R. 3056: Mr. SIKORSKI.

H.R. 3102: Mr. TRAFICANT, Mr. COLORADO, and Mrs. COLLINS of Illinois.

H.R. 3517: Mr. WALSH, Mr. HAYES of Illinois, Mr. KLUG, and Mr. SARPALIUS.

H.R. 3518: Mr. BILIRAKIS.

H.R. 3780: Mr. CAMPBELL of California.

H.R. 3801: Mr. FISH.

H.R. 4182: Mr. CAMPBELL of California and Mr. STUMP.

H.R. 4207: Mr. ORTON and Mr. POSHARD.

H.R. 4224: Mr. CAMPBELL of California.

H.R. 4271: Mr. TOWNS.

H.R. 4315: Mr. CAMPBELL of California.

H.R. 4385: Mr. ENGEL.

H.R. 4457: Mrs. LOWEY of New York.

H.R. 4530: Mr. CAMPBELL of California.

H.R. 4585: Mr. SHAYS.

H.R. 4684: Mr. CAMPBELL of California.

H.R. 4749: Mr. CAMPBELL of California.

H.R. 4764: Mr. MCCRERY, Mr. KANJORSKI, Mr. DUNCAN, Mr. STUMP, Mr. MCMILLEN of Maryland, and Mr. RHODES.

H.R. 4851: Mr. CAMPBELL of California.

H.R. 4852: Mr. CAMPBELL of California and Mr. COX of California.

H.R. 4853: Mr. CAMPBELL of California and Mr. COX of California.

H.R. 4854: Mr. COX of California.

H.R. 4857: Mr. CAMPBELL of California.

H.R. 4859: Mr. CAMPBELL of California.

H.R. 4860: Mr. COX of California.

H.R. 4861: Mr. COX of California.

H.R. 4862: Mr. COX of California.

H.R. 4863: Mr. COX of California.

H.R. 4864: Mr. COX of California and Mr. CAMPBELL of California.

H.R. 4865: Mr. CAMPBELL of California.

H.R. 4866: Mr. CAMPBELL of California.

H.R. 4868: Mr. CAMPBELL of California.

H.R. 4869: Mr. CAMPBELL of California and Mr. COX of California.

H.R. 4870: Mr. CAMPBELL of California.

H.R. 4871: Mr. CAMPBELL of California and Mr. COX of California.

H.R. 4872: Mr. CAMPBELL of California and Mr. COX of California.

H.R. 4875: Mr. CAMPBELL of California and Mr. COX of California.

H.R. 4876: Mr. COX of California.

H.R. 4878: Mr. CAMPBELL of California.

H.R. 5003: Mr. COX of California.

H.R. 5106: Mr. GOSS.

H.R. 5201: Mrs. LLOYD.

H.R. 5208: Mr. MOODY.

H.R. 5216: Mr. BROWDER, Mr. ZELIFF, and Mr. INHOFE.

H.R. 5266: Mr. LEHMAN of California and Mr. FROST.

H.R. 5294: Mr. PAYNE of Virginia and Mr. BUSTAMANTE.

H.R. 5297: Mr. ROTH, Mr. FISH, Mr. KLUG, Mr. MCCLOSKEY, Mrs. LLOYD, Mr. SHAW, Mr. DREIER of California, Ms. SNOWE, Ms. KAPTUR, Mr. WILLIAMS, Mr. ROSE, Mr. LIVINGSTON, and Ms. LONG.

H.R. 5320: Mr. TOWNS.

H.R. 5357: Mr. SKAGGS and Mr. MORAN.

H.R. 5364: Mr. RANGEL and Mr. SERRANO.

H.R. 5367: Mr. ROWLAND, Mr. RAVENEL, Mr. OWENS of Utah, Mr. LAGOMARSINO, Mr. WOLPE, Mr. BACCHUS, and Mr. MCNULTY.

H.R. 5398: Mr. MATSUI.

H.R. 5449: Mr. SHAYS, Mr. PAXON, and Mr. OLVER.

H.R. 5526: Mr. DORNAN of California, Mr. SKEEN, Mr. BLAZ, and Mr. MACHTLEY.

H.R. 5580: Mr. HAYES of Illinois.

H.R. 5593: Mr. RHODES.

H.R. 5613: Mr. RANGEL and Mr. MARKEY.

H.R. 5680: Mr. GUARINI, Mr. TORRICELLI, Mrs. SCHROEDER, Mr. GONZALEZ, and Mr. MANTON.

H.R. 5709: Mr. CRANE.

H.R. 5732: Mr. HANCOCK and Mr. CAMP.

H.R. 5772: Mr. ZELIFF and Mr. NUSSLE.

H.R. 5783: Mr. MACHTLEY and Mr. EDWARDS of California.

H.R. 5842: Mr. ANDERSON, Mr. ANNUNZIO, Mr. BONIOR, Mr. BROOMFIELD, Mr. BACCHUS, Mr. CHAPMAN, Mr. CARPER, Mr. DINGELL, Ms. DELAURO, Mr. DELAY, Mr. FRANKS of Connecticut, Mr. GEPHARDT, Mr. GRANDY, Mr. GOODLING, Mr. GINGRICH, Mr. HEFNER, Mr. HENRY, Mr. KYL, Mr. MATSUI, Mr. MCNULTY, Mr. MONTGOMERY, Mr. MINETA, Mr. MICHEL, Mr. OBERSTAR, Ms. OAKAR, Mr. PETERSON of Florida, Mr. PURSELL, Mr. ROSE, Mr. RAY, Mr. RICHARDSON, Mr. ROBERTS, Mrs. ROUKEMA, and Mr. SCHEUER.

H.R. 5862: Mr. SERRANO.

H.R. 5865: Mr. GILLMOR, Mr. RANGEL, Ms. KAPTUR, and Mr. VISCLOSKY.

H.R. 5866: Mr. GILLMOR, Mr. RANGEL, Ms. KAPTUR, Mr. VISCLOSKY, and Mr. ZELIFF.

H.R. 5867: Mr. OLVER.

H.R. 5880: Mr. CLEMENT.

H.R. 5883: Mr. RANGEL and Ms. NORTON.

H.R. 5928: Mr. FROST.

H.R. 5947: Mr. PETERSON of Florida.

H.R. 5960: Mr. NICHOLS, Mr. GALLEGLY, Mr. COLEMAN of Missouri, and Mr. KASICH.

H.R. 5973: Mr. DELLUMS, Mr. ACKERMAN, Mr. HAYES of Illinois, and Mr. TOWNS.

H.R. 5977: Mr. ALLARD, Mr. LIGHTFOOT, Mr. DORNAN of California, Mr. DOOLEY, Mr. KOSTMAYER, Mr. MCDADE, Mr. ENGLISH, Mr. GOSS, Mr. CAMP, Mr. LEHMAN of California, and Mr. PAXON.

H.R. 6020: Mr. SARPALIUS.

H.R. 6033: Mrs. MINK, Mr. BLACKWELL, and Mr. BEREUTER.

H.R. 6051: Mr. MOAKLEY.

H.R. 6065: Mr. DOWNEY.

H.R. 6075: Mr. BEVILL, Mr. CAMPBELL of Colorado, Mr. BACCHUS, Mr. HEFNER, Mr. NOWAK, Mr. ABERCROMBIE, Mr. SANDERS, Mr. RHODES, Mr. MARTINEZ, Mr. BOUCHER, Mr. MCCLOSKEY, Ms. LONG, Mr. COLEMAN of Missouri, Mr. JOHNSON of South Dakota, Mr. KANJORSKI, Ms. OAKAR, Ms. DELAURO, Mr. AUCOIN, Mr. TANNER, Mr. SCHIFF, Mr. VISCLOSKY, Mr. DARDEN, and Mrs. UNSOELD.

H.J. Res. 196: Mr. LEHMAN of Florida.

H.J. Res. 449: Mr. HOCHBRUECKNER, Mr. SANDERS, Mr. SCHIFF, and Mrs. UNSOELD.

H.J. Res. 474: Mr. FROST, Mr. LAUGHLIN, Mr. CARPER, Ms. LONG, Mr. WISE, Mr. STUDDS, Mr. DICKINSON, Mr. SKELTON, Mr. LANCASTER, Mr. SARPALIUS, Mr. PANETTA, Mr. SPRATT, Mr. MONTGOMERY, Mr. PARKER, Mr. REGULA, Mr. RAY, Mr. HUTTO, Mr. GEREN of Texas, Mr. HARRIS, Mr. MCCOLLUM, Mr. WEBER, Mr. GILCHREST, Mr. CAMP, Mr. LAGOMARSINO, Mr. FORD of Michigan, Mr. MCNULTY, Mr. BAKER, Mr. CHAPMAN, Mr. CONYERS, Mr. ANDERSON, Mr. MORAN, Mr. HENRY, Mr. JOHNSTON of Florida, Mr. STENHOLM, Mr. BACCHUS, Mr. WAXMAN, Mr. ACKERMAN, Mr. SERRANO, Mr. SANGMEISTER, Mr. INHOFE, Mr. ECKART, Mr. JENKINS, Mr. SWIFT, Mr. RUSSO, Mr. LUKEN, Mr. HOAGLAND, Mr. LEVINE of California, Mr. GEJDENSON, Ms. PELOSI, Mr. RAHALL, Mr. BEILENSON, Mr. MRAZEK, Mr. DINGELL, Mr. ENGEL, Mr. LEVIN of Michigan, Mr. MCDERMOTT, Mr. DURBIN, Mr. KOPETSKI, Ms. MOLINARI, Mr. ABERCROMBIE, Mr. MINETA, Mr. KANJORSKI, Mr. OBERSTAR, Mr. BURTON of Indiana, Mr. BUNNING, Mr. SHAYS, Mr. MILLER of California, Mr. MARKEY, Mr. WYDEN, Mr. BORSKI, Mr. BONIOR, Mr. CAMPBELL of Colorado, Mr. COSTELLO, Mr. ANTHONY, Mr. ROWLAND, Mr. HUGHES, Mr. NEAL of Massachusetts, Mr. WASHINGTON, Mr. VALENTINE, Mr. DARDEN, Mr. DERRICK, Mr. DIXON, Mr. SCHUMER, Mrs. BYRON, and Mr. MURPHY.

H.J. Res. 479: Mr. ROBERTS, Mr. BOEHLERT, Mr. THOMAS of Wyoming, Mr. INHOFE, Mr. HEFLEY, Mr. HASTERT, Mr. ROGERS, Mr. SMITH of Iowa, Mr. ARMEY, Mr. BALLENGER, Mr. BUNNING, Mr. DELAY, Mr. HOPKINS, Mr. RIDGE, Ms. KAPTUR, Mr. NAGLE, Mr. VISCLOSKY, and Mr. FORD of Tennessee.

H.J. Res. 531: Mr. MAVROULES, Mr. BLACKWELL, Mr. BROOMFIELD, Mr. WOLF, Mr. FISH, Mr. SERRANO, Mr. SIKORSKI, Mr. MCEWEN, Mrs. LOWEY of New York, and Mr. MARKEY.

H.J. Res. 538: Mr. MORRISON, Mr. QUILLEN, and Mr. SLATTERY.

H.J. Res. 543: Mr. RICHARDSON, Mr. ROBERTS, Mr. REGULA, Mr. TALLON, Mrs. UNSOELD, Mr. RINALDO, Mr. HAMMERSCHMIDT, Mr. PARKER, Ms. SLAUGHTER, Mr. HATCHER, Mr. STARK, Ms. MOLINARI, Mr. GREEN of New York, Mr. LEHMAN of California, Mr. BRYANT, Mr. BILIRAKIS, Mr. DARDEN, Mr. GRANDY, Mr. JEFFERSON, Mr. OBERSTAR, Mr. SARPALIUS, Mr. MCCRERY, Ms. OAKAR, Mr. MORRISON, Mr. SLATTERY, Ms. HORN, Mr. WYDEN, Mr. ANDERSON, Mr. TRAXLER, Mr. MCCLOSKEY, Mr. RAHALL, Mr. RUSSO, Mr. PAXON, Mr. TORRICELLI, Mr. STOKES, Mr. DICKS, Mr. CARPER, Mr. EDWARDS of Texas, Mr. LAUGHLIN, Mrs. BENTLEY, Mr. BROWDER, Mrs. MORELLA, Mr. BOUCHER, Mr. MURTHA, Mr. SOLARZ, MR. OWENS of New York, Mr. SERRANO, Mr. ANTHONY, Mr. OWENS of Utah, Mr. KENNEDY, and Mr. TAUZIN.

H.J. Res. 547: Mr. HOAGLAND, Mr. RANGEL, Mr. FAZIO, and Mr. JONTZ.

H.J. Res. 548: Mr. HUGHES, Mr. SABO, Ms. ROS-LEHTINEN, Mr. EVANS, Mr. ANDREWS of New Jersey, Mr. SKAGGS, Mr. PORTER, Mr. EDWARDS of California, Mr. SANDERS, Mr. JONES of Georgia, Mr. JOHNSTON of Florida, Mr. FRANK of Massachusetts, Mr. ENGEL, and Mr. DOOLEY.

H.J. Res. 549: Mr. YATES, Mr. CAMPBELL of Colorado, Mr. BACCHUS, Mr. FORD of Tennessee, Ms. ROS-LEHTINEN, Ms. MOLINARI, Ms. SLAUGHTER, Mr. HALL of Texas, Mr. JOHNSTON of Florida, and Mr. DOOLEY.

H.J. Res. 552: Mr. SOLARZ and Mrs. LOWEY of New York.

H. Con. Res. 11: Mr. GILMAN.

H. Con. Res. 362: Mr. SHAYS, Mr. DORNAN of California, Mr. WALSH, and Mr. JOHNSON of Texas.

H. Con. Res. 363: Mr. WEBER, Mr. KOLBE, Mr. BILBRAY, Mr. RHODES, Mr. WELDON, Mr. MCEWEN, Ms. ROS-LEHTINEN, Mr. BUNNING, Mr. HUNTER, Mr. DUNCAN, Mr. DORNAN of California, Mr. DELAY, Mr. CRANE, Mr. HANCOCK, Mr. MILLER of California, Mr. FISH, Mr. SHAYS, Mr. LIVINGTON, Mr. SUNDQUIST, Mr. COX of California, Mr. LEWIS of California, Mr. COMBEST, Mr. UPTON, Mr. COBLE, Mr. DANNEMEYER, Mr. HYDE, Mr. HOLLOWAY, Mr. WALKER, Mr. GINGRICH, Mr. SOLOMON, Mr. BILIRAKIS, Mr. JAMES, Mr. SAXTON, Mr. MOORHEAD, Mr. CAMP, Mr. BALLENGER, Mr. ROTH, Mr. GRANDY, Mr. SMITH of New Jersey, Mr. STEARNS, Mr. RAMSTAD, Mr. ROHRABACHER, Mr. SISISKY, Mr. WOLF, Mr. BATEMAN, Mr. DEFAZIO, Mr. HENRY, Mr. RANGEL, Mr. FROST, Mr. ACKERMAN, and Mr. WAXMAN.

H. Res. 515: Mr. SHAYS.

H. Res. 538: Mr. MFUME and Mr. GILMAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 529: Mr. CAMPBELL of California.

EXTENSIONS OF REMARKS

TRIBUTE TO FLORINE WARDEN

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. RAHALL. Mr. Speaker, today, I want to pay tribute to Florine Warden who is well known for her public service contributions to the Raleigh County community and throughout southern West Virginia.

Whenever there is a need for the people's voice to be heard, Florine Warden's voice is the one you hear. Florine's untiring efforts in the community range from her campaign to beautify the Robert C. Byrd Drive in Beckley, WV, to establishing the Tri-County Baseball Association, to secure a professional minor league baseball team in southern West Virginia.

Florine has taken a stand on many issues of concern to the community and has been a leader in bringing those issues to the forefront. She is a friend to those in need and is always ready to lend a helping hand.

A TRIBUTE TO ROBERT PATRICK KELLIHER

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, it is with pleasure that I pay tribute to a generous gentleman from Springfield, MA, who is retiring from the Springfield Public School District after 26 years of service as principal of Glenwood School, the longest tenure in the history of the Springfield Public School District.

Robert Patrick Kelliher grew up in Worcester, MA, where he received his high school diploma from the Worcester Public School District. After high school, Robert was called to serve his country in the Korean war. He was on active duty from 1951 until 1953. Following the Korean war, Robert married Phyllis Olson and they had two daughters, Nancy and Laurie. Robert is also the proud grandfather of three. In 1957, Robert graduated from Worcester State Teachers College. He continued his education at Westfield State College where he received his master's degree in education in 1961. At the University of Connecticut, Robert received his C.M.G.S. in public school administration in 1965.

Robert began his career as in educator in 1957 as a teacher at Memorial School. He remained there until 1964 when he transferred to Dorman and Balliet School as an assistant to the principal. He transferred again in 1965 to the Glenwood and Liberty Schools where he was the assistant principal. In 1966, he made his final transfer to the Glenwood School where he became principal.

Robert's contribution to the educational community was not only within Glenwood School. He established a teacher's training school in conjunction with Our Lady of the Elms for many years. As well as educating the high school students in the Springfield Public School District, Robert also worked as a visiting instructor at Elms College. As a fundraiser, Robert is outstanding. Robert raised money for the cancer fund by selling daffodil flowers over a period of several years. These flowers were then given to patients in area hospitals and nursing homes. Robert was also involved in a statewide committee which evaluated teacher's training programs for accreditation purposes. For homeless children, Robert established an after school program with the Springfield Boys' Club.

Robert's contribution to his family, his community and the students of the Springfield Public School District is truly remarkable. As an educator his impact on the Springfield community is extraordinary.

Mr. Speaker, please join with me and the family and friends of Robert Patrick Kelliher, in wishing him a long, happy and healthy retirement. He certainly deserves it.

DOMESTIC VIOLENCE MUST STOP

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. MAZZOLI. Mr. Speaker, on September 30, 1992, the House Judiciary Committee, on which I am proud to serve, unanimously approved three measures to combat domestic violence. I hope the House acts expeditiously on these bills and sends them to the President for his signature.

During committee consideration, I took the opportunity to express my strong support for the measures. The text of my remarks follows:

STATEMENT OF ROMANO L. MAZZOLI

Mr. Chairman, I am proud to support three measures before the Committee this morning that will help combat the rising tide of violence against women and families. Thank you for including them on the agenda for our consideration.

I commend the gentleman from New Jersey, Mr. Hughes, for his support and for guiding these bills through the panel he chairs. and, I appreciate the outstanding efforts of the gentlewoman from Maryland Mrs. Morella, on behalf of this critical issue.

For the record, I also support the Violence Against Women Act, which includes these measures. I look forward to joining my colleagues on the Committee and in the House in securing the enactment of that vital measure.

H.R. 1252, H.R. 1253, and H. Con. Res. 89, individually and as a legislative package, will assist battered women in obtaining equal justice in state courts. Allowing for the admission of expert testimony and making funds available for abused defendants to obtain expert testimony in criminal cases, will help victims receive a fair trial. Furthermore, authorizing funds for the development and dissemination of model training programs for judges in sexual assault and domestic violence cases, as well as child custody cases involving domestic violence, will go a long way toward meeting the important goal of equal justice.

Communities across the country are making strides in the public battle against what is sometimes referred to as the dark problem or abuse. Drawing attention to this problem, in fact, was the purpose of a recent candlelight vigil held in my hometown of Louisville, Kentucky, and sponsored by the Louisville Chapter of the National Organization for Women.

Other efforts in my community and state of which I am particularly proud, include the establishment of the Jefferson County Office for Women by Jefferson County Judge/Executive David Armstrong in 1991. Under the leadership of Marcia Roth, Office Director, examining the issue of domestic violence was the first task of the Office's Advisory Committee. That examination led to the development and implementation of sound policies that contribute to the successful prosecution of domestic violence cases.

In Louisville, we are also fortunate to be able to make available much-needed services to women and children who are victims of domestic violence. The Center for Women and Families, which I had the privilege of visiting earlier this week, provides emergency shelter, counseling, and transitional housing for these victims. In fact, its Spouse Abuse Program is regarded as a national leader because of its innovative programming.

Finally, the Kentucky Commission on Women is also very active in addressing the issue of domestic violence. The Commission's Executive Director, Marsha Weinstein, who is also a member of the Kentucky Attorney General's Task Force on Domestic Violence Crime, joined her colleagues on the Commission in supporting the passage of several domestic violence measures by the Kentucky General Assembly.

Mr. Chairman, domestic violence must stop. I strongly support these measures and I urge their passage.

NATIONAL VETERANS AFFAIRS OFFICER OF THE YEAR

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an outstanding individual from my congressional district of Illinois, Stanley Mageria, who has been selected as the National Veterans Affairs Officer of the Year in the Small Business Administration [SBA].

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Mageria is a Veterans Affairs Officer in the SBA's region V office in Chicago, IL. I am proud of the fine job he has done and continues to do for our veteran community. Mr. Mageria's commitment is impressive and deserving of special recognition.

I ask you, my fellow colleagues, to join me in congratulating Stanley Mageria for his outstanding achievement on behalf of our country's veterans.

IN HONOR OF MAYOR RON DUNIN

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to an outstanding leader and a dedicated public servant. Ron Dunin, mayor of San Luis Obispo, CA, has given years of dedication and service to his community, and we, the people of the 16th District of California are deeply grateful. I am pleased to have this opportunity to express my sincere appreciation for his many years of commitment and hard work.

From 1938 until 1945 Ron was a member of the Polish forces in Poland, France, and the United Kingdom, and was decorated by the governments of all three countries. He came to San Luis Obispo County, from the United Kingdom, in 1965, where he has served his community ever since. He has been a member and chairman of many city and civic boards and committees from 1965 to the present. In 1977 he was elected to the city council of San Luis Obispo, where he served until he was elected the mayor of San Luis Obispo in 1985. He has served three terms as mayor, and will be retiring this year.

Ron's contributions have been many. He has been an outstanding leader in the community and an example to all those who strive to help their country and their communities through hard work, dedication and public service. His retirement is certainly a well-deserved one, but we are nevertheless very sorry to see him go.

Mr. Speaker, I ask my colleagues to join me in recognizing Ron for his many years of outstanding service and wish him well during what I am sure will be many happy years of retirement.

A SALUTE TO DAN R. BANNISTER

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. MORAN. Mr. Speaker, on behalf of my colleague, Representative FRANK WOLF of the 10th District of Virginia and myself, we want to bring to our colleagues' attention the annual Northern Virginia Foundation's Founders' Award which will be presented this year on October 24 at the Sheraton Premiere at Tysons Corner. The award will be presented to a most exemplary citizen of northern Virginia—Dan R. Bannister of Great Falls.

The Founders' Award is presented annually in recognition of outstanding community service and dedication to the betterment of the northern Virginia community. The Northern Virginia Community Foundation [NVCF] was established in 1978 by a group of northern Virginia residents seeking to improve the community in which they live. The foundation is a nonprofit community endowment from which funds are used to support the arts, education, health, youth programs, and civic improvement for the benefit of the citizens of northern Virginia.

This year's award recipient—Dan R. Bannister—has a history of dedicated service to both the business and civic communities in northern Virginia. Dan Bannister is president and CEO of DynCorp. In his capacity as president and CEO, Mr. Bannister has seen the company through some of its most challenging times. In 1988 following a hostile takeover attempt, Mr. Bannister led a team of top managers through a successful leveraged buy out of the company which included the installation of an employee stock ownership plan, making DynCorp one of the largest majority employee owned companies in the country. Shortly thereafter, Mr. Bannister launched a total quality management program designed to clench the company's industry leadership. Today DynCorp is a leader in the quality movement. In 1990, a diversification program was implemented to increase DynCorp's growth and improve its business mix. By 1991, six acquisitions had been completed and DynCorp's defense contracts had been reduced from 73 percent in 1988, to 63 percent and a new operating group was formed to provide high-technology services to non-DOD customers.

Mr. Bannister studied at the University of Arizona and the University of Illinois, and in 1982 completed the Harvard University Advanced Management Program. In his professional affiliations Mr. Bannister has been widely involved in both the armed services and business communities. He has served as a chapter president of the Air Force Association. He is an active member of the Army Aviation Association of America, the Association of the U.S. Army, the Association of Naval Aviation, and the Professional Services Council. He also serves on the national board of advisors of the National Contract Management Association, the general management council of the American Management Association, the board of directors of Fairfax County, Virginia Chamber of Commerce, and as secretary and director of the ESOP Association and as a director of the Washington Airports Task Force.

Mr. Bannister also has a number of achievements in his charitable associations. He is an active member of the Easter Seals Society, the AAAA Scholarship Foundation, the American Medical Association Board of Trustees, the Wesley Housing Board, the Fairfax County Symphony Board, the George Washington University Graduate School Advisory Board, and serves as chairman of the Combined Health Appeal, the George Mason University Arts Gala, and the Joe Gibbs Youth for Tomorrow Country Fair.

Over the past year Dan R. Bannister and DynCorp have received the following awards: The 1992 Best of Reston Award for community service, the 1992 KPMG Peat Marwick High Tech Entrepreneur Award, the 1992 Emerging Company Award from the Washington Chapter of the Association for Corporate Growth, the 1991 Employer of the Year from the Virginia American Legion, and the 1991 Army Aviation Association of America's [AAAA] Material Readiness Award, in recognition of DynCorp's efforts in support of Operation Desert Storm.

Dan R. Bannister has contributed enormously to the betterment of northern Virginia and on behalf of Congressman WOLF and myself, we offer our congratulations to both Mr. Bannister and his family on receiving the Northern Virginia Community Foundation's Founders' Award and our appreciation for his outstanding community service.

CFC REPLACEMENT REFRIGERANTS

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. YATES. Mr. Speaker, a constituent of mine, David Goldberg, is the chairman of the board of directors of the Air-Conditioning & Refrigeration Institute. He has sent the following statement to me detailing the progress the institute is making with regard to locating efficient and usable CFC replacement refrigerants. I ask that the text of that statement be inserted as a part of the RECORD.

STATEMENT OF ARNOLD W. BRASWELL, PRESIDENT, AIR-CONDITIONING & REFRIGERATION INSTITUTE

Sixty years ago when breakthrough chemicals called chlorofluorocarbons were first introduced as refrigerants, known better then by the trade name Freon, no one would have believed that this extraordinary boon to mankind would become an environmental danger.

Thanks to modern refrigeration equipment using CFCs, vast improvements were made in food preservation and distribution. CFCs also made it possible to create efficient air conditioning at home and the workplace, making day-to-day life much more comfortable and work much more productive.

But decades later scientists now tell us that this extraordinarily important chemical family must be phased out because chlorine in CFC compounds is causing depletion of the earth's protective ozone layer. As a result, 24 nations and the European Economic Community on September 16, 1987 signed the Montreal Protocol on Substances that Deplete Ozone in a concerted world-wide effort to reduce consumption and production of the CFC compounds.

Earlier this year a working group of signatories to the Montreal Protocol met to refine recommendations and adjustments to the Protocol which will be considered in Copenhagen in November. These revisions very likely will result in acceleration of earlier agreed to phase out dates for CFCs and a mandatory long-term phase out plan for hydrochlorofluorocarbons (HCFCs), which deplete ozone at only one twentieth of the rate of CFCs and are used today to replace CFCs in many applications.

This upcoming meeting is important for several reasons. First, as a world leader and a nation heavily dependent on refrigerants, the United States has an important stake in the decisions reached in Copenhagen. This is a global issue. We cannot assume this is a problem affecting only the United States or Europe. Developing nations too are joining in the shift from CFCs. But the search for alternatives is not an easy undertaking. Clearly, it is desirable to move from CFCs to HCFCs as transition refrigerants wherever possible. But, we need an intensive research effort to find the best substitute refrigerants for both CFCs and HCFCs.

And that is my second reason for bringing up this important topic. If, as expected, the Montreal Protocol does accelerate the phase out of CFCs and HCFCs, it will be possible only if there are substitute refrigerants. But the industries that rely on refrigerants must know how every substitute refrigerant will interact with existing and yet-to-be-developed air conditioning and refrigeration machines. For that reason, research is underway in a number of laboratories to test these chemicals for a wide variety of reactions.

In fact, scientists and others from government and industry gathered this week in Washington at the 1992 International CFC and Halons Alternatives Conference, to discuss a wide range of issues including interim results of industry research into the compatibility of substitute refrigerants, particularly hydrofluorocarbons (HFCs) and HCFCs, with plastics, elastomers and other compressor motor materials.

The issues are complex, but there is a sense of commitment at this conference that was summed up in the words J.A. Krol of the DuPont Company who noted that "the orderly phase-out and replacement of CFCs will be one of the great industrial achievements of the post-World War II era. No technological transition of this magnitude has ever been mandated to take place in so short a span of time for the sole purpose of protecting the global environmental commons."

As we all know, there are billions of dollars of equipment in place that use CFCs. But there is no single product that can be used to replace the CFCs in this equipment even though production of CFCs in the United States will cease at the end of 1995.

Fortunately, research undertaken with the encouragement of the Congress and the cooperation of industry, with funding being provided by the Department of Energy and the Air-Conditioning and Refrigeration Institute (ARI), is beginning to provide very useful information. This study, called the Materials Compatibility and Lubricants Research Study, will run for the next several years in laboratories across America.

While it is too early to reach conclusions, I am pleased to report that the interim results are encouraging. Based on tests completed to date, it appears that HFCs and HCFCs are compatible for use with many of the materials typically used in CFC-based air conditioning and refrigeration systems. I must emphasize that these tests are not complete. Also, HFCs and HCFCs are being studied separately for energy efficiency, cooling capacity, toxicity and flammability. The research is complex and much work remains to be done.

But at least the interim results being released at the conference indicate that compatibility of materials with HCFCs and HFCs will probably pose no insurmountable problems for long-term equipment development. These scientific reports are excellent examples of how industry and government are working together on a solution to the refrigerant problems.

Obviously, one company working alone cannot solve this problem. The complexity of testing the materials used in refrigeration equipment is not easy to describe. There are literally dozens of different plastics and elastomers used in compressors, and a number of possible alternative refrigerants. That's why this research would not have been possible without the dedicated efforts of scientists and researchers working in private laboratories of the manufacturers of air conditioning and refrigeration equipment.

In a separate project fully funded by industry called the Alternative Refrigerants Evaluation Program (AREP), manufacturers have agreed to join together in a cooperative enterprise to identify and test new refrigerants that will be the most suitable replacements for the widely used refrigerant, HCFC-22. The testing activity is being managed by the Air-Conditioning and Refrigeration Institute, guided by a task force of senior executives established and headed by the Chairman of the Board of Directors of that institute, Mr. David Goldberg of Chicago. A total of 12 U.S. manufacturers are participating in this new program. The testing work is being done in their company laboratories and the data obtained from these tests will be shared among the manufacturers and with the public.

Very significantly, when manufacturers in Europe and Japan were informed by ARI about this new program, ten manufacturers from Europe and ten from Japan volunteered to participate and were welcomed into the program by the U.S. industry. Therefore, we now have a truly international industry effort to test and identify new refrigerants which have the best performance characteristics as long-term replacements for our most important and widely used refrigerant.

Also participating in this cooperative program in the electric utility industry under the sponsorship of the Electric Power Research Institute, which is sponsoring special heat transfer tests with new refrigerants.

The ARI and all the companies participating in AREP are to be congratulated. This extraordinary effort will be successful because of the attention to detail and exhaustive care being shown by the industry. This assignment is not an easy one and requires a huge effort. While AREP looks at performance and MCLR studies compatibility, an international consortium of chemical companies tests alternative refrigerants for toxicity. The Program for Alternative Fluorocarbon Toxicity Testing (PAFT) was created in 1988 to conduct toxicological evaluations of alternatives to CFCs. It has published some reports and is actively engaged today, at some great expense, in on-going evaluations.

In considering the scope of these efforts, I recommend the words of Mr. Goldberg, who in addition to his role with ARI also serves as the chairman of the Air-Conditioning and Refrigeration Technology Institute. He says "I don't think there has ever been a case before where our industry has sent in data from their private labs to share with other people. This is happening on a very encouraging scale. Major producers are donating research that has cost them millions of dollars."

It is clear industry and government can successfully work together to solve environmental problems. I am pleased by the progress being made to resolve this problem and I congratulate the people of the air conditioning and refrigeration industry who are working so hard to overcome this difficult challenge.

LIBERTY AND JUSTICE FOR ALL

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. DYMALLY. Mr. Speaker, at a meeting of the Congressional Black Caucus' Braintrust on Science and Technology, which I chaired, the Administrator of NASA, Daniel S. Goldin, made a remarkable address which I would like to share with all of my colleagues and the Nation. If all of our agency heads were as sensitive and as committed to the principles of equal justice as he, we would be much further along towards realizing the American dream of a society with liberty and justice for all.

REMARKS BY NASA ADMINISTRATOR DANIEL S. GOLDIN, CONGRESSIONAL BLACK CAUCUS FOUNDATION, WASHINGTON, DC, SEPTEMBER 25, 1992

Thank you, Congressman Dymally, for that introduction. I am delighted to meet with such a distinguished group during your 22nd annual legislative weekend. I was impressed with the broad range of Braintrust Workshops, Issue Forums, and Roundtable discussions planned for this conference. I commend Congressman Alan Wheat, president of the Congressional Black Caucus Foundation; Congressman Edolphus Towns, chairman of the CBC; Congressman Mike Espy, chairman of this weekend conference; and I especially want to thank Congressman Stokes for arranging for me to be here, because I very much wanted to bring to you the message today that NASA wants to be a part of your dream. Let me explain:

Every space shuttle that lifts off from Florida carries more than just astronauts. It carries the pride of America. And America has never had a better reason to feel proud than the flight of Dr. Mae Jemison—the first African American woman to fly in space.

She grew up on the South Side of Chicago during the years of the March on Washington and the great civil rights struggle. Back then, there were no female astronauts. There were no black astronauts. But it didn't matter. Martin Luther King had a dream, and Mae Jemison had a dream, too.

As the Administrator of NASA, I could not be more proud of any group of individuals as I am of our astronauts. They are multi-talented, super-smart, many with more than one doctorate. The qualifications they have to meet are probably the toughest of any job in the world.

It should come as no surprise, then, that our astronaut corps represents the full cultural diversity of America. We didn't have to go out and find the best from every segment of society; they came looking for us.

It takes more than just astronauts, though, to have a space program. It takes engineers to build spacecraft. It takes scientists to plan experiments. It takes procurement officers, and accountants, and computer programmers. In all these positions, NASA must represent the full cultural diversity of America so that children can have role models to show them that a good education can give them an inspiring, well-paying job.

I grew up in the Bronx at a time when it was home to dozens of different racial and ethnic groups. Throughout my life, I have enjoyed the energy, creativity and different points of view that emerge when cultural diversity is present in the community and the workplace.

Our nation is a wonderful mosaic of diverse people. But for many, the promise of the American Dream appears far out of reach. Before moving to Washington this spring, I spent the last 25 years living in Los Angeles. The terrible sights broadcast from South Central a few months ago deeply disturbed me. The violence we saw was truly a national tragedy. To prevent future tragedies, we need to offer people hope, inspiration, and opportunity.

That's why I am personally and deeply committed to making NASA a model for the nation in building a culturally diverse workforce at every level.

We need a space program that keeps America on the competitive cutting edge. We need to make sure that job opportunities in this exciting business are open to every American. And we need to have a space agency filled with role models for our young people—at every level.

When I was approached by the Administration about taking this job, I told them how committed I was to bringing more cultural diversity to NASA, and increasing the opportunities for minorities and women. President Bush not only supported me in that, he enthusiastically endorsed that goal.

I've been fortunate to be able to convince highly qualified and talented minorities and women to join me in managing NASA. My first appointments were Fred Gregory as Associate Administrator for Safety and Mission Quality, and Charlie Bolden as Assistant Deputy Administrator in Charge of reviewing all the agency's programs. Both had been outstanding astronauts, and were ready for new challenges.

Later, however, I was extremely upset to learn that NASA had so few African Americans, Hispanics, Asians, and Native Americans in our Senior Executive Service, particularly among the SES corps at the NASA Centers. I have asked every NASA Center director and associate administrator to change this situation. Each one now has a plan for cultural diversity that I will hold them accountable for achieving. The kind of world class talent NASA needs is not bounded by race or sex. We intend to find the best, and enrich NASA's cultural diversity.

While broadening our workforce, we also seek to broaden our contractor base. We are committed to making NASA's small and disadvantaged business program the best in the country—an example that government and industry will seek to emulate.

While Congress has imposed on NASA an 8 percent goal for contracting to small and disadvantaged businesses, NASA had upped the ante. Congress did not set a deadline for meeting the goal, but we have imposed one on ourselves: 1994. Between now and the end of fiscal year 94, we plan to offer significant prime and subcontracting opportunities to minority- and woman-owned businesses.

In fiscal year 1991, we awarded $712 million dollars in prime and subcontracts to small and disadvantaged businesses, including woman-owned businesses—that's 6 percent of NASA's total spending. Just last month, the Kennedy Space Center selected an 8(a) (minority) firm for a $75 million contract, with options up to $150 million, for telerobotics and other high tech devices.

Meeting our goal will not be easy. But we are committed to it. Among the steps we are taking:

Establishing firm percentages for small and disadvantaged business subcontracting as part of our prime contracts.

Making use of small and disadvantaged business subcontracting as an important evaluation factor in every source selection.

Rewarding prime contractors with special award fees when they exceed their subcontracting goals by certain percentages.

Last week, we received final approval and I'm pleased to announce today that we are setting up a NASA Minority Business Resource Advisory Committee.

This Committee will help us identify more businesses that should be a part of the NASA family. I invite you to nominate members for this committee. Send their names to my office within a few weeks, because we're ready to get started. This committee will help disprove the notion that there are no high tech small and disadvantaged businesses. We know they're out there, and we'll find them, and nurture them because we want to work with firms that have the desire to reach for the American Dream.

Dr. Martin Luther King, Jr. said that "Education is more than ever the passport to decent economic positions." Space has the power to excite students about learning like nothing I've ever seen. Learning about geology becomes exciting if you can study rocks from the Moon. Learning about math can mean something if you're calculating the amount of power it takes to get a rocket to Mars.

That's why NASA's education programs reach out to more than 1.8 million students, more than 130,000 teachers across the country. That's why many of these programs are targeted to the segments of our society that are under-represented in science and technology. In Congressman Stokes's home town of Cleveland, for example, the NASA Lewis Research Center has teamed up with teachers and parents to use kids' natural interest in space to improve their learning. I'm going to visit with Congressman Stokes at the Anton Grdina [sic] School next month for a first-hand look.

Two weeks ago, at an educators conference in Florida just prior to Mae Jemison's flight, Congressman Stokes issued two challenges to NASA: to work with other government agencies to increase the number of minorities getting degrees in engineering, science, and math; and to do more to help education in the major cities, where the largest numbers of minority students reside. Those are two challenges that we accept, and I hope you'll invite me back in a year so I can report to you on what we've done.

Dr. Benjamin Mays once said, "The tragedy of life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It is not a disgrace to reach for the stars, but it is a disgrace to have no stars to reach for."

NASA's educational programs lift students' eyes up toward the stars, giving them hope and opportunities they might never have imagined.

Our SHARP program puts minority high school students in NASA labs over a summer to work with our engineers, and other professionals. Our Spacemobile program reached hundreds of thousands of elementary school students, and distributed science and math teaching materials to their teachers. At the university level, we have doubled our research grants and other assistance to Historically Black Colleges and Universities to $20 million over the last eight years.

We do all this, and much more, to improve the education of our young, because you never know which computer program, or which internship will influence a young person to dedicate their life to science or engineering.

Sometimes it's hard, in a period of economic difficulties, to see the practical benefits of investing in space research.

Long ago, President Kennedy said, "Many Americans make the mistake of assuming that space research has no value here on Earth. Nothing could be further from the truth. Our effort in space is not * * * a competitor for the natural resources that we spend to develop the Earth. It is a working partner and co-producer of these resources."

Kennedy realized, despite the hard economic times of the early 60s, that our nation needed investment to keep moving forward.

Yes, we need affordable housing, good health care, excellent schools. But our citizens also need hope and opportunity. Common sense tell us that we can't focus exclusively on the present. We need to make some investments that will pay off in terms of new technology, new knowledge, and new jobs in the future—which is exactly the kind of future NASA represents.

In the thirty years since the dawn of the Space Age, there is hardly a sector of the economy that has been untouched by the space program. Every time an American operates a computer, makes a long distance call, or watches television, they are the beneficiaries of space technology. Every time one receives a CAT scan in a hospital, has arthroscopic or laser surgery, or enters intensive care, they benefit from previous NASA work.

Space-based research on Space Station Freedom will revolutionize our way of life in the 21st century much as Apollo made possible our way of life today.

Today, America invests a little over $14 billion a year in NASA—just one percent of the federal budget. Approximately $2 billion per year of that is for Space Station Freedom. That sounds like a lot—and it is. Yet Americans spend $4.3 billion per year on potato chips and $1.4 billion on popcorn. In simple terms, Space Station Freedom costs each American two cents a day. For that investment, the evidence shows that we will all get more than our two cents worth.

America needs Space Station Freedom so scientists can learn how to protect the health of humans living and working in space in order to permit human exploration of the solar system, and to use this understanding and technology to improve the quality of life for everyone on Earth.

As we approach the year 2000—the dawn of a new century—it's hard to imagine the future without thinking of new achievements in space. There's so much left to learn; so many places yet to go.

And it will be a new NASA that takes up there. A NASA where Hispanic engineering students from the University of New Mexico go on to build Space Station Freedom. A NASA where Asian students at Cal Tech plan a probe to the last unexplored planet: faraway Pluto. A NASA where the first flight surgeon on Space Station Freedom is a Morehouse graduate.

When I moved into the Administrator's office this year, I found a plaque—all covered with dust. On the plaque was the Apollo 11 patch, and the signatures of Neil Armstrong, Buzz Aldrin, and Mile Collins. On the top, it's written, "Carried to the Moon aboard Apollo 11. Presented to the Mars 1 crew."

Somewhere in America last week, an amazing thing happened. I can't tell you exactly where—it might have been East St. Louis, or Houston, or Watts. But somewhere, an African American schoolgirl promised herself that she would be on that first flight to Mars.

At the big press conference before the flight, they'll ask her if she ever dreamed of becoming the first American to go to Mars.

And she'll say, "Yes. My dream started in September, 1992, when I saw Mae Jemison fly in space and I knew that in NASA, no dream was too big—no limit could be placed on what I could accomplish." That is the NASA I want to build. I want you help to do it.

THE TRANSPORTATION FAIR SHARE ACT OF 1992

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. VALENTINE. Mr. Speaker, today, I am introducing legislation to ensure that States do not get shortchanged when it comes to the distribution of Federal transportation dollars. My bill, the Transportation Fair Share Act of 1992, will help guarantee that growing areas of the United States receive their fair share of Federal transportation funds.

As our Nation undergoes dramatic demographic shifts, the population of some regions is growing rapidly. As a result of this rapid growth, decennial census data used in calculating the funding levels for various transportation programs can be inaccurate, especially in the latter years of the decade.

The Transportation Fair Share Act of 1992 will provide for the utilization of the latest available estimates prepared by the Department of Commerce, rather than decennial census data, in the administration of the following transportation programs: The Urban Mass Transit Grant Program, Federal Transit Block grants, the Airport and Airway Improvement Program, and highway safety programs.

COMMENDING THE AMERICAN AND TEXAS WINE INDUSTRIES

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. BARTON of Texas. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the American wine industry, and in particular the expanding wine industry in Texas.

The American Wine Appreciation Week resolution was spearheaded by Women for Wine Sense, a national group of professional women with chapters across the country, who enjoy wine, believe it has a role in a balanced life and wish to generate dialog about wine and daily life.

American grape growing and wine production continues today as a significant agricultural industry in 40 of our United States and comprises thousands of family-owned farms. Grape growing and wine production provide thousands of jobs, and are important to the U.S. general economy. The industry is a valuable contributor to health, civic, and educational organizations. Wine enhances the pleasure of dining when consumed in moderation, and has fulfilled a valued role in a wide variety of our cultural, religious, and familial traditions.

Messina Hof Wine Cellars in Bryan, TX, a leader in the growing Texas wine industry, is located in my congressional district. Messina Hof's owner and winemaker, Paul V. Bonarrigo, has been a driving force in expanding and developing the industry as the president of the Texas Wine and Grape Growers Association. The Texas wine industry produced over 1 million gallons of wine in 1991, creating an economic impact in Texas of $3 million in jobs and revenue for Texans.

The growth of Messina Hof is a shining example of positive development in the State. Messina Hof's production has grown from 1,500 gallons in 1983 to 50,000 gallons in 1991. Production is expected to reach 100,000 gallons by 1994.

In these difficult times, the ever-expanding wine industry in Texas and the United States is doing its share to help boost our economy. I hope my colleagues will join me in saluting the American wine industry.

LEAD EXPOSURE

HON. HARRY A. JOHNSTON II

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. JOHNSTON of Florida. Mr. Speaker, in the 103rd Congress as in many past Congresses, we will be facing difficult policy decisions impacting the environment and public health. One of those issues has recently been debated before the Energy and Commerce Committee of the House of Representatives. This issue is the reduction of lead exposure to children.

While scientific evidence has shown that children's exposure to lead can have adverse health effects, it is important that we move thoughtfully to assure that EPA's policy mistakes with a similar health issue, asbestos-in-buildings, does not repeat itself. While protecting the health of children is always of utmost importance, we need to assure that the regulatory measures we put in place will, in fact, provide that protection.

Our experience with asbestos-in-schools has shown that hastily developing a regulatory program based on emotion and fear, rather than scientific fact, in actuality may have increased asbestos exposure levels through unnecessary asbestos removal. We don't want the same thing to happen with lead.

To underscore this point, I attach a letter from EPA to Chairman JOHN DINGELL regarding the development of H.R. 5730—the Lead Exposure Reduction Act of 1992—in which the Agency acknowledges these problems. Please note the following quotes that exemplify my concerns:

From a July 31, 1992, letter from Assistant Administrator Linda Fisher:

> While lead based paint that is in poor condition (e.g., chipping, pealing, flaking, or chalking) can present a hazard and may appropriately be removed or controlled in many instances, removing lead-based paint that is in good condition, apart from posing an unnecessary expense, can actually increase risk of exposure, especially if not carefully and properly conducted. We do not want to repeat the early experience of the asbestos-in-schools program where some schools removed all asbestos from their facilities regardless of its condition at great expense, whole potentially increasing exposure of the children targeted for protection.

From a May 11, 1992, letter from Administrator William K. Reilly:

> EPA's asbestos experience convinced the agency that, in addition to improperly conducted abatement activities, we also have to prevent inappropriate abatements.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, July 31, 1992.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: My staff and I have recently reviewed the July 23, 1992 staff draft of the Lead Exposure Reduction Act, which we understand is scheduled to be marked up soon in the Energy and Commerce Committee. While we certainly support the goal of reducing childhood lead exposure, we have several serious concerns about this bill and oppose the bill as drafted. Some of these concerns were discussed in Administrator Reilly's May 11, 1992 letter to you concerning H.R. 2840, The Lead Contamination Control Act Amendments (enclosed). Our comments are presented for your consideration.

GENERAL CONCERNS

Our major areas of concern involve the bill's lead training and certification approach, mandatory school inspections, amendments to the Safe Drinking Water Act (SDWA), arbitrary lead content restrictions on certain products, and the comprehensive inventory of lead products. Many of these provisions will result in significant costs to businesses and consumers without yielding an appreciable benefit in reducing the health risk from lead exposure.

Furthermore, we continue to have serious concerns about the overall workability of these provisions and their impact on job-creating sectors of the economy and on the availability and quality of services, such as day care. These negatives could far outweigh any potential health benefit that may result from this legislation.

Another general concern is that the bill will impose substantial costs on State and local governments without providing any means to pay for those costs. As you may be aware, the President has expressed his view that no significant burdens be placed on States and localities unless accompanied by commensurate funding, in accordance with the 1990 budget agreement.

In addition, we feel that in several areas of the bill, authorities are shifted away from Agencies, now currently engaged in certain activities, to completely different Agencies for no apparent reason. An example is the shift of the lead training grant program from EPA, where the program has been managed for the last two years, to the National Institute of Environmental Health Sciences (NIEHS). This change, which will require NIEHS to develop new lead training oversight capabilities that are already established at EPA, is not an efficient use of Federal resources.

SECTION 421: LEAD ABATEMENT TRAINING AND CERTIFICATION PROVISIONS

We have concerns with the lead abatement training and certification provisions in Section 421. These provisions require the Federal government to undertake responsibility for licensing various groups including inspectors, contractors and planners, as well as accrediting training programs. We have serious concerns over the potential breadth of any certification program. We believe that contractors and others who intentionally engage in lead inspections and abatement should be subject to formal certification requirements. However, an attempt to accredit all manner of craftsmen and others involved in building renovation, remodeling or demolition may be neither feasible, given the size and diversity of this work force, nor necessary to protect health. There are several million workers in the housing trade industry, a small percentage of whom may disturb significant amounts of paint containing lead during work activities. Any attempt to certify all workers could divert us away from those workers with greatest need for protection and could needlessly hamper a major job-creating section of the U.S. economy. Instead, an education requirement for these individuals may be more appropriate.

While the Federal government has an important role to play in training and certification, we believe that the States can manage this program more effectively and efficiently than the Federal government, perhaps by building upon existing State-run training and accreditation programs. EPA, in consultation with other Federal agencies such as the Occupational Safety and Health Administration (OSHA) and the National Institute of Occupational Safety and Health (NIOSH), should be responsible for developing model training materials and for setting national accreditation and certification standards. This would include developing a model State plan for training and certification as well as implementing a process for approving State plans. EPA would also appropriately have a role in assisting States to develop and implement programs and providing some oversight to those programs.

In fact, many of the activities mentioned above are already being undertaken. EPA has developed a comprehensive lead training program, based in part at universities across the country, and we are also developing a model accreditation plan for States. The combination of these two programs should help assure that lead inspection and control personnel are both competent and proficient in their job performance.

EPA is coordinating its worker training initiatives with other Federal agencies through the Federal Interagency Lead-Based Paint Task Force. As a result, EPA recognizes that OSHA is considering revising its worker protection standards for lead and that it has issued training grants to address the hazards posed to workers from lead exposure. In addition, NIOSH has worked closely with the Department of Housing and Urban Development (HUD) in the development of worker protection recommendations for HUD's lead-based paint abatement program.

Section 421 also establishes an Advisory Committee on Lead Poisoning. EPA supports the concept of having a broad range of parties involved in program development. However, we feel that the Committee membership as outlined in the bill does not represent the full range of affected parties, including university training organizations. Additonally, the requirements for mandatory meetings and short time allowances for EPA to provide written responses to Committee concerns are overly burdensome. We would support establishing a Committee with broader membership and with less statutory administrative structure.

SECTION 422: MANDATORY LEAD INSPECTION PROGRAM FOR SCHOOLS AND DAY CARE CENTERS

EPA has serious concerns about the impact of the mandatory lead inspection program on the general availability and quality of day care services. While well-intended, the amendment could significantly increase the cost and administrative hurdles associated with smaller, community-based day care services. A much more preferable approach would be a limited pilot program to gauge the need for, and scope of, such a program. These pilot inspections would assess the extent of lead hazards in schools and centers, and the health benefits of various risk reduction methods. This program should be focused on the most vulnerable populations, such as children six years of age or younger who occupy facilities built before 1960, and examine the practical considerations of limited or partial building inspections.

Of special concern are provisions which may create incentives to unnecessarily remove lead-based paint. Section 422, in particular, would exacerbate this problem by encouraging "abatement in lieu of notification." Simple inspection and notification of lead in schools or day care facilities, without an accurate assessment of the risks posed by lead, may lead to unfounded fears and unnecessary or counterproductive lead abatement. While lead-based paint that is in poor condition (e.g., chipping, peeling, flaking, or chalking) can present a hazard and may appropriately be removed or controlled in many instances, removing lead-based paint that is in good condition, apart from posing an unnecessary expense, can actually increase risk of exposure, especially if not carefully and properly conducted. We do not want to repeat the early experience of the asbestos-in-schools program where some schools removed all asbestos from their facilities regardless of its condition, at great expense, while potentially increasing exposure of the children targeted for protection. We would prefer that schools be able to consider all appropriate management and abatement options for lead paint, rather than only removal or encampsulation, if this step is explicitly offered in lieu of notification.

SECTION 4: AMENDMENTS TO THE SAFE DRINKING WATER ACT

We oppose the bill's amendments to the SDWA which would revise the drinking water testing requirements for schools. While schools are currently encouraged to participate in an existing voluntary program, a mandatory requirement for drinking water testing within a limited period of time (less than several years) may not be practical, especially given the increased costs which schools would have to bear. More importantly, implementation of any new requirements for remedial steps to be taken below EPA's 20 parts per billion (ppb) action level is currently beyond proven field technology for isolating the cause of the contamination. Additionally, it is important that EPA's current sampling protocols be utilized to assure that accurate levels of lead can be reliably determined and reported.

We have concerns with respect to the bill's other amendments to the SDWA. First, the bill requires manufacturers to repair or replace all coolers identified by the Commission as contributing 20 ppb or more of lead to drinking water. Assigning retroactive liability in this manner creates a dangerous precedent to manufacturers of all goods, thereby stifling development of new and safer products. Given the scope of this recall and the number of coolers built before 1988, this provision would be very expensive. In addition, it is inappropriate to institute a national recall or certain models based in part on laboratory evidence when lead levels vary considerably depending on use, corrosivity of local water and age of cooler. Risks are best assessed at the local, not national, level.

EPA further opposes the provision in the SDWA amendment which outlines "hammer" requirements that are to prevail if the Agency does not promulgate, within specified periods after enactment, regulations establishing minimal leaching levels of lead from new plumbing fittings conveying drinking water. This provision is ineffective because it mandates a maximum percentage of lead content in fittings which is essentially unrelated to leachability of lead into drinking water.

SECTIONS 411 AND 414: OTHER REGULATION OF LEAD-CONTAINING PRODUCTS

Section 411 of the bill restricts continuing uses of certain lead-containing products. While we support the concept of pollution prevention as an environmental management tool, placing an arbitrary cap on the allowable level of lead in certain products is not a sound scientific approach. More complete information about the expected risks from the use of these products and the economic impacts of restricting lead use are necessary in order to determine whether the lead in these products presents an unreasonable risk to human health or the environment.

Section 414 of the bill would require EPA to develop a comprehensive inventory of lead-containing products. EPA is already in the process of completing a survey of current lead uses. This information, which will be published for public comment by the end of this year, will serve as the basis for our actions under the Toxic Substances Control Act (TSCA) to control any new uses of lead resulting in unacceptable exposures. Frankly, we fear any new inventory provision, even one which eliminates the need for direct industry reporting, could interfere with the EPA process already underway by diverting our current resources.

Finally, EPA is concerned that the bill would require shifting resources from priority activities and programs to comply with less critical mandates of a new law. While we do agree with the pollution prevention goals of this bill, an inordinate amount of resources would be lost from current federal action addressing the largest exposure sources (lead-based paint, dust, soil and drinking water) to accommodate the requirements or the new legislation. The draft bill, for example, could require nearly 20 new rule making efforts to control various lead products. We strongly feel that EPA already has sufficient authority to deal with current and future uses of lead which may present unreasonable risks.

I trust that those comments are useful to you and your staff. If you have any questions about these comments, please contact me.

The Office of Management and Budget has advised that it has no objections to the presentation of these views from the standpoint of the President's program.

Sincerely yours,

LINDA J. FISHER,
Assistant Administrator.

AN AMERICAN TEACHER'S EXPERIENCE OF ANTI-SEMITISM IN POLAND

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. LANTOS. Mr. Speaker, this summer, I was fortunate to have as an employee in my

Washington office a talented young woman by the name of Jennifer Bloomfield. Currently an aspiring playwright studying for her master's degree at Carnegie Mellon University, Jennifer spent a year in Poland as an English language instructor during the 1991–92 academic year.

At a time of dramatic transition in that country, Jennifer experienced and observed at first hand the attitude of Poles toward Jews. At my request, she wrote an account of her experience.

Mr. Speaker, I ask that her work be placed in today's RECORD. Her observations are particularly insightful, and they deserve serious consideration in light of the unfortunate revival of anti-Semitism, racism, and neofascism in Western Europe as well as Central and Eastern Europe during the past year.

ANTI-SEMITISM WITHOUT JEWS, CONTEMPORARY POLAND

Generalizations are dangerous, and they shouldn't be made about any group—be it Jews or Poles. Many Jews simply assume all Poles hate Jews. One student told me that when visiting the United States she was immediately rejected by an American Jew she met because of that assumption. I encountered the same kind of thinking before I left to spend a year teaching in Poland.

What follows are my impressions of the feeling toward Jews in Poland. It is based on those I met and on incidents I read and heard about.

The memory of Polish complicity in the extermination of European Jewry has not faded, and Poland's reputation for anti-Semitism continues.

That reputation is not completely unfounded. It has been kept alive not only by memories of the Holocaust, but also by how those memories are recalled in the national psyche. Until just a few years ago, one could visit Auschwitz concentration camp and find no mention of a single Jew.

Poles are required to visit the camp as students. They go on field trips to this national memorial, but because of the Soviets, communism and prejudice they do not learn about the Jews who died there.

The Soviets had a need to portray the war as a fight against fascism and the outcome of the war as a victory of communism over fascism. Their aim was to help legitimize their takeover of Poland, and to make people more sympathetic, grateful, and welcoming to communists. Soviet and Polish anti-Semitism no doubt also played a significant role in the decision to disregard prejudice against groups such as Jews, Gypsies and homosexuals as having played any role at all in German aggression, much less the crucial role it did play.

So, for instance, the new pamphlet guide for visitors begins by listing all the nationalities that died at Auschwitz at the hands of the fascists, belatedly mentioning Jews and racial prejudice on the second page.

The displays themselves never mention Jews. They refer to "the people from the Warsaw ghetto" and the many nationalities who were rounded up from all over Europe, but the word Jew seems to be taboo. There are huge rooms, one full of hair, one of spectacles, another of suitcases. The ubiquitous Jewish names inscribed on the suitcases reveal the untold story.

The story a visitor learns about Auschwitz depends greatly on the guide who tells it. Many see the camp without a guide; they get the story told above. My guide was a Pole who had lived near Auschwitz as a child and was evacuated at some point during the war. He was very even-handed in his presentation. Poles suffered, Jews suffered. Poles were there to be slaves, Jews to be annihilated. Friends who visited the camp at other times told me their guides largely or completely ignored Jewish suffering.

It is not only at the camps that the facts of the Holocaust are misrepresented. Polish friends told me that their history classes were equally biased and that they learned nothing of the gross numbers of Jews who were successfully targeted by the Nazis for extermination until they had read extensively on their own, usually books that had been banned by the Polish government.

The Communists disseminated countless lies through the Polish educational system, from misrepresenting the facts to a wholesale rewriting of history. Materials contradicting the official version were banned, but apparently many were still able to attain them during Soviet domination and once the Communists were thrown out, these materials flooded Poland.

Poles feel that Jews try to portray the atrocities of World War II as a solely Jewish suffering—and Jews feel that Poles try to appropriate the war. It is a disgusting contest of numbers.

Compounding the tension is the willing complicity of Poles with the Nazis in exterminating Jews. Poles would not even allow Jews to fight in the resistance armies during the war. Numerous Poles did save Jews, however, a fact that should not be overlooked either.

For Poles, the association of Jews with their communist oppressors builds the tension. Many Jews were supporters of the communists, both during the Soviet Revolution and in bringing communism to Poland.

There were prominent Jews in the party apparatus in Poland until its demise. Most prominent was the hated Urban, a die-hard communist until the very end who apparently was involved in imposing martial law and other stranglehold measures. He remains prominent today, as the editor and publisher of the controversial, detested and wildly popular opposition newspaper Nie (meaning "No"). He is considered to be the quintessential Jew. (I don't know if Urban considers himself to be a Jew or not; that distinction makes little difference in Poland.)

However, the association of Jews and Poland's communist oppressors reaches far beyond reality into the realms of conspiracy theories, scapegoating and paranoia.

For me, the most shocking portrayal of anti-semitism surfaced during the political campaign. It wasn't passive like the whispered rumors or the neglect of the educational system. These are equally potent weapons, but effortless and riskless to perpetrate. The hatred and fear exhibited during the campaign was bold and forthright.

One party's campaign poster said of one candidate (in Polish) "Mazowiecki Get Out." Individual letters were highlighted to spell "Jew" (also in Polish). These were posted all over the city.

Mazowiecki (pronounced Mazovyetski) is the leader of the popular Democratic Union (or Unia) Party, a liberal-progressive splinter group of solidarity. there have been allegations that one of Mazowiecki's ancestors was a Jew. He vehemently denies it. (But does he condemn the charges themselves?)

Meanwhile the Christian National Union chose a different venue for its intolerance. Churchgoers in the city of Gorzow heard the message loud and clear from their priest during mass; "Catholics should vote for Catholics, Christians for Christians, Muslims for Muslims, Jews for Jews, freemasons for freemasons and communists for communists" (Warsaw Voice, November 24, 1991). In a country that is predominantly Catholic and in the midst of a strong Catholic revival this slogan means only one thing: the Nazi cry Raus Auslander—Foreigners Get Out.

The Episcopate became involved as well, distributing letters the Sunday before elections with instructions on which parties to vote for. They encouraged voters to support those opposed to abortion, euthanasia and foremost, the separation of church and state.

Many parties stressed their connection to the Catholic church and Christian values. The historic slogan "A real Pole is a Catholic" because a rallying cry for many parties.

Lech Walesa (pronounced Vawensa) engaged in some of this rhetoric as well with the slogan, "Poland for Poles." He soon apologized and retracted his statement.

The fear of other nations and nationalities, especially the Jews, Germany, and the former Soviet Union (or more generally, communism) played a central role in numerous campaigns. They stressed "real Polishness" and infiltration plots.

Two radical nationalist parties came up with a paranoid plot reminiscent of the Elders of Zion. According to their complicated conspiracy theory, Jews first destroyed Poles through communism. Then these same Jews delegated other Jews to form an opposition party, and came to power as Solidarity.

According to the Polish National Community, "a Judaized Episcopate is sending chaplains of Jewish nationality to the officers' corps in the Polish Army" (Warsaw Voice, November 24, 1991).

Stan Tyminski, leader of Party X, and Walesa's rival in the election, left a small box with a newspaper when he left the country. Inscribed with the inscription "The Final Word," the box contained a recorder that played the message, " F--- Jew! F--- Jew! F-- you! F--- you! (Warsaw Voice, November 24, 1991).

There is no doubt anti-semitism reared its head in a tremendous way during the elections, but let me put the above examples in perspective. Stan Tyminski and the Party X lost overwhelmingly to Walesa—I believe by more than 90%. Two factors contributed to his defeat.

First, the run-off between Tyminski and Walesa came after a three way run between Tyminski, Walesa, and Mazowiecki. Mazowiecki and Walesa lead the two largest splinter groups of Solidarity. Mazowiecki is the favorite of the intellectuals, but is extremely uncharismatic and fails to inspire the remainder of the population. The three-way race was much closer—no candidate had a majority—and Tyminski and Walesa prevailed.

In the run-off, all of Mazowiecki's supporters voted for Walesa, if they voted at all. This was because of Tyminski's platform of hate and complete public disdain for him as a person and a politician.

The second reason Walesa won so overwhelmingly is Tyminski's nationality. He is a citizen of Canada who returned to his native Poland to take part in the new government.

In the parliamentary elections, the communists and the Democratic Union each won more seats than any other group. Neither ran on a platform of hate and fear of outsiders. The Polish National Community (of the conspiracy theory above) failed to win a single seat.

The elections reflect what I witnessed in my classes and among Polish friends.

In my weekend class (third year university students returning after some time away from school, mostly young mothers) one student told me that the highest form of insult in Poland was to call someone a Jew. But, she maintained, this was not anti-Semitism or in any way related to American racism. She was angrily confronted by two other students who not only disagreed, but were deeply embarrassed by her comment.

I heard this insult during my stay in Poland, but from a British colleague, not a Pole. I don't know whether he picked it up in Poland and found it salient, or his is a homegrown idea, but clearly anti-semitism needs neither Jews nor Poles, and neither does open-mindedness.

Another woman told me that though it was a bit difficult for her parents to accept that she was marrying a German, "If he were a Jew, forget it!" She added, "Better whole German than ¼ a Jew," which is saying a lot, because while blatant anti-Semitism is generally not condoned on the surface (at least among my students and colleagues at the university) a certain amount of anti-German feeling is.

The conversation went something like this:

"I said to Deiter, Deiter, if you were a Jew, my father would never have accepted you. You are German, and yes, that's difficult for a Polish father to accept, but if you were a Jew, or a Ukranian, forget it. Even ¼ a Jew. Even though it was the Germans who literally kicked his ass for 4 years making him work for free, for a bowl of soup, it is worse to be a Jew. He points them out on t.v. They have a slight accent or a look."

"'Daddy, did they ever hurt you?' I asked him."

"'No.'"

"Then why?"

"'You should have seen them in Warsaw before the war. They dominated everything—they owned all the shops.'"

"'Well, Daddy, maybe they were better at it than the Poles.' I said to him, 'So why shouldn't they own everything? That is capitalism.'"

"'Harrumph.'"

"'But Daddy, there are no Jews in Poland now. Very few. They do not own all the shops. Why do you hate them now?'"

"'You should have seen them before war.'"

The issue of Jewish economic domination before the war surfaced often. Many people cited their parents' or grandparents' resentment of Jewish shop owners and in that manner explained why Poland's complicity in Jewish annihilation was "understandable."

Just how much did Jews dominate the marketplace before the war? One day a very nasty argument broke out in class. One student was saying how her grandmother had told her the Jews owned everything before the war. Then another cut her off—No, he said, they didn't. They went back and forth, her grandmother's word against his.

Certainly it seems that Jews owned businesses in larger proportions than their size would indicate. But that they dominated—or "owned everything"—is simply ridiculous. Sheer numbers would not allow this. In addition, Jews by no means enjoyed the equal rights and equal status with Poles that would allow them to compete on the same level. Some Jews were prominent in society, but the most prominent, the most wealthy and the most influential sectors of society were certainly Polish. This racist misconception stems from a resentment of members of the ethnic group—"them"—in positions of prominence and the assumption that members of the majority—"us"—belong there.

I saw anti-Semitic graffiti scrawled on walls, in synagogues and in cemeteries. One student tried to claim that the Jewish star hanging from gallows that I had seen drawn in the Old Garrison Cemetery in Poznan was not anti-Semitic at all, but the absent minded doodling of some bored teenager for whom it had no meanings.

In Krakow, one of the synagogues in the old Jewish sector was vandalized and thugs were hanging around outside. I didn't stop to ask why. We were told that the synagogue has to be washed and painted constantly to erase the hateful scrawls.

I read account after account of Jewish cemeteries being desecrated, particularly in Warsaw.

For the first time in history, the Polish government is taking steps against anti-Semitism. Last August Walesa's government took strong and immediate action when young vandals once again struck Warsaw's Jewish Cemetery. The government sent in armed guards, took part in a commemorative ceremoney at the site of the vandalism, and promptly charged and arrested suspects.

In a recent visit Pope John Paul II also urged his compatriots not to forget the mass extermination of Jews at Auschwitz, nor the Jews that used to live among them.

The Pope's comments are quite significant in this country that is predominantly Catholic and in the midst of a strong religious revival after decades of communist rule. But the word of the Catholic church does not always encourage tolerance or acceptance of Jews, as the elections illustrate. Furthermore, the predominance of one religion and one race in Poland compounds intolerance rather than abates it.

The concept of fighting discrimination based on difference is difficult to relay in this homogeneous society.

I had my class read an account of one obese woman's experiences with discrimination in the U.S., "Equal Rights for Fat People." She was turned down for jobs because of her appearance, unable to use public facilities and was the object of heckling and nasty slurs. The students thought the article absurd.

Though some had more sympathy for her than others, they all agreed that she should simply lose weight and be like everyone else.

The attitude was, "Why is she complaining? She chooses to be different, she is going to suffer the consequences."

The students refused to link discrimination based on weight to anti-Semitism or racism—both hot issues they have heard a lot about. However, the discussion did extend well beyond obesity to other forms of prejudice.

One student explained nastily, "There's nothing you can do about it. You can't tell people how to think. If someone doesn't want to hire a Jew, they are not going to hire a Jew. They just say someone else has better qualifications. Too bad."

What about the Civil Rights Act in the U.S, I asked?

"Useless."

Another student disagreed, "We can't discriminate against people who are different because there are too many of them. If we discriminated against all the Jews, Gypsies and handicapped that would be half the population."

Someone else in that class later said, "There can't be anti-Semitism in Poland because there are barely any Jews. We are too homogeneous for there to be discrimination against any group."

Both comments brought general agreement. They seemed to have fear that Jews were going to take over, while at the same time they felt Jews were too insignificant for "special laws" to assure their civil rights.

The contradiction escaped them, as did the moral issue that discrimination based on ethnic or religious difference is just plain wrong.

No one I met in Poland, mostly students and teachers, the oldest of whom were children during World War II, would ever publicly profess anti-Jewish sentiments. Among them there is widespread shame over the events of the Holocaust, and I believe that the majority of post-war Poles reject anti-Semitism as a theory.

Without a doubt, anti-Semitism in Poland lives, without Jews. But negative feelings toward Jews are more subtle and more complex than in the past. Poland has taken the first steps away from the hatred and prejudice that marks its past. It also has a long way to go.

What can we do to help Poland continue on the right path and become a nation that will not tolerate prejudice?

First, we must continue to monitor public expressions of anti-Semitism and other intolerance such as was displayed during the 1991 elections. Letters from the U.S. Congress will go a long way in eradicating governmental expression and condonement of anti-Semitism. Walesa's retraction of his nationalist slogan "Poland for the Poles" exemplifies the power of western opinion.

Next, we cannot support a government that in effect supports anti-Semitism. We must make it clear that as long as Poland fails to punish those who desecrate cemeteries, draw gallows with Jewish stars hanging from them or otherwise carry out crimes of hate, the U.S. will take notice and action. Fortunately, Poland has been changing its policy of ignorance concerning anti-Semitic crimes.

Finally and most importantly, we must target the educational system. If students never learn of the crimes against Jews and the culpability of Poland they will never understand what drives anti-Semitism or the horrible consequences ethnic, religious and racial prejudice can have. We must urge the Polish government to teach the whole truth about the Holocaust in schools and at national memorials such as Auschwitz Concentration Camp.

CELEBRATING THE COMMITMENT OF C. RICHARD BEYDA TO OUR CHILDREN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. HOYER. Mr. Speaker, I would like to take this opportunity to recognize the accomplishments of an outstanding individual who has done an extraordinary job of working for the health and well-being of children in the Washington area and in the United States.

In December of this year, C. Richard Beyda will conclude 4 years of service as Chairman of the board of Children's National Medical Center. Dick began his formal association with Children's in 1984, when he joined the corporate board. In 1985, he joined the board of directors. Since then, he has demonstrated an exceptional leadership commitment in guiding the growth and development of Children's to its present status as one of the premiere pediatric health facilities in America.

Dick Beyda was born in Washington, DC and resides here today with his family. He is a graduate of the George Washington University School of Law. As an accountant and a lawyer, he is a well known and respected member of the business and legal communities. He is a member of the DC Bar Association and the DC Institute of Certified Public Accountants.

Mr. Speaker, health care is one of the most critical issues facing the Congress and the American people today. Our responses to this situation is perhaps most important when it comes to children. The health care of our children is an investment that we as a Nation must make, because it is our children who will determine the future course of our Nation and our world. Because of the wisdom and foresight of Dick Beyda and the leadership team at Children's, they have developed a strategic approach to their long-range goals, while managing the short-term issues that are facing virtually all health care organizations. As a result, the children and families of the Washington Metropolitan region have a resource to which they can turn.

Dick Beyda's accomplishments at Children's Hospital are numerous. He oversaw the planning and implementation of a corporate restructuring that enabled the hospital to function more effectively in a time of diminishing resources. Under his leadership, the hospital created a task force to examine the issues that would face the health care industry in general, and Children's Hospital in particular in the year 2000. In 1989, this group produced the "Vision for the Year 2000" report which outlined the challenges—rapidly advancing medical technologies, nursing shortages, greater complexity of patient care delivery, increased operations costs, and decreasing reimbursements—surfaced and the hospital staff began to effectively address them with the strategies put forth in this report. the strategies put forth in this report.

A second achievement was the expansion of Children's basic and clinical research capabilities. Biomedical research has always been an integral part of the hospital's mission. And, indeed, quality health care for all Americans rests upon the foundation of research investigations to uncover new methods of preventing and treating disease and injury. During Dick Beyda's tenure as chairman, the hospital established the Children's Research Institute, which houses six research centers. Each of these centers is investigating the cause, treatment, and prevention of the diseases of infancy, childhood, and adolescence. Because of its location within the hospital facility, the Research Institute will promote the communication and collaboration between physicians and scientists that is so vital to research progress. This will provide improved patient care, by posing new questions which can be addressed in the research laboratories.

Another notable accomplishment was the expansion and enhancement of the main hospital facility. Under Dick's leadership, a threefold plan was completed: expansion of the hospital's underground parking garage, the construction of an administrative wing, and the relocation of the hospital's helipad from the east lawn to the roof. But, these physical changes are not significant in and of themselves; they are significant because they symbolize the commitment of Children's Hospital to continued growth and development of its clinical, research, education, and advocacy efforts into the 21st century and beyond.

In the mid-1980's, Dick played a leading role in getting the hospital's first helipad built on the east lawn of the hospital. Children's was then building its trauma service, which has since become a model for children's hospitals across the country. In order to get young patients to the hospital in that "golden hour" following a severe injury, it was vital that Children's have the capability of receiving patients by helicopter. Dick and other board members went to the community, making the case and raising the money for that first helipad. The tangible results of this effort are hundreds of children who are alive today as a result of the prompt and quality emergency care they received at Children's. The first year that the helipad was open, 320 children arrived by helicopter. This year, that number has more than doubled, with more than 700 youngsters arriving by air transport.

Two years ago, at the dedication of the new rooftop helipad, Dick spoke of the construction of that first helipad. He also eloquently expressed his philosophy and motivation for his involvement with Children's Hospital. On that occasion, he talked about his commitment, and the commitment of the entire Children's Hospital team, to the health and safety of the children that we all hold so dear. Dick likened the hospital's red helicopter beacon, which is one of the highest, brightest lights in the Washington skyline, to the eternal light of the Jewish faith. That light, he said, shining steadfastly in the rain, snow, or clear, starlit sky, was a symbol of everything Children's Hospital stands for—a place for sick and injured children and their families to come and know that they are going to be loved and cared for in a manner that is as good as, if not better than, any other place in the country.

Mr. Speaker, Children's Hospital is very important to me and to my constituents. Almost 50 percent of the patients treated at Children's come from my home State of Maryland. Children's is an integral part of the health care delivery system for Maryland families. The hospital provides services that span the entire health care spectrum, from simple tonsillectomies and ear tube surgeries to the multidisciplinary management of chronic diseases to the complex treatment of life-threatening injuries and illnesses.

Dick is a man who cares deeply about the well-being of children. As the parents of three daughters, he and his wife, Suanne, know first-hand how much children need expert pediatric specialty care. As chairman of the board of directors, he has extended his knowledge and concern to include the larger community, enabling the hospital to continue to provide this care to many thousands of children in our region.

In conclusion, Mr. Speaker, I would like to applaud Dick Beyda for his hard work and devotion. I would also like to ask my colleagues to join with me in saluting him for accomplishments as chairman of the board of Children's National Medical Center. Although he is stepping down as chairman, I know that Dick will continue this exceptional commitment to the children and families of the Washington area, helping to ensure their health and well-being for many years to come.

TRIBUTE TO HERBERT BALISH

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Ms. MOLINARI. Mr. Speaker, on the evening of Wednesday, November 11, 1992, a very special event will take place. There will be a reception honoring a very special person, the recently retired principal of Tottenville High School on Staten Island, Mr. Herbert Balish.

Herb Balish has been active and devoted to education all of his life. After graduating from City College in New York in 1940, he passed his teacher-in-training test. But instead of following this endeavor, he joined the U.S. Army and served in the Southwest Pacific from September 1942 to November 1945.

After his discharge in 1945, Herb returned to education and became a teacher. He took an active role in the lives of his students by being a yearbook and grade advisor, as well as with his colleagues through his involvement with the New York City Association of Teachers of English.

Throughout his career, Herb took an interest in coordinating special programs to assist the students. For instance he organized the XG–Core programs for at-risk students, as well as the college-bound, Core Curriculum Program. He also found the time to author various educational works such as "English for Modern Life," a major English arts book, various handbooks on grammar, and an extensive reading-writing series for urban youth called "The Way It Is," which was distributed on a nation-wide basis.

After passing the principals' examination in 1970, Herb was appointed principal of Port Richmond High School on Staten Island. This school had been the scene of racial difficulties and riots in 1969 and 1970, but when Herb came on board, he worked with all members of the school and local community, and helped turn things around.

In 1978, he was selected to lead the Staten Island Rezoning Task Force to study and rezone Staten Island's high schools. After working on this project for 2 years, Herb's proposals were accepted in full by the parents, the city, the board of education, and the chancellor. Then in 1982, Herb was chosen out of 120 other principals to conduct the principal as Curriculum Leader Program. Working with major New York universities and the business community, Herb drafted a training program which continued for many years. In 1984, he was appointed administrative assistant superintendent, serving as the coordinator of the Principal Curriculum Leader Program.

Then in 1985, Tottenville High School had the good fortune to have Herb Balish assigned to their school. In the 7 years that Herb was at Tottenville, he worked with the school community to enhance the process of shared decisionmaking, as well as implementing the process of teacher involvement and empowerment. Tottenville has been recognized as one of the best and largest comprehensive high schools, not only in the city, but in the country, because of Herb's efforts. During his time at Tottenville, he helped to expand the humanities, emphasize math and science, and protect the various occupational programs. Evidence of his success at Tottenville occurred in 1987, when the school won both State and national recognition.

Mr. Speaker, it is a privilege for me to have this opportunity to honor Herb Balish for his distinguished career and his commitment to our community. His wife, Faith, and their three children I'm sure are very proud of him. He has been a source of great inspiration to the Tottenville High School community, and will be sorely missed.

NEIGHBORHOOD DEVELOPMENT DEMONSTRATION PROGRAM

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. RIDGE. Mr. Speaker, today I am introducing a bill to update and improve the Neighborhood Development Demonstration Program [NDDP]. The NDDP is a matching program under which HUD matches funds raised by neighborhood organizations to support local development activities—in particular, job creation and business development.

The late Senator John Heinz originally sponsored this program. My bill, the Heinz Act, renames it in his honor, as the John Heinz Neighborhood Demonstration Program. The Heinz Act provides new incentives for neighborhood organizations to coordinate with depository institutions.

The Heinz Act maintains the current focus of the NDDP by promoting self-sufficiency among neighborhood organizations. It improves on the existing law by encouraging them to build lines of communication with local financial institutions. In this regard it is consistent with, and supportive of, the greenlining bill that we passed as part of the FDICIA, which provides corresponding incentives for banks to invest in troubled and distressed communities.

The Heinz Act is an effort to weave together the complementary talents of banks and neighborhood organizations. Neighborhood organizations have shown that they can do a great deal to improve the economic climate in lower income communities. They can provide help in many forms to potential borrowers; borrowers that take advantage of their help present a better risk profile to lenders, and become more bankable. At the same time, forward-looking banks have proven that they can operate successfully in distressed areas. They can offer the credit and other services that are needed to establish a sound economic foundation for the local communities.

I believe it is vital that neighborhood organizations on one hand, and banks on the other, each come to appreciate what the other can bring to the table. My legislation is an attempt to foster an atmosphere of cooperation between the two sides. My working together, rather than independently on separate tracks, they can reinforce each other's efforts to promote the growth of local business enterprises, and to increase the prosperity of the communities they serve.

PRESIDENT BUSH'S ETHANOL DECISION GOOD FOR AMERICA

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. EWING. Mr. Speaker, yesterday President Bush completed that rarest of all feats, the triple play. The President's decision to assure ethanol's participation in the reformulated fuels program of the Clean Air Act will help America's farmers, benefit the nation's environment, and enhance America's energy security. Farmers in the Midwest greatly appreciate President Bush's decision and we applaud his strong leadership on agricultural issues.

There's no way to overstate the importance of this issue to my part of the country. American agriculture must move toward providing value-added products such as ethanol if farming is to be a profitable enterprise into the next century. Yesterday's decision will enable farmers, who have long prided themselves on their ability to feed the world, to now participate in the cleanup of our environment. It also lends further support to the President's goal of making America more energy-independent by expanding the use of domestically produced, renewable fuel sources.

I applaud the President for his courage and resourcefulness in resolving this difficult issue. Yesterday was not only a good day for American farmers. It was a good day for all of America.

A PROMISE FINALLY KEPT

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. BLAZ. Mr. Speaker, one of the lingering disappointments among distinguished warriors of World War II will shortly be coming to an end. In a few days from now, my home District, Guam, an American Territory which was liberated from hostile occupation almost 50 years ago, will be welcoming over 100 Filipinos who fought side-by-side with Gen. Douglas MacArthur and the U.S. Armed Forces during World War II. On October 15, 1992, these gallant warriors will finally receive what was promised to them almost half a century ago—U.S. citizenship.

The history of American involvement in protecting and preserving freedom and democracy during World War II is replete with accounts of the battlefield exploits of these Filipino veterans, who fought against enormous odds and under miserable and demeaning conditions. After a gallant struggle against a foe holding overwhelming superiority in firepower, equipment and sheer numbers, these valiant men were finally subdued. Those not killed were subjected to inhumane conditions as prisoners of war.

Sadly, through a series of administrative oversights, bureaucratic blunders and prolonged litigation, the promise of U.S. citizenship became an ephemeral vision for almost 50 years. It was not until the Immigration Act of 1990 that our country finally fulfilled the promise it made decades ago.

Over the years, it must have been especially difficult for these men to see thousands upon thousands of people, from their own country and from other nations in the region, admitted to the United States ahead of them. While these other immigrants can claim citizenship through family relations, business investment, professional and scientific credentials or political upheavals in their own countries, the Filipino veterans alone can claim U.S. citizenship based on a promise made on the battlefield in recognition of their heroism side-by-side with the U.S. Armed Forces. Yet, that official promise, which one would think would give them priority, considering the circumstances under which it was made, turned out to be a hollow one for decades.

Looking back at those lost years, there is no way of ascertaining what might have happened to the lives of these men and their families if they had been made U.S. citizens immediately after World War II.

Now in their twilight years, many of these warriors have become too feeble, too sick or too impoverished to withstand even a plane ride to claim the prize which should have rightfully been bestowed long ago. They have seen many of their comrades, who were able to survive the bullets, bombs, starvation and other privations of the war, succumb to the passage of the intervening years.

The feelings of those veterans who could not make the trip may have been captured by one who said to me:

> While I will be unable to go abroad with my brothers, I am comforted to some degree by knowing that, if I had had the means or the strength, I, too, could have been a citizen of the United States.

Remarkably, despite the decades of humiliation, frustration and rejection, becoming an American citizen remains a premier symbol of ultimate freedom for these soldiers.

As a soldier myself, and as a son of the Pacific like these Filipino veterans, I am honored to enter into the RECORD of the Congress of the United States this tribute in memory of their contributions in behalf of freedom and an honor roll of names of those individuals being sworn-in as U.S. citizens on October 15, 1992.

It is the most that I can offer them in salute; it is the least they deserve.

LIST OF FILIPINO VETERANS

Simplicio R. Acula, Juan A. Adanzo, Ramon O. Adorable, Alfonso Agancillo, Leon A. Agda, Miguel F. Aguilar, Leoncio C. Alcantara, Felipe B. Argueza, Francisco O. Aviles;

Alejandro M. Bautista, Rodolfo L. Bauzon, Loecadio H. Bay, Guillermo Biton, Antonio B. Blones, Bonifacio C. Bonifacio, Teofilo B. Bulcsan;

Sustines Cabo de Leon, Jose Villegas Canaban, Agustin C. Cardos, Eldefonso M. Carranza, Guillermo A. Cervantes, Gavino G. Colocado, Otoniel D. Cotejo, Antonio C. Cruz, Laurencio V. Cruz, Raul C. Cumanan;

Dionisio A. Dacayo, Felicisimo T. Dadia, Crescencio E. Dagala, Nicasi Degollado, Sustines Deleon, Panfilo A. de Guzman, Alfredo V. de Jesus, Juan P. de Vera, Aurelio C. Dela Cruz, Sixto Dela Cruz, Jacinto DeLos Reyes, Mauro Duatin;

Gerardo Delos Reyes Eclevia, Francisco R. Eslava, Victor Dela Rosa Espinosa, Elpidio L. Estuita;

Erequiel S. Faelnar, Aniceto S. Florendo, Sebastian C. Flores;

Jose V. Granaban, Armando Ganutice, Eduardo C. Garcia, Neciforo Garcia, Vicente M. Garin, Francisco R. Gongora, Gavino Gonzales, Hermogenes S. Guanga;

Juan Leonida Hidalgo;

Marciano C. Iglasius, Macario H. Illustrisimo, Ponciano Inopiquez, Teodoro C. Isorena;

Mercado Tan Justiniano;

Filipe H. Ladda, Antonio L. Lasmarias, Mario B. Libano, Ernesto P. Luberto;

Pablo E. Mabanglo, Serapio M. Madriaya, Abraham I. Malaya, David A. Mallorga, Nicolas D. Marcelo, Feliciano Maye, Leonardo A. Mayuga, Malchor F. Mejia, Pedro A. Mendoza, Saloman F. Mera, Olimpio P. Metiam, Rosendo L. Moldez, Solomon E. Montejo, Jose S. Morcon;

Olimpio G. Nacpil, Leonardo Narzabal, Custodio Nator, Ambrocio Navilla, Prudencio E. Nilo, Santos D. Nillo;

Camilo D. Olivar;

Lorenzo S. Pajares, Amador Pambid, Casiano F. Pamilara, Estelito B. Papa, Abundio G. Pechon, Simeon Penaranda, Roberto S. Pineda;

Florentino D. Quirimit;

Pedro N. Resurreccion, Julian Reyes, Melanio R. Reyes, Ricardo J. Reyes, Jose R. Rito, Laureano N. Rivera, Maximo M. Roque, Amado R. Roxas, Deogracias C. Rueda;

Ignacio B. Sab, Francisco Salindong, Felipe A. Samonte, Reynaldo R. Sanvicente, Gregorio C. Senenso, Melecio T. Siapno, Honorio C. Suemith, Leopoldo L. Supe;

Onofre M. Tablizo, Antonio S. Tallan, Lino A. Tatanes, Rito Tejado, Pablo C. Tomines, Nemesio A. Torres, Candelario R. Tuliao;

Jose T. Valera, Domingo Valdez, Santos C. Valdez, Bienvenido M. Valico, Armando T. Vasquez, Felicisimo A. Vibas, Eusebio C. Villaflor, Rodrigo J. Villanueva;

Hilario I. Yamon; and

Paterno Zabala, Godofredo C. Zamubio, Maximiano U. Zarsuelo, Jr.

SALUTING HUDSON POST #184, THE AMERICAN LEGION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. SOLOMON. Mr. Speaker, on Saturday, November 7, American Legion Post #184 in Hudson, NY, will hold a dinner in commemoration of the single most important event of the 20th century, World War II.

Mr. Speaker, I hardly need tell this body how much I admire the American Legion, both the national organization and the many local posts I've had the privilege to know or belong to.

These days, it's easy to forget the mobilization of an entire society that characterized World War II. Great sacrifices, including the ultimate sacrifice of death in many far-flung battle zones, were made by countless Americans. Yet, most Americans who lived through World War II still remember it as the most exciting part of their lives.

However individual Americans remember the war years, everyone got on with their lives and helped make America the undisputed leader of the free world.

Mr. Speaker, the years before 1941 were a prelude, and the years after 1945 were an epilog, to World War II. And that is why I would ask all Members to join me in saluting Hudson Post #184, the American Legion, for preserving the memory of this extraordinary event in our history.

WELFARE SHOULD EXIST TO CREATE SELF SUFFICIENCY AND INDEPENDENCE

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. NEAL of North Carolina. Mr. Speaker, our welfare system is in desperate need of reform. Programs designed to provide temporary assistance to people in need have become a way of life for all too many of our Nation's poor. In many instances, the regulations governing these programs create obstacles for individuals and families trying to work their way out of poverty.

Today I am introducing legislation that could lead to a complete overhaul of our country's welfare programs.

My bill would establish a system designed to promote self sufficiency for welfare recipients within a reasonable period of time. The goal would be to eliminate duplication, red tape and counterproductive restrictions in welfare programs.

My plan would have a cabinet-level task force devise a plan for coordinating and streamlining the administration of all Federal programs that provide assistance to the poor.

Subject to the approval of Congress, the task force would revise program eligibility standards so that they are no longer obstacles to self sufficiency for those receiving assistance.

Applications for assistance would be made on one form and in one location. Program administration would be greatly improved and simplified. Services would be delivered according to coordinated plans designed to meet the needs of the individuals and families receiving assistance for a short period of time until they become self sufficient. Welfare would become temporary assistance, as it should be, rather than a way of life. It would exist to help people become self sufficient and independent.

We can no longer afford to pour billions of dollars into a welfare system that promotes dependence and perpetuates poverty. My legislation will enable us to implement comprehensive reform that coordinates services, eliminates duplication and promotes self sufficiency for welfare recipients. We can and we must take action now. I hope that this proposal can receive a thorough hearing and be enacted during the next Congress.

STATEMENT OF THE CONGRESSIONAL BLACK CAUCUS IN COMMEMORATION OF THE LATE LEONARD C. BALL, AN EXECUTIVE ASSISTANT FOR THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES [AFSCME]

HON. CHARLES A. HAYES

ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992.

Mr. HAYES of Illinois. Mr. Speaker, I rise today to honor our dear departed friend, Leonard C. Ball. Leonard Ball, who left this Earth on July 9th, was a longtime confidant and supporter of the Members of the Congressional Black Caucus. Leonard devoted his life to labor and civil rights activism, and in that capacity he successfully established and strengthened critical ties between the labor movement and the African-American community.

Leonard was a faithful friend, tireless worker, and an extremely devoted family man. His commitment to eradicating racial inequalities that exist in and out of the trade union movement, was matched by none. The labor movement, as well as this Nation as a whole, has certainly benefitted from the unflinching dedication and good works of Leonard Ball.

Born in Middlesboro, KY and reared in Cincinnati, OH, Leonard attended the University of Cincinnati and received a master's degree in education from Antioch College. Mr. Ball worked as a supervisor at the U.S. Post Office in Cincinnati.

Before moving to Washington, DC in 1968, Mr. Ball gained wide respect in the Midwest as an effective community organizer. He was head of the Cincinnati chapter of the Congress of Racial Equality and helped lead rent strikes, economic boycotts, and protests against police brutality and harassment. He also traveled to the South in support of many civil rights groups. A tribute to his intellectual prowess, Mr. Ball delivered many lectures at the law schools of George Washington and Georgetown Universities, and became a mentor to many youngsters.

Prior to working for AFSCME, Mr. Ball was project director in the Washington office of the National Urban League, and an income maintenance coordinator with the United Planning Organization, an anti-poverty agency.

Mr. Ball retired last year after 19 years of service with AFSCME and a longstanding commitment to the goals of the Coalition of Black Trade Unionists [CBTU]. Mr. Ball spearheaded the undaunting task of organizing the founding conference of CBTU in Chicago, IL. Largely because of his herculean efforts, more than 1,200 black union officials and rank-and-file members attended the conference. Leonard went on to crganize and involve CBTU in anti-apartheid protests, international relief efforts, and political action workshops.

As much as we will all miss Leonard, I know that his family will miss him desperately. I extend the Congressional Black Caucus' heartfelt condolences to Leonard's loved ones. It is clear, however, that a soul and spirit as concerned, caring and giving as Leonard's will always remain with us. It should certainly be our goal to retain those special qualities that Leonard Ball exuded in his many years on this earth, and use them to continue his good works. We then can ensure that his legacy will live on. Thank you, Mr. Speaker, for allowing me this time.

To Leonard's wife, Jessie M. Ball, and all of his family we are,

Sincerely,
John Conyers, Jr.,
Louis Stokes,
Charles B. Rangel,
Harold E. Ford,
Mervyn M. Dymally,
Major R. Owens,
Alan Wheat,
Mike Espy,
John Lewis,
Donald Payne,
Barbara Rose-Collins,
Eleanor Holmes-Norton,
Maxine Waters,
William L. Clay,
Ronald V. Dellums,
Cardiss Collins,
Julian C. Dixon,
Gus Savage,
Edolphus Towns,
Charles A. Hayes,
Floyd Flake,
Kweisi Mfume,
Craig Washington,
Gary Franks,
William Jefferson,
Lucien Blackwell.

INTRODUCTION OF THE AMERICAN CONSUMERS HEALTH CARE REFORM ACT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Friday, October 2, 1992

Mr. GEKAS. Mr. Speaker, today I am introducing the American Consumers Health Care Reform Act [ACHRA], legislation that will provide immediate and long-term reforms of our Nation's health care system. My action taken here today is a direct result of responses to my annual constituent questionnaire and a series of health care policy meetings throughout my congressional district.

According to my questionnaire and district meetings, a majority of my constituents and the American people clearly do not want the Federal Government running our Nation's health care system. What they do want, however, is a system that is more affordable and more accessible. The American Consumers' Health Care Reform Act will enact steps to do this and provide to all interested parties on health care reform a new and consolidated approach to the problem at hand.

What makes my bill different from others are new provisions to restructure Medicaid to deal with the aging population and the lack of quality care among the very poor. Secondly, my bill reforms the Federal system of subsidizing medical education to increase the pool of primary care physicians. Third, my bill makes available to every State the successful health outcomes data system that we have in Pennsylvania. Fourth, my bill frees the States from certain restrictive laws to allow them to be innovative by testing alternative delivery and financing systems to hold down costs. My bill also would institute much needed medical malpractice reform, to decrease defensive medical and litigation costs.

Most important, my bill deals with the issue of personal responsibility by empowering the Secretary of the Department of Health and Human Services to take action on the President's Healthy People 2000 Program. The Secretary would submit an action plan on health promotion and disease prevention and make recommendations to Congress to decrease the risk factors—e.g., smoking, high blood pressure, high blood cholesterol, overweight, sedentary lifestyle, high fat diet, inadequate childhood immunization, heavy use of alcohol, and failure to use seat belts—mentioned in that program.

I offer this bill, nicknamed ACHCRA (pronounced ak-ra), at this, the end of the 102d Congress, for study, review, comment and, ultimately, refinement, so that the 103d Congress will, hopefully, see its re-introduction in an even better version. A summary and rationale of the bill follows.

SUMMARY AND RATIONALE

TITLE I—IMMEDIATE REFORMS TO EXPAND ACCESS TO HEALTH CARE AND HEALTH INSURANCE

(1) Subtitle A—Expansion of Medicaid Program:

Expand Medicaid eligibility to increase access to insurance for the poor uninsured while restructuring Medicaid to allow states to limit their focus to long-term care services and transferring responsibility of acute care services to the federal government.

Rationale

Today the Medicaid program is not fulfilling the promise of the 1960s. Only 40 percent of the poor are actually covered by Medicaid, and the program is increasingly under-compensating providers.

This subtitle makes a programmatic distinction between the two basic elements of Medicaid: acute care and long-term care. The restructuring of Medicaid does not increase substantially the fiscal burden on either the states or the federal government, but rather, it makes the program more consistent nationwide and more manageable.

The proposed restructuring allows each governmental component to concentrate on what services it can best provide. The federal government has done a creditable job in its management of Medicare. Extending its reach to encompass the acute care portions of Medicaid would be a logical extension of that expertise.

In their management of long-term care services, states have shown much creativity. Having states responsible for this portion of Medicaid makes the most sense programmatically.

This definition of responsibilities allows us to expand significantly the eligibility for Medicaid with out damaging state budgets. Increasing Medicaid coverage to all persons below 100% of federal poverty level would mean providing coverage to an additional 10 million Americans. The new structure will also permit long overdue increases in Medicaid provider payment rates.

Finally, the merger of Medicaid administration with that of Medicare will permit administrative cost savings.

(2) Subtitle B—Medicare Reform:

Combine all administrative services of the Medicare program to improve its efficiency.

Rationale

Today the artificial distinctions between Medicare parts A & B no longer make programmatic sense. Consolidating the administration of the two parts will simplify program management, especially in those areas where the actual services provided to beneficiaries are comprised of both parts.

This proposal will yield administrative savings through the elimination of duplicative data processing, and overhead functions. It will also make Medicare program management simpler and easier for beneficiaries to understand.

(3) Subtitle C—Health Benefit Plan Reform:

Preemption of state mandates and anti-managed care laws; limitation on pre-existing exclusion; guaranteed issue and renewability; minimum benefits package; modified community rating.

Rationale

Small businesses today face an insurance market that is unpredictable, arbitrary, and unaccountable to its customers. Insurers have begun using aggressive rating and underwriting practices, resulting in severe segmentation of the small employer market place. The current system gives insurers incentives to compete—but only to underwrite plans for healthy individuals.

Insurance companies can cancel or refuse to renew policies, and workers with pre-existing health conditions are often denied coverage. Small businesses experience double or triple digit annual premium increases that far outpace national averages.

This bill improves the availability and fairness of health insurance for small businesses. Meaningful market reforms must be enacted if private insurance coverage is to continue to play a significant role in health care financing.

(4) Subtitle D—Medical Malpractice Reform:

Mandatory pre-trial alternative dispute resolution; limits on non-economic damages; statute of limitations; pretrial settlement offer; limitation on attorney's fees; liability for costs; uniform standards; use of practice guidelines; other

Rationale

We consider these reforms an essential component of national health reform in that access to health care has been curtailed in several regions because of fear of suit and the costs of liability insurance. In addition to insurance premiums, it has been estimated that as much as $20 billion is spent annually on so-called defensive medicine—diagnostic tests, procedures and hospitalizations provided primarily to reduce perceived liability, not because they were medically necessary.

The proposed reforms will put in place a system where injured parties will have their claims considered, and awards made, much faster than under the existing system. Furthermore, physicians and other health providers not practicing up to community standards will be more identifiable, and eliminated from medical practice.

The current liability system fails patients, providers, and the public. It is expensive, unfair in awarding claims, and slow to respond. This bill includes comprehensive reforms which will improve the legal climate in which health care is provided, encourage ongoing quality improvement in medical care, and enhance the safety of the public through more rigorous processes of medical licensure and credential review

(5) Subtitle E—Medical Education Reform:

To increase the national pool of primary care physicians, increase the medical education funding percentage mix for primary care education and decrease the funding percentage going for specialists education. S

Rationale

Medical education in the U.S. is without question one of the most successful components of our current health care system, training large numbers of health personnel, and encouraging biomedical research and development of new medical technologies.

However, over the past twenty years the federal government has tried through a variety of initiatives to promote education of more primary care providers in relation to the number of specialists trained. All such efforts to date have been of limited success, and in recent years the number of students choosing primary care specialties, e.g. family practice, general internal medicine and pediatrics, has been declining.

This specialty imbalance and a growing number of sub-specialists, contributes to ongoing shortages of health personnel in recognized medically underserved areas. This bill addresses the problem by phasing in, over a ten year period, financial incentives for the training of primary care physicians. This is accomplished by redirecting funds currently allocated to post-graduate, i.e. "residency" training under the Medicare program.

While several national commissions and councils addressing problems related to medical manpower have recommended we should strive for a goal of producing 50% primary care physicians, there have not previously been recommendations to achieve this. This bill provides one important component of educational reform by requiring balanced financing of graduate medical education. This change is to be phased in over a long enough period so as not to disrupt any cycle of residency training, which can last for as long as ten years.

The proposal also requires states to determine their respective needs for health personnel, and assist in directing educational funds in order to meet society's health care needs through training the proper mix and type of health professional.

(6) Subtitle F—Public Delivery System:

Increase funding for publicly-funded health centers and improve the health habits of Americans by directing the HHS Secretary to develop an action plan on health promotion and disease prevention.

Rationale

The recent debate on national health reform has focused primarily on financing and health insurance issues, and little attention seems to have been paid to the health care delivery system itself. Yet many studies have documented that expanded health insurance coverage alone may not be sufficient to improve either access to health care services, nor improved health status. This is particularly true for the medically indigent—individuals and families without private health insurance who suffer from chronic poverty and/or are geographically isolated. Even if there were "universal access" to health insurance, there would still be a significant number of our citizens who would go without even basic primary and preventive health services. These individuals tend to postpone treatment of health problems, and then often show up at hospital emergency rooms for treatment of costly and complicated medical conditions which may have been entirely preventable with early treatment. The cost to hospitals for treatment of the medically uninsured was estimated to be $11 billion in 1988, and this burden is increasing, and unevenly distributed.

To ensure early access to preventive and primary care, the bill calls for expansion of existing efforts to serve the most needy among us through the establishment of a publicly funded community health center in every designated health personnel shortage area. This proven public health approach to serving the medically indigent will improve the health status of those most in need, and limit the uncompensated care provided by our nation's hospitals.

As the consensus is developing on the need for health care reform there accompanies it a growing awareness that the health care system simply cannot keep up with the demands placed on it by the public, even if there were universal insurance coverage. Much of the costly care provided is directly related to issues beyond control of health planners, policy makers, and providers—the aging of our society, drug abuse, sexually transmitted diseases, unwanted and unintended pregnancies, violence, and unhealthy lifestyles. The "results" of these factors often show up at the hospital emergency room, requiring immediate medical care.

The public has grown to expect highly sophisticated and technical solutions to whatever ails them. Our bill begins to address the magnitude of these social problems and the unrealistic expectations on the part of the public by emphasizing the critical need for a more focused and meaningful effort in disease prevention and health promotion.

Fortunately, the steps which need to be taken have already been determined by leaders in public health, in collaboration with experts in academic medicine, economics and social policy. Their recommendations are published by the Public Health Service in Healthy People 2000: National Disease Prevention and Health Promotion Objectives. This document provides information of the cost of our major social ills, and sets realistic goals in health status for the nation to strive for by the year 2000.

Our bill would significantly expand the activities and resources of the Office of Disease Prevention and Health Promotion, which would enable them to serve as a more effective catalyst and coordinator of the achieving of the goals established in Healthy People 2000. Furthermore, it creates for the first time a federal focus for all nutrition activities, recognizing that the number one and two killers of our citizens (arteriosclerotic vascular disease, and cancer, respectively) are strongly related to dietary practices, and that current nutrition practices are often confusing and contradictory.

Finally, our bill begins the difficult process of educating the public about the appropriate use of medical technology and resources. Just as medical personnel have been found to change the frequency with which they order diagnostic tests and perform therapeutic procedures when data calls into question their efficacy, it is felt that the general public must learn about the relative benefits of medical technology, the tradeoffs in using costly high technology with limited benefits for a few vs. broad scale use of inexpensive preventive measures for the benefit of many. In order to accomplish this, a series of demonstration projects on health care decision making are established, related to bringing patients and their families into the process.

The bill recognizes that the health care system cannot succeed if its perceived mission is the "fix" a burgeoning number of costly societal problems. Solutions lie with individuals assuming responsibility for their own behavior, with families, educators, and clergy promoting healthy attitudes, and government supporting more vigorous health promotion and disease prevention policies.

(7) Subtitle G—Public Disclosure:

HHS Secretary would work with states to develop health outcomes data systems to empower consumers in making prudent, cost-effective decisions about utilizing the health care system.

Rationale

The provision for full public disclosure of cost and quality information is built on a belief that individuals must share in the responsible use of health care services. This expectation cannot be realized unless individuals have access to information on the cost and quality of service options.

Quality information should be available to help consumers avoid substandard providers, to educate the public about the quality of medical care, and to stimulate the medical community to improve quality standards.

Cost information is important to purchasers because of the rising cost of care. In an era of increasing coinsurance and deductibles, consumers need to know the cost consequences of their provider choices. Also, employee benefits managers need to know the cost profiles of different providers to be able to "shop" for the most cost effective services.

(8) Subtitle H—Tax Incentives to Provide Only Minimum Benefits:

Employers could deduct only the cost of a basic benefits package.

Rationale

The current tax treatment of health insurance costs has contributed significantly to the problems of our health care system. Because premiums are tax deductible to the employer and not taxable to the employee, very generous health insurance benefit plans have proliferated in certain industries. The current tax policy is a subsidy for these arrangements, and employees are inclined to take compensation in terms of fringe benefits rather than in higher wages.

The changes in tax policy in the bill would increase employee recognition of the true costs of their health benefits and allow an expansion of the deductibility of basic benefits. It is expected that employees would become more sensitive to the cost of coverage and more aggressive in demanding that costs be held down.

The second of the two titles, "National Health Care Reform Proposals", has two subtitled provisions to cut the costs associated with health care. The subtitles follow.

(1) Subtitle A—National Health Care Reform Commission:

Establish a health care commission to: Create the minimum benefits package and analyze the results of state demonstration projects;

(2) Subtitle B—Demonstration Projects on Alternative Financing and Delivery Systems:

States will work with the Department of Health and Human Services (HHS) Secretary to test alternative delivery systems in order to cut the costs associated with health care.

Rationale

The cost of the health care problem is long-term, perhaps chronic, and both cost control and significant enhancements in access require reform of health care delivery mechanisms. In order to achieve long-term structural reform, some of the underlying assumptions of which our current delivery system is based must be re-examined.

Demonstrations are required when there is considerable uncertainty concerning the feasibility of various policy alternatives. Experiments would be conducted and evaluated simultaneously to determine which policy option yields the best results.

The American Consumers Health Care Reform Act will go a long way in the debate that will to come next year in providing a new system.

FIRST ANNUAL AMERICAN HEART WALK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. GILMAN. Mr. Speaker, I rise to call to the attention of all our colleagues a noteworthy event taking place throughout our Nation this weekend, October 3-4, 1992.

The American Heart Association, which is the Nation's largest voluntary health agency dedicated to the reduction of disability and death from heart and blood vessel diseases, is holding its first national walking event to raise funds in support of cardiovascular research and education. The American Heart Walk, as this important new fundraising event is called, is being held in more than 700 cities throughout our Nation.

Lederle Laboratories, a division of American Cyanamid Co., which has research and manufacturing facilities in my 22d Congressional District of New York, is the national sponsor of the first American Health Walk. Lederle is a pharmaceutical company that, through its own cardiovascular research efforts, shares the American Heart Association's goal of advancing cardiovascular health for all Americans.

I would like to commend Lederle Laboratories; Mr. David Bethune, group vice president of American Cyanamid; and Mr. Edward Fritzky, president of Lederle Laboratories, for nationally sponsoring the first American Heart Walk.

In my own region, Mr. Charles Isberg, the public relations director of Lederle Labs, is to be especially commended for his outstanding services to this cause.

I applaud Lederle's substantial commitment to help in the fight against heart disease, our Nation's No. 1 killer.

Mr. Speaker, I invite all of our colleagues to join with me in commending Lederle for their commitment, in thanking all of the nationwide participants in the American Heart Walk for their compassion and their efforts, and the American Heart Association for keeping up this fight against such a major enemy of humankind.

TRIBUTE TO JOHNNIE B. THOMASON

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to a longtime friend, Johnnie B. Thomason, of Arlington, KY, who died at age 70 last August 13 in Paducah, KY.

Johnnie Thomason served 8 years as a member of the Arlington City Council prior to his death. He contacted me several times in recent years regarding assistance for Arlington and Carlisle County, KY.

Johnnie Thomason was well known and highly regarded in western Kentucky.

Mr. Thomason, a retired maintenance mechanic for Union Carbide, was a member of Oil, Chemical and Atomic Workers Union Local 3–550.

The World War II veteran was a member of American Legion Post 250 of Arlington and Veterans of Foreign Wars Post 5409 in Bardwell.

He was a member of First Baptist Church in Arlington, KY.

Surviving are four daughters, Bonnie T. Hicks of Paducah, Mary Jane Tyler of Arlington, Wanda O'Connor of Wickliffe, and Loretia Cornette of Alexandria, VA; two sons, Mike Thomason of Bardwell, and Mickie Thomason of Paducah; one sister, Dorothy Burgess of Arlington; one brother, Sammie Thomason of Arlington, 15 grandchildren and two great-grandchildren.

His wife, Willie Mae Beshears Thomason, preceded him in death as did four sisters and two brothers. His parents were Amos and Henrietta Blackburn Thomason.

My wife Carol and I extend to the family of Johnnie B. Thomason our sympathy.

U.S. POLICY TOWARD TAIWAN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. SOLARZ. Mr. Speaker, my good friend, Dr. Trong Chai, recently gave a speech on United States policy toward Taiwan at a meeting here on Capitol Hill. Dr. Chai is a Taiwanese who lived in the United States for over two decades and has now returned to his homeland to participate in the island's political life. He presents a point of view that deserves consideration by those who care about the future of Taiwan, and I, therefore, ask that it be printed in the CONGRESSIONAL RECORD and made accessible to our colleagues.

U.S. POLICY TOWARD TAIWAN

(By Trong R. Chai, Ph.D.)

Ladies and Gentlemen: My heart was filled with joy, gratitude and fear, when I received an invitation six months ago from four most distinguished gentlemen: Senator Pell, Chairman of the Senate Foreign Relations Committee, Congressman Fascell, Chairman of the House Foreign Affairs Committee, Senator Cranston, and Congressman Solarz, Chairman of the House Asian Subcommittee.

I wish to thank you deeply for your concern for the people in Taiwan, democratization of Taiwan's political processes, and the future of this island.

I am very pleased to be here to see once again so many familiar faces in a forum with a great tradition of democracy. I would like to share with you my observations in Taiwan in the past two years and my endeavor to lead the Taiwanese to decide their future through a plebiscite.

Yet, I feel frightened.

I feel frightened, because to determine Taiwan's future by plebiscite is still a far cry from reality. Since my return to Taiwan two years ago to launch a plebiscite movement, I have participated in a peace demonstration, the largest and most fervent of its kind in the history of Taiwan. It indicates a strong desire of the 20 million people in Taiwan to determine their own future.

My assertion of a plebiscite fits perfectly well in the changing world trend in pursuit of true democracy. However, even with a peaceful movement such as this one, no one, under the current regime, can change the reactionary forces within the Nationalist Party, who block all efforts for democratization.

To express our concerns, I and some of Taiwan's leaders from all walks of life are here today. We firmly believe that the future of Taiwan should be in the hands of the 20 million inhabitants of Taiwan. They should, through a genuinely democratic process, voice their true opinions on the future and international status of Taiwan.

I believe that, in the spirit of The Mayflower, my distinguished guests, who are here today, can fully grasp the idea of self-determination the Taiwanese people want, and you will, without reservations, support the wish of the Taiwanese to strive for democracy.

To me, the best support the United States can give to Taiwan is, in its quest for a new world order, to change its outdated Taiwan policy.

In fact, the people of Taiwan and their government have, willingly and unwillingly, followed your changing Taiwan policy such as stated on various occasions by, among others, Honorable James Lilley, former Ambassador to Beijing, ex-President Richard Nixon, and President George Bush, who just made a great decision to sell F-16 fighter planes to Taiwan.

Since the Shanghai Communique signed by the Nixon Administration and China in 1972, the United States has, again and again, stressed its basic position on China that the U.S. "acknowledges that there is only one China and Taiwan is a part of China." Such pledge might settle temporarily the tensions between the United States and China; however, it provides an implicit ground to block the people of Taiwan from pursuing their own happiness and future.

Today, I want to express the feelings of 20 million Taiwanese and to point out the misconceptions inherent in the Shanghai Communique.

The "acknowledgement" by the United States should be limited to the view of the Chinese; it should never be interpreted as understanding the will of the people on Taiwan. Because there has not been a means given to them to express their own true views on basic political matters that affect their future.

The Communique ignores the iron fact that Taiwan, for almost 400 years, has been separated from China. During this period, there has been very little contact between them. Above all, the People's Republic of China has never set foot on Taiwan.

We, myself and my colleagues, are here to reflect the will of 20 million Taiwanese to call for the U.S. Congress and Senate to urge your government to adopt a new Taiwan policy, such that the wish of the Taiwanese be respected, to pay greater attention to the political and, especially, the growing economic power of this island in the world arena, to encourage holding a plebiscite in Taiwan, and to let the Taiwanese decide their own future—whether to be united with China, to maintain its status quo, or to establish a new, independent nation of its own.

I beg you to consider seriously the following question: Isn't it a most contributing first step toward building a new order in the Far East by providing such a mechanism that the Taiwanese vote to decide their own future?

My beloved homeland Taiwan is facing an unprecedented change: The first General Election in 40 years. Myself and my colleagues have, for 40 some years, been subject to the Kuomintang's oppression. Such political chains have, seemingly, been broken and Taiwan is walking toward democracy.

However, I would like to remind you that, although members of Congress are to be elected, there is no assurance of democracy there.

One of the most damaging outcomes of 40 years of martial law rule is monopoly of the mass media by the Nationalist Party. Taking the medium of television as an example, the Democratic Progressive Party has next to none in access to such medium, whereas the Nationalists have full access to it. In last year's National Assembly election, all candidates from the DPP camp were only allocated 65 minutes and 15 seconds of television time!

Ladies and Gentlemen, if, hypothetically speaking, there exists in the United States a political game whose winner in pre-determined, even though the race has not formally begun, would you consider it beyond comprehension? To us, who are accustomed to KMT's authoritarianism, the understanding of such rules of the game is by no means beyond our reach. As a matter of fact, every one of us knows that KMT will never stop playing such a dirty game.

My distinguished guests, do you want to join such an election? Besides, who, in this world, will call such a political game an "election" at all?

Unfortunately, myself and my good colleagues, some of them presently being sitting next to you, have no other choice but to participate in a shameful "General Election" a la such rule this winter. Not because we concur that rule, but because this is the only means we can fight for dignity for our people.

My friends, there are plenty of tricks used by the KMT to negate the tempo of democratization such as ELECTION FRAUD. Unabasedly, the KMT dares to suggest to its candidates to resort to illegal act such as vote buying to ensure winning. According to a scholarly work title "Election Fraud in Taiwan", published this year by Taiwan's National Academy of Arts and Sciences, a study, using scientific sampling method, on voting behavior, shows 22.3% of registered voters claimed they received gifts from the candidates: and, a quarter of voters received gifts from the candidates who participated in last December's National Assembly election.

Professor Yang Wen-Shan, who supervised this research project, referring to the above study, commented: "The remarks on such research findings are too mild, which underestimate the extent of election fraud." If then, one can charge with certainty that no less than 3 million voters can be exposed to and receive illegal gifts in a typical island-wide election.

Let me give you one more horrifying story on vote-buying. Months ago, in mayoral contest at Hsinying City, the KMT candidate spent 2,000 to 3,000 Taiwan Dollars—equivalent to one hundred US dollars—for one Identification Card (if the I.D. card is sold during the election time, the voter cannot cast his vote; instead, anyone who temporarily possesses the I.D. card could vote for that voter) to buy 500 I.D. Cards from potential supporters of the opposition candidate, Mr. Tseng Tien-teh. The repercussion was that Mr. Tseng, who represented the Democratic Progressive Party for that position, was defeated by 238 votes!

My friends, if one vote can trade for one hundred US dollars, and on average, 3 million registered voters could receive gifts at any given island-wide election, three hundred million dollars will have to spent in the coming election just for vote buying! According to Dr. Wu Nai-teh, another researcher at the National Academy of Arts and Sciences: "All vote buyers came from the KMT camp" What a horrible story on "democracy" under current regime!

I and other opinion leaders, who are now sitting next to you in this room, are very angry at this destructive state of political affairs. We are ashamed of it. However, we are not here to ask you for sympathy. We are here to remind you once again of the burning desire of 20 million people how much we want to determine our own will, through genuine referendum, in national affairs such as the political institutions, social structures, and fate of the nation.

I hope very much my presentation today can give you a sufficiently clear picture how democracy is mislead and distorted in the island where we live.

May I appeal to you, my distinguished guests, when you work for a new world order of peace and democracy, would you please be so kind as to frequently remind yourselves of a forgotten Asian island, called Taiwan, where, under the KMT's rigid and fictitious "One China" policy, 20 million people are constantly suffering from international isolation and denial of the right to self-determination.

I trust democracy is the best defense for Taiwan against aggression from China. And providing support for a plebiscite to safeguard security and happiness for 20 million people is the mildest action the American people can take with regard to Taiwan.

Earnestly hoping that the American and Taiwanese people work together to witness jointly a genuine democracy and lasting peace on Taiwan.

Thank you very much.

IN RECOGNITION OF DR. J. TED HARTMAN

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. COMBEST. Mr. Speaker, I rise today to pay tribute to an outstanding man from my home State of Texas, Dr. J. Ted Hartman. Dr. Hartman will be retiring from Texas Tech University Health Sciences Center, located in Lubbock, TX, after 21 faithful years of service.

After coming to Texas Tech University in 1971 as a professor and chairman of the orthopedic surgery department, Dr. Hartman has risen to the position of executive director of the Texas Tech Mednet project. This vital program is a telecommunications network which operates out of the health sciences center, linking the Lubbock Medical Center with 50 rural hospitals. Mednet enables citizens to receive valuable medical care through satellite consultations. Dr. Hartman has devoted his time to ensuring that rural Americans have instant access to up-to-date health care information and medical professionals.

Mr. Speaker, I cannot stress enough the importance of such a project to ensuring quality health care for rural Texas. As you may know, there is a serious health care crisis in rural areas. As a member of the Rural Health Care Coalition, I have always supported efforts which would ensure access to health care for rural Americans. It is for this reason I have been a strong supporter of the Mednet system. Mednet has greatly benefited west Texas and it is my hope that this program will serve as a pilot project for other States.

Dr. Hartman has faithfully given his time and intellect to improving rural health care and abating professional isolation in the medical community. His hands-on approach and tireless efforts throughout the years have contributed to Mednet's great success.

Mr. Speaker, it is an honor for me to recognize someone who has contributed to improving the quality of health care for all Americans. Although I regret that he will be retiring from Texas Tech University, I am certain that Dr. Hartman will continue to be active in the health care community. I commend him for his dedication and outstanding commitment to improving health care service. The impact Dr. Hartman has made will be recognized for generations to come.

TRANSPORTATION FUNDING ESSENTIAL FOR RURAL AREAS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, Members of Congress often view transportation funding as a means of improving the infrastructure and providing jobs in urban areas.

I just want to point out that this funding is needed just as critically in rural States such as North Dakota to help State and local governments to maintain our roads, bridges, and the city streets. We have to keep our transportation system in reasonable condition because transportation is so critical to our entire economic life in North Dakota.

Beyond much needed highway-related funding, this appropriations bill, H.R. 5518, contains funds to assist North Dakota and the Nation in maintaining good railroad service, and to continue to develop our air transportation system.

A modest appropriation of $8 million, for example, will allow nine States, including North Dakota, to provide grants and low-interest loans to help repair and rebuild branch lines. These are often lines taken over by fledgling short line companies, and the continued operation of those lines is critical to our ability to ship farm commodities from our State.

The bill also provides $2 million for the Aerospace Distant Learning Program, based at the University of North Dakota, to continue. This program enriches the air sciences program of several universities, including UND, by allowing the universities to share their instructors and curriculum by televising courses to several university air science centers.

Improvements to the air traffic controller simulation laboratory at UND is provided $245,000 in this bill, and North Dakota State University is to receive $500,000 to develop its Aero-Manufacturing Laboratory.

This bill also includes language that will allow Dickinson, an isolated city in western North Dakota that is hours from any other commercial air service, to apply for essential air service matching funds from the Federal Aviation Administration. Such funding makes it possible for a small city to gain modest commercial airline service to service its people and businesses.

Funding of $7.5 million for development of multipurpose recreational trails nationally, strongly desired by sporting and outdoor groups in my State and elsewhere, was also included.

In this year of very restricted Federal spending, the funds that have been made available will help North Dakota continue to play important roles in the Nation's transportation system.

TRIBUTE TO CAROL LAVELL

HON. BERNIE SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. SANDERS. Mr. Speaker, I would like to take this opportunity to call the attention of this House to the most recent triumph of Ms. Carol Lavell, and to welcome her home to Vermont after her most successful journey to Barcelona, Spain, as a participant in the XXV Olympic games.

Ms. Lavell and her outstanding horse, Gifted, led the U.S. equestrian team to a team bronze medal victory in dressage at the Barcelona games. Ms. Lavell also placed sixth in the individual dressage final and won the 1992 Miller's USET National Grand Prix Championship as the highest placing American in the Olympic equestrian events.

These tremendous achievements are only the latest in Ms. Lavell's long and distinguished career as an equestrian. Over the years, she has won countless major dressage awards even when confronted with what many of us would consider overwhelming adversity. Several years ago, Ms. Lavell rode and placed in international competition with a broken back. In 1989, Ms. Lavell and Gifted were double gold medalists at the North American Dressage Championship. In 1990, the U.S. Olympic Committee selected Ms. Lavell as the Female Equestrian Athlete of the Year. And this past summer, Ms. Lavell and Gifted became the first Americans to win the Grand Prix at the prestigious international competition at Goodwood, England.

My wife, Jane, is more familiar with the world of equestrian competition than I. Her late brother, Benny O'Meara, recently named to the Show Jumping Hall of Fame, loaned some of his best horses to the U.S. equestrian team during past Olympic competitions. But as a very, very amateur horseback rider myself, I also have a personal interest in Ms. Lavell's remarkable accomplishments.

Ms. Lavell who is 49 years old, has lived in Fairfax, VT, for more than 25 years. She is responsible for virtually all the training and coaching that her horse, Gifted, has received. Last year, a top European Olympic team coach offered her $1 million for Gifted. Her response was, let us say, a resounding, unequivocal "no."

With the assistance and support of her husband, Tom Lavell, her groom, Ande White, and her Vermont farrier, Stephen Hazen, she has compiled an outstanding record of mastery and excellence. Vermonters will officially welcome her home at a reception in Burlington sponsored by a host of Vermont businesses and community organizations.

Carol Lavell is a true champion, and we are very proud to claim her as a Vermonter.

A CONGRESSIONAL SALUTE TO DETECTIVE OLIVIA BURBANK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. ANDERSON. Mr. Speaker, Friday, November 6, 1992, will mark the retirement of one of the Long Beach Police Department's finest detectives, Olivia Burbank. On Tuesday, November 3, 1992, the department will honor Olivia with a service retirement party. It is with great pride and pleasure that I rise today to pay tribute to this remarkable woman who has served our community with great distinction.

A native of Los Angeles, Olivia began her career with the Long Beach Police Department as a stenographer on October 3, 1960. Her responsibilities in this capacity included patrol reporting and her 120 words per minute typing skills and knowledge of shorthand were an asset to this unit. She remained in the stenography department for 11 years, advancing to a personnel and training position. By 1971, Olivia chose to try a different career path within the department. She entered the Long Beach Police Academy and was honored as the "Top Graduate" of her class. Following graduation, Olivia was hired as a police officer by the LBPD on August 3, 1971. Her first assignment was to the LBPD Women's Jail. By November 1971, Olivia had made detective and was assigned to forgery/fraud, felony morals—sex crimes—and juvenile crimes against property details.

As fellow detectives and superiors will tell you, Detective Burbank has excelled in all of her assignments. She has been the recipient of 33 commendations from the community and her superiors for excellence in police work throughout her career. In 1989, Olivia was nominated "Woman Peace Officer of the Year" by the Women's Peace Officer Association—Southern California chapter. She was also selected as "Employee of the Quarter" in December 1991. Olivia is perhaps best known as the resident expert in the sex crimes detail. Her compassion for and sensitivity toward victims of violent crimes has been well documented. She has received many of her commendations for her professionalism in this field and frequently gives presentations to citizen groups concerning rape and its victims.

Her 32 year and 1 month tenure with the LBPD has not been all work. Detective Olivia Burbank met her husband Detective Ronald Burbank while they were working in the forgery/fraud detail. The Burbanks will be retiring together this November 6 and as avid campers, plan to spend their free time traveling in their 32-foot trailer.

Mr. Speaker, my wife Lee joins me in extending this congressional salute to Detective Olivia Burbank for her devotion to the Long Beach Police Department and community. We wish Olivia, her husband Ron, son Dana, daughter Denise, and stepdaughters Patty and Christy, all the best in the years to come.

ST. XAVIER'S INTERNATIONAL BUSINESS CENTER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. LIPINSKI. Mr. Speaker, I rise today to call to the attention of my colleagues, a unique program at a small university in the southside of Chicago, IL. The school is St. Xavier University.

St. Xavier is unique because a large percentage of its student population lives and works in south Chicago. They come from diverse economic and ethic backgrounds and represent the first generation of families to attend an institution of higher learning.

This university, in its international business program, offers an American masters in business administration [MBA] degree to students overseas at campuses in Paris, France and Milan, Italy. What is more unique, however, is St. Xavier's exchange programs where foreign students and faculty come to the United States to learn American business methods and at the same time teach foreign business methods to American students. In this context, St. Xavier is the largest provider of management training for executives from the new Commonwealth of Independent States.

St. Xavier's efforts have generated considerable interest from the business community. Indications from the business sector have shown parallels in the school's idea with United States foreign policy goals overseas, particularly in the former Soviet Union.

Included in St. Xavier's efforts is a plan to work with small businesses, particularly in Chicago wishing to expand their markets internationally, but lack the know-how when it comes to licensing requirements, customs laws, and exchange rate problems. Through its new program, St. Xavier will work with local and regional businesses by putting its faculty resources to work in continuing education type management training programs, in an effort to strengthen the economic base of Chicagoland and the Midwest.

I and other members of the Illinois delegation, notably Congressman JOHN PORTER, have sought to explore ways of working with St. Xavier to enhance its efforts in the areas of international business and trade assistance education. A good beginning has been made and considerable interest has been generated.

I intend to work in the next Congress with St. Xavier's president, Dr. Ron Champagne, to further explore and develop ideas and programs he has fashioned, and to capitalize on the school's significant progress.

TOP PRIORITY—REDUCING THE BUDGET DEFICIT

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. CAMPBELL of California. Mr. Speaker, since being elected to Congress in 1988 reducing the Federal budget deficit has been my top priority. I have raised my voice many times in this Chamber about the crisis being caused by ever increasing deficits.

I introduced the resolution on the line-item veto. I have worked to limit the Government's expenditures by opposing unnecessary new spending. I introduced legislation to rescind existing spending. I supported the base closure process, even the closure of bases in my district. I pushed for the balanced budget amendment. When that failed, I put forward a plan that will change Congress' incentive to add to the deficit by limiting spending and returning a portion of the savings to American taxpayers.

The deficit crisis still looms and I plan to continue my fight against the deficit until my last day in office. I have introduced H.R. 6019 which will cut fiscal year 1993 spending by 10 percent. The bill would reduce next year's deficit by nearly $100 billion according to current CBO estimates. This is a meaningful cut. Considering the significance of the fiscal crisis, it is warranted. The cuts would be spread across the board. Mandatory spending would not be exempt; however, the Government would keep its contract with Social Security recipients.

Mr. Speaker, There is no doubt that the country must swallow what might be called a bitter pill. However, the medicine, while strong, is not nearly so bad as the disease. Without action there will be more record deficits in the coming years. They will increasingly sap the long-term strength of our economy. Further, interest on the national debt is the fastest growing segment of the budget. If we don't take real steps to eliminate the deficit, debt service costs will eliminate any options we now have.

Recovery from the recession must be built on a firm fiscal foundation. Let's take the necessary steps for deficit reduction so that America will remain the largest, most vigorous and competitive economy in the world.

TRIBUTE TO SUN-MAID GROWERS OF CALIFORNIA ON THEIR 80TH BIRTHDAY

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. DOOLEY. Mr. Speaker, I rise to acknowledge and honor the accomplishments of Sun-Maid Growers of California, a leading producer of California raisins for 80 years. Since its establishment in 1912, Sun-Maid has developed into one of the Nation's most successful and enduring farmer owned and operated cooperatives. Through innovation and leadership, Sun-Maid has persevered through years of economic hardship and market instability to become what it is today.

At the heart of Sun-Maid's success are the 1,500 growers who consistently provide consumers with a wide variety of high grade raisins. Many current grower members represent several generations of membership in the Sun-Maid cooperative. Years of dedication and arduous labor have resulted in annual raisin production averaging 100,000 tons.

In an effort to efficiently process and package the cooperative's yearly output, Sun-Maid designed and constructed its Kingsburg, CA plant, the world's largest and most modern raisin packing facility. The 100-acre plant site uses state-of-the-art raisin processing equipment to package and distribute up to 1,000 tons of raisins a day. Over 600 employees of the Kingsburg plant work to ensure the production of high quality products and their timely delivery to Sun-Maid clients worldwide.

Sun-Maid Growers continues to explore and develop new markets in an effort to increase raisin consumption and promote California raisins throughout the United States and the world. An aggressive marketing strategy and creative advertising have made the Sun-Maid trademark one of the most recognized brands in the world. Sun-Maid products are shipped to 25 countries worldwide and expansion of international markets continues to be a focus of Sun-Maid's efforts. Sales of Sun-Maid products remain strongest in the United States and Canada and more than half of all raisins sold by American grocers are Sun-Maid.

With growing consumer awareness of the high nutritional value of raisins, Sun-Maid can look optimistically toward a future of continued growth and prosperity. I applaud this fine California agriculture cooperative for 80 years of excellence and salute the many grower members and employees of Sun-Maid Growers for their dedication and commitment to producing a high quality product.

TRIBUTE TO MIKE ROBBINS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. DYMALLY. Mr. Speaker, I rise to pay tribute to one of the great humanitarians in my congressional district—Mike Robbins. Many are the charities he has benefited over the years. Let me list just some of the things this good samaritan has done to make the world a little better place for the poor and afflicted. To the homeless he has been a generous benefactor. He has donated thousands of dollars in clothing and other items to Para Los Ninos, an organization that assists homeless children. To the Midnight Missions, a haven for homeless men, he has given thousands of dollars in clothing and money. He has made similar contributions to the Apostolic Church. To Aslan House, an organization that takes care of children with sickle cell anemia, he has provided thousands of dollars of computer equipment. To the Make-A-Wish Foundation he regularly provides free limousine service for terminally ill children.

But Mike Robbins has given of his time as well as his money. His support of the Christian Children's Foundation has resulted in his adopting over 25 children in the past 25 years. He has given countless hours to children's organizations such as Girls, Inc., the YMCA, and the Challengers Boys and Girls Clubs.

Mike Robbins has done all of these things quietly and out of a sense of deep commitment and compassion. He is more than a point of light, he is a beam of brotherhood whose deeds need to be emulated throughout our country.

EASTERN CONNECTICUT ITALIAN-AMERICANS HONOR THEIR HISTORY

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. GEJDENSON. Mr. Speaker, the 500th anniversary of Christopher Columbus' arrival in the Americas has sparked a series of cultural and ethnic celebrations throughout eastern Connecticut, where large populations of Italian-Americans have thrived for several generations. In towns including Norwich, Middletown, Willimantic, and New London, men and women of Italian descent have worked hard to track the rich history of their early heritage in the United States, and have put together festive plans for Columbus Day weekend.

While there are subtle differences in the stories of how Italian-Americans settled into various pockets across eastern Connecticut, many themes hold true throughout the region. These immigrants, like their Irish, German and Polish counterparts during the late 19th and early 20th century, came to America seeking a prosperous new life. Many Italian immigrants fully intended to come to America, make a fortune, then return to their native villages to live like princes.

But for most, the dream of going back to their homes across the Atlantic was quashed by two unexpected factors: the extreme wealth they expected to find was not so easily attainable; and they became part of a phenomenon we now call the melting pot.

As many of us know, Italian-Americans brought significant contributions into the melting pot. In eastern Connecticut, they have made strides in professional, political, educational, religious, artistic, and medical fields.

By keeping alive and sharing their rich traditions, Italian-Americans have also made vital contributions to the fabric of our unique American culture.

In eastern Connecticut, the first generations of Italian immigrants found jobs in local mills and textile factories which were then at peak employment rates. They quickly branched into professional sectors, owning grocery stores, barber, tailor, and masonry shops, as well as restaurants, and other businesses in areas including Middletown's riverfront section, Garibaldi Square in New London, and throughout the city of Norwich.

Integration, through the help of public school systems, allowed subsequent Italian-American generations to reach even further in pursuit of the American dream. Today Italian-Americans are leaders in medical, academic, political, legal, business, and artistic fields.

Now, to honor the tremendous feats of their ancestors, Italian-Americans have gone to great lengths to celebrate the Columbus Quincentennial.

In Norwich, a 17-foot monument will be dedicated to the early Norwich Italian settlers on October 11. Inscribed on the base of the monument, on the same side as Columbus' profile, are the words "Onorate I Vistri Genitori" which means "Honor Your Parents." Also on the base will be the names of 400 settlers, who organizers say, "are being honored for the sacrifices they endured, and for the cultural contributions they have given the community." Celebrations in Norwich will also include a banquet on October 10, a special mass and procession, and much more.

In Middletown, nearly a week of cultural activities will coincide with the Columbus holiday. These activities, which follow annual events including the Italian-Heritage Parade and St. Sebastian's Festival, will place emphasis on the city's cultural diversity. They include: a lecture series on America's ethnic diversity; a concert performance by an Italian choir; a regatta and celebration by the riverfront; and more.

In Willimantic, two important anniversaries will coincide: the 300th anniversary of the city's founding and the 500th anniversary of Columbus' exploration. During the tercentennial parade, the Princes Yolandi-Guiseppe Garibaldi Lodge, Order of Sons of Italy of America will host a marching unit and a float.

And in New London, Italian-Americans have been celebrating all year. This summer, the city hosted the New World Festival during which replica ships of the *Nina, Pinta* and *Santa Maria* were at port for 1 week, attracting thousands of visitors every day. New London also held its annual Festival Italiano which featured a world class bike race, an opera, an Italian wine tasting, and much more. For Columbus Day weekend, a dinner dance and banquet for several hundred people will be held at Ocean Beach Park.

I am enclosing these comments to formally mark and praise the efforts of eastern Connecticut-Italian Americans, and to celebrate the brave lives of their ancestors who came to a strange new land, and opened new worlds of opportunity for generations to come.

KYIV CONFERENCE SPEECH

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. SHAYS. Mr. Speaker, I would like to submit the following speech given by International Executive Service Corps [IESC] Executive Vice President Hobart C. Gardiner to the Kyiv Conference in Ukraine. The speech was given to extend IESC's cooperation to Ukraine as it makes the transition to a market economy. I believe Mr. Gardiner's remarks convey the importance of the IESC's efforts throughout the developing world.

AMERICAN VOLUNTEERS—HELPING UKRAINE CHANGE TO A FREE MARKET ECONOMY

(By Hobart C. Gardiner)

I am indeed pleased to be with you. It is always satisfying to be where the action is. Today, the action is here. You have become a sovereign nation and are faced with the exciting challenge of integrating into the world of free nations competing in a global market economy.

I'm here to offer my organization's cooperation to help smooth your transition to a market economy and to help you strengthen your public institutions. That will support the democratization process.

In concrete terms, we first want to help on economic restructuring to create the infrastructure necessary for the successful operation of a demand driven economy. Second, we want to help create effective government structures and services. This is necessary for implementing the pluralistic, democratic initiatives that will reorient bureaucracy to the proper role of government in a free market economy.

Many years ago I lived in Western Canada, where many Ukrainians had settled. There I first learned of your national hero, Taras Shevchenko, and became aware of the many contributions the sons and daughters of Ukraine had made in North America.

Recently, I visited Shevchenko's statute in my nation's capital, Washington, D.C. I should like to quote some lines from his poetry. They reflect his thoughts about allowing foreign influence into Ukraine to help her modernize. Shevchenko had nothing against that, provided it was done altruistically, for the good of the people as a whole. He wrote:

Good! Show her! Lead her in the way!
Let the old mother learn today
How to take care, as Wisdom runs,
Of you, her new enlightened sons!
Show her!

Yes, I want to say some day that I was here when Ukraine gained its independence. More importantly I want to say that my organization cooperated with Ukrainians by showing them how to restructure. I'm sure my organization, the International Executive Service Corps (IESC), would pass muster with Taras Shevchenko because we can help Ukrainians achieve a higher standard of living and an enhanced ability to compete in the global marketplace. Then they will truly enjoy their freedom. As Shevchenko would have wished, learn from the foreigners, but don't give up your soul.

For your information, we have been cooperating with the countries of Central and Eastern Europe in their transition from command to free market economies. And now we shall develop our activities here. We have just completed a project in Kharkiv and plan to open an office here in Kyiv.

Incidentally, the volunteer in that project was a specialist in housing construction. When he completed his assignment, his Ukrainian client thanked him not only for his advice in construction, but for his help in "management, banking, and marketing."

It may also interest you to know that a new vice president at IESC is Richard Shriver. He will have responsibility for our program in Ukraine and the other republics of the newly independent states of the former Soviet Union. Some of you may know him since he has worked and taught here over the past two years. Dick was originally scheduled to be here as speaker and leader of the U.S. delegation. His new responsibilities have caused him to be in other parts of the world at present. He wanted me to be sure to say to you that he is sorry not to be here at this conference, but looks forward to returning soon when we open our office here in Ukraine.

A word about the International Executive Service Corps: we are a private, not-for-profit organization. We operate independently of government. We are not part of the United States State Department. Our board of directors if comprised of private businessmen and women.

Upon request, we provide companies and organizations throughout the developing world and Central and Eastern Europe with volunteer experts. They receive no salary or other forms of compensation. They have no personal financial interest in the services they render. Winston Churchill once said:

"We make a living by what we get; we make a life by what we give."

The typical IESC volunteer is usually a retired executive. He has made his living. Now he makes a life by giving something back to the free enterprise system that gave him so much.

These volunteer experts act as short-term advisors and specialists for organizations that request assistance. They are not typical consultants. They do more than write reports; they roll up their sleeves and show their clients how to do the task more efficiently.

Our volunteers build economic links with nations. We strengthen cultural ties between people. We nurture political connections between democracies. These are important to my country as they would be to any nation. Our experience in other parts of the world shows that there is mutual benefit in providing assistance through the transfer of technology and managerial expertise, in being, to put it simply, a good neighbor.

Now, you may ask with reason, what is a not-for-profit corporation? After all, corporations in a capitalist society are supposed to make a profit. A not-for-profit corporation is one organized to work for some specific aspect of the public welfare. It is supported by contributed funds and is directed by volunteer leadership.

Non-profit organizations are central to American society. With every second American adult serving as a volunteer in the non-profit sector and spending at least three hours a week in volunteer work, the non-profits are America's largest employer. They also exemplify and fulfill the fundamental American commitment to responsible citizenship in the community. Our universities, museums, many hospitals, performing arts organizations, churches, synagogues, mosques and social service organizations—even our Olympic team—are all non-profit institutions supported by private funds and volunteer boards of directors.

How ironic it is for me to represent here in Kyiv today a not-for-profit organization whose founding chairman's name, Rockefeller, is so synonymous with capitalism and money. Yet our purpose in being here has nothing to do with making money for ourselves. Our purpose is to respond to Ukraine's specific requests for technology and managerial expertise.

Our goal in Ukraine is simple. It is to speed the growth of democracy by assisting private enterprise, by helping the privatization process, and by assisting public administration at all levels in becoming more efficient and more responsive to the needs of the people. The best hope for peace and worldwide economic well-being, in our opinion, is to help Ukraine and other countries participate and prosper in a new and competitive global economy. That would benefit all of us.

IESC receives funds from three sources: the United States Agency for International Development; private U.S. corporations and foundations, and from the clients we help, based insofar as possible, on their ability to pay the living arrangements and incidental expenses for our volunteers.

At our headquarters, we maintained a computerized register of some 12,000 mostly retired business people. These are men and women who have volunteered to put their career experience, technical skills and managerial abilities to work helping others.

Since IESC began operations, it is estimated that volunteers have contributed more than 2,000 man-years of their time valued at more than 400 million dollars. Stated another way, we have saved the companies and organizations we've served 400 million dollars by supplying skilled volunteers who received no salaries. Thus far, we have completed 14,000 projects in 101 countries.

IESC has 51 overseas offices in 43 countries, including offices in Belgrade, Zagreb, Budapest, Bucharest, Prague, Bratislava, Brno, Riga, Tirana, Sofia, Warsaw, Gdansk, and Krakow. These are staffed by qualified executives who seek out enterprises that can benefit from our services. They also oversee the activities of volunteers and see to their well-being.

For the past two years, as we have been working in Central and Eastern Europe, we have found that a majority of our projects center on management as applied to the needs of a market economy.

Our volunteers undertake such tasks as helping a company computerize its accounting system, developing a marketing plan, or analyzing a company's total operation and showing its managers how to make it more efficient and profitable.

Recently in Hungary, for example, we sent a volunteer to a manufacturer of heavy equipment in Budapest and Kaposvar. The volunteer had been a director of a consulting firm that assisted 600 companies. After observing the operations of the Hungarian company, he realized that the firm had no sales and marketing organization. The company had simply responded to inquiries about its products, and no one was actively promoting sales.

The volunteer designed a strategy which included direct calls on potential customers, the use of selling agents, trade shows, and a campaign of direct mail sales. The company is now acting on those recommendations and is beginning to improve its profitability.

In another case, an IESC volunteer whose career included 34 years with a major international oil company, assisted with the privatization of the state-owned petroleum marketing company in Bulgaria. The company owned 540 gas station outlets and wanted to privatize 300 of them. The volunteer made an in-depth study of 10 of the stations and analyzed the amount each received from sales against that needed for expenses as a means of valuation and setting a price for each outlet. He showed the client several alternative methods of achieving private ownership of the stations. The Bulgarian client thanked the volunteer for his "substantial contributions and very useful advice—which will be followed."

In the Czech Republic, one of our volunteers was asked to provide a business plan for the country's sole producer of pediatric vaccines, diagnostic chemicals and allergens as it prepared for privatization. The volunteer drew upon his 30-years' experience in the pharmaceutical business in conducting a complete analysis of the company in order to provide factual records and financial figures. The data was provided to parties interested in forming a joint venture. As a result, the Czech enterprise now has the opportunity to be privatized by forming a joint venture with a foreign firm. The foreign partner will help provide new facilities and equipment, improving production and export sales. This venture will be important to health care in Czechoslovakia which cannot afford to import high cost vaccines and blood derivatives.

The Polish Ministry of Privatization asked us to survey a number of companies being considered for privatization. We mobilized five teams of experts to take a close look at the companies, to identify their most critical needs, and to secure project agreements for technical assistance preparing individual firms for transition to the private sector. Our teams visited 170 enterprises throughout Poland and got requests for 60 future projects. The response has been so successful that one volunteer remained in Poland to provide on-going support to the privatization process.

In Hungary, one of our volunteers was asked to assist in the privatization of a major agricultural products and equipment company. The volunteer helped reorganize and modernize the company. He was able to locate several interested U.S. farm equipment manufacturers and submit proposals for the client company to represent their product lines in Hungary. The client commented that the volunteer "provided outstanding assistance in working out a complete company proposal for privatization" and that "it will follow his advice on how and which direction to develop the structure of the company."

Of special import to Ukraine may be IESC's program of multiple business services which includes trade and investment activities.

These include informational studies on U.S. markets for specific products along with direct contact with potential U.S. buyers, locating sources of new and used equipment, and identifying possible joint venture or coventure partners. Coventures can include licensing existing technology to client enterprises. We also conduct industry assessment surveys, assist clients in presenting their products to U.S. importers, and help formulate plans for success in the free market. These activities are all in conjunction with technical assistance programs.

For the past 18 months IESC has conducted such trade and investment activities in Central and Eastern Europe. We are now planning to offer these services to companies in Ukraine.

Here are two recent examples of what our trade and investment activities can accomplish.

In Czechoslovakia, a volunteer helped a textile company establish a connection with U.S. companies. He developed a list of American textile firms to whom he sent samples of fiberglass, threads, decorative fabrics and linings to 12 U.S. companies. Recently, one of the companies placed a substantial order for some of the Czech company's products and paid for them in hard currency. The Czechs liked that!

Last year, IESC searched for a partner to collaborate with the East Europe Investment Corporation in manufacturing prefabricated houses in Bulgaria. The wood frame houses would use Bulgarian components and would be sold in Bulgaria and abroad. Through intensive market research, we identified several potential joint venture partners with whom the Bulgarians are not in negotiation.

We believe Ukraine has great economic potential about which little is known. We'd like to help you change that. We would like to suggest some areas where we can help. In all cases, we would complement, not compete with, assistance you are receiving from other organizations.

We have a long and successful history of providing technical and managerial assistance to different types of industries throughout the world. Among the benefits listed by our clients as resulting from our help are increased and better quality production, creation of new jobs, more efficient management, and increased sales—including exports.

Based on our experience in Central and Eastern Europe, and elsewhere, we anticipate assisting your manufacturing facilities in modernizing both plant and products to stimulate exports. In addition to manufacturing technology and quality management, we will also offer our expertise in international trade and marketing.

IESC volunteer executives have operated at every level of business and public administration and in every kind of business. They have dealt with the narrowest of technical problems to the broadest of management concepts. They have improved food production, food distribution and processing and health standards. They have upgraded investment and banking practices, construction methods and transportation systems. They have enhanced manufacturing processes and marketing programs, government and educational services, communications media and tourist facilities.

Volunteer executives have been assigned to resource-building and job-making enterprises of great potential impact on local economies and have been guided by one overriding precept: they are not to try to run the organization or business but to help the client management learn how to carry on by itself. To cite an old Chinese proverb,

"Give a man a fish and you feed him for a day; teach him to fish and you feed him for a lifetime."

In effect, the IESC volunteer executive is a teacher of management, using the case-study method made famous by the Harvard Business School, with the client organization as the case.

IESC volunteers contribute their skills because they truly believe in the work they are doing. They get a special satisfaction in helping companies (or organizations) become more effective and productive. Service with IESC enables the volunteers to "wear out rather than rust out." For most this is true self-fulfillment.

Our recruiters—the men and women who select the volunteer for a specific project—are themselves volunteers whose past careers in business and public administration have been both successful and eminent. Their education and experience are combined with an urge to pay back their country and the free enterprise system in which they believe so deeply. They find in IESC an outlet for their energy and expertise and an opportunity to help others in our increasing interdependent world.

Peter F. Drucker, preeminent business and management writer of our time, also one of IESC's founding board members, emphasizes that not-for-profit organizations do not base their strategy on money nor do they make it the center of their plans. A commercial business starts its planning with financial returns; a non-profit starts with the performance of its mission. A non-profit needs skillful management even more than business does, precisely because it lacks the discipline of the bottom line, the need for a profit. Volunteers must get far greater satisfaction from their accomplishments and make a greater contribution precisely because they do not get a paycheck.

IESC's mission here in Ukraine, however, is not simply transferring technology and managerial expertise to the private and public sector during economic transition. There is another even more critical issue and management challenge. People emerging from totalitarian government and command economies lack understanding of the meaning of free enterprise and a market economy, something we've learned in the past year during our activities in Central and Eastern Europe. We have to help create the right mindset.

For example, Drucker wrote about an American marketing executive who recently returned to the Czech provincial city where she had been born and raised. She reports:

"I was immediately asked to hold a seminar on marketing for the top people in the city's five big factories. I started out by telling them how our company in the U.S. operates. We have 2500 employees and are number three in a small but highly competitive and fast-moving market. I soon realized that I made no sense to my audience.

So I stopped and said: 'I have a feeling that you define a competitive market as one in which prices are kept high enough for every competitor to make a good profit.'

'That's exactly right,' they all said. 'After all, in a market economy a business has to make a profit.'

No, I said, 'in a market economy it has to EARN a profit.'"

Very few people, if any, in Central Europe still believe in complete socialism as a political, social, economic or moral system. They want political freedom. They want the incomes and the goods that they know only a market economy can provide. But do they yet know—and how could they possibly know—that in a market economy there is no "profit," only "profit and loss"—no "reward," but only "risk and reward," and that freedom is not just the absence of restraint, but requires the rule of law, self-discipline and responsibility. The profit must be earned * * * and not everyone earns a profit. That's true in the United States as well as elsewhere. The latest business figures for the United States show that approximately 88,000 firms failed in 1991.

Ukrainian leaders in government and business have to help mold a new and positive mindset and set an example of optimism. IESC can't pass on a changed mindset to Ukrainians as though it were a baton in a track race. We'll need the help and example of your leaders.

I live in a small town near the Sikorsky Aircraft factory in Stratford, Connecticut. Igor Sikorsky, a native son of Kyiv, lived a life of exile in the country nearby. As you may know, his three greatest aeronautical achievements were the multi-motored airplane, the big amphibious flying boat, and the helicopter. Igor Sikorsky wrote more than a chapter in the history of aviation. He wrote a chapter in the history of freedom. Let me tell you what I've learned about him from his son. When Mr. Sikorsky first began his free enterprise in America in the 1920's, he had no money. The famous composer and pianist Sergei Rachmaninoff gave him financial support. Aviation was a dangerous activity back then. But Sikorsky said the greatest danger in aviation was starvation. When the task looked impossible and people got discouraged, Igor Sikorsky said,

"After all, we designed and built the helicopter because we didn't know it couldn't be done."

He succeeded not only because he was brilliant but because he was essentially optimistic and hopeful. He certainly took risks. He enjoyed the freedom to make mistakes. He had a keen awareness of the importance, even the magnificence, of people's capacity to transform wisdom, will, and work into achievement. He even insisted that radical socialism would one day disappear. He said:

"The freedom of the individual is the spark that moves mankind ahead."

A pioneer helicopter pilot once said,

"Back of our efforts stood the unswerving faith of Mr. Sikorsky, I believe that his success can be charged to his calm, forceful, sometimes dogged confidence, coupled with sound engineering and intuitive judgment."

Not a bad description of how Ukraine's government and business leaders should act today!

I'm not a believer in miracles. But I feel certain that with your leadership and courage you can transform your country and bring it to new levels of productivity and prosperity. We at IESC are proud to be a part of your campaign.

We are totally in sympathy with Ukrainians' desire to build a nation where all people, regardless of ethnic background, religion, education or economic status are equal under the law and have equal opportunity. That is something dear to us and that we strive for in America. That is why I'm here today—to assure you that we are ready to roll up our sleeves and work with you toward that success.

Let us take as our motto Shevchenko's immortal words, engraved on his monument in our capital:

"I CHUZHOMU NAUCHAYTES SVOHO NE TSURAYTES!" * * * Read, learn, and study others but do not forsake your own.

Thank you.

RUST DECISION

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. TAUZIN. Mr. Speaker, This is not a free speech issue. The free speech question was addressed and answered finally by the Supreme Court in the Rust decision.

And the Rust decision was not handed down by a court friendly to the pro-life cause; that is, friendly to unborn children and their mothers. On the contrary, two of the members of the majority in Rust—Associate Justices Kennedy and Souter—sided this year with the majority in Casey to sustain and reinforce the essential holding in Roe v. Wade: the so-called right to an abortion.

So despite the shouting and haranguing by those groups which have spent millions of dollars and 4 years trying to overturn the regulations, this is not a free speech issue.

It is a "program goals" issue. And the goal of the Title X program is family planning, whether that planning be to prevent or to achieve a pregnancy. And as the program was set up, abortion is not, nor has it ever been, considered family planning. To quote a 1963 Planned Parenthood brochure:

> What is birth control? Is it an abortion?
>
> Definitely not, an abortion kills the life of a baby after it has begun * * * Birth control merely postpones the beginning of life.

Let me use as an example of another program to bring out further what I mean by program goals.

The Women, Infants and Children, or WIC program gives Federal assistance to help provide for the nutritional needs of pregnant women, nursing mothers, and young children. The program goals are obvious: to provide vouchers to women so that they can buy food which will be beneficial to them and to their unborn and newborn children.

But these vouchers cannot be used to purchase any food. Milk? Yes. Eggs? Yes. Cheese? Yes. Infant formula? Yes. Alcohol? No. Why not? It's a beverage and it is certainly legal for women, including pregnant women, to consume alcoholic beverages. But the Federal Government has made the decision that because alcohol consumption by pregnant women places their unborn children at risk for fetal alcohol syndrome, it is not appropriate to let women use WIC program money to buy beer, wine, or other liquors.

Does this mean we are discriminating against poor pregnant women because rich pregnant women can afford to buy wine so that they can have a small glass at dinner occasionally? I doubt any Member here would make that argument. Rather, we understand that every Federal program has program goals and program limitations.

The goal of WIC is nutritional assistance, and wine is not considered an appropriate nutritional beverage. The goal of Title X is family planning. And abortion is not family planning.

U.S. HARNESS WRITERS ASSOCIATION AWARDS CEREMONY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. GILMAN. Mr. Speaker, on Sunday, November 15, 1992, the Monticello-Goshen Chapter of the U.S. Harness Writers Association is holding its 34th annual awards banquet. Several outstanding contributors to the sport of harness racing will be honored. That event promises to be an outstanding gathering of many of the giants of this sport.

Trotting races, our Nation's oldest sport, began in my Congressional District in 1838.

The historic track in Goshen, N.Y. was built 7 years before the first baseball game was played; and only 1 year after Martin Van Buren, our Nation's eighth president, had been inaugurated. The fine contributors to this historic American tradition who are being honored at this year's annual awards banquet certainly deserve our heartiest congratulations. Among those being honored is Elbridge T. Gerry, Sr.

Elbridge T. Gerry, Sr. is the great-great-grandson of Elbridge Gerry who was a signor of the Declaration of Independence, Governor of Massachusetts and, later, Vice President of the United States.

Elbridge T. Gerry, Sr.'s first accomplishment in equine sports came in 1936 when he and the other members of the talented U.S. polo team captured the Westchester Cup from their rival English team. Later, Mr. Gerry and his uncle E.R. Harriman bred and raised many champions at their famous Arden Homestead Stables. Mr. Gerry's horse, Titan Hanover, won the 1945 Hambletonian Stake while Mr. Gerry was serving overseas in World War II.

In addition to owning many champion horses, Mr. Gerry also served as a member of the board of the Hambletonian Society, the treasurer of the U.S. Trotting Association, the chairman of New York State's Harness Racing Commission, and former vice-president of the Saratoga Raceway. He was a founder, and is now president, of the Goshen Trotting Horse Museum which is home to the Trotter Hall of Fame. In 1976, Mr. Gerry was elected as a living hall of famer by the U.S. Harness Writers Association.

Mr. Speaker, Elbridge T. Gerry, Sr. is highly deserving of the lifetime achievement award that he will receive on November 15; a long overdue award.

Mr. Speaker, I invite our colleagues to join in extending our heartiest congratulations to this distinguished award recipient. He has made outstanding contributions to the American tradition of harness racing; and we as Americans should duly recognize their significant accomplishments.

IN ACKNOWLEDGEMENT OF THE WATTS HEALTH FOUNDATION, INC. 25TH ANNIVERSARY

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Ms. WATERS. Mr. Speaker, history has shown us that out of despair, destruction, and tragedy are born new beginnings, hope, and progress. From the smoldering ashes of the 1965 Watts rebellion rose the Watts Health Foundation, Inc.—a new beginning which brought hope and progress to a devastated community. This year marks the 25th anniversary of the Watts Health Foundation, Inc. The foundation will mark this occasion with special events in September and October 1992. The celebration will recognize the commitment and contributions Watts Health Foundation has made to health care delivery in southern California, particularly in the Watts community.

The Watts Health Foundation was founded in 1967 to provide low cost, high quality health care to the residents of Watts in the aftermath of the 1965 rebellion. Over the years, the foundation has demonstrated remarkable growth. It started as a demonstration health center project serving only the community of Watts. It has become a nationally recognized health enterprise offering a broad range of innovative, cost effective, and high quality health care services to residents of southern California and serves as an umbrella organization for approximately 28 health programs and organizations. Major components include the Watts Health Center which serves over 250,000 people annually, making it one of the largest community health centers in the country, and United Health Plan, an 80,000 plus member federally qualified health maintenance organization and the second largest Medicaid managed care program in California.

Scheduled activities to highlight the foundation's 25 years of service include: A reunion prayer breakfast, September 19, for all past and present employees and supporters; the 13th annual 5K run and community walk, September 26, to encourage healthy lifestyle behaviors by stressing the importance of preventive and primary care, exercise, nutrition, stress reduction, etc.; the 25th anniversary gala dinner, October 3, "Spirit of Commitment," the foundation's annual scholarship fundraiser will present college scholarships to local high school students; and, the third annual Third World Arts Festival, October 10–12, will highlight cultural diversity through understanding and acknowledging the contributions of all people, regardless of color or national origin.

The Watts Health Foundation will continue to commemorate its history and commitment by mobilizing local, State, and national attention around crucial inner-city urban health issues. There continues to be an absence of a fundamental commitment to provide basic access to health care service in this country, especially to urban areas. The national and statewide debate on the importance of health care reform must center on those who still do not have health access, those who need and cannot receive medical attention through mainstream systems and those who require, but cannot afford, preventive health care. The foundation is committed to ensuring the inclusion of inner-city urban issues and the discussion and development of any national and/or statewide health policy.

Watts Health Foundation is a testament to the kind of moral and social assistance the people of the United States have a right to acquire. The foundation serves an indispensable function to the medically underserved, particularly low-income, uninsured and under-insured individuals and families living in southern California. The foundation's commitment to providing quality health services to poor and underserved communities is the example by which future programs should be fashioned.

On behalf of the 102d Congress, I applaud the foundation for its distinguished 25-year legacy of service to medically underserved populations in California and for the national model it represents and I commend Watts Health Foundation for its "Spirit of Commitment," continued dedication and work to make the availability of health care a reality for every American citizen.

TRIBUTE TO FRANK P. BRIGGS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. SKELTON. Mr. Speaker, when Senator Harry Truman was elected Vice-President, State Senator Frank P. Briggs was appointed to take his place in the U.S. Senate. I had the privilege of meeting Senator Briggs when I was a teenager in the summer of 1945. Through the years, Senator Briggs has made an outstanding contribution to Missouri and it was my privilege to represent him for a period of time when I served in the Missouri State Senate. Senator Briggs died September 23, at the age of 98.

A native of Armstrong, MO, Briggs attended Central College, and received a bachelor's degree in journalism from the University of Missouri-Columbia in 1915. He served as mayor of Macon from 1930 to 1933 and later was elected to the Missouri Senate and was re-elected four times. After serving in the U.S. Senate from 1945 to 1947, Briggs served on the Missouri Conservation Commission until 1961. In 1961, he was appointed assistant secretary of the Interior Department for Fish and Wildlife and was editor and publisher of the Macon Chronicle Herald until 1973.

In addition to being a member of the First Baptist Church and the young men's Sunday school class in Macon, Briggs was a member of the National Press Club and an active part of the Missouri Grand Masonic Lodge for a good part of his life.

Briggs is survived by his wife Catherine; son, Tom; two daughters, Betty Briggs, and Ruth Bratek; a sister, Margaret Bullock; 11 grandchildren; and 14 great-grandchildren.

Frank P. Briggs served Missouri with pride and distinction, and his contribution to the State and its people will long be remembered.

HAPPY BIRTHDAY TO TAIWAN

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. SANGMEISTER. Mr. Speaker, it is my honor and privilege to join my colleagues in wishing the Republic of China on Taiwan a Happy 81st Birthday. There is no question that the Republic of China on Taiwan has come a long way from its founding 81 years ago. Today, Taiwan is our sixth largest trading partner and a major economic power in the world. May God bless the leaders and the good people on Taiwan. May they continue to prosper and flourish in the next 81 years and beyond.

END DISCRIMINATION AGAINST GAY MEN AND LESBIANS NOW

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. KOSTMAYER. Mr. Speaker, today, I am inserting into the RECORD the third part of a comprehensive study that the Philadelphia Lesbian and Gay Task Force released 2 days ago.

Titled "Discrimination and Violence Against Lesbian Women and Gay Men in Philadelphia and the Commonwealth of Pennsylvania," the study represents the largest survey of its kind in the United States; 2,600 gay men and lesbians from Philadelphia, its surrounding suburbs, and 35 counties throughout Pennsylvania report their experiences of discrimination, harassment, and violence.

Although not all Members of Congress will agree with the study's recommendations and conclusions, I feel that the Philadelphia Lesbian and Gay Task Force has made an important contribution to the policy debate regarding the desperate need for civil rights protections for the millions of people who encounter discrimination based on their sexual orientation. I commend the Task Force for undertaking such a worthy project, and I urge all of my colleagues to read the study.

The third installment of the study follows:

ANTI-LESBIAN AND ANTI-GAY VIOLENCE AND HARASSMENT

We now turn to survey results concerning anti-lesbian/gay violence and harassment. It should be noted at the outset that discrimination and violence represent very different forms of victimization. While discrimination does not require a face-to-face encounter of perpetrator and victim, violence involves a direct confrontation. The bigotry that motivates anti-lesbian/gay discrimination can often be hidden behind bureaucratic maneuvering while anti-lesbian/gay violence involves an active expression of hatred. The impact on the victim can be equally severe for the two forms of victimization, but the actions of the perpetrator are usually much more direct in the latter case. It should also be noted that, as in the case of discrimination, our questions specifically requested the respondents to report verbal or physical attacks that were directed against them by non-gay individuals because of their sexual orientation.

VIOLENCE AND HARASSMENT

Survey respondents were asked about acts of violence and harassment that they suffered because of their sexual orientation in the previous 12 months and over the course of their lifetime. This dual focus permits us to examine both annual and lifetime levels of victimization, and to make comparisons with our 1986–87 survey data.

Table 6A gives the rates of violence and harassment reported for our Philadelphia sample for both time periods, broken down by the respondents' race and gender. The final row in Table 6A ("Any Violence") indicates percentages of respondents who experienced at least one form of criminal violence in the relevant time period. Verbal abuse is excluded from this summary variable, as are "crimes against property," because all of the remaining categories included represent interpersonal victimizations that are clear violations of the Pennsylvania Crime Code. Also excluded are reported incidents of abuse—verbal, physical or property abuse that were AIDS-related (this would be double-counting). The "Any Violence" category, therefore, indicates percentages of individuals who experienced criminal violence in the time period indicated that is at least as serious as being threatened with physical harm.

Table 6B gives the results for the Philadelphia, suburban and Pennsylvania samples for these same categories of violence and harassment, for the previous 12 months and for the respondent's lifetimes. Table 7 shows the rates of violent victimization of our 1991–92 respondents in comparison with the responses given by our 1986–87 sample.

Verbal abuse is a nearly universal experience for gay men and almost as frequent for lesbian women. Approximately nine out of ten of the gay men in our sample and three quarters of the lesbian women have been the targets of verbal abuse at some point because of their sexual orientation. In the previous 12 months two thirds of the Philadelphia men and half of the women experienced verbal abuse, and the rates are substantially the same for the Pennsylvania sample, although suburban respondents report a somewhat lower frequency.

Criminal victimization includes less serious acts such as being threatened and chased, as well as more serious physical attacks: being punched, hit, beaten or assaulted with a weapon. One quarter of the gay men and one sixth of the lesbian women in our Philadelphia sample have been the victims of criminal violence in the past 12 months, and these rates are about 6 or 7 times higher than the rates of criminal victimization for the U.S. adult population as determined by the Department of Justice (1991). The rates for suburban residents are lower than those for Philadelphia residents, but those reported by other Pennsylvanian men are the same as those reported by Philadelphia men.

Comparing the results of the current survey with our 1986–87 data shows some areas of improvement (Table 7). While the rates of less severe victimization for Philadelphia lesbian women are essentially the same as in 1986–87, for Philadelphia gay men the rate of reported threats and chases is substantially lower than four years ago. However, the rates of more serious violence have not diminished, and a higher proportion of Philadelphia gay men report having been the victims of assault at some point in their lifetime.[1] The decrease in the rate of less serious violence compared to the earlier study can also be seen in the suburban and Pennsylvania samples, for both men and women, but the rates of assault are closer to those found in the 1986-study.

African American men report higher annual rates of violent victimization (29%) than do white men (22 percent), and the difference is particularly large for the more serious incidents (13 percent vs 8 percent). However, for lifetime violent victimization, white men and women report higher rates than do African American respondents. Also notable is the fact that younger African American women report higher lifetime levels of victimization than do older women (white women at all age levels report higher levels of victimization than do African Americans), whereas among both white and African American male respondents it is the older group who report higher lifetime levels of violent victimization.

AIDS-RELATED ABUSE

AIDS has had a tremendous impact on the gay and lesbian community. Many lives have been lost to this disease and many more will die. However, the negative impact of AIDS has been exacerbated by the actions of an often ill-informed public and even some public officials. People with AIDS, people with ARC (AIDS-Related Conditions) and people with a positive HIV (Human Immunodeficiency Virus) status have been treated as pariahs, despite the relative incommunicability of AIDS. Many have experienced discrimination in employment, housing insurance coverage, parental rights, and access to social and medical services. Furthermore, because of the misplacement of blame onto the gay community for AIDS, there has been an increase in anti-gay and anti-lesbian violence. AIDS phobia may serve as an excuse to release hostilities against lesbian and gay people that might otherwise have been held in check.

In addition to asking our respondents about incidents of anti-gay/lesbian violence and harassment we also asked whether in the previous 12 months or over the course of their lifetime they had experienced verbal or physical abuse or vandalism by non-gay people that was AIDS-related, such as being called "AIDS killer" while being attacked. In our 1986–87 study we found that 1 percent of the women and 13 percent of the men reported that they experienced violence that was specifically AIDS-related. In the present study, as shown in Tables 6A–B, the numbers of lesbian women and gay men reporting AIDS-related abuse have increased.

Women continue to report lower levels of AIDS-related abuse, but approximately 5 percent of Philadelphia and suburban women say this has occurred to them in the previous 12 months, and about 7 percent report some such experience in their lifetime. For women outside Philadelphia and its suburban counties the rates of AIDS-related abuse are much higher, 8 percent in the past year and 13 percent ever.

As striking as the figures are for lesbian women, the figures for gay men are much more dramatic. In the suburbs and around the state, between 10 and 14 percent of male respondents report AIDS-related abuse in the past year, with somewhat higher numbers (15 percent and 18 percent) for lifetime experiences. Within Philadelphia the numbers are even higher, particularly for African-Americans. Among white men 16 percent report AIDS-related abuse in the past year, and one-quarter of them have suffered such incidents in their lifetimes. For African-American men the rate in the past year is 23 percent and the lifetime rate is 29 percent. It is important to note that neither age nor education seems to affect the rate of AIDS-related abuse for African-American men: 27 percent of African-American male respondents aged 15 to 28 report such incidents in the past year, but so do 26 percent of respondents aged 37 to 80. Similarly, 26 percent of those with no more than a high school education report AIDS-related abuse in the past year, and so do 28 percent of those with post-graduate education (among white men there is a slight tendency for the younger and the less educated to report higher levels of AIDS-related abuse).

POLICE HARASSMENT AND ABUSE

Lesbian and gay Pennsylvanians do not necessarily feel that they can trust the police to perform their sworn duty to protect the rights and respect the dignity of all citizens. As in our previous surveys we asked our respondents whether they had been harassed or abused by police officers because of their sexual orientation, either in the past 12 months or at any point in their lifetime. Table 8A gives the responses of our 1991–92 Philadelphia respondents by race and gender, and Table 8B shows the responses in both the 1986–87 and 1991–92 surveys in all three geographical categories, by gender.

---

[1] As Kevin Berrill has noted, information on homicides cannot be obtained through surveys of victims, thus forcing us to leave out this most serious form of anti-lesbian/gay violence. The National Gay and Lesbian Task Force has received increasing numbers of reports of such homicides in the past seven years, and experts agree that anti-gay murders are often marked by extreme brutality (Berrill, 1992:24–5).

As shown in the tables, 11 percent of the men and 5 percent of the women in our Philadelphia sample report harassment or abuse at the hands of the police in the past 12 months; nearly one-quarter of the men and 13 percent of the women have experienced police abuse at some point in their lives. These figures are almost identical to those found in our previous Philadelphia sample in 1986–87. In the case of the 1991–92 Philadelphia men there is a slight decrease for white men, which is outweighed here by the higher proportion of African American respondents in the sample, as African American men have a much higher rate of victimization by the police. Overall, it is disheartening to see that these rates have not substantially declined in the past four years despite efforts to sensitize the police to the need to respect the rights of all citizens, regardless of their sexual orientation.

It should be noted that our question regarding police abuse was not limited to physical abuse; verbal harassment could also be included. This also holds true for our subsequent questions concerning abuse by classmates, teachers or other school officials, and by family members. However, the police abuse variable and these other variables are intended to indicate levels of victimization of any sort by authority figures and significant others. While anti-lesbian/gay verbal abuse is not necessarily illegal, it can be an especially traumatic experience when it is inflicted by a police officer, a relative, or a teacher. It should also be noted that, while verbal abuse by police officers and teachers might not lead to criminal charges, it should lead to disciplinary action for unprofessional behavior.

Unlike our previous study, in this case we are able to examine patterns of police abuse in relation to the race of our Philadelphia sample respondents. While African American females are somewhat less likely to report such abuse than are white females, among males the differences are striking: African American males are far more likely than are white males to report abuse at the hands of the police: one fifth of the African American men report such abuse in the past 12 months and one third report being abused by police at some point in their life. Younger and less educated African American men are more likely to report suffering police abuse in the past 12 months than are their older and more educated counterparts. However, when we look at lifetime experiences we find that more educated African-American gay men are at least as likely as the less educated, and older African American men more likely than the younger, to have been the victims of police abuse because of their sexual orientation.

Looking at the responses from our suburban and Pennsylvania participants (Table 8B) we see lower rates of police abuse reported by males in the 1991–92 suburban sample compared to the 1986–87 sample, both in the previous 12 months and over their lifetimes. Among the respondents drawn from the rest of Pennsylvania, we find rates of police abuse reported by females in 1991–92 that are higher than those found in 1986–87, while for males there is a decrease from the earlier levels. Overall, the levels of abuse by police reported by Pennsylvania residents are strikingly similar to those reported by Philadelphia residents, and higher than those reported by suburban county residents.

REPORTING VIOLENCE AND HARASSMENT TO THE POLICE

Given the data in the previous section, we would have reason to expect that lesbian and gay citizens might be reluctant to report attacks to the police. Our previous surveys had shown that lesbian and gay Philadelphians were close to the national average in reporting victimization to the police, and that Pennsylvanians outside Philadelphia were far less likely to do so. In our current survey we asked our respondents if they had experienced anti-gay/lesbian violence, threats or harassment that could have been reported to the police; if they answered that they had, we asked how many of these incidents they actually reported. For those who reported at least some incidents we asked how they would rate the overall performance of the police. Tables 9A–B give the responses to these questions.

In contrast to our 1986–87 survey a far higher proportion of Philadelphia lesbian women and gay men say that they have reported no incidents to the police, and a much lower percent say they have reported all such incidents (Table 9B). Whereas 52 percent of the Philadelphia females in 1986–7 said they had reported no incidents, in the present sample 72 percent say this (the corresponding figures for males are 56 percent and 62 percent). In 1986–87 22 percent of the females and 24 percent of the males said they reported all incidents to the police, this time the figures were 10 percent and 11 percent, less than half the previous rate. Looking within the Philadelphia sample, Table 9A shows that the rates of reporting incidents to the police is not markedly different across racial groups, although white women have lower levels of reporting than either African American women or any of the men.

The 1986–87 survey showed that Pennsylvanians residing outside of Philadelphia were very unlikely to report attacks to the police. The present survey, with a dramatically larger sample, now divided into the four suburban counties and the rest of the Commonwealth, shows a somewhat more complex pattern. As shown in Table 9B, women in both samples are similar to Philadelphia women in their reluctance to report incidents to the police, while among the men suburban men are close to Philadelphia men and those in the Pennsylvania sample are the most likely to report at least some incidents. Yet, overall, it must be noted that only 15 percent at most report all incidents, and a clear majority of our respondents say that they have reported no incidents to the police.

What happens when incidents are reported? Here the results are not encouraging. In our 1986–87 study we found that more than a third of our Philadelphia sample and 60 percent of our Pennsylvania respondents rated the police performance as good or excellent; at the same time, a third of Philadelphia males and 18 percent of females rated the police poor, for Pennsylvanians the figures were 25 percent and 20 percent, respectively. In the present, much larger sample, the police do not receive such high marks. Among the 1991–92 Philadelphia sample only a fifth of the women and a quarter of the men rate police performance as good or excellent and nearly half rate it as poor. The patterns are most striking when the race of the respondent is taken into account. Approximately two-thirds of African Americans give the police poor marks; no African American women and only 18 percent of the men rate them good or excellent. White men are the least likely to rate the police as poor (37 percent) and the most likely to rate them good or excellent (30 percent).

Outside of Philadelphia we find a different gender-related pattern. In both the suburban and the Pennsylvania samples women are more likely than are the men to give the police good ratings, although never more than 35 percent rate them good or excellent. Men in the Pennsylvania sample, regardless of race, give the same sort of ratings as African American males in Philadelphia. Thus, while these Pennsylvanian men may be somewhat more likely than their suburban or Philadelphia counterparts to report incidents to the police, they are less likely to give a favorable rating of the police performance in response.

The responses to these questions underscore the importance of improving police training and procedures in Philadelphia and around the Commonwealth to increase police responsiveness to lesbian and gay citizens.

ABUSE BY CLASSMATES AND SCHOOL OFFICIALS

Respondents were asked whether they had experienced verbal or physical abuse from classmates, or from teachers, principals or counselors in junior high, high school or college, because of their sexual orientation. Tables 10A–B show the responses of Philadelphia residents, by race and gender, and for all respondents, by location and gender.

In our previous survey we found that one third of Philadelphia lesbian women and two-thirds of the gay men had experienced harassment and/or violence at some point in their schooling because of their sexual orientation; the rates were even higher (40 percent and 72 percent) for respondents outside Philadelphia. In the present study the figures are slightly lower for Philadelphia residents: 30 percent of women and 57 percent of men. More notably, this time the respondents outside Philadelphia report essentially the same level of harassment as do Philadelphians, which may be a sign that our markedly larger sample is more representative. Overall, between one quarter and one third of all lesbian women report having been harassed by classmates or school employees, and so do nearly three fifths of all gay men.

While it is no surprise that many more respondents report harassment from classmates than from teachers, nevertheless approximately 15 percent of all gay male respondents report having been abused by teachers or other school officials (Table 10B). There are also some disturbing patterns relating to the age of the respondent. Within the Philadelphia sample, among all females and among white males the reported rates of abuse by classmates are notably higher for those respondents aged 15 to 28 than for older respondents, which suggests that the problem of harassment in schools is getting worse. This difference may be due to the fact that more lesbian and gay people are coming out at an earlier age and thus becoming more visible targets for harassment in the schools. The rates of reported abuse by school officials are markedly higher for younger women and for younger African American males; for white males they are high regardless of the respondent's age.

ABUSE BY FAMILY MEMBERS

Survey participants were asked whether they ever experienced verbal or physical abuse by family members because of their sexual orientation. In our previous study we found that more than a quarter of the lesbian women and approximately one fifth of the gay men reported some form of abuse from relatives. In the present study we continue to find high rates of reported abuse by family members, but it no longer seems as clear that women are victimized more than men.

Tables 10A–B show the responses of our samples within Philadelphia and elsewhere in Pennsylvania. Overall, women are somewhat more likely to report abuse by family members, but the difference is mostly among those residing outside Philadelphia and its suburbs. Within Philadelphia the differences that stand out are not between men and women but between African American and white respondents. Among African American respondents 38 percent of the women and 44 percent of the men report being abused by family members because of their sexual orientation; for white respondents the figures are 30 percent and 26 percent, respectively. African American males are the only group in which the younger respondents are less likely than the older ones to report family abuse, but at 43 percent the rate for this category is still highest for any of the younger respondents.

TESTIMONY ON THE INDEPENDENT COUNSEL STATUTE

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. BALLENGER. Mr. Speaker, I would like to encourage my colleagues to read the thoughtful testimony of constitutional scholar Stephen Wolf who testified before the Republican Study Committee on June 17 of this year on the Independent Counsel statute.

Mr. Wolf is professor of political science at Buena Vista College in Stormlake, IA. His statement follows.

TESTIMONY BY STEPHEN WOLF ON THE REAUTHORIZATION OF THE INDEPENDENT COUNSEL STATUTE

Mr. Chairman and Members of the House Republican Study Committee, It is my distinct pleasure to appear before you this morning to testify about the re-authorization of the independent counsel statute. As you know, today marks the twentieth anniversary of the break-in at the Watergate Office Building. This incident eventually precipitated the resignation of President Nixon, and tangentially led to the enactment of the independent counsel statute. Yesterday, the Office of Independent Counsel Lawrence Walsh obtained an indictment against former Secretary of Defense Caspar Weinberger just one day before the expiration of the five-year statute of limitations in his case. These hearings fortuitously offer you the opportunity to evaluate the propriety of the actions of the independent counsel in this case, and to re-evaluate the utility of the independent counsel statute under which he operates. I hope that six months from now, when the independent counsel statute is scheduled to expire, we will be able to look back upon this incident and these hearings as the events which precipitated the termination of the independent counsel statute.

Under the provisions of the independent counsel statute, a number of serious restrictions have been place upon the authority of the Attorney General to investigate allegations of misconduct against members of the executive branch. Whenever the Attorney General receives allegations of misconduct against certain high-level officials in the executive branch, he must apply to a Special Division of the U.S. Court of Appeals for the D.C. Circuit for the appointment of an independent counsel unless he can conclude within ninety days and without his normal powers of investigation that there are no reasonable grounds for further investigation. Once an independent counsel is appointed and his jurisdiction is defined by the Special Division of the Court, neither the Attorney General nor the Court have any effective authority to supervise his activities. For example, in the light of yesterday's developments it is important to note that an independent counsel is not obligated to follow the Department of Justice guidelines for the conduct of investigations and prosecutions, and his failure to follow these guidelines does not constitute grounds for removing him.[1] An independent counsel may only be removed from office by the Attorney General for good cause, and even then the Attorney General must report his reasons for removing the independent counsel to the House and Senate Judiciary Committees, and to the U.S. District Court for the District of Columbia which may order the reinstatement of the dismissed independent counsel.

These statutory restrictions upon the Attorney General's authority to appoint, supervise, and remove the independent counsels which makes them independent from the executive branch, also makes them unaccountable for the exercise of their investigatory and prosecutorial discretion. As the previous witnesses have demonstrated in their testimony, this lack of accountability has encouraged some independent counsels to go beyond the boundaries of their investigatory and prosecutorial jurisdiction, to ignore Department of Justice guidelines for the conduct of investigations and prosecutions, to interpret criminal and civil statutes in novel and abusive ways, and to spend significantly more money on their investigations or prosecutions than comparable investigations or prosecutions conducted by the Department of Justice. Such abuses of investigatory and prosecutorial discretion deny to the targets of such investigations and prosecutions the equal application of the law, and squander precious financial resources on investigations and prosecutions of dubious merit or public benefit.

But the most important problem with the independent counsel statute is not that it leaves the independent counsels unaccountable for the exercise of their investigatory and prosecutorial discretion, but that it is an example of, and a means for maintaining, a system through which elected and appointed officials—and especially members of Congress—are able to evade public accountability for the consequences of their policies and actions. First, the statute is designed to allow the Congress to force the executive branch to trigger the provisions of the statute against itself without requiring the Congress to act as a deliberative body, and to take an official action for which it can be held publicly accountable. This is done by requiring the Attorney General to automatically seek the appointment of an independent counsel whenever he is unable to conclude that there are no reasonable grounds for further investigation. Secondly, the statute is also designed to allow individual committees of Congress, rather than the entire Congress acting as a deliberative body, to effectively trigger the provisions of the statute against the executive branch. This is done by allowing a majority of the members of the House or Senate Judiciary Committees to informally request the Attorney General to seek the appointment of an independent counsel. The current efforts by the Democratic members of the House Judiciary Committee to force the Attorney General to appoint an independent counsel to investigate the Bush administration's pre-war policy towards Iraq is only the most recent example of the numerous attempts by Democratic members of Congress to compel the Attorney General to seek the appointment of an independent counsel.

Thirdly, even though the Attorney General's decision not to seek the appointment of an independent counsel is not subject to review, individual congressmen and the interest groups they represent have attempted to use the federal courts to trigger the provisions of the independent counsel statute against the executive branch. Prior to the re-authorization of the independent counsel statute in 1987, the federal courts ruled on twelve cases involving suits by individual congressmen and private citizens seeking writs of mandamus to compel the initiation of preliminary investigations or the appointment of independent counsels. The federal courts dismissed nine of these cases for lack of standing because the petitioners had failed to present their allegations to the Attorney General. Despite the absence of any statutory authority, the federal district courts did issue writs of mandamus in three cases where the petitioners had presented their allegations to the Attorney General, but the Attorney General had closed the cases before conducting an official preliminary investigation. In two of the cases the federal district court directed the Attorney General to conduct a preliminary investigation, and in one case it directed him to apply for the appointment of an independent counsel. All three of these cases were overturned on appeal by federal courts of appeal. However, a recent proposal by the American Bar Association would overturn these precedents by amending the independent counsel statute to include a provision for the judicial review of the Attorney General's decision not to seek the appointment of an independent counsel.[2]

Finally, the statute deliberately targets members of the executive branch, the branch which is best able to resist the attempts of Congress to administer the law through its oversight and investigatory powers, or through the judiciary's power of administrative review, and to expose the inefficiency and corruption which occurs under a system which fails to observe the constitutional separation of powers. With the creation of the independent counsel statute, the Congress has devised a means for undermining public confidence in the ability of the President and his subordinates to faithfully executive the law, thereby justifying Congress' continued micromanagement of the administration of the law.

This lack of accountability is not only pernicious, it is unnecessary. Throughout our history, the investigation, prosecution, conviction and punishment of criminal offenses by high-level government officials has been accomplished without such a statute. For example, contemporaneously with the tenure of the Watergate Special Prosecution Force, the Department of Justice conducted several thorough and credible investigations and prosecutions of individuals associated with the Nixon administration. U.S. Attorney for the District of Columbia Harold Titus conducted the investigation of the Watergate break-in, and the prosecution and conviction

---

Footnotes at end of article.

of Bernard Barker, Virgilio Gonzalez, E. Howard Hunt, G. Gordon Liddy, Eugenio Martinez, James McCord, and Frank Sturgis in connection with the Watergate burglary. He also initiated the investigation of the criminal conspiracy to cover-up the Watergate affair, and the investigation of the break-in at the office of Daniel Ellsburg's psychiatrist, Dr. Lewis Fielding, both of which were later assumed by the Watergate Special Prosecution Force. U.S. Attorney for Baltimore George Beall investigated the allegations of bribery, extortion and tax evasion which led to the resignation and *nolo contendere* plea of Vice President Spiro Agnew just ten days before the Saturday Night Massacre. Assistant Attorney General Henry Peterson helped to preserve the existence and integrity of the Watergate Special Prosecution Task Force when he was placed in charge of its operations during the interval between the firing of Archibald Cox and the appointment of Leon Jaworski. Finally, U.S. Attorney for New York Whitney North Seymour investigated and prosecuted former Attorney General John Mitchell and former Commerce Secretary Maurice Stans for conspiracy and bribery in the solicitation of campaign contributions from financier Robert Vesco in return for impeding a Securities and Exchange Commission investigation of Vesco.

Occasionally it has been necessary for the President or the Attorney General to appoint a special counsel to conduct a criminal investigation of cabinet-level officials independently of the Department of Justice. Of course, the most prominent appointment of a special counsel occurred during the Nixon administration, when the President yielded to congressional and public pressure and permitted his nominee for Attorney General, Elliot Richardson, to use the statutory authority of his department to appoint and supervise a special prosecutor to conduct an investigation of the Watergate break-in and the subsequent attempt to cover up the involvement of high-level officials in the White House and the Republican presidential campaign organization in the break-in and related activities. However, this approach was inspired by the approach utilized during the Teapot Dome scandal when, during the Coolidge administration, the Congress first conducted investigations and then, with the support of the President, appropriated funds for the creation of a special counsel to investigate the leasing of naval oil reserves in Teapot Dome, Wyoming by Harding administration officials. The authorizing legislation stipulated that the special counsel was to be appointed by the President with the advice and consent of the Senate. Through this process Senator Atlee Pomerene of Ohio was appointed special counsel, and Owen J. Roberts, a private attorney from Philadelphia and later an Associate Justice of the Supreme Court, was appointed his assistant. Their investigation led to the prosecution and conviction of former Secretary of the Interior Albert B. Fall on charges of bribery in connection with the Teapot Dome leases.

The examples of the Teapot Dome and Watergate investigations illustrate three alternative methods of appointing a special counsel, each of which is consistent with the text of the Constitution and its underlying principle of the separation of powers. Under the first method, the Attorney General uses his statutory authority to promulgate a departmental regulation creating a temporary office of special counsel whose occupant is, like an Assistant Attorney General an "inferior" officer appointed by the Attorney General and removable by the Attorney General in accordance with the restrictions he places in the departmental regulation creating the office.[3] Under the second method, the Congress enacts a statute creating a temporary office of special counsel whose occupant is, like the Attorney General himself, a "principle" officer appointed by the President with the advice and consent of the Senate, and removable at the pleasure of the President. Under the third method, the Congress enacts a statute creating a temporary office of special counsel whose occupant is, like an Assistant Attorney General, an "inferior" officer appointed by either the President or the Attorney General, and removable by either the President or the Attorney General, respectively, in accordance with the restrictions the Congress places in the statute creating the office.

If the Attorney General were to improperly remove a special counsel he would be accountable for his action to the President through the removal process, and to the Congress through the impeachment process. If the President were to improperly remove a special counsel, he would be accountable for his action to the American people through the election process, and to the Congress through the impeachment process. Under any of these three methods, the decision of the Attorney General or the President to remove a special counsel would also be subject to review in federal court for its conformity with the relevant departmental regulation or congressional statute. In addition, both the Attorney General and the President would be indirectly accountable to the Congress for their actions through the power of the Senate to delay or deny the confirmation of appointments, and the power of either chamber to conduct investments or deny appropriations.

These three alternatives methods of appointing a special counsel are superior to the current independent counsel statute in several respect. First, under any of these three alternative methods the special counsel is directly accountable to a member of the executive branch whose primary function is to ensure that the laws are faithfully executed. This helps to protect the subject of an investigation or prosecution against prosecutorial abuse which is more likely to occur when an independent counsel is appointed who is neither familiar with nor accountable to the Department of Justice policies concerning the conduct of criminal investigations and prosecutions. Second, under any of these three alternative methods, a special counsel is appointed in response to specific circumstances which, in the judgement of the Attorney General or the Congress, warrant such an action. Unlike the appointment of an independent counsel, which is designed to occur automatically whenever the Attorney General is unable to conclude that there are no reasonable grounds for further investigation, the appointment of a special counsel requires a decision by the Attorney General or the Congress for which they can be held publicly accountable. This helps to protect against attempts to use a special counsel investigation to discredit an ideological, institutional, or personal adversary.

Of course, the proponents of the current independent counsel statute always point to the so-called "Saturday Night Massacre" (during which Watergate Special Prosecutor Archibald Cox was fired, on the order of President Nixon, by Solicitor General Robert Bork after the resignation of Attorney General Elliot Richardson and Deputy Attorney General William Ruckelshaus) to prove that a special counsel must not be subject to appointment, supervision, and removal by the executive branch because this subordination will necessarily interfere with the integrity of his investigation. A careful examination of this incident reveals, however, that the independence and integrity of the special counsel's investigation was preserved without taking away the Attorney General's authority to appoint, supervise, and remove the special counsel.

During the Watergate investigation, the Senate simultaneously appointed a select committee to conduct a congressional investigation into the matter, and used its power over the confirmation of the President's nominee for Attorney General to compel the President to permit the nominee to appoint a special prosecutor to conduct a criminal investigation independently of the executive branch. When the President ordered his Attorney General to remove the special prosecutor, the Attorney General disobeyed the President and offered his resignation rather than renege on his promise to the Senate that he would do nothing to undermine the independence of the special prosecutor. The Acting Attorney General, who did remove the special prosecutor, used his position and influence to persuade the President to reverse his decision and permit the appointment of another special prosecutor to continue the investigation. If this effort to restore the investigation had failed, a federal district court judge was prepared to order the reinstatement of the special prosecutor, and the Congress was prepared to authorize the creation of another office of special prosecutor. If these efforts by the judiciary and the Congress had failed to persuade the President to allow a special prosecutor investigation to continue, the Congress was prepared to conduct impeachment proceedings against the President. In the event, the special prosecutor's office concluded its investigation, initiated prosecutions, and obtained convictions against several high-level administration officials, including the convictions of John Ehrlichman, H.R. Haldeman, John Mitchell, and Robert Mardian on charges of conspiracy to obstruct justice for their roles in the Watergate cover-up. Articles of impeachment were voted against the President by the House of Representatives, and the President resigned from office in disgrace rather than face the certainty of impeachment by the Senate. As this political reaction to the Cox removal clearly demonstrates, both the Congress and the judiciary possess ample powers to discourage, review, and reverse any unwarranted interference with the independence of a special counsel subject to appointment, supervision, and removal by the executive branch.

The necessity and propriety of the independent counsel statute becomes dubious when we realize that the other two branches of the federal government are still authorized and able to conduct thorough and credible independent investigations using procedures for the appointment, supervision, and removal of outside counsels or special committees which leave the investigators fully accountable to the branch being investigated. In the Senate, the members of the Select Committee on Ethics have complete authority to investigate allegations of misconduct filed against their colleagues. They are authorized to appoint an outside counsel to conduct the investigation, but they may also conduct the investigation themselves. Since 1978, the year the original independent counsel statute was enacted, there have been eleven formal investigations by the Senate Ethics Committee, seven of which have been conducted by outside counsels. In addition to the precedent of the Senate Ethics Committee appointing its own outside counsel to investigate alleged misconduct by members of the Senate, the full Senate recently enacted a resolution to appoint Peter Fleming as an outside counsel to investigate the leaks of confidential information in connection with the Senate Judiciary Committee's hearings on the nomination of Clarence Thomas to the Supreme Court and the Ethics Committee's investigation of the "Keating Five" scandal.[4]

In the House of Representatives, the members of the Committee on Standards of Official Conduct also have complete authority to investigate allegations of misconduct filed against their colleagues. Unlike the Senate Ethics Committee, the House Ethics Committee is not explicitly authorized to appoint an outside counsel. However, six of the numerous investigations conducted by the House Ethics Committee since 1978 have employed outside counsels.[5]

In the federal judiciary, a special committee appointed by the Chief Judge of each federal circuit, the Judicial Council of each federal circuit, and the Judicial Conference of the United States, each have complete authority to investigate allegations that a federal judge "engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts." Furthermore, the Judicial Conference may recommend to the House of Representatives that a judge be impeached. Since 1981, three federal judges have been impeached by the House of Representatives, and convicted and removed from office after a trial in the Senate. In each case, the subcommittee of the House Judiciary Committee charged with investigating and preparing articles of impeachment against the judge employed a special counsel.[6]

Occsionally individual congressmen or the congressional ethics committees themselves have been accused of impeding an investigation conducted by the special counsel. For example, in one investigation outside counsel Richard Wertheimer resigned from the Senate Ethics Committee's investigation of Sen. Edward Brook after making the accusation that representatives for Senator Brooke altered and withheld financial documents in an effort to frustrate the investigation. The Committee concluded its investigation after Senator Brooke was defeated in his bid for re-election. In another investigation conducted contemporaneously with the debate on the enactment of the original independent counsel statute, two consecutive outside counsels, former Assistant Watergate Special Prosecutor Philip Lacovara and former Watergate Special Prosecutor Leon Jaworski, resigned from the House Ethics Committee's investigation of the "Koreagate" scandal after making accusations that the chairman of the Committee impeded a compete and vigorous investigation. And in a third investigation, outside counsel R. Barrett Prettyman resigned from the House Ethics Committee's investigation of the "Abscam" scandal after the Committee ignored his recommendation that they propose disciplinary action against Rep. John Murtha. The Committee concluded its investigation without appointing a replacement for Prettyman. If the "Saturday Night Massacre" demonstrated the need for an independent counsel who was not subject to appointment, supervision, and removal by the executive branch, why is it that these four resignations did not equally demonstrate the need for an independent counsel who is not subject to appointment, supervision, and removal by the legislative branch?[7]

In conclusion, I would recommend that the independent counsel statute be allowed to expire without re-authorization, so that we may return to the pre-1978 scheme under which the Attorney General may use his statutory authority to appoint, supervise, and remove a special counsel as the circumstances warrant. The time has come for Congress to end the separate system of investigation and prosecution it has devised for the executive branch: it must either allow the independent counsel statute to expire so that the executive branch may use provisions for the investigation and prosecution of executive branch misconduct which are similar to those already in use by the legislative and judicial branches, or it must apply the provisions of the independent counsel statute to all three branches of the federal government.

FOOTNOTES

[1] The legislative history of the 1982 amendments to the independent counsel statute clearly indicates Congress' intention to prohibit the Attorney General from removing an independent counsel for failure to follow DOJ guidelines: "[This provision] should not be interpreted to mean that failure of the special prosecutor to follow Departmental policies would constitute grounds for removal of the special prosecutor by the Attorney General. Such an interpretation would seriously compromise the special prosecutor's independence." S. REP. NO. 97-496, p. 69, *reprinted in* 1982 U.S. CODE CONG. & ADMIN. NEWS @ 3552.

[2] *See* "Statement of Samuel Dash and Irvin Nathan on behalf of the American Bar Association before the Administrative Law and Governmental Relations Subcommittee of the House Judiciary Committee on the Subject of the Independent Counsel Provisions of the Ethics in Government Act" (September 10, 1992).

[3] The Attorney General currently has the statutory authority to appoint a special counsel to investigate any member of the federal government except the specific executive branch officials covered by the independent counsel statute. *See* 28 U.S.C. §§509, 510, 515; 5 U.S.C. §301. This statutory authority has been declared constitutional by the Supreme Court. *See* In re Sealed Case, 666 F. Supp. 231 (D.D.C. 1987), *affirmed* 829 F.2d. 50 (D.C. Cir. 1987), *cert. denied* 484 U.S. 1027 (1987). It has been used successfully in the past to investigate and prosecute misconduct by executive branch officials. Attorney General Edwin Meese invoked this power to provide parallel appointments for Lawrence Walsh as special counsel to investigate the Iran/Contra scandal and for James McKay to investigate Lyn Nofziger during the constitutional challenge to the independent counsel statute. *See* 52 FED. REG. 7271 (March 10, 1987). Attorney General Griffin Bell invoked this power to appoint Paul Curran as special counsel to investigate the Carter peanut warehouse case. *See* 44 FED. REG. 25837 (May 3, 1979). It is currently being used by Attorney General William Barr to authorize Nicholas Bua to act as a special counsel to investigate allegations of criminal misconduct against the Department of Justice in connection with its contract with INSLAW, Inc. for the installation of computer software for the Department, and to authorize Malcolm Wilkey to act as a special counsel to investigate allegations of criminal misconduct at the House Bank scandal.

[4] For the authority of the Senate Ethics Committee see RULES OF PROCEDURE OF THE SENATE SELECT COMMITTEE ON ETHICS, 101st Cong., 1st sess. (1989). Outside counsel investigations authorized by the Senate Ethics Committee include: Henry Schuelke's investigation of Sen. Alfonse D'Amato; Robert Bennett's investigations of Sens. Alan Cranston, Dennis DeConcini, John Glenn, John McCain, and Donald Riegle in connection with the "Keating Five" scandal, of Sen. David Durenberger, and of Sen. Harrison Williams in connection with the "Abscam" scandal; Carl Eardley's investigation of Sen. Herman Talmadge; Richard Wertheimer's investigation of Sen. Edward Brooke; and Victor Kramer's investigation of Sen. Birch Bayh, former Sen. Jack Miller, and three Senate aides in connection with the "Koreagate" scandal. Investigations of Sens. Robert Morgan and Mark Hatfield, and earlier investigations of Sens. David Durenberger and Birch Bayh, were conducted by the Committee without the assistance of outside counsel. For the resolution which authorized the appointment of an outside counsel to investigate "leaks" from the Senate Judiciary and Ethics Committees see S. Res. 202, 137 CONG. REC. S15200 (daily ed. Oct. 24, 1991).

[5] For the authority of the House Ethics Committee see RULES OF THE HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, 102nd Cong., 1st sess. (1991). Outside counsel investigations authorized by the House Ethics Committee include: Richard Phelan's investigation of Rep. Jim Wright; William Kunkle and Linda Chase's investigation of Rep. Newt Gingrich; Stanley Brand and Abbe David Lowell's investigation of Rep. George Hanson; John Cochran's investigation of Rep. Fernand St. Germain; Joseph Califano's investigation of Reps. Daniel Crane and Gerry Studds in connection with the congressional page sex and drug scandal; R. Barrett Prettyman's investigation of Reps. John Jenrette, Richard Kelly, Raymond Lederer, John Murphy, Michael "Ozzie" Myers, and Frank Thompson in connection with the "Abscam" scandal; and Philip Lacovara and Leon Jaworski's investigations of Reps. John McFall, Edward Roybal, and Charles Wilson in connection with the "Koreagate" scandal.

[6] For the authority of the Chief Judges, the special committees, the Judicial Councils, and the Judicial Conference *see Judicial Councils Reform and Judicial Conduct and Disability Act of 1980*. PL. 96-458, 94 Stat. 2035, 28 U.S.C. §372 as amended by *Judicial Improvement Act of 1990*, PL. 101-650, 104 Stat. 5122, 28 U.S.C. §372. The constitutionality of the provisions of the original statute have been sustained by the Supreme Court. See Hastings v. Judicial Conference of the United States, 657 F.Supp. 672 (D.D.C. 1986), *affirmed in part, reversed and remanded in part* 829 F.2d 91 (D.C. Cir. 1987), *cert. denied*—U.S.—, 108 S.Ct. 1487 (1987). The impeached federal judges were Harry Claiborne, Alcee Hastings, and Walter Nixon. The House Judiciary Subcommittee on Courts, Civil Liberties, and Administration of Justice employed Nicholas Chabraja as special counsel to investigate the charges against Judge Claiborne. The House Judiciary Subcommittee on Criminal Justice employed Alan Baron as special counsel to investigate the charges against Judge Hastings. The House Judiciary Subcommittee on Civil and Constitutional Rights also employed Baron as special counsel to investigate the charges against Judge Nixon.

[7] It should be noted that during the debate over the creation of the original independent counsel statute in 1978, a proposal by Rep. Elizabeth Holtzman to apply the independent counsel statute to Congress for the investigation of the "Koreagate" scandal was defeated in the House Judiciary Committee. A similar proposal by Sens. Donald Riegle and John Heinz was adopted by the Senate, but it was removed from the bill by the conference committee. During the debates over the 1987 amendments to the independent counsel statute, when eight members of Congress were under investigation by either the House or Senate Ethics Committees, and only one of these investigations was being conducted by an outside counsel, proposals were again offered to apply the independent counsel statute to the members of Congress. These proposals were tabled in the Senate after they were defeated in the House. For the congressional debate on these proposals *see* 133 CONG. REC. H8894-904 (daily ed. Oct. 21, 1987) and S15632-42 (daily ed. Nov. 3, 1987). It should also be noted that the Executive Branch has repeatedly sought to extend the independent counsel statute to Congress. Attorney General Edwin Meese used his statutory authority to appoint a special counsel to devise an independent counsel provision for the investigation of members of Congress. *See* 54 FED. REG. 11524 (Mar. 21, 1989), amending 53 FED. REG. 31323 (Aug. 18, 1988). Attorney General Richard Thornburgh later suspended this regulation. *See* 54 FED. REG. 15752 (Apr. 19, 1989). Also, the President's Commission on Federal Ethics Law Reform recommended extending the independent counsel statute to Congress. *See* To Serve With Honor (1989), pp. 111-13. For a discussion of the Meese regulation and the draft legislation based upon the Commission's recommendation *see* Douglas Kmiec, The Attorney General's Lawyer: Inside the Meese Justice Department (1992), pp. 199-204, 209-214.

TRIBUTE TO POSTMASTER JON M. STEELE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, it is with great pleasure that I pay tribute to a hard-working, devoted public servant of Longmeadow, MA, who has recently retired from his position as postmaster for Springfield, MA.

Mr. Jon M. Steele has been promoted to the area manager for customer service for the Allegheny, PA, area. This newly created position is a result of the postal service reorganization, a maneuver which places 20 individuals in positions of national power. Mr. Steele is one of these prestigious individuals.

Jon served as Springfield postmaster for 12 years following 4 years of postmaster service in Portsmouth, NH. He was also a postmaster in Burlington, VT. A graduate of University of Massachusetts at Amherst, Jon has spent 23 years working for the postal service, a worthy accomplishment unto itself. He attended the University of Virginia and the University of Lowell for his graduate studies. He is also a U.S. naval veteran.

Not only is Jon an accomplished civil servant, he is also a tremendous community servant. He serves as the director for the United Way of the Pioneer Valley, a trustee at the Eastern States Exposition, and a director and member of both the Springfield Rotary Club and the Springfield Chamber of Commerce. Each organization, and the city as a whole, will miss the service and devotion Jon has graciously given.

Jon's wife, Lee Steele, is a registered nurse at the Cooley Dickinson Hospital in Northampton. He has two sons, Michael and Matthew, both college students. Jon proudly includes watching his sons play ice hockey as one of his many hobbies. He also enjoys gardening, boating, and canoeing. As part of these interests, he is a member of the Massachusetts Audubon Society. He is also a member of the National League of Postmasters and the National Association of Postmasters of the United States.

The Pittsburgh area is very lucky to receive Mr. Steele as a postal servant and a community servant. He has given many years of great service to this area and he will surely continue this tradition in his new home. He has brought about numerous changes in the Springfield Postal Service and has helped to bring about a system rated highest in customer satisfaction throughout the entire country, an honor of which he should be extremely proud.

Mr. Speaker, please join with me and the friends and family of Jon M. Steele in wishing him a prosperous and happy transition to his new role within the postal system. Also please join in a formal "Thank you" for his many years of terrific service. He certainly warrants it.

CONGRESSMAN KILDEE HONORS DOLORES ENNIS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. KILDEE. Mr. Speaker, it is an honor and a privilege to rise before you today to pay tribute to an outstanding educator, community activist, and former colleague from my hometown of Flint, MI, Dolores Ennis. For over 41 years, Dolores has devoted herself to developing the potential of our Nation's most precious resource, our children. On October 11, 1992, at 3 p.m., a reception will be held at the University of Michigan-Flint to honor the lifetime achievements of this remarkable woman.

Dolores Ennis began her career with the Flint schools in 1952 when she was hired as a Latin and English teacher at Whittier Junior High School. Having worked for 8 years as a Latin teacher at neighboring Central High School, I know first hand of Dolores' skill as an instructor and a motivator. The students that enrolled in my class after taking her Latin class in junior high were always well prepared and excited about learning. Her students were a testament to both her outstanding abilities as a teacher as well as her love and dedication to the classroom. These qualities were exhibited by Dolores throughout her extraordinary career, making her an excellent role model for teachers, counselors, and administrators.

Dolores Ennis taught at Whittier for 18 years and in 1970 was named assistant principal for instruction at Northern High School. In that same year, Dolores was also named executive director of middle school education. Though the challenges of her administrative post were great, she continued to distinguish herself both as a director and as assistant principal, becoming an outstanding mentor for students and faculty. In 1975, while still a director, she was named deputy principal of Central High School. She served at Central until 1979, leaving the school to work full time for the school administration. In 1988, Dolores was given the additional assignment of director of curriculum services for middle schools. She has served faithfully in that capacity until her retirement this year.

Dolores Ennis' contribution to the field of education extends well beyond the boundaries of Flint, MI. She has served as the regional coordinator for the Michigan Association of Middle School Educators. She is an active member of the National Middle School Association, the Association for Supervision and Curriculum Development, the Delta Kappa Gamma International Society, the National Association for Bilingual Education, and is the past president of the Flint Congress of School Administrators.

Because of her organizational skills and genuine concern for the future of our community, she was selected by Mayor Woodrow Stanley to serve on the Hurley Medical Center board of managers. She is a member of the United Way of Flint and Genesee County, serving as its chairperson from 1988 to 1989. Dolores is a member of the National Association for the Advancement of Colored People. She has also served on the board of directors of the Flint Institute of Music and the Big Sisters of Greater Flint.

Mr. Speaker, words cannot express the breadth and depth of pride I feel today for the privilege of representing Dolores Ennis in the U.S. Congress. She has been an inspiration not only to me, but to all people truly concerned about the future of education in our Nation. She understands that the greatness of a nation is measured not by the quantity of warheads in its nuclear arsenal, but rather by the quality of its commitment to the care and development of its children. I ask you, Mr. Speaker and my fellow Members of the 102d Congress to join me in honoring a great American, Dolores Ennis.

REAR ADM. ROBERTA HAZARD AND THE NAVY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Ms. MOLINARI. Mr. Speaker, the following is the text of an article written by retired Navy Admiral Elmo R. Zumwalt, Jr. concerning the recent retirement of Rear Admiral Roberta Hazard. It is a stirring commentary of a female naval hero set against the backdrop of the Tailhook scandal. Admiral Hazard's story is a success story for the Navy and one in which we as a Nation can take great pride.

There is another extraordinary naval female that I know, this one a civilian. Her name is Barbara Pope and she is the Assistant Secretary of the Navy, for Manpower and Reserve Affairs. Secretary Pope helped further the investigation into the sexual misconduct of some naval personnel. She has made certain that a strong message has now been sent by our Government that this will not be tolerated. Secretary Pope believed in the Navy so much that she joined with Secretary O'Keefe in ferreting out the truth. She brought the following, reassuring text to my attention:

> The media paid scant attention to the Navy's farewell tribute last week in the retirement ceremony of a remarkable female flag officer, Rear Adm. Roberta Hazard. It is sad that the dramatic story of Adm. Hazard's career did not make the papers to balance the unfavorable publicity highlighting last year's Tailhook episode in Las Vegas.
>
> In the disgusting Tailhook episode, a group of drunken male aviators brutally, sexually abused a number of innocent females, including some of their "own"—female naval aviators. Perhaps even worse, a number of senior naval officers in the chain of command—some operating under the unacceptable philosophy that "boys will be boys" and others seeking to avoid bad publicity for the Navy—initially covered up the crime.
>
> The Navy's Chief of Naval Operations, Adm. Frank Kelso, has moved with a firm hand. He has made it clear that all of those accused of participating in the Tailhook crimes will be brought to justice, that any perpetrators of sexual harassment anywhere in the Navy will be vigorously prosecuted, that every civilian and military naval person will undergo sensitivity training concerning sexual harassment, and that every female has a right to equal opportunity. It was the

implicit resentment by the male aviators of the equal right of female naval aviators that was one of the reasons for the Tailhook crimes.

All of this has brought heavy, unfavorable media coverage.

It is against this backdrop that the story of Adm. Hazard's career is so important to highlight.

A graduate of Boston College, she was a teacher for four years before being commissioned as ensign in the Navy. At that time, in the 1950s, restrictions on the duty assignment of female line officers were so pervasive that their careers were in very narrow patterns. There was no opportunity for the broadening and operational experience to qualify for high rank.

Notwithstanding these obstacles, Ensign Hazard's performance of duty at her very first command was so impressive that her commander presciently predicted that there was no assignment to which she could not aspire.

As she moved along in the Navy, slowly the barriers to women officers began to come down. In the early 1970s, the first woman in Navy history became a rear admiral—the head of the Navy's nurse corps—and Congress, despite President Nixon's personal bias against it, changed the law to permit women to attend the U.S. Naval Academy. As chief of naval operations at that time, the author assigned women to the one ship to which it was legal to assign them—the hospital ship USS Sanctuary—and initiated naval aviation pilot training for women. Later, Congress opened up assignments to combat support ships and women were permitted to command shore facilities.

Through this breach in precedent, Roberta Hazard, by then a middle-grade officer whose talents were broadly recognized, moved into a series of three traditionally male shore commands. Her stellar performance in the first two led to her selection for flag rank and assignment to command the U.S. Navy's Great Lakes Training complex. Along the way, she served superbly as staff officer to a commander in chief of NATO South, a chief of naval operations, and a chairman of the Joint Chiefs of Staff.

She was urged last month by the Secretary of the Navy to accept assignment as a three-star vice admiral, to head the critically important Naval Air Training Command—the first nonaviator ever. Regrettably, for reasons of health, Adm. Hazard had to decline what would have been the most senior position ever achieved by a woman, and chose to retire.

Her charismatic leadership and her demonstration that military professionalism is not gender-limited have established a pattern that will increase the rate at which all remaining constraints on women in the naval service are removed.

The fact that this remarkable woman was able to achieve such success demonstrates the positive side of the Navy's attitude toward gender—a story that deserves to be told.

THE 200TH ANNIVERSARY OF HOPEWELL UNITED METHODIST CHURCH

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. MURTHA. Mr. Speaker, I'd like to take a moment to salute the Hopewell United Methodist Church of Somerset County, PA upon their 200th anniversary. This is a extraordinary achievement, and the congregation of the Hopewell United Methodist Church is justifiably proud of their history and their faith.

Back in 1792, the area which is now Somerset County was a sparsely populated frontier. Very few people had crossed the Allegheny Mountains, and fewer still had chosen to settle in an area where the nearest neighbor might be 8 miles away. A young couple, Agnes and Moses Fream, settled about 1½ miles north of what would become the town of Boswell. They built a two-story log cabin, and Moses Fream opened it to the traveling Methodist ministers that circulated throughout western Pennsylvania. From these humble origins the Hopewell United Methodist Church has grown and prospered.

The Fream family would probably not recognize the rolling landscapes and carefully plowed fields of Somerset County today. But they would recognize and feel comfortable with the faith that the congregation of the Hopewell United Methodist Church still displays 200 years after a pioneer family cleared the forest, built a house, planted crops, and worshipped God.

I'd like to salute the congregation of the Hopewell United Methodist Church on their 200th anniversary. It's a remarkable accomplishment, and a remarkable comment on the depth of the faith that has built our Nation made it great.

THE AMBULATORY CARE QUALITY IMPROVEMENT ACT OF 1992

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. WYDEN. Mr. Speaker, my purpose in rising today is to act the findings of the Subcommittee on Regulation's 5 year long investigation into quality of care problems in the rapidly burgeoning industry providing health care services outside the hospital in so-called ambulatory health care clinics.

Today I am introducing legislation to establish standards for quality health care in two types of ambulatory care clinics which the subcommittee's investigation has identified as being most in need of oversight and accountability. These two classes of clinics are ambulatory surgical centers and emergency care centers.

Few of my colleagues may realize the very substantial number of surgeries and emergency care being done outside of hospitals and the normal quality review that hospitals provide. This year, for the first time in history, more surgeries were performed in ambulatory care facilities than in hospitals. The Joint Commission on Accreditation of Healthcare Organizations estimates that by 1995 fully 65 percent of all surgical procedures will be done outside the hospital.

This means that millions of invasive and lifesaving procedures are being performed each year in unlicensed or substantially underregulated facilities. The training of the personnel who assist in these surgeries and who must provide emergency care may be inadequate. There is no check on whether adequate lifesaving equipment is on hand, including either basic or advanced cardiopulmonary resuscitation devices. High-powered advertising is often used to suggest that professional expertise is available where none, in fact, exists.

The growth of this industry is not a bad thing in itself. Good quality, low-cost ambulatory care could help millions of Americans. By reducing the price of medical services, access to health care can be enhanced by these walk-in clinics. With our total national health care bill now exceeding a mind-boggling $800 billion each year, the price of health care items and services is more and more a factor in deciding who is served, and who will go without.

Moreover, Mr. Speaker, I believe that the vast majority of physicians in this country are honest, decent and caring. But for the significant minority who aren't, these unsupervised and unaccountable freestanding health care clinics are a natural place to set up shop. The lack of peer review, oversight by accreditation organizations, minimal training standards, or even minimal quality assurance programs amounts to an open invitation to slipshod medical providers to ply their trade.

The subcommittee's investigation confirms that ambulatory care provides a fertile environment for medical entrepreneurs who are undertrained, unscrupulous, or unethical. In the words of one physician interviewed by subcommittee staff, ambulatory health care is an area of care favored by what he called the medical buccaneer.

The General Accounting Office testified that the States have been slow to require even minimal licensing and quality assurance. In 1987 the States licensed about 23,000 freestanding ambulatory care facilities, ranging from radiological labs to cataract surgery clinics. But except for the 1,300 or so of these that were also certified as meeting Medicare standards, State regulation and oversight often stops at compliance with building and fire safety codes.

GAO said, "in total, 26 States reported that they did not know whether one or more types of freestanding providers were operating in the States." Not surprisingly, given that States are attempting to regulate providers they can't even identify, some types of facilities are not licensed in any State, including pain control centers and cancer treatment facilities involved in chemotherapy and radiation therapy. Only four States require licensing for emergency care centers—facilities which advertise to attract specifically those patients who are in the most unstable condition.

Mr. Speaker, virtually every State licenses veterinary clinics to protect animals from substandard care. The same cannot be said for their taxpaying citizens.

GAO found little in the way of a fallback safety system to backstop the States failure to regulate. Only 14 percent of all freestanding surgicenters belonged to a voluntary accreditation program.

But even in facilities subject to State licensing, GAO found evidence suggesting that State licensing often amounts to little more than a paper tiger. Only two States had revoked an ambulatory surgical center's license during the year of GAO's study, and only one State that had suspended the license of such a facility. Twenty-three States had no system whatsoever for collecting and resolving complaints against either licensed or unlicensed providers.

All too often in Congress vital health and safety concerns are reduced to dry, inhuman bureaucratese. I want my colleagues to know, in human terms, how much is at stake here:

A doctor in southern California allowed his bookkeeper to deliver general anesthetic to a patient undergoing a surgical procedure in the office. The patient died.

A diagnostic center in Dallas allowed a radiological technician to administer a sedative to a 5-year-old patient. The child received a massive overdose, and died.

Another Texas doctor opened up an office practice for dermatology surgery. One of his first patients—a 13-month-old girl—was poisoned via a misconnected anesthetic gas line. This little girl, too, died.

Each of these incidents occurred in a facility that currently falls outside of the scope of any kind of peer review of the doctor, or of the kind of State and Federal licensing regulations that assure adequacy of facilities and allied health staff. The point is, Mr. Speaker, for enterpreneurs who define their surgical and diagnostic facilities as mere extensions of their personal professional practices, there is virtually no oversight.

Mr. Speaker, when our constituents take advantage of the lower cost and greater convenience of these ambulatory facilities, they should not be put in the position of unknowingly trading away the quality of care they have every reason to expect. Clearly, minimum standards are needed to ensure that such tradeoffs don't occur.

The legislation I am introducing today will close the existing regulatory loopholes by requiring unlicensed and unregulated facilities to pass muster with a quality assurance program established by the HHS Secretary. In lieu of direct Federal certification, these facilities may be certified by an accreditation organization which has been approved by the HHS Secretary as meeting basic program integrity standards.

The bill will impose new requirements on all unlicensed, non-Medicare certified ambulatory surgery centers and freestanding emergency centers. Most doctors' offices would not be regulated. Surgery centers would be regulated if they put people under general anesthesia or use analgesia that knocks out the patient's protective reflexes, such as the urge to breathe, or the gag reflex. Emergency care centers would be regulated if they hold themselves out to the public in any way—including signs, ads, Yellow Pages—as offering "emergency" or "immediate" or "urgent" care, or words to that effect.

Both of these types of entities must be certified by the Secretary—or accredited by an accreditation organization—as meeting certain standards, or face civil penalties for noncompliance. Under these standards:

First, ambulatory care facilities must use only qualified physicians and qualified nonphysician personnel. For surgical centers, this means physicians must be either board certified or have privileges at a local hospital to perform the same specific surgeries as are performed at the ambulatory surgery center.

Second, neither type of facility would be allowed to use false, misleading, or deceptive advertising or claims.

Third, walk-in emergency care centers would have to maintain appropriate around-the-clock emergency care and diagnostic capability, such as having on the premises during all hours of operation a doctor, appropriate radiology and clinical lab capability, and advanced life support equipment.

Fourth, both types of facilities would have to possess a quality assessment and improvement process, including a peer review process which meets the due process standards of the Health Care Quality Improvement Act of 1986.

Fifth, both types of facilities would have to acquire bonding or malpractice insurance of at least $200,000, or as much as the maximum State tort liability limit, in States where such limits apply.

Sixth, both types of facilities would be required to maintain a transfer agreement with area hospitals, so patients can be taken there if and when they need care beyond the clinic's capability.

Mr. Speaker, while this bill would impose no additional obligations on facilities licensed by the States, GAO's findings suggest that a more indepth review of State licensing is needed. The bill I am introducing will direct the GAO to report to Congress within 3 years of enactment regarding the adequacy of State licensing. Specifically, GAO would be asked to compare State standards and enforcement practices with the standards and enforcement practices of Medicare, as well as those imposed on unlicensed facilities by this bill.

This legislation creates no unfunded Federal, State or local costs. The Secretary is authorized to impose fees on clinics to cover the costs of developing and administering the new regulatory program. To the extent that private accreditation organizations assume the bulk of onsite inspection duties, these costs will be funded, as is customary, by fees clinics pay to the accreditation organizations.

It is my hope that the States, the professions, and the Federal Government can agree to the regulatory framework proposed by this legislation, one that allows continued growth in ambulatory care services while at the same time ensuring that patients receive good quality health care.

AMBASSADOR EDWARD A. CLARK: PUBLIC SERVANT SUPREME

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. PICKLE. Mr. Speaker, Edward A. Clark—Lawyer. Diplomat. Businessman. Banker. Raconteur. Historian. Counselor. Educator. Political Strategist. Philanthropist. Ambassador.

All of these things and more were the legacy of this giant of a man, Ambassador Edward A. Clark, who lived most of his life in the capitol city of Austin with his beloved wife Ann, who died in 1989, but his thoughts and his heart never strayed from the delightful Straddleford Farms in his hometown of San Augustine, TX where he still voted and where his widely recognized yarn-spinning abilities were nurtured.

His political acumen remained as strong in the 1990 space age as it was 60 years earlier when he aided his friend Attorney General James V. Allred who campaigned successfully for Governor in each of the State's 254 counties in a Model-T. Clark was named Texas Secretary of State, the Governor's highest appointment by Allred. Later, President Lyndon Johnson, Clark's longtime friend, appointed Clark Ambassador to Australia in 1965.

Ambassador Clark stories are legend. Many pages of the RECORD could be filled by his tales, both true and maybe some apocryphal. He was once quoted as saying about a very popular politician whose dealings were said to be a bit shady, "He was as honest as the times would permit." Unfortunately the printed word does little justice to Mr. Ed's story telling capabilities, for his somewhat high pitched east Texas twang always added much to his listeners' pleasure.

He was fond of the saying "Too slow for 'possum and not fast enough for 'coon" that he had it inscribed on his personal stationery. In his beloved east Texas, the saying refers to a fellow who doesn't quite have it all together—that he is slower than a possum and not quick enough for a coon. Mr. Ed used this saying in a self-deprecating sort of way, but his friends in east Texas and all over the world knew him to be faster than any possum and plenty quick for any coon.

In the words of former U.S. Senator Ralph Yarborough, his close friend, "When Ambassador Clark passed away, it was like a giant oak falling in the forest."

"Ed Clark left his impression on Texas history, law, politics, and government. He was such a stunning success as ambassador to Australia that his name has become synonymous with ambassador."

Mr. Speaker, no one shaped Texas' civic, business or political activities more than this man. I could rely on his friendship as I could depend on the rising sun. I have lost my 'second' father. As Ambassador, I think he brought Australia and the United States closer together than ever before. In Texas, he was a colorful and unique legend whom our State will cherish always. He had such trust with the people and with his associates that he gained the confidence of both Democrats and Republicans.

I submit to you an editorial from the Austin American Statesman which touches at the heart of this true son of Texas:

CLARK WAS WELL-LOVED AMBASSADOR OF GOOD WILL

In a day and age when politicians are regarded with suspicion and the coin of public service has been debased by greed and scandal, it is a comfort to know that there still are true statesmen, models of integrity, honor, genuine accomplishment, assets to their community, state and nation. One of those was Edward A. Clark of Austin, who died Wednesday at age 86.

Clark accomplished more in his life than most people can ever hope to. Ambassador, attorney, banker, political strategist, philanthropist, guide and adviser to three generations of political leaders, Clark was also a man of ready wit and good humor whose friends are legion.

After receiving his law degree from the University of Texas in 1928, Clark began a remarkable career, beginning as Texas assistant attorney general. He was assistant to Gov. James Allred, then became secretary of state—all this by the age of 30.

He then went on to found the law firm Looney & Clark, serve in World War II and chair the board of Texas Commerce Bank. In 1965, President Lyndon B. Johnson appointed Clark as ambassador to Australia. Clark became an executive director of the Inter-American Development Bank in Washington, DC, was on the Arms Control and Disarmament Agency committees, was for six years a University of Texas System regent and was a trustee of both Southwestern University in Georgetown and the University of Texas Law School Foundation. He raised millions of dollars for both institutions. He and his late wife donated their 24,000-volume collection of Texana to Southwestern in 1965.

As ambassador to Australia, Clark became an instant hit. After two years, he was a legend, and still may be the most widely known and beloved American in Australia. In 1968, an article in the Canberra newspaper *The Australian* called Clark "the most phenomenal ambassador to reside in Canberra."

The newspaper reported that "at least a thousand people said goodbye to U.S. Ambassador Ed Clark this week . . . Why so many? Simple. People like Ed Clark and Ed Clark likes people. And it doesn't end there, because along with the affection there is mutual respect.

"There has never been an ambassador in Canberra who could walk from the conference table and then have a beer in a Melbourne pub, yet make sense and friends in both arenas. There has never been an ambassador who, in two short years, could cover nearly 400,000 miles in 'search of the Australian people and meeting the Australian people.' And there has never been an ambassador who leaves behind such good will and so many friendships." That was Ed Clark.

Clark also was a visionary about the importance of education to this state's future. When the Clarks donated their Texana collection, Ed Clark said the collection "expresses both a reverence for the past and a regard for the future . . .

"The spirit of Texas is the greatest and most enduring of all the many elements which might compose a Texas heritage. But the spirit of Texas cannot be transferred by deed, or bequeathed by will. It can be acquired only through knowledge gained by the individual's own efforts.

"Books are the essential and fundamental source of that knowledge, and a collection of them, brought together with loving care and maintained with pride, may well inspire others to the effort necessary for them to realize to the fullest extent the benefits of their Texas heritage."

Edward A. Clark was himself such an inspiration and, like that collection, priceless and irreplaceable.

HONORING THE LIFE AND MINISTRY OF FR. JOHN D. PROTOPAPAS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Ms. OAKAR. Mr. Speaker, I am pleased and proud today to ask you and my colleagues to join with me in celebrating the 25th anniversary banquet on October 11, 1992, honoring the Rev. Father John D. Protopapas for his quarter century service as pastor of the Annunciation Greek Orthodox Church of Cleveland, OH.

The life of Father Protopapas leading up to his assignment in 1967 as spiritual leader of Cleveland's Annunciation Greek Orthodox Church is as distinguished and rewarding as his service to God and his congregation since.

Born in the village of Pano-Zodhia, Cyprus on January 23, 1927, John D. Protopapas, in the tradition of his family, was destined to serve his Church. He received his first lessons in christian education and Byzantine chanting from his grandfather, Rev. John Argyrides Protopapas, who was the Protopresbyter of his village and from his father, Demetrios, who was the Psalti.

Following school life in his village, John entered the high school of Morphou and then on to Paphos College. John came to the United States in 1949 and quickly enrolled at the Greek Orthodox Theological Seminary in Brookline, MA. He graduated in 1952.

In June 1955, John Protopapas was married to Catherine Lianides of Worcester, MA, and was then ordained. Christopher James was born to this loving family in 1956, Paula Joanne followed in 1957 and Mira Lynn greeted the world in 1965. (Christopher is now married to the former Fran Veloudos. They have two sons: Derek and Andrew. Paula is married to James John Manos. They have three daughters: Rebecca, Elizabeth and Sarah. Mira Lynn is betrothed to Mr. Andrew Kipker.)

On July 15, 1967, Fr. John Protopapas was asked to assume the duties of spiritual leader of Annunciation Greek Orthodox Church in Cleveland, OH. The community opened its arms to him and his family and it was warmly embraced in return.

During his 25 years at the Annunciation Church, Fr. John has proven himself as a dynamic leader in the spiritual, educational, cultural, and physical growth of the community. In his selfless style, Fr. John has made himself available to all Greek Orthodox of the Greater Cleveland area, and he has always extended the hand of spiritual guidance and support to all he could reach.

Fr. John's philanthropic errands should also be noted. Through his efforts, a number of patients from Greece have been sponsored by the church and have received open heart surgery at Cleveland hospitals.

Many honors have been bestowed upon Fr. John during his career as a spiritual leader. In 1970, he received the Offikion of Economos. In 1977, he returned to Holy Cross Seminary where he was principal speaker during the 25th anniversary of his graduating class. At that time, His Eminence, Archbishop Lakovos, bestowed upon Fr. John the Offikion of Protopresbyter of the Ecumenical Patriarchate, the highest office a married can receive. In 1983, Patriarch Diodoros of Jerusalem, visiting the Annunciation Church in Cleveland, vested Fr. John with the Great Cross of the Holy Sepulcher.

In 1989, Mayor George V. Voinovich appointed and commissioned Rev. John Protopapas to be an Honorary Mayor of the city of Cleveland for his important contributions to the city's life and progress in the previous decade.

Fr. John has served as member of the Archdiocesan Presbyters Council and as President of the St. Chrysostom Clergy Syndesmos of the Pittsburgh Diocese.

Currently, this tireless servant of God is a member of the Diocesan Counsel, chairman of the Diocesan Greek Education Committee and is chairman and secretary of the Diocesan Ecclesiastical Court in Ohio.

To no one's surprise, Fr. John still finds time for gardening. It is fitting because Fr. John loves to see things grow—flowers, fruit, vegetables, but especially people.

We have all grown under the protection and leadership of this extraordinary, caring and loving man. His lesson for us all is simple: Follow his example.

NICOLA CERILLI

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. GALLO. Mr. Speaker, recently, I lost a good friend, Nicola Cerilli, who was, for many years, a very successful restaurateur in Dover, NJ.

Upon reflection, Nick's life provides us all with a timely reminder of what it means to be an American.

As we prepare to celebrate the 500th anniversary of Columbus' voyage, we look for reminders of the significance of that journey, and we find it in individuals like Nicola Cerilli, who also discovered that America is truly the land of opportunity.

His son, John Cerilli, best summarized many of our feelings about Nick, in his moving eulogy to his father:

> In his extraordinary life, Nicola Cerilli epitomized the idea we know as the American dream. A restaurant owner and chef, highly respected in his community, he began his life in Italy as one of five children born to parents of simple means. The untiring work ethic and devotion to family he was renowned for began as a youngster. During the latter part of the Second World War, Nicola, in his early teens and the family's oldest male child, felt obligated to provide for his parents and siblings. When American soldiers began the liberation of mountain villages around his hometown of Supino, Nick would make a perilous 15-hour trek to get provisions from the U.S. Army. That determination became his trademark.
>
> Even after the woman he courted left Italy on a ship bound for America thinking she would never have a chance to marry Nicola Cerilli, he wired her during the ocean crossing proclaiming his undying love and the de-

> sire to marry her. When she arrived in America, a letter saying much of the same awaited her. Fourteen months later, he married his wife, Elda, in Italy. What ensued was a lifelong love affair with the only woman he ever wanted to be with.
>
> Because of vastly greater opportunity, they started their family in the United States. Nicola Cerilli held to his traditional value and belief that he should be the one to feed, clothe, and shelter his family. And that's what he did. Even after his restaurant became wildly successful, Nicola put in weeks in which he logged over 80 grinding hours. He did this to ensure his wife and four children got the best America had to offer them. From poverty and a fifth grade education, Nicola Cerilli struggled with great passion to fulfill his American dream. He left this world September 11, 1992, but his life of sacrifice and determination will be forever ingrained in the mind of anyone who had the honor to know him.

Mr. Speaker, as we mark the 500th anniversary of the voyage of Columbus, we are reminded once again that we are a nation of immigrants—men and women who overcame great uncertainty and hazardous journeys because they held the hope in their hearts that there would be opportunities at the end of the road.

It is always sad to lose a good friend, but there is continuity in the lives of the next generation and the dreams of generations yet to come.

Nick's commitment to hard work, so that he could build a better future for his children, is a commitment that we must never lose as a nation.

Because, no matter where we came from, as Americans we have shared a common belief in the value of hard work and a mutual understanding of the word opportunity.

Nicola Cerilli personified those beliefs and values, which are truly and uniquely American values. It is good for us to remember the importance of keeping the dream of opportunity alive and well for all Americans.

WORKER PROTECTION WARNINGS ACT

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to introduce a bill to improve the health and safety of American workers. I am pleased to be introducing this important legislation with Congressman PAUL HENRY, my colleague on the House Subcommittee on Health and Safety. Entitled the "Worker Protection Warnings Act," this bipartisan bill has the support of various industry and labor groups.

This legislation would require the Occupational Safety and Health Administration [OSHA] to establish uniform warnings on all personal equipment used to protect workers from occupational hazards. Uniformity will eliminate the existing confusion among both employers and employees about the proper uses and limitations of personal protective equipment, due to the inconsistency in warning requirements among individual States.

Under the bill, consistent, uniform warnings and instructions would be created for each class of personal safety equipment, including any devices to protect the eyes, face, head, ears, and other areas of the body. The OSHA directive would preempt all current State-mandated standards and requirements, as the sole method to guarantee uniformity. OSHA, in developing standards, would be required to involve employees, employers, and manufacturers of safety equipment.

I look forward to working with Mr. HENRY, other interested Members, and the labor and business communities in the near future to improve this legislation. I am optimistic that this legislation will initiate a productive discussion that will lead to the swift passage of an important workplace safety bill.

TEACH FOR AMERICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. RANGEL. Mr. Speaker, I rise to recognize an organization that has done great service to America's inner-city youth and to young people across the country in undeserved urban and rural areas. The organization is Teach For America and its successful work is having a revolutionary impact on our awareness of the educational needs of this country and on the methods by which we will ultimately come to terms with these needs. We owe a great deal of gratitude to the 9,000 or so college graduates who competed for positions to serve in poor communities that did not have certified teachers. These students applied for this service out of a desire to make change happen and with enthusiasm and an entrepreneurial spirit that has given teaching renewed purpose.

The goals of Teach For America are very compatible with the goals of enterprise zones as a step toward remediation of infrastructure decay in our Nation's communities. It takes dedication, pioneering spirit, and financial commitment to make an enterprise successful and Teach For America possesses all of these qualities. Corporations, foundations, and individuals have come forward in support of the program and they have made a tremendous difference with limited resources and in just a few short years.

Mr. Speaker, in a time when we are desperately seeking solutions to our inner-city infrastructure problems and looking for ways in which to turn around our at-risk youth, it seems to me as though we would be missing a tremendous opportunity if we did not support this young American enterprise. A relatively small investment on the part of the Federal Government could go a long way toward keeping Teach For America a viable force for change not only in our cities but also in rural areas. Teach For America has their corps stationed in 13 States across the country, including several in my own congressional district, and I would like to see it in all 50.

I think that we should applaud Wendy Kopp, Teach For America's young founder and president, and think about how far this investment could take us toward reaching our much needed educational goals for America's underserved youth.

INTRODUCTION OF THE RESIDENTIAL HOMEBUILDERS AND SMALL BUSINESS CREDIT AVAILABILITY ACT OF 1992

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. HUNTER. Mr. Speaker, I am today introducing legislation, the Residential Homebuilders and Small Business Credit Availability Act of 1992, to facilitate the providing of loan capital to residential homebuilders and other small business concerns. My legislation would establish a temporary Government-sponsored enterprise [GSE] aimed at providing capital to homebuilders and small businesses through existing lending institutions.

The homebuilding industry is in dire straits. In testimony last fall before the House Republican Research Committee's Task Force on Tax Policy and Job Creation, The National Association of Homebuilders [NAHB] noted that—

> The destabilization of real estate values and a "credit crunch" have transformed the housing segment from a "leading" indicator to a "lagging" indicator.

NAHB Vice-President Jerry Howard further noted that for the first time since before World War II, the housing industry is not leading the economy out of a recession.

As a result, Mr. Speaker, more and more Americans find that home ownership has become an unreachable goal. NAHB notes that over the last 15 years, the home ownership rate for households headed by 30- to 34-year olds, has dropped 11 percentage points. Now, the nationwide credit crunch assures that even more of our citizens will be denied an opportunity to achieve the American dream—home ownership.

The intent of the legislation I am introducing today is to create a temporary Government-sponsored enterprise that will make available funds to lending institutions that now find it difficult to lend because of increased capital standards and regulatory burdens.

My bill would enable homebuilders to construct homes for low- to moderate-income families—under guidelines set up by State Housing Authorities, provide small businesses access to funds for bridge loans of up to 2 years and provide funds without creating massive additional Government and regulation. The legislation would make guidelines clear and easy to understand without creating a regulatory nightmare for the Office of Thrift Supervision, the Office of the Comptroller of the Currency and the National Credit Union Administration.

Mr. Speaker, this legislation, designed to sunset 5 years after its creation, would establish a corporation chartered by the Federal Government as a Government-sponsored enterprise whose function is to purchase or guarantee loans and facilitate their packaging into pools for sale to institutional investors. Its purpose is to increase the availability of long-term credit to residential homebuilders and other small businesses at stable interest rates; to provide greater liquidity and lending capacity in extending credit to residential homebuilders and other small businesses; and to provide an arrangement for new lending to facilitate capital market investments in providing long-term small business funding, including funds at fixed rates of interest; and to enhance the ability of residential homebuilders and other small businesses to obtain financing by improving the distribution of mortgage financing and acquisition and development financing, particularly from institutional investors.

The sunset GSE would be funded by a $1.5 billion initial appropriation. Capital stock would then be sold to repay the U.S. Treasury with interest. Lending institutions receiving funds from the GSE, working in conjunction with the appropriate State Housing Authorities—which would establish guidelines and qualify buyers—would lend to homebuilders and small businesses, earning a percentage for administration of the loan.

The intent of this legislation is not to take over the role of Federal savings banks and commercial banks, but to provide a sunset GSE (5 years) to allow these financial institutions to work their way through the forest of regulatory burdens, while maintaining that all-important business relationship.

This legislation is a homeowners bill, a homebuilders bill, a jobs bill. And it is drafted to ensure that the ever-tightening safety net is not stretched further.

Mr. Speaker, I believe that this legislative attempt to alleviate the credit crunch and spur employment and growth by homebuilders and small businesses is deserving of support by this body. I would urge my colleagues to join me as a cosponsor of this important legislation.

TRIBUTE TO THE HOLGATE LIONS CLUB

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. GILLMOR. Mr. Speaker, I want to take this opportunity to pay tribute to the Holgate Lions Club, a distinguished organization in the congressional district I represent.

On October 24, 1992, the Holgate Lions Club will celebrate its 50th anniversary. Lions Clubs have been a valued mainstay of the American tradition for generations. In cities and towns across the country, Lions Clubs provide commendable leadership for our communities. They represent the cherished idea that we are free to assemble, speak our minds, and that with this freedom comes the duty to serve our fellow man.

The Holgate Lions Club is no exception to this fine tradition. As the members of the club celebrate this auspicious anniversary, they should feel the pride that comes with being a part of a Henry County institution with a distinguished history.

Mr. Speaker, I hope my colleagues here in the House will join me in congratulating the Holgate Lions Club and commending its members for the many good deeds they have done over the years.

QUESTIONABLE EFFECTS OF CFC

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. CRANE. Mr. Speaker, I would like to bring to your attention an issue of great concern to me which is the questionable danger of chlorofluorocarbon [CFC] on the Earth's ozone layer. Columnist Alston Chase discussed this issue in a article highlighting Congressman William Dannemeyer's proposal for an investigation.

Since the Rowland-Molina theory in 1973, CFC products, especially refrigerators, have been banned throughout the world and complete extinction of the product is expected by the year 2000, unless Mr. DANNEMEYER'S inquiry is taken seriously. The best replacement for CFC in refrigerators is a product called HFC 134A, which costs much more than the original product. I believe it is imperative that an investigation be conducted to verify the questionable effects of CFC. If not, the ban could result in a complete waste of money for consumers. The following article by Mr. Chase further explains the CFC issue. I recommend it as must reading to my colleagues.

[From the Washington Post]

HEAT IS ON FOR WORLD'S FRIDGES

(Alston Chase)

Life is filled with coincidence. Recently, California Rep. William Dannemeyer introduced a resolution calling for a presidential commission to investigate nagging questions about the role that chlorofluorocarbons—the chemicals used in refrigerators—play in depleting stratospheric ozone.

And as bad luck would have it, not long before Mr. Dannemeyer introduced his proposal, my refrigerator went on the fritz. One moment the raspberries in the freezer were hard as marbles. The next instant they were a dripping mass of jam. The fridge will cost several hundred dollars to fix. But we are lucky. At least this machine, which ran faithfully since my wife and I married in 1964, had the foresight to go kaput before 1995. After that date, repair will cost hundreds of dollars more.

Refrigeration will be more expensive because in 1987 the United States signed the United Nations Montreal Protocol, calling for a ban on the production of CFCs by the year 2000. And last February, the Senate accelerated this timetable. Frightened by NASA reports, which turned out to be false, that an "ozone hole" was forming over the Arctic, it passed a resolution introduced by Sen. Al Gore and accepted by President Bush mandating an end to CFC manufacture by 1995.

The best known replacement for CFC refrigerators—HFC 134A—is five times costlier and requires elaborate new machines whose life expectancies are three to seven years, as compared with 30 years for earlier equipment.

The worldwide cost of going cold turkey on CFCs is estimated to be a staggering $5 trillion. It will require scrapping 610 million refrigerators and freezers, 120 million cold storage lockers, 100 million refrigerator trucks and train cars, and 150 million car air conditioners. According to some estimates, 20 million to 40 million people may die in Third World countries each year from lack of proper refrigeration.

Given these costs, we should be certain that CFCs are hazardous before they are scrapped. But we are not. Rather, serious scientific questions remain.

The idea that CFCs cause ozone depletion is a hypothesis, not a fact. Conceived by chemists F. Sherwood Rowland and Mario Molina in 1973, this theory suggests that CFCs are transported into the stratosphere, where sunlight breaks them down into chlorine atoms. The chlorine destroys the ozone layer, which filters ultraviolet (UV) radiation from the sun, thus exposing people to more rays and increasing risks of skin cancer.

This theory gained currency after the National Aeronautics and Space Administration "discovered" the Antarctic ozone hole (discovered long ago but hitherto ignored) in 1985. In 1988, it was endorsed both by NASA's "Ozone Trends Panel" and by Mr. Gore, who chairs the subcommittee that oversees NASA activities. That year, the panel's "Executive Summary" claimed ozone had decreased 2 percent to 3 percent from 1969 to 1986, and blamed CFCs for the decline. But data supporting these conclusions were not released until December 1990, nine months after the United States had agreed to more stringent revisions of the Montreal Protocol.

Now that independent scientists have had the chance to study these data, many are asking questions. They find that the facts don't confirm the Rowland-Molina theory. They wonder:

Why worry about the 7,500 tons of chlorine annually produced by CFCs, when volcanoes emit 36 million tons of it each year?

Why, when stratospheric ozone levels today are what they were in 1962, do government scientists say there is a decline? Historical data show that ozone levels fluctuate wildly, paralleling 11-year sunspot cycles. NASA can show a negative trend only by comparing present levels with those in 1970, when sunspot activity (and ozone concentrations) had peaked.

Why were ozone holes observed in the past, long before CFCs were common? A Cambridge University study done in Norway from 1926 to 1945 found ozone concentrations below those later found in the Antarctic ozone hole. Similarly, the smallest amounts ever recorded in the Antarctic were made by French scientists in 1958.

Why is ultraviolet radiation declining instead of increasing? According to NASA, UV radiation should have increased a whopping 6 percent since 1969. But a 1988 study by the National Cancer Institute found an actual decrease in ground levels of UV radiation during this period.

How dangerous is the predicted rise in ultraviolet radiation really? According to NASA's worst-case scenario—that CFC production remains at 1976 levels—radiation would peak at 20 percent above what it is today. But as exposure to these rays is also 1 percent higher for every six miles one lives closer to the equator, this predicted increase is less than one would experience by moving from San Francisco to Carmel, Calif.

These doubts are among reasons why Congress should support Mr. Dannemeyer's call for a presidential inquiry. The ozone issue has been good for Mr. Gore, who may parlay it—and other environmental scare stories—into the vice presidency. But it may not be so good for America. Rather, by putting politics ahead of science, we may have sold our birthright for a $5 trillion mess of unrefrigerated pottage.

WOMEN AND MINORITIES IN SCIENCE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. GREEN of New York. Mr. Speaker, on September 16, 1992, Representative TIM VALENTINE and I sponsored a briefing on the status of women and minorities in science. I am pleased to commend to my colleagues the statement of a panelist at that briefing, Dr. Shirley Malcom, head of the Directorate for Education and Human Resources of the American Association for the Advancement of Science:

STATEMENT OF DR. SHIRLEY MALCOM

Providing an overview of the status of women and minorities in science and engineering means telling a "good news/bad news" story.

The reality of participation in S/E fields has shifted considerably over the past decade and a half. The overall proportions of women in science and engineering are growing. Women have increased their proportions of degree recipients at the bachelors, masters and doctoral level in all fields of science and engineering over mid-1970's levels.

Using trend data from the Commission on Professionals in Science and Engineering, we find that women have gone from receiving 20 percent of life sciences PhDs awarded to U.S. citizens by U.S. universities in 1975 to around 36 percent in the 1990's, from 7 to 21 percent of physical science PhDs; and from 2 to 14 percent of engineering PhDs.

The good news of rising participation by women in science and engineering is tempered by the reality of their continued underrepresentation in these fields (a "shift in share" of degrees takes a long time) and by the continuing challenges they face in advancement, (achieving promotion and tenure, positions of authority and power), treatment within the professions, salaries and workplace climate.

While we count as good news the increasing attention to minorities in science and engineering issues and the expansion of federal program options to address these, the bad news predominates. There has been little real growth in the overall degree production picture in the sciences and engineering for American Indians, Blacks and Hispanics. Blacks received 2.85 percent of bachelors degrees awarded in engineering in 1978–79 and 4.0 percent of such degrees in 1990. That is real growth of which the minorities in engineering effort can take real pride, but these numbers have been hard fought and hard to achieve. Hispanics received 1.78 percent of bachelors degrees in computer/information sciences in 1978–79, and by 1990 this proportion had grown to 2.9 percent. While these are gains to be celebrated, we have yet to see the flow through in real increases at the PhD level—the level from which we must draw the pool of faculty and researchers. Here percentages must give way to discussions of real numbers:

5: PhDs in mathematics and computer sciences to Blacks in 1990.

39: PhDs in engineering to Hispanic U.S. citizens in 1990.

46: PhDs in the life sciences to Blacks in 1990.

18: PhDs in psychology to American Indians in 1990.

And this is the product of all U.S. universities.

Many people believe that minorities are opting out of the basic sciences and engineering at doctoral levels to pursue professional degrees.

It is true that the number of minorities in medicine, for example, are higher than for the sciences, but even here, minorities remain underrepresented Blacks increased their percentages of MD degrees from 5 percent of total in 1975 to 6 percent of total in 1991. American Indians/Alaskan Natives increased their share of MDs from 0.2 to 0.3 in the same timeframe; Mexicans American grew from 0.9 to 1.7 percent of MDs and Puerto Ricans from 0.2 to 0.7 percent of MDs.

This is hardly the level of representation we will need as a country to serve the health needs of these communities, the needs to involve minorities in fundamental biomedical research, the need to have minorities who can serve as faculty and be role models and mentors to the next (and hopefully, growing number) generation of students working in the biomedical arena.

We have not been able to really move the numbers of minorities in science, engineering or medicine in the same way as we have seen the growth in participation by women. This is due to many factors, including old problems of the cost of education and the quality of pre-college preparation. We all understand that lack of opportunity to take challenging mathematics and science courses and to be educated by excellent teachers who expect that these students can learn present real problems in the pipeline.

We should be able to expect that systemic efforts being undertaken nationwide to improve the quality of K–12 science and mathematics education address these "excellence and equity" issues explicitly.

We know the fallout from our failures to address these issues: a tremendous loss of talent when young people are deprived and unfairly excluded from the opportunity to be part of the scientific and technological fields they might choose; and a loss to the scientific and technological fields of the talent, different experiences and insights, and multiple contexts these young people might provide.

In the Education reform we seek in science and mathematics, we must go after equity and excellence at the same time and plan to achieve both without sacrificing either.

But our problems are not just those of the K–12 system. Even if we graduate students from high school with science and engineering interests intact, we send them off to our colleges and universities to uncertain futures, where they may not find the nurturing and mentoring they need.

In the late 1980's AAAS received funding from the National Science Foundation to conduct a study of programs, policies and practices which might support the participation of students from underrepresented groups in the sciences and engineering. Over 500 higher education institutions were surveyed and some 250 provided information for this study (reported in Investing in Human Potential: Science and Engineering at the Crossroads by Marsha Lakes Matyas and Shirley M. Malcom). While the amount of data which emanated from this study was vast there are several pieces which should be highlighted here: the inability of most colleges and universities to provide even basic data on the demographics and status of science and engineering students at any level in the pipeline; lack of basic graduation and attrition data for S/E students; reliance on isolated project based interventions as opposed to structural or systemic approaches.

It is very difficult to design systems to support the movement of minority and women students into S/E fields if we do not understand where they are lost.

The lack of fundamental information about the movement of students into and out of science and engineering will hamper any efforts by colleges and universities to affect their recruitment and retention practices on behalf of *any* students.

Based on our analysis we proposed a structural approach to addressing these issues of recruitment and retention in our colleges and universities and contended that federal policy, especially in its structure for supporting R&D in colleges and universities, could play a catalytic role in promoting this change. This would include:

Strengthening the research capability of institutions with proven records of developing students in science and engineering from underrepresented groups, such as minority institutions and women's colleges;

Providing scholarship support for students from underrepresented groups to encourage participation and retention in S/E fields, especially for students who indicate an early commitment to graduate education;

Examining the relative effectiveness of institutional and portable sources of graduate support for students from underrepresented groups and torque the federal investment toward the more effective structure;

Closer monitoring of patterns of support for students being funded through assistantships tied to research grants;

Using program access by underrepresented groups as a major criterion in determining the award of grants for major research centers to maximize federal investment;

Encouraging enhanced collection of data and indicators of participation by underrepresented groups. This can be done by requiring that certain data be provided with submission of major proposals;

Providing support for a range of program structures and for the dissemination of the most effective of these; shifting funding from isolated projects to institution-wide coordinated efforts that can affect structural change.

So what is the bottom line?

We've come a long way toward realizing increased participation for women in science and engineering. We've come a little way in increasing minority participation for some groups, in some fields and at some levels. We've come a much longer way in understanding the nature of the change process that must occur.

We have yet to tackle and solve the advancement and career climate and structure issues for either women or minorities. Our policies and programs are not aligned so that research, education and human resources goals are consistent.

Clearly we have our work cut out for us.

U.S. ARMS CONTROL POLICY IN THE POST COLD WAR ERA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. FASCELL. Mr. Speaker, the world has changed dramatically in the past few years. We have seen the fall of the Berlin Wall, the breakup of the Warsaw Pact, the collapse of the Soviet Union, the emergence of ethnic strife in Eastern Europe, and political and economic breakdown in the new Republics of the Commonwealth of Independent States.

These changes have effected new and significant developments in our arms control relationship with the former Soviet Union, in particular, and with the world, in general.

To meet these changes, a comprehensive arms control policy is sorely needed, not only to manage the emerging new world order, but to prevent it from turning into disorder and disarray.

During my tenure in Congress—particularly over the last 10 years—I have attempted to shape this country's approach to arms control by participating in, and in many cases, leading the fight to implement a comprehensive arms control policy.

This comprehensive arms control policy has many elements—some have been implemented by the current President, some were a long time in coming, and still some await implementation.

These elements include: deep reductions in strategic arsenals; an end to fissile material production and safe disposal of fissile material; a comprehensive nuclear test ban; a worldwide ban on chemical weapons; conventional arms control; controls on strategic defense systems; enhanced nonproliferation regimes; and concrete implementation of disarmament activities.

STRATEGIC REDUCTIONS

Over the years, many in the Congress have been urging the administration to negotiate deeper reductions in strategic nuclear weapons at the Strategic Arms Reduction Talks [START] in Geneva—deeper than the administration was prepared to discuss. Given the changing situation in the former Soviet Union—namely the dissolution of our former enemy and main reason for United States production of nuclear weapons in such vast numbers—the House passed the fiscal year 1993 Defense authorization bill in early June, which called for phased reductions in nuclear arsenals worldwide.

Specifically, the House language called for: First, United States-Russian reductions in their strategic nuclear arsenals down to a level between 2,500–4,700; second, further United States-Russian reductions down to a level between 1,000–2,000, with lower levels negotiated for the United Kingdom, France and China; and third, stage-by-stage reductions in the number of nuclear weapons in all countries.

Following the House action, Presidents Bush and Yeltsin finally agreed at the June summit to deeper cuts in their strategic nuclear arsenal that went well beyond the START Treaty signed last year and the Bush and Yeltsin Proposals of earlier this year. From the current level of roughly 10,000 strategic nuclear weapons on both sides, the United States and Russia will reduce down to a range between 3,800–4,250 strategic nuclear weapons by the year 1999 and to a level between 3,000–3,500 by the year 2003.

From 10,000 nuclear weapons to 3,000–3,500 is no small feat. Such reductions are a recognition by the two countries with the world's largest nuclear arsenals, that nuclear weapons are ceasing to have such value. The ability to destroy the world 10 times over is just that—overkill. There are many who argue that reducing our nuclear arsenal even further, to between 1,000–2,000 nuclear weapons, makes sound arms control sense. I hope we move in this direction. The recent Bush-Yeltsin agreement is a first step down this road.

Along these lines, the final Fiscal Year 93 Defense Authorization Conference Report included the United States policy goal of building on the Bush-Yeltsin June Summit agreement, by entering into multilateral negotiations with Russia, the United Kingdom, France, China, and other nuclear armed states to reach further reductions in the number of nuclear weapons in all countries. The conference report also requires an annual Presidential report on the actions taken by the United States and other countries to achieve these reductions and to ensure that United States assistance to securely transport, store, and dismantle former Soviet nuclear weapons and missiles is being properly and effectively utilized, et cetera.

FISSILE MATERIAL PRODUCTION BAN AND ULTIMATE DISPOSAL

As we implement reductions in our nuclear arsenals and are faced with the task of disposing of the fissile material from destroyed weapons, it makes eminent sense that we not produce more fissile material for new nuclear weapons.

Even without weapons reductions and eliminations, it made no sense to continue producing plutonium because the United States and the former Soviet Union have had a burgeoning stockpile of plutonium, about 100,000 kilograms each, with a half-life of 24,000 years.

Production of fissile material or access to such nuclear material is an integral part of making nuclear weapons. Without the fissile material, there can be no nuclear explosion. Therefore, it is incumbent on us to eliminate the production of this material in all countries, especially the emerging nuclear states.

A United States-Russian production ban would increase the political pressure on nuclear weapons states to halt their production and put their facilities under safeguards and on non-weapons states to forego the nuclear option.

For the past several years, the Congress has urged the President to enter into negotiations with the former Soviet Union to ban the production of fissile material for weapons purposes. The United States has not produced highly enriched uranium for nuclear weapons since 1964 and we have not produced plutonium for weapons purposes since 1988 because of the arms control, environmental and cost concerns of the Congress and the American people—and because we have so much plutonium. But the administration did not see the opportunity in our pause in production to negotiate with the former Soviet Union an end to their fissile material production for weapons purposes. But the Congress did.

In June, the House included in the fiscal year 1993 Defense authorization bill language again calling on the President to: First, engage the member States of the Commonwealth of Independent States in negotiations to end their fissile material production for weapons purposes, dismantle nuclear weapons, safeguard and permanently dispose of nuclear materials, extend this ban to a worldwide ban on the production of fissile material for weapons purposes, and engage in multilateral discussions on dismantlement, safeguard and disposal issues; second, report to the Congress on the progress of the negotiations and technical working groups established with other countries to examine and demonstrate cooperative technical monitoring and inspection arrangements for verifying the dismantlement of nuclear warheads and a ban on fissile material production; and third, use $10 million to carry out a program to develop technologies for the verifiable dismantlement of nuclear weapons, to safeguard and dispose of fissile material; and to develop reliable techniques and procedures for verifying a global ban on the production of fissile material for weapons purposes.

It was only after the House action that this administration finally saw one of its points of light when the President announced that the United States would not produce plutonium or highly enriched uranium for weapons purposes. However, the President has yet to make this a truly meaningful act by: First, calling on and negotiating with the Russians a verifiable end to their fissile material production for weapons purposes; and second, seeking a negotiated, verifiable worldwide ban on such production. The latter are two significant elements of a comprehensive arms control policy in the new world order.

The House and Senate have just completed their conference on the Fiscal Year 1993 Defense authorization bill and have agreed to include fissile material language described above in the final bill. Such action highlights the strong congressional leadership in this area, but we need the President to do his part.

As we dismantle nuclear weapons, either unilaterally or pursuant to arms control agreements, the fissile material needs to be disposed of in a safe manner. The Congress established several criteria to govern the transfer of aid to the former Soviet Union for the dismantlement of their nuclear and chemical weapons. One of the criterion states that the fissile material from destroyed nuclear weapons cannot be used in new nuclear weapons. United States-Russian discussions are underway to determine the ultimate disposition of this nuclear material. This matter is undergoing serious discussion in the U.S. Government and will be a matter for congressional input in the coming months.

COMPREHENSIVE NUCLEAR TEST BAN [CTB]

For the past several years, the House has stood firm in its support for a comprehensive test ban. Recognizing that the administration has not fulfilled prior commitments to undertake next steps with Russia to achieve nuclear testing limitations and a comprehensive test ban, the House again, by a vote of 237–167 on June 4, included language in the fiscal year 1993 Defense authorization bill calling for a 1-year moratorium on United States nuclear testing for as long as the former Soviet Union does not test. Our hope was that such action would be another demonstration of congressional resolve and would encourage the administration to move forward on nuclear testing limits, including negotiations with the Russians for a CTB.

The Senate subsequently overwhelmingly approved in its energy and water appropriations bill on August 3 by a vote of 68–26, language calling for a 9-month moratorium on United States nuclear testing, further limitations on nuclear testing, and no United States nuclear testing after September 30, 1996 unless Russia conducts such a test. The Senate followed this action by adopting a similar provision in the fiscal year 1993 Defense authorization bill by a vote to 55–40 on September 18.

With a vote of 224–151 on September 24, the House joined the Senate in approving language in the energy and water appropriations conference report that: First, halts nuclear testing for the next 9 months; second, allows no more than 5 tests for safety over the next 4 fiscal years, with no more than a total of 15 tests in the next 4 years; third, no nuclear testing after January 1, 1997, unless a foreign state conducts such a test; and fourth, requires a Presidential report to be submitted to the Congress each year on a schedule for resumption of nuclear testing talks with Russia and a plan for achieving a multilateral comprehensive ban on nuclear testing on or before January 1, 1997 unless a foreign state conducts such a nuclear test, etc.

In an overdue change of policy and in response to congressional action, President Bush signed the energy and water appropriations bill on October 2, thus laying the groundwork for true cooperation between the United States, Russia, and the world community for a multilateral comprehensive test ban.

An initial end to United States-Russian testing would highlight a recognition that the United States and Russia not only seek quantitative constraints on their respective nuclear arsenals, but qualitative constraints as well. In this way, the development and deployment of new generations of nuclear weapons would be constrained. Furthermore, a United States-Russian CTB would demonstrate a commitment on their part to ending the nuclear arms race. This would signal to the world community that the United States and Russia are taking concrete steps to implement article 6 of the NPT, which calls for signatories to the treaty on the Non-proliferation of Nuclear Weapons [NPT] to end the nuclear arms race and to disarm.

Many countries have made implementation of article 6 of the NPT the litmus test for extending the treaty at its Review Conference in 1995. The goal of the NPT—to curb and control weapons activities around the world—is a key element of the world's nuclear nonproliferation regime. This regime and the integrity of the NPT must be preserved and strengthened.

Russia has not conducted a nuclear test since October 1990 and has extended its moratorium on nuclear testing through the end of the year. France has announced a suspension of their nuclear testing for the rest of the year and has called on all nuclear powers to end nuclear testing. While many threshold nuclear States are reluctant to participate in regional nuclear test bans, they may be more readily willing to participate in a worldwide ban.

In spite of these developments and continued congressional pressure, the President was close to missing another opportunity to take the lead in ending nuclear testing around the world—until today. Nothing makes better arms control, nonproliferation, economic, and environmental sense. In fact, every President since Eisenhower, with the exception of President Reagan—and until now—President Bush, has supported a CTB.

CHEMICAL WEAPONS BAN

The United States and Russia have agreed to utilize $25 million of the $400 million authorized for Russian weapons disarmament purposes, for activities necessary to begin Russian destruction of their chemical weapons. This represents a continuation of my longstanding effort to bring about a verifiable program to eliminate chemical weapons—a key element of a comprehensive arms control policy.

The first multilateral arms control agreement to seek the total elimination of an entire category of weapons worldwide has been concluded in Geneva. It is known as the Chemical Weapons Convention [CWC]. It will be presented to the United Nations this fall by the U.N. Conference on Disarmament and then heads of state will hold a signing ceremony early in 1993.

CONVENTIONAL ARMS CONTROL

In May of last year, the House Foreign Affairs Committee adopted a conventional arms transfer restraint policy, calling for U.S. leadership in replacing the conventional arms race with arms restraint. The President's Middle East Arms Control Initiative was announced several days after the committee action.

Congressional efforts in this area culminated in the October 1991 enactment of Public Law 102–138 which calls on the President to negotiate a multilateral restraint regime with the four other major arms suppliers—Great Britain, France, Russia, and China. This congressional effort was meant to jump-start the process toward restraint, to challenge ourselves and the world community to work together to stem the flow of arms and promote lasting peace in the region.

After three rounds of talks, there has been some progress toward greater transparency and consultation among arms suppliers, as well as an agreement in principle to common guidelines. Nevertheless, arms sales continue at an alarming rate. Since the end of the Gulf war, there have already been over $20 billion in United States agreements, with over $10 billion being proposed by the Bush administration in September alone.

Many of us in the Congress remain unconvinced of the administrations' commitment to a restraint policy. We are concerned that selling arms for domestic and economic rather than foreign policy reasons will accelerate the Middle East arms race, work against the Middle East peace process, and thwart efforts to promote diplomatic rather than military solutions to regional disputes. As proliferation of conventional arms continues to be a major concern, conventional arms control remains an important element of a comprehensive approach to arms control.

CONTROLS ON STRATEGIC DEFENSES

Support for strategic defense research consistent with our treaty obligations and national security requirements, has been a longstanding element of a comprehensive arms control policy advocated by the Congress.

As far back as 1984, when President Reagan's strategic defense initiative [SDI] was getting underway, I issued a report on the adverse arms control and cost implications of SDI. These concerns remain today, and, if anything, have intensified.

Support for SDI was initially touted as a necessary hedge against Soviet breakout of the ABM Treaty. The ABM Treaty has been an effective inhibitor of an arms race in defensive systems between the United States and the former Soviet Union. With the dissolution of our former adversary, the original purpose of a multilayered SDI has also dissolved. Now the administration has found a new mission for SDI: to protect the United States against ballistic missile threats from other countries. The problem with this new mission is that there are currently no countries—other than the former Soviet Union—with the capability of attacking the United States with ballistic missiles. Such a threat is at least 10 years away according to administration testimony. A far better hedge against this kind of threat is to strengthen the nonproliferation regime.

NONPROLIFERATION AND DISARMAMENT

Increasing proliferation risks in the nuclear, chemical, and conventional areas are a major threat to stability in this new era. The emerging new world order demands a strong nonproliferation policy.

Through export controls, supplier guidelines, a strengthened NPT, a worldwide end to nuclear testing, a worldwide end to fissile material production for weapons purposes and the safe disposal of this fissile material, we can better reduce and then subsequently manage the serious proliferation risks we are facing.

We are entering a period of general disarmament, disarmament manifested in bilateral and multilateral arms control agreements, and unilateral action.

Last year, the Congress initiated this move toward disarmament by authorizing $400 million to destroy nuclear and chemical weapons of the former Soviet Union. We were all pleased that the executive branch overcame its initial opposition and is now an enthusiastic supporter of this effort.

This year, in approving its new aid bill for the former Soviet Union, the House Foreign Affairs Committee authorized a total of $940 million in nonproliferation and disarmament activities to destroy and control the proliferation of weapons of mass destruction. Included in the $940 million is the original Fascell-Broomfield initiative (H.R. 4549) establishing the Nonproliferation and Disarmament Fund which authorizes $100 million for nonproliferation and disarmament activities.

The Russian aid legislation also provides $40 million in defense moneys to support international nonproliferation activities such as the International Atomic Energy Agency and the United Nations Special Commission

[UNSCOM] on Iraq. Such support is a recognition of the crucial role of these agencies in the process of disarmament.

In assessing the Iraqi nuclear and chemical weapons situation in particular. Rolf Ekeus, Director of the U.N. Weapons Commission, highlights the importance of disarmament and arms control in general. He states that:

> The large amount of chemical weapons were not destroyed through bombing. Nothing of the research activities were really destroyed in the nuclear area. What has been destroyed is through the peaceful means of inspection. I would like to say that arms control has demonstrated that it is the way to destroy weapons and not through bombing and attacks.

In this regard, it is imperative that we support the United Nations and the International Atomic Energy Agency in their efforts to meet their responsibilities and the challenges of their charters, and most immediately to complete the task of disarming Iraq.

Moreover, it is imperative that we actively support the U.S. Arms Control and Disarmament Agency [ACDA] in its efforts to implement its mission and the challenges of its charter.

ACDA was created by the Congress in 1961 as a new agency of peace to deal with the problem of reduction and control of armaments looking toward ultimate world disarmament. According to the statute:

> Arms Control and disarmament policy, being an important aspect of foreign policy, must be consistent with national security policy as a whole. The formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security can best be insured by a central organization charged by statute with primary responsibility for this field.

In the emerging world order, nonproliferation and disarmament concerns will be primary. The management and implementation of these and the other elements of a comprehensive arms control policy will be enhanced by a strong bipartisan working relationship between the Congress and the executive branch.

ACDA has the mandate and an opportunity to play a leading role in this endeavor. The committee looks forward to supporting and working with ACDA in the months and years ahead to achieve a coordinated arms control, disarmament, and national security policy that enhances our security at a lower cost and lower risk to human survival.

IN HONOR OF FRANK AND FRANCES GUERRA CELEBRATING THEIR 70TH ANNIVERSARY ON NOVEMBER 25, 1992

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. PANETTA. Mr. Speaker, I rise today in honor of Frank and Frances Guerra who will be celebrating their 70th anniversary on November 25, 1992.

Frank was born January 17, 1901 in San Jose, CA. His wife, Frances M. Maita, was born February 25, 1905 in San Francisco, CA, where she later met and married Frank on November 25, 1922. After their wedding they moved together to Hollister, where they have lived and worked ever since. They gave birth to their first child, Anthony, August 29, 1923. The second, their daughter Josephine, was born October 28, 1925. They now have 4 grandchildren and 16 great-grandchildren.

In 1947, Frank started his own business, the Guerra Nut Shelling Co., with his brother, Carl and his son, Anthony. With hard work and dedication the business grew and has thrived ever since. Frank still goes to the Shelling Co. every day where he works with his son and daughter.

Frank and Frances have been longtime business and community leaders. They are also old family friends. I remember the days when my own father sold Frank walnuts from our grove. Like my own family, they are a family of Italian immigrants who came to this country to make a better life for themselves and their children. They valued family, community, and hard work. They are examples of the opportunities this country has to offer and of its people, who are dedicated to creating new frontiers for future generations.

Through the years, Frank and Frances have dedicated much time and energy to serving their community. In 1948, Frank ran for the Hollister City Council. He was elected and has served as vice mayor, police commissioner, airport commissioner, and pound commissioner. Frances has been and is still involved in children's services, and has given countless hours of dedicated service to this important organization. They have both worked hard to improve their communities, and we, the people of the 16th Congressional District of California, are deeply grateful for their contributions.

Mr. Speaker, I ask my colleagues to join me now in congratulating Frank and Frances on their 70th anniversary. Very few people are able to experience the kind of love and commitment that Frank and Frances have shared for so many years; their dedication to each other, to family, friends, and community is truly extraordinary. It is my sincere hope that they will share many more years of happiness together.

ELIMINATE FEDERAL MANDATES FOR ILLEGAL ALIENS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. DREIER of California. Mr. Speaker, today I am introducing H.R. 6098, which will eliminate Federal mandates that require States to provide benefits to illegal aliens. The Federal Government currently mandates that States provide a number of services to illegal aliens—including free health care and education—yet it fails to provide the necessary funds to carry out these expensive programs. Just because the Federal Government cannot afford to pay for special programs does not mean that it should impose that burden on the States.

Federal mandates for illegal alien benefits are one of the major problems facing my State of California as it attempts to deal with its current budget crisis. For example, under Medicaid—the cost of which is split 50–50 by the State and the Federal Government—the State must pay for the emergency health services of illegal aliens. As a result, many illegal aliens cross the border to go to emergency rooms in southern California for minor medical care, checkups, and to give birth to their children.

Like many States, health and welfare benefits make up approximately 75 percent of California's budget. A recent study by professors at San Diego State University conservatively estimated that California pays at least $15 million for illegal alien health care through its Medi-Cal program. Overall, the State pays around $27 million a year for illegal alien health care.

The Federal Government also requires that States take all children into the school system, from K–12. The study by San Diego State University says that this costs the State over $60.6 million annually. Colleges also charge out-of-State tuition to illegal aliens. It is highly ironic that schools can demand to know whether a student lives within the school district, yet they cannot inquire about one's immigration status.

H.R. 6098 eliminates the burdensome Federal mandates on States to provide these services; however, the States could continue to offer them if they wish to do so.

In addition, H.R. 6098 prohibits direct Federal financial benefits and unemployment benefits for illegal aliens. In a time when the Government has difficulty funding programs for its own citizens, benefit programs for illegal aliens are hard to justify. Illegal aliens are currently eligible for Federal housing, social services block grants, WIC programs, School Lunch and Breakfast programs, and Headstart. Although illegal aliens are not eligible for AFDC benefits, any children they have in the United States make them eligible. Mr. Speaker, I believe that if individuals are breaking the law by entering this country illegally, they should not be rewarded with financial and other benefits.

Mr. Speaker, the citizens of California and other border States are feeling overwhelmed by the influx of people pouring over the border illegally to take advantage of our generous benefit programs. Yet a problem arises when our cities cannot absorb these people, who end up living in abject poverty while straining our already scarce State and Federal resources. This legislation would alleviate the burden on States, and eliminate the perverse incentives that attract illegal immigration to the United States. I ask my colleagues to join me in supporting this legislation, which will help put an end to this growing crisis.

IMPROVING CHILD SUPPORT ENFORCEMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. MAZZOLI. Mr. Speaker, on September 30, 1992, the House Judiciary Committee, on which I am proud to serve, unanimously approved a measure to improve child support collection. I hope the House acts expeditiously on this bill and sends it to the President for his signature.

During Committee consideration, I took the opportunity to express my strong support for the legislation. The text of my remarks follow:

STATEMENT OF REPRESENTATIVE ROMANO L. MAZZOLI

Mr. Chairman, I am pleased to support H.R. 5304, legislation that would prohibit state courts from modifying a child support order issued in another state.

I commend the gentleman from Massachusetts, Mr. FRANK, for his work on this legislation. The Committee's consideration of H.R. 5304 keeps the issue of child support in the forefront—its rightful place.

The need for uniformity in setting child support orders across state lines is a topic that was included in the report recently completed by the U.S. Commission on Interstate Child Support. H.R. 5304, I understand, would facilitate enforcement among states by requiring the appropriate authorities in each state to enforce the child support orders of sister states.

Mr. Chairman, on an increasing basis, I receive telephone calls and letters from Louisville and Jefferson County residents who are experiencing difficulty with obtaining their child support payments. Jefferson County Attorney Michael Conliffe, who is charged with enforcing child support orders in my community, has made progress in tackling what can be a very daunting challenge. However, much needs to be done and H.R. 5304 will help build on gains made in the collection of child support.

I was proud to cosponsor and to lend my support for H.R. 1241, the Child Support Enforcement Act of 1992, which this Committee and the House approved. Likewise, I support H.R. 5304 and I urge my colleagues to do the same.

TRIBUTE TO THE HONORABLE LUCILE MEADOWS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. RAHALL. Mr. Speaker, today, I want to recognize an individual who has contributed much of her time and efforts to being a servant of the public. The Honorable Lucile S. Meadows, delegate in the West Virginia House of Delegates, appointed to the House of Delegates in December 1990 and retired from the West Virginia House of Delegates after completing one term, representing the 24th Delegate District of the State West Virginia.

During Lucile's service in the House of Delegates, she was instrumental in the adoption of the resolution to rename the Cotton Hill Bridge in Fayette County, to the Charles C. Rogers Bridge in honor of Major General Rogers, an African-American from Fayette County, who was awarded the Congressional Medal of Honor for his valor in Vietnam.

Prior to Lucile's service in the West Virginia House of Delegates, she was a teacher and principal in the Fayette County School System and active in the National Education Association as well as the West Virginia Education Association. She is the recipient of numerous awards, including the Martin Luther King, Jr. West Virginia Holiday Commission's Living the Dream Award.

I, along with the citizens of the Fayette County community, have benefited greatly from Lucile's efforts. Lucile's service in the Fayette County community and throughout West Virginia has brought her to the forefront of many issues.

Lucile continues to remain active in various political and nonpolitical organizations, the West Virginia Federation of Democratic Women, Fayette County Black Caucus, and the NAACP to name a few.

TRIBUTE TO THE UNIVERSITY OF CHICAGO

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. LIPINSKI. Mr. Speaker, I am pleased to rise today to recognize the University of Chicago on its centennial anniversary. The University of Chicago is one of the most outstanding universities in the United States.

Most of the world's respected universities are older than the University of Chicago. Oxford and Cambridge have existed for 800 years. Harvard was established three and a half centuries ago. Yet in the last 100, the University of Chicago has established itself as one of the world's greatest academic institutions. Its alumni and faculty have included 61 Nobel laureates—more than any other university.

University of Chicago's first president, William Rainey Harper, arrived in Chicago to create a university like none other. He wanted to balance rigorous research by faculty with a rich liberal arts education for students. His school would be one that would nurture both current and future scholars. With his vision, the University of Chicago has grown to be the respected institution it is today.

As the University of Chicago celebrates its anniversary, I commend the students, faculty, and alumni. We are proud to have a university in the State of Illinois that has contributed so much to the city of Chicago, the State of Illinois, the Nation, and our world. I know my colleagues join me in wishing the University of Chicago family all the best. I know we will celebrate many more achievements in the years to come.

WORLDWIDE ELIMINATION OF CHEMICAL WEAPONS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. FASCELL. Mr. Speaker, The first multilateral arms control agreement to seek the total elimination of an entire category of weapons worldwide has been concluded in Geneva. It is known as the Chemical Weapons Convention [CWC]. It will be presented to the United Nations this fall by the U.N. Conference on Disarmament and then heads of state will hold a signing ceremony early in 1993.

The successful conclusion of the Chemical Weapons Convention [CWC] and the achievement of universal adherence to the CWC will usher in a 21st century free of chemical weapons. That is why it is so important for the United States to continue to play a leadership role in eliminating chemical weapons worldwide and to recruit many other nations to work with the United States to make sure all nations adhere to the agreement. Success in concluding this final chapter on chemical weapons will depend on continued leadership from the United States and a comprehensive policy approach to the issue of chemical weapons.

Congress has been advocating a comprehensive policy approach to the chemical weapons issue for the last decade. Several aspects of this approach have involved heated struggle and disagreement between the legislative and executive branches. Now, however, there appears to be a broad consensus that progress in all aspects of this comprehensive approach is the only way to achieve the objective of total elimination of chemical weapons. The comprehensive approach on chemical weapons includes:

Support for a worldwide agreement to ban the use, transfer, and production of chemical weapons and totally eliminate them.

The Chemical Weapons Convention [CWC] is the first multilateral arms control agreement to outlaw an entire category of weapons of mass destruction. Forty nations at the U.N. Conference on Disarmament in Geneva have reached agreement this past August to prohibit the use, production, storage, and transfer of chemical weapons while also providing for their destruction.

The U.S. House of Representatives expressed its direct interest in the Chemical Weapons Convention negotiations when it appointed four Members of the House of Representatives, H. MARTIN LANCASTER, WAYNE OWENS, JOHN EDWARD PORTER, JOEL HEFLEY, to be observers to the Geneva chemical weapons negotiations. Representative MARTIN LANCASTER visited the negotiations several times, wrote several editorials proposing ways of advancing the negotiations—notably September 12, 1990 and April 7, 1992 editorials in the Christian Science Monitor and September 1992 editorial in the Washington Post—and sent letters to the President and administration officials offering his observations and recommendations regarding the negotiations. As chairman of the House Committee on Foreign Affairs, I have followed the negotiations closely and I have also written several editorials—notably in the Christian Science Monitor, June 20, 1990 and Washington Post, April 14, 1992—proposing possible solutions to CWC negotiating problems. I have also sent policy letters to the Secretary of State and the Director of the Arms Control and Disarmament Agency offering my analysis and recommendations regarding the CWC negotiations always emphasizing the continued importance of U.S. leadership at the negotiating table.

No new U.S. production of chemical weapons, particularly binary chemical weapons.

President Nixon halted chemical weapon production in 1969 and President Reagan attempted to restart chemical weapon production at the beginning of his Presidency. For a decade the House of Representatives took a position of no new production and also specifically opposed the production of new binary chemical weapons. The House of Representatives finally convinced the executive branch of the foreign policy logic, arms control rationale, and good common sense of its position opposing the production of new binary chemical weapons. The House of Representatives prevailed in its argument that it was foolish to spend billions on new chemical weapons that were: technically flawed; rejected by our NATO allies; militarily useless; and morally repugnant. Congressional action effectively stopped a new generation of chemical weapons from being produced and deployed, thereby contributing to a policy focused on the elimination, not the production, of chemical weapons.

From 1980–90 there were key votes annually in the House of Representatives on the administration's proposal to begin production of new chemical weapons. Those votes were normally recorded as amendments or policy language in the Department of Defense authorization bills. Extensive GAO investigation of the binary chemical weapon program uncovered numerous flaws in the development and testing of these new weapons, seriously questioning their ultimate utility (GAO/PEMD–86–12BR). The proposed production of these new binary chemical weapons had serious foreign policy and arms control implications and, therefore, as chairman of the House Foreign Affairs Committee, I followed and opposed their production and frequently reported on their status—CONGRESSIONAL RECORD, Sept. 22, 1990, H7486; Nov. 10. 1988, E3767—held press conferences—June 11, 1986, Washington Post—and wrote editorials—Washington Post, June 17, 1985; Christian Science Monitor, May 21, 1986 with Representative JOHN EDWARD PORTER—arguing against their production.

Support for enhanced chemical weapons defense.

One unusual feature of chemical weapons is that there have been few, if any, times when their use has been either decisive in battle or decisively beneficial to the user. That is why adequate chemical weapons defense combined with an effectively verifiable chemical weapons ban is the most effective deterrent against chemical weapons use, not maintenance of a massive chemical weapons stockpile. Support for strong, well-funded chemical weapon defense was always part of the comprehensive chemical weapons policy that I supported in the House of Representatives. Several GAO investigations were conducted to determine the quality of U.S. chemical weapons defense and to recommend ways to improve these defenses (GAO/IPE–83–6, GAO/PEMD–86–11).

Enactment of chemical weapons sanctions legislation and support for other nonproliferation efforts.

The U.S. House of Representatives has legislated country specific chemical weapons sanctions against Iraq on September 27, 1988, H.R. 5337 and now against Iran in the Department of Defense authorization conference report for fiscal year 1993 which will be sent by the House and Senate to the President in October 1992. The House of Representatives also passed legislation to sanction chemical weapons activity worldwide and tighten U.S. export controls, H.R. 3033 on November 13, 1989, and this was finally enacted as Public Law 102–138.

Funding for chemical weapons destruction in the United States, Russia, and elsewhere.

The House of Representatives has consistently funded the U.S. chemical weapon demilitarization at significant levels. In addition, the House has recently legislated funding for a nonproliferation and disarmament fund to generate chemical weapon destruction not only in the former Soviet Union but elsewhere. The original nonproliferation and disarmament fund, H.R. 4549, was passed in the Committee on Foreign Affairs on March 11, 1992 and incorporated into the Freedom Support Act, H.R. 4547, which passed the House on August 6, 1992. The conference report of the Freedom Support Act will be send by the Congress in these last days of the 102d Congress to the President who has pledged to sign this measure into law.

THE FUTURE

There are many tasks left to be accomplished in order to reach the goal of a world free of chemical weapons in the 21st century. It is my hope that with continued, close cooperation between the Congress and the executive branch the United States will continue to play a leadership role to gain universal adherence to the Chemical Weapons Convention, to achieve a worldwide system of stringent chemical weapons export controls and sanctions, and to implement the Chemical Weapons Convention with an international regulatory administration to make sure that all aspects of the Chemical Weapons Convention are fully instituted and respected.

OPERATION GREEN ICE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. OXLEY. Mr. Speaker, last Monday Federal law enforcement officials announced a major victory in the war against international drug trafficking. The Cali cocaine cartel and the Italian Mafia were targeted in Operation Green Ice, a 3-year undercover investigation involving agencies in 8 nations; 153 people in 6 countries were arrested and $42 million and 1,100 pounds of cocaine were seized. Among those arrested were seven of the Colombian drug cartel's top money handlers.

It is my opinion that the success of Green Ice—possibly the most complex international money-laundering case ever attempted—was not adequately covered by the American press. Money laundering is the lifeblood of drug trafficking, and Colombia's most powerful cocaine cartel was dealt a devastating blow. But when it comes to drugs, apparently only bad news can be front page news.

I wish to commend Attorney General Barr, who authorized the investigation, and DEA Administrator Bonner, who oversaw it, for a job well done. I, for one, was quite impressed.

TRIBUTE TO WILL ED COVINGTON

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to a longtime friend, Will Ed Covington, a native of my hometown of Mayfield, KY, who died at age 85 last April 5 in Paradise Valley, AZ.

Will Ed Covington was a well-known, very popular Kentuckian who was admired by those who knew him.

I first met Will Ed Covington in 1945 when my father, the late Dr. Carroll Hubbard, was his pastor at First Baptist Church, Ashland, KY. During the 8 years my father was minister of the Ashland Church, two of his favorite members of the congregation were Will Ed Covington and his wife Charlene.

Will Ed Covington, who was appointed a Kentucky Colonel by former Governor A.B. Chandler, served as past president of the Ashland, KY, Rotary Club and was active in the First Baptist Church in Ashland for 30 years before moving to Arizona.

He also played football at the University of Kentucky and served as team captain his senior year.

Surviving are his wife, Charlene Covington; three daughters, Lucy McKenzie of Des Moines, IA, Suzanne Briganti of Annapolis, MD, and Kathy Weisel of Hudson, OH; a brother, Hunt Covington of Mayfield; a sister, Lucy Reminger of Fort Worth, TX; 10 grandchildren and 13 great-grandchildren.

My wife Carol and I extend our deepest sympathy to the Covington family.

CONGRATULATIONS, TAIWAN

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. SCHAEFER. Mr. Speaker, on October 10, 1992, the Republic of China celebrates its 81st National Day. I want to take this opportunity to congratulate Taiwan on its National Day, and to take note of its stunning achievements, especially in the economic sphere.

In 1959, Taiwan's per capita gross national product was about $120. By 1990, it was nearly $8,000 and is ranked 25th in the world. Disposable family income in Taiwan averages $20,000 per household, and continues to increase. This economic success would be remarkable for any country, but considering Taiwan's limited natural resources, this success is almost incredible. Clearly, Taiwan has industrious people and wise economic policymakers.

On Taiwan's 81st National Day, I rise to congratulate the leadership and people of the Republic of China on Taiwan and wish them further prosperity and progress.

TRIBUTE TO RETIREES OF THE STERLING HEIGHTS FIREFIGHTERS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to pay tribute to the 1992 retirees of the Sterling Heights Firefighters, of Local 1557.

Inspector Arthur Fernandez was hired as a pipeman on September 13, 1968, was promoted to sergeant on July 1, 1974, and promoted to fire inspector on June 11, 1990. Inspector Fernandez was named the Fire Department Employee of the Month in January 1988 for showing enthusiasm for his position throughout his career and for representing the fire department with pride in every assignment in which he participated. Also noted was the camaraderie he exhibited which had a positive effect on his fellow employees. During his career, Inspector Fernandez received many letters of thanks from citizens and organizations for the caring manner in which he carried out his service to the fire department. After a distinguished career, he retired on July 25, 1992. He and his wife, Kay, have three children and two stepchildren.

Capt. Jerry Dameron started his service with the Sterling Heights Fire Department as a pipeman on March 13, 1967. He was promoted to sergeant on July 24, 1972, and promoted to captain on September 22, 1990. Captain Dameron was honored by the Sterling Heights High School Key Club in 1982 for contributing outstanding services to the youth of the community and for raising funds for underprivileged members of the community. Others also recognized the contribution made by Captain Dameron who received numerous letters of thanks and appreciation from citizens and organizations for the caring manner he demonstrated at emergency scenes and the programs he participated in, especially as a CPR instructor. A graduate of Macomb Community College in 1976, Captain Dameron retired on September 19. He and his wife, Rosemary, have three children.

Inspector W. David Lopez joined the Sterling Heights Fire Department June 29, 1970, and served with distinction until his retirement on May 18, 1992. An acting sergeant for several years, Inspector Lopez was commended for his professional attitude. He was certified fire inspector by the State of Michigan Department of State Police Fire Marshal Division and presented numerous public education programs as firefighter and fire inspector. He is married to Vicky.

Lt. Thomas Wisniewski began his career with the Sterling Heights Fire Department on September 26, 1969, and was promoted to lieutenant on March 18, 1989. Lt. Wisniewski was known for his professionalism and his ability to communicate well with his fellow officers and firefighters. In August 1989, he was named the Fire Department Employee of the Month for continuing to demonstrate his dedication and loyalty to the department by supporting its functions and activities. It was noted in his commendation that Lt. Wisniewski's peers held him in high regard and respected his outstanding service. Even after having surgery on his back, Lt. Wisniewski continued to serve on limited duty. He is married to Loretta, is a strong force in the lives of his many nieces and nephews, and he retired from the department on September 30, 1991.

REFORM THE CHILD SUPPORT SYSTEM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. GINGRICH. Mr. Speaker, I recently received a touching letter from Winona Wadsworth about the flaws of the current child support system.

I urge my colleagues to read this letter and enact truly effective reform of the child support system so that we can assist America's single parent families, and Ms. Wadsworth and her children will receive the support which they need and deserve.

Lithia Springs, GA, July 17, 1992.

Hon. NEWT GINGRICH,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GINGRICH, the purpose of this letter is to state my opinion on the subject of Child Support.

I have been divorced for almost three years now and have custody of two children. The father is behind in child support (over $6,000) and now has stopped making any support payments at all. He stopped the children's medical insurance and I paid for this for over a year. He believes he has the privilege to make these payments when he chooses to do so and in the amount that he decides upon. He filed for divorce and he agreed to these amounts. I have yet to keep the children from seeing their Dad or spending extra time with him. He is the one that gets to take them to Six Flags, to Braves games, out to eat, etc. It was necessary to file a joint income tax return for the last year we were married even though we were divorced. He signed my name to IRS documents and did so without my knowledge and consent. He signed my name to the state and federal checks, cashed them, and I have yet to see a penny. I repeat, he did all of this without my knowledge. On several occasions he has forced his way into my home, ridiculed me in front of the children and physically attacked me.

We are now in the process of going to court because he has decided he wants custody of both children and wants me to pay child support. My attorney assures me that this will not happen and he will have to pay all back payments. But I am in doubt of this!

Where is the judicial system when it is needed? Where are the laws that protect the custodial parent from harassment and interference?

It is my strong belief that stricter laws need to be passed to ensure the well-being of children in such instances that I have just stated. I feel that I have been violated long enough. I am a victim caught up in the legal process of playing the "waiting game."

Where is the legal system when it is needed to protect the innocent?

Sincerely,

WINONA M. WADSWORTH.

A CONGRESSIONAL TRIBUTE TO THE METROPOLITAN STEVEDORE CO.—RECIPIENT OF THE 4TH ANNUAL SALUTE TO INDUSTRY AWARD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. ANDERSON. Mr. Speaker, on Friday, November 13, 1992, the Harbor Association of Industry & Commerce [HAIC] will honor the Metropolitan Stevedore Co. with the Salute to Industry Award. This prestigious award is presented to companies that provide outstanding service and significant economic contribution to the South Bay area. The Metropolitan Stevedore Co. and its president and CEO, Mr. Brian Harrison are truly deserving of this high honor. It is with great pride and pleasure that I rise today to pay tribute to this organization and my friend, Brian Harrison.

At the beginning of this century, the simplest ship's cargo required specialized handling and Metropolitan Stevedore Co. was there to provide this service. Founded in 1923 by seven men, Metropolitan Stevedore Co. has handled cargo for worldwide shipping lines and has become one of the principal cargo connectors for the ports of Los Angeles and Long Beach. Over the past 70 years, Metropolitan has grown to employ over 450 people, with an annual payroll that exceeds $85 million, making it one of South Bay's major employers. Metropolitan's revenues generate State, county, and local taxes in excess of $1.5 million.

Metropolitan is not a company to rest upon its laurels. It has grown and also kept pace with the many new advances in machinery this century has witnessed. Gantry cranes capable of moving 30 20-ton containers an hour have replaced the rope slings and two-wheel handcarts of years past. Additionally, one of the most sophisticated dual-loader dry bulk facilities is operated by Metropolitan. The stevedore's job has also been modified over the years, dockworkers must now be able to operate this high-speed equipment. Another indicator that Metropolitan has changed with the times, is that today women can be seen operating forklifts and driving trailer rigs next to their male counterparts.

In the course of a day, Metropolitan handles many diverse products and materials, ranging from bulk commodities, containers, and automobiles to citrus fruits, steel, and general cargo. In addition, Metropolitan is responsible for the dispatch of passengers and luggage of the cruise ships which dock in the harbor.

Metropolitan Stevedore Co. has long recognized that a clean, environmentally sound harbor is vital for their business and the country. Therefore, it comes as no surprise that Metropolitan has implemented procedures and invested in equipment that protect this very fragile environment. Air pollution controls that prevent dust particles from escaping into the atmosphere and specially designed settling tanks to prevent contamination of surrounding waters are but a few of the measures the company has taken.

The success of Metropolitan Stevedore Co. can be attributed to many factors, its dedicated employees, expert service, and my dear friend Mr. Brian Harrison, president and CEO. Born in Port Talbot, Great Britain, Brian became a naturalized citizen in 1959. Early on in his seafaring career, Mr. Harrison joined Associated Banning Co. as a stevedore superintendent. He brought a wealth of experience and knowledge to this position and when Associated Banning Co. was acquired by Metropolitan, he raced to the top of its ranks. He is a distinguished civic leader and an outstanding gentleman.

Mr. Speaker, my wife, Lee, joins me in extending this congressional salute to Metropolitan Stevedore Co. and Mr. Brian Harrison. An organization whose commitment to the betterment of the South Bay community has been demonstrated through its support of the Wilmington Boys and Girls Club, the Long Beach Boy Scouts, and the San Pedro and Peninsula Hospital. We wish Brian and the company all the best in the years to come.

TRIBUTE TO BOBBY CZYZ WORLD CRUISERWIEGHT CHAMPION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. ROE. Mr. Speaker, On Sunday, October 25, 1992, at 10 am World Cruiserweight Champion Bobby Czyz will be honored at Station Plaza in Pompton Lakes, NJ by the New Jersey Boxing Hall of Fame. His many friends and family will be on hand to honor and thank him for his worthy efforts on behalf of boxing in New Jersey and our Nation.

Bobby Czyz was born on February 10, 1962 in Orange, NJ. He is the son of Louise and Robert Czyz, Sr. and has two brothers and one sister. Bobby ran track and played basketball at Lakeland High School in Wanague, NJ. He then went on to great fame as one of the most skilled boxers in the world.

Bobby began boxing when he was 6 years old, eventually choosing the toughest profession in the world in which to make his living. Battling Bobby is a throwback to the brawling style of yesteryear, when he gets in the ring you can bet on an exciting night. As an amateur, he compiled a 24–2 record. He turned professional in 1980, knocking out Hank Whitmore in his debut.

Bobby quickly ran off a string of victories against Robert Sims, Elisha Obed, and Oscar Alvarado. He was outpointed by Mustafa Hamsho, suffering a broken hand in the process. Battling back through this and other misfortunes, he realized his dream when he squared off against IBF Light Heavyweight Champion Slobodan Kacar. Bobby won in the fifth round and was now a world champion. He held this title for over 1 year. In 1991, he won a 12-round decision over Robert Daniels to win the WBA Cruiserweight Championship, which he has successfully defended.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of Bobby Czyz, who has contributed so much to the quality of life of his fellow citizens. It gives me great pleasure in joining them to honor Bobby with this congressional salute.

TRIBUTE TO THE DELNICKY AMERICKY SOKOL MOVEMENT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to mark the occasion of the 100th anniversary of the Delnicky Americky Sokol movement. To commemorate this auspicious moment, a gala celebration will be held on Sunday, November 15, 1992.

The D.A. Sokol movement has a proud history based upon the philosophy of their "founding fathers" which promotes the ideals of "A Sound Mind In A Healthy Body." With their own resources, they initiated the building of Sokol gymnasiums, libraries, cultural centers and summer camps. Amateur theatricals, choral groups, lectures, and debates are as much a part of the training program for its membership as regular attendance at the gymnasium for physical activities.

Although their headquarters are located in Astoria, NY, the D.A. Sokol's membership hails from the Metropolitan New York City area, and extends across the entire United States. Further, since its original inception, the main effort of the membership has turned to participation of cooperative Sokol programs on an international scale.

At this time, I should like to join my colleagues in commending the Delnicky Americky Sokol movement for its dedication and contribution to their community and to the country. I extend my very best wishes on its 100th anniversary, and I wish D.A. Sokol many more years of success.

SCHOOL-BASED CHILDHOOD IMMUNIZATION PROGRAM ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mrs. SCHROEDER. Mr. Speaker, today, I am introducing the School-Based Childhood Immunization Program Act—one component of my three-pronged approach to fully immunize and protect children from major childhood illnesses, many of which we thought were eradicated long ago.

The first component involves KIDSNET (H.R. 3147) which I introduced last year. KIDSNET declares childhood immunization a national emergency, along with Head Start and WIC, so that under the terms of the budget agreement, all three can be fully funded by 1996.

Another component requires examining and dealing with the unrelenting and even ruthless drug company practice of balancing their profit margins on the backs of children. Drug companies are notorious for escalating prices beyond a reasonable and even generous profit. A Senate Aging Committee report found that prescription drug prices rose 152 percent in the 1980's, nearly three times the rate of general inflation.

For childhood immunizations, the rates of increase are even more startling: between 1980 and 1990, increases in the costs of both public and private sector vaccines ranged from 400 percent to 4,500 percent. To top it off, there are only one or two drug manufacturers who still produce and market the vaccines—leaving the American consumer and the Federal Government little choice.

The third component entails the bill I am introducing today, the School-Based Childhood Immunization Program Act, which would fund up to 10 school districts to establish the neighborhood school as the family friendly vaccination spot and would use school nurses to coordinate the community's immunization program.

Most States now require that all children be immunized in order to attend school. This has resulted in nearly universal immunization among school-age children. There are growing pockets of children however, whom we miss—migrant children, immigrant children, and a growing number of homeless children in urban, as well as rural and suburban communities, who are in school without full or adequate immunization.

The largest group of children at risk of contracting preventable childhood illness, such as measles, mumps, and whooping cough, are infants and preschool children. Three out of ten 2-year-olds are not adequately immunized. A recent assessment of preschool immunization levels in Colorado showed that only 61 percent of the children had received immunizations appropriate for them as they reached age 2.

As a result, the incidence of purely preventable childhood diseases, such as measles, is on the rise—some 30,000 children fell victim to measles in 1990, with the highest incidence in the unvaccinated preschool population. More children died of measles that year than in any other year since 1971.

Other countries manage to do much better. Immunization rates for preschool children against diphtheria, tetanus, and pertussis average 41 percent higher in many Western European nations than in the United States, and mean polio immunization rates are 67 percent above United States figures.

Even developing nations seem to have a leg up on the United States. UNICEF says the rates of immunization among infants in countries like Botswana and Brazil far surpass what the United States has been able to accomplish.

Reaching the unvaccinated population in the United States has been problematic for a variety of reasons. First, children cannot be reached if their parents have no access to the health care system. Over 9 million children have no health insurance. And, even when insurance is available, there is no guarantee that insurance will pay for the immunization. Fewer than half of conventional, employer-based insurance policies cover basic preventive services for children, such as immunization.

Nearly half of all immunizations are provided in the public sector at health departments or community health centers because the cost of immunization in the private physician's office has become prohibitive—especially when parents have no insurance. As a result, the public health sector has become overwhelmed. Long waiting lists for complete well-child exams, postponed appointments, and inconveniently located, understaffed clinics deter timely immunizations.

The administration's initial efforts were focused on several small Federal demonstration efforts through the Centers for Disease Control to reach unimmunized preschool children through other public programs, such as AFDC or WIC offices. This approach makes some sense. A recent survey of 600 parents of unvaccinated, vaccine-eligible preschool children with measles indicated that from 46 percent to 92 percent were enrolled in one or more public assistance programs, including AFDC, Medicaid, WIC, and Food Stamps.

But it should not be the only approach. Many unimmunized children don't participate or are not eligible for these Federal programs and will not be immunized through this route. A survey of four cities with the largest outbreaks of measles revealed that Hispanic preschool children who came down with measles were much less likely to be enrolled in Federal assistance programs than their black counterparts.

Not to mention how overwhelmed the staff already are at many of these programs, such as WIC. One of the CDC demonstration sites for improving access to immunizations—a WIC clinic in New York—initially had to turn away 150 children because no one was available to actually give the shots.

A serious provider shortage was one of the most significant barriers identified by the National Vaccine Advisory Committee. According to Assistant Secretary for Health Dr. James Mason, under ideal conditions, children would receive immunizations in the context of a comprehensive preventive health care visit, but "our system is not user friendly and misses many golden opportunities." In most circumstances, according to the Assistant Secretary, vaccines can be administered without physician evaluations. Nurses can screen for precautions and contraindications, refer kids at risk of complications to a physician, and vaccinate the rest.

Given the urgency of the crisis, the strain in the public health system, and even the total absence of physicians in some areas, we need to explore alternative providers and alternative locations.

My proposal does just that.

Public schools are still the only universally available institution for children in every community—the one central location all parents know about and can use despite their income or health insurance status.

This bill establishes an immunization program to be run by a school nurse in up to 10 schools in areas where immunization rates are lowest or the incidence of childhood communicable diseases is highest. Not only will the school nurse be available to immunize school children, they will be required to notify parents that vaccinations will be provided at school free of charge for infant and preschool siblings.

The bill also requires that the school nurse coordinate a community education program—working with county birth registries, health departments, community health centers, hospitals, and other groups to get the word out that immunization is important and that vaccines can be obtained readily at the local school.

For many children, school health programs become their only source of care and the school nurse their only contact with a health care provider. At the same time, the children seen by school nurses are increasingly coming to school with serious health problems that affect their ability to learn.

But because of State cutbacks in recent years, too few schools have their own school nurse and even fewer an organized school health program. In many instances, one school nurse may be juggling responsibilities for a multitude of schools with thousands of students.

Pittsburgh is one model program that employs school nurses to work in conjunction with community health centers to provide comprehensive services to the most vulnerable children. Teachers, nurses, and doctors are working together to detect problems, treat them and keep track of them through the child's school years, and make adjustments in the classroom.

The intent of this proposal is to establish a family friendly place where parents can bring all their children for the complete vaccination series, with no hassles, no medical bills, and less waiting. But the goal is also to reestablish the integrity of school health programs—like in Pittsburgh—and get school nurses back in the schools. For many children, this could mean the difference between good health and serious illness.

The administration's own advisors agree. A panel of business executives, labor leaders, and health care experts, appointed by Secretary of Health and Human Services, Dr. Louis Sullivan, has drafted recommendations for improving the Nation's health care system. The panel recommends a much larger role for clinics in schools, saying they should offer basic health care, including immunizations and screening to detect vision or hearing problems, to all children from infancy through sixth grade.

I urge my colleagues to support this approach. It is a small demonstration effort that will not solve the whole immunization crisis, but along with other CDC demonstrations, makes a step in the right direction.

Measles and whooping cough are warning signals that there is something seriously wrong with our health care system and we must work toward revamping the Nation's health care policy. But until Congress and the administration agree on major health care reform, we must take some action before an otherwise preventable childhood epidemic claims the lives of any more young children.

A fact sheet follows.

THE CRISIS IN CHILDHOOD IMMUNIZATION

PREVENTABLE CHILDHOOD DISEASES ON THE RISE

In 1990, nearly 27,000 cases of measles were reported, 17 times the all-time low number in 1983, resulting in almost 90 deaths; 80% of cases occurred in persons who were never vaccinated. Almost half (47%) of the 1990 cases were reported among preschool-age children. (Roper, 1991; National Vaccine Advisory Committee [NVAC], 1991).

Before falling to 6,000 in 1989, mumps cases increased 330% between 1985 and 1987 (from 2,982 to 12,848). (National Association of Children's Hospitals and Related Institutions [NACHRI], 1991).

In 1989, 4,157 cases of pertussis (whooping cough) were reported, up from 1,730 in 1980. However, due to significant underreporting, the number of whooping cough cases occurring annually may be as high as 30,000 to 125,000. (Centers for Disease Control [CDC], 1991; Sutter and Cochi, 1992).

Approximately 10,000 cases of hemophilus influenza type b meningitis, preventable with the Hib vaccine series, occur each year in children less than 18 months of age. More than 300,000 people in the U.S. become infected with hepatitis B each year; 30,000 of these cases occur in infants infected perinatally. This vaccine-preventable chronic infection leads to 5,000 deaths each year. (NACHRI, 1991).

Between 1989 and 1990, there was a nearly three-fold increase in the number of reported rubella cases (from 396 to 1,093). (Cooper, 1991).

In the Washington, D.C. metropolitan area in 1990, more than 500 children contracted preventable diseases, including measles, mumps, and whooping cough. (Metropolitan Washington Council of Governments [MWCG], 1991).

THE COST OF IMMUNIZATION SKYROCKETS BEYOND INFLATION

Between 1980 and 1990, public sector vaccine prices for the diphtheria, tetanus, and pertussis (DPT) vaccine alone increased by 4,500%. (National Vaccine Program, 1991).

About half of immunizations in the U.S. are delivered through the public sector; the other half through private physicians. In 1992, fully immunizing a child in a public health clinic cost $113.20 compared with the 1982 cost of $6.69. The 1992 estimated cost for fully immunizing a child in the private sector is $464.39, including physician office visits. (NACHRI, 1991; Report of the Interagency Committee on Immunization [RICI], 1992).

From 1979 to 1988, the cost of immunizing a child in Texas rose 566%. (Cooper, 1991).

CHILDHOOD DISEASE COSTLY/IMMUNIZATION PROVES COST EFFECTIVE

Every dollar spent on immunizations saves from $10 to $14 in later health care costs. (Select Committee on Children, Youth, and Families, 1990).

Hospital charges for children with measles admitted to 46 hospitals in 1988 averaged $3,761 per child. Total charges for hospitalizations or 400 children with whooping cough were over $2.5 million in 1988, compared to the approximately $37,000 it would have cost to immunize them. (NACHRI, 1991).

Recent outbreaks of measles in Dallas cost the city $650,000 in hospital and other related costs. It would have cost the city only $9,000 to fully immunize all of the city's children. (Cooper, 1991).

The cost of treating congenital rubella syndrome is $354,000 over a lifetime. (U.S. Department of Health and Human Services, 1990).

IMMUNIZATION RATES FAIL TO IMPROVE FOR INFANTS AND PRESCHOOLERS

One-fourth of all preschoolers and one-third of all poor children are not fully immunized. In a survey of nine major U.S. cities, no more than four in ten children were properly vaccinated by age 2. The percentages ranged from 10% in Houston, Texas, to 42% in El Paso. (NACHRI, 1991; CDC, 1992).

More than 50% of children ages 2 and younger in Washington, D.C., have not received proper immunizations. In surrounding communities, the percentage of children ages 2 and younger without adequate immunization ranged from 65% in Prince William County to 24% in Montgomery County. (MWCG, 1991).

U.S. IMMUNIZATION RATES WORSE THAN IN BOTH DEVELOPING AND INDUSTRIALIZED NATIONS

Immunization rates for preschool children against DTP average 41% higher in many Western European countries than in the United States, and mean polio immunization rates are 67% above U.S. figures. (Williams, 1990).

In 1985, 61% of U.S. preschool children were immunized against measles. Though this rate was higher than those of West Germany (50%) and France (55%), it was 30-50% lower than in Denmark, Norway, and the Netherlands. (Williams, 1990).

In 1988–1989, 16 countries, including Bulgaria, Hungary, Greece, Brazil, China, Mexico and Romania had higher infant immunization rates against polio than the U.S. Fifty-five nations, including Mexico, Brazil, Hungary, Romania, China, Iran and Botswana had higher rates than those for nonwhite infants in the U.S. (Children's Defense Fund, 1991).

MILLIONS OF CHILDREN LOSE OUT ON TIMELY VACCINATIONS BECAUSE OF INADEQUATE HEALTH CARE/FINANCIAL AND OTHER BARRIERS PERSIST

More than 6 million U.S. children do not have a source for obtaining routine care, and based on 1988 survey data, nearly one in five (12 million) did not make a visit for routine care within an appropriate time interval. Studies of unvaccinated children have shown that about one-third had one or more health care visits at which an opportunity was missed for vaccination. (St. Peter, Newacheck, and Halfon, 1992; RICI, 1992).

Over 9 million children have no health insurance, but even when insured, children do not receive vaccines because policies exclude coverage for basic preventive care; only 45% of employment-based, conventional health insurance programs and 62% of preferred-provider plans cover childhood immunizations. In 1989, 77% of pediatricians in direct patient care participated in the Medicaid program, down from 85% in 1978. (Partnership for Prevention, 1992; Yudokowsky, Carland, and Flint, 1990.

Half of the 54 immunization program managers surveyed in 1990 identified significant policy and resource barriers that limited access to vaccinations. Policy barriers included: immunizations available by appointment only (93%); requirements for physical examination prior to immunization (56%); need for physician referral in order to be vaccinated (41%); requirements for enrollment in well-baby clinics in order to be immunized (37%); and administration fees (22%). Resource problems included: insufficient clinic personnel (70%); inadequate clinic hours (56%); and too few clinic locations (15%). (NVAC, 1991).

MINORITY CHILDREN LESS LIKELY TO BE PROTECTED AGAINST MAJOR CHILDHOOD ILLNESSES

In 1990, African-American and Hispanic preschool children are at a four to seven-fold higher risk of measles than other preschool children. (Roper, 1991).

A California survey of kindergarten entrants revealed that 50% of white children were up-to-date on immunizations by their second birthday compared with only 32% of Hispanic children. In a Philadelphia survey of 18 predominantly Hispanic schools, only 30% of children with Hispanic surnames had completed the primary immunization series by age 2. (Delgado, 1991).

Almost one-third of Hispanic children and nearly half of African-American children are not covered by private or public health insurance compared with 17% of white children. (National Black Child Development Institute, 1991; Delgado, 1991).

COMMEMORATING THE SPRINGFIELD COMMISSION ON INTERNATIONAL VISITORS ON THEIR 30TH ANNIVERSARY

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. DURBIN. Mr. Speaker, I rise today to recognize and acknowledge the excellent work performed by the Springfield Commission on International Visitors upon its 30th anniversary. The commission has performed an invaluable service by bringing the visitors of the world to Springfield, and showing them all we have to offer.

In 1959, the city of Springfield was requested to assist international visitors traveling to the home of Abraham Lincoln to visit the Lincoln historical sites. The International Visitors Program of the U.S. Information Agency was created in 1961 and the Springfield Commission was established 1 year later. Members of this commission are appointed by the mayor, and serve a 3-year term. These civic minded citizens are homemakers and professionals, both active and retired. The Springfield Commission provides visitors with professional, community, and family experiences, which offer visitors insights into all aspects of American life.

The commission serves foreign visitors and students by contributing to their appreciation and understanding of the history and culture of our Nation, city and State, increasing Springfield's international reputation and further promoting greater international friendship and understanding. Operating in conjunction with the U.S. Agency on International Development and the U.S. Information Agency, the commission enables current and future foreign leaders to experience the varied social and cultural opportunities the heartland has to offer.

I would like to commend the mayor of Springfield, Ossie Langfelder, for his continued support of the commission. I would also like to commend the Springfield Commission's chairman, Mr. Darrell D. Carter, and the executive director, Ms. Keya Dennis, for their dedication to fostering greater understanding between Springfield and the rest of the world. The fine staff is supplemented by as many as 300 equally committed volunteers who assist over 1,800 visitors annually.

September was designated "International Visitor Month." Mr. Speaker, it is my pleasure to introduce a resolution to commemorate the anniversary of the commission and recognize the Springfield Commission on International Visitors, its volunteers, and its staff, on 30 years of exemplary service.

COUGHLIN CONSTITUENTS SUPPORT PRESIDENT'S INITIATIVES FOR HEALTH CARE, JUDICIAL REFORM, LAW ENFORCEMENT ASSISTANCE, AND HOME AND BUSINESS OWNERSHIP

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. COUGHLIN. Mr. Speaker, I would like to report to the House of Representatives the results of my annual constituent questionnaire.

In responding to my 1992 Annual Congressional Questionnaire, a significant number of respondents, 70.6 percent, supported a national health care system which would expand private health insurance to include all individuals over a system with the Federal Government as the sole provider and payor.

Similarly, a significant number of respondents, 74.3 percent, support the President's efforts to reduce court congestion by limiting the number of appeals allowed a convicted criminal and to assist law enforcement by permitting the use of evidence obtained in good faith without a search warrant.

More than two-thirds of those answering the questionnaire support President Bush's proposals to provide home and business ownership initiatives and job training for the Nation's urban poor as an alternative to current programs.

Also, an overwhelming majority, 88.7 percent, agreed with the President's proposal to limit plaintiffs' recoveries for pain and suffering and lawyers contingent fees.

A bare majority of respondents, when asked to established domestic spending priorities for the Federal Government, listed education, 56.6 percent, crime prevention, 52.8 percent, and health care, 51.4 percent, as the top three areas where the Federal Government needs to spend more money.

Similarly, my constituents overwhelmingly rejected increased Federal spending for welfare for the disadvantaged, 18.2 percent, housing, 28.35 percent, and urban renewal, 37.1 percent.

Nearly two-thirds of the residents of the 13th Congressional District indicated that they felt that congressional efforts to reduce the national budget deficit have failed and that they favored a constitutional amendment to require a balanced Federal budget.

Questionnaires were mailed in July to every household and postal box in Pennsylvania's 13th Congressional District, which includes 28 municipalities in Montgomery County and parts of three wards in the city of Philadelphia. More than 5,500 people responded to this summer's poll.

As in years past, I have provided the White House with the results of this year's questionnaire.

The following are the complete results from my 1992 annual questionnaire:

1. Budget restraints require establishing domestic spending priorities in addition to cuts in defense and foreign aid. Do we spend too much, not enough, or the right amount of your tax dollars on the following domestic programs:

	Percent
Crime prevention:	
Too much	9.2
Not enough	52.8
Right amount	38.0
Drug Abuse:	
Too much	21.2
Not enough	42.0
Right amount	36.8
Education:	
Too much	13.9
Not enough	56.6
Right amount	29.5
Environmental protection:	
Too much	14.8
Not enough	48.9
Right amount	36.3
Health care:	
Too much	18.7
Not enough	51.4
Right amount	29.9
Housing:	
Too much	28.35
Not enough	28.35
Right amount	43.3
Security for older Americans:	
Too much	16.4
Not enough	40.9
Right amount	42.7
Transportation:	
Too much	14.4
Not enough	47.3
Right amount	38.3
Urban renewal:	
Too much	24.6
Not enough	37.1
Right amount	38.3
Welfare for disadvantaged:	
Too much	44.9
Not enough	18.2
Right amount	36.9

2. Since various laws to reduce the budget deficit have failed because they can be waived by Congress, should there be a Constitutional amendment to require a balanced federal budget?

	Percent
Yes	71.8
No	28.2

3. Should Congress enact President Bush's education initiative which includes voluntary national testing of students, new, privately developed experimental schools, and vouchers to allow parents to choose among various public and private schools?

	Percent
Yes	46.3
No	53.7

4. Should Congress enact the Administration's proposals to provide home and business ownership initiatives and job training for the nation's urban poor as alternatives to current programs?

	Percent
Yes	76.7
No	23.3

5. Should Congress enact a national health care system by expanding private insurance coverage to include all individuals and businesses or should we abandon the private system and substitute the Federal government as the sole provider and payor for health care?

	Percent
Private	70.6
Federal	29.4

6. Should Congress enact the measures President Bush proposed three years ago to reduce court congestion by limiting the appeals allowed convicted criminals and to assist law enforcement by permitting the use of evidence obtained in good faith but without a search warrant?

	Percent
Yes	74.3
No	25.7

7. Should Congress enact legislation proposed by President Bush to reduce the more than $80 billion consumers pay annually as a direct result of civil lawsuits by limiting plaintiffs' recoveries for pain and suffering and lawyers contingent fees?

	Percent
Yes	88.7
No	11.7

8. Should the United States guarantee $10 billion in commercial loans to Israel to assist in resettling refugees who left the former Soviet Union?

	Percent
Yes	25.6
No	74.4

9. Should the United States admit, outside the normal immigration procedure, refugees from other countries who are fleeing for primarily economic reasons?

	Percent
Yes	15.2
No	84.8

10. Realizing that further defense savings are dependent on world peace and stability, should the United States send aid to Russia and the other former Soviet republics as requested by Russian President Boris Yeltsin?

	Percent
Yes	62.6
No	37.4

TRIBUTE TO A TRUE PATRON OF THE COMMUNITY

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. ZIMMER. Mr. Speaker, in recent years, the city of Newark, NJ has been the beneficiary of one man's uncommon generosity. At the height of an enormously successful and personally profitable business career, Raymond Chambers decided that he would leave behind the world of finance to rebuild his hometown. Acting mostly behind the scenes and virtually without public recognition, Ray Chambers has donated millions of dollars of his own money and all his incomparable energies and skills to revitalizing the city he grew up in.

A front-page article in the Wall Street Journal has chronicled Ray's efforts to rebuild Newark and has described his crowning achievement to date—the creation of his student-mentor program that not only offers a child a college scholarship, but also matches the child with an accomplished adult role model as a tutor.

I urge my colleagues to read this article to learn what one dedicated and selfless man can accomplish.

[From The Wall Street Journal]

TUTORS AND MENTORS FOR KIDS

(By Ralph T. King, Jr.)

Raymond Chambers once did a leveraged buy-out of Gibson Greetings Inc., earning more than $100 million with a $1 million investment. Today he is leveraging souls in this downtrodden city, also with impressive results.

Mr. Chambers was born and raised in Newark, the son of a blue-collar warehouse manager. He went on to become one of the nation's wealthiest men as a pioneer in leveraged buy-outs with William E. Simon, the former Treasury secretary.

Meanwhile, in the years following Newark's bloody 1967 riots, the social fabric of Mr. Chambers' hometown disintegrated. It lost one-third of its population. Of the remaining 275,000 resident—85% black and Hispanic—more than one in four lived below the poverty line. It became a place where kids stole cars every night simply for sport and where drug-addicted parents sometimes abandoned newborns in hospitals for months.

Newark's educational, cultural and political institutions, with few exceptions, had decayed to a shocking degree.

So in 1986, Mr. Chambers left the business world and waded in. His solution was to enter all three areas with big projects that would generate ripple effects beyond the scope of his resources. Mr. Chambers' use of leverage—getting projects off the ground with seed money, making some programs profit-makers that can support others, financing an effort with a highly leveraged commodity fund offers a lesson in how philanthropy and shrewd business tactics can work together.

BEHIND THE SCENES

Since 1986 Mr. Chambers has worked full time to try to rebuild Newark, spending more than $50 million of his own money and committing another $36 million in the form of guarantees to donate the cash if no one else will. Yet, through it all, he has tried to avoid publicity. At the ground-breaking for a movie theater being built largely because of his efforts, he stood at the back of the crowd, in dark glasses, while civic leaders made speeches and took bows on the stage. He has declined many requests for interviews. For this article, he did provide background information and issued a brief statement for the record, but only because this reporter, at Mr. Chambers' suggestion, once spent five months assisting in a weekend tutoring program he sponsored.

"Ray stands out as the American businesses entrepreneur of the Reagan era who has made an investment of a scale and an intensity that I don't think anyone else has matched," says Peter Goldmark Jr., president of the Rockefeller Foundation. While the Fords and Rockefellers in their day may have had a broader impact on the social welfare of places like New York City and Detroit, he says, "Ray is unique because nobody is doing that now. I don't think there is anybody from this era in his league."

DOWN AND OUT

Mr. Chambers, 50 years old, studied at Rutgers University in Newark and trained as a tax accountant at Price Waterhouse before pursuing investments. But in his statement, he says: "I had never seen people as down and out as the people of Newark. It had gotten so bad, I didn't think I had any alternative."

The movie theater, while one of his smaller projects, gives a good insight into Mr. Chambers' techniques. Newark no longer had a single cinema in its neighborhoods, let alone a bowling alley or a skating rink. Mr. Chambers couldn't get any bank to make an ordinary construction loan to build a theater in the most blighted neighborhood, the Central Ward. Finally, Newark-based First Fidelity Bank came through, after Mr. Chambers' foundation agreed to put up a comparatively small sum, $800,000, and guarantee $3.9 million more.

Then he went about trying to find a theater operator to run it at cost. A. Alan

Friedberg, chairman of Loews Theatre Management Corp., a unit of Sony Corp., finally agreed. "As I thought about it, I realized I didn't want to be just another CEO interested only in profits," Mr. Friedberg told the crowd at the ceremony. Rather, profits will go the city, which in effect donated the land, and to a fund sponsoring civic and cultural activities in the vicinity.

To Mr. Chambers, that creates a kind of social leverage that's much more important than just giving money away.

Mr. Chambers' first move in Newark gave him the credibility he needed to go further. He got involved with the Boys' and Girls' Clubs of Newark. Their new director, Barbara Wright Bell, was struggling to renovate four dilapidated facilities that were overrun by youth gangs. Mr. Chambers liked her take-charge approach and grasp of inner-city problems.

He attracted an influential board and quadrupled its budget to $1.8 million with such new funding sources as an endowment with stock from one of his leveraged buyouts, Six Flags Corp., and a golf outing patronized by his business associates. Within 18 months, Ms. Bell had restored the clubs to mint condition and provided a haven for about 5,000 new members. Mr. Chambers now has about $10 million invested in the clubs.

With this success, Mr. Chambers won the respect of Newark Mayor Sharpe James, who now calls the organization the "jewel" of the city. After some discussion, the two men found they shared a vision of what needed to be done. "I deal with thousands of people who have money and want to help the city. Ray is unique," says Mayor James. "He doesn't come in and say you must do this and that, and he never looks or asks for anything in return."

Mr Chambers set to work, operating through an outfit called the Amelior Foundation, of which he is chairman. Ms. Bell, as president, oversees Amelior's projects. "A movement around one man or one organization is not healthy," says Ms. Bell, 42, who learned how to get things done in the inner city from her father, an Episcopal minister. "Newark wasn't visionless before Ray came in, but he brought the vision closer to reality, pushed it more quickly and gave it more energy."

Education was their greatest concern. Newark's school system didn't work. Despite a $496 million budget, many of its 49,000 students were learning as much in the streets as in the overcrowded classrooms. Mr. Chambers was struck by an idea he had heard about on CBS's "60 Minutes." Eugene Lang, a New York businessman, had promised college scholarships to 61 Harlem sixth-graders. In the end, about half finished at least some college.

Mr. Chambers thought he could do better by starting sooner, as early as first grade; by being bigger, eventually to include 1,000 youngsters (650 are enrolled to date, from first grade through junior high); and by doing more, such as matching all the students with a mentor.

A SPEECH BY TUTU

Amelior endowed the program, called Ready (Rigorous Educational Assistance for Deserving Youth), with $10 million, or $10,000 per student. Part of that is reserved for college costs, but most pays for tutoring, horizon-widening activities (from visiting New York City museums to attending a speech by South African Bishop Desmond Tutu) and parental assistance. Mr. Chambers has donated about another $10 million to various universities, partly to guarantee spaces for Ready students.

It's too early to tell how well the program will work; Ready was started in 1987, and its oldest participants are in the 11th grade. But it has done wonders for Deneane Jacobs. "I like when people say to me, 'You ain't nothing,'" says the 17-year-old, whose 10 sisters all dropped out of high school. She plans to attend college and law school and hopes to become a judge. "When I get up there working in my fine office one day, I hope they're still around. I'm going to take them up there and show them," she says. Having cured a stutter and increased her reading speed, Deneane has markedly improved her grades.

Mr. Chambers wanted to find more immediate incentives than a college education to reduce Ready's current dropout rate of 35% (most of these move away or never attend a single Ready session). So Amelior paid the minority-owned City National Bank $300,000 for a 20% stake, and set aside $500 worth of shares for each kid to "inherit" upon graduation from high school. That not only helps the kids, but helped the bank survive to continue to make loans in inner-city Newark.

Many Ready parents are unemployed single mothers with lots to worry about besides making sure their kids stay in Ready. Mr. Chambers had heard about a skills training program of welfare mothers that was trying to expand. Amelior donated $400,000 to move the Newark Business Training Institute into new facilities, including a day-care center. This year it will turn out 400 graduates, double the 1990 number, and find jobs for three-quarters of them. Two dozen Ready moms are enrolled in classes this fall.

UNIQUE FUND

Another project is the One-to-One Partnership. Mentors for Ready kids were hard to find, so, with Geoffrey Boisi, he founded One-to-One to coordinate existing mentoring groups and start new ones. Mr. Boisi, 45, veteran of Goldman, Sachs & Co., left Goldman to run One-to-One, inspired, he says, by Mr. Chambers's example.

The two men conceived a Wall Street commodity partnership whose trading profits will mostly go to kids who satisfy One-to-One program requirements, but also cover program costs. Charity-minded investors in the One-to-One Charitable Fund L.P. will earn a modest return at best, with the rest going to One-to-One. They won't face the typically huge risks associated with commodities because of hedging and diversification.

The fund's managers are four top performers—Paul Tudor Jones's Tudor Investment Corp., Blenheim Investment Inc., J.W. Henry & Co. and Moore Capital Management Inc.—all of which have waived their fees, which generally are 3% of funds under management plus up to 30% of trading profits.

The fund started trading two months ago with the first $20 million from investors. No results are available yet. Plans to raise $100 million by June were delayed after an article on the fund in this newspaper brought an unexpected number of inquiries, raising certain legal issues. The fund was restructured into a limited partnership, and fund-raising efforts recently resumed. Meanwhile, One-to-One has set up operations in 15 cities. Its Newark affiliate has arranged 250 matches and plans 1,500 more with five years.

Next on the agenda was the city's cultural life. Newark's downtown does have a first-class museum, but little else of interest to suburban residents or office workers after hours. A New Jersey performing-arts center had been proposed by state officials for years, but the idea languished, in part because of a $150 million price. In any case, other cities were more likely sites the Newark.

Then, in 1988, Mr. Chambers made state legislators an offer they couldn't refuse. He guaranteed that private donations would be raised to match a proposed $33 million state grant. Amelior put up the first big chunk. Mr. Chambers recruited a high-powered board including Ray Vagelos of Merck & Co. and Robert Winters of Prudential Insurance Co. of America, both big corporate donors, and called on others throughout the region. Newark's big employers joined quickly, but so did ones farther afield like American Telephone & Telegraph Co. and Matsushita Electric Corp. of America. Mayor James has agreed to try to scrape together $10 million of city money.

DOWNTOWN ANCHOR

Ground is not yet broken, but the arts center is scheduled to open in 1996. Nearly half of the immediate 12-acre site is set aside for future private development; leases are eventually expected to generate revenue for the center.

With Newark's downtown soon to have an anchor, business leaders across the state seem to be taking the city, and its problems, more seriously. Blue Cross and Blue Shield of New Jersey has just completed a new high-rise headquarters here, and will relocate 2,700 employees from the suburbs. City planners have drawn up a redevelopment scheme for the adjacent riverfront. Another ripple: The center will offer extra instruction in the arts and performance space for students in public schools. Ready kids are expected to participate.

The most recent splash is in the political arena. As Newark has decayed, squabbling over the shrinking pie has increasingly divided community groups. But a campaign called Newark Fighting Back marks a new approach. Its ostensible goal is to cut drug and alcohol abuse in the city's most depressed sections, fed by a five-year, $3 million grant from the Robert Wood Johnson Foundation. But more important is the fact that nearly 100 community leaders cooperated to get the grant.

Once again, Mr. Chambers, via the Boys' and Girls' Clubs, was a key player. Several small agencies in the city wanted to go after the grant independently. The clubs' leaders, with the mayor's help, roped them in and donated staff to put the proposal together.

SOME ARE CRITICAL

There is a nascent sense among the groups that they now have sufficient mass to map out broad, long-term solutions to such complex problems as unemployment, homelessness and crime. One who signed up, Virginia Jones, representing tenants in the high-rise building where she lives, has been criticizing city officials and anti poverty programs for years. Her beef is that the people the programs are designed to help never get consulted. Says Ms. Jones: "This Fighting Back is a start. They understand my frustration."

Some people feel the projects engineered by Mr. Chambers are misdirected. The theater ground-breaking in June was interrupted by protesters calling for long promised repairs at a rundown city housing project. Says Davis Weiner of the Newark Coalition for Low-Income Housing: "This kind of project is fine as an adjunct. The problem is that it becomes the primary focus while the more serious issue, housing, becomes secondary."

Others object that the arts center is no remedy for Newark's 13% unemployment rate or growing homelessness. Says Edward

Verner, who heads an association of 200 leaders of local black churches: "There are people sleeping in parks a stone's throw from where the center will be. If you are going to renaissance Newark, then renaissance the poor first."

And, to be sure, life remains miserable for many Newark residents. Ronald Graham, a 25-year-old unemployed native of Newark, regards the .45-caliber pistol he owns as a basic necessity. "To me, this is hell," he says, gazing at a nearly empty parking lot in a shopping center with many vacant storefronts.

But, if nothing else, Mr. Chambers's leveraged approach is giving many people in Newark hope—a sense, for the first time in years, that something can be done to break their cycle of poverty. Says Rep. Donald Payne, who represents Newark: "This community is blessed to have a Ray Chambers."

SO LONG, BOB

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to my friend from California, BOB LAGOMARSINO, who will be leaving Congress at the end of the 102d session. Our friendship began during our service in the California Legislature and has grown during our years together in Washington. During this time, Bob has worked tirelessly on behalf of his constituents on the central coast of California. I hope that they realize what an excellent Congressman they will be losing at the end of this session.

BOB was first elected to Congress in 1974, and he has made his mark in this institution as an expert in international relations and the environment. He is a senior member of the House Foreign Affairs Committee, where he serves as the ranking member of the Subcommittee on Western Hemisphere Affairs and as a member of the Asian and Pacific Affairs Subcommittee that specializes in trade with the Pacific rim nations. He is also the chairman of the Republican Institute for International Affairs, a group of prominent national leaders that promotes democracy movements throughout the world. As chairman, he has helped establish and monitor free elections in emerging democracies, and is currently working to promote free elections in Kuwait and the Soviet Union.

BOB also serves on the House Interior Committee as the ranking member of the Subcommittee on National Parks and Public Lands. This has allowed him to protect the natural resources of California's central coast. His efforts have led to the creation of the Channel Islands National Park and the Dick Smith Wilderness in the forest back country of Santa Barbara County. He also fought a successful 5-year battle to designate over 400,000 acres of the forest as wilderness, which culminated in the passage of the Los Padres Wilderness bill. This bill protected 85 miles of rivers and streams in Santa Barbara County by incorporating them into the Wild and Scenic Rivers System.

I am not the only one who has noticed the outstanding job that BOB LAGOMARSINO has done in Congress. He has been recognized by the California and National Wildlife Federations as the Legislative Conservationist of the Year, and the California Peace Officers Association named him as their Legislator of the Year. In 1985, he was awarded the Santa Barbara Medal of the University of California at Santa Barbara for his years of public service.

Too often in Congress, partisan bickering and political posturing overshadow the working relationships and friendships that extend across the aisle. I was lucky enough to have forged such a relationship with BOB LAGOMARSINO. His hard work and dedication will be missed throughout California, and throughout the Nation. My wife Lee joins me in wishing BOB and his wife Norma all the best in the years ahead.

SITUATION IN SOUTHEASTERN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. HAMILTON. Mr. Speaker, I wish to draw to the attention of my colleagues a written response from the Honorable Thomas M.T. Niles, Assistant Secretary of State for European and Canadian Affairs, regarding the security situation in southeastern Turkey and human rights abuses in Turkey. Since the mid-1980's, Turkey has been combating the activities of the PKK, a terrorist organization committed to the creation of a separate Kurdish state in southeastern Turkey. Turkish security forces have used increasingly violent methods to try to deal with the PKK threat. Innocent civilians are being killed by both sides in this conflict.

Secretary Niles' remarks were submitted to the Subcommittee on Europe and Middle East in response to questioning during a subcommittee hearing on September 29, 1992, on recent developments in Europe.

Secretary Niles' response differs notably from his earlier testimony before the subcommittee on these issues and from earlier letters from the Department of State on the human rights situation in Turkey. The response goes further than any other statement of administration policy to date in acknowledging that a serious problem exists in southeastern Turkey, not only in terms of terrorist violence, but in terms of the heavyhanded official Turkish policy for dealing with the situation in the southeast. The response also notes, for the first time, that the trend today regarding the practice of torture in Turkey is not one of improvement and may in fact be one of increased violations.

Once again, I wish to reiterate that Turkey is an important friend and ally of the United States. We have a broad agenda with the Government of Turkey. It is in our interest and in the interest of the future of the United States-Turkey relationship to ensure that serious human rights violations cease to occur in Turkey.

REMARKS BY HON. THOMAS M.T. NILES

The level of terror and political violence in Turkey is notably elevated from last year. In the southeast, the focus of the PKK insurgency, this violence has clearly increased: more than 4000 military, insurgents, and civilians have died since the insurgency began in 1984, almost half of them in 1992 alone. More than 300 civilian deaths have been reported this year—85 of them in July 1992.

Underlying this violence lies the emotionally charged issue of Kurdish-Turkish relations. The Kurdish Workers Party (PKK), which has tried to claim the mantel of Kurdish leadership in Turkey, frequently uses terror to pursue its separatist goals—extortion and murder, kidnapping and assassination, targeting innocent civilians as well as security forces. PKK attacks on teachers have closed more than 1200 schools in southeastern Turkey. It has assassinated more than 50 local officials, most recently on September 21, when it murdered two Diyarbakir officials. On September 27, the PKK gunned down a prosecutor and a judge in Diyarbakir. In August, the PKK attacked a social club in Adana, killing a pregnant woman and wounding several others. The violence has driven many Kurds to seek refuge in western Turkey, but even such refugees are victimized—a 29 year old man was murdered in Izmir on September 3, reportedly after fleeing PKK recruitment efforts.

The government of Turkey is attempting to deal with this threat to its security, while maintaining a functioning, democratically-elected parliamentary system and a free press which criticizes the government and debates alternative futures in an unfettered fashion. Within their Parliament, representatives from the Kurdish areas of southeastern Turkey have formed a political group which outspokenly advocates cultural and economic rights for Turks of Kurdish origin.

As you know, the 1991 Human Rights Report discusses inadequacies in Turkey's human rights performance, especially torture and excessive use of force by security personnel. I have previously expressed our satisfaction that laws on thought crimes have been abolished, and are no longer a basis for arrests. In addition, political prisoners have been released. On the issue of torture, it had previously been our impression that, reflecting the policy of the new government, the trend was in a favorable direction. Recent reports, however, indicate that allegations of torture have not diminished, and torture may have actually increased.

Parliament has failed to move forward with a package of judicial reforms which would address many of our concerns over human rights protection. The reform program, by limiting pre-trial detention and providing those accused access to legal counsel, could significantly improve this situation. President Ozal vetoed the bill because he believed it would hamper investigations and operations against terrorists and their sympathizers. We have been assured that the government intends to pass this law in the next two weeks.

Clearly, part of the problem of southeastern Turkey is economic. For decades that part of the country has been neglected with the result that it has been economically deprived and is far less developed than the western part of the country. The GOT has promised to address these inequities with institutional reforms and development programs for the region. Unfortunately, the upsurge in violence over the past year has reached the point where these reforms have been set aside.

The Turks are also addressing the PKK problem directly, by using their security forces to root out PKK strongholds. There is no question that the Turkish government is uncompromising on the issue of separatism, as is every other country in the region. We strongly support Turkey's territorial integrity, and that of Iraq. The Government of Turkey has consistently said that its Kurdish population is free to express itself politically within the established parliamentary system. We support the many efforts of Turkish Kurds to work through the Parliament and other legitimate institutions; it is vital that those institutions be sufficiently flexible to allow the full expression of concerns of all Turkish citizens.

We must not forget that there are Kurds willing to oppose the PKK and its methods. The Kurdish leaders of northern Iraq have met with Turkish officials about the problem of PKK bases in Iraq, and have said they will no longer tolerate PKK activities from Kurdish-controlled areas. We are in touch with these leaders, who are committed to a united Iraq. Within the context of maintaining Iraq's territorial unity, we, the Turks, and other allies continue to work to maintain freedom from repression for all the people of northern Iraq. Turkish cooperation remains a vital ingredient for the astonishing humanitarian success of Operation Provide Comfort. We will continue to work with both Turks and Iraqi citizens in the difficult days that lie ahead in order to build a stable peace, within established borders for all the citizens of that troubled region. In an area where we have important interests—in the Middle East, the Balkans, the Caucasus and Central Asia—Turkey is emerging as a regional power. We seek to cooperate with Turkey in these areas.

It is also clear that third-world countries are supporting PKK activities. We are working with Turkey in its efforts to end the support this group gets from other states.

At the same time, and in the spirit of our long friendship with Turkey, we remain uncompromising in our defense of the human rights of all Turkish citizens. We are particularly concerned by the frequency of reports of extrajudicial killings and torture. We will expand our dialogue with the Turkish government on the subject of human rights. Believing that the rule of law and the fight against terrorism must be pursued simultaneously, we have urged the Turks to pass and implement urgently needed reforms which would protect the human rights of all Turkish citizens. Turkey's battle against the PKK is one in which we are not directly involved, but in which we clearly have a stake. We will cooperate with the Turks in reminding third-world countries that it is unacceptable that they harbor terrorist camps from which attacks are mounted on a friend.

In summary, the deep-rooted economic, political and security problems of southeastern Turkey must be addressed in reinforcing fashion. We support Turkey's democratic parliamentary system. We applaud its willingness to allow these problems to be discussed openly in a free press. As always, we deeply regret the loss of life, often innocent, as a result of the cycle of terror and violence.

CAPTIVE NATIONS WEEK

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. SOLOMON. Mr. Speaker, twice during this session of the 102d Congress I have risen to commemorate Captive Nations Week and to recognize those Governors and Mayors who have issued proclamations on behalf of their constituencies in honor of this important occasion.

As a finale for this year's commemoration of the event, I think it fitting and proper that this recognition include the Captive Nations Week proclamation issued by President Bush as well as his speech on America's unwavering devotion to the letter and the spirit of human rights agreements and democratic principles of Government.

Further, these sincere actions by President Bush demonstrate his personal commitment to the principles of liberty, freedom, and democracy which form the basis of our Nation and its way of Government. At a time when American citizens are contemplating their choices for the next President of our country, it is extremely important for them to remember who it is that has not only espoused these convictions but who it is that has actually acted upon them. Any examination of the record of George Bush as President of the United States clearly reflects his personal devotion and his successful endeavors in this important area. For these purposes, I have entered a copy of the President's proclamation and the President's speech into the RECORD.

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

CAPTIVE NATIONS WEEK, 1992

When Americans first observed Captive Nations Week in 1959, repressive communist regimes had overtaken nations from Central and Eastern Europe to mainland China and overshadowed many others with the very real threat of expansionism. Three years earlier, forces of the Soviet Union had brutally suppressed a popular movement for freedom in Hungary; some 16 years before that, the Soviets had invaded Poland and achieved the forcible annexation of Lithuania, Latvia, and Estonia. In 1959, the United Nations had only recently ended its efforts to thwart communist expansionism below the 38th parallel in Korea, and a communist-led insurgency had already begun to threaten South Vietnam. At a time when millions of people were enslaved by Soviet domination or subjugated by proxy, at a time when countless others were terrorized by the threat of communist aggression and subversion. Americans paused during Captive Nations Week to reaffirm our commitment to liberty and self-government and to express our solidarity with all those peoples seeking freedom, independence and security.

Today, 33 years after our first observance of Captive Nations Week, millions of people who suffered under Soviet domination and communist rule are free. The Iron Curtain and its most despised symbol, the Berlin Wall, have fallen—toppled by courageous states, Central European countries, and 12 new states that replaced the U.S.S.R. In Afghanistan and Angola, where bloody civil war against Soviet-supported, Marxist-Leninist regimes left thousands dead and millions of others homeless, chances of achieving lasting peace have reached their highest level in years.

As we celebrate the hope of peace and freedom in these and other once-captive nations, we also remember the many courageous, freedom-loving men and women who resisted tyranny and oppression—often at great personal cost. These include the thousands of dissenters who risked imprisonment, exile, and death in order to demand rights that we American enjoy: freedom of religion, speech, and assembly, as well as the right to a fair trial and to protection against unreasonable searches and seizures. They include prisoners of the gulag who remained devoted to liberty despite suffering hunger, torture, and long periods of solitary confinement; and they include selfless religious leaders such as Father Jerry Popieluszko of Poland, Cardinal Josef Mindszenty of Hungary, and Cardinal Josyf Slipyj of Ukraine, who inspired countless others by their unshakable belief in the God-given rights and dignity of the human person. From broadcasters at the Voice of America and Radio Free Europe/Radio Liberty, who pierced the Iron Curtain with words of hope and truth, to freedom fighters in Nicaragua and other Latin American countries who led popular resistance to local despots and to political and military interference from Cuba and the Soviet Union—the men and women whom we remember this week never lost their faith in freedom and in the inevitable triumph of liberty and justice.

As we recall all those who labored and sacrificed to hasten the demise of imperial communism and to liberate the world's captive nations, we must remember those peoples who remain subject to regimes that continue to deny basic human rights in stark violation of both the letter and the spirit of international human rights agreements, as well as fundamental standards of morality. The United States will continue to speak out against egregious human rights violation in Cuba and elsewhere, and we shall continue to warn the world's newly emerging democracies against another kind of subjugation: the tyranny of ethnic hatred and nationalist rivalries. History has shown how these evils can produce their own form of captivity: a vicious cycle of violence, political repression, and economic stagnation and loss. As this observance of Captive Nations Week reminds us, freedom and peace are precious blessings that require the faith, the will, and the wherewithal to preserve and strengthen them.

The Congress, by Joint Resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the president to issue a proclamation designating the third week in July of each year as "Captive Nations Week."

Now, therefore, I, George Bush, President of the United States of America, do hereby proclaim the week beginning July 12, 1992, as Captive Nations Week. I call on all Americans to observe this week with appropriate ceremonies and activities in celebration of the growth of liberty and democracy around the world and in recognition of the need for continued vigilance and resolve in the defense of human rights.

In Witness Whereof, I have hereunto set my hand this fifteenth day of July, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

REMARKS BY THE PRESIDENT TO RELIGIOUS AND ETHNIC GROUPS AT THE THREE SAINTS RUSSIAN ORTHODOX CHURCH IN GARFIELD, NEW JERSEY

May I thank you, Governor Kean, for that warm welcome back. May I salute our Assemblyman, Chuck Haytaian; our Senate President Don DiFrancesco; and House candidate, Pat Roma. I'm delighted to see you all. And may I ask that we pay our respects to His Beatitude, Metropolitan Theodossius, the Archbishop of Washington, the Primate of the Church; and Archbishop Peter, Bishop

Paul, Father Alex; and members of the Three Saints Parish. Thank you for welcoming me and so many thousands of your neighbors in New Jersey. And good afternoon to Congresswoman Marge Roukema that's out there somewhere, and the wonderful people in this audience that represent the rich diversity of New Jersey.

Your heritage is Cuban and Vietnamese and Jewish and Christian and Irish and African and Polish and Chinese and Armenian—and so many, many others. And you're Americans all. You are Americans. And your spirit enriches our country and it fuels the flame of freedom all over the world.

And these gleaming church domes remind me of the skyline of a great city. Since my last trip to Moscow, the Russian people have toppled the idols of Soviet communism. They have begun renewing the Russian nation. And just consider the signs of the times: In Red Square this Easter, the gigantic picture of Lenin was gone, and in its place was a massive icon of the Risen Lord. A powerful symbol of the new birth of freedom for believers all around the world.

Today Germany is free and united. Ukraine—Ukraine is free and democratic. Poland is free. And the roll call of freedom includes Hungary and Armenia, the Czech and Slovak Republic, Bulgaria, Belarus, Lithuania, Estonia, Latvia and many, many more. And at long last, the captive nations of the old Soviet empire are free.

But our work is not finished. In Asia, in Latin America, in other regions, some nations still suffer oppression. And some people are still struggling to be free. And that's why, one of the reasons, I want your support to serve four more years as president, to complete the job of freedom around the world. We've got to use our energy. We've got to use our experience to solidify the historic changes that have given birth to these new democracies abroad and made us secure at home.

These events benefit every American. The free world's triumph in the Cold War—brought about by the steadfast efforts of America, the American people, of her allies—gives us a chance to establish for these kids here a lasting peace. And the momentous arms agreement that I reached last month with President Yeltsin, this reduction—with its sweeping cuts in nuclear weapons will make us more secure than at any time since the dawn of the nuclear age. And these kids can go to asleep without worrying about nuclear war because of the changes we have brought to this country.

Little more than two years ago, I welcomed to the White House Poland's then—the first noncommunist prime minister since Stalin's conquest of Eastern Europe. This brave man, Tadeusz Mazowiecki, spoke some of the clearest and wisest words about the times we live in. He said, "History is accelerating." And with those words he foretold the fall of the Soviet empire. And this wave of history, this surge of hope, is not confined to Europe. The Afghan people have won back their homeland. In Angola, and in other African countries, People are digging out from under the rubble of tyranny.

And mark my words: During my second term as President, the probability is high—it is very high—that greater freedom will come to more than a billion people in Vietnam, in North Korea, and in China.

And closer to home, we also have more victories for freedom. The Castro dictatorship is on its last legs. And here's what I envision: Within the next four years, I will be the first President of the United States to set foot on the soil of a free and democratic Cuba. And that's good for all of us. I am determined to keep America the leader in the struggle for world freedom. And I am every bit as determined to protect the sources of our strength right here at home in the good old U.S.A. And during the next four years, I'll keep helping American workers and entrepreneurs carry us to new heights of achievement. And I will fight for the rights of American parents and American families. We must restore respect for the American family.

The family is under siege. And the choices in this election are clear: On one side, the advocates of the liberal agenda; on the other side are you and I and those values of family that we share.

They want to tighten the monopoly on our kids' education. And I am fighting on your side, as Tom said, for parents' rights to choose their childrens' school—public, private or religious. And our G.I. Bill for children gives middle and low-income families more of the same choices of all schools that people with a lot of money already have. And two years ago, they tried to create a new bureaucracy—this one for child care. And I won my fight to let parents choose their children's care, including church-based care. And I will keep on fighting for that kind of choice for the American family.

They want public schools to hand out birth control pills and devices to teenaged kids. And they believe it's no business of the parents and that it's strictly a matter between our children and the government. They even encourage kids to hire lawyers and haul their parents into court. And I believe kids need mothers and fathers, not big brother bureaucracy. And the bond between the parent and the child is sacred and it is fundamental.

The big government liberal approach to welfare has failed. And that's why, just yesterday, I enthusiastically approved New Jersey's request to try a new approach to make parents in the welfare system more responsible, to put parents back to work. And I'm ready to fight four more years to protect the traditional rights of parents and families.

Families are central to any civilization. And more than a century ago, Dostoyevsky imagined a nightmare world, a place where an all powerful state crushed the natural rights of individuals and families. "And if God is dead," he wrote, "then everything is permitted."

Well, looking out over this magnificent audience I can feel it. I know that your faith is alive and family is the most important thing we have here on this Earth. And we take to heart the words of America the Beautiful, "confirm thy soul in self control." And we know that the America we love, the America that's such a powerful beacon to the entire world will not stay strong if the culture and the government teach our kids that anything goes.

Think about it. If we can tear down the Berlin Wall, we can build a strong economy. And if we can lift that Iron Curtain, we can bring the curtain down on immorality and indifference and lawlessness. And if we can help people walk free through the streets of Europe, there's no reason we cannot take back our streets right here in our neighborhoods in the United States of America.

You know, being here reminds me that next month marks the first anniversary of that attempted coup in Moscow; of those fateful days in August when Russia's democratic future was laid on the line, when world peace hung in the balance. And I'm sure each one of us has indelible memories of those days. I certainly do. And I am proud that we had the courage and the leadership to stand by Russia's democrats in their hour of need. And I am grateful for what Boris Yeltsin said about American leadership and making it possible for democracy to come to Russia.

You know, earlier this year, I had the privilege of hearing Slava Rostopovich recount his memories at the National Prayer Breakfast in Washington. He'd flown to Moscow at the first news of the coup and he stood three days and nights with President Yeltsin and the defenders of freedom and democracy, protecting what the Russians call their White House.

And he told us that deep in the night the only sound was from the movement of the tank treads. And he said: "The aura of faith was almost palpable. And that moment the salvation of us all and of the future of the country came only from God."

My fellow Americans, we have the good fortune not to live in the shadow of machine guns and tanks. And America will be safe so long as the United States of America stays strong; so long as we continue to lead around the world.

And let me repeat it: Barbara and I count it a great blessing that when our kids and our grandchildren go to bed at night they don't have the fear, that same kind of fear, that fear of nuclear threat that we faced until just a few months ago. This is momentous. This is important to the entire world. And I am proud that our leadership brought it about.

Of course, we've got hard work ahead. We've got to keep our national security second to none. We've got to prove the pessimists wrong about America's ability to compete and to create jobs and to expand America, to expand opportunity for all. And we must protect and renew our most precious resource—America's families.

Now, to meet these challenges, to lead the nation, to fight on your side of the values we share—put party politics aside—but to fight on your share for these values—on your side—that's why I'm asking you to help me win another four years as President of the United States of America. I will not let you down. I will fight for the faith. I will fight for the American families. We are one nation under God, and never forget it. We can overcome any problems we face.

And thank you. And may God bless this great country, the freest, the fairest, the greatest country on the face of the Earth. Thank you all.

FREEDOM SUPPORT ACT SEEKS TO ENSURE TERRITORIAL INTEGRITY OF THE BALTIC NATIONS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. BEREUTER. Mr. Speaker, as a member of the conference committee that recently completed work on the assistance package to the former Soviet republics, this Member would like to take a moment to address the very important issue of the continuing presence of Russian troops in Latvia, Lithuania, and Estonia.

As you know, Mr. Speaker, the United States has always supported the right of self-determination for the people of the Baltic States. Their seizure by the Soviet Union some 50 years ago was clearly illegal, and successive administrations refused to recognize Moscow's claims. When the Baltic States began to break away from their oppressors, America steadfastly continued our support for their freedom. In the months since they have gained their independence, the United States has established embassies in Riga, Vilnius, and Tallin. We have begun an active assistance program, and we have begun to send specially trained Peace Corps volunteers. The United States is, and will forever remain, committed to the independence of the Baltic nations and basic human freedoms for their citizens.

Yet, despite Moscow's recognition of the independent status of the Baltic States, troops of the former Red Army remain in each of the three Baltic nations. These troops are no longer welcome, and each of the Baltic nations has rightfully demanded that the troops leave. The Russians, on the other hand, have delayed and, for a long while, have been unwilling to discuss the issue. Moscow complains that it has no housing for these returning forces, and that bringing them back in a precipitous fashion could create social upheaval that would threaten the democratic reforms.

Mr. Speaker, I understand Moscow's argument. Certainly the United States does not wish to destabilize the Yeltsin regime. That would not be in the U.S. interest, nor would it be in the interests of the Baltic States. Nonetheless, these troops must leave. And they must leave as soon as possible.

Fortunately, significant progress has been made in recent weeks concerning the status of the troops. In a major breakthrough, Lithuania and Russia have agreed on a timetable that will have the troops out by August of next year. Progress also has been made in negotiations with Estonia and Latvia. In addition, many of the troops have quietly been withdrawn as Red Army draftees finish up their term of service and they have simply not been replaced.

While these trends are encouraging, Mr. Speaker, the conference committee for the Freedom Support Act wished to make it unequivocally clear that Moscow must continue to make progress on the withdrawal of its remaining troops. Indeed, failure to continue to make significant progress on the withdrawal of troops will result in a termination of U.S. assistance.

The legislative language is quite clear—The President shall not provide assistance * * * for the Government of Russia if it has failed to make significant progress on the removal of Russian or Commonwealth of Independent States troops from Estonia, Latvia, and Lithuania or if it has failed to undertake good faith efforts, such as negotiations, to end other military practices that violate the sovereignty of the Baltic states.

Thus, this Member would wish to reassure the many Members of this body who are equally concerned about the freedom of the Baltics. The language in the Freedom Support Act is clear, and it is unequivocal. The United States will not condone the continued presence of unwelcome troops in Latvia, Lithuania, and Estonia.

I thank the Speaker for permitting this Member to report upon this matter.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1992

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. STENHOLM. Mr. Speaker, I rise today to introduce a bill to amend the Egg Research and Consumer Information Act, a statute that authorizes research, food safety, and consumer education programs regarding eggs and egg products which are funded solely by the egg industry itself. The Egg Research and Consumer Information Act is one of the oldest research and promotion programs in the United States. Established in 1974, the American Egg Board [AEB] and its programs have served as a model for subsequent promotion boards and their programs.

Mr. Speaker, I have been a long-time supporter of the Egg Research and Promotion Program and other similar commodity programs because they represent an excellent example of producers of agricultural commodities helping themselves. Rather than seeking assistance from the Federal Government, producers collectively assess themselves to help maintain and expand the market for their products, educate and inform consumers, conduct vital research, and promote food safety within the food service industry. They enable hundreds of small producers of agricultural commodities to accomplish cooperatively that which they would never be able to do individually. These programs are vital for market stability and future growth as they provide agricultural producers with the opportunity to compete more effectively with major food companies for the American food dollar.

This year alone, the AEB has allocated over $1 million for research at respected universities across the country. In addition to research activity, AEB has implemented numerous education programs to teach safe egg handling procedures to food service operators in hospitals, nursing homes, schools, and other institutions in order to help reduce the risk of illness from food contamination. Consumers also receive positive and truthful information about eggs and egg products through the distribution of thousands of leaflets and media publicity campaigns.

However, with static checkoff rates, the AEB has found it increasingly difficult to maintain the kind of programming levels necessary to meet the ongoing and growing challenges faced by the industry. Given heightened public concerns about food safety and continued debate about the relationship between dietary cholesterol intake and its effect on blood cholesterol levels, additional research and education dollars are needed in order for the egg industry to remain competitive for the food dollar and to ensure adequate and accurate research.

To this end, the bill I introduce today will achieve two primary goals. First, it would grant further protection to smaller producers by increasing the exemption level from producers with 30,000 laying hens to those with 50,000 laying hens—such producers are exempt from AEB assessments and other requirements. Second, it would provide egg producers with the ability to vote for an increased assessment, not to exceed 30 cents per commercial case, for the American Egg Board programs. As under current law, any increase would have to be approved in referendum by two-thirds of egg producers voting, or a majority of producers if that majority is responsible for at least two-thirds of the egg production of voting producers.

Mr. Speaker, I urge my fellow Members to join in support of this proposed legislation, and urge its passage in the House.

SUPPORT OF H.R. 2042

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mrs. BYRON. Mr. Speaker, I rise today in strong support of H.R. 2042 which reauthorizes the programs of the U.S. Fire Administration and the National Fire Academy. I am especially pleased that this legislation includes the language of H.R. 3808, legislation I introduced in the House, to establish a National Fallen Firefighters Foundations Act.

The foundation established by this bill will enable us to honor the career and volunteer firefighters who have sacrificed their lives for the protection of their communities and Nation. It would serve as a charitable, non-profit corporation, existing solely on donations made by individuals and organizations wishing to honor career and volunteer firefighters who have died in the line of duty and to assist their families. The primary purpose of the foundation is to maintain and preserve the National Fallen Firefighters Memorial, in Emmitsburg, MD, and finance the memorial's annual ceremony. If successful, the foundation could provide support to the local efforts made throughout the country to commemorate these courageous men and women, and aid the firefighters' families wishing to attend the memorial service in honor of their loved ones.

At present, all costs incurred by the memorial, its annual ceremony, and the other efforts of recognition for the fallen firefighter, have been funded through FEMA. This foundation, in removing the burden from the taxpayer, will "encourage, accept, and administer" charitable contributions made in memory of these fallen heroes.

I am delighted that this foundation has been strongly endorsed by the fire community, including the Maryland State Firemen's Association, the National Fire Protection Association, and the International Association of Fire Fighters. The memorial is growing at a rapid rate, and so too is the need for its increased support. We must help commemorate these fallen heroes and assist those they have left behind. I ask you my colleagues to join me in support of this legislation.

JOSEPH M. PIZZA CIVIC ASSOCIATION 2D ANNUAL DINNER-DANCE: HONORING JOE COLUCCI—RESTAURATEUR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. ROE. Mr. Speaker, on Sunday, October 25, 1992, the Joseph M. Pizza Civic Association will hold its 2d annual dinner-dance honoring Joe Colucci at LaNeve's Restaurant in Haledon, NJ.

Mr. Speaker, this gala affair will honor Mr. Joseph Colucci, founding partner of Colucci Ristorante in Haledon, New Jersey. This highly successful establishment is well known for its culinary skills. He has been selected to be honored for his distinguished career of outstanding leadership and community contribution to the greater Haledon, Passaic County area.

Born in Paterson, he is the son of John and Viola Colucci of Albero Belio Bari, Italy. Joe is married to the former Lorraine DiGiulio and they have been blessed with two lovely daughters, Lorelei and Monica.

Joe attended local schools in Paterson and Little Falls as well as Farleigh Dickinson University. He also served his country in the NJ National Guard's 114th Artillery, D Battery, in Franklin Lakes and the 104th Engineers Battalion in Teaneck.

As a preteen, Joe started to work in a restaurant with his dad and immediately knew he had found his niche. His interest and quality cooking skills have stayed with him ever since. In 1973, he purchased Colucci's Ristorante in Haledon with his father and brother. He is partners with Carl Massanova in this fine establishment.

Joe has taken an active part in civic affairs, having been elected councilman in Haledon from 1979–84. He was police commissioner in 1979, public works chairman in 1981, water department chairman in 1983, and transportation chair in 1984.

To all people, strangers and friends alike, Joe is a warm, friendly, and modest person who continues to carry out many missions of a good samaritan. His hands are never too busy to find time to help those in need.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of Joseph Colucci, who has contributed so much to the quality of life of his fellow citizens. It gives me great pleasure in joining you to honor this great American.

SMALL BUSINESS: A GLOBAL PERSPECTIVE

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. IRELAND. Mr. Speaker, as the end of the 102d Congress approaches and I prepare to leave this body, I want to take one last opportunity to address an issue I have felt committed to since I entered the U.S. House of Representatives 16 years ago. That cause, Mr. Speaker, is the survival, growth, and prosperity of this Nation's small business community.

Over the years, I have been stressing to legislators the importance of small business to our economic health and reminding my colleagues to consider the legislation they pass in light of the impact it will have on these vital enterprises. Mr. Speaker, not only are small businesses at the heart of the American economy, they are emerging worldwide as the life blood of free market economies, young and old.

I urge my colleagues to read the following press release I received recently from a delegation of members of the European Parliament, European small business representatives, and the U.K. Minister for Small Business who met in London. Their concern for the future of small business as the European Community unites demonstrates the largeness of this issue. They recognize that the promotion and protection of small businesses needs to be a governmental priority and articulate a message I have been attempting to convey throughout my eight terms.

LONDON.—September 9, 1992

Small business is one of the largest economic factors and is vital for the well-being of the European economy. At the same time small business endures special burdens due both to the specificities of running a firm of such a size and the environment that is increasingly oriented towards the interests of big firms. Therefore special attention has to be given to small and medium sized businesses and crafts by administrations and governments. This should also include the European level, i.e. the European Parliament, the Council of Ministers and especially the Commission of the EC.

This is the conclusion reached at a meeting in London between Baroness Denton, UK Minister for Small Business and a delegation led by Mrs. Karla Peijs, President of the SME-Intergroup of the EP, that was composed of Members of the European Parliament and official delegates of small and medium businesses and crafts.

Small business is particularly worried about rumours and indications that the EC-Commission's directorate general in charge of small business (DG XXIII) may be dismantled by the end of the year.

This would give an unfair advantage to large firms. These have a strong lobbying power and are given fairly open access to the European institutions.

This enables them to seek for 'positive' discrimination tailored to their specific needs. As a consequence the adopted measures fall disproportionately on small business. This is not only the case when it comes to granting specific advantages like subventions, laxest merger control or protectionism, which are often done in the context of an ill-defined industrial policy, but also when it comes to the drawing-up of new legislation.

Large parts of European legislation is now being re-drawn in the wake of the Single Market and of Maastricht. There is ample evidence that this is being done mainly with big business in mind.

It is therefore necessary to have a substantial sub-unit within the Commission of the EC (that can be supplemented by the SME-Intergroup of the EP) which is given both the ability to identify the needs of small business and the power to defend these interest—on all relevant fields—to ensure that the other parts of the Commission recognize the need for caution when drawing up laws. The small business community strongly believes that this could be achieved through an enhanced DG XXIII.

In the past the European Parliament pleaded for an independent body at the Commission. This led to the creation of the SME Task Force and later to DG XXIII. Now the European Parliament continues to stand to its position and is therefore favourable to keep DG XXIII.

THE 80TH ANNIVERSARY OF SUN-MAID GROWERS OF CALIFORNIA

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. LEHMAN of California. Mr. Speaker, it is with great pleasure that I rise today to bring to your attention the 80th anniversary of Sun-Maid Growers of California, one of California's and America's finest and most successful agricultural, farmer-owned cooperatives. Started as the California Associated Raisin Co. in 1912, Sun-Maid has grown and prospered to currently represent 1,500 raisin growers in the San Joaquin Valley. Net sales for the 1991–92 year exceeded $181 million.

Sun-Maid Growers' processing facility located in Kingsburg, CA, employs 600 local residents who consistently meet the growing demands and needs of both domestic and international markets. Sun-Maid's Kingsburg raisin processing plant is the largest and most modern facility of its kind in the world with nearly 15 acres under its roof. During peak periods, the Kingsburg plant processes and packages 1,000 tons or 90,000 cases of raisins.

Although the Sun-Maid cooperative and its members have had to persevere and overcome their share of hard times, the future indeed looks bright for another 80 years of success for Sun-Maid, as more and more consumers become aware of the health benefits of raisins and as new market opportunities develop worldwide. Currently, Sun-Maid exports its products to 25 nations abroad and is researching new international markets to target.

I salute the dedicated members of Sun-Maid Growers for their hard work and dedication on behalf of this successful cooperative. It is agricultural cooperatives such as Sun-Maid Growers that deserve our recognition and respect for their years of commitment to producing a quality American product.

PETER CAESAR ALBERTI: FIRST ITALIAN-AMERICAN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mrs. LOWEY of New York. Mr. Speaker, Italian-Americans proudly celebrate their heritage on Columbus Day each year. In this, the 500th anniversary year of Columbus's first voyage to the New World, I rise to pay tribute to the contributions of Italian-Americans and to honor Peter Caesar Alberti, the first Italian to settle in America, 357 years ago.

Mr. Alberti was a successful Venetian trader who joined the Dutch West India Co. He sailed to New York, then called New Amsterdam, and settled in the colony in 1635, becoming the first of many brave Italians to leave the old world behind for a new life in America. After several years in New York, Mr. Alberti married Judith Jans Manji, the daughter of a Dutch landowner, and was granted land to begin a successful tobacco plantation in what is now Brooklyn. Today, there are over 300 of Mr. Alberti's descendents living throughout the United States, including Dianne Keys Smith Booker of Bronxville.

During the many years since Mr. Alberti arrived in America, 5 million Italians have followed, and 20 million of their descendents now live in the United States. Over the years, Italian-Americans have made important contributions in all aspects of American life. At the same time, they have cherished and maintained a beautiful and vibrant heritage which is such an important part of American culture today.

As we celebrate the 500th anniversary of Christopher Columbus' first voyage to the New World, I know that my colleagues will join me in honoring one of the first of his countrymen to settle in America and the many Italian-Americans who have made such important contributions since.

TRIBUTE TO TONY DINOLFO

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. LIPINSKI. Mr. Speaker, I am pleased to rise to recognize Tony Dinolfo of Oak Lawn, IL. Tony will become an Eagle Scout at a ceremony on October 5, 1992.

It is important to note that less than 2 percent of all young men in America attain the rank of Eagle Scout. This high honor can only be earned by those scouts demonstrating extraordinary leadership abilities. Tony Dinolfo has clearly demonstrated such abilities through his dedicated community service, and he deserves special recognition.

In light of the commendable leadership and courageous activities performed by this fine young man, I ask my colleagues to join me in honoring Tony Dinolfo for attaining the highest honor in Scouting—the Rank of Eagle. Let us wish him the very best in all of his endeavors.

IN RECOGNITION OF FRESNO CIVIC LEADER LEWIS EATON

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. LEHMAN of California. Mr. Speaker, I rise before by colleagues today to pay tribute to one of my district's leading citizens and most effective community forces, Lewis Swift Eaton, who passed away 1 week ago.

Lew Eaton was a great man who never acted like a big shot and he was never enamored with the trappings of wealth and power. He was a person who made things happen and he believed strongly that private prosperity and public service can work hand in hand.

Lew had a lifelong love of Fresno's nearby Sierra Nevada. That love came from his many hiking and camping trips to the back country of our parks and national forests. It was just a year ago that Lew and a group of Fresno friends hiked to the summit of Mount Whitney, the highest peak in the 48 contiguous States. Until this spring, he was still skiing, a sport that he had participated in for more than 40 years.

He would often travel to Washington on business and I remember that we would spend most of our time at dinner together comparing notes and discussing our mountain experiences.

I'll remember Lew Eaton most for his love of the Sierra Nevada mountains; his sense of responsibility for preserving our parks and wilderness areas; and for his generous commitment to causes that will benefit future generations.

His contributions to our area were many. He was the son of a pioneer Fresno banking family and built a financial empire. But, as an editorial in our local newspaper pointed out, Lew was an old-style community leader.

Lew Eaton worked quietly and without fanfare, not caring about who got the credit for what was accomplished, whether it was the Fresno Metropolitan Museum, Bulldog Stadium, Chaffee Zoological Gardens, or the work for which he was most proud, Woodward Park.

Over the years Lew Eaton has honored repeatedly for his philanthropy. He was the first recipient of the Leon Peters Award from the Fresno County and city chamber of commerce; and later the Alliance for the Arts Horizon Award for his efforts on behalf of the Fresno Arts Museum and the Metropolitan Museum.

His accomplishments in business were numerous. They included serving as president of Guarantee Savings, which was started by his father in 1919, and later as a director for Glendale Federal Bank which bought Guarantee in 1987.

He also served on various other boards of directors including Grundfos Pumps, Pacific Gas & Electric, MGIC Investment Corp., the Business Advisory Council at Fresno State University, the board of Yosemite National Institutes and the board of public television station KVPT.

Lew Eaton also was president of the Alumni Association of Stanford, from which he graduated in 1941, and over the years served as the university's San Joaquin Valley host.

He was the national president of the U.S. Savings and Loan League and was a member of the first regional advisory commission of the National Park Service. In the 1970's and 1980's, Lew Eaton served as chairman of the National Park Service Citizen's Advisory Board.

In recent years the San Joaquin River Parkway was the cause that was dearest to Lew's heart.

Born in 1919, Lew Eaton's family roots are in turn-of-the-century California.

He attended Fresno schools before entering Stanford. He joined the Army as a private in the infantry and he later went to officer candidate school. During World War II, Lew was a captain in the Army administration department and a transportation officer at Washington and Lee University.

At the end of the war, he returned to work for his father's savings and loan business and began his long commitment to both public and private community service.

The Eaton family always has had a strong commitment to the public schools. His father, Edwin Eaton, served as a Fresno school trustee for two terms in the 1940's, and Eaton School in Fresno was named for him. When Fresno School Board Member Arthur L. Selland was elected mayor in 1958, Lewis Eaton was asked to complete the unexpired term. He won a full term in 1961 and served until 1965.

He once told a newspaper reporter that working in the community gave him tremendous pleasure. "Hopefully, the things that I have contributed to will be long-lasting and beneficial to future generations," he said.

His contributions will be long-lasting and beneficial.

TRIBUTE TO THE SHREWSBURY, MA, PUBLIC LIBRARY

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. EARLY. Mr. Speaker, I rise today to mark the occasion of the 200th anniversary of library services in Shrewsbury, MA. As Shrewsbury's Representative in the Congress, I am proud of the distinguished history of the library and of the valuable contributions to the advancement of knowledge which have been made through the provision of library services in this community.

The Shrewsbury Social Library, founded in 1792 by the town fathers, was a voluntary association of individuals whose purpose was the buying of books to be jointly owned by all those who belonged. In 1872, the town of Shrewsbury established and funded its first public library. Miss A.E. Eaton served as the first librarian at a salary of $50.00 per year. In 1880, the town was spending 11 cents per person for the library.

As space requirements expanded, the town purchased the Thomas Bond house in 1895. In 1902, citizens of Shrewsbury voted to build a new library, to which an annex was added in 1924. By 1946, a program was begun which encouraged town residents to donate books to the library in memory of friends or relatives who had died. The library's first bookmobile was donated in 1959 by Mr. and Mrs. Anthony Borgatti, Jr.

By 1966, circulation topped 100,000 for the first time. In December 1979, ground was taken for the $1.6 million addition/renovation at the library, a project totally funded by municipal appropriation. This new facility was dedicated in February 1981. Functioning as a superior center of learning for the town, the Shrewsbury Public Library reached a circulation high of 211,200 in 1989.

On October 4, 1992, the Shrewsbury Public Library will celebrate 200 years of libraries and books in Shrewsbury. It is my privilege to salute the board of trustees, the dedicated staff, and all of the citizens of Shrewsbury on this wonderful occasion. I look forward to the success and expansion of the Shrewsbury Library for many years to come.

68TH ANNUAL OCTOBER OBSERVANCE OF CO-OP MONTH

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to pay tribute to cooperative businesses across the Nation on the 68th annual October observance of Co-op Month.

Cooperative businesses have been meeting people's needs in America since 1752 when Benjamin Franklin formed the Philadelphia Contributorship for Insurance of Homes from loss of fire. That insurance company continues to operate today, and along with it are 47,000 other business cooperatives which serve the needs of almost 120 million people. Nearly half the U.S. population benefits from co-op-provided goods and services, including electric and phone service, housing, insurance, food, health and day care, farm marketing and supply, credit unions, and news services.

Needs may have changed since Franklin's time, but the self-help traditions of co-ops haven't. Cooperatives are formed by people—often neighbors—with like needs who join together to solve a social or economic need of the group.

Co-ops are businesses. They range in size from Fortune 500 companies to small day care facilities. They pay taxes, adhere to State, local and Federal laws, and follow sound business practices. But what makes co-ops different from other businesses? The answer is that they are created and belong to, and are controlled by the people who use them. They are created to provide a service to, rather than a profit for their members. A good example is a cooperative food buying club. Its members join together to purchase food collectively and efficiently.

Cooperatives are self-help mechanisms that offer great opportunities to Americans and peoples of all nations to improve many different aspects of their lives. Currently, this self-help model is helping central and eastern Europeans make the transition from a controlled economy to a free market. Benefits from this model are global, and provide trading partners and new markets for American businesses. Round the world, co-ops are helping to nourish, house, educate, and provide a sustainable economic foundation for millions of people.

This incredible network of strength is the product of people helping themselves and their neighbors to control their own destiny, and I hope you will join me this month in paying tribute to people meeting people's needs, through cooperative businesses.

LUIGI POMPILII CELEBRATES 100th BIRTHDAY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. WELDON. Mr. Speaker, I rise today to honor Luigi Pompilii who will be celebrating his 100th birthday on October 11, 1992. Luigi was born on December 23, 1892, in Teramo, Abruzzi, Italy, and immigrated to America in 1915. In 1917, Luigi became an American citizen and was drafted in the U.S. Army. When the war was over Luigi accepted a position with the Pennsylvania railroad. He worked with the railroad from 1919 until his retirement in 1960.

Luigi Pompilii has been an outstanding citizen of Delaware County, PA, for almost 80 years. It is my privilege and honor to pay tribute to such a fine American citizen. I would like to take this opportunity to wish Mr. Pompilii a very happy 100th birthday as well as only good health and good fortune in the future.

TRIBUTE TO HERITAGE BENEVOLENT AND PLEASURE CLUB

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. LIPINSKI. Mr. Speaker, on October 4, 1992, the Heritage Benevolent and Pleasure Club, one of the southwest side of Chicago's most active and purposeful social organizations, celebrates the 70th anniversary of its founding. I am pleased to rise and recognize this group on this special occasion.

The club began its organizational career in 1922 with 11 members and today its membership has grown to over 300. The club's membership is largely Slavic-American—one of the strong ethnic groups which make the Chicago such a wonderfully diverse place to live.

As the Heritage Benevolent and Pleasure Club celebrates its 70th anniversary, I am pleased to recognize them for their contributions to our community. As the club is recognized in the Chicago City Council and the Illinois General Assembly, I urge my colleagues to join me in saluting the Heritage Benevolent and Pleasure Club. I hope they will celebrate many more anniversaries in the years to come.

TAXPAYER ACTION DAY

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mrs. PATTERSON. Mr. Speaker, yesterday the Federal Government began a new fiscal year. But, instead of a present, we got more bad news about federal spending. The taxpayers of my district, and from across this Nation are calling on us to act responsibly in the way we operate our Government. They are tired of stories of Government waste that boggle the mind.

On October 17, thousands of concerned Americans will gather at rallies across the country, marking the third annual Taxpayer Action Day. These events are designed to highlight citizens' concerns about wasteful Government spending and about abuse of their tax dollars.

This year, we have an opportunity to face our constituents on Taxpayer Action Day with some good news—if we pass the line item rescission bill that is set to come before us before we adjourn. I urge my colleagues to support H.R. 2164 and send a message that we're ready to act to cut Government waste.

NATIONAL 4-H WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. NATCHER. Mr. Speaker, once again it is a privilege to join with the members of 4-H as they celebrate National 4-H Week on October 4-11. The various programs offered by 4-H, the rate of participation and the achievement of 4-H'ers are evidence that this year's theme, "4-H: The Difference We Make," is an appropriate one.

In 4-H, each member enrolls in one or more organized projects each year. In 1991, the average was 1.8 projects per member with the most popular projects falling in the areas of animals and poultry, natural resources, food and nutrition, individual and family resources and mechanical sciences.

Along with these projects, 4-H offers much more. This year, efforts continued to expand the Extension's outreach to youth at risk who are most vulnerable because of poverty, lack of parental and community support and negative peer pressure. These efforts include 95 local program sites. About one-third of these sites provide badly needed high quality, school age child care. Another third emphasize scientific, technological and reading literacy. The remaining third form broad coalitions of youth-serving agencies and concerned groups to jointly address the problems of youth at risk.

Another aspect of 4-H programs is the increasingly developing partnerships with other agencies, national associations and private sector partners. One example of these partnerships is the nationwide "4-H Environmental Stewardship" recently developed by the National 4-H Council, Extension Service, USDA, and five major partner corporations. Most 4-H efforts, such as this one, address important issues of society.

These various 4-H programs are reaching a large number of our Nation's youth. Over 6 million youths across the country participated in 4-H youth development programs in 1991. This is an increase of 4.2 percent over the previous year.

My home State of Kentucky had 3,787 4-H clubs, the third highest number of clubs of any State. Kentucky also ranked third among the States in special interest groups in 1991. In addition to this, Kentucky had the highest number of youths in 4–H instructional TV of any State, with 9,981 participating.

This past year, Kentucky 4–H involved 220,826 young people. Of the potential youths ages 9 through 19, 43 percent participated in some aspect of the program. These young people were assisted by 27,185 volunteer teen and adult leaders.

The county programs in the Second Congressional District of Kentucky, which I have the privilege of representing in Congress, involved a total of 44 percent of potential youths ages 9 through 19 in some aspect of 4–H programs. There were 38,743 youths involved in 1,592 clubs or units led by 4,383 volunteer teen and adult leaders.

Many of these leaders from the Second Congressional District of Kentucky are key leaders in 4–H on a State or national level. Mike Cauldwell of Nelson County serves as vice president of the Kentucky Association of Extension 4–H agents and was recently selected president-elect. Roberta Hunt of Washington County is the immediate past president of the Kentucky Association of Extension 4–H Agents. Mrs. James Brookshire of Breckinridge County continues to serve on the National Extension Advisory Committee. Christa Turner of Nelson County was elected State 4–H secretary last June. Bill Corum of Meade County is immediate past president and serves on the executive committee of Friends of Kentucky 4–H. Linda Jeffiers of Spencer County is secretary/treasurer of Friends of Kentucky 4–H, serves on the executive committee of Friends of Kentucky 4–H and represents her extension area on the State 4–H leaders council. Romanza Johnson of Warren County serves on the board of directors of Friends of Kentucky 4–H. Keith Rogers of Hardin County serves on the board of the State 4–H alumni association and serves on the executive committee of the State 4–H leaders council. Diane Cowles of Warren County is secretary for and serves on the executive committee of the state 4–H leaders council. Gil Cowles of Warren County is on the board of the State 4–H alumni association. Diane Jones of Barren County, Fay Crumbacker of Bullitt County, Margie Brookshire of Breckinridge County and Marilyn Shrader of Hardin County represent their respective areas on the State 4–H leaders council. Representatives on the State 4–H teen council from Kentucky's Second Congressional District are Brad Underwood of Taylor County, Jessica Gentry of LaRue County, Kathy Reding of Nelson County, Kim Akins of Washington County, Laura Lowe of Spencer County, and Susanne Jeffiers of Spencer County.

This year, six leaders from the Second Congressional District of Kentucky were recognized as area champions in the Feltner 4–H Leadership Recognition Program. Adult winners were Romanza Johnson of Warren County, Marion Creech of Meade County, and Fay Crumbacker of Spencer County. Teen winners are Alice Gentry of Warren County, Sarah Fackler of Meade County and Susanne Jeffiers of Spencer County. Romanza Johnson was also honored as one of only five adult State winners.

The quality of the leadership in the Second Congressional District of Kentucky also shows in the accomplishments of the youths active in 4–H. Kimberly Akins of Washington County was one of four delegates selected to represent Kentucky 4–H at the national conference. Meredith Staton of Meade County won the State championship for project records in the dog care division and Wes Chancellor of Daviess County won the State championship in the entomology category. State champions in fashion revue were Tanya Pickering of Meade County in the casual wear division and Jeri Fields or Warren County in the formal wear division. Communications Day State champions are: Justin Morgan of Daviess County in the junior agricultural sciences division, Rebecca Jones of Warren County in the junior animal sciences division, Tanya Pickering of Meade County in the senior creative crafts division and Kelly Haskins of Daviess County in the senior general division.

I would also like to recognize the following 4–H'ers who were winners at this year's Kentucky State Fair: Barren County, Stephen Gardner, Amanda Coomer, Luke McCoy, Cassie Martin, Marion Myatt, Angela Myatt, and Carolyn Thompson; Breckinridge County, Chandra Hobbs; Bullitt County, David O'Bryon; Casey County, Kristy Smith, Jennifer Smith, and Van Dorsten; Green County, Allison Simpson; Hancock County, Carrie Hargis; Hardin County, Michael Rider, Glendale Children's Home, Jason Lynn and Amanda Ramer; Hart County, Laura Perkins; LaRue County, Emi Williams, Patrick Durham, Andy Holbert, and Terry Padgett; Marion County, April Hollon, Joni Payne, and Danielle Ford; Meade County, Kirk Staples, Kevin Waldrip, Matthew Gleitz, and Tonya Pickering; Metcalfe County, Andrea Branstetter; Nelson County, Jacob Miller, Lora Lutz, Kevin Lutz, Mark Lundy, David Urekew, and Alice Dickerson; Spencer County, Sara Bell; Taylor County, Wendy McMahan and Jennifer O'Banion; Warren County, Jessica Chaney, James Chaney, and Mary Fields.

Twelve 4–H'ers from the Second District participated in the American Heritage Program They were among 120 teens and adults who traveled to Washington, DC and stayed at the National 4–H Center while studying and learning more about citizenship and our Government.

At this time I would like to commend all of those associated with 4–H programs, not only in the Second Congressional District of Kentucky, but throughout the country, for all their achievements and I want to wish them success in all their future endeavors.

SUN-MAID GROWERS OF CALIFORNIA CELEBRATES ITS 80TH ANNIVERSARY

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. CONDIT. Mr. Speaker, I rise today to honor one of California's and America's finest farmer owned and operated cooperatives, Sun-Maid Growers of California, which celebrates 80 years of growth and prosperity this year. Founded in 1912 as the California Associated Raisin Co., Sun-Maid has since prospered, overcoming difficult economic times and the pressures associated with agriculture to become the country's leading producer of raisins.

Contributing to Sun-Maid's continued success are the 1,500 growers, who through dedication and hard work, produce approximately 100,000 tons of raisins annually. A key component of Sun-Maid processing and packaging operations in its 100 acre Kingsburg, CA plantsite. This facility, designed and built by Sun-Maid in 1961, is recognized as the world's largest and most modern raisin packing facility, shipping up to 1,000 tons or 90,000 cases of raisins daily. The plant also plays a vital role in the Kingsburg community by employing 600 local citizens and providing important community services.

Today, Sun-Maid Growers' reputation extends well beyond the San Joaquin Valley of 1912. Three-quarters of Sun-Maid's total production is sold throughout the United States and Canada, representing half of the raisins sold by American grocers. The Sun-Maid trademark has become one of the world's most recognized brands as Sun-Maid products are exported to 25 countries abroad and translated into 9 different languages.

I am proud to speak before you on the outstanding accomplishments and merits of this find American farmer owned agricultural cooperative. Sun-Maid growers deserve our recognition and respect for their 80 years of dedication and hard work in creating a world renowned and high quality product. I salute and congratulate Sun-Maid Growers and wish them 80 more years of growth and prosperity.

TRIBUTE TO MR. WILLIAM L. IVEY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. SPENCE. Mr. Speaker, I wish to take this opportunity to join my fellow South Carolinians in recognizing William L. Ivey, president and chief executive officer, of Columbia's Richland Memorial Hospital upon his retirement. Bill's distinguished career in the field of medical administration has been a testament to dedicated service and unselfish devotion to his fellowman. He may certainly recall with a sense of pride and accomplishment the outstanding contributions he has made. Although Bill has earned the right to take things easier for a while, I am sure that I speak for the entire medical community when I say that he will be greatly missed. I shall always cherish our association and his friendship.

In 1975, when William L. Ivey came to Columbia to be president and chief executive officer of Richland Memorial Hospital it was a local hospital with a shaky fiscal outlook that had a traditional mission of health care delivery. Today, it is a financially strong multibuilding, multicampus health organization that meets health care needs of people across South Carolina. It serves as the major teaching hospital for the University of South Carolina School of Medicine, as the region's trauma, poison control, high-risk pregnancy, and neonatal centers, and as a center for research and development of health care solutions.

Richland Memorial's growth in both size and reputation results from Bill's success in having a supportive board of trustees and in building a team from the educational, governmental, civic, and medical communities, which has worked through strategic planning to ensure that the hospital meets the present and future needs of South Carolinians with quality, state-of-the-art and cost-efficient health care and research.

Bill Ivey brought to Richland Memorial the skills and vision necessary to lead the hospital into its expanded role.

His experience—a combination of academics, patient services, hospital administration, and comprehensive health planning services—and his personal and professional commitment to affordable, quality, health care for all citizens enabled him to set a course for Richland Memorial that has increased its size and services to the State while making it a recognized leader in health care.

Currently, Richland Memorial is a 611-bed hospital with a $200 million operating expense budget employing over 4,000 people on two campuses. It includes two ambulatory health care centers, a regional free-standing Center for Cancer Treatment and Research, the Children's Hospital, and the Heart Centers as well as a medical office building complex. As president and chief executive officer, Ivey was a founding member of the hospital's foundation and its for-profit subsidiary that has engaged in a number of diversification activities.

His career of more that 40 years includes major responsibility for health services development, especially in rural areas and on Indian reservations, while deputy coordinator of the Arizona Regional Medical Program at the University of Arizona; director of the University of North Carolina School of Medicine Private Patient Service; director of North Carolina Memorial Hospital, the school's teaching hospital; and professor in the University's Department of Hospital Administration. He currently serves as an adjunct faculty member of the University of South Carolina and of the University of Alabama/Birmingham.

Since moving to South Carolina, he has served on the board of directors of both the United Way of the Midlands and the South Carolina State Chamber of Commerce and in numerous leadership positions of other local, State, and regional organizations. He has served as vice chairman and as a member of the board of directors of the multistate Carolinas Health and Hospital Services; as a founding member and director of Sun Alliance and SunHealth, Inc., currently a regional alliance of 225 hospitals; a founding director of the Columbia Free Medical Clinic, Inc.; in numerous positions with the American Hospital Association and as an advisor of health care issues to three governors and consultant to various private and public agencies, including the National Institutes of Health.

He was recognized in 1980 as the Public Administrator of the Year by the South Carolina chapter of the American Society for Public Administration.

As a former chairman of the South Carolina Hospital Association in 1980, Bill Ivey was later recognized for his dedicated efforts on behalf of health care services and was awarded the Award of Merit in 1982 and the Distinguished Service Award in 1987.

Bill was instrumental in creating Palmetto SeniorCare, a joint effort between the South Carolina Department of Health and Environmental Control, Health and Human Services Finance Commission, and Richland Memorial Hospital. This project provided comprehensive services to the frail elderly, based on the On Lok model, and is recognized nationally for its innovative approach to the comprehensive care of the frail elderly.

Bill currently serves as immediate past president and as a member of the board of directors of L. R. Jordan Management Society; a member of the Governing Council of the Metropolitan Section of the American Hospital Association; director of SunHealth, Inc; and vice chairman of the South Carolina Cancer Control Advisory Committee. This summer, he was named chairman of the South Carolina Committee, the Newcomen Society of the United States.

Bill was featured in the May—June 1992 cover story of Southern Hospitals that highlighted the successful strategic, operational, and financial goals of the hospital and its leadership.

Cited by the Southeastern Hospital Conference in May 1992 for his leadership in the health care industry and service to civic and community organizations, Bill Ivey received its Distinguished Service Award for Excellence.

For more than a quarter of a century, he has been an active member of the American Hearth Association, serving as its board chairman in three of its States' affiliates, North Carolina, Arizona, and South Carolina, and as a member and vice president of its national board. He has received the Association's Award for Distinguished Achievement and its Gold and Silver Medallion Awards. In June 1992, also Bill received the Lifetime Achievement Award from the American Heart Association, South Carolina affiliate, which is the organization's highest volunteer recognition.

Bill earned his undergraduate degree at Auburn University in Auburn, AL, and completed a master's degree and doctoral course work at the University of North Carolina at Chapel Hill. He served in the U.S. Army in both World War II and the Korean conflict.

As the needs for quality, affordable health care continue to grow, Ivey has promoted an ever-expanding mission of Richland Memorial Hospital, which currently includes plans for the development of a fourth medical office building, a new emergency medical and new psychiatric centers on its 60-acre main campus.

Upon December 31, 1992, Bill Ivey retires as president/chief executive officer of Richland Memorial Hospital after 17 years of dynamic, compassionate, and visionary leadership and will continue to serve as the management consultant to the board of trustees and incoming president of Richland Memorial Hospital.

VICTORY HOUSING

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mrs. MORELLA. Mr. Speaker, I rise today in support of a $1.5 million grant for the construction of a facility to house 30 frail senior citizens in Montgomery County, MD. This grant is a part of the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies appropriation for the 1993 fiscal year, which was passed overwhelmingly by the House of Representatives and the Senate.

Known as Bartholomew House, the facility will be constructed and operated by Victory Housing, Inc., a nonprofit housing agency affiliated with the Archdiocese of Washington. I would like to make special mention of Jean Brady, executive director for Victory Housing in Montgomery County, whose concern for the elderly has inspired the work of Victory Housing and whose expertise will make Bartholomew House a reality.

Bartholomew House will provide a myriad of support services to its residents, including meals, laundry, and an around the clock, onsite service coordinator. The residence will be nonsectarian and will be patterned after the highly successful frail elderly facilities currently operated in Montgomery County by Victory Housing: Raphael House, Mary's House, and Kuehner House. One of these facilities, Mary's House, was the recipient of the President's Point of Light Award.

Mr. Chairman, I am pleased that the Appropriations Committee granted my request for funding for Bartholomew House. Clearly, as the number of senior Americans multiplies and our long-term care services become increasingly strained, it is imperative that Congress ensure access to affordable, quality housing for the elderly.

Victory Housing has a topnotch record of providing dependable, affordable, long-term housing for Montgomery County's frail seniors, particularly those with limited incomes. I am proud and pleased to have helped make the dream of Bartholomew House a reality.

INTRODUCTION OF H.R. 6069, THE TAXPAYER PROTECTION, DEPOSIT INSURANCE REFORM AND REGULATORY RELIEF ACT OF 1992

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1992

Mr. PETRI. Mr. Speaker, Wednesday, September 30, I introduced H.R. 6069, The Taxpayer Protection, Deposit Insurance Reform and Regulatory Relief Act of 1992.

Briefly, H.R. 6069 will, as the title implies, reform the Nation's deposit insurance system by substituting private management for Government management of what is already an industry funded system. It will take the taxpayer off the hook for any future losses due to bank or thrift failures, and it will dramatically improve the efficiency of the banking industry through substantial regulatory relief and lower insurance premiums.

Bank insolvency losses have unnecessarily reached levels not seen since the Great Depression because mispriced Federal deposit insurance contributed to a series of asset deflations, the major killer of banks and other highly leveraged lenders.

However, bank insolvency losses were largely concentrated in the Southwest and in New England. Overall commercial banking actually performed reasonably well during the 1980's in the other regions of the United States where there was relatively little asset deflation.

The political process, however, understands neither the underlying flaws of Federal deposit insurance nor the regional nature of bank insolvency losses. As usually happens, the Federal Government overreacted in an indiscriminate manner to the problems in recent years among banks and thrifts. Consequently, the regulatory pendulum has swung to an unjustifiable extreme, and the economy is paying the price.

An unwarranted increase in regulatory burdens and costs imposed on healthy banks and thrifts has caused an enormous shift in market share to the less taxed and less regulated channels of intermediation. However, these channels may in fact be less efficient and less capable of supplying credit to important sectors of the economy, such as small business.

My bill is designed to solve these problems and more. The Taxpayer Protection, Deposit Insurance Reform and Regulatory Relief Act, will create a 100 percent cross-guarantee system under which each bank or thrift institution will enter into a contract with an ad hoc syndicate of banks, thrifts, pension or endowment funds, insurance companies and the like to guarantee all of its deposits. Premium rates and safety and soundness requirements will be negotiated contract by contract and will not require Government approval.

The guarantors, who will have their own money at risk, will take over safety and soundness responsibility from the Federal Government. The specific contract provisions for this purpose will vary depending upon the condition and practices of the individual bank or thrift, effectively ending one-size-fits-all regulation.

Each syndicate will employ an independent syndicate agent firm to oversee the performance of the guaranteed bank or thrift. The syndicate, through its agent, will be able to force changes in the guaranteed bank or even close or sell it if it runs into trouble. The agent's independence will prevent anti-competitive behavior.

Various rules for the spreading of risk will ensure the safety of the entire system, including the mandating of minimum numbers of guarantors for each bank, limits on the amount of risk undertaken by any one guarantor, and the inclusion of mandatory stop-loss contracts under which guarantors will pass any excessive losses through to their own second tier of guarantors.

The Government's principal role will be to make sure that contracts are in place and that all the risk dispersion rules are complied with. Backup Federal deposit insurance will be retained but never needed even in circumstances worse than the Great Depression.

The entire system will have to meet a key market test before it can really get started, since no contracts will become effective until a critical mass of at least 200 banks with at least $500 billion of assets has chosen to participate and has contracts ready to go.

Once the system is operating, banks' regulatory burdens will become far lighter, banks will have the opportunity to earn money as guarantors, and their own deposit insurance premiums will be far lower. Premiums will be lower because risk-related premiums will deter unsound lending and guarantors will act quickly to minimize losses if problems develop. For these reasons and many others, I expect this proposal to be attractive to all segments of the financial would.

H.R. 6069 has several important benefits for the economy. The taxpayers will be protected in the event of any future loss due to bank failures. A more efficient banking industry will help promote economic growth. However, the most important benefit of this plan is that it should lead to the risk sensitive pricing of loans, which should moderate speculative bubbles.

It is these positive effects on the economy as a whole that are really the most important reasons for taking a good look at this bill. If we are going to get our economy moving again and get a handle on our deficit problem, we need to fundamentally reform the way we do things in a number of key areas. Health care, welfare, and education are a few of those areas, but financial services is certainly a crucial one. I believe deposit insurance reform is the single most important key to improving financial services.

Mr. Speaker, I ask that in addition to this statement, the text of the bill, a brief synopsis of its contents, a section by section discussion and a question and answer document be printed in the RECORD.

INTRODUCTION TO SECTION-BY-SECTION DESCRIPTION OF THE TAXPAYER PROTECTION, DEPOSIT INSURANCE REFORM, AND REGULATORY RELIEF ACT OF 1992

(Introduced by Representative Thomas E. Petri)

[Graphs not reproducible in the Record]

The Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992 employs the 100 percent cross-guarantee concept to privatize the management of the deposit insurance program now administered by the Federal Deposit Insurance Corporation (FDIC). Although cross-guarantees are simple in concept, the bill is complex because it creates many safeguards, it is being fitted into a tangled web of existing banking regulation, and it gives the four federal bank and thrift regulatory agencies as little discretion as possible in implementing this Act.

Cross-guarantees represent a sharp turn away from the increasingly rigid, indiscriminate, and punitive thrust of banking regulation and towards a reliance on voluntary contracts negotiated in a competitive marketplace and enforced by the judicial system. In effect, the bill dramatically shifts power over banks and thrifts from the political process to the marketplace, thus bringing *perestroika* to American banking.

Despite the magnitude of this deposit insurance reform, the bill does not alter current branching rules or restrictions on the activities or ownership of banks and thrifts. The bill also does not alter in any manner the deposit insurance, activities, or taxation of credit unions nor does it affect in any way the activities or insurance status of money market mutual funds, broker-dealers, insurance companies, or other non-depository financial services firms.

After a general introduction to the cross-guarantee concept and the bill itself, this section-by-section description discusses each provision of the bill along with the public policy rationale for that provision. The bill is divided into two titles that follow a short statement of findings and purposes. The 28 sections of Title I contains a new law that implements the 100% cross-guarantee concept. Six sections of Title II amend existing law to exempt guaranteed banks and thrifts from the safety-and-soundness regulations that increasingly hamper the efficient management of sound, well-managed banks. A seventh section of Title II permits guaranteed banks and thrift to be debtors under the U.S. Bankruptcy Code.

SIX MAJOR GOALS OF THE BILL

One, protect taxpayers. Federal deposit insurance is premised on the flawed notion that government regulation of banks and thrift can protect taxpayers from excessive deposit insurance losses. The bankruptcy of the Federal Savings and Loan Insurance Corporation (FSLIC), which will cost the American taxpayer $200 billion, measured in current dollars, demonstrates the folly of that premise.

The bill protects taxpayers from future deposit insurance losses by (1) creating an actuarially sound, market-driven insurance mechanism that will prevent bank and thrift insolvency losses from ever again approaching the magnitude of the FSLIC's losses and (2) constructing a "solvency safety net" under all banks and thrifts to absorb any and all insolvency losses among these institutions. This solvency safety net, which will not be punctured even in economic conditions far worse than the Great Depression, eliminates as a practical matter, all taxpayer risk in deposit insurance.

Two, provide for market-driven risk-sensitive premiums: Risk-sensitive deposit insurance premiums are key to quickly curbing unwise lending and other bad banking practices that eventually lead to insolvency. The FDIC, under congressional mandate, is attempting to implement risk-sensitive premiums. However, because the FDIC is a government monopoly subject to political pressures, it will never be able to properly price deposit insurance, which must be based on leading indicators of banking risk. In effect, risk-sensitive premiums can be properly priced only in a private, competitive marketplace. This bill creates that marketplace. Each cross-guarantee contract will include a negotiated formula for calculating the risk-sensitive premium a guaranteed bank or thrift will pay to its guarantors. Figure 1 contrasts the risk-sensitive premium rates the FDIC will begin charging in 1993 with the likely structure of risk-sensitive premiums that will develop in the cross-guarantee marketplace.

Three, eliminate "one-size-must-fit-all" banking regulation to promote safer and more efficient banking: Bank and thrift regulations, which reflect the "one-size-must-fit-all" mentality common to all regulatory schemes, cannot easily accommodate the different operating styles demanded by complex financial markets. This inflexibility fosters inefficient banking and "herd effect" that has contributed to many bank and thrift failures.

By shifting the safety-and-soundness regulation of banks and thrifts from government regulation to contracts freely negotiated between individual depository institutions and their guarantors, the bill will permit institutions to negotiate contractual restraints tailored to their individual business strategies. These constraints will serve the same purpose as the safety-and-soundness regulations from which guaranteed institutions will be exempted under Title II. However, this customizing process will eliminate most of the extremely wasteful regulatory burden imposed on healthy, well-managed banks and thrifts in recent years. The marketplace will not force a $25 million bank to accept contractual terms suitable only for a bank with $10 billion or more in assets.

Since guarantors will assume the entire risk of deposit insurance now partially borne by taxpayers, guarantors become the appropriate (and sufficient) overseers of safety-and-soundness in the banking system. Put more bluntly, since guarantors will put up the bucks if they are wrong, they get to control the risk.

Cross-guarantee contracts will promote diversity within banking by moving away from such absurd notions as uniform capital requirements and arbitrary, inflexible closure rules. Not only will individual banks and thrifts be able to pursue unique business strategies, but they will be able to readily alter their strategies as business conditions change.

Because marketplaces can react more quickly to changing conditions than politically constrained regulatory mechanisms, depository institutions will be freed of the regulatory overreaction that often occurs in the aftermath of regulatorily induced crises. Figure 2 contrasts the swings of marketplace forces with the much more extreme, erratic, and unpredictable swings of the regulatory pendulum.

Because the philosophy of cross-guarantees is fundamentally at odds with the risk-based capital standards formulated under the Basle accord and because of the superior protection provided by cross-guarantee contracts, Title II effectively exempts guaranteed banks from the Basle risk-based capital standards.

Four, eliminate the "too-big-to-fail" problem: The current too-big-to-fail policy reflects the fact that in today's industrialized world, large, insolvent depository institutions cannot be liquidated without creating the potential for a systemic financial crisis. The bill prevents any potential for crisis by mandating that cross-guarantee contracts protect against any loss or delay in payment or settlement of *all* deposits, other interest-bearing liabilities, contracts for future performance, and clearing and settlement balances of guaranteed institutions. Since all deposits in all banks and thrifts will be fully protected against loss, large banks will no longer have any advantage in attracting deposits over $100,000. Guaranteeing all deposits effectively shifts all insolvency risk of a bank or thrift to guarantors who have explicitly assumed this risk, in exchange for a risk-sensitive premium. In effect, cross-guarantee contracts completely separate the pure or riskless funding cost of a bank's or thrift's deposits and other borrowings from the cost of insuring its solvency. This separation permits a more accurate pricing of each function.

Five, avoid another deposit insurance crisis and related economic downturn: Franklin Roosevelt warned in 1933 that federal deposit insurance "would put a premium on unsound banking in the future." Unsound banking is fostered in part by federal deposit insurance that misprices banking risks, such as maturity mismatching and overlending in overheated markets. This mispricing not only led to the FSLIC crisis, but it also fueled overbuilding that in turn caused their recent collapse in real estate values. Not only did the subsequent asset deflation, always a killer of highly leveraged lenders such as banks and S&Ls, cause hundreds of banks and S&Ls to fail, but asset deflation has been a major cause of the longest recession since the 1930s. Risk-related deposit insurance premiums will help prevent such deflations by pricing riskier loans at higher interest rates, thus curtailing the flow of credit that feeds the speculative bubbles that inevitably burst, killing depository institutions and depressing economies.

Figure 3 illustrates some speculative bubbles, and their deflationary aftermaths, of the type that cross-guarantees will dampen by discouraging the lending that pumps up such bubbles. Figure 4 shows the dramatic rise in bank insolvency losses during major asset deflations. These losses are far more severe than those that occur during inflationary times because highly leveraged lenders can more easily protect themselves against the consequences of inflation than they can protect themselves against the consequences of deflation, when collateral values plunge. Interestingly, the FDIC forecasts that bank insolvency losses under the present regulatory regime will continue to at least 2006 at a far higher level than would occur in a more stable economic environment fostered by cross-guarantees.

Six, enhance the performance of the American economy: Cross-guarantees will foster a banking system that lends more wisely, and therefore better serves the myriad, diverse markets that comprise the American economy. Because competitive markets provide choices absent in the regulatory process, a market-driven banking system will avoid the extremes of credit laxness and credit crunch that periodically occur under the present regulatory regime. As a result, the cross-guarantee system cannot help but be more efficient and financially safer than the present overregulated system. Better banking will materially enhance the performance of the American economy, raising the standard of living for its citizens.

Now is an ideal time to implement cross-guarantees. The American economy is in the early stages of what should be a long-term recovery from the deflation-driven recession of recent years, notwithstanding the FDIC's loss forecasts reflected in Figure 4. This long recovery period will permit cross-guarantees to take root in time to begin pricing against trends that otherwise could cause future speculative bubbles that will prove costly, not only to the economy, but possibly even to taxpayers.

100 PERCENT CROSS-GUARANTEES—A SIMPLE CONCEPT

The premise that underlies the cross-guarantee system is that private sector equity capital can be used to construct a puncture-proof "solvency safety net" under all banks and thrifts. Under federal deposit insurance, if a bank or thrift fails, most, if not all, of the resulting insolvency loss is borne by a government-administered fund financed by taxes (mistakenly called insurance premiums) levied on surviving institutions. In extreme situations, the general taxpayer pays, as occurred in the FSLIC bankruptcy. The cross-guarantee process privatizes both the management of deposit insurance and all losses it experiences.

The cross-guarantee system focuses on insolvency, the real risk in deposit insurance, rather than just on illiquidity, deposit insurance's "pseudo risk." Bank runs, which lead to illiquidity will be highly unusual events because cross-guarantee contracts will protect *all* deposits against any loss. Indeed, because bank runs destroy franchise value, and therefore equity capital, guarantors will quickly provide emergency liquidity if a bank run does occur in order to minimize damage to the bank's franchise. This damage control will lessen the likelihood that the bank will become insolvent. Figure 5 illustrates the contrast between the liquidity risk and the insolvency risk of deposit insurance.

IMPORTANT FEATURES OF THE BILL

Many safeguards have been built into the bill to construct a puncture-proof solvency safety net under all banks and thrifts:

Every guarantor under a cross-guarantee or stop-loss contract must itself be unconditionally guaranteed as to its cross-guarantee obligations.

Every cross-guarantee and stop-loss contract must have a stop-loss provision to spread a large loss or series of losses widely but thinly over the broad base of capital committed to the cross-guarantee system.

Isolated "closed loop" situations that would short-circuit the stop-loss feature, allowing an insolvency loss to puncture the stop-loss safety net, will be prohibited. If a closed-loop situation emerges, it will be quickly identified and eliminated.

Every cross-guarantee and stop-loss contract and every guarantor must meet statutorily prescribed risk dispersion requirements.

Nondepository guarantors must meet minimum capital and liquidity requirements.

Cross-guarantee contracts cannot be canceled or allowed to expire before a replacement contract has been obtained.

Affiliated banks must be guaranteed under one contract.

Sufficient emergency liquidity will be available if a bank run occurs.

Cross-guarantees have been made as regulator-proof as possible:

Regulator error has been a major cause of the massive deposit insurance losses of the past decade. The most important function assigned to the FDIC by the bill will be to ensure that every cross-guarantee and stop-loss contract the FDIC approves meets the relatively simple and straight-forward statutory requirements for these contracts. Additionally, the bill lessens the chance for regulatory error by largely eliminating the safety-and-soundness regulatory activities of the FDIC, the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), and the Federal Reserve System.

The bill adapts to the existing complex structure of the banking and thrift industries:

The legal structure of the banking and thrift industries is complex, in part because there are two, and in some states three, regulatorily distinct types of depository institutions. In addition, the dual chartering concept permits banks and thrifts to be chartered, and therefore regulated, by either a state or a federal agency, although federal regulation increasingly trumps state regulation. There also is extensive regulation of bank holding companies, which effectively adds to the complexity of the U.S. banking system. Finally, foreign banks operate extensively in the United States through subsidiary banks, agencies, and branches, some of which currently can accept uninsured deposits. Because the bill simply attempts to reform deposit insurance, every effort has been made not to alter the existing banking structure or the powers banks and thrifts can exercise.

The bill provides for a gradual conversion of banks and thrifts to cross-guarantee contracts:

The bill is self-actuating in that it will not become effective until the later of 18 months after enactment or when "critical mass" is reached; that is, at least 200 banks and thrifts with at least $500 billion of assets have voluntarily obtained cross-guarantee contracts. Once critical mass is achieved, the nation's remaining banks and thrifts will have up to eight years to obtain a cross-guarantee contract. This gradual phase-in of cross-guarantees, and the related downsizing of the bank and thrift regulatory agencies, will permit a relatively painless transition to cross-guarantees.

Non-banking firms can participate as guarantors:

The nation's banks and thrifts, with approximately $300 billion of equity capital, have more than enough equity capital to construct the puncture-proof solvency safety net mandated by the bill. However, in order to broaden the base of the guarantors of bank and thrift liabilities, the bill contains provisions permitting finance and insurance companies, manufacturing and service firms, pension and endowment funds, and even very wealthy individuals to easily and efficiently participate in the cross-guarantee process as non-depository guarantors. Potentially, non-depository guarantors could place more than *$7 trillion* of equity capital at risk, more than the total liabilities of the nation's banks and thrifts. While the system will need only a fraction of this capital to sufficiently broaden the capital base of the cross-guarantee system, the ready availability of this vast sum of additional capital ensures that the cross-guarantee marketplace will not "freeze up," causing cross-guarantee premium rates to skyrocket during those times when government policies destabilize the nation's financial system.

ORGANIZATION AND SUMMARY OF TITLE I

The first section of the bill, Sec. 101, defines 46 terms widely used in the bill. Most of these terms are unique to the cross-guarantee concept; the rest are modifications of definitions used elsewhere in the banking statutes (Title 12 of the United States Code). Definitions of other terms have been placed where needed in the text of the statute. Sec. 102 provides some rules of construction in interpreting terms in the bill.

Sec. 111 is the all important operative clause, or ignition switch, of the bill. This section provides that every bank and thrift operating within the United States must become guaranteed under a cross-guarantee contract, subject to a transition schedule set out in Sec. 141 and Sec. 142.

Sec. 112 describes the parties to the cross-guarantee, stop-loss, and group cross-guarantee syndicate contracts authorized by Title I. These parties are the guaranteed financial group, its syndicate of direct guarantors, and the agent for those guarantors, called the syndicate agency. Figure 6 illustrates the parties to a cross-guarantee contract. This section also allows majority controlled subsidiaries to be included under the same contract as a guaranteed bank or thrifts. It also sets out several rules governing the relationship between a syndicate agent and the other parties to these contracts.

Sec. 113, in many ways the heart of the bill, sets out the requirements that all cross-guarantee and stop-loss contracts must meet. Its first subsection, Sec. 113(a), prescribes the all-important stop-loss provision that must be incorporated in every cross-guarantee and stop-loss contract. Although it will rarely be invoked, the stop-loss provision plays an important role in ensuring that a large loss or a concentration of losses in a short period of time will be spread widely but thinly over many guarantors. This loss spreading, coupled with the requirement that every guarantor itself be guaranteed as to its cross-guarantee obligations (Sec. 114(a)(1)(E) and Sec. 115(a)(1)), constructs a puncture-proof solvency safety net that will fully absorb the insolvency loss in any bank or thrift failure, even in economic conditions far worse than the Great Depression.

Other provisions of Sec. 113 address the division of liability among guarantors, the maximum period of any contract (five years), contract cancellations and renewals, substitutions of direct guarantors, modifications of contracts, and rule of construction that provides that any term or condition not expressly prohibited by the Act or by other law may be included in a cross-guarantee or stop-loss contract.

Sec. 114 and Sec. 115 set out additional requirements applicable, respectively, only to cross-guarantee and stop-loss contracts. The most important are the risk-diversification requirements each contract must meet the requirements for and limitations on the types of liabilities that can be guaranteed under a contract. The risk-diversification provisions, by preventing concentrations of insolvency risk, lessen the likelihood that the stop-loss provisions of Sec. 13(a) will ever be invoked. For example, all banks and thrifts with more than $10 billion in assets will have to have at least 100 guarantors, none of which can assume more than 1 percent of that institution's insolvency risk.

Mandating that certain obligations, notably *all* deposits, be guaranteed under cross-guarantee contracts, ensures that those types of banking liabilities that create systemic risk (that is, a domino effect) within the financial system are protected against any loss. This requirement also eliminates too-big-to-fail as a political issue because all deposits will be protected no matter how large or how small an institution. Guarantors will bear all risk of insolvency; large depositors and other guaranteed creditors will bear none of the risk.

Sec. 116 establishes the eligibility of and requirements for direct guarantors under cross-guarantee and stop-loss contracts. While any guaranteed bank or thrift automatically can serve as a direct guarantor (but cannot be forced to serve as a direct guarantor), nondepository guarantors must meet substantial tests of net worth (at least $100 million) and liquidity. Sec. 116 also establishes certain risk spreading requirements for direct guarantors to complement the risk diversification requirements for cross-guarantee and stop-loss contracts. Forcing guarantors to spread or diversify the cross-guarantee risks they assume substantially reduces the likelihood that an individual guarantor will have to utilize the stop-loss provision of Sec. 113(a).

Sec. 117 sets out various provisions governing cross-guarantee and stop-loss syndicates and syndicate agents, including the powers and duties of syndicate agents and the right of a syndicate to fire its agent at any time without cause. Sec. 118 establishes the powers and duties of a cross-guarantee syndicate once it assumes control of a guaranteed bank or thrift under the terms of that institution's cross-guarantee contract. Sec. 119 grants the federal courts exclusive jurisdiction over the enforcement of cross-guarantee and stop-loss contracts.

Sec. 121 establishes the FDIC as the exclusive regulator of the cross-guarantee process. Because of its sharply limited responsibilities, the FDIC will have limited enforcement powers, which will help to restore a reasonable balance between the rights of insurers and insureds that recent banking legislation has badly undermined. Sec. 122 establishes the process by which the FDIC will approve or reject cross-guarantee and stop-loss contracts. Sec. 123 creates the Central Electronic Repository (CER) which shall maintain the official version of all proposed and approved cross-guarantee and stop-loss contracts. The CER, which will be self-funded and directly accessible by all participants in the cross-guarantee process, will be administered by a board of directors elected by depository institutions and syndicate agents and regulated by the FDIC.

Sec. 124 prohibits isolated "closed loop" situations whereby a group of institutions guarantee each other without any of that risk being shared with guarantors outside the group. The FDIC is barred from approving any contract that would create an isolated closed-loop. Should a closed loop develop, the FDIC is empowered to force the participants in the loop to modify their contracts to link them into the one giant closed loop that should encompass all participants in the cross-guarantee system.

Sec. 126 directs syndicate agents to periodically report to the FDIC the marked-down value of assets owned by guaranteed financial groups and the amount of insured deposits if held by those institutions; that is, deposits up to $100,000. Sec. 127 empowers the FDIC to appoint a conservator or receiver for any guaranteed bank or thrift whose asset value is only slightly above the value of its insured deposits or which has not eliminated a closed loop situation when directed to do so by the FDIC. It would be a folly for an institution's direct guarantors to permit an FDIC takeover of that institution, but this power has been provided as a further protection to taxpayers and the cross-guarantee system. The guarantors are required to indemnify the FDIC for any losses in such a situation. Sec. 127 also allows the FDIC to take over an institution that was part of an isolated closed loop and did not obtain a new contract. Any losses that take place due to such a takeover will be recycled back to all depository institutions. Hence, even in the rare case where a crack is found in the cross-guarantee system, holders of guaranteed obligations and the taxpayer are still protected against any loss whatsoever.

Sec. 128 creates the FDIC Back-Up Fund (BUF) to explicitly protect insured depositors against an economic calamity such as a nuclear war that would cause the entire banking system to collapse. Such a system-wide collapse is the only way a loss can reach the BUF. Politically, the BUF also provides a rationale for permitting guaranteed institutions to continue displaying the FDIC logo stating that a government agency protects deposits up to the present $100,000 insurance limit. As a practical matter, the BUF is a political facade because the federal government would begin to default on its obligations before any bank or thrift insolvency losses reach the BUF. Therefore, Sec. 128 could be dropped from the bill without doing any harm to the cross-guarantee concept.

The BUF will be funded initially by transfers from the BIF and SAIF as banks and thrifts become guaranteed for the first time. These transfers will equal .2 percent of just the insured deposits of these institutions. Based on the present quantity of insured deposits, the BUF would have an initial balance of at least $5 billion by the time all banks and thrifts become guaranteed. Interest income on BUF investments not used to fund the FDIC's modest operating expenses will accumulate in the BUF. Figure 7 illustrates the relationship of the BUF to the rest of the cross-guarantee system.

Various miscellaneous provisions regarding cross-guarantees are set out in Sec. 131, Sec. 132, Sec. 133 and Sec. 134. Sec. 131 directs the FDIC to ensure that all deposit-taking institutions, other than credit unions, money market mutual funds, broker-dealers, and currently uninsured branches of foreign banks operating in the United States, become guaranteed under a cross-guarantee contract. Sec. 132 creates the Cross-Guarantee Advisory Committee to advise the FDIC on the regulation of the cross-guarantee system. Sec. 133 empowers Federal Reserve banks to lend to guaranteed institutions without requiring collateral; however, the Fed is not barred from requiring that loans to guaranteed borrowers be collateralized. Sec. 133 also requires the Federal Reserve's Board of Governors to certify annually to the House and Senate banking committees that Federal Reserve banks have not suffered any losses in lending to guaranteed institutions. Sec. 134 empowers guaranteed depository institutions to continue to display the FDIC insurance logo and also to display a second logo stating that all deposits in the institution are protected under a cross-guarantee contract approved by the FDIC.

Sec. 141 and Sec. 142 govern the conversion of banks and thrifts to guaranteed status. Essentially, no bank or thrift can become a guaranteed institution until the later of 18 months after the enactment of the bill or when "critical mass" is reached. Critical mass will occur as soon as the FDIC has approved cross-guarantee contracts for at least 200 banks and thrifts with total assets of at least $500 billion. The first batch of approved contracts actually will become effective forty business days after critical mass is reached, on the "Big Bang" date, referred to in the bill as the "cross-guarantee activation date." Big Bang will kick off an eight-year transition schedule under which all FDIC-insured banks and thrifts must become guaranteed institutions. Banks and thrifts with more than $1 billion of assets will have to obtain a cross-guarantee contract within two years after Big Bang; institutions with less than $25 million of assets will have eight years after Big Bang to obtain a contract. Sec. 143 provides that the FDIC will immediately take over any bank or thrift that does not meet the Sec. 142 timetable.

Sec. 144 provides that upon becoming a guaranteed institution, banks and thrifts will pay an exit fee, if needed, to their respective deposit insurance funds (the BIF or the SAIF). On the eighth anniversary of Big Bang, any unencumbered balances remaining in the BIF and SAIF will be transferred to the BUF. Sec. 145 provides generous severance pay and relocation allowances for the 15,000-20,000 employees of the federal and state bank and thrift regulatory agencies that will no longer be needed by these agencies as banks and thrifts shift to a guaranteed status. These severance benefits will be funded by the BIF or SAIF or, if necessary, indirectly through the exit fees assessed under Sec. 144. The final section of the bill, Sec. 146, provides for the abolition of the Federal Financial Institutions Examination Council on the eighth anniversary of the critical-mass date.

ORGANIZATION AND SUMMARY OF TITLE II

The seven sections of Title II basically divide into major subject areas the substantial exemptions from existing banking law guaranteed banks and thrifts will enjoy. These exemptions are part-and-parcel of the bill. Title I cannot be enacted without its inseparable complement, Title II. The eleven subsections of Sec. 201 exempt guaranteed national banks from various safety-and-soundness provisions of the National Banking Act and related laws dealing with national banks. State-chartered banks presumably will switch to national bank charters if their states do not enact comparable exemptions. The ten subsections of Sec. 202 exempt members of the Federal Reserve System from various safety-and-soundness requirements now applicable to Fed members, both national banks and state member banks.

The thirteen subsections of Sec. 203 amend various provisions of the Home Owners' Loan Act (HOLA) to exempt federally chartered S&Ls and savings banks and federally insured, state-chartered thrifts from the safety-and-soundness provisions of HOLA. The six subsections of Sec. 204 deal with savings and loan holding companies that own guaranteed thrifts. Sec. 205 exempts guaranteed banks and thrifts almost entirely from the provisions of the Federal Deposit Insurance Act. However, this section does empower guaranteed institutions to continue to display the FDIC logo. Sec. 207 exempts guaranteed banks and thrifts from four miscellaneous provisions of the Banking Code.

Sec. 206 amends the Bankruptcy Code (Title 11 of the U.S. Code) to permit a guaranteed depository institution or any subsidiary covered by a cross-guarantee contract to be a debtor under either Chapter 11 (reorganization) or Chapter 7 (liquidation) of the Bankruptcy Code. Involuntary bankruptcies brought by disgruntled creditors can be commenced only under Chapter 11. Voluntary bankruptcies can be brought under either Chapter 7 or 11, but only with the express, written consent of the institution's cross-guarantee syndicate. In a sharp exception to bankruptcy law as it now applies to debtors, the cross-guarantee syndicate, as "debtor-in-possession," can operate the depository institution without judicial interference while the institution is in a bankruptcy proceeding. But by exercising that control, the syndicate assumes a fiduciary responsibility to nonguaranteed creditors of the institution.

SYNOPSIS OF THE TAXPAYERS' PROTECTION AND DEPOSIT INSURANCE REFORM ACT OF 1992

INHERENT AND IRREPARABLE FLAWS IN FEDERAL DEPOSIT INSURANCE

As Roosevelt warned in 1933, it protects bad banks as well as good, it puts a premium on unsound banking, and it has cost taxpayers billions of dollars.

As bank and S&L insolvency losses soared during the 1980s, regulators moved too slowly to deal with failing institutions. This made losses even worse.

Its mispricing caused a substantial misallocation of credit in the 1980s that has greatly aggravated the current recession; now its escalating flat-rate premiums overcharge good banks and thrifts and dampen their willingness to lend. Consequently, today some sound businesses cannot get sufficient credit.

Deposit insurance must be priced to reflect the riskiness of individual banks, but the FDIC cannot properly set risk-sensitive premiums because proper prices can be established only in private, competitive markets.

Federal deposit insurance has become increasingly dependent upon extensive regulation that cannot keep up with rapid changes in a financial world driven increasingly by electronic technology. Government regulation has become counterproductive and harmful to good banks and thrifts and to America's international competitiveness.

BASIC PRINCIPLES OF THE 100 PERCENT CROSS-GUARANTEE SOLUTION

End taxpayer risk and bailouts by ensuring that private sector equity capital always protects ALL bank and thrift deposits from loss.

Let private markets set risk-sensitive deposit insurance premiums, based on *leading* indicators of banking risk, that will discourage unwise banking practices.

Shift "safety-and-soundness" regulation for banks and thrifts to those who bear the risk of loss, the owners of the private capital protecting depositors.

Also shift the bank closure decision to those bearing the risk of loss. These guarantors have the strongest incentive to minimize losses and therefore should control the risks they have assumed.

Use a "stop-loss" mechanism to spread the bank insolvency risk widely, and therefore thinly, over the equity capital of the financial world.

Retain federal deposit insurance as backup insurance only for deposits up to $100,000.

SPECIFICS OF THE 100 PERCENT CROSS-GUARANTEE SOLUTION

Each bank and thrift (but NOT credit unions) enters into a contract with a syndicate of banks, thrifts and/or other well capitalized entities that guarantees the original contractual terms of all deposits and most other liabilities of the guarantees the original contractual terms of all deposits and most other liabilities of the guaranteed institution.

Premium rates and other contractual terms are negotiated on a syndicate-by-syndicate basis and are NOT subject to government regulation or approval.

Numerous safeguards protect taxpayers against another deposit insurance bailout. A mandatory "stor-loss" mechanism passes part of any large insolvency loss to the guarantors' guarantors. Risk dispersion rules require a minimum number of guarantors for any one bank or thrift and limit both the aggregate risk assumed by a guarantor and the percent of risk any one guarantor assumes for any one bank or thrift.

Cross-guarantee contracts cannot be canceled unless the guaranteed bank or thrift first obtains a replacement contractor or is acquired by another guaranteed bank or thrift. Once guaranteed, no institution can operate without a cross-guarantee contract in place.

Each syndicate retains an agent to monitor the financial condition of the bank or thrift it has guaranteed to ensure adherence to all contractual terms and to act as a buffer to protect the competitive secrets of the guaranteed institution.

The FDIC regulates the cross-guarantee process and ensures that all guarantors have sufficient capital relative to the risks they have assumed. Safety-and-soundness concerns shift to the syndicates. The bank regulatory establishment is then substantially downsized as banks obtain guarantees.

The FDIC insure deposits up to $100,000, but only on a back-up basis. It should never experience a loss. Guaranteed banks can still post the FDIC insurance logo.

Weaker banks and thrifts have ample time to raise the capital needed to obtain a cross-guarantee contract or to merge with another institution. If necessary, institutions obtaining guarantees pay an exit fee to cover any losses the FDIC incurs in disposing of the few banks and thrifts that cannot raise sufficient capital or find a merger partner.

Phase-in provisions give smaller banks and thrifts up to ten years to obtain a cross-guarantee contract. The first contracts become effective when 200 banks or thrifts, with total assets of at least $500 billion, have approved contracts in hand.

A competitive market with an ample pool of potential guarantors protects banks from premium overcharges, ends concerns about capital adequacy in the banking system, and permit guarantors to accept or reject individual cross-guarantee risks as they see fit.

Although there should be no bank runs, cross-guarantee contracts protect any loan a Federal Reserve bank makes to a guaranteed institution experiencing liquidity problems.

ARGUMENTS AGAINST CROSS-GUARANTEES AND RESPONSES TO THOSE ARGUMENTS

INTRODUCTION

The "Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992," a bill introduced by Rep. Thomas Petri (R-WI) creates a new cross-guarantee deposit insurance system unfamiliar to many observers, experts, and industry participants. This document helps alleviate this unfamiliarity by stating various arguments against the cross-guarantee concept and providing a succinct response to each argument.

ARGUMENTS AND RESPONSES

Argument: The cross-guarantee system will not have adequate capital to withstand a severe economic downturn.

Response: Under cross-guarantees, several hundred billion dollars, and potentially trillions of dollars, of private sector equity capital will stand behind the cross-guarantee system. As a result, the cross-guarantee system will have sufficient equity capital to remain solvent through any economic downturn, even one several times worse than the Great Depression. Only a calamity such as a nuclear war or major meteor strike could bankrupt the system. Of course, any such event probably would first bankrupt our increasingly indebted federal government.

Not only could the cross-guarantee system withstand an extremely severe economic shock, such as another depression, its use of risk-sensitive pricing will help avert such economic crises. Should the economic data used by guarantors indicate that a sector of the economy is beginning to experience a "boom" (that will lead to a "bust"), premium rates will likely rise for any bank or thrift that lends heavily into that sector of the economy. For example, premium rates would have risen for farm lending in the late 1970s, when the Farm Credit System expanded its lending to already over indebted farmers. Premium rates also would have risen for loans to the energy sector during its artificial boom in the late 1970s and early 1980s and for commercial real estate development loans during the mid- and late-1980s when lending took place despite rising vacancy rates. By raising premium rates for lending to "overheated" sectors of the economy, cross-guarantees will help eliminate some of the lending that feeds such "bubbles," dampening both the boom and the consequences of the inevitable bust. In effect, cross-guarantees will cause capital to "run" from an overheated sector of the economy before the bubble inflates too much.

In general, risk-sensitive pricing also will serve as a clear signal of the market's disapproval of any destabilizing government policy. If the federal government recklessly subsidizes farm lending to help farmers finance purchases of overpriced farmland, guarantors will react by raising premium rates for farm lending, sending notice of the potential dangers of the government's policy. Hopefully, this marketplace response will help to curb financially destructive government policies.

Argument: The S&L crisis would have bankrupted the cross-guarantee system.

Response: Given the total equity capital of all the guarantors, the cross-guarantee system would have had sufficient equity capital to handle the S&L crisis. But more important, under cross-guarantee, the S&L crisis would never have happened.

If cross-guarantees had been in place by 1960, the system would have forced S&Ls to curtail their severe maturity mismatching, the root cause of the S&L crisis, long before the record-high interest rates of the early 1980s—after all, the dangers of such severe maturity mismatching have long been understood. Specifically, risk-sensitive premiums would have forced S&Ls, certainly in the aftermath of the interest rate spike in 1966, to issue more adjustable-rate mortgages, to fund fixed-rate mortgages with longer-term deposits, and possibly to securitize some mortgages. These changes would have allowed S&Ls to easily survive the high interest rates of the early 1980s, much as commercial banks did.

Moreover, even assuming the S&L crisis would have reached the stage it had in 1983, when more than 500 insolvent S&Ls remained after interest rates fell, guarantors (with their own capital at risk) would never have delayed closing insolvent thrifts. Guarantors also would not have allowed wasteful lending to take place, tolerated crooks looting the institutions they guaranteed, denied that losses existed, or shrunk their monitoring role in the face of a mounting crisis.

Argument: The system will not have adequate capacity to prevent a "freeze up" in the cross-guarantee marketplace.

Response: In recent years, as losses from torts litigation have mounted, many insurance markets have experienced an unwillingness among insurers to underwrite risks except at extremely high rates. Critics claim the same thing will happen in the cross-guarantee marketplace as soon as a glut of losses occurs. Hence, when a bank or thrift seeks to obtain a new cross-guarantee contract, it will have to pay outrageous premium rates to attract any guarantors.

Such a "freeze up" can only occur if profits cannot be earned at reasonably low premium rates or no potential guarantor exists to take advantage of the profit opportunity. Unlike many risks burdened by the torts system, guarantors can underwrite sound banks and thrifts at low premium rates throughout an economic cycle and still make large profits. And unlike other insurance markets, the total amount of equity capital of guarantors available to underwrite cross-guarantee risks dwarfs the amount of risk to be underwritten.

If cross-guarantees were implemented today, about $4.1 trillion in liabilities would be guaranteed under the system. Assuming an average premium rate of three basis points per dollar of liability guaranteed, cross-guarantee contracts would generate $1.2 billion annually in premium income. Since under the cross-guarantee bill, a guarantor's total premium income cannot exceed 3 percent of its equity capital, approximately $40 billion in equity capital, at a minimum would be needed among the direct guarantors to underwrite the system.

The banking and thrift industries alone would have enough capital to adequately handle such risks. The book value of the capital of the banking and thrift industries today is about $300 billion; the market value probably is actually higher. Such amounts mean that almost eight times the needed capital exists within those two industries. That capital alone is more than adequate to underwrite the cross-guarantee system.

The bill, however, also allows "nondepository guarantors," such as manufacturing companies, service firms, insurance companies, other financial services firms, pension funds, endowment funds, and wealthy individuals to be guarantors. Such nondepository guarantors could bring to the table at least $7 trillion in additional equity capital to stand behind the risks of the cross-guarantee system. As a result, plenty of capacity will exist. It is hard to imagine that a market where $7 trillion in equity capital is chasing potential profits would "freeze up" over the prospect of underwriting $1.2 billion in annual premium income.

Finally, note that even if the cross-guarantee marketplace should "freeze up," banks and thrifts can play both sides of the game. If premium rates rise dramatically, banks and thrifts can step up their presence as guarantors in the marketplace, meaning that their premium income as guarantors can rise to offset any increase in their own premium rates. In effect, banks and thrifts will be able to "net down" the cost of their cross-guarantees if premium rates begin to rise. The presence of the industry as both guarantors and guaranteed parties also make it much more unlikely that a mass exodus of guarantors would take place in the first place.

Argument: Taxpayers are still at risk under the cross-guarantee system.

Response: There is a better chance that Elvis is still alive than that taxpayers will suffer a loss under the cross-guarantee system. Although the cross-guarantee system retains federal deposit insurance coverage for deposits up to $100,000 through a new Backup Fund (largely as a transition measure so that depositors can remain protected under the old system while getting used to the new system), the risk of cross-guarantees to taxpayers is nonexistent as a practical matter. Because of the layers and layers of protection provided to taxpayers under this bill, taxpayers simply cannot suffer a loss.

Under the cross-guarantee system, the equity capital of the guarantors in the system ultimately stands behind the system. Therefore, losses in the system would have to basically wipe out the equity capital of *all* of the guarantors before they could reach taxpayers. Such losses could only arise due to a nuclear war or a large meteor strike in which the economy is essentially destroyed. Indeed, in such circumstances, it is questionable whether taxpayers would have any money with which to pay losses anyway; there is, after all, a practical limit on how much the government can tax.

But what happens if a loss passes through some "crack" in the system? This can only occur if the FDIC negligently allows some "isolated closed loop" to arise, in which a small set of institutions guaranteed each other and therefore were not connected with the rest of the system. Such an isolated closed loop is forbidden under the bill and, given the ease with which any participant in the system can spot such a loop, the FDIC would have to reach new heights of incompetence to allow an isolated closed loop to take place.

Nevertheless, since regulatory incompetence can never be totally discounted, the bill includes protective mechanisms should a closed-loop ever occur. First, and industry financed Cross-Guarantee Backup Fund (BUF) will exist (with a balance equal to 0.2 percent of insured deposits) to underwrite any losses that might take place due to FDIC incompetence. Second, should the BUF somehow prove inadequate, the FDIC can assess depository institutions to cover any shortfall and to replenish the fund.

The bill also gives the FDIC the power to assume control of any insolvent depository institution if the value of the institution's assets falls to the point where its assets are only worth two percent more than BUF-insured deposits. This provision reassures those who believe the taxpayer is still at risk under the cross-guarantee system by providing a mechanism to close a depository institution as soon as it threatens to cause a loss for the BUF. It also allows the government to shut down a "renegade" situation, where a syndicate has for some reason refused to assume control of a deeply insolvent institution. Since such a scenario is extremely unlikely, the FDIC will probably never use these powers to take over a depository institution. But should the FDIC do so, the guarantors of the institution taken over will be obliged to indemnify the FDIC for any losses to the BUF.

Given all these protections, taxpayers simply will never suffer a loss.

Argument: If taxpayers are at risk, even trivially, the FDIC should still perform annual examinations of banks and thrifts and closely monitor depository institutions. Safety-and-soundness regulation needs to be retained for the same reason.

Response: Such examinations, monitoring, and regulation would be costly, duplicative, and serve no function. To start with, guarantors will perform these functions and have a strong economic incentive to do a good job, since their own money is at stake. More to the point, given the only two ways the FDIC could lose money under the system, examinations and regulations would do little good.

Taxpayers are at risk under the cross-guarantee system in two different ways. One is that a major catastrophe could occur such as a nuclear war or a large meteor strike. But if regulatory examinations could not prevent Charlie Keating's shenanigans, they are not going to stop nuclear wars or meteors, the 1991 banking law (The Federal Deposit Insurance Corporation Improvement Act of 1991, or FDICIA) notwithstanding. Hence, examinations and regulations could not prevent losses from occurring in this way.

Losses could also occur if the FDIC negligently allows an isolated closed loop to arise. But to prevent that from happening, the FDIC must simply enforce a prohibition against such a loop. It is difficult to see how giving the FDIC the power to examine institutions would prevent it from negligently allowing a closed loop to arise. All the information it needs to prevent a closed loop will be present in the approved contracts recorded in the Central Electronic Repository. A computer program would quickly spot any problem.

Since FDIC examinations, monitoring, and safety-and-soundness regulation could not prevent losses to the taxpayer under the cross-guarantee system, no reason exists for imposing this duplicative and wasteful cost burden on guaranteed institutions.

Argument: Cross-guarantees would create too much radical change in the banking and thrift industries.

Response: Would cross-guarantees lead to dramatic change in the banking and thrift industries? Yes. Would this change be for the better for the institutions, their customers, and the economy as a whole? Yes. Would the changes be "too radical"? No.

Cross-guarantees are no more radical than recent changes in banking laws, such as FDICIA and FIRREA (The Financial Institutions Reform, Recovery, and Enforcement Act of 1989). These laws have raised deposit insurance premiums and increased regulation of the industry to a level which many observers would view as quite "radical," particularly in their negative impact upon healthy, well-managed institutions. By contrast, cross-guarantees would lead to premium rates, "regulation" of guaranteed institutions, and capital standards more befitting the normal operation of banks and thrifts.

For depositors and borrowers, cross-guarantees would cause little disruption. Indeed, the changes, such as greater protection for depositors, more credit availability for sound borrowers, and fewer disruptive bank and thrift failures, would be for the better. For banks and thrifts, the changes would be more dramatic, but even there it is easy to exaggerate. A guaranteed bank or thrift will no doubt be subject to many of the same restrictions, such as lending limits, limits on loans to directors and officers, and minimum requirements for holding liquid assets and capital to which it has long been subject. The one difference is that such restrictions would be the byproduct of contractual negotiations that would allow banks and thrifts to better tailor these restrictions to fit their own operations.

Closure decisions also will not differ greatly from those of the government regulatory agencies. In other words, as a bank or thrift runs out of capital, it will be closed. The only differences are that banks and thrifts can no longer expect forbearance and they no longer would be subject to the whims of a monopoly regulator in deciding whether they were solvent, since a bank or thrift can always attempt to find a new syndicate to guarantee it.

The cross-guarantee system also will include a lengthy transition period, particularly for the smaller institutions which may have the greatest difficulty adjusting to the new system. This transition period (a minimum of nine and one-half years) ensures that institutions can take their time in adapting to cross-guarantees.

Argument: Depositors will not have much faith in the cross-guarantee system. Consequently, runs will occur on guaranteed institutions.

Response: Partly because of this fear, the federal government will remain as the "ultimate" guarantor, or "guarantor of last resort," of deposits insured by the BUF up to $100,000. This means the FDIC logo will remain on the door. Although the cross-guarantee system will effectively eliminate all taxpayer risk from deposit insurance, the symbolic presence of the FDIC sticker should help in the transition as depositors adjust to the cross-guarantee system. Depositors can accurately be informed that the cross-guarantee system does not replace the coverage provided by the FDIC, but strengthens it.

"Irrational runs may occur. But such runs occur today. Many depositors with less than $100,000 in a failing bank or thrift "run" today despite the government guarantee. Indeed, if anything, under the cross-guarantee system, "irrational" runs may prove less likely, because the system will be allowed to advertise that *all* deposits are protected. Today, because some deposits are not protected under the current system, unsophisticated depositors vaguely hear stories about depositors not getting their money. Such stories make depositors uncertain about whether they are protected, contributing to runs. If instead the message is that all deposits are unconditionally protected, depositors may be less uncertain, and therefore much less likely to run.

In any case, over the course of time depositors will develop at least an intuitive understanding of the scope of the coverage provided by cross-guarantees. As a result, in the future, it may be possible to remove the "symbolic" government guarantee without negatively affecting the faith in the system.

Finally, should depositors run on any guaranteed bank, the guarantors will provide emergency liquidity, in order to keep customers and preserve the franchise value of the institution. Guarantors, after all, have an incentive to do so since they are ultimately liable for any losses that might occur due to the guaranteed bank's illiquidity. Indeed, guarantors have a stronger incentive to provide liquidity than the Federal Reserve, which could lose money when lending in such situations, and therefore has in the past sometimes moved too cautiously (such as during the Great Depression). Although highly unlikely, should Federal Reserve liquidity itself be needed, the Federal Reserve could lend to a guaranteed bank, knowing that its loan was fully guaranteed under the cross guarantee system.

Argument: All private deposit insurance systems have failed in the past, and the same thing would happen to cross-guarantees.

Response: All private deposit insurance systems have *not* failed in the past. Prior to the Civil War, Ohio, Indiana, and Iowa had private deposit insurance systems for commercial banks that were successful and perhaps would have evolved further, except that the National Banking Act effectively drove them out of business. Interestingly, each of these plans was based on the concept of "mutual guarantees," where each bank within the group was responsible for the losses of any other bank. Because their equity capital was at stake, the banks had a strong incentive to monitor each other closely, which virtually eliminated bank failures among insured institutions. More important, no depositor or noteholder in a bank under these plans ever lost any money.

By contrast, the many state deposit insurance systems that failed did not place the equity capital of the insured banks behind each other. Instead, they relied on a central fund that had inadequate resources to handle major losses. Moreover, since the amount an insured bank paid into the system was not directly related to another insured institution's losses, the insured banks had no incentive to monitor each other.

The FSLIC and FDIC largely emulated the state deposit insurance system that *failed*, with insured banks and thrifts paying into a central reserve fund and having little control over the activities of their fellow insured institutions. By contrast, cross-guarantees resemble the state plans that worked. Like "mutual guarantees," the cross guarantee system puts the equity capital of the guarantors behind the risks they underwrite. And, it gives guarantors the power to monitor institutions and close troubled ones.

But cross-guarantees also represents a considerable improvement on those successful state deposit insurance plans. First, the amount of equity capital standing behind guaranteed institutions under the cross-guarantee system, as noted earlier, dwarfs that of the successful state systems. Second, cross-guarantees will rely more on risk-sensitive premiums to control risk-taking. Third, the cross-guarantee system establishes a much more flexible marketplace that allows guaranteed institutions to tailor their cross-guarantee contracts to their individual situations. Fourth, cross-guarantees have a stop-loss requirement to spread risks and other protections to keep losses from leaking out of the system.

Argument: The cross-guarantee system needs a central reserve fund to cover losses, other than just the Back-Up Fund (BUF).

Response: What stands behind the guarantees under the cross-guarantee system is the equity capital of the guarantors. As long as equity capital exists to pay any guarantee, there is no reason to create a central reserve fund. Creating a segregated fund will not make capital more readily available to pay for a loss, since guarantors already will have a legal duty to pay, will be subject to damages should they not pay, and second-tier guarantors must pay should the direct guarantors not do so. A segregated fund might, however, create the impression (and hence the political reality) that payments into the fund are a *cap* on a guarantor's liability, greatly undercutting the amount of equity capital standing behind the system.

Beyond that, a central reserve fund will create a couple of problems. First, paying losses from a central reserve fund might divorce a guarantor's risk of loss from the institution which it monitors, greatly reducing a guarantor's incentive to monitor. Second, a central fund, even if just for the purpose of having a particular guarantor's capital "ready to go," would greatly, and unnecessarily, increase the costs of administering the system, since it would essentially require guarantors to idle, or at least inefficiently invest, some of their capital. It would also add further administrative costs to the system. Together, these costs would lead to a totally unnecessary increase in premium rates without strengthening the system.

Argument: Lloyd's of London is a poor model on which to base cross-guarantees because it faces financial problems.

Response: While the cross-guarantee system has some common elements with Lloyd's and the experiences at Lloyd's have guided the development of the cross-guarantee bill, the cross-guarantee system is not modeled on Lloyd's framework. What is similar between cross-guarantees and Lloyd's is that risks are underwritten by syndicates which feature several and unlimited liability for the risks. But there also are many differences.

First, under cross-guarantees, the unlimited liability is in the system, not for the individual guarantor, or "Name," to use Lloyd's terminology. All guarantors pass through to their guarantors losses over five times their annual premium income. This "stop-loss provision" of the cross-guarantee bill ensures that catastrophic losses are spread over a large number of guarantors.

Second, the cross-guarantee system avoids the conflicts of interests that have plagued Lloyd's. Under the bill, no syndicate agent can be either a guaranteed party or a guarantor. Similar restrictions do not exist at Lloyd's, leading to conflicts of interest between "external Names" (outside investors) and some of the insiders who were both "Names" themselves also underwrote and managed the affairs of "external Names."

Third, under the cross-guarantee system, each guarantor must itself be a guaranteed party under a separate contract. This requirement ensures that should any guarantor be unable to fulfill its obligations, the next layer of guarantors is then obligated to perform.

With respect to Lloyd's itself, though, one final point must be noted. Although Lloyd's has suffered financial difficulties, they are with respect to losses of the Names, not that Lloyd's has failed to meet any claim that it insured. Lloyd's still provides an insured with the assurance that it will get paid, and, in that sense, Lloyd's is a model to emulate.

Argument: Bank insolvency is not an insurable risk.

Response: Insurance companies have traditionally made this argument when asked why they do not want to become private deposit insurers. Their basic fear is that bank failures are not independent of each other and that a glut of failures would lead to catastrophic losses for the insurer.

Cross-guarantees address these concerns in several ways. First, the system avoids catastrophic losses through its stop-loss limits. Hence, an insurance company or any other guarantor has a cap on its losses as a guarantor. Being a guarantor will not bankrupt a guarantor.

Second, bank failures tend not to be overly cyclical. Viewed historically, bank failures show little correlation with the overall business cycle. What bank failures are correlated with are asset deflations, either in the economy as a whole or in sectors of the economy. (This argument puts aside the case of the thrift industry, whose inherent structural flaws, specifically maturity mismatching, raise different issues that cross-guarantees overcome.) Hence, banks failed during the deflation in the economy during the 1930s, during the deflation in the farm and energy sectors in the early 1980s, and during the recent collapse in commercial real estate prices.

Cross-guarantee premiums can price against the risk of asset deflation. Sectoral deflations in particular tend to follow some boom period, or "bubble," in which prices deviate from long-term historical trends. In essence, risk-based premiums could increase premium rates for any bank or thrift which lends to an industry or locality going through a boom. In so doing, cross-guarantees would not only lower risks to guarantors, but also reduce the injections of credit that feed such booms. The result should be a dampening, if not the elimination, of such sectoral boom-bust cycles.

Argument: The cross-guarantee system is too complicated and will be too expensive to administer.

Response: While cross-guarantees are not simple, one should judge or compare their complexity to the current system. Are cross-guarantees more complicated than current banking laws and regulations or would they be more expensive than the high deposit insurance premiums and regulatory costs currently being paid? Not likely.

No doubt, in the initial years, some growing pains will take place as participants move down the learning curve. But over time the system will quickly become fairly routine. Standard, boilerplate contract language will evolve to handle the majority of cases. Contracts themselves would likely last three to five years, meaning that parties would not necessarily be in a constant process of negotiating contracts.

Cross-guarantees would also provide guaranteed institutions with much greater flexibility than the current system, greatly lowering the cost burdens they now face. By protecting all deposits, cross-guarantees would eliminate liquidity risk, greatly alleviating a historical concern of banks and thrifts. Cross-guarantees also will help institutions better understand their own financial risks.

Argument: The cross-guarantee system is too dependent on the courts to enforce contracts.

Response: The court system is hardly perfect. But there is no reason to believe that its performance would be any worse than the regulators' performance over the past decade. In fact, the courts should do much better.

Indeed, markets analogous to cross-guarantees already operate that depend on courts for contract enforcement, such as surety contracts, letters of credit, and loan syndications. No evidence exists that courts do not reliably enforce contracts in these markets.

What dangers exist? A court might refuse to enforce a guarantor's obligation to pay depositors at a failed bank. That would certainly lead to runs and a general calamity. But why would a court ever refuse to enforce a cross-guarantee contract? Ultimately, this type of argument says that courts are totally unreliable, which if true also undercuts the case for the current regulatory system since it also relies on the courts for its authority to uphold actions. In fact, the reality is that courts will likely bend over backwards to ensure that depositors get their money back.

The real danger is that courts might try to rewrite contracts they do not think are "fair" or to impose additional duties upon guarantors. While this is a legitimate danger, the bill works to alleviate such concerns. Recording all contracts in the Central Electronic Repository and requiring that the recorded contract be the sole evidence of the contract limits the scope of a court's ability to rewrite contracts based on supposed oral modifications or other considerations. In most cases, disputes also will not include the type of "innocent" or "unsophisticated" party that tends to appear in any case where a court makes an irrational ruling. Finally, the bill forbids courts from imposing torts-like legal obligations upon guarantors for the actions of guaranteed banks and thrifts.

Argument: The cross-guarantee system should not mandate that depository institutions obtain a cross-guarantee contract.

Response: This argument has two different branches. Some argue that depository institutions should have the option of retaining FDIC insurance. But if depository institutions can continue to operate under the status quo, taxpayers will continue to be unduly exposed to losses due to the failure of FDIC-insured banks and thrifts. This problem would be exacerbated by an adverse selection problem, as only the weak institutions will seek to remain under government deposit insurance, meaning that the government would continue to directly insure just those types of institutions whose failures have proven so costly. The danger also exists that the government would try to tax guaranteed institutions to pay for the FDIC's inevitable losses, potentially threatening the lower deposit insurance premiums that cross-guarantees offer.

Other argue that depository institutions should be allowed to operate uninsured. However, because the cross-guarantee monitoring process will be faster and more efficient than the marketplace in identifying weak institutions, only weak institutions will opt to go uninsured. Uninsured institutions therefore likely will lead both to losses for depositors and systemic runs. Both types of events would negatively affect guaranteed institutions and possibly taxpayers. Any losses to depositors will immediately create a wave of sympathy stories that would compel politicians to bail them out. Cross-guaranteed institutions would be the most likely candidates to pay for such a bailout. At the same time, politicians may feel compelled to more closely regulate all depository institutions, even though only guaranteed institutions would have been a fault.

Unsophisticated depositors will also likely have trouble in a time of crisis in distinguishing uninsured institutions from those protected by cross-guarantees. Hence, guaranteed institutions would feel a negative spillover effect from problems among uninsured banks and thrifts.

Argument: Deposits over $100,000 should not be guaranteed, because then cross-guarantees fail to punish depositors who put their money in banks and thrifts that fail.

Response: Cross-guarantees can hardly be faulted for failing to "punish" depositors when they are rarely punished today. While some small banks are liquidated in such a way that an uninsured depositor takes a loss, usually takes place in a discriminatory way. Uninsured depositors should not take a loss at one failed institution when similar uninsured depositors at other failed institutions do not—yet it frequently happens, increasingly at smaller institutions. At the same time, most sophisticated depositors have long since left a failed institution liquidated by the FDIC, leaving the less sophisticated uninsured depositors to suffer a loss.

In any case, it is not clear why we should seek to "punish" depositors. Most depositors are relatively unsophisticated investors not culpable for the failure of an institution. Even a sophisticated depositor is not culpable since it is a creditor of the bank, not a shareholder. To suggest that depositors should become "sophisticated" and undertake a much greater monitoring burden, as some believe they should, is an incredibly inefficient notion, since it makes little sense for thousands of depositors to invest enormous time in largely duplicate efforts to monitor institutions based on the same types of data that even regulators frequently misread. By contrast, cross-guarantees rely on one monitor with access to inside information, the syndicate agent, to perform this function, a much more efficient and effective way to monitor.

Punishing depositors also will lead to costly runs. If depositors are put at risk, they will simply run at the first sign of trouble, real or imagined, leading to costly losses for the institution and the economic system. It is a mystery why advocates of "depositor discipline" seek runs as the optimal method of closing banks and thrifts, when the main purpose of bankruptcy laws for nonbanking firms is to restructure firms in a way that avoids runs.

Argument: Letting bank managers risk the bank's capital as guarantors is too risky.

Response: The risk diversification requirements under the cross-guarantee system protect against banks taking too much risk as guarantors. Under the bill, a guarantor cannot be at risk for more than 12 percent of its capital in any one year in its activities as a guarantor. That is less than a year's earnings for most guarantors, which means a guarantor's annual losses from being a guarantor should be no more than what it otherwise earns during that year.

In any case, any fears about the risks of being a guarantor are exaggerated. A guarantor will face no more risk than a bank does from the many types of loans and investments it makes. In particular, banks already lend to each other in the Federal Funds market, and such lending creates greater risks because a bank can lend more to another bank in the federal funds market than the risk it can assume as a guarantor. Additionally, such lending is probably more risky than being a guarantor in that with cross-guarantees a bank will have a syndicate agent with "inside knowledge" of the health of the guaranteed party.

Banks also present some advantages as guarantors. One of the functions of guarantors will be to provide emergency liquidity should a guaranteed party need it. Banks will be the ideal type of guarantor to fulfill this function. Banks may also have more informed industry knowledge of the risks presented by particular institutions. And, by having banks both as guaranteed parties and guarantors, it is more likely that the contracts that evolve will evenly reflect the interests of both sides to the contract. For all these reasons, having banks as guarantors is desirable.

Argument: It is too dangerous to allow unsophisticated college endowment funds and pension funds to be guarantors.

Response: The cross-guarantee system restricts participation in the system by such funds to those with more than $100 million in net worth. Such endowment and pension funds already are among the more sophisticated players in financial markets. Indeed, they are more like the sharks of the financial system than the fish prepared to be eaten.

In any case, the risks of being a guarantor are no different from many of the risks already taken by such funds. It makes little sense to restrict their risk-taking in this area, when they are not so restricted in comparable areas.

Argument: No one will want to be a guarantor because it is too risky, making it hard for banks and thrifts to obtain contracts.

Response: The authors of this bill have received unsolicited calls from companies who have heard of the concept and are interested in being guarantors. These callers must think they would make money as guarantors. Indeed, trillions of dollars in equity capital exists worldwide among potential guarantors, all of which only needs to underwrite contracts generating about $1.2 billion in annual premium income. The potential supply of guarantors will likely swamp the risks to be underwritten.

Being a guarantor should prove a particularly profitable endeavor, because it allows a company to get "double duty" from its capital, specifically enhancing the yield of its liquid assets. In other words, the capital standing behind a guarantee will not only earn cross-guarantee premium income, but it also will remain on the guarantor's balance sheet earning its normal return.

Some may fear that being a guarantor exposes a company to catastrophic losses. But the stop-loss limit of the cross-guarantee bill addresses such concerns, by limiting a guarantor's annual losses to five times its annual premium income. A guarantor will not be able to "bet the house" when it underwrites a share of the risks under one or more cross-guarantee or stop-loss contracts. In general, the five times limit, by setting a maximum loss, greatly reduces the uncertainty of underwriting cross-guarantee risks.

Argument: Too many companies will want to be guarantors, leading to overcapacity and premium rates that are too low. Underpriced guarantees, in turn, will lead to excessive risk-taking by depository institutions.

Response: Companies will seek to be guarantors only if they can make a profit. If premium rates are too low, or premiums are spread too thinly, guarantors will not make a profit and will begin to exit the industry. One of the features of the cross-guarantee system (unlike most insurance systems) is that it allows guarantors relatively easy entry and exit so that capital can flow in and out of the business to meet the needs of the system. That should prevent something akin to the property and casualty insurance cycle from developing.

As a result, underpricing seems unlikely. But even if underpricing occurs, the guarantors themselves will pay the price by incurring losses, not taxpayers. People will make mistakes and pay for it. That cannot be avoided and, in fact, that is how markets learn. Such losses also serve the useful function of putting more responsibility on those guarantors who can best price risks. Guarantors which take losses may find their own guarantors unwilling to continue to underwrite their decisions as a guarantor. Compare that to federal deposit insurance, where no matter how many mistakes the government makes, it continues as the insurer under the system.

Would premium rates that are "too low," should they occur, encourage risk-taking by guaranteed parties? Not really. The premiums would still use risk-based pricing, which would still discourage risk-taking. What would simply happen is that guarantors as a whole would not charge sufficient premiums to cover the overall risks they take. Guarantors would then suffer a loss, which is as it should be.

Argument: Guarantors will let guaranteed institutions do reckless things, bankrupting the system.

Response: What guarantor would guarantee a reckless guaranteed party? If a guaranteed institution's direct guarantors allow it to be reckless, it will be the guarantors themselves who suffer the loss from such activities. Guarantors will seek profits, not losses.

Even if guarantors do not intend to allow reckless activity theoretically they could allow it unintentionally through sheer incompetence. But two forces will tend to prevent this from happening. First, a guarantor's guarantors would likely restrict the cross-guarantee activity of any company that has not shown an ability to handle the role of guarantor. Second, a syndicate is made up of many guarantors, and therefore any one incompetent guarantor would not control the decision making for the entire syndicate. For incompetence to rule, one must hypothesize many incompetent guarantors joining one syndicate.

Even if such a syndicate arose, any losses that take place would not threaten the system. The stop-loss limit ensures that any large loss will get shared among many participants. No one incompetent syndicate can bankrupt the system; indeed, with the stop-loss limits, the syndicate members could not even bankrupt themselves.

Finally, in the extremely unlikely situation where some "renegade" syndicate allows a guaranteed institution to become deeply insolvent, the FDIC is empowered to appoint a conservator or receiver once the value of the assets of the guaranteed institution shrink to a point at which they only slightly exceed the amount of federally insured deposits in that institution. This power serves as the ultimate brake on overly tolerant guarantors.

Argument: Guaranteed banks and thrifts will be too conservative because they are beholden to their guarantors.

Response: Like any creditor, guarantors are likely to be fairly risk-averse. These instincts should serve the useful functions of forcing guaranteed institutions to commit to wiser lending policies and proper pricing for loans. After a decade that saw much reckless lending, such a change would be for the better.

Nevertheless, some worry that guarantors may force banks to be too conservative. Although this argument is not totally implausible, a few points are worth noting. First, guarantors could hardly be more strict than regulators currently are—in an overreaction to the excesses of the 1980s, regulators have caused a credit crunch by making banks excessively fearful of taking normal banking risks. Guarantors are much more likely to find the proper balance between tolerating risks and moderating excesses than regulators overreacting to past failures.

Second, the cross-guarantee marketplace will be quite competitive. Guarantors must compete to become a party to any particular contract. This competition will prevent syndicates from imposing "take it or leave it" type conditions upon the guaranteed institution.

Third, bank and thrift managers have fiduciary duties to their shareholders, and shareholders have different interests than those of guarantors. As a result, managers will play the same balancing game between maximizing the value of the firm by addressing the needs of creditors and shareholders that they do in any firm. Guarantors' risk averseness will no more control the byproduct of these tensions than do the creditors' risk averseness for any firm.

Fourth, banks and thrifts will play both the role of guaranteed party and guarantor in the cross-guarantee marketplace. This dual role should help ensure that the "boilerplate" language which evolves as part of cross-guarantee contracts reflects a balanced approach.

Argument: Some bankers may not be able to obtain cross-guarantee contracts.

Response: No doubt true. But that is one of the virtues of the cross-guarantee system, not a vice. A bank or thrift which cannot obtain a cross-guarantee contract is an institution which could not find, among all the potential guarantors in the system, a syndicate willing to underwrite its risks. In essence, the marketplace has voted and said that such an institution is in irreparable financial trouble and should be closed.

Attempting to prevent such closures would be the equivalent of practicing the type of forbearance towards thrifts used in the 1980s that proved so costly to taxpayers. If the government allowed institutions which could not obtain a contract to continue to operate with federal deposit insurance, only the "losers" would remain federally insured, potentially costing the taxpayers enormous sums.

The cross-guarantee system provides a considerable transition period for banks and thrifts to obtain a contract, up to nine and one-half years for smaller institutions. Plenty of time will therefore exist for those institutions to obtain a contract whose balance sheet justifies one.

The vast majority of banks and thrifts are strong, health institutions getting healthier by the day. They will experience no difficulty obtaining cross-guarantee contracts. Even those that cannot obtain one have a couple of choices other than an FDIC takeover. They can recapitalize, making themselves attractive to potential guarantors. Or, they can sell the institution to a stronger bank or thrift that is able to obtain a contract. For this reason, the FDIC will likely take over few institutions as transition deadlines pass.

Argument: The cross-guarantee system would favor large banks over small banks, leading to excessive concentration in the banking industry.

Response: In fact, small banks probably will be the biggest winners from the cross-guarantee system. Cross-guarantees would eliminate the "too-big-to-fail" discrepancy by guaranteeing all deposits no matter how large the deposit. That would allow smaller banks to compete on more even terms for large deposits.

Small banks also would in general enjoy a lower cost of funds. Cross-guarantees would make any obligation of such a bank essentially risk-free from the perspective of a creditor, making it easier for creditors that did not know of the bank to put their funds in the institution. In essence, small banks of which little is known and large banks of which a lot is known would compete on equal terms for funding, since each is protected by the cross-guarantee system.

Small banks also would enjoy relatively larger gains from the regulatory relief provided by the cross-guarantee system. Regulations are more costly for small banks because of economies of scale in complying with them.

Cross-guarantees would also make it easier for smaller institutions to specialize. Regulation tends toward a "one size must fit all" mentality, which hampers smaller institutions that seek to follow a more specialized strategy. By tailoring their cross-guarantee contract to fit their unique circumstances, smaller banks will be better positioned to compete for business free of regulatory restraints.

Argument: "Equity market intervention" will not work for small or closely held banks.

Response: Equity market intervention refers to the fact that when premium rates rise as an institution's capital shrinks relative to its risks, strong financial incentives (particularly the prospect of lower premium rates) are created to recapitalize. In essence, shareholders will make money from recapitalizing such institutions. The question is, would the same process work when publicly traded shares do not exist?

Yes. The exact workings of the process may differ, but the incentives are the same. As premium rates rise for the typical small, closely held bank, the small group of owners have an "arbitrage opportunity" to increase the overall value of their ownership claim in the same way that stockholders holding publicly traded shares would.

Of course, options such as hostile takeovers or proxy fights would not exist to force re-capitalization. But, then again, where ownership and control are not separated, the managers will likely react more quickly to the opportunity created for owners. In other words, one does not need hostile takeovers or proxy fights to force managers to do what is in the best interest of the owners, because the managers *are* the owners. The same logic would hold true in a mutually owned thrift, where managers and directors effectively own the institution.

Argument: Bankers will not want other bankers to know their competitive secrets.

Response: This is a legitimate concern, but it is addressed in the cross-guarantee bill. First, only the syndicate agent will have access to the offices, files, and records of a guaranteed bank or thrift. Syndicate agents will have a legal duty to protect the confidentiality of a guaranteed institution. Such agents also face a loss of business due to a bad reputation should they allow leaks of confidential information to take place. Such agents will probably have to take out errors and omissions insurance to protect themselves from suits arising out of their role as syndicate agents.

Second, a guaranteed party can control which companies become its guarantors. Hence, if one bank does not want another bank being one of its guarantors, it can prevent that from happening. Such vetoes should address some of the apprehension that a banker might otherwise fact from having one of its competitors as one of its guarantors.

The fact that cross-guarantee contracts will be "public knowledge" in the Central Electronic Repository presents little danger. The type of information in contracts will contain little, if any, of the information that bankers want to keep from their competitors. The financial information used to calculate premiums is not part of the pricing formula, but rather is the data entered into the formula to determine the premium. Moreover, the concerns of banks and thrifts about competitive secrets focus largely on such things as new marketing strategies and customer lists, which will not be part of any cross-guarantee contract.

Argument: The cross-guarantee system will provide bankers with an opportunity to collude.

Response: Under the cross-guarantee system, the antitrust laws will still apply. Therefore, collusion will be as punishable under the system as it is now.

The syndicates themselves are too large to form the basis of a collusive scheme. The typical large bank (more than $10 billion in assets) would have at least 100 guarantors, far too many to keep the collusion secret or to allow any collusion to prove effective. Moreover, almost all syndications will take place over computer networks, not in face-to-face meetings between bankers. Hence, the cross-guarantee system would actually provide few opportunities for collusion.

In any case, it is not clear how cross-guarantees would give bankers any opportunity to collude that they do not already have. Many current activities provide bankers with more face-to-face meetings than cross-guarantees would. Bankers participate in loan syndications, have correspondent relationships, play golf together, and meet together at banking conventions. If the goal is to prevent bankers from colluding, the cross-guarantee system is hardly the place to start.

Argument: Guaranteed banks and thrifts should be forbidden from lending to any of their guarantors.

Response: It is not clear why any such loans should be forbidden. The only danger that exists is that a guaranteed institution might give some "sweetheart deal" on a loan to a particular guarantor in exchange for some type of favorable treatment. But the syndicate as a whole would not approve of such a transaction. In other words, why would the direct guarantors collectively agree to allow a guaranteed party to make a sweetheart deal to one guarantor that would impair the net worth of the institution they guarantee?

Suppose instead the sweetheart deal is secret. In this situation, how would the guarantor be able to provide the guaranteed party with some advantage? All decisions of the syndicate are made by a vote of the members, and therefore an individual guarantor could not force upon the syndicate a decision not in the best interest of the syndicate.

Given that no apparent danger exists, there is no reason to restrict a guarantor's access to borrowing from a guaranteed party. If any problems do arise, the syndicate can restrict such lending in the contract.

Argument: The Federal Reserve should not lend to guaranteed institutions that it does not monitor.

Response: Any Federal Reserve loan to a guaranteed institution is guaranteed under the system. Hence, any Federal Reserve loan is backed by the equity capital standing behind the system, making it essentially a risk-free loan. As a result, the Federal Reserve does not need any collateral nor does it need to assess whether the borrower is creditworthy. Indeed, loans to a guaranteed institution are probably safer than holdings of Treasury bonds which depend on the tax collecting power of our increasingly indebted federal government.

In all likelihood, borrowings from the Federal Reserve should prove rare, as guarantors will have an incentive to provide any emergency liquidity needed. Nevertheless, the Federal Reserve is left as a source of emergency liquidity under the system should for any reason guarantors not be able or are unwilling to provide such liquidity.

Argument: The government will lose power to allocate credit within economy. In particular, the housing industry will be hurt.

Response: Under cross-guarantees, the government will lose some of its power to allocate credit, at least directly through the banking and thrift industries. But that should not form a basis for criticizing cross-guarantees. The government should not decide who gets to borrow and who does not, as political favoritism would then determine who gets funding.

Some may argue, what about the housing finance? Shouldn't the government give preferences, for housing lending? Although cross-guarantees would eliminate preferences, such as those provided under risk-based capital standards, overall cross-guarantees would probably lead to a lower cost of funding for housing. Today, because of deposit insurance premium rates and higher overall capital standards, banks and thrifts find it harder and harder to economically hold mortgage portfolios. That helps explain part of the rush to securitize mortgage debt. Under cross-guarantees, banks and thrifts will find it more economical to hold mortgages, which will increase the demand for mortgages as an investment vehicle, lowering interest rates. Banks and thrifts also will be able to continue to originate mortgages for sale in the secondary markets.

Argument: Cross-guarantees would be unfair to thousands of honest, hard-working bank and thrift examiners.

Response: The cross-guarantee bill provides examiners with an attractive severance package. This package should compensate these government workers for any disruption to their careers. In any case, many will no doubt find employment as syndicate agents seek employees with experience in this area.

In any case, many private sector employees face the prospect of job losses when the industry in which they work becomes obsolete. There is no reason to prevent cross-guarantees from becoming law based on concerns about preserving jobs for bank examiners and supervisors.

Argument: Banks have done a poor job serving the economy and therefore do not deserve to escape from banking regulation.

Response: There are several problems with this argument. First, the purpose of regulation is not to "punish." Either regulation serves a purpose or it does not. Under the cross-guarantee system, since most government regulation would no longer be needed and in fact would be counter-productive, unnecessary regulations should be eliminated. The issue has nothing to do with banks "escaping" regulation.

Second, cross-guarantees should not be evaluated on whether or nor they benefit or punish banks or thrifts. Banks and thrifts would no doubt benefit from the cross-guarantee system. But even more important, depositors, borrowers, taxpayers, and the economy would benefit far more.

Third, to say that "banks have done a poor job of serving the economy" is to overgeneralize. Some banks have done a poor job—and they have failed. But most do a good job. Unfortunately, the good banks are the ones that survive to fact the high premium rates and increasing regulatory burden due to the errors of their incompetent brethren. It makes little sense to charge someone with the sins of another. Yet, that is exactly what happens when people seek to "punish" all banks for the failure of a few banks.

CONCLUSION: CROSS-GUARANTEES AND THE ECONOMY

Perhaps the most important benefit of cross-guarantees, their positive effects for the economy, often gets lost among the other issues revolving around the concept. But the effect of deposit insurance reform on the economy would be substantial. The Congressional Budget Office estimated that the thrift crisis cost the economy $500 billion in lost GNP and that in fact may be a low figure.

Cross-guarantees would avoid the excessive lending that adds fuel to sectoral booms in the economy. The economy's slow growth today reflects the effects of asset deflation in many sectors, a deflation that is a byproduct of previous booms in such areas as real estate lending. These booms were caused, in no small part, by reckless lending from banks, thrifts, and life insurers. Since deflation is a bank killer, guarantors will seek to avoid such lending, to the benefit of themselves, banks and thrifts in general, and the economy.

At the same time, cross-guarantees will avoid overreactions, such as the current credit crunch. The regulators, reacting to a Congress afraid of another thrift crisis, have panicked, preventing many loans from being made that should be made. In the cross-guarantee marketplace, panicky guarantors will lose business to guarantors who maintain a steady vision of the shape of the marketplace. Cross-guarantees will therefore avoid the disruption of lending relationships and the dearth of new loans that we see today.

Cross-guarantees will also lead to greater productivity in the financial services industries. This greater productivity will reflect not only the effects of lower regulation, but also the effects of allowing a greater amount of intermediation to take place through depository institutions. Many financial transactions best intermediated through banks and thrifts are being driven to less efficient providers of financial services, because of the various cost burdens imposed upon depository institutions. Cross-guarantees will allow banks and thrifts to begin to win bank market share. As this process takes place, one also will likely see a greater skepticism among guarantors about allowing the banks and thrifts they guarantee to use fancy, new financial products whose complexity is proven, but whose utility is not.

Finally, cross-guarantees will lead to better credit decisions by banks and thrifts. Bad credit decisions waste this country's inadequate savings on dubious investments, as many unused office buildings so vividly demonstrate. In the 1980s, lending that could have increased productivity and economic growth instead often financed projects of dubious merit. Guarantors will insist that the parties they guarantee do better than that.

H.R. 6069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992."

(b) TABLE OF CONTENTS.—

Sec. 1 Short title; table of contents.
Sec. 2 Findings and purposes.

TITLE I—100 PERCENT CROSS-GUARANTEES

SUBTITLE A—DEFINITIONS

Sec. 101. Definitions.
Sec. 102. Rules of Construction.

SUBTITLE B—CROSS-GUARANTEE PROCESS

Sec. 111. Depository institutions prohibited from operating without a cross-guarantee contract.
Sec. 112. Parties to cross-guarantee and stop-loss contracts.
Sec. 113. Requirements common to cross-guarantee and stop-loss contracts.
Sec. 114. Requirements applicable to cross-guarantee contracts.
Sec. 115. Requirements applicable to stop-loss contracts.
Sec. 116. Eligibility and requirements for direct guarantors.
Sec. 117. Provisions relating to cross-guarantee and stop-loss syndicates.
Sec. 118. Assumption of control of a guaranteed company by a cross-guarantee syndicate.
Sec. 119. Enforcement of contracts.

SUBTITLE C—POWERS AND DUTIES OF THE FDIC

CHAPTER 1—CROSS-GUARANTEE PROCESS

Sec. 121. Regulator of the cross-guarantee process.
Sec. 122. Approval process for cross-guarantee and stop-loss contracts.
Sec. 123. Central electronic repository.
Sec. 124. Restrictions on closed loops.

CHAPTER 2—PROTECTION OF INSURED DEPOSITS

Sec. 126. Syndicate agent reports on guaranteed depository institutions.
Sec. 127. FDIC appointment of conservator or receiver.
Sec. 128. Backup insurance on deposits at guaranteed depository institutions.

SUBTITLE D—MISCELLANEOUS PROVISIONS

Sec. 131. Institutions offering uninsured deposits.
Sec. 132. Cross-guarantee advisory committee.
Sec. 133. Federal Reserve bank lending.
Sec. 134. Advertising of guaranteed depository institutions.

SUBTITLE E—TRANSITION TO 100% CROSS-GUARANTEE PROCESS

Sec. 141. Effective date of system based on minimum number of guaranteed depository institutions and amount of total assets.

Sec. 142. Mandatory phase-in of cross-guarantee after effective date of system.
Sec. 143. Appointment of conservator or receiver for institutions which fail to comply with transition requirements.
Sec. 144. Exit fees.
Sec. 145. Severance pay and related benefits for former State and Federal banking agency employees.
Sec. 146. Abolition of Federal Financial Institutions Examination Council.

TITLE II—AMENDMENTS TO OTHER LAWS

Sec. 201. Amendments relating to national banks.
Sec. 202. Amendments relating to member banks.
Sec. 203. Amendments relating to savings associations.
Sec. 204. Amendments relating to savings and loan holding companies.
Sec. 205. Amendments relating to the Federal Deposit Insurance Corporation.
Sec. 206. Amendments to Title 11, United States Code.
Sec. 207. Amendments to other banking laws.

SEC. 2. FINDINGS AND PURPOSES.

The purposes of this Act are:

(1) To create a competitive and essentially self-regulating private deposit insurance marketplace by requiring each bank and savings association which accepts deposits to protect the full amount of deposits held along with most other nondeposit liabilities by obtaining cross-guarantee contracts from syndicates of guarantors.

(2) To induce depository institutions to lend and invest wisely by authorizing guarantors who issue cross-guarantee contracts to—

(A) charge risk-sensitive premiums for the guarantees provided; and

(B) negotiate with the banks and savings association who enter into such contracts all other terms and conditions, to the extent such terms and conditions are not inconsistent with this Act or other provision of law.

(3) To make the cross-guarantee process as self-regulating as possible by establishing a system which has an inviolable "stop-loss" mechanism and numerous constructive tensions among the participants in the system.

(4) To regulate the cross-guarantee marketplace only to the extent necessary to maintain the safety, soundness, and viability of the entire cross-guarantee process and not the solvency of any individual bank or savings association regardless of its size.

TITLE I—100 PERCENT CROSS-GUARANTEES

Subtitle A—Definitions

SEC. 101. DEFINITIONS

(a) Definitions Relating to Depository Institutions, Non-Depository Guarantors, and Affiliates.—For purposes of this title—

(1) Company.—The term "company"

(A) means any corporation, partnership, business trust, association, or similar organization; and

(B) does not include a branch or agency, or a group of branches and agencies, of a foreign bank.

(2) Depository institution—The term "depository institution" has the meaning given to such term in section 3(c) of the Federal Deposit Insurance Act.

(3) Failed depository institution—The term "failed depository institution" means any depository institution for which a conservator or receiver has been appointed by the Corporation.

(4) Failed insurance company—The term "failed insurance company" means any insurance company for which a conservator or receiver has been appointed.

(5) Foreign bank branches and agencies—The terms "agency" and "branch", when used in connection with a reference to a foreign bank, and the term "foreign bank" have the meanings given to such terms in section 1(b) of the International Banking Act of 1978.

(6) Guaranteed banking office—The term "guaranteed banking office" means any branch or agency of a foreign bank which has entered into a cross-guarantee contract with a cross-guarantee syndicate.

(7) Guaranteed company.—

(A) In general.—The term "guaranteed company" means any company which has entered into a cross-guarantee contract with a cross-guarantee syndicate.

(B) Foreign Banks.—

(i) In general.—Notwithstanding subparagraph (A), a foreign bank shall not be a guaranteed company solely because a branch or agency of such bank is a guaranteed banking office under a cross-guarantee contract.

(ii) Exception for foreign banks which are subsidiaries.—Notwithstanding clause (i), a foreign bank may be a guaranteed company, if such bank is guaranteed under a cross-guarantee contract under section 112(e)(1).

(8) Guaranteed depository institution.—The term "guaranteed depository institution" means a depository institution which is a guaranteed company.

(9) Guaranteed financial group.—The term "guaranteed financial group" means—

(A) a depository institution which is the sole guaranteed company under a cross-guarantee contract;

(B) 2 or more companies, at least 1 of which is a depository institution and all of which are guaranteed companies under the same cross-guarantee contract; or

(C) any guaranteed banking office which—

(i) is a branch; and

(ii) is the sole guaranteed banking office under a cross-guarantee contract; and

(D) any 2 or more branches and agencies, at least 1 of which is a branch and all of which are guaranteed banking offices under the same cross-guarantee contract.

(10) Nondepository Guarantor.—The term "nondepository guarantor" means any person which has entered into a stop-loss contract with a stop-loss syndicate.

(11) State Depository Institution.—The term "state depository institution" has the meaning given to such term in section 3(c)(5) of the Federal Deposit Insurance Act.

(12) Terms Relating to Affiliation and Control.—

(A) Affiliate.—The term "affiliate" means, with respect to any company, any other company that controls, is controlled by, or is under common control with such company.

(B) Control.—The term "control" means, with respect to one company's relationship to another company, one company's ownership or power to, directly or indirectly, vote 5 percent or more of any class of voting securities of another company.

(C) Subsidiary.—The term "subsidiary" means, with respect to any company, any company which such company controls.

(b) Definitions Relating to Cross-Guarantee and Stop-Loss Contracts.—For purposes of this title—

(1) Cross-Guarantee Contract.—The term "cross-guarantee contract" means a contract which—

(A) is entered into between—

(i) 1 or more companies, at least 1 of which is a depository institution; and

(ii) a cross-guarantee syndicate; and

(B) is approved by the Corporation under section 122.

(2) Cross-Guarantee Obligation.—The term "cross-guarantee obligation" means an obligation of a direct guarantor arising out of a cross-guarantee or stop-loss contract, and shall include the obligations of such guarantor under section 113(c)(2) and section 127(d)(1)(A).

(3) Cross-Guarantee Syndicate.—The term "cross-guarantee syndicate" means any group of direct guarantors which has entered into a cross-guarantee contract with a guaranteed financial group.

(4) Direct Guarantor.—The term "direct guarantor" means a member of a cross-guarantee or stop-loss syndicate which has entered into a cross-guarantee or stop-loss contract with a guaranteed party.

(5) Group Cross-Guarantee Syndicate Contract.—The term "group cross-guarantee syndicate contract" means a contract which—

(A) is entered into between 2 or more guaranteed financial groups and a cross-guarantee syndicate; and

(B) is approved by the Corporation under sections 112(c)(2) and 122.

(6) Guaranteed Obligation.—The term "guaranteed obligation" means an obligation of a guaranteed party on which a cross-guarantee or stop-loss syndicate has unconditionally guaranteed performance, including payment of principal and interest at the promised time of payment.

(7) Guaranteed Party.—The term "guaranteed party" means any guaranteed company, guaranteed banking office, or nondepository guarantor.

(8) Projected Annual Premium.—The term "projected annual premium" means the amount calculated under section 116(d)(2).

(9) Projected Annual premium Capacity.—The term "projected annual premium capacity" means the amount which is equal to—

(A) in the case of a guaranteed company, 3 percent of the equity capital of the guaranteed financial group which is the party guaranteed under the same cross-guarantee contract in which such company is a guaranteed company; or

(B) in the case of a nondepository guarantor, 3 percent of the net worth of the guarantor.

(10) Projected Annual Premium Limit.—The term "projected annual premium limit" means the amount which is equal to 3 percent of projected annual premium capacity.

(11) Second-Tier Guarantor.—The term "second-tier guarantor' means a direct guarantor of one of a guaranteed party's direct guarantors.

(12) Stop-Loss Contract.—The term "stop-loss contract" means a contract which—

(A) is entered into between a person and a stop-loss syndicate; and

(B) is approved by the Corporation under section 122 of this title.

(13) Stop-Loss Syndicate.—The term "stop-loss syndicate" means any group of direct guarantors which has entered into a stop-loss contract with a nondepository guarantor.

(14) Syndicate agent.—The term "syndicate agent" means any person who acts as agent for the direct guarantors under any cross-guarantee or stop-loss contract.

(c) Definitions Relating to Financial Terms.—For purposes of this title—

(1) Equity Capital.—The term "equity capital" means, with respect to any guaranteed financial group, the amount, as valued pursuant to section 114(c), which is equal to—

(A) the consolidated assets of the guaranteed financial group; minus

(B) the consolidated liabilities, including the estimated liquidation value of contingent liabilities, of the guaranteed financial group.

(2) FDIC Asset Value.—The term "FDIC asset value" means the total value, as determined on a consolidated basis and in accordance with section 126(b), of all tangible and intangible property of—

(A) in the case of a guaranteed financial group described in subparagraph (C) or (D) of section 101(a)(9), all guaranteed banking offices guaranteed under the cross-guarantee contract; or

(B) in the case of all other guaranteed financial groups, all guaranteed companies guaranteed under the cross-guarantee contract.

(3) Net worth.—The term "net worth"—

(A) means, with respect to a nondepository guarantor, the amount which is equal to the stockholders' equity, the partnership equity, the net worth, or the fund balance of the guarantor, as the case may be, as determined in accordance with generally accepted accounting principles;

(B) does not include any equitable interest or liability which the Corporation determines should not be treated as net worth for purposes of this title; and

(C) in the case of any nondepository guarantor which controls another nondepository guarantor or a guaranteed financial group, does not include the net worth or equity capital of the subsidiary guarantor or group.

(4) Premium income.—The term "premium income" means any income accrued by a direct guarantor under any cross-guarantee or stop-loss contract.

(5) Subordinated debt.—

(A) In general.—The term "subordinated debt" means any obligation assumed by a guaranteed company or guaranteed banking office which is subordinate in right and payment to any general creditor of the company or office.

(B) General creditors.—The term "general creditors" includes—

(i) any creditor to which a guaranteed company or guaranteed banking office has an obligation which is a guaranteed obligation under the cross-guarantee contract for such company or office, unless that creditor is otherwise specifically secured by one or more assets of the company or office; and

(ii) any creditor of the guaranteed company or guaranteed banking office who—

(I) is not protected under the contract; and

(II) is not subject to preference or subordination in a receivership or bankruptcy proceeding.

(6) Unencumbered liquid assets.—The term "unencumbered liquid assets" means, with respect to any nondepository guarantor, the amount which is equal to the sum of—

(A) the total amount of cash held by the guarantor;

(B) the total amount of deposit for the benefit of the guarantor in any transaction account at any guaranteed financial group or in any Federal Reserve bank, including amounts passed through any Federal home loan bank or depository institution to a Federal Reserve bank pursuant to the Federal Reserve Act;

(C) an amount equal to 95 percent of the total market value of investment-grade debt securities which are held by or for the benefit of the guarantor and which mature in less than 5 years; and

(D) an amount equal to 80 percent of the total market value of equity securities which are held by or for the benefit of the guarantor,

to the extent any such amount is not pledged, restricted, or otherwise encumbered.

(d) Definitions relating to funds.—For purposes of this title—

(1) Cross-guarantee backup fund.—The term "cross-guarantee backup fund" means the fund established pursuant to section 128(a).

(2) Deposit.—The term "deposit" has the meaning given to such term in section 3(l) of the Federal Deposit Insurance Act, except that such term does not include any obligation which, under section 114(a)(2), may not be a guaranteed obligation.

(3) FDIC severance fund.—The term "FDIC severance fund" means the fund established under section 145(d)(l) and administered by the Corporation for the purpose of providing severance pay and related benefits for employees of Federal or State agencies engaged in the regulation of depository institutions as of the date of the enactment of this Act.

(4) Insured deposit.—The term "insured deposit" means any deposit of a guaranteed depository institution which is insured against loss by the cross-guarantee backup fund under section 128.

(e) Definitions of other terms.—For purposes of this title—

(1) Business day.—The term "business day" means any day other than a Saturday, Sunday, or legal holiday for the federal government.

(2) Central electronic repository.—The term "central electronic repository" means the repository established pursuant to section 123(a)(1).

(3) Closed loop.—The term "closed loop" means a set of cross-guarantee and stop-loss contracts in which any person which is a direct guarantor under any contract which is part of such set of contracts, and any person which is directly or indirectly liable for a guaranteed obligation of any such direct guarantor, are persons which are guaranteed under a cross-guarantee or stop-loss contract which is part of such set of contracts.

(4) Corporation.—The term "Corporation" means the Federal Deposit Insurance Corporation.

(5) Cross-guarantee activation date.—The term "cross-guarantee activation date" means the date on which the first cross-guarantee contracts become effective under section 141(a).

SEC. 102. RULES OF CONSTRUCTION.

In this title—

(1) the terms "guaranteed company," "guaranteed depository institution," "guaranteed party," and "nondepository guarantor" refer to a party in such party's capacity as a party guaranteed under a cross-guarantee or stop-loss contract.

(2) the term "direct guarantor" refers to a party in such party's capacity as a guarantor under a cross-guarantee or stop-loss contract.

(3) the use of the word "control" in such phrases as "assumption of control" or "assumes control" shall not take on the meaning given the word control under section 101(a)12)(B).

Subtitle B—Cross Guarantee Process

SEC. 111. DEPOSITORY INSTITUTIONS PROHIBITED FROM OPERATING WITHOUT A CROSS-GUARANTEE CONTRACT.

After the applicable effective date under section 142, a depository institution shall be a guaranteed depository institution or guaranteed banking office unless the depository institution—

(a) is a federal branch that is not an insured branch (as the terms "federal branch" and "insured branch" are defined in sections 3(r) and 3(s) of the Federal Deposit Insurance Act);

(b) is a failed depository institution; or

(c) has not yet had a conservator or receiver appointed by the Corporation under section 143.

SEC. 112. PARTIES TO CROSS-GUARANTEE AND STOP-LOSS CONTRACTS.

(a) Cross-Guarantee Contracts.—

(1) In general.—Each cross-guarantee contract shall have at least the following parties:

(A) A guaranteed financial group as the party guaranteed under the contract.

(B) The direct guarantors of the guaranteed financial group.

(C) A syndicate agent acting on behalf of the direct guarantors.

(2) Affiliate guarantee.—Any affiliate of a depository institution may guarantee the performance of such institution's guaranteed obligations under a cross-guarantee contract.

(b) Stop-Loss Contracts.—

(1) In general.—Each stop-loss contract shall have at least the following parties:

(A) A nondepository guarantor as the party guaranteed under the contract.

(B) The direct guarantors of the nondepository guarantor.

(C) A syndicate agent acting on behalf of the direct guarantors.

(2) Affiliate guarantee.—Any affiliate of a nondepository guarantor may guarantee the performance of the guaranteed obligations of such nondepository guarantor.

(c) Group Cross-Guarantee Syndicate Contracts.—

(1) In general.—

(A) Pooling of risk.—Subject to the provisions of this subsection, the cross-guarantee contracts of 2 or more guaranteed financial groups may be pooled for syndication.

(B) Separate contract for a syndicate of pooled contracts.—The direct guarantors comprising the cross-guarantee syndicate for a group of cross-guarantee contracts may enter into a separate contract (hereinafter "group cross-guarantee syndicate contract") under which the cross-guaranteed contracts pooled under such contract shall be incorporated by reference.

(C) Proportional risk.—Each direct guarantor under a group cross-guarantee syndicate contract shall have the same proportional rights, privileges, duties, and obligations in each cross-guarantee contract incorporated by reference in the syndicate contract as such guarantor has in the syndicate contract.

(2) Approval of group cross-guarantee syndicate contract and its pool of cross-guarantee contracts.—The Corporation shall approve or reject, as a group, a proposed group cross-guarantee syndicate contract and the cross-guarantee contracts pooled under that contract.

(3) Aggregation of assets for purposes of risk diversification.—The assets of all guaranteed parties pooled under a group cross-guarantee syndicate contract shall be aggregated for purposes of applying the risk

diversification requirement established in section 114(b).

(4) NO CROSS LIABILITY OF GUARANTEED PARTIES.—No guaranteed party under any cross-guaranteed contract shall be liable for any portion of the guaranteed obligations of a guaranteed party under any other cross-guarantee contract which is pooled under the same group cross-guarantee syndicate contract.

(5) INDIVIDUAL TERMS AND RATES.—The terms, conditions, and premium rates under each cross-guarantee contract which is pooled under a group cross-guarantee syndicate may differ from the terms, conditions, and premium rates under any other cross-guarantee contract which is pooled under the syndicate contract.

(6) PARTIES TO INDIVIDUAL CROSS-GUARANTEE CONTRACTS RETAIN SAME RIGHTS AND DUTIES.—No right, privilege, duty, or obligation applicable under this title to any party to a cross-guarantee contract shall be affected by the inclusion of the cross-guarantee contract in a pool of contracts covered under a group cross-guarantee syndicate contract.

(7) ADDITIONAL GUARANTEED PARTIES UNDER A GROUP CROSS-GUARANTEE SYNDICATE CONTRACT.—A group cross-guarantee syndicate contract can be amended under section 122 to add a guaranteed financial group or a depository institution with a proposed cross-guarantee contract to the existing syndicate contract if—

(A) the syndicate contract remains in compliance with all of the provisions of this title after the addition of the institution to the syndicate contract; and

(B) the life of the syndicate contract is not extended beyond the original term of any cross-guarantee contract already pooled under the syndicate contract by the addition of the institution.

(8) LIFE OF A GROUP CROSS-GUARANTEE SYNDICATE CONTRACT.—A group cross-guarantee syndicate contract shall continue in force until each guaranteed party which is guaranteed under the syndicate contract has ceased to be a guaranteed party under a cross-guarantee contract which is pooled under the syndicate contract.

(9) LENGTH OF CROSS-GUARANTEE CONTRACT POOLED UNDER A SYNDICATE CONTRACT.—No cross-guarantee contract pooled under a group cross-guarantee syndicate contract shall have a term longer than the remaining term of the syndicate contract.

(10) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a cross-guarantee or stop-loss syndicate from becoming a syndicate under two or more cross-guarantee or stop-loss contracts without including such contracts under a group cross-guarantee syndicate contract.

(d) AFFILIATES AND OTHER PARTIES RELATED TO A DEPOSITORY INSTITUTION WHICH SHALL BE GUARANTEED UNDER 1 CONTRACT.—

(1) IN GENERAL.—Subject to paragraph (4), a guaranteed depository institution shall be guaranteed under the same cross-guarantee contract under which any other affiliated guaranteed depository institution is guaranteed.

(2) CHAIN BANKS.—Subject to paragraph (4), if more than 2/3 of the shares of any depository institution are under common ownership with more than 2/3 of the shares of any other depository institution, such depository institutions shall be guaranteed depository institutions under the same cross-guarantee contract.

(3) DOMESTIC BRANCHES AND AGENCIES OF FOREIGN BANKS.—If any branch of a foreign bank enters into a cross-guarantee contract with a cross-guarantee syndicate, all branches and agencies of such foreign bank shall be guaranteed banking offices under the same cross-guarantee contract.

(4) REGULATIONS.—With respect to any depository institution controlled by more than 1 unaffiliated company, the Corporation shall prescribe regulations determining under which cross-guarantee contract the institution shall be guaranteed depository institution.

(e) SUBSIDIARIES WHICH MAY BE GUARANTEED UNDER 1 CROSS-GUARANTEE CONTRACT.—

(1) IN GENERAL.—Any company controlled by a guaranteed depository institution may be a guaranteed company under the same cross-guarantee contract under which such depository institution is guaranteed.

(2) DEFINITION OF CONTROL.—For purposes of this subsection, the term "control" means, with respect to a guaranteed depository institution's relationship to another company, the guaranteed depository institution's ownership or power to, directly or indirectly, vote more than 50 percent of any class of voting securities of the other company.

(f) PROVISIONS RELATING TO SYNDICATE AGENTS.—

(1) ANTI-AFFILIATION RULES.—A syndicate agent may not—

(A) be an affiliate of any other person who is a party to any cross-guarantee or stop-loss contract; or

(B) acquire or retain any ownership interest in any such person.

(2) NO DEPOSITORY INSTITUTION, FOREIGN BANK, OR NON-DEPOSITORY GUARANTOR MAY BE A SYNDICATE AGENT.—No depository institution, foreign bank, or non-depository guarantor may be a syndicate agent.

(3) NO SYNDICATE AGENT MAY BE A DIRECT GUARANTOR.—No person who is a syndicate agent under any cross-guarantee or stop-loss contract may be, as long as such contract is in effect, a direct guarantor under any cross-guarantee or stop-loss contract.

(4) PROHIBITION ON INTERLOCKS.—No director, officer, employee, or subcontractor of a syndicate agent under any cross-guarantee or stop-loss contract or any director, officer, or employee of such subcontractor may be a director, officer, or employee of any other party to such contract.

SEC. 113. REQUIREMENTS COMMON TO CROSS-GUARANTEE AND STOP-LOSS CONTRACTS.

(a) STOP LOSS LIMIT FOR LOSSES OF A GUARANTEED PARTY AS A DIRECT GUARANTOR OF OTHER GUARANTEED PARTIES.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) LEVEL 1 PARTY.—The term "Level 1 party" means a guaranteed party under any cross-guarantee or stop-loss contract.

(B) LEVEL 2 PARTY.—The term "Level 2 party" means a direct guarantor of a Level 1 party.

(C) LEVEL 3 PARTY.—The term "Level 3 party" means a direct guarantor of a Level 2 party.

(D) LOSS.—The term "loss" means the present value, as of the date of a loss event, of the cash outlays required to fulfill a Level 2 party's cross-guarantee obligations to a Level 1 party due to the occurrence of such loss event, using as a discount rate the sum of—

(i) 2 percent; and

(ii) the average annual percentage yield on 3-month bills issued by the Secretary of the Treasury under section 3104(a) of title 31, United States Code, as determined by the Corporation as of the most recent issue date preceding the date of the loss event.

(E) LOSS EVENT.—The term "loss event" means any event described in paragraph (3).

(F) STOP-LOSS LIABILITY.—The term "stop-loss liability" means a debt accrued by a Level 3 party under a cross-guarantee or stop-loss contract due to its obligation to a Level 2 party under paragraph (2).

(G) STOP-LOSS RECOVERY.—The term "stop-loss recovery" means the amount accrued in any calendar month by a Level 2 party due to the obligation of a level 3 party under paragraph (2).

(2) STOP-LOSS OBLIGATION OF DIRECT GUARANTORS.—

(A) STOP-LOSS RECOVERY.—For any 12-calendar month period in which a cross-guarantee or stop-loss contract exists between Level 3 parties and a Level 2 party as of the end of the first calendar month of such period, Level 3 parties shall be obligated to pay to a Level 2 party an amount equal to the total amount of losses accrued by the Level 2 party in such party's capacity as a direct guarantor of Level 1 parties during such 12-calendar month period, minus the sum of—

(i) the greater of—

(I) the amount equal to 5 times the total amount of cross-guarantee and stop-loss premium income accruing to a Level 2 party in such party's capacity as a direct guarantor of Level 1 parties during such 12-calendar month period;

(II) the amount equal to 5 times the total amount of cross-guarantee and stop-loss premium income accruing to the Level 2 party in such party's capacity as a direct guarantor of Level 1 parties during the 12-calendar month period preceding such 12-calendar month period; or

(III) in the case of a calendar month which is among the first 11 calendar months that the Level 2 party has ever been a party guaranteed under a cross-guarantee or stop-loss contract, the amount equal to the average monthly cross-guarantee and stop-loss premium income accruing to the Level 2 party in such party's capacity as a direct guarantor of Level 1 parties since first becoming a party guaranteed under a cross-guarantee or stop-loss contract, multiplied by 60; and

(ii) recoveries accrued under this paragraph by the Level 2 party for each 12-calendar month period ending at the end of each of the first 11 calendar months in such 12-calendar month period.

(B) CARRYOVER FROM PREVIOUS CONTRACTS.—The amounts calculated in subparagraph (A) shall include all losses, premium income, and stop-loss recoveries of the Level 2 party under any cross-guarantee or stop-loss contracts under which the Level 2 party was a party guaranteed during such 12-calendar month period.

(C) MERGER OF TWO OR MORE GUARANTEED PARTIES.—In the case of any Level 2 party which merged with any other party which was a Level 2 party guaranteed under another cross-guarantee or stop-loss contract, the amounts calculated in subparagraph (A) shall include all losses, premium income, and stop-loss recoveries of both of the parties prior to the merger.

(D) OTHER GUARANTEED PARTIES UNDER THE CONTRACT WHICH WERE PREVIOUSLY DIRECT GUARANTORS.—The amounts calculated in subparagraph (A) for the Level 2 party shall include all losses, premium income, and stop-loss recoveries of any other party guaranteed under the same cross-guarantee contract as the Level 2 party, which occurred while such other party was a Level 2 party while guaranteed under the same or another cross-guarantee or stop-loss contract.

(E) TIMING OF STOP-LOSS RECOVERY.—A stop-loss recovery shall be accrued as of the last calendar month of the 12-calendar month period under which the stop-loss recovery was calculated.

(F) ADJUSTMENT FOR CATASTROPHIC LOSSES.—

(i) IN GENERAL.—If, for any calendar month, a closed loop exists in which every guaranteed party guaranteed under a contract in the closed loop accrues a stop-loss recovery for such month, then the calculation of stop-loss recovery for the 12-calendar month period ending in such month for all the contracts in the closed loop shall be adjusted as required under clauses (ii) and (iii).

(ii) ADJUSTMENT.—If, for any calendar month, a closed loop meets the conditions of clause (i), the amounts calculated in subparagraph (A) shall, for the 12-calendar month period in which such calendar month is the last month, be adjusted by increasing from 5 to 6, under clauses (i)(I) and (i)(II) of subparagraph (A), the amount multiplied by the premium income accruing to a Level 2 party and by increasing from 60 to 72, under clause (i)(III) of subparagraph (A), the amount multiplied by the average monthly premium accruing to the Level 2 party.

(iii) FURTHER ADJUSTMENT.—If, after making the adjustments to the calculation of stop-loss recovery under clause (ii), every contract in the closed loop under clause (i) still accrues a stop-loss recovery, the amounts under (i)(I) and (i)(II) shall be increased by one and the amount under (i)(III) shall be increased by twelve, until at least one guaranteed party guaranteed under a contract in such closed loop is not accruing a stop-loss recovery for the calendar month in clause (i).

(3) DETERMINATION OF TIME OF LOSS.—A Level 2 party shall accrue a loss as the direct guarantor of a Level 1 party as of—

(A) the last day of the calendar month in which a Level 1 party accrues a stop-loss recovery; or

(B) the date on which, with respect to a Level 1 party which is a guaranteed company, the earliest of the following events occurs:

(i) A written notice is filed with the Corporation under section 118(b)(2)(A) by the cross-guarantee syndicate of which the Level 2 party is a member that the syndicate has assumed control of the Level 1 party, in accordance with the terms of the cross-guarantee contract.

(ii) A transaction which—

(I) involves the acquisition of the Level 1 party or a significant portion of the party's assets, the merger of the Level 1 party with any other party, the liquidation of the Level 1 party, or any other transaction involving a significant portion of the assets or liabilities of the Level 1 party; and

(II) results directly in a loss for which the Level 2 parties are liable under the cross-guarantee contract.

(iii) The Level 1 party becomes a debtor in a case under title 11, United States Code.

(iv) The Corporation appoints a conservator or receiver for the Level 1 party.

(4) PREPARATION OF ORIGINAL LOSS ESTIMATE BY SYNDICATE AGENT.—The syndicate agent for the cross-guarantee contract under which a Level 2 party is a direct guarantor shall, whenever a loss event under subparagraph (3)(B) occurs under such contract—

(A) estimate the loss for such loss event; and

(B) by the 15th day of the calendar month following the calendar month in which such loss event occurs, notify the central electronic repository of the estimate of the loss under subparagraph (A).

(5) REVISION OF LOSS ESTIMATE BY SYNDICATE AGENT.—The syndicate agent for the cross-guarantee contract under which the Level 2 party is a direct guarantor shall, whenever a loss event under subparagraph (3)(B) occurs under such contract—

(A) revise the original estimate of the loss for such loss event and notify the central electronic repository of such revised estimate at least as often as the 15th day of—

(i) the third calendar month following the calendar month in which the loss event took place;

(ii) the twelfth calendar month following the calendar month in which the loss event took place; and

(iii) every twelfth month after the calendar month in clause (ii); and

(B) for each estimate of the loss described in clauses (A)(ii) and (A)(iii), obtain from a third party a confirmation of the reasonableness of the revised estimate of the loss.

(6) COMPLETION OF CASH OUTLAYS BECOMES FINAL AMOUNT.—Notwithstanding paragraph (5), once the Level 2 parties have made the final cash disbursement to fulfill such parties' cross-guarantee obligations due to any loss event under subparagraph (3)(B).—

(A) the syndicate agent for the cross-guarantee contract under which the Level 2 parties are direct guarantors shall calculate the loss from such loss event (subject to the third party confirmation in subparagraph (5)(B)) and notify the central electronic repository of this calculation; and

(B) no further revisions of the loss from such loss event need take place.

(7) DUTIES OF CENTRAL ELECTRONIC DEPOSITORY.—

(A) CALCULATION OF STOP-LOSS LIABILITY.—After notification under paragraphs (4), (5), and (6), the central electronic repository shall calculate the stop-loss recovery for every Level 2 party for every 12-month calendar period affected by the estimate, revised estimates, and final loss amounts of which the repository was notified.

(B) NOTIFICATION OF PARTIES.—Within five business days after receiving notification under paragraphs (4), (5), and (6), the central electronic repository shall notify any Level 2 party or Level 3 party of the results of the calculation under subparagraph (A).

(8) STOP-LOSS PAYMENTS.—

(A) ORIGINAL ESTIMATE.—If a determination under subparagraph (7)(A) is based on the original estimate of loss under paragraph (4) and results in a stop-loss recovery for the Level 2 party, each Level 3 party within three business days after notification under subparagraph (7)(B), shall pay to the Level 2 party the amount of the stop-loss liability for such Level 3 party plus interest on the amount of such liability from the last day of the month in which the loss occurred to the date of payment under this subparagraph.

(B) REVISION OF ESTIMATES.—If a determination under subparagraph (7)(A) results in—

(i) an increase from the previous estimate of the stop-loss recovery for a particular month, then each Level 3 party, upon notification under subparagraph (7)(B), shall within three business days pay to the Level 2 party the amount of the increase in the Level 3 party's stop-loss liability plus interest on the amount of the increase in such liability from the last day of such month until payment is made under this clause; or

(ii) a decrease from the previous estimate of the stop-loss recovery for a particular month, then the Level 2 party, upon notification under subparagraph (7)(B), shall within these business days pay each Level 3 party the amount of the decrease in such Level 3 party's stop-loss liability plus interest on the amount of the decrease in such liability from the last day of such month until payment is made under this clause.

(C) INTEREST RATE.—The parties to any cross-guarantee or stop-loss contract shall agree to the interest rate to be used for the calculation of interest under subparagraph (A) and (B).

(b) DIRECT GUARANTOR'S CROSS-GUARANTEE OBLIGATIONS UNDER THE CONTRACT ARE INDEPENDENT FROM OTHER PARTIES' OBLIGATIONS.—The cross-guarantee obligations of a direct guarantor under any cross-guarantee or stop-loss contract shall be independent of any obligation of any other party under the contract.

(c) EFFECT OF BANKRUPTCY PROCEEDING ON OBLIGATION OF GUARANTOR.—

(1) OBLIGATIONS NOT SUBJECT TO DISCHARGE.—Notwithstnding any provision of title II, United States Code, the Federal Deposit Insurance Act, or any other provision of Federal or State law, the cross-guarantee obligations arising out of any cross-guarantee or stop-loss contract entered into by a direct guarantor prior to such guarantor becoming a failed depository institution or a failed insurance company, may not be stayed, repudiated, or discharged under such title or, in the case of the failed depository institution or failed insurance company, stayed, repudiated, or discharged by any receiver or conservator appointed for such institution or company or by operation of law, to the extent that such guarantor is entitled to accrue premium income under such contracts after becoming a debtor or a failed institution or company.

(2) OBLIGATION OF SECOND-TIER GUARANTORS.—If a cross-guarantee obligation of any direct guarantor described in paragraph (1) is stayed, repudiated, or discharged, or for any other reason such guarantor is not able to meet such obligation, the direct guarantors of such guarantor shall be liable for such obligation.

(3) TREATMENT OF SECOND-TIER GUARANTORS AS GENERAL CREDITORS.—

(A) SECOND-TIER GUARANTORS ARE GENERAL CREDITORS OF A DIRECT GUARANTOR.—Notwithstanding any provision of title II, United States Code, the Federal Deposit Insurance Act, or any other provision of Federal or State law, any direct guarantor which incurs a liability under paragraph (2) with respect to any direct guarantor described in paragraph (1) may file a claim as a general creditor in the case under title II or with the receiver or conservator in the case of a failed depository institution or failed insurance company within the 90-day period beginning on the date the liability is incurred.

(B) WHEN THE CLAIM IS A POST-PETITION CLAIM.—Any claim filed under subparagraph (A) shall be treated as a liability of the direct guarantor described in paragraph (1) which was incurred after such guarantor became a debtor under title II or a failed depository institution or failed insurance company to the extent that such guarantor is entitled to accrue premium income under any cross-guarantee or stop-loss contract after becoming a debtor or a failed institution or company less any losses paid by such guarantor after a debtor or a failed institution or company.

(C) PRE-PETITION CLAIMS.—Any claim filed under this paragraph which does not qualify as a claim to be filed under subparagraph (B) shall be treated as a liability the direct guarantor in paragraph (1) incurred before becoming a debtor under title II or failed depository institution or a failed insurance company.

(d) Direct Guarantor Prohibited From Obtaining Collateral for Cross-Guarantee Obligations.—No direct guarantor under any cross-guarantee or stop-loss contract may obtain or retain a security interest in a guaranteed party under the contract, or in any assets of the guaranteed party, in connection with such guarantor's cross-guarantee obligations under the contract, unless the guaranteed party is a guaranteed banking office.

(e) Provisions of Contract Regarding Division of Liability.—

(1) Several liability.—No direct guarantor under any cross-guarantee or stop-loss contract shall be liable for the cross-guarantee obligations of any other direct guarantor under the contract.

(2) Division of liability.—Subject to the risk diversification requirements of section 116(d), the terms of a cross-guarantee or stop-loss contract shall establish the division of liability among the direct guarantors under the contract.

(3) Liability of direct guarantor proportionate to interest in syndicate.—The rights, privileges, duties, and obligations of a direct guarantor under a cross-guarantee or stop-loss contract shall be proportionate to such guarantor's interest in the syndicate.

(4) Syndicates not partnerships or joint ventures.—Notwithstanding any state law, a cross-guarantee or stop-loss syndicate is not a partnership or joint venture, except for purposes of section 117(c)(1).

(f) Premium Requirements.—

(1) In general.—Each cross-guarantee and stop-loss contract shall describe the method for calculating and the timing of payment for any premium payable to the direct guarantor under the contract.

(2) Restriction on repricing of risk due to stop-loss obligation.—No method of calculating the premium payable under paragraph (1) shall, directly or indirectly, take into account losses that a guaranteed party accrues while guaranteed under the contract in such party's capacity as a direct guarantor under another cross-guarantee or stop-loss contract.

(g) Maximum Effective Period of Contract.—

(1) Length of contract.—A cross-guarantee or stop-loss contract may not have an effective period of more than 5 years.

(2) Amendments.—The parties to any cross-guarantee or stop-loss contract may agree to extend the length of the contract as long as the contract as amended still ends within 5 years after the original effective date of the contract.

(3) Renewal of contract must be approved by the corporation.—No cross-guarantee or stop-loss contract may be renewed by the parties to the contract, and no successor contract may become effective, without the approval of the Corporation under section 122.

(4) Penalties for continuing contract after expiation date.—For every day after the 30th day following the expiration of a cross-guarantee contract in which—

(A) the direct guarantors have not assumed control under section 118(a) of all the guaranteed companies guaranteed under the contract;

(B) a guaranteed party under such contract has not become a guaranteed party under another cross-guarantee contract;

(C) a successor contract is not being considered for approval under section 122 or the Corporation has already rejected two successor contracts; or

(D) the guaranteed party is not appealing the rejection by the Corporation, under section 122, of a successor contract or final judgment has been reached on such an appeal.

the Corporation may at its discretion penalize each direct guarantor under such contract up to $100,000.

(h) Cancellation of Contracts by Syndicates.—

(1) Minimum Notice Period.—A cross-guarantee or stop-loss syndicate under any cross-guarantee or stop-loss contract may cancel such contract in accordance with the terms of the contract, provided that the syndicate agent under the contract gives written notice of such cancellation to the Corporation and the guaranteed party or parties under the contract at least 90 days prior to the effective date of the cancellation.

(2) Cancellation of one Guaranteed Financial Group Under a Group Contract.—A cross-guarantee syndicate may cancel a cross-guarantee contract with 1 guaranteed financial group under a group cross-guarantee syndicate contract without affecting the rights, privileges, duties, and obligations arising out of the syndicate contract with regard to the other guaranteed financial groups under the syndicate contract.

(3) Written Restrictions.—A cross-guarantee syndicate may seek remedies under paragraph (5) to enforce an additional restrictions imposed under the contract upon the activities of any guaranteed party under the contract that take effect after the occurrence of any of the following events:

(A) A request is made by the guaranteed party under section 118(d) to stay the assumption of control:

(B) A notice of cancellation has been given under paragraph (1) or (2); or

(C) The expiration of the contract.

(4) Limitation Guaranteed Party.—A guaranteed party under any cross-guarantee or stop-loss contract may not become a direct guarantor under any other cross-guarantee or stop-loss contract during any of the following periods:

(A) The period beginning on the date such party receives a notice of cancellation under paragraph (1) or (2) with respect to such contract and ending on the date the party becomes a guaranteed party under a successor contract.

(B) The period beginning on the date the contract expires and ending on the date the party becomes a guaranteed party under a successor contract.

(C) The period during which a stay of the assumption of control by a cross-guarantee syndicate under section 1189(d) is in effect.

(5) Enforcement Through Injunctions.—The United States district court with jurisdiction over a cross-guarantee or stop-loss syndicate seeking to enforce any restrictions or limitation described in paragraph (3) or (4).

(6) Continued Effectiveness of Contracts Until Other Coverage is Obtained.—

(A) In General.—The obligations of any party to a cross-guarantee or stop-loss contract shall remain in effect after the effective date of the cancellation of the contract by the direct guarantors or after the expiration of such contract, as the case may be, until—

(i) the guaranteed party becomes a guaranteed party under another cross-guarantee or stop-loss contract; or

(ii) in the case of a guaranteed party which ceases to exist as a legal entity, the guaranteed obligations of the institution are liquidated or become guaranteed obligations covered under another cross-guarantee or stop-loss contract.

(B) Cancellation When Nondepository Guarantor is not a Direct Guarantor.—Notwithstanding subparagraph (A), a cancellation of a stop-loss contract by a stop-loss syndicate shall take effect immediately if the nondepository guarantor which is the party guaranteed under the contract—

(i) is not at the time of cancellation a direct guarantor under any cross-guarantee or stop-loss contract; and

(ii) has transferred any remaining risk under any cross-guarantee or stop-loss contract under which such guarantor was formerly a direct guarantor to another direct guarantor.

(i) Cancellation of Contracts by Guaranteed Party.—

(1) In general.—The guaranteed financial group or nondepository guarantor which is the party guaranteed under a cross-guarantee or stop-loss contract may notify the direct guarantors under the contract at any time of such party's intention to cancel the contract.

(2) Cancellation Not Effective Until Substitute Coverage is Obtained.—A cancellation of any cross-guarantee or stop-loss contract under paragraph (1) shall not the take effect until the cancelling party becomes a guaranted financial group or a nondepository guarantor under another cross guarantee or stop-loss contract.

(3) Allowing Nondepository Guarantors to Exit the Business.—Notwithstanding paragraph (2), a cancellation of a stop-loss contract by a nondepository guarantor shall take effect immediately if the nondepository guarantor—

(A) is not at the time of cancellation a direct guarantor under any cross guarantee or stop-loss contract; and

(B) has transferred any remaining risk under any cross-guarantee or stop-loss contract under which such guarantor was formerly a direct guarantor to another direct guarantor

(4) Cancellation Fee.—The cross-guarantee or stop-loss syndicate under a cross-guarantee or stop-loss contract which is cancelled pursuant to paragraph (1) may impose a cancellation fee in an amount determined in accordance with the terms of the contract.

(j) Continued Effectiveness of Contracts After Conversion of Charter of Depository Institution.—If—

(1) any State depository institution becomes a Federal depository institution;

(2) any Federal depository institution becomes a State depository institution;

(3) any bank becomes a savings association;

(4) or any savings association becomes a bank.

through a conversion of the charter of the depository institution, any cross-guarantee contract under which the institution is a guaranteed depository institution and which is in effect immediately before such conversion shall remain in effect after the conversion.

(k) Continuing Applicability of Obligations Under the Contracts.—

(1) No voiding or Rescinding of Contracts.—No party to a cross-guarantee or stop-loss contract may void or rescind the contract, regardless of any defense to the existence or enforceability of the contract that might exist under Federal or State law.

(2) No excuses to performance.—Notwithstanding any provision of Federal or State

law, no excuse for the failure to perform any obligation under a cross-guarantee or stop-loss contract shall be effective.

(3) NONCOMPLIANCE DOES NOT AFFECT OBLIGATIONS.—A party to a cross-guarantee or stop-loss contract shall remain obliged under the contract regardless of whether—

(A) the contract ceases to comply with any requirement under this title; or

(B) one or more parties to the contract fail to comply with this title.

(l) SUBMISSION OF DISPUTES TO ARBITRATION.—The terms of any cross-guarantee or stop-loss contract may provide for resolving disputes under the contract through binding arbitration.

(m) SUBSTITUTION OF DIRECT GUARANTORS.—

(1) IN GENERAL.—Any direct guarantor's rights, privileges, duties and obligations under a cross-guarantee or stop-loss contract, and any portion of any such rights, privileges, duties, and obligations, may be transferred to a successor direct guarantor, subject to the approval of the Corporation (pursuant to section 122 of this title).

(2) PARTIES AUTHORIZED TO RESTRICT SUBSTITUTION OF GUARANTORS IN A CONTRACT.—A guaranteed party or a cross-guarantee or stop-loss syndicate under a cross-guarantee or stop-loss contract may provide in such contract that any transfer under paragraph (1) of any interest of any direct guarantor in such contract shall be subject to the approval of such party or syndicate.

(n) SYNDICATE VOTING RULES.—

(1) PROPORTIONAL VOTING.—Each cross-guarantee and stop-loss contract shall provide that a direct guarantor's voting rights in the cross-guarantee or stop-loss syndicate shall be proportional to such guarantor's interest in the syndicate.

(2) VARIATIONS PERMITTED IN VOTING REQUIREMENTS.—A cross-guarantee or stop-loss contract may provide that the number of votes needed to approve an action by a cross-guarantee or stop-loss syndicate under the contract may differ depending upon the action on which a vote is taken.

(o) GUARANTEED COMPANY CAN BE COVERED ONLY UNDER CONTRACT.—No guaranteed company under any cross guarantee or stop-loss contract may be a guaranteed company under another cross-guarantee or stop-loss contract.

(p) AUTHORITY OF THE FDIC TO DIRECT ASSIGNMENT.—If any merger, acquisition, or other combination of 2 direct guarantors within any cross-guarantee or stop-loss syndicate occurs which causes the contract to materially exceed the limitations set forth in section 114(b)(1) or paragraph (1) or (2) of section 115(b), the Corporation may issue an order directing the merged guarantor to obtain a successor for that part of the guarantor's interest that exceeds the statutory limit.

(q) MERGER OF 2 OR MORE GUARANTEED COMPANIES.—After any merger, acquisition, or other combination of 2 or more guaranteed companies, the successor party's cross-guarantee or stop-loss contract shall meet the same requirements under section 114(b)(1) or paragraph (1) or (2) of section 115(b), that the successor would have to meet if the successor sought to become a guaranteed party under a new cross-guarantee or stop-loss contract.

(r) MODIFICATION OF CONTRACTS.—An agreement amending a cross-guarantee or stop-loss contract needs no consideration to be binding.

(s) GUARANTEED PARTY CANNOT BE A DIRECT GUARANTOR UNDER THE SAME CONTRACT.—No guaranteed party can be a direct guarantor under the cross-guarantee or stop-loss contract under which such party is a guaranteed party.

(t) RULE OR CONSTRUCTION RELATING TO CONTRACT TERMS.—No provision of this title shall be construed as prohibiting any cross-guarantee or stop-loss contract from containing any term or condition other than terms or conditions which are expressly prohibited by this title.

SEC. 114. REQUIREMENTS APPLICABLE TO CROSS-GUARANTEE CONTRACTS.

(a) Obligations Guaranteed Under a Cross-Guarantee Contract—

(1) OBLIGATIONS REQUIRED TO BE GUARANTEED OBLIGATIONS.—The following obligations of any guaranteed company or guaranteed banking office shall be guaranteed obligations under a cross-guarantee contract:

(A) DEPOSITS.—

(i) BANKS AND SAVINGS ASSOCIATION.—In the case of guaranteed depository institution, all deposits (as determined without regard to subparagraph (A) or (B) of section 3(l)(5) of the Federal Deposit Insurance Act), including insured deposits, payable at any office of the guaranteed company located within or without the United States.

(ii) BRANCHES OF FOREIGN DEPOSITORY INSTITUTIONS.—In the case of a guaranteed banking office, all deposits of such office payable at a location within the United States.

(B) LOANS AND ADVANCES FROM A DIRECT GUARANTOR, FEDERAL RESERVE BANK, OR FEDERAL HOME LOAN BANK.—All loans and advances from a direct guarantor, a Federal Reserve bank, or a Federal home loan bank.

(C) INTEREST-BEARING OBLIGATIONS OTHER THAN SUBORDINATED DEBT.—All other interest-bearing obligations other than subordinated debt.

(D) BALANCES DUE CLEARINGHOUSES, THE FEDERAL RESERVE, AND IN SETTLEMENT OF OTHER TRANSACTIONS.—All obligations owed to clearinghouses, to the Federal Reserve for funds transfers, to other funds transfer systems, and to any other person in settlement of financial transactions.

(E) CROSS-GUARANTEE OBLIGATIONS.—Cross-guarantee obligations for which the guaranteed company is liable as a direct guarantor under any other cross-guarantee or stop-loss contract.

(F) OBLIGATIONS INCURRED FOR FEE INCOME.—All other direct and contingent liabilities under any contract or commitment for which the guaranteed company or guaranteed banking office has or may receive any fee or other comparable consideration, including any letter of credit and any securities contract, commodity contract, forward contract, repurchase agreement, or swap agreement (as such terms are defined in section 11(e)(8)(D) of the Federal Deposit Insurance Act).

(G) ASSESSMENTS ON DEPOSITORY INSTITUTIONS FOR COSTS OF CLOSED LOOPS.—All liabilities assessed under section 127(d)(2).

(2) OBLIGATIONS WHICH MAY NOT BE GUARANTEED.—The following obligations of any guaranteed company or guaranteed banking office may not be guaranteed obligations under a cross-guarantee contract:

(A) SUBORDINATED DEBT.—

(i) IN GENERAL.—Subordinated debt issued by the guaranteed company or guaranteed banking office.

(ii) INCLUDES DEBT WHICH MAY BE REDEEMED BY THE DEBTHOLDER BY CHECK OR OTHER MEANS.—For purposes of this subparagraph, the term "subordinated debt" includes subordinated debt which may be withdrawn by or credited to the debtholder by a check, wire transfer, or other order of the debtholder.

(B) EQUITY INTERESTS.—Any equity interest in the guaranteed company or guaranteed banking office.

(3) OBLIGATIONS WHICH MAY BE INCLUDED UNDER A CROSS-GUARANTEE CONTRACT.—Any obligation of any guaranteed company or guaranteed banking office which is not required to be, or not prohibited from being, a guaranteed obligation under paragraphs (1) and (2) may be a guaranteed obligation under a cross-guarantee contract to the extend provided by the terms of the contract.

(4) JUDGMENTS AND SETTLEMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), a cross-guarantee contract may provide that any judgment against a guaranteed company under the contract, or any obligation of the company under a settlement agreement, in any action against the company in the company's capacity as trustee or custodian with respect to any person, shall be treated as a guaranteed obligation of such company to the extent that the company's duty to act as trustee or custodian with respect to such person, or to a designated 3d-party beneficiary, was expressly established by written agreement of the parties or by operation of law.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed to provide that the amount of any judgment or settlement from any action arising from any alleged tortious conduct, breach of contract, or violation of statutory obligation (other than the agreement establishing the duty of the institution to act as trustee or custodian) is a guaranteed obligation unless the cross-guarantee contract expressly so provides.

(5) VICARIOUS LIABILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a direct guarantor or syndicate agent under any cross-guarantee contract shall not be vicariously liable for any alleged tortious conduct, breach of contract, or violation of statutory obligation by any guaranteed party under the contract.

(B) EXCEPTION FOR FRAUD RELATED TO SUBORDINATED DEBT.—Notwithstanding subparagraph (A), the liability of any guaranteed party under a cross-guarantee contract for damages due to the fraudulent actions of such party related to marketing subordinated debt shall be a guaranteed obligation under the contract

(b) RISK DIVERSIFICATION.—

(1) MINIMUM NUMBER OF DIRECT AND SECOND-TIER GUARANTORS.—Each cross-guarantee contract shall comply with the requirements relating to the maximum percentage of all guaranteed obligations under the contract which may be guaranteed by any 1 direct guarantor and the minimum number of second-tier guarantors which the guaranteed party or parties shall have in the aggregate, as determined under the following table (as adjusted pursuant to paragraph (2)) on the basis of the total assets of all the guaranteed parties under the contract:

Aggregate amount of assets of all guaranteed parties under the contract	Maximum percentage of cross-guarantee liability assumable by any 1 direct guarantor	Minimum number of second-tier guarantors
$100,000,000 or less	5.0	100
Greater than $100,000,000 but less than or equal to $500,000,000	4.0	125
Greater than $500,000,000 but less than or equal to $1,000,000,000	2.5	150
Greater than $1,000,000,000 but less than or equal to $10,000,000,000	1.5	200
More than $10,000,000,000	1.0	250

(2) ADJUSTMENT OF DOLLAR AMOUNTS FOR INFLATION.—The amounts contained in the

table in paragraph (1) relating to the aggregate assets of guaranteed parties under any cross-guarantee contract shall be adjusted annually by the Corporation on the basis of changes in the deflator for the gross domestic product.

(c) Basis for Valuing Assets and Liabilities.—Each cross-guarantee contract shall describe the manner in which the equity capital of the guaranteed financial group shall be calculated for purposes of the contract.

(d) Emergency Liquidity.—Notwithstanding section 113(e)(3), the parties to a cross-guarantee contract may include terms relating to the provision of emergency liquidity to a guaranteed party by any direct guarantor without regard to the relative interest in the contract held by any guarantor providing the liquidity.

(e) Internal Guarantees.—A guaranteed company under any cross-guarantee contract shall be jointly and severally liable to the direct guarantors under such contract for any loss incurred by the guarantors in connection with the cross-guarantee obligations of the guarantors to any other guaranteed company under such contract.

SEC. 115. REQUIREMENTS APPLICABLE TO STOP-LOSS CONTRACTS.

(a) Guaranteed Obligations Under a Stop-Loss Contract.—

(1) Obligations Required to be Guaranteed Obligations.—A nondepository guarantor's cross-guarantee obligations shall be guaranteed obligations under a stop-loss contract.

(2) No Other Guaranteed Obligations.—Except for the obligations described in paragraph (1), no obligation of a nondepository guarantor may be a guaranteed obligation.

(b) Risk Diversification.—

(1) Minimum Numbers of Direct Guarantors.—A direct guarantor under a stop-loss contract may not guarantee more than 2 percent of the guaranteed obligations under such contract.

(2) Second-Tier Guarantors.—The direct guarantors under any stop-loss contract shall have, in the aggregate, no fewer than 150 direct guarantors.

SEC. 116. ELIGIBILITY AND REQUIREMENTS FOR DIRECT GUARANTORS.

(a) Eligibility.—

(1) In General.—No person may become a direct guarantor unless such person is a guaranteed company or a nondepository guarantor.

(2) Nondepository Guarantor.—

(A) In General.—Subject to subparagraph (b) and subsection (c) of this section, any person may be a nondepository guarantor.

(B) Noneligibility of Depository Institutions.—

(i) In General.—No depository institution, or subsidiary of a depository institution, may be a nondepository guarantor.

(ii) Rule of Construction for Foreign Banks.—Clause (i) shall not be construed as prohibiting a foreign bank which has a branch in the United States from being a nondepository guarantor.

(iii) Foreign Bank Defined.—For purposes of clause (ii), the term "foreign bank" shall exclude any company organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(3) Guaranteed Depository Institutions Authorized to be Direct Guarantors.—Notwithstanding any other Federal or State law restricting the powers of depository institutions, a guaranteed depository institution may be a direct guarantor under any cross-guarantee or stop-loss contract.

(B) Designated Direct Guarantor.—

(1) Only one guaranteed company within a guaranteed financial group may be a direct guarantor.—No guaranteed company shall be a direct guarantor if another guaranteed company under the same cross-guarantee contract is already a direct guarantor under any cross-guarantee or stop-loss contract.

(2) Designation of direct guarantor in cross-guarantee contract.—In the case of a cross-guarantee contract in which 2 or more companies are guaranteed under the contract, the contract shall designate which guaranteed company may, in accordance with paragraph (1), be a direct guarantor.

(c) Financial Resources Requirements for Nondepository Guarantors.—

(i) Net worth.—No person may become a nondepository guarantor unless such person has a net worth of not less than $100,000,000 at the time such person would, but for this paragraph, become a party to such a contract.

(2) Liquidity resources.—Each non-depository guarantor shall maintain unencumbered liquid assets in an amount equal to or greater than the amount which is equal to 5 times the projected annual premium from all cross-guarantee and stop-loss contracts under which the nondepository guarantor is a direct guarantor.

(3) Asset requirements.—Only assets which are maintained within the United States and subject to the jurisdiction of a United States court may be taken into account for purposes of meeting the requirements of paragraph (1) and (2).

(d) Risk Diversification Requirements for Direct Guarantors.—

(1) Projected annual premium capacity and projected annual premium limit.—A person may not become a direct guarantor under a cross-guarantee or stop-loss contract if, at the time the contract (but for this paragraph) would take effect—

(A) the sum of the estimated annual premium which the person would receive as a direct guarantor under the contract and the person's projected annual premium income would exceed such person's projected annual premium capacity as of—

(i) in the case of a contract which would take effect on or before the 15th day of any calendar month, the 2d calendar month preceding such calendar month; or

(ii) in the case of a contract which would take effect after the 15th day of any calendar month, the end of the calendar month preceding such calendar month; or

(B) the estimated annual premium which the person would receive as a direct guarantor under the contract would exceed such person's projected annual premium limit as of—

(i) in the case of a contract which would take effect on or before the 15th day of any calendar month, the 2d calendar month preceding such calendar month; or

(ii) in the case of a contract which would take effect after the 15th day of any calendar month, the end of the calendar month preceding such calendar month.

(2) Calculation of projected annual premium.—

(A) In general.—The syndicate agent under any cross-guarantee or stop-loss contract shall determine the projected annual premium due any direct guarantor for any calendar month by calculating the amount of such guarantor's share of the premium accrued by the guaranteed party or parties under the contract during such month and then annualizing such amount.

(B) 1st two months.—During the 1st 2 calendar months in which any cross-guarantee or stop-loss contract is in effect, the syndicate agent shall determine the projected annual premium under the contract for each of these 2 calendar months by annualizing the premium rate in effect on the date the contract becomes effective.

(3) Calculation of the estimated annual premium for the approved contract.—

(A) In general.—For purposes of paragraph (1), the term "estimated annual premium" means the annualized premium rate likely to be in effect on the date the contract becomes effective.

(B) Syndicate agent estimate.—The proposed syndicate agent for the contract shall make an estimate of the amount in paragraph (1) within five days prior to the date on which the contract is to become effective.

(4) Calculation of projected annual premium income.—For purposes of making any determination under paragraph (1)(A) with respect to a direct guarantor, the term "projected annual premium income" means the total projected annual premiums from all cross-guarantee or stop-loss contracts under which such guarantor is a direct guarantor, other than the contract for which such determination is being made, as of—

(A) in the case of a contract which would become effective on or before the 15th day of any calendar month, the 2d calendar month preceding such calendar month; and

(B) in the case of a contract which would become effective after the 15th day of any calendar month, the calendar month preceding such calendar month.

(e) Liability of Acquirer of Any Directer Guarantor.—Any person who acquires (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act) any direct guarantor shall be obligated for all of the cross-guarantee obligations of such guarantor under any cross-guarantee or stop-loss contract to which such guarantor is a direct guarantor.

SEC. 117. PROVISIONS RELATING TO CROSS-GUARANTEE AND STOP-LOSS SYNDICATES.

(a) Powers and Duties of Syndicate Agents.—

(1) Syndicate agent is agent of direct guarantors.—

(A) In general.—The syndicate agent under any cross-guarantee or stop-loss contract shall act as an agent of the direct guarantors under such contract.

(B) Exceptions.—Notwithstanding subparagraph (A), the syndicate agent also shall have—

(i) a duty to protect the confidentiality of any aspect of a guaranteed party's affairs which the contract specifies shall be protected; and

(ii) duties to the Corporation as specified in this title.

(2) Powers of syndicate agent.—No person under a cross-guarantee or stop-loss contract other than the syndicate agent shall have the following powers:

(A) Monitor performance.—Monitor the performance, or contract with a third party to monitor the performance, of any party guaranteed under such contract.

(B) Collect premiums.—Collect the premiums due to the direct guarantors under such contract.

(3) Syndicate agent reports to the Corporation.—The syndicate agent under any cross-guarantee or stop-loss contract shall notify the Corporation and the central electronic repository by the 15th of each calendar month—

(A) of the equity capital or the net worth, as the case may be, of the guaranteed financial group or nondepository guarantor under the contract as of the end of the prior calendar month;

(B) of the projected annual premium due each direct guarantor, as of the end of the prior calendar month; and

(C) in the case of a stop-loss contract, of the unencumbered liquid assets of the nondepository guarantor as of the end of the prior calendar month.

(4) CONFIRMATION OF GUARANTEE OF SPECIFIC OBLIGATIONS.—

(A) IN GENERAL.—The syndicate agent under any cross-guarantee contract shall—

(i) determine, at the request of any current or prospective creditor of a guaranteed company or guaranteed banking office under such contract, whether—

(I) the company or office has or will have an obligation to the creditor; and

(II) such obligation is or would be a guaranteed obligation under the contract; and

(ii) promptly notify the current or prospective creditor in writing of the agent's determination.

(B) DETERMINATION BINDING ON SYNDICATE.—Any notification of determination under subparagraph (A) with respect to any guaranteed company or guaranteed banking office shall be binding on the cross-guarantee syndicate which is a party to such contract.

(C) FEE.—A syndicate agent may charge a creditor fee for making the determination and notifying the creditor under subparagraph (A).

(5) SIDE CONTRACTS.—

(A) IN GENERAL.—Subject to subparagraph (B), no direct guarantor or group of direct guarantors under a cross-guarantee or stop-loss contract may enter into any other contract or binding agreement pertaining to the contract with the syndicate agent under such cross-guarantee or stop-loss contract.

(B) EXCEPTION FOR CERTAIN LIMITED CONTRACTS.—Notwithstanding subparagraph (A), a syndicate agent and the direct guarantors under a cross-guarantee or stop-loss contract may enter into another contract or binding agreement if—

(i) the terms of such contract or agreement relate solely to rights and obligations of such parties to each other under the cross-guarantee or stop-loss contract, including the compensation of the agent, to the extent such terms are not inconsistent with the cross-guarantee or stop-loss contract; and

(ii) the contract or agreement does not affect any right or obligation of—

(I) any guaranteed party under the cross-guarantee or stop-loss contract; or

(II) any creditor or shareholder of any such guaranteed company.

(b) SYNDICATION OF CROSS-GUARANTEE AND STOP-LOSS RISKS.—Notwithstanding any provision of Federal or State law, interests in any cross-guarantee or stop-loss syndicate are not securities for any purpose and any person or group of persons may organize and market the risk of loss represented by the participation of any person as a party guaranteed under any cross-guarantee or stop-loss contract.

(c) TAXATION OF SYNDICATES.—

(1) TREATED AS PARTNERSHIP.—Any cross-guarantee or stop-loss syndicate shall be treated as a partnership for purposes of the Internal Revenue Code of 1986.

(2) CONSOLIDATED RETURNS BY SYNDICATE AGENT.—A syndicate agent may file an annual information return with respect to all syndicates for which such agent is an agent, and all distributions with respect to such syndicates, on a consolidated basis.

(3) TAX EXEMPT STATUS.—Any syndicate under any cross-guarantee or stop-loss contract, any income or gross receipts (including premiums), and any activity of the syndicate shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority.

(d) AUDITS OF SYNDICATE AGENTS.—The direct guarantors under any cross-guarantee or stop-loss contract shall have the right to retain a third party to audit the performance of the syndicate agent under the terms of the contract, unless the parties have otherwise explicitly waived such right in the contract.

(e) REPLACEMENT OF SYNDICATE AGENTS.—

(1) IN GENERAL.—The cross-guarantee or stop-loss syndicate under any cross-guarantee or stop-loss contract may at any time and without cause replace the syndicate agent under such contract, subject to the guaranteed financial group or nondepository guarantor's approval of the new syndicate agent, by amending the contract and obtaining the Corporation's approval of the new syndicate agency under section 122.

(2) NO EFFECT ON CONTRACT.—The replacement of a syndicate agent by the direct guarantors in accordance with paragraph (1) shall not affect the continuing existence or enforceability of the contract.

(3) WITHDRAWAL OF SYNDICATE AGENT.—

(A) IMMEDIATE SUBMISSION OF AMENDED CONTRACT WITH NEW SYNDICATE AGENT.—If a syndicate agent should resign or otherwise cease providing required services under a cross-guarantee or stop-loss contract, whether wrongfully, as allowed under such contract, or for any other reason, the cross-guarantee or stop-loss syndicate shall immediately submit an amendment to the contract, with a successor syndicate agency named in the amendment, to the Corporation for approval.

(B) INTERIM FDIC APPOINTMENT.—The Corporation may appoint a successor syndicate agent to serve until a cross-guarantee or stop-loss syndicate has complied with the requirements under subparagraph (A).

SEC. 118. ASSUMPTION OF CONTROL OF A GUARANTEED COMPANY BY A CROSS-GUARANTEE SYNDICATE.

(a) IN GENERAL.—A cross-guarantee syndicate under any cross-guarantee contract may assume control of a guaranteed company under the contract under the following circumstances:

(1) CANCELLATION.—After a cancellation of the contract by the syndicate or the guaranteed financial group has become effective unless a successor cross-guarantee contract has taken effect.

(2) EXPIRATION.—After a expiration of the cross-guarantee contract unless a successor cross-guarantee contract has taken effect.

(3) BREACH OF CONTRACT.—Immediately upon the occurrence of any circumstance established in the cross-guarantee contract as a ground for taking such action.

(b) POWERS AND DUTIES OF A CROSS-GUARANTEE SYNDICATE AFTER ASSUMPTION OF CONTROL.—

(1) GENERAL POWERS.—

(A) OPERATE THE COMPANY.—A cross-guarantee syndicate which assumes control of a guaranteed company under subsection (a) may—

(i) take over the books, records and assets of and operate the guaranteed company with all the powers of the members or shareholders, the directors, and the officers of the company and conduct all business of the company;

(ii) collect all obligations and money due the company;

(iii) perform in the name of the company all functions of the company consistent with the appointment of the syndicate as the successor to the managers and directors of the company and the duties of the syndicate with respect to the company; and

(iv) preserve and conserve the assets and property of such company.

(B) DISPOSITION OF COMPANY.—The cross-guarantee syndicate which assumes control of a guaranteed company under subsection (a) may, as the successor to such company—

(i) merge the guaranteed company with another guaranteed company;

(ii) sell or otherwise dispose of the company; or

(iii) place the company in liquidation and proceed to realize upon the assets of the company.

(2) DUTIES.—

(A) NOTICE OF TAKEOVER TO FDIC.—If a cross-guarantee syndicate assumes control of a guaranteed company under subsection (a), the syndicate agent of such syndicate shall immediately provide written notice of such assumption of control to the Corporation.

(B) PAYMENT OF VALID OBLIGATIONS.—Any cross-guarantee syndicate which assumes control of a guaranteed company in accordance with subsection (a) shall pay all valid obligations of the company in accordance with the original contractual terms of these obligations.

(C) DISTRIBUTION OF ASSETS.—In any case in which funds remain from the liquidation, sale, or other disposition of the assets of any guaranteed company after all depositors, creditors, other claimants, and administrative expenses of the syndicate have been paid or otherwise resolved, the syndicate shall promptly distribute such funds to the company's shareholders or members, as the case may be.

(D) FIDUCIARY DUTY.—Any cross-guarantee syndicate which assumes control of a guaranteed company in accordance with subsection (a) shall succeed to the same fiduciary responsibility to shareholders as the directors and officers of such company had.

(c) NO AUTHORITY FOR ANY FEDERAL BANKING AGENCY OR STATE BANK SUPERVISOR TO PREVENT ASSUMPTION OF CONTROL.—No Federal banking agency or State bank supervisor or any other Federal or State agency may take any action to prevent the assumption of control of a guaranteed company under subsection (a).

(d) EXPEDITED PROCEDURES FOR JUDICIAL REVIEW OF ASSUMPTION OF CONTROL.—

(1) IN GENERAL.—A guaranteed company may file an action in the court designated as having jurisdiction under section 119(a)(3) requesting a stay of any assumption of control of such company by a cross-guarantee syndicate, and the court shall issue a final order on an expedited basis.

(2) BASIS FOR DETERMINATION.—In the case of any action under paragraph (1), the court shall—

(A) decide the case solely on the basis of the provisions in the cross-guarantee contract which relate to the assumption of control of the guaranteed company by the cross-guarantee syndicate; and

(B) uphold the determination of the syndicate unless—

(i) in the case of an assumption of control under paragraph (1) and (2) of subsection (a), the action of the syndicate was arbitrary, capricious, or otherwise not in accordance with law; and

(ii) in the case of an assumption of control under paragraph (3) of subsection (a), the guaranteed company can show by a preponderance of the evidence that the syndicate has no right under the contract to assume control.

(3) EXPEDITED APPEALS.—Any appeal of any final order issued by a court in connection with an action under paragraph (1) shall be heard by the appeals court on an expedited basis.

SEC. 119. ENFORCEMENT OF CONTRACTS.

(a) JURISDICTION OF FEDERAL COURTS.—

(1) IN GENERAL.—For purposes of section 1331 of title 28, United States Code, any action arising under any cross-guarantee or stop-loss contract, or any contract under section 17(a)(5)(B), shall be deemed to arise under Federal law.

(2) EXCLUSIVE JURISDICTION.—No court other than a district court of the United States shall have original jurisdiction of any action referred to in paragraph (1).

(3) DESIGNATION OF COURT IN CONTRACT.—Each cross-guarantee or stop-loss contract shall designate the district court of the United States which shall have the exclusive original jurisdiction of—

(A) any action arising under the contract; and

(B) any proceeding under title 11, United States Code, in which the debtor is a guaranteed company under the contract.

(b) RESTRICTIONS ON THIRD PARTY BENEFICIARY ACTIONS.—Notwithstanding any State law, no creditor of any guaranteed party under any cross-guarantee or stop-loss contract may bring an action against the direct guarantors of such guaranteed party for failure to perform any cross-guarantee obligation under the contract without first having obtained a judgment against the guaranteed party for failure to perform such obligation, unless-

(1) the direct guarantors have assumed control of the guaranteed party under section 118(a);

(2) the guaranteed party is a debtor under any proceeding under Title 11, United States Code; or

(3) the Corporation has appointed a conservator or receiver for the guaranteed party.

(c) SERVICE OF PROCESS—

(1) SERVICE UPON SYNDICATE AGENT.—Service of notice to the syndicate agency under any cross-guarantee or stop-loss contract shall serve as service upon any direct guarantor under the contract for any action arising out of such contract.

(2) SERVICE UPON A DIRECT GUARANTOR.—Service of notice to a direct guarantor under any cross-guarantee or stop-loss contract shall not serve as service upon any other direct guarantor to such contract.

(d) CONSENT OF SYNDICATE REQUIRED FOR COMMENCEMENT OF VOLUNTARY BANKRUPTCY PROCEEDINGS.—Notwithstanding any provision of Title 11, United States Code, no guaranteed company may file a petition under section 301 of such title (relating to voluntary cases) unless—

(1) the company has obtained the express written consent of the cross-guarantee syndicate under the cross-guarantee contract under which the company is a guaranteed company; and

(2) a copy of such consent is included in the petition.

SUBTITLE C—POWERS AND DUTIES OF THE FDIC

CHAPTER 1—CROSS-GUARANTEE PROCESS

SEC. 121. REGULATOR OF THE CROSS-GUARANTEE PROCESS.

(a) FDIC ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—Subject to section 127(a)(4), the Corporation shall have exclusive authority to enforce compliance with provisions of this title.

(2) ENFORCEMENT.—Subsections (b), (c), (d), (h), (l), and (n) of section 8 of the Federal Deposit Insurance Act and paragraph (1) and each subparagraph, other than subparagraphs (B) and (C), of paragraph (2) of subsection (i) of such section shall apply with respect to any syndicate agent and to any direct guarantor, but only with respect to any violation of any requirements under this title.

(b) LIMITATION OR STATE JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any provision of State law, no State may exercise authority over any party to any cross-guarantee or stop-loss contract with respect to—

(A) whether such party may be a party to a cross-guarantee or stop-loss contract; and

(B) the rights, duties, privileges, or obligations of such party under the contract or pursuant to this title.

(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as affecting the authority of any State to determine the powers and regulate the activities of State depository institutions.

(c) DEADLINE FOR ISSUING REGULATIONS.—Unless otherwise specified in this title, the Corporation shall issue regulations under this title within one year of the date of enactment of this act.

SEC. 122. APPROVAL PROCESS FOR CROSS-GUARANTEE AND STOP-LOSS CONTRACT.

(a) EXPEDITED APPROVAL OF CONTRACTS AND CONTRACT AMENDMENTS—

(1) NOTICE AND REVIEW REQUIREMENT.—Except as provided in paragraph (3), no cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, and no amendment to any such contract, may take effect unless—

(A) the Corporation has been given 15 business days to review the contract or amendment; and

(B) before the end of the 15-day period described in subparagraph (A), the Corporation has not issued an order—

(i) disapproving the contract or amendment; or

(ii) extending the period within which the Corporation may disapprove the contract or amendment in accordance with paragraph (6).

(2) SUBMISSION OF CONTRACT OR AMENDMENT IN ELECTRONIC FORM.—The Corporation shall prescribe regulations requiring that—

(A) any cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, and any amendment to such contract, being submitted for review under this subsection shall be submitted in electronic form to the central electronic repository; and

(B) the Corporation be notified when a contract has been submitted to the central electronic repository for approval by the Corporation.

(3) NOTICE OF APPROVAL BEFORE END OF DISAPPROVAL PERIOD.—A cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, and any amendment to any such contract, may take effect before the expiration of the period described in paragraph (1)(A) (or extended in accordance with paragraph (6)) for disapproving such contract if the Corporation notifies the parties that the Corporation does not intend to disapprove the contract.

(4) SUBMISSION OF INFORMATION AND CERTIFICATIONS.—

(A) IN GENERAL.—The syndicate agent under any proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or any amendment to any such contract, submitted to the Corporation for review under paragraph (1), shall also submit to the Corporation with such proposed contract such information and attestations or certifications as the Corporation may require by regulation.

(B) LIMITATION ON SCOPE OF INFORMATION REQUIRED.—The regulations prescribed by the Corporation under subparagraph (A) may not require the submission of any information other than information directly necessary for the Corporation to determine whether any proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or amendment thereto, submitted to the Corporation for approval is in compliance with the requirements of this title.

(5) ADDITIONAL INFORMATION.—

(A) IN GENERAL.—The Corporation may, by specific request in connection with a particular proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or amendment to any contract, submitted to the Corporation, require, on one occasion only, that additional information be submitted with respect to such contract or amendment, except that the Corporation may require only such information as may be relevant to—

(i) a determination of the extent to which the proposed contract is in compliance with the requirements of this title; and

(ii) the Corporation's evaluation of the contract in accordance with this section.

(B) WRITTEN NOTICE OF EXPLANATION.—For any request for additional information under subparagraph (A), the Corporation shall provide a detailed explanation of the specific reasons why such additional information is needed.

(6) EXTENSION OF DISAPPROVAL PERIOD.—If, in connection with a particular proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or any amendment to any such contract, which is submitted to the Corporation, the Corporation requests additional information under paragraph (5), the Corporation may by order provide that the Corporation shall have any additional period (not to exceed 5 business days beginning on the date on which the Corporation receives such information) within which to disapprove the proposed contract.

(b) GROUNDS FOR DISAPPROVAL OF PROPOSED CONTRACT OR AMENDMENT.—The Corporation may disapprove any proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or any amendment to any such contract, only if—

(1) the contract, including any party under the contract, is not in compliance with this title; or

(2) the information submitted under subsection (a) was insufficient to determine whether the contract and the parties to the contract are in compliance with this title.

(c) WRITTEN NOTICE OF DISAPPROVAL.—

(1) IN GENERAL.—If the Corporation disapproves any cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or any amendment thereto, the Corporation shall provide immediate written notice to the parties to such contract of any disapproval at the time of disapproval.

(2) STATEMENT OF REASON FOR DISAPPROVAL.—The written notice under paragraph (1) shall contain a detailed explanation of the specific reasons for the disapproval under this section.

(d) CONDITIONAL APPROVALS.—

(1) IN GENERAL.—The Corporation shall prescribe regulations which would allow a cross-guarantee, stop-loss, or group cross-guarantee syndicate contract to be conditionally approved, in a manner otherwise in accordance with this section, before the effective

date of the contract if, at the time such conditional approval is granted, all the information which is required for the Corporation to make a final determination of whether the contract meets the requirements of this title cannot be known or ascertained.

(2) RECONFIRMATION.—The regulations prescribed under paragraph (1) shall allow the Corporation, upon receipt of all the information the Corporation needs to determine whether the contract meets the requirements of this title, 3 business days to give the contract a final approval.

(3) REPLACEMENT OF GUARANTORS.—The regulations prescribed under paragraph (1) shall allow, without restriction the replacement of a direct guarantor with another direct guarantor during the period between the date of conditional approval and final approval.

SEC. 123. CENTRAL ELECTRONIC REPOSITORY.

(a) ESTABLISHMENT.—

(1) STOCK FOR-PROFIT CORPORATION.—Before the end of the 3-month period beginning on the date of the enactment of this Act, the Corporation shall provide for the incorporation, under the law of such State as the Corporation determines to be appropriate, of a stock for-profit corporation to establish and maintain a central electronic repository for cross-guarantee, stop-loss, and group cross-guarantee syndicate contracts.

(2) MAINTENANCE OF ALL PAST AND CURRENT CONTRACTS.—The central electronic repository shall maintain files, in electronic form, of all cross-guarantee and stop-loss contracts which have not been disapproved by the Corporation under section 122, including expired and canceled contracts, all amendments to any such contract which have not been disapproved by the Corporation under such section, and all proposed contracts and contract amendments which have been filed with the Corporation, but not yet acted upon.

(3) DIRECT ACCESS FOR ALL GUARANTORS, GUARANTEED PARTIES AND SYNDICATE AGENTS.—The files in the central electronic repository established under this section shall be directly accessible by electronic means to any direct guarantor, guaranteed party, and syndicate agent, and any other person who qualifies for access under procedures established by the board of directors of the repository.

(4) NO CONTRACT OR AMENDMENT MAY TAKE EFFECT BEFORE FILING IN REPOSITORY.—No cross-guarantee or stop-loss contract, and no amendment to any such contract, may take effect before such contract or amendment, as approved, is on file in the central electronic repository.

(5) LEGAL EVIDENCE OF THE CONTRACT.—The provisions of any cross-guarantee contract or stop-loss contract, including, any amendment to such contract, on file in the central electronic repository shall—

(A) be irrebuttable evidence of the contract; and

(B) trump all other forms or versions of the contract.

(b) AVAILABILITY OF CERTIFIED COPIES.—

(1) IN GENERAL.—The central electronic repository shall make available a copy of any cross-guarantee or stop-loss contract on file in the repository, including any amendment to any such contract and any proposed contract or proposed amendment to any contract, to any person, any government officer, agency, or department, or any court upon request.

(2) CERTIFICATION OF COPIES.—

(A) IN GENERAL.—Each copy of a cross-guarantee or stop-loss contract which is made available in accordance with paragraph (1) shall contain a certification by the central repository facility that such copy is true and correct.

(B) PRIMA FACIE EVIDENCE.—a copy of a cross-guarantee or stop-loss contract which is certified in accordance with subparagraph (A) shall establish prima facie the contract.

(C) MAINTENANCE OF DATA BASE OF GUARANTORS.—The central electronic repository shall maintain a data base containing the names of the direct guarantors under each cross-guarantee or stop-loss contract which has not expired or been canceled and such other information with regard to such contracts that will enable any person to determine whether or not any such contract, proposed contract, or proposed amendment to any contract, is in compliance with this title and regulations prescribed under this title.

(2) MANAGEMENT.—

(1) BOARD OF DIRECTORS.—The management of the central electronic repository shall be vested in a board of directors consisting of 7 members—

(A) 4 of whom shall be elected by direct guarantors from among individuals who are senior executive officers of direct guarantors; and

(B) 3 of whom shall be elected by active syndicate agents from among individuals who are senior executive officers of active syndicate agents.

(2) ELECTION OF BOARD OF DIRECTORS.—The Corporation shall establish by regulation procedures for the election of members of the governing board.

(3) POWERS.—

(A) IN GENERAL.—The board of directors shall have such powers as may be provided in the articles of incorporation of the central electronic repository.

(B) SPECIFIC POWERS.—The powers provided in the articles of incorporation shall include the following:

(i) ISSUE QUALIFYING SHARES OF STOCK.—To issue 7 shares of voting qualifying stock, each share of which shall be of nominal value, held by a director of the repository.

(ii) ISSUE OBLIGATIONS.—To issue debentures, bonds, or other obligations, to borrow and give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

(C) BYLAWS.—The board of directors shall prescribe and amend, with the approval of the Corporation under paragraph (4), bylaws not inconsistent with this section or the articles of incorporation regulating the manner in which the central electronic repository shall be governed.

(4) APPROVAL OF BYLAWS .—The Corporation may disapprove the bylaws of the central electronic repository, and any amendment to the bylaws or articles of incorporation, only if the Corporation determines that the bylaws or the amendment would permit the central electronic repository to operate in an unbusinesslike manner or in a manner that would imperil the integrity of the contracts on file with the repository.

(e) FUNDING.—

(1) IN GENERAL.—The central electronic repository may assess filing, access, and certification fees and other appropriate charges to the extent necessary to meet operating expenses and capital costs of the repository.

(2) INITIAL FUNDING AND CAPITALIZATION.—

(A) BORROWING.—As of the date on which the interim board of directors appointed under subsection (f)(1) first meets with a quorum present, the central electronic repository may borrow from the Bank Insurance Fund or Savings Association Insurance Fund, with the amount borrowed from each fund proportional to the share of insured deposits held by members of such fund as of the date of enactment of this Act, an amount not to exceed $10,000,000 at an interest rate not to exceed the sum of 4 percent plus the average annual percentage yield on 3-month bills issued by the Secretary of the Treasury under section 3104(a) of title 31, United States Code, as determined by the Corporation as of the most recent issue date preceding the date on which the loan is made by such fund.

(B) USE OF PROCEEDS.—The proceeds of any loan from the Bank Insurance Fund or Savings Association Insurance Fund to the central electronic repository under subparagraph (A) shall be used to pay for the following costs incurred by the repository:

(i) Administrative expenses, including employees salaries and benefits.

(ii) Cost incurred in connection with the development of software for use by the repository.

(iii) Acquisition by purchase or lease of property, including computer hardware, necessary for the operation of the repository.

(C) REPAYMENT DEADLINE.—The total amount of principal and interest due on any amount borrowed from the Bank Insurance Fund or Savings Association Insurance Fund by the central electronic repository pursuant to this paragraph shall be repaid before the end of the 5-year period beginning on the cross-guarantee activation date.

(f) INTERIM BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The 1st board of directors of the central electronic repository shall be appointed by the Corporation as follows:

(A) 4 members appointed from among senior executive officers of depository institutions which are likely to be among the 1st depository institutions to become guaranteed companies.

(B) 3 members appointed from among individuals likely to be associated with active syndicate agents.

(2) TERMS.—Members appointed under paragraph (1) shall serve until the earlier of—

(A) the end of the 1-year period beginning on the cross-guarantee activation date; or

(B) the date a board of directors elected in accordance with a subsection (d)(1) first meets with quorum present.

(3) VACANCY.—Any vacancy on the board appointed under paragraph (1) shall be filled in the manner in which the original appointment was made.

(g) STANDARD CONTRACT LANGUAGE.—The board of directors of the central electronic repository is hereby authorized to maintain and update as needed standard language for various provisions of cross-guarantee, stop-loss, and group cross-guarantee syndicate contracts that parties to these contracts may, at their sole discretion, incorporate by reference in contracts and contract amendments they submit to the Corporation for approval.

SEC. 124. RESTRCTIONS ON CLOSED LOOPS.

(a) PROHIBITION OF MORE THAN ONE UNRELATED CLOSED LOOP.—At no time shall two or more closed loops exist unless at least one cross-guarantee or stop-loss contract is a contract in each closed loop.

(b) FDIC Call-Back.—If, at any time, the requirements of subsection (a) are violated—

(1) the Corporation shall notify each guaranteed party under each cross-guarantee and stop-loss contract which is part of the closed loop which has the fewest number of contracts that it must obtain a successor cross-guarantee or stop-loss contract; and

(2) each guaranteed party under paragraph (1) shall have 10 business days upon notification to submit a successor contract to the Corporation for approval.

CHAPTER 2—PROTECTION OF INSURED DEPOSITS

SEC. 126. SYNDICATE AGENT REPORTS ON GUARANTEED DEPOSITORY INSTITUTIONS.

(a) Semiannual Reports.—

(1) In general.—The syndicate agent under any cross-guarantee contract shall submit a report to the Corporation within 30 days after the end of each semiannual period containing the following information:

(A) The total amount of insured deposits held by any guaranteed depository institution under the contract as of the end of the semiannual period.

(B) The FDIC asset value for the guaranteed financial group as of the end of the semiannual period.

(2) More frequent reports for institutions which pose significant risk.—If any guaranteed financial group has a qualified asset-to-insured deposit ratio of less than 1.04, the Corporation may require the syndicate agent for the cross-guarantee contract which guarantees such financial group to submit reports more frequently than required under paragraph (1), but not more frequently than monthly.

(b) Determination of FDIC Asset Value.—

(1) Reasonable cash value.—For purposes of this section, the FDIC asset value of any guaranteed financial group shall be determined on the basis of—

(A) the fair market value of an asset, or of property which is comparable to such asset, in connection with a cash sale under conditions which are customary and reasonable for marketing such asset in the ordinary course of business; or

(B) in the case of an asset without a regular market, the amount that a willing buyer would pay in cash for the asset, and a willing seller would accept, if the buyer and the seller were not under any immediate need for a sale or purchase.

(2) Use of FDIC asset value.—The information provided in reports under this section with respect to the FDIC asset value of any guaranteed financial group may be taken into account by the corporation only for the purpose of making a determination under section 126(a)(2) to require more frequent information or under section 127 to appoint a conservator or receiver for such institution.

(c) Verification of Reported Information.—

(1) In general.—Upon the request of a direct guarantor under a cross-guarantee contract, the Corporation may authorize a third-party auditor to verify the accuracy of any information reported under subsection (a) by the syndicate agent for such contract, so long as such third-party is not a competitor of any depository institution guaranteed under the contract for which information is being verified.

(2) Use of third-party audit.—The Corporation shall use any information provided by a third-party under paragraph (1) in making any determination under section 127(a)(1)(A).

(d) Semiannual Period Defined.—For purposes of this chapter, the term "semiannual period" means, with respect to any calendar year, the following two periods:

(1) The period beginning on January 1 of such year and ending on June 30 of such year.

(2) The period beginning on July 1 of such year and ending on December 31 of such year.

(e) Qualified Asset-to-Insured Deposit Ratio Defined.—For purposes of this chapter, the term "qualified asset-to-insured deposit ratio" means, with respect to any guaranteed financial group, the amount determined by dividing the FDIC asset value of such group by the amount of the insured deposits of all the depository institutions under the contract.

SEC. 127. FDIC APPOINTMENT OF CONSERVATOR OR RECEIVER.

(1) In general.—Notwithstanding any Federal or State law, the Corporation shall appoint itself conservator or receiver for a depositor institution guaranteed under a cross-guarantee contract if and only if—

(A) the qualified asset-to-insured deposit ratio is less than 1.02 for the guaranteed financial group guaranteed under such contract; or

(B) the institution has not met the deadline to submit a contract for approval under section 124(b)(2) or the Corporation has rejected a contract submitted under such section.

(2) Powers of the corporation as conservator or receiver.—The provisions of section 11 of the Federal Deposit Insurance Act shall apply with respect to the conservator or receiver appointed under this section in the same manner as section 11 applies to a conservator or receiver appointed under or in accordance with such section 11.

(3) Appointment as bar to subsequent proceeding under title 11.—Notwithstanding any provision of title 11, United States Code, no depository institution for which a conservator or receiver has been appointed under this subsection may be a debtor in a case under such title.

(4) Action to force FDIC takeover.—Any party to any cross-guarantee or stop-loss contract can bring a mandamus action in federal court to force the Corporation to appoint itself conservator or receiver for any depository institution as required under paragraph (1).

(b) Stay of Appointment Upon Action of Direct Guarantors.—The district court of the United States designated under a cross-guarantee contract to have jurisdiction over all actions arising under the contract may, upon application by the cross-guarantee syndicate under the contract, stay the appointment by the Corporation under paragraph (1)(A) of subsection (a) of a conservator or receiver for a guaranteed depository institution if the syndicate demonstrates to the satisfaction of the court that each depository institution guaranteed under the contract is solvent.

(c) Protection for All Guaranteed Obligations.—A conservator or receiver appointed for a depository institution under subsection (a) shall perform fully on all guaranteed obligations of the depository institution.

(d) recovery for FDIC Losses.—

(1) Recovery from direct guarantors for FDIC takeovers of institutions with an FDIC asset value below 1.02.—

(a) In general.—A direct guarantor under any cross-guarantee contract shall be liable to the Corporation, in proportion to such guarantor's share of the total cross-guarantee obligations of all direct guarantors which are members of the cross-guarantee syndicate under the contract, for the amount of loss incurred by the Corporation in connection with the appointment of a conservator or receiver under paragraph (1)(A) of subsection (a) for any depository institution guaranteed under such contract.

(B) Corporation cannot override several liability.—No direct guarantor which is a member of any cross-guarantee or stop-loss syndicate shall be liable to the Corporation under subparagraph (A) due to a default by any other member of such cross-guarantee or stop-loss snydicate.

(2) Recovery from all depository institutions for losses due to closed loops.—

(A) In general.—All depository institutions guaranteed under any cross-guarantee contract shall be liable to the Corporation for the amount of loss incurred by the Corporation in connection with the appointment of a conservator or receiver under subsection (a)(1)(B).

(B) Liability proportional to an institution's share of overall guaranteed obligations.—A guaranteed depository institution or guaranteed banking office shall be liable under subparagraph (A) in proportion to such institution's or office share of the deposits of all depository institutions at the time of the appointment of the conservator or receiver.

(C) FDIC authorization.—The Corporation is authorized to assess depository institutions for any amounts under this paragraph.

(e) Working Capital Financing for the FDIC.—

(1) In general.—The Corporation shall have the authority to borrow, from any source other than the U.S. Treasury, the Federal Financing Bank, any Federal Reserve bank, or any other department or agency of the federal government, any funds needed as working capital in connection with the appointment of a conservator or receiver under subsection (a).

(2) Repayment.—The repayment of any borrowing under paragraph (1) shall be funded solely from recoveries under subsection (d) and the assets of the depository institution for which a conservator or receiver has been appointed.

(3) No federal guarantee for borrowing.—The federal government shall not guarantee repayment of any loan under paragraph (1).

SEC. 128. BACKUP INSURANCE ON DEPOSITS AT GUARANTEED DEPOSITORY INSTITUTIONS.

(a) Establishment of Cross-Guarantee Backup Fund.—

(1) In general.—There is hereby established the cross-guarantee backup fund consisting of amounts deposited pursuant to section 144 and subsection (c) of this section.

(2) Administration of fund.—The cross-guarantee backup fund shall be administered by the Corporation.

(b) Backup Deposit Insurance.—

(1) Fund liability.—Deposits in any guaranteed depository institution shall be insured against loss, to the same extent as deposits are insured against loss by the Corporation under section 11(a) of the Federal Deposit Insurance Act (as in effect on the day before the enactment of this Act), in the event that the Corporation cannot recover under section 127(d) adequate funds to pay for any loss due to the appointment of a conservator or receiver under section 127(a).

(2) Subordinated debt not treated as deposit.—No subordinated debt of any guaranteed depository institution or any guaranteed banking office may be treated as a deposit for purposes of paragraph (1).

(c) Use and Disposition of Fund.—

(1) In general.—Except as otherwise provided in this subsection, amounts in the cross-guarantee backup fund may be used only to pay—

(A) the administrative expenses incurred by the Corporation in regulating the cross-guarantee system under this subtitle and providing deposit insurance under this section, including the expense of the Cross-Guarantee Advisory Committee; and

(B) any loss incurred by any depositor in connection with an insured deposit at a depository institution.

(2) INVESTMENTS.—Amounts on deposit in the cross-guarantee backup fund in excess of the amount which the Corporation determines to be necessary to meet anticipated expenses shall be invested in direct obligations of the United States and interest thereon shall accumulate in the fund.

SUBTITLE D—MISCELLANEOUS PROVISIONS

SEC. 131. INSTITUTIONS OFFERING UNINSURED DEPOSITS.

The Corporation shall ensure that any company other than—

(a) a depository institution;

(b) a branch which is not an insured branch (as the term "insured branch" is defined in section 3(s) of the Federal Deposit Insurance Act);

(c) an insured credit union or noninsured credit union (as such terms are defined in section 101(7) of the Federal Credit Union Act);

(d) a broker or dealer registered under the Securities and Exchange Act of 1934; or

(e) an investment company registered under the Investment Company Act of 1940,

which accepts deposits or assumes obligations which would be deposits if the institution were a bank or savings association (as defined in section 3 of the Federal Deposit Insurance Act) is accepting such deposits and assuming such obligations in accordance with all applicable Federal and State laws which relate to the licensing and regulation of institutions which accept deposits or assume such obligations.

SEC. 132. CROSS-GUARANTEE ADVISORY COMMITTEE.

(a) ESTABLISHMENT REQUIRED.—The Corporation shall establish, within three months of the date of enactment, an advisory committee designated as the Cross-Guarantee Advisory Committee (hereafter in this section referred to as the "advisory committee") consisting of 9 members.

(b) MEMBERSHIP.—

(1) ELECTION AND TERMS.—The guaranteed financial groups in each of the advisory committee districts established by the Corporation pursuant to subsection (d) shall elect 1 of the members of the advisory committee for a 3-year term.

(2) VACANCY.—Any vacancy occurring on the advisory committee before the expiration of the term of any member shall be filled in the same manner as such member's original election and any member elected to fill a vacancy shall serve only for the remainder of such term.

(3) STAGGERED TERMS.—Of the members first elected to the advisory committee—

(A) 3 shall serve 3-year terms;

(B) 3 shall serve 2-year terms; and

(C) 3 shall serve 1-year terms,

as designated by the Corporation at the time of election.

(4) NO COMPENSATION.—No member of the advisory committee shall receive any compensation from the Corporation by reason of service on the advisory committee.

(5) TRAVEL EXPENSES.—A member of the advisory committee shall be allowed travel or transportation expenses while away from such member's home or regular place of business and at the place of service with the advisory committee.

(c) QUARTERLY MEETING TO ADVISE THE CORPORATION.—The advisory committee shall meet at least once during each calendar quarter to advise the Board of Directors of the Corporation on matters affecting the operation and regulation of the cross-guarantee process.

(d) ADVISORY COMMITTEE DISTRICTS.—

(1) IN GENERAL.—The Corporation shall establish 9 advisory committee districts.

(2) COMPOSITION OF DISTRICTS.—The districts established under this subsection shall—

(A) include those guaranteed financial groups the main office of which is located in such district; and

(B) be established in such manner that the total assets of the guaranteed financial groups in each of the 9 districts are substantially equivalent.

(3) DECENNIAL REAPPORTIONMENT.—

(A) IN GENERAL.—The Corporation shall establish the 9 districts every 10 years.

(B) NOT APPLICABLE TO SITTING MEMBERS.—Each individual who is a member of the advisory committee on the effective date of any reestablishing of the districts pursuant to paragraph (1) shall continue as a member and shall represent the successor district to the district from which such member was elected until the end of the member's term of office.

(e) INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply with respect to the Cross-Guarantee Advisory Committee.

SEC. 133. FEDERAL RESERVE LENDING.

(a) NO COLLATERAL REQUIRED FOR LENDING TO GUARANTEED COMPANY.—The cross-guarantee contract shall be sufficient collateral for any loan to a guaranteed company by any Federal Reserve bank for purposes of any provision of Federal law, any regulation prescribed by the Board of Governors of the Federal Reserve System, or any requirement of any such bank.

(b) CERTIFICATION OF NO LOSS.—Before February 1 of each calendar year beginning after the cross-guarantee activation date, the Board of Governors of the Federal Reserve System shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing—

(1) a certification that—

(A) no loss was incurred by such Board or any Federal Reserve Bank during the preceding calendar year on any loan or other advance to any guaranteed company during such year; and

(B) no loss is anticipated on any such loan or advance which remains outstanding at the end of such year; or

(2) the amount of any such loss or anticipated loss.

SEC. 134. ADVERTISING OF GUARANTEED FINANCIAL GROUPS.

(a) ADVERTISING DEPOSIT GUARANTEES.—

(1) IN GENERAL.—A guaranteed company or guaranteed banking office may advertise that deposits and certain other liabilities are fully guaranteed against any loss under a cross-guarantee contract approved by the Corporation.

(2) CROSS-GUARANTEE LOGO.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Corporation shall—

(A) design, after consultation with depository institutions, a logotype for use by a guaranteed company or guaranteed banking office to indicate that such a company or office is guaranteed under a cross-guarantee contract; and

(B) authorize guaranteed companies and guaranteed banking offices to use such logotype.

(b) ADVERTISING BACKUP INSURANCE.—A depository institution which is guaranteed under a cross-guarantee contract shall—

(1) display at each place of business of the institution any sign described in section 18(a) of the Federal Deposit Insurance Act; and

(2) advertise that deposits at the institution are insured by the Corporation to $100,000.

SUBTITLE E—TRANSITION TO 100% CROSS-GUARANTEE PROCESS

SEC. 141. EFFECTIVE DATE OF SYSTEM BASED ON MINIMUM NUMBER OF GUARANTEED DEPOSITORY INSTITUTIONS AND AMOUNT OF TOTAL ASSETS.

(a) IN GENERAL.—No cross-guarantee or stop-loss contract shall take effect before the later of—

(1) the end of the 18-month period beginning on the date of the enactment of this Act; or

(2) 40 business days after the date on which the Corporation has approved, under subsection (b), a minimum of 200 cross-guarantee contracts under which depository institutions which, in the aggregate, have total assets of not less than $500,000,000,000 are guaranteed companies or guaranteed banking offices.

(b) CONTINGENT EFFECT OF CONTRACTS UNTIL EFFECTIVE DATE.—

(1) IN GENERAL.—The Corporation may conditionally approve a cross-guarantee or stop-loss contract to become effective on the date to be determined under subsection (a) even though not all direct guarantors under the contract meet the requirements under section 116(a)(1).

(2) MINIMUM REQUIREMENTS.—No cross-guarantee or stop-loss contract conditionally approved under paragraph (1) shall receive final approval from the Corporation for purposes of subsection (a)(2) unless—

(A) the cross-guarantee or stop-loss contract is 1 of a set of contracts in which each contract—

(i) is a contract in the same closed loop; and

(ii) becomes effective at the same time every other contract within the set of contracts takes effect; and

(B) at the time such contract becomes effective, the requirements of section 124(a) are met.

(c) PUBLICATION OF SUBSECTION (A) DATE.—The Corporation shall publish a notice in the Federal Register of the day by which contracts may take effect in accordance with subsection (a).

(d) ONE-TIME CONVERSION TO GUARANTEED PARTY STATUS.—Notwithstanding any provision of section 142, section 111 shall apply with respect to any depository institution as of the date—

(1) on which such institution first becomes a guaranteed depository institution or guaranteed banking office;

(2) on which any depository institution which is affiliated to such depository institution becomes a guaranteed depository institution; or

(3) on which any depository institution which is under common ownership with such depository institution under section 112(d)(2) becomes a guaranteed depository institution.

SEC. 142. MANDATORY PHASE-IN OF CROSS-GUARANTEES AFTER EFFECTIVE DATE OF SYSTEM.

(a) DEPOSITORY INSTITUTIONS WITH ASSETS OF $1,000,000,000 OR MORE.—Section 111 shall apply as of the end of the 2-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $1,000,000,000 as of the end of such 2-year period.

(b) Depository Institutions With Assets of $500,000,000 or More.—Section 111 shall apply as of the end of the 3-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $500,000,000 as of the end of such 3-year period.

(c) Depository Institutions With Assets of $250,000,000 or More.—Section 111 shall apply as of the end of the 4-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $250,000,000 as of the end of such 4-year period.

(d) Depository Institutions With Assets of $100,000,000 or More.—Section 111 shall apply as of the end of the 5-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $100,000,000 as of the end of such 5-year period.

(e) Depository Institutions With Assets of $50,000,000 or More.—Section 111 shall apply as of the end of the 6-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $50,000,000 as of the end of such 6-year period.

(f) Depository Institutions With Assets of $25,000,000 or More.—Section 111 shall apply as of the end of the 7-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $25,000,000 as of the end of such 7-year period.

(g) All Other Depository Institutions.—Section 111 shall apply as of the end of the 8-year period beginning on the cross-guarantee activation date with respect to any depository institution which is not described in subsection (a), (b), (c), (d), (e), or (f).

(h) Consolidated Assets at Book Value Defined.—The term "consolidated assets at book value" means the total value, as determined on a consolidated basis and in accordance with generally accepted accounting principles, of all tangible and intangible property of any depository institution and all affiliates of the institution.

SEC. 143. APPOINTMENT OF CONSERVATOR OR RECEIVER FOR INSTITUTIONS WHICH FAIL TO COMPLY WITH TRANSITION REQUIREMENT.

The Corporation shall immediately appoint a conservator or receiver for any depository institution which is not a guaranteed depository institution or guaranteed banking office under any cross-guarantee contract as of the date by which such institution is required to be a guaranteed depository institution or guaranteed banking office under section 142.

SEC. 144. EXIT FEES.

(a) Contingent Payment of Exit Fee Upon Conversion of Depository Institution to New System.—

(1) Payment of exit fee.—Any insurance fund member which becomes a guaranteed depository institution or guaranteed banking office may be assessed an exit fee in an amount to be determined and assessed under paragraph (2), and such fee shall be deposited in the insurance fund of which the guaranteed depository institution or guaranteed banking office was a member on the cross-guarantee activation date.

(2) Determination of amount of fee.—

(A) Total amount of exit fee to collect from members of an insurance fund.—The Corporation shall calculate for each insurance fund, as of the cross-guarantee activation date, the total amount of exit fees it would collect as of that date if all members of the insurance fund, except those members the Corporation projects will have to be liquidated, did become a guaranteed depository institution or guaranteed banking office on such date.

(B) Calculation of total amount of exit fees.—For the purpose of subparagraph (A), the total amount of exit fees to be collected for each insurance fund shall be the greater of zero or the present value of—

(i) the sum of—

(I) total insured deposits of the members of an insurance fund on the cross-guarantee activation date (minus the insured deposits, on such date, held by insurance fund members which the Corporation estimates will be liquidated) multiplied by 0.2 percent;

(II) losses incurred by an insurance fund for depository institutions placed into conservatorship or receivership after the cross-guarantee activation date;

(III) administrative expenses of an insurance fund incurred after the cross-guarantee activation date; and

(IV) transfers from an insurance fund to the FDIC serverance fund; minus—

(ii) the sum of—

(I) the balance in an insurance fund, as of the cross-guarantee activation date, after adding back any reserve for future losses as of such date, provided that the balance in the Savings Association Insurance Fund on that date shall be the greater of zero or, for the period between October 1, 1993 and the cross-guarantee activation date, the sum of all amounts assessed against Savings Association Insurance Fund members and interest earned during such period by such fund, minus the sum of losses paid or accrued for members of such fund placed into conservatorship or receivership and administrative expenses such fund incurs during such period; and

(II) premiums earned by an insurance fund after the cross-guarantee activation fund.

(C) Amount of Exit Fee Paid by Members of an Insurance Fund.—Each insurance fund member, on the date such member becomes a guaranteed depository insitution or guaranteed banking office, shall pay to the insurance fund of which such member was a member on the cross-guarantee activation date an amount equal to the amount calculated in paragraph (B) multiplied by—

(i) The insured deposits of such member on the cross-guarantee activation date; divided by

(ii) The total amount of insured deposits of the members of such insurance fund on the cross-guarantee activation date, minus the insured deposits, as of such date, held by insurance fund members which the Corporation estimates as of that date will be liquidated.

(D) Interest Rate Paid on Exit Fees for Contracts That Become Effective After the Cross-Guarantee Activation Date.—Any insurance fund members which pays an exit fee shall also pay on the same day interest on the exit feel for the period between the cross-guarantee activation date and the date on which the exit fee is paid.

(3) Liability for Exit Fee.—Any acquirer of an insurance fund member shall be liable for any exit fee due when such acquirer becomes a guaranteed depository institution or guaranteed banking office or, if the acquirer already is a guaranteed depository institution or guaranteed banking office, on the day the acquisition transaction officially is consummated.

(b) Original Funding of Cross-Guarantee Backup Fund.—Upon payment of any exit fee due under paragraph (a)(1), the Corporation shall transfer from the insurance fund of which the depository institution was a member, as of the cross-guarantee activation date, to the cross-guarantee backup fund an amount equal to 0.2 percent of the insured deposits of such institution as of the cross-guarantee activation date plus interest on the amount transferred.

(c) Funding for FDIC Severance Fund.—When necessary, the Corporation shall transfer cash from each insurance fund to cover disbursements the Corporation makes from the FDIC severance fund, with the amount transferred from the each fund bearing the same proportion as the insurance deposits of such funds, as of the cross-guarantee activation date, bear to the total insurance deposits of both funds as of that date.

(d) Loans to the Central Electronic Repository.—The Corporation shall extend loans from each of the insurance funds to the central electronic repository, as authorized under section 123(e)(2), with the amount loaned by each fund bearing the same proportion as the insured deposits of such fund, as of the enactment date of this bill, bear to the total insured deposits of both funds as of that date.

(e) Additional Assessments in Case of Shortfall in Insurance Funds.—

(1) Annual Reestimate.—As of the first eight anniversaries of the cross-guarantee activation date, the Corporation shall reestimate for each insurance fund the amounts calculated under subsection (a)(2)(B).

(2) Public Comments and Hearing.—The Corporation shall seek public comments and hold at least one public hearing before issuing its final judgment on any reestimate made under paragraph (1).

(3) Determination of Additional Assessment.—Within 60 days after a reestimate of (a)(2)(B), the Corporation shall determine under (a)(2)(C) for each member of an insurance fund as of the cross-guarantee activation date which still exists an amount equal to such member's percentage-share of the total insured deposits of all members of that insurance fund as of such date which have not ceased to exist, multiplied by the amount determined by the reestimate of (a)(2)(B) for the insurance fund of which such member was a member.

(4) No additional assessments when a fund is solvent.—If any amount calculated under paragraph (3) is less than zero, then the assessment under such paragraph shall be zero.

(5) Collection of additional assessment.—If an insurance fund member liable for an additional assessment under paragraph (3) has become, as of the effective date of the reestimate, a guaranteed depository institution or guaranteed banking office, then such member shall pay the additional assessment to the insurance fund to which it belongs on the cross-guarantee activation date within 20 business days after being notified of the additional assessment.

(f) Assessment Procedure.—The Corporation shall prescribe, by regulation, procedures for assessing an exit fee under subsections (a) and (e).

(g) Excess Amount in Insurance Funds Shall Be Transferred to the Cross-Guar-

ANTEE BACKUP FUND.—On the eighth anniversary of the cross-guarantee activation date and after first fully accruing for the present value of all losses and expenses associated with depository institutions to be placed in conservatorship or receivership after the eighth anniversary date, any balance remaining in each insurance fund shall be transferred to the cross-guarantee backup fund.

(h) CALCULATION OF INTEREST OR DISCOUNT RATE.—For the purpose of this section, the rate of interest or the discount rate to be used in a calculation for any insurance fund shall be the average daily percentage yield earned on the investments of each insurance fund for the period of time for which interest or a discounted value is being calculated.

(i) DEFINITIONS.—For purposes of this section—

(1) The term "insurance fund" means the Bank Insurance Fund or the Savings Association Insurance Fund; and

(2) The term "insurance fund member" means a depository institution, the deposits of which were insured by an insurance fund on the cross-guarantee activation date.

SEC. 145. SEVERANCE PAY AND RELATED BENEFITS FOR FORMER STATE AND FEDERAL BANKING AGENCY EMPLOYEES.

(a) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE EMPLOYEE.—The term "eligible employee" means any individual—

(A) who is employed by a Federal banking agency, a State bank supervisor, or the Federal Financial Institutions Examination Council (FFIEC) as of the date of the enactment of this Act, including employees of the Corporation on detail to the Resolution Trust Corporation; and

(B) whose employment is terminated by the agency or supervisor after such date other than for cause.

(2) FEDERAL BANKING AGENCY.—The term "Federal banking agency" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.

(3) STATE BANKING SUPERVISOR.—The term "State banking supervisor" means any officer, agency, or other entity of any State (as defined in section 3 of the Federal Deposit Insurance Act) which has primary regulatory authority over State banks or State savings associations (as such terms are defined in section 3 of such Act) in such State.

(b) SEVERANCE PAY.—

(1) IN GENERAL.—Subject to paragraph (2), any eligible employee shall be entitled to receive in a lump sum, from the FDIC severance fund at the time such employee's employment by a Federal banking agency, State bank supervisor, or the FFIEC, is terminated, severance pay in the amount which is equal to the sum of—

(A) the amount equal to 2 months of compensation at the employee's average annual rate of base pay for the last 12 calendar months of the employee's employment by any Federal banking agency or State bank supervisor; plus

(B) the product of—

(i) the amount equal to 3 weeks of compensation at the employee's annual rate of base pay (as determined under subparagraph (A)); and

(ii) the number of years (including any fraction of a year) of full-time service of such employee with any Federal banking agency, State bank supervisor, or the FFIEC (or any predecessor of any such agency or supervisor).

(2) EXCEPTION FOR EMPLOYEES REEMPLOYED BY ANOTHER FEDERAL OR STATE AGENCY.—Paragraph (1) shall not apply with respect to any eligible employee who—

(A) in the case of an individual who is an eligible employee by virtue of being separated from service with any Federal agency, transfers to or becomes employed by another Federal department, agency, or Government corporation; or

(B) in the case of an individual who is an eligible employee by virtue of being separated from service with a State bank supervisor, transfers to or becomes employed by another department, agency, or instrumentality of such State.

(3) PROHIBITION ON CERTAIN GOVERNMENT SERVICE AFTER ACCEPTING SEVERANCE PAY.—

(A) FEDERAL EMPLOYEE.—No individual who receives severance pay under this subsection by virtue of being separated from service with a Federal agency or State bank supervisor may be employed by any Federal officer, department, agency, or Government corporation during the 5-year period beginning on the date such severance pay is received by such individual.

(b) STATE EMPLOYEE.—No individual who is, but for this subparagraph, entitled to receive severance pay under this subsection by virtue of being separated from service with a State bank supervisor may receive such pay unless such individual has entered into a contract with the Corporation under which such individual, in consideration of the payment of such severance pay, is obligated to return such amount in full, plus interest, to the Corporation if such employee is employed by any officer, department, or agency of that State during the 5-year period beginning on the date such severance pay is received by such individual.

(4) PURCHASE OF ADDITIONAL RETIREMENT BENEFITS.—An eligible employee may use any portion of the severance pay to which the employee is entitled under this subsection to purchase additional benefits or make additional investments in any Federal retirement plan in which the employee is or was entitled to participate as an employee before becoming an eligible employee.

(c) RELOCATION EXPENSES.—An eligible employee who obtains employment away from the place such employee was employed by an appropriate Federal agency or State banking supervisor shall be entitled to receive travel, relocation, and moving expenses from the FDIC severance fund to the same extent Federal employees who are transferred or reemployed are authorized to receive such expenses under subchapter II of chapter 57 of title 5, United States Code.

(d) FUNDING BENEFITS FOR ELIGIBLE EMPLOYEES.—

(1) ESTABLISHMENT OF FDIC SEVERANCE FUND.—There is hereby established the FDIC severance fund which shall be administered by the Corporation.

(2) RELATED EXPENSES.—Expenses incurred by the Corporation in administering the FDIC severance fund shall be paid from the fund.

SEC. 146. ABOLITION OF FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

The Federal Financial Institutions Examination Council is hereby abolished, effective on the date on which section 142(g) shall first become effective.

TITLE II—AMENDMENTS TO OTHER LAWS

SEC. 201. AMENDMENTS RELATING TO NATIONAL BANKS.

(a) EXEMPTIONS FROM MINIMUM CAPITAL, STOCK, AND OTHER REQUIREMENTS COVERED BY CROSS-GUARANTEE CONTRACTS.—

(1) CAPITAL OF NATIONAL BANKS.—Section 5138 of the Revised Statutes of the United States (12 U.S.C. 51) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(2) PREFERRED STOCK IN MEMBER BANKS.—Section 345 of the Banking Act of 1935 (12 U.S.C. 51B–1) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(3) DEFICIENT CAPITAL PROVISION FOR NATIONAL BANKS.—Section 5205 of the Revised Statutes of the United States (12 U.S.C. 55) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(4) WITHDRAWAL OF CAPITAL PROVISION FOR NATIONAL BANKS.—Section 5204 of the Revised Statutes of the United States (12 U.S.C. 56) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(5) INCREASE IN CAPITAL PROVISION FOR NATIONAL BANKS.—Section 5142 of the Revised Statutes of the United States (12 U.S.C. 57) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(6) DECREASE AND DISTRIBUTION OF CAPITAL PROVISION FOR NATIONAL BANKS.—Section 5143 of the Revised Statutes of the United States (12 U.S.C. 59) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the approval of the Comptroller of the Currency shall not be required for any reduction of capital stock, or any distribution to shareholders by reason of any such reduction, under such sentence by any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(7) DIVIDEND PROVISIONS.—

(A) IN GENERAL.—Section 5199(a) of the Revised Statutes of the United States (12 U.S.C. 60(a)) is amended—

(i) by striking "(a) The Directors" and inserting "(a) DECLARATION OF DIVIDEND.—

"(1) IN GENERAL.—Subject to paragraph (2), the directors";

(ii) by striking "expedient; expect that until the surplus fund of such association" and inserting "expedient.

"(2) EXCEPTION FOR CERTAIN UNDERCAPITALIZED ASSOCIATIONS.—Until the surplus fund of a national bank"; and

(iii) by adding at the end of paragraph (2) (as so redesignated by clause (ii) of this subparagraph) the following: "This paragraph shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the

Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(B) Technical and conforming amendment.—Section 5199(b) of the Revised Statutes of the United States (12 U.S.C. 60(b)) is amended—

(i) by striking "(b) The approval of the Comptroller" and inserting "(b) Approval of the Comptroller.—Except in the case of a national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992), the approval of the Comptroller"; and

(ii) by striking "such association" and inserting "a national bank".

(b) Exemptions From Requirements Relating to Directors of Banks.—

(1) Qualifications of national bank directors.—Section 5146 of the Revised Statutes of the United States (12 U.S.C. 72) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(2) Service of president of national bank as chairman of the bank's board of directors.—Section 5150 of the Revised Statutes of the United States (12 U.S.C. 76) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(3) Member bank director interlocks with securities firms.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(4) Loans on or purchase of national bank's own stock.—Section 5201 of the Revised Statutes of the United States (12 U.S.C. 83) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(c) Exemption From Requirement Relating to Loans to 1 Borrower.—Section 5200 of the Revised Statutes of the United States (12 U.S.C. 84) is amended by adding at the end the following new subsection:

"(e) Exemption of Guaranteed Companies.—This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(d) Exemption From Requirements Relating to Security for Deposits of Government Agencies at National Banks.—Section 5153 of the Revised Statutes of the United States (12 U.S.C. 90) is amended—

(1) in the 1st undesignated paragraph, by striking "All national banking associations" and inserting "(a) IN GENERAL.— All national banks";

(2) in the 2nd undesignated paragraph, by striking "Any national banking association" and inserting "(b) Depository for state and local governments.—Any national bank";

(3) in the 3rd undesignated paragraph, by striking "Any national banking association" and inserting "(c) Depository for Indian tribes.—Any national bank"; and

(4) by adding at the end the following new subsection:

"(d) Exemption From Security and Collateral Requirements.—A national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) shall not be required to give any security which is otherwise required under subsection (a), (b), or (c) for deposits with the bank under this section or for the performance of the bank as financial agent.".

(e) Exemption From Provision Relating to Transfers by National Banks in Contemplation of Insolvency.—Section 5242 of the Revised Statutes of the United States (12 U.S.C. 91) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992.".

(f) Exemption From Requirements Relating to Reports of Condition.—Section 5211 of the Revised Statutes of the United States (12 U.S.C. 161) is amended by adding at the end the following new subsection:

"(d) Exemption of Guaranteed Companies.—This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992.".

(g) Consent of Guarantors Required for Voluntary Dissolution.

(1) In General.—Section 5220 of the Revised Statutes of the United States (12 U.S.C. 181) is amended—

(A) in the 1st undesignated paragraph, by striking "Any association" and inserting "(a) In general.—Any national bank";

(B) in the 2nd undesignated paragraph, by striking "The shareholders shall designate" and inserting "(b) Liquidating Agent or Committee.—The shareholders shall designate"; and

(C) by adding at the end the following new subsection:

"(c) Consent of Guarantors Required for Guaranteed Companies.—In the case of any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992), the national bank may go into liquidation and be closed in accordance with subsection (a) only with the consent of the direct guarantors of such bank.".

(2) Notice to Syndicate Agent.—Section 5221 of the Revised Statutes of the United States (12 U.S.C. 182) is amended by inserting "and, in the case of a national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Depository Insurance Reform, and Regulatory Relief Act of 1992), to the syndicate agent of such bank" after "Comptroller of the Currency".

(h) Comptroller of the Currency Not Authorized To Appoint Receiver.—

(1) In general.—The Act entitled "An Act authorizing the appointment of receivers of national banking associations, and for other purposes." and approved June 30, 1876, is amended by inserting after the 1st section (12 U.S.C. 191) the following new section:

"SEC. 2. EXEMPTION OF GUARANTEED NATIONAL BANKS.

"This Act shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(2) Exemption from additional ground for the appointment of receivers.—Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended by adding at the end the following new sentence: "This sentence shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(i) Comptroller of the Currency Not Authorized To Appoint Conservator.—The Bank Conservation Act is amended by inserting after section 206 the following new section:

"SEC. 207. EXEMPTION OF GUARANTEED NATIONAL BANKS.

"This subchapter shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(j) Comptroller of the Currency Not Authorized To Examine Guaranteed Banks.—Section 5240 of the Revised Statutes of the United States (12 U.S.C. 481-485) is amended by adding at the end of the 1st paragraph of such section the following new sentence: "Nothwithstanding any other provision of this section, the authority of the Comptroller of the Currency to examine any national bank or any affiliate of a national bank shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in seciton 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) or any affiliate of such bank.".

(k) Exemption From Limitation or Conditions on Real Estate Lending Authority.—Section 24(a) of the Federal Reserve Act (12 U.S.C. 371(a)) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, a national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) shall not be subject to section 18(o) of the Federal Deposit Insurance Act or any restriction or requirement prescribed by the Comptroller of the Currency under the preceding sentence.".

SEC. 202. AMENDMENTS RELATING TO MEMBER BANKS.

(a) Federal Reserve Board and Federal Reserve Banks Not Authorized To Examine Guaranteed Member Banks.—

(1) In general.—Section 11(a)(1) of the Federal Reserve Act (12 U.S.C. 248(a)(1)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the authority of the Board or any Federal reserve bank to examine any member bank shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(2) Special examinations.—The 1st sentence of the 5th undesignated paragraph of section 5240 of the Revised Statutes of the United States (12 U.S.C. 483) is amended by inserting "which are not guaranteed depository institutions (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)" after "member banks within its district".

(3) FOREIGN OPERATION OF STATE MEMBER BANKS.—The last sentence of the 6th undesignated paragraph of section 5240 of the Revised Statutes of the United States (12 U.S.C. 481) is amended by inserting "and are not guaranteed depository institutions (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)" before the period.

(4) EXAMINATIONS IN CONNECTION WITH ADVANCES OR DISCOUNTS.—Section 11(n) of the Federal Reserve Act (12 U.S.C. 248(n)) is amended by striking "depository institution," and inserting "depository institution (other than a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)),".

(b) EXEMPTION FROM MEMBER BANK LOAN LIMITATIONS.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by adding at the end the following new sentence: "This paragraph shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(c) EXEMPTION FROM LIMITATION ON ACCESS TO FED WIRE.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by inserting after paragraph (n) the following new paragraph:

"(o) PROHIBITION ON LIMITS ON ACCESS TO PAYMENT AND CLEARING SYSTEMS BY GUARANTEED MEMBER BANKS.—Nothwithstanding any other provision of law, the Board may not limit or deny access by any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) to the payment system or any system in effect for clearing transactions in securities for the purpose of protecting any such system from any risk.".

(d) FEDERAL RESERVE BOARD NOT AUTHORIZED TO APPOINT CONSERVATOR OR RECEIVER.—Section 11(p) of the Federal Reserve Act (12 U.S.C. 248(p)) (as added by section 133(f) of the Federal Deposit Insurance Corporation Act of 1991) is amended to read as follows:

"(p) AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(8) of the Federal Deposit Insurance Act.

"(B) EXCEPTION FOR GUARANTEED DEPOSITORY INSTITUTIONS.—This paragraph shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(e) QUALIFICATION OF GUARANTEED STATE BANKS FOR MEMBER BANK STATUS WITHOUT APPLICATION.—

(1) IN GENERAL.—The 1st undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended by adding at the end the following new sentence "Notwithstanding the application requirement contained in the 1st sentence of this paragraph, any State bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) may become a member of the Federal Reserve System without application by agreeing to be subject to all applicable provisions of this Act and by subscribing to stock in the same manner and amount as a national bank under section 2.".

(2) EXEMPTION FROM CAPITAL, RESERVE, AND REPORTING REQUIREMENTS.—The 1st sentence of the 6th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "banks admitted to membership under authority of this section".

(3) EXEMPTION FROM EXAMINATION.—The 1st undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 325) is amended by striking "such banks" and inserting ", any bank admitted to membership under this section, other than a bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992),".

(4) EXEMPTION FROM SPECIAL EXAMINATIONS.—The 8th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this paragraph, the authority of the Board to examine any member bank shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992),".

(5) EXEMPTION FROM CERTAIN FORFEITURE PROVISION.—The 9th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 327) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "a member bank".

(6) EXEMPTION FROM ADDITIONAL CAPITAL REQUIREMENT.—The 11th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 329) is amended by adding at the end the following sentence: "This paragraph shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(7) EXEMPTION FROM SECURITY AND COLLATERAL REQUIREMENT.—The last sentence of the 15th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 332) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "the banks and trust companies thus designated".

(8) MEMBERSHIP QUALIFICATION IN THE CASE OF STATE MUTUAL SAVINGS BANKS.—The 16th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 333) is amended by inserting "Notwithstanding the application requirement contained in the preceding sentence, any State mutual savings bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) may become a member of the Federal Reserve System without application by agreeing to be subject to all applicable provisions of this Act and by subscribing to stock in the same manner and amount as provided in this paragraph for State mutual savings banks applying for membership."

(9) EXEMPTION FROM AFFILIATE REPORTING REQUIREMENTS.—

(A) IN GENERAL.—The 1st sentence of the 17th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 334) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "bank admitted to membership under this section".

(B) EXEMPTION FROM ADDITIONAL AFFILIATE REPORTING REQUIREMENTS.—The 18th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 334) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "affiliated member bank".

(10) EXEMPTION FROM EXAMINATION REQUIREMENTS.—The 22d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "State member banks" the 1st place such term appears.

(f) EXEMPTION FROM INTEREST REQUIREMENTS.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end the following new sentence: "No provision of this subsection shall apply with respect to a member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(g) EXEMPTION FROM REQUIREMENTS RELATING TO INTERBANK LIABILITIES AND TRANSACTIONS WITH AFFILIATES.—

(1) INTERBANK LIABILITIES.—Section 23 of the Federal Reserve Act (12 U.S.C. 371(b–2)) is amended by adding at the end the following new subsection:

"(f) EXEMPTION FOR GUARANTEED DEPOSITORY INSTITUTIONS.—A guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) shall not be subject to any regulation or order issued under this section.".

(2) EXEMPTION FROM RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—Sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c, 371c–1) are each amended by adding at the end of each such section the following new subsection:

"(f) EXEMPTION FOR GUARANTEED DEPOSITORY INSTITUTIONS.—This section shall not apply to any guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) or any affiliate of any such institution.".

(h) EXEMPTION FROM LIMITATION ON INVESTMENTS IN, OR LOANS ON, BANK PREMISES.—Section 24A of the Federal Reserve Act (12 U.S.C. 371d) is amended by adding at the end the following new sentence: "This section shall not apply to any guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(i) EXEMPTION FROM LIMITATIONS ON BANKERS' ACCEPTANCES.—Section 13(7) of the Federal Reserve Act (12 U.S.C. 372) is amended by adding at the end the following new subparagraph:

"(I) EXEMPTION FROM LIMITATIONS FOR GUARANTEED DEPOSITORY INSTITUTIONS.—Subparagraphs (B), (C), (D), (E), (F), and (H) shall not apply to any guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(j) Exemption From Purchasing and Lending Limits Relating to Directors and Officers—Section 22 of the Federal Reserve Act (12 U.S.C. 375, 376, 503, 375a, and 375b) is amended by inserting before subsection (d) the following new subsection:

"(c) Exemption for Guaranteed Depository Institutions.—Subsections (d), (e), (g), and (h) shall not apply to any guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) or any affiliate of any such institution.".

SEC. 203. AMENDMENTS RELATING TO SAVINGS ASSOCIATIONS.

(a) Guaranteed Savings Association Defined.—Section 2 of the Home Owners' Loan Act (12 U.S.C. 1462) is amended by adding at the end the following new paragraphs:

"(10) Guaranteed savings association.—The term 'guaranteed savings association' means a savings association which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).

"(11) Guaranteed federal savings association.—The term 'guaranteed Federal savings association' means a Federal savings association which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(b) Exemption From Examination and Regulation by Director of the Office of Thrift Supervision.—

(1) In general.—Section 4(a) of the Home Owners' Loan Act (12 U.S.C. 1463(a)) is amended by adding at the end the following new paragraph:

"(4) Exemption for guaranteed savings associations.—The authority of the Director under this subsection or subsection (b) or (c) to examine any savings association or prescribe regulations applicable to savings associations shall not apply with respect to any guaranteed savings association.".

(2) Federal savings associations.—Section 5(a) of the Home Owners' Loan Act (12 U.S.C. 1464(a)) is amended by adding at the end the following new sentence: "The authority of the Director under the preceding sentence to prescribe regulations to provide for the examination and regulation of Federal savings associations shall not apply with respect to the examination or regulation of any guaranteed Federal savings association.".

(3) Exemption from examination fee provisions.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended by adding at the end the following new subsection:

"(n) Exemption for guaranteed savings associations.—This section and the authority of the Director under this section shall not apply with respect to any guaranteed savings association.".

(c) Exceptions to Limitations on Deposit and Related Powers.—

(1) Deposit powers.—Section 5(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)) is amended by adding at the end the following new subparagraph:

"(G) Special rules applicable to guaranteed savings associations.—

"(i) Statutory authority.—A guaranteed Federal savings association shall have the powers described in subparagraphs (C), (E), and (F) without regard to the condition or limitation contained in each such subparagraph relating to regulations of the Director.

"(ii) Limitation on regulatory authority.—The exercise by a guaranteed Federal savings association of powers established under subparagraph (A) or (D) or the last sentence of subparagraph (B) shall not be subject to any regulations prescribed by the Director under such provision.

"(iii) Exemption.—A guaranteed Federal savings association shall not be subject to the 1st sentence of subparagraph (B).".

(d) Exceptions to Limitations on Loan and Investment Powers.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended by adding at the end the following new paragraph:

"(7) Exceptions for guaranteed savings associations.—

"(A) Limitations on regulatory authority.—The exercise by a guaranteed Federal savings association of powers established under any provision of this subsection shall not be subject to any regulations prescribed by the Director under this subsection.

"(B) Exemption from maximum amount limitations.—A guaranteed Federal savings association shall not be subject to any limitation in this subsection on the outstanding amount of loans or investments by the association under any provision of this subsection, without regard to whether such maximum amount is expressed as a fixed dollar amount or as a percentage of such association's assets or capital.".

(e) Exemption From Enforcement and Conservatorship and Receivership Provisions.—Section 5(d) of the Home Owners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end the following new paragraph:

"(7) Exemption for guaranteed savings associations.—This subsection and the authority of the Director under this subsection shall not apply with respect to any guaranteed savings association.".

(f) Exemption From Fitness Standards.—Section 5(e) of the Home Owners' Loan Act (12 U.S.C. 1464(e)) is amended by adding at the end the following new sentence:

"The preceding sentence shall not apply with respect to any savings association which, at the time the charter is granted, is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) or is required to be a guaranteed depository institution before such association accepts any deposit.".

(g) Exemption From Requirements Relating to Security for Deposits of Government Agencies.—Section 5(k) of the Home Owners' Loan Act (12 U.S.C. 1464(k)) is amended by adding at the end the following new sentence: "A guaranteed savings association shall not be required to give any security for deposits with the savings association under this section or for the performance of the association as fiscal agent.".

(h) Exemption From Minimum Capital Requirements.—Section 5(s) of the Home Owners' Loan Act (12 U.S.C. 1464(s)) is amended by adding at the end the following new paragraph:

"(6) Exemption for guaranteed savings associations.—This subsection and the authority of the Director under this subsection shall not apply with respect to any guaranteed savings association.".

(i) Exemption From Capital Standards.—Section 5(t)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(1)) is amended by adding at the end the following new subparagraph:

"(E) Exemption for guaranteed savings associations.—This subsection and the authority of the Director under this subsection shall not apply with respect to any guaranteed savings association.".

(j) Exemption From Requirement Relating to Loans to 1 Borrower.—Section 5(u) of the Home Owners' Loan Act (12 U.S.C. 1464(u)) is amended by adding at the end the following new paragraph:

"(4) Exemption for guaranteed savings associations.—This subsection shall not apply with respect to any guaranteed savings association.".

(k) Exemption From Requirement Relating to Reports of Condition.—Section 5(v) of the Home Owners' Loan Act (12 U.S.C. 1464(v)) is amended by adding at the end the following new paragraph:

"(9) Exemption for guaranteed savings associations.—This subsection shall not apply with respect to any guaranteed savings association.".

(l) Exemption From Requirement Relating to Liquid Assets.—Section 6 of the Home Owners' Loan Act (12 U.S.C. 1465) is amended by adding at the end the following new subsection:

"(g) Exemption for guaranteed savings associations.—This section shall not apply with respect to any guaranteed savings associations.".

(m) Exemption From Affiliate Transaction and Lending Limits Relating to Directors and Officers.—Section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) is amended by adding at the end the following new subsection:

"(d) Exemption for guaranteed savings associations.—This section shall not apply with respect to any guaranteed savings association.

SEC. 204. AMENDMENTS RELATING TO SAVINGS AND LOAN HOLDING COMPANIES.

(a) Guaranteed Savings Association Defined.—Section 10(a)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)) is amended by adding at the end the following new subparagraph:

"(K) Guaranteed savings association.—The term 'guaranteed savings association' includes any savings association referred to in subparagraph (A) which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(b) Exemption From Examination and Reporting Requirement.—Section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)) is amended by adding at the end the following new paragraph:

"(7) Exemption for S&L holding company which controls a guaranteed savings association.—Paragraphs (2), (3), and (4) and the authority of the Director under any such paragraph shall not apply with respect to any savings and loan holding company which controls a guaranteed savings association and any subsidiary of such company.".

(c) Coordination With Section 11.—Section 10(d) of the Home Owners' Loan Act (12 U.S.C. 1467a(d)) is amended by striking "Transaction" and inserting "Subject to section 11(d), transactions".

(d) Exemption From Requirements Relating to Declaration of Dividend.—Section 10(f) of the Home Owners' Loan Act (12 U.S.C. 1467a(f)) is amended by adding at the end the following new sentence: "This subsection shall not apply with respect to any savings and loan company which controls a guaranteed savings association.".

(e) Exemption From Restrictions on High-Risk Activities.—Section 10(p) of the Home

Owners' Loan Act (12 U.S.C. 1467a(p)) is amended by adding at the end the following new paragraph:

"(3) EXEMPTION FOR PARENT OF GUARANTEED SAVINGS ASSOCIATION.—This subsection shall not apply with respect to any savings and loan company which controls a guaranteed savings association.".

(f) NONAPPLICABILITY OF QUALIFIED STOCK ISSUANCE PROVISIONS.—Section 10(q)(1)(A) of the Home Owners' Loan Act (12 U.S.C. 1467a(q)(1)(A)) is amended—

(1) in clause (i), by inserting "which is not a guaranteed savings association" after "undercapitalized savings association"; and

(2) in clause (ii), by inserting "and does not control a guaranteed savings association" after "controls an undercapitalized savings association".

SEC. 205. AMENDMENTS RELATING TO THE FEDERAL DEPOSIT INSURANCE CORPORATION.

(a) AMENDMENTS TO DEFINITIONS.—

(1) DEFINITIONS RELATING TO DEPOSITORY INSTITUTIONS.—Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) is amended by adding at the end the following new paragraphs:

"(6) GUARANTEED DEPOSITORY INSTITUTION NOT INCLUDED.—Except as otherwise specifically provided in any provision of this Act, the terms depository institution' and 'insured depository institution' do not include any guaranteed depository institution.

"(7) GUARANTEED DEPOSITORY INSTITUTION.—The term 'guaranteed depository institution' has the meaning given to such term in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992.".

(2) DEFINITIONS RELATING TO BANKS.—Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended by adding at the end the following new paragraph:

"(5) GUARANTEED DEPOSITORY INSTITUTIONS NOT INCLUDED.—Except as otherwise specifically provided in any provision of this Act, the terms 'bank', 'national bank', 'State bank', 'District bank', 'branch', and 'Federal branch', whether or not any such term appears in conjunction with the term 'insured', 'member', or 'nonmember', do not include any guaranteed depository institution.".

(3) DEFINITIONS RELATING TO SAVINGS ASSOCIATIONS.—Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) is amended by adding at the end the following paragraph:

"(4) GUARANTEED DEPOSITORY INSTITUTIONS NOT INCLUDED.—Except as otherwise specifically provided in any provision of this Act, the terms 'savings association', 'Federal savings association', and 'State savings association', whether or not any such term appears in conjunction with the term 'insured', do not include any guaranteed depository institution.".

(b) PROHIBITION ON NEW INSURED DEPOSITORY INSTITUTIONS, BY CHARTER OR CONVERSION, AFTER EFFECTIVE DATE OF CROSS-GUARANTEE SYSTEM.—

(1) NO CONTINUATION OF INSURANCE IN CONNECTION WITH CONVERSIONS.—Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended by adding at the end the following new subsection:

"(e) INAPPLICABILITY OF SUBSECTIONS (B), (C), AND (D) AFTER EFFECTIVE DATE OF CROSS-GUARANTEE SYSTEM.—Subsections (b), (c), and (d) shall not apply as of the effective date of the cross-guarantee system under subsection (a) of section 141 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992, as published by the Corporation in the Federal Register pursuant to subsection (c) of such section.".

(2) NO NEW INSURANCE UNDER THE FEDERAL DEPOSIT INSURANCE ACT.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended by adding at the end the following new subsection:

"(f) PROHIBITION ON APPROVAL OF INSURANCE AFTER EFFECTIVE DATE OF CROSS-GUARANTEE SYSTEM.—No application for insurance under this section may be approved by the Corporation on or after the date by which the Corporation has approved, under subsection (b) of section 141 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992, 200 cross-guarantee contracts described in subsection (a)(2) of such section.".

(c) TERMINATION OF DEPOSIT INSURANCE OF GUARANTEED DEPOSITORY INSTITUTION.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9), the following new paragraph:

"(10) TERMINATION OF INSURANCE OF GUARANTEED DEPOSITORY INSTITUTION.—The status of any insured depository institution as an insured depository institution shall cease as of the date the institution becomes a guaranteed depository institution.".

(d) INELIGIBILITY OF GUARANTEED DEPOSITORY INSTITUTION FOR DEPOSIT INSURANCE UNDER THE FEDERAL DEPOSIT INSURANCE ACT.—Section 5(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)(1)) is amended by striking "trust funds (as defined in section 3(p))," and inserting "trust funds (as defined in section 3(p)) and is not a guaranteed depository institution,".

(e) SPECIAL RULE RELATING TO POWERS OF FDIC AS CONSERVATOR OR RECEIVER OF GUARANTEED DEPOSITORY INSTITUTION.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraph:

"(20) SPECIAL RULE IN THE CASE OF GUARANTEED DEPOSITORY INSTITUTION.—If the Corporation appoints itself conservator or receiver for any guaranteed depository institution in accordance with section 127(a)(1) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992—

"(A) each subsection of this section other than subsections (a), (b), (c), (m), and (n) shall be applied, for purposes of section 127(a)(2) of such Act, by substituting 'guaranteed depository institution' for 'insured depository institution' each place such term appears in any such subsection;

"(B) the term 'insured deposits', as such term is used in subsection (f), shall be deemed, for purposes of subparagraph (A), to refer to deposits insured under section 128(b) of such Act; and

"(C) the payment of any deposits referred to in subparagraph (B) by the Corporation under subsection (f), as applicable pursuant to subparagraph (A) of this paragraph and section 127(a)(2) of such Act, shall be made from the cross-guarantee backup fund established under section 128(a)(1) of such Act.".

(f) APPLICABILITY OF INSURANCE LOGO PROVISIONS.—Section 18(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by adding at the end the following new paragraph:

"(4) APPLICABILITY TO GUARANTEED INSTITUTIONS.—For purposes of this subsection, the terms 'insured bank' and 'insured savings association' shall be deemed to include any bank (as defined in section 3(a) without regard to paragraph (5) of such section) and any savings association (as defined in section 3(b) without regard to paragraph (4) of such section) which is a guaranteed depository institution.".

(g) GUARANTEED DEPOSITORY INSTITUTIONS NOT EXEMPT FROM LIMITATION ON INSURANCE UNDERWRITING.—Section 24(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831(b)) is amended by adding at the end the following new paragraph:

"(3) APPLICABILITY TO GUARANTEED DEPOSITORY INSTITUTIONS.—Notwithstanding section 3(a)(5), the term 'insured State bank' includes, for purposes of this subsection, a State bank which is a guaranteed depository institution.".

SEC. 206. AMENDMENTS TO TITLE 11, UNITED STATES CODE.

(a) DEFINITION OF DEBTOR INCLUDES GUARANTEED COMPANY.—Section 109 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) GUARANTEED COMPANIES.—Notwithstanding subsections (b) and (d), a guaranteed company (as defined in section 101(a)(7) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) may be a debtor under chapter 7 or 11.".

(b) INVOLUNTARY CASE INVOLVING A GUARANTEED COMPANY MAY BE BROUGHT ONLY UNDER CHAPTER 11.—Section 303 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(l) INVOLUNTARY CASES UNDER CHAPTER 11 ONLY.—An involuntary case against a guaranteed company (as defined in section 101(a)(7) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) may be commenced only under chapter 11.".

(c) SPECIAL RULES APPLICABLE TO REORGANIZATION OF GUARANTEED COMPANY.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following new section:

"§ 1115. Guaranteed company reorganization.

"(a) CROSS-GUARANTEE SYNDICATE TREATED AS DEBTOR IN POSSESSION.—The cross-guarantee syndicate of a guaranteed company—

"(1) may assume control of a guaranteed company under section 118 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992 at any time after a case is commenced against such company under this chapter; and

"(2) shall be treated as the debtor in possession for purposes of this chapter upon assuming such control.

"(b) OPERATION OF COMPANY BY DEBTOR IN POSSESSION.—Notwithstanding any other provision of this subchapter, the court may not appoint a trustee for, or otherwise intervene in the operations of, a guaranteed company which is a debtor in a case under this chapter, including a guaranteed company the cross-guarantee syndicate of which has assumed control of the company under section 118 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992.

"(c) CONTINUED FULL APPLICABILITY OF CROSS-GUARANTEE CONTRACT.—No action may be taken by the court or any person under this chapter in connection with a case against a guaranteed company which would alter or affect the applicability or effectiveness of any provision of the cross-guarantee contract in effect with respect to such company.

"(d) LIABILITY OF DIRECT GUARANTORS FOR DAMAGES CAUSED BY MISMANAGEMENT OR MALFEASANCE BY THE GUARANTEED COMPANY.—The direct guarantors of any guaranteed company which is a debtor in a case under this chapter shall be liable for any damages suffered by any creditor of the company after the commencement of such case other than for damages or losses incurred in the normal course of business.

"(e) DEFINITIONS.—The terms 'cross-guarantee syndicate', 'direct guarantor', and 'guaranteed company' have the meanings given to such terms in section 101 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 11, of title 11, United States Code, is amended by inserting after the item relating to section 114 the following new item:

"1115. Guaranteed company reorganization.".

SEC. 207. AMENDMENTS TO OTHER BANKING LAWS.

(a) EXEMPTION FROM DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end the following new paragraph:

"(10) GUARANTEED DEPOSITORY INSTITUTION.—Any guaranteed depository institution and any affiliate of such institution.".

(b) EXEMPTION FROM REAL ESTATE APPRAISAL REQUIREMENTS.—Section 1121(4) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(4)) is amended to read as follows:

"(4) FEDERALLY RELATED TRANSACTION.—The term Federally related transaction—

"(A) means any real estate-related financial transaction which—

"(i) a Federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates;

"(ii) requires the services of an appraiser; and

"(B) does not include any real estate-related financial transaction which is regulated by a Federal financial institutions regulatory agency solely by reason of the involvement of a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) in such transaction.".

(c) EXEMPTION FROM PAYMENT SYSTEM REQUIREMENTS.—Subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended by adding at the end the following new section:

"SEC. 408. EXEMPTION FOR GUARANTEED DEPOSITORY INSTITUTIONS.

"This subtitle shall not apply with respect to a depository institution which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(d) EXEMPTION FROM THE INTERNATIONAL LENDING SUPERVISION ACT OF 1983.—The last sentence of section 903(2) of the International Lending Supervision Act of 1983 (12 U.S.C. 3902(2)) is amended by inserting "or a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)" before the period.

SENATE—*Saturday, October 3, 1992*

(Legislative day of Wednesday, September 30, 1992)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and great commandment. And the second is like unto it, Thou shalt love thy neighbour as thyself. On these two commandments hang all the law and the prophets.—Matthew 22:37-40.

Eternal God, "love" is a word which seems almost out of place in a political setting, especially at election time. Yet it is the first and great commandment. History is filled with evidence of the power of love to overcome circumstances and win battles where no other force was adequate.

In these days of pressure and tension, help us to take love seriously. Help us to allow it to work in our lives and in our situations.

We pray in His name who is Love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 3, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date and the time for the two leaders reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. MITCHELL. Mr. President, Members of the Senate, pursuant to two agreements reached last evening, the Senate will today consider the Labor-HHS appropriations bill conference report and the Department of Defense authorization bill conference report. Time limitations are included. Those orders are printed in today's RECORD available for any Senator who wishes to review the details of the agreements.

It is my understanding that the House is just completing action on the Labor-HHS bill, and that should be arriving in the Senate shortly. As soon as it is received, we will proceed to that measure. I will exercise the authority granted me in that order and place it before the Senate.

In the meantime, it is my understanding that the House will be taking up the DOD authorization bill. So by the time we finish the Labor-HHS bill, I hope that we will have received the DOD bill, and we will proceed directly to that following the completion of action on the Labor-HHS bill.

I will be consulting further with the Republican leader regarding the schedule after completion of those two measures, and we will have an announcement for Members of the Senate sometime this afternoon.

Mr. DOLE. Mr. President, it is my understanding there has been no request for a rollcall vote on either of the conference reports. Is that correct?

Mr. MITCHELL. That is correct, Mr. President. I stated last evening, as the distinguished Republican leader will recall, that if we did not receive a request within a reasonable time after my inviting such a request, that I would deem that to mean no request has been made and, therefore, we would act on both measures today by voice vote. That is my intention. No request was received. Therefore, there will not be a rollcall vote on either measure.

Mr. DOLE. On this side there are still a couple of Senators who do not want to miss a vote. They are still here, thinking somebody might jump up and ask for a rollcall vote. If that should occur, would it be possible to have that rollcall vote on Monday morning?

Mr. MITCHELL. If it occurs on either of those two measures, the answer is in the affirmative. We are still attempting to resolve how to proceed with respect to the NIH reauthorization bill. I hope to discuss that with the Republican leader and with others in the near future and then make an announcement on that, which I hope will embrace the remainder of the weekend and the early part of next week.

Mr. DOLE. I do understand on the NIH reauthorization bill that the motion to proceed, of course, is pending and that Members on our side are willing to have that disposed of by voice vote.

Mr. MITCHELL. I am advised of that. I thank the distinguished Republican leader for that.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR JAKE GARN

Mr. GORTON. Mr. President, among those of our colleagues who are voluntarily leaving this body at the end of this Congress is the most distinguished senior Senator from Utah, JAKE GARN, a particular friend of this Senator.

I wish to take this opportunity to pay tribute to him as a friend, and as a magnificent contributor to the work of the U.S. Senate and to his beloved country, the United States.

Not one of us, when he or she thinks about the Senator from Utah, fails to mark first Senator GARN's devotion to his family. It is, in fact, that devotion which has caused him to terminate his service here in the U.S. Senate far earlier than is the case with most other individuals, and far before his useful life to his State and to his Nation has been concluded.

Senator GARN wishes to have an opportunity to be with his two younger children during the course of their teenage years, and this is a desire or an ambition with which none of his friends, as much as they wish him to remain in this body, could possibly argue successfully.

JAKE GARN is the epitome and example of a thoughtful and loving husband to his wife and a wonderful father to his several children.

In addition to that extraordinary devotion to a close knit family, Senator GARN is, of course, known for his devotion to NASA and to the American operations in space. The first and the only Senator ever to travel on a space mission himself, Senator GARN, when he took on that task, took it on in a way that he approaches all others—as a fully contributing member of the crew, not simply as a political passenger. Of all of the elements of the Senator's career, I am convinced that this is the one which he regards with the greatest degree of pride and sense of accomplishment. And his sharing those experiences here with other Members of the Senate has contributed in countless ways to the understanding and support for NASA and for America in space.

In fact, NASA could not have chosen a better crewmember for its own public relations and for a public understanding of what it does and what it means to America.

Senator GARN and I have been close friends almost from the time I first came to this body, in part at least because he has often described one of the happiest years of his life taking place on Whidbey Island, WA, while he was a naval officer at a naval air station on that island. My family has had a summer home on Whidbey Island for many years. My daughter is the wife of the present executive officer of the naval air station at which Senator GARN served while he was a junior Navy officer.

Senator GARN has hosted us at his home at Park City, UT, on numerous occasions, and we regard the Garns as very close friends. His devotion to his State, Utah, is exceeded only by his devotion to his family. His concern for the details of legislation as it affected his State and the people he represents has been in the highest traditions of this body. I note that he leaves with a degree of anguish about that reputation, but I suspect that all of us will continue to hear from him whenever matters come before us, which affect either the State of Utah or the American mission in space.

Senator GARN is an example of an individual who serves his family, his church, his community, and his country, in the highest possible fashion. Utah will have a very difficult time in replacing him here in the U.S. Senate, and I know I speak for every Member in wishing him Godspeed, great happiness, and a long and productive life.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak as if in morning business?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ORANGE HATS

Mr. PRESSLER. Mr. President, last evening I was privileged to be able to go on patrol with the Orange Hats. The Orange Hats are a group of District of Columbia citizens who patrol the streets with police officers to prevent crime.

In the District of Columbia there is a severe crime problem. Those of us who live in the District are horrified that the number of killings has exceeded 300 this past year. Shootings, beatings, and other crimes average one a day in the District.

It was heartening to me to go to parts of Anacostia last night and tour with Orange Hat citizens who patrol in the evenings. They are voluntary patrols. The do not have very much equipment. They have a few walkie-talkies. If they see something that is unusual they call the police. They do not have the power of arrest. They are just concerned citizens.

We went to three sites last night near Good Hope Road and Minnesota Ave. to patrol with the Orange Hats. I requested our Appropriations Committee to give $25,000, a very small amount, to the Orange Hats to buy additional walkie-talkies and other needed equipment.

It was very inspirational to see different citizens groups spending parts of their evening patrolling against crime. Also, it is a sad commentary, I suppose, on our society, that in this modern age, with all the technological improvements that we have, the citizens of the District of Columbia, God-minded citizens, have to spend a portion of their evenings patrolling their neighborhood, a neighborhood watch program.

But a group in the southeast particularly inspired me. They join together in prayer at the beginning and end of their patrol, praying for their streets, praying for their homes, so that they could be safe.

Mr. President, I am one of those who has strongly supported our relationship with the District of Columbia. I have been concerned about the increasing crime rates.

I just wanted to take the floor to salute the Orange Hats, the volunteer patrols here in the District of Columbia, who fight crime.

In particular I wish to salute Pape Smurf, Joe Kersene, Ed Johnson, James Foreman and others who joined me last evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, with good reason, the American people are fed up with Washington and our inability to take effective action against the many serious challenges facing the Nation. Our economy cannot produce jobs, our schools are in crisis, our health care system is out of control, law enforcement fails to cope with the rising tide of crime—yet Congress and the administration are unable to respond to demonstrate the leadership that the people expect in addressing these serious challenges.

To a large extent, we in the Senate are prisoners of our own arcane rules. Yesterday, we pulled a hat trick in reverse. We provided three vivid examples of the system at its worst.

We allowed the National Rifle Association to kill an omnibus, far-reaching, crime bill that would have begun at long last to control the irrepressible proliferation of handguns on our streets and in our neighborhoods.

A major school reform bill was killed—not because of any real controversy over the many innovations and worthwhile provisions it contained, but because of what it did not contain—permission to take scarce Federal tax dollars away from public schools and give them to private schools.

The impasse on this bill is bad enough. In both cases, the Republican minority in the Senate closed ranks and used the Senate rules to prevent action that the vast majority of Democratic Senators supported—and that I believe the vast majority of the American people support as well.

So the gridlock in the Senate was clearly on display yesterday. But the cause of the gridlock was also clear. The American people know who is to blame for the gridlock, and they also know how to break that gridlock—by casting their votes accordingly on election day.

It was the third bill on which we tried to act yesterday—the NIH reauthorization bill—where we saw the system at its worst.

Eighty-five out of one hundred Senators voted to end the filibuster and take action on the bill, which contains dozens of provisions of immense importance to America's continuing leadership in medical research and the battle against cancer and other serious diseases.

But a tiny minority of Senators opposed the bill because of their extremist ideological opposition to biomedical research involving fetal tissue from abortions.

We had debated that issue exhaustively for many months. The system had worked—until the very end. We had reached a compromise on fetal tissue research that was widely acceptable to the vast majority of the Members of the Senate and the House of Representatives.

But the obstructionists had one last weapon—an arcane Senate rule that permits their filibuster to continue for 30 more hours even after the Senate has voted to end it, and that even permits them to start a new filibuster and take another 30 hours of the Senate's time before the bill can finally be passed by the Senate.

How can we permit a tiny band of extremists to defeat the will of 85 percent of the Senate? That is a question we must ask ourselves again and again in the coming months, as we seek to reform the Senate and enable majority rule to work the way it should. We need reasonable protections for the minority, but the power they have in the current situation is unacceptable.

The importance of fetal tissue research is well known. Millions of patients suffering from Parkinson's disease know the tremendous promise of such research. Diabetes sufferers know that promise. Families of millions of Alzheimer's victims know that promise—the list goes on.

For 5 years, despite the importance of fetal tissue research, a small group of Republicans, working with the administration have blocked the research because they say it encourages abortion. But the issue is not abortion, and yesterday's 85 to 12 vote shows that even most antiabortion Senators agree that it is not an abortion issue.

We use vital organs in many other cases, often after individuals die, and no one complains that it encourages murder or suicide. Instead of discarding tissue after abortions, we should be able to use it to save the lives of others. It is a gross distortion of the tragedy of abortion to suggest that a woman would have an abortion to provide tissue for medical research. Stringent safeguards in the legislation would prevent any such possibility.

Last night, after the Senate adjourned, I spoke with Dr. Guy Walden, a fundamentalist minister from Texas who reminded me that every day we delay fetal tissue research, more patients die, more people suffer, more families are in pain because of the suffering of their loved ones.

The NIH is moving ahead to set up the fetal tissue bank the administration has proposed, to test whether ectopic pregnancies and spontaneous abortions can supply enough tissue for the needed research. If not, then there is broad support for permitting tissue from other abortions to be used for such research.

I have met with representatives of victims of diabetes, of Alzheimer's disease, of Parkinson's disease, and the research community. They have been working in Congress for 5 years to lift the ban on Federal funding of fetal research. They are the real heroes of this battle.

They made this issue a vital one, and they have had remarkable success in turning the Congress around. They have carried the issues for months and months, with visits to Congressmen and numerous calls and letters. They have done it all tirelessly and they should have prevailed. They persuaded a vast majority of Congress to end the ban.

The legislation we voted on made the changes the President asked for in his veto message. The one year his Deputy Secretary of Health said was necessary to test the efficacy of the tissue bank was included in the bill. Authorization levels were reduced to meet the administration's other objections. We read President Bush's earlier veto message. We took him at his word. We changed the bill. A vast majority in Congress, many more than the two-thirds necessary to overturn a Presidential veto, was ready to relieve suffering and save lives.

The vote yesterday proved that just a small group remained in opposition. On the floor and in discussions all afternoon and evening, we were close to agreement on a compromise which would obtain their support for the bill and allow us today to move forward and remove the ban on Federal funding.

Senator HATCH, the leader of the opposition, made an offer he had not made before—lift the ban, but postpone using any fetal tissue from induced abortions for research transplantation for another 27 months in order to determine whether the administration's tissue bank will work.

More waiting means more suffering, and more lives lost.

Virtually all knowledgeable medical experts have concluded that there will not be enough healthy tissue available from ectopic pregnancies and spontaneous abortions to meet the research needs. The experts conducting such research are certain the tissue bank will be inadequate. Lay persons looking at the difficulties of the bank can see how unlikely it is that such tissue will meet the research needs.

On the floor, I immediately made a counteroffer to Senator HATCH. Split the difference. Each side compromises. Give the bank until March 1994 to see if it works.

Why March? Not only was it middle ground, but it had a connection to the schedule at the NIH for applying for and receiving grants.

On the floor, Senator HATCH initially said "no." He wanted a longer time. But discussions continued. We were only 10 months apart. Senator MITCHELL offered to help; so did Senator DOLE. Meetings were held. The discussions went on for many hours.

By evening, after we had consulted further with medical researchers, we thought we were close. A compromise was within reach. But suddenly the situation changed.

The hardest of the hardliners in the Senate and the House became involved, and the negotiations stalled. It was as though the worst of the Houston Republican Convention had arrived to bar the research door and defeat any possible compromise, and keep the filibuster going.

Today we try to pick up the discussions. Hope remains. But the focus must shift to the other end of Pennsylvania Avenue to break the gridlock, and decide whether Alzheimer's patients, diabetes victims, Parkinson's victims and Congress itself are to be held hostage to the narrow agenda of the ultra-right and its minuscule support in Congress.

We need to hear from the leader of the Republican Party. I ask President Bush, where does he stand?

Does he stand with the victims of Alzheimer's disease, Parkinson's disease and diabetes, or with the far right of his party?

Only the President can break this deadlock. If he says he will sign this bill with one or another of the reasonable compromises being offered, the gridlock will end and the bill will pass. Help us, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—VETO OVERRIDE, S. 12

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate receives the veto message on S. 12, the cable TV bill, that the reading be waived, the message be spread upon the Journal; that the message be laid aside until 5 p.m. on Monday, October 5; that there be 1 hour for debate equally divided between the two leaders or their designees; and that a veto override vote occur at 6 p.m. on Monday, October 5, nothwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT'S VETO MESSAGE RECEIVED ON S. 12

The PRESIDING OFFICER. The chair advises the Senate that the President's veto message on S. 12 has been received. Pursuant to the order, reading of the message is waived. The message is spread upon the Senate's Journal and further consideration thereof is laid aside until Monday, October 5.

The Senator is recognized.

AMERICANS WITH DISABILITIES ACT

Mr. HARKIN. Shortly, we will be taking up the conference report on the Labor-Health and Human Services and Education appropriations bill. Before we do that, I want to take this opportunity, Mr. President, to speak for a few minutes about an industry that has really taken a leadership position in implementing the Americans With Disabilities Act.

Mr. President, on October 1 of this year, I was honored to receive an award related to my work on the Americans With Disabilities Act. The real story today, though, is not my award but the efforts of the industry behind the award to make the Americans with Disabilities Act work in our country.

The Paul Grossinger Memorial Award for Human Endeavor was presented by Bunny Grossinger in honor of her late husband. The Grossingers ran the famous Grossinger Resort in upstate New York for many years. They began a tradition of hiring individuals with disabilities long ago, and by virtue of their leadership in their industry's trade association, the American Hotel and Motel Association, their example sparked an industrywide commitment to individuals with disabilities which is stronger today than ever.

This tradition of hiring is evidenced in hotel chain after hotel chain across our country. Today thousands of individuals with disabilities work in the hotel industry, and hotels are eager to hire more of these dependable hard working people.

David Kenney, 1992 chairman of the American Hotel and Motel Association, has dedicated his year of leadership to promoting ADA among hotels and motels. Dave told me that in every speech he makes he praises the work records of individuals with disabilities he has known in his three decades in the industry, and encourages hoteliers he addresses to make their properties accessible.

This tradition and leadership has yielded positive results. American Hotel and Motel Association was one of the few trade associations awarded a grant by the Department of Justice to help in spreading the word about the ADA. The association responded by developing a comprehensive series of hotel seminars throughout the country. Almost 5,000 hotel executives participated in the 60-plus seminars.

The association has also developed a compliance handbook called appropriately enough, "Accommodating All Guests: The ADA and the Lodging Industry." They were kind enough to present me with a copy. As I reviewed it, I found it thorough and easy to understand.

This is it, Mr. President, "Accommodating All Guests: The Americans With Disabilities Act and The Lodging Industry." It is put out by the American Motel and Hotel Association. It is a comprehensive book and spells out all of the details that are in the Americans With Disabilities Act and does it in a straightforward, honest manner, basically giving the information to people in their industries, what they have to do, from transportation accommodations and everything like that.

Mr. President, I have not seen yet a book that is as comprehensive and as straightforward and as easy to understand as this one, to give individuals in the private sector the kind of information they need to make their business successful and in compliance with the ADA.

No wonder the association has distributed 40,000 copies of the book and is planning a second printing. I was pleased to see such commitment by the lodging industry to a law as dear to my heart as the ADA.

This involvement of the hotel and motel industry with the ADA is a classic win/win situation. The travel industry is hurting today, particularly hotels. They need all the guests they can get, and they are preparing for the 43 million Americans set free by this law. This market has the potential to create jobs in the industry. And where do hotels turn for more employees?—those same 43 million Americans.

These citizens have the potential to be great travelers and great employees. I encourage other industries to follow the lead of the hotel industry and take advantage of this untapped national treasure.

I would like to inform my colleagues that November 29 through December 5, 1992, is the "Second Annual Travelers With Disabilities Awareness Week," sponsored by the Society for the Advancement of Travel for the Handicapped. This is a weeklong campaign designed to promote awareness of an attitude of respect for and accessibility to accommodate travelers with disabilities.

Mr. President, in closing, I would like to share with my colleagues the experience of one hotel guest who is deaf. In a letter written to the Imperial Palace Hotel in Las Vegas, Betty Longwith said that the television decoder, the telephone for the deaf and other accommodations made her stay most enjoyable. With these accommodations, she was able to call her husband, watch the evening news and, for the first time in her life, order room service. She wrote, "Can you imagine the thrill of being able to pick up the phone and order room service?" Betty had a very enjoyable stay and this hotel has a repeat customer.

Mr. President, I ask unanimous consent that the full text of the letter be entered in the RECORD.

NASHVILLE, TN, *March 8, 1992.*

Re hearing impaired facilities.

IMPERIAL PALACE,
Las Vegas, NV.

DEAR EVERYBODY: Please make sure that everyone connected with handling the hearing impaired at your hotel sees this letter of appreciation.

We are still trying to digest the fabulous treatment we received at your hotel last week. It was unbelievable for so much to be done with the disability law so new.

Although I am founder and past president of the world wide Cochlear Implant Club International and have traveled hundreds of thousands of miles for deaf causes, I'd forgotten about the bill being effective now, and I didn't even think to ask for such accommodations when we called in for reservations.

At the check in desk, when I told the nice young man I was deaf he quickly said "you will be needing a hearing impaired room" and within a few short minutes, we were ushered into a very nice room with the light on the door to alert us when someone knocked. Before we could open a suitcase another nice man was there with a television decoder, telephone and clock. He was so gracious in showing us how to operate all of it. And someone even checked back on us to see how we were doing with all of the equipment!

It was so comforting to pick up that telephone and call home and talk to Wallace. He was stunned to get the call! It was super good to turn on the television set while resting from the slots and poker machines and be able to find out what was going on in the world through the closed captions. And the clock was a lifesaver.

Besides calling home, two other events were milestones for me. This was my fourth trip in one year to the Imperial Palace and the first time I have been able to call for a bellboy to come for luggage instead of dragging it though the casino. I loved that. But my biggest thrill was getting room service. I have been alone in hotels so much and especially late at night I've been hungry or thirsty but did not want to take a chance on roaming around late at night with my deafness. Can you ever imagine the thrill of being able to pick up that phone and order room service?

I am writing the newspapers there and here about our wonderful experience so look for your little bit of advertisement. It's the least I can do. And Wallace and I will be back in May for the pool tournament. We can hardly wait. In the meantime, please know that your efforts on behalf of the children of a lesser god have meant more to us than we could ever say and we do thank and God bless you one and all.

BETTY MEADOWS LONGWITH.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. HARKIN. Mr. President, I submit a report of the committee of conference on H.R. 5677 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 1, 1992.)

The PRESIDING OFFICER. The Chair would advise Senators that there will now be 1 hour of debate on the conference report and the amendments in disagreement, to be equally divided between the two managers or their designees, with an additional 20 minutes of debate reserved under the control of the Senator from Florida [Mr. GRAHAM].

Mr. HARKIN. Mr. President, I am pleased to report to the Members of the Senate that we had a very successful conference with the House. Not only were we able to protect all the important funding initiatives of the Senate but we were able to complete action on all 242 Senate amendments to the House bill in just over 6 hours.

The conference agreement now before the Senate is within the 602(b) ceiling and is below the level as requested by the President. Several items that the administration has objected to have been excluded by conference action. We have, therefore, been assured that the bill will be signed by the President.

Mr. President, the conference agreement before the Members totals $241.3 billion; of that total $62,145,195,000 is for discretionary budget authority under the direct control of the subcommittee. The remaining $179.1 billion is for mandatory programs funded by the subcommittee. Discretionary spending provided in the conference agreement under our 602(b) allocation grows only 2.8, or $1.7 billion, over the amount provided last year. The conference agreement for discretionary spending is $30 million below the amount provided by the Senate passed bill.

The initial agreements reached by the conferees were reduced by 0.8 percent to bring the bill into balance. While we made every effort to avoid using an across-the-board cut, I am pleased to report that the cut is only 0.8 percent, a less than 1 percent across-the-board cut.

Mr. President, there are many important features of this bill, but with sine die adjournment just hours away, I will not take the time of the Members to discuss the agreement in any detail. I would like to mention just a few highlights.

The conference agreement includes the full amount recommended by the Senate for the Low Income Home Energy Program, reduced only by the across-the-board 0.8 percent cut. This also includes advanced funding for fiscal year 1994, as was recently authorized in law.

The conference agreement includes the President's full request for Head Start, less the 0.8 percent across-the-board cut.

The conference agreement provides a $291 million increase for NIH over the levels provided last year. The agreement protects the very generous increases provided by the Senate passed bill for gender specific cancer research.

The conference agreement provides $7,455,995,000 for student financial assistance. This is a $559 million or 8.2 percent more than last year. For Pell grants we have included $5,997,690,000.

The conference agreement includes substantial increases for many important prevention programs, as proposed by the Senate. For example, the Senate included large increases over both the House and the President's request for Center for Disease Control's Preventive Health Services block grant, for the maternal and child health care program, and for the family planning program. These increases are included in the conference agreement, again reduced only by the 0.8 percent across-the-board cut.

Mr. President, the conference agreement includes a number of significant increases for health services programs as proposed by the Senate. For example, the Senate bill included significant increases for the substance abuse block grant, for Ryan White emergency assistance programs, and for the breast and cervical cancer or screening program at the Center for Disease Control. These increases are included in the conference agreement, again reduced only by the 0.8 percent across-the-board cut.

Mr. President, there are many more important details in this bill, these are only highlights that I know were important to a great many Members of the Senate. At this point, Mr. President, I thank Senator SPECTER, the ranking member of the subcommittee for his excellent assistance and guidance throughout the year. He and his staff have been most gracious, most successful, and more than willing to work with our staff in hammering out this bill. It has been a tough year. As I said, we only had a 2.8-percent increase over last year, so we were actually below the rate of inflation. I am sorry to say many programs could not get that kind of increase this year.

We worked together and we had a good working relationship and were able to get a bill through, as I said with only 6 hours of conference with the House.

I also publicly thank Chairman NATCHER, my House counterpart, and ranking member, Congressman PURCELL, for excellent cooperation again this year. This is Congressman PURCELL's last year in the House. I had the privilege of serving with him in the other body and, of course, serving with him on numerous conference committees over the past few years. He has been an excellent public servant. He will be sorely missed.

Congressman NATCHER, as we all know, is a true gentleman, a great appropriator, someone with whom I look forward to working with again next year and many years in the future.

Mr. President, Senator SPECTER could not be here today to be with us for the vote on final passage of the bill, but I can assure you and everyone else that Senator SPECTER has been there every step of the way in developing this bill in all of the efforts that we expended to meet the great needs of health, human services, and education.

He is, however, represented here today by another distinguished member of our subcommittee, the Senator from Washington, Senator GORTON, who helped to manage the bill in conference, who again helped us develop the bill as we went through this entire year.

So, again, I publicly thank Senator GORTON for his help through the year and for his help on the conference and to be here today to manage the bill for the minority side.

I yield to him for any opening comments that he would like to make.

I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, first, I yield to Senator SPECTER and then to Senator HATFIELD for their remarks.

Mr. SPECTER. Mr. President, I join the chairman of the subcommittee, the distinguished Senator from Iowa, in supporting the conference report that is before the Senate today. This year, as in the past, the subcommittee allocation was insufficient to adequately meet the health and welfare, job training and education needs. I want to take this opportunity to thank the distinguished Senator from Iowa for putting together this very comprehensive conference agreement.

The conference agreement before us today totals more than $245.7 billion, including $62.1 billion in discretionary spending, and provides funding for educating elementary and secondary children as well as providing grants and loans for higher education, retraining this Nation's work force, and improving health and welfare services.

BIOMEDICAL RESEARCH

This agreement includes $10.4 billion for the National Institutes of Health, an increase of $291.2 million above last year's level. These funds will continue to expand the important research needed to develop the means to find the answers to help treat and cure diseases such as cancer, heart disease, diabetes, mental illness, and arthritis as well as the many other illnesses that afflict the people of this Nation.

BREAST CANCER

Breast cancer is the most commonly diagnosed cancer in America today with approximately 1.8 million women afflicted with the disease and an additional 1 million women who have yet to be diagnosed. The incidence of this disease continues to rise and every 12 minutes a woman dies of this dreaded illness. The conference agreement this year provides $209 million for research programs for breast cancer, an increase of $76 million over the previous year's funding. The agreement also includes $72.4 million for breast and cervical cancer screening. Again this year, the conferees have reiterated the concern that the highest priority be placed on expanding funding for women's health, including breast, cervical and ovarian cancer.

HEALTHY START

The conference report contains $79.4 million for healthy start. This demonstration program is intended to reduce the infant mortality rate by 50 percent over the next 5 years in targeted urban and rural areas across the country. I became acutely aware of this problem after visiting hospitals in Pittsburgh and Philadelphia and seeing first hand the tragedy of 1-pound babies. These infants who have been exposed to drugs, alcohol, or tobacco in utero are more likely to be born prematurely and of low birth weight with an increased risk of dying in their first year of life or suffering from long-term disabilities.

FAMILY VIOLENCE

Battering continues to be the single largest cause of injury to women in the United States. In Pennsylvania, 800,000 women are assaulted in their own homes each year. To help in the movement to end domestic violence, the bill contains $24.8 million. These funds will assist victims and their dependents with immediate shelter, self help, and substance abuse counseling.

ALZHEIMER'S RESEARCH

Today, over 4 million Americans suffer from Alzheimer's disease, one of our Nation's most tragic and costly health problems. This disease wastes precious human resources, demands prolonged periods of care and drains over $90 billion from the national treasury and the personal savings of families. To help combat this disorder this conference agreement provides $294 million for research to find the cause, treatment, and means to prevent Alzheimer's disease. This agreement also includes $4.9 million for a State demonstration program to help ease the burden on families caring for an Alzheimer victim.

AIDS

Mr. President, the World Health Organization estimates that 8 to 10 million people are currently infected with the HIV virus. The bill before us today provides over $2 billion to confront this disease, care for its victims and continue the search for treatment and cure.

Because of their unique vulnerabilities, infants suffering from AIDS required specially tailored approaches for treatment, prevention, and care this bill contains $20.1 million for pediatric AIDS demonstration programs to develop and provide comprehensive services to children and families battling HIV infection.

REFUGEE ASSISTANCE

The conference agreement includes $381.5 million for domestic refugee resettlement services. This was a matter on which the House and Senate had substantial difference of over $80 million. While I would have preferred that the House would have receded to the Senate level of $405.1 million, I am pleased that the agreement reflects three quarters of the increase provided by the Senate. The conference report also will permit the Office of Refugee Resettlement to continue to develop proposals to reform and improve the administration of refugee cash and medical assistance services.

EDUCATION

Mr. President, I am proud of the fact that this bill contains $31.3 billion for education programs, an increase of $1.9 billion for education programs, an increase of $1.9 billion over the fiscal year 1992 funding levels. Unfortunately, because of very severe budget constraints, this bill does not contain all of the funds I would like to have seen spent on achieving the education goals. However, it is a start. This agreement includes $10.3 billion for student aid programs, including Pell grants for the most disadvantaged students and low interest loans. Also recommended is $1.4 billion for vocational and adult education programs, $6.7 billion for chapter 1 grants for the disadvantaged and $146.1 million for programs to improve library and literacy services. Also included is $3.4 million for a new program to educate young people to assume a wide variety of leadership roles in both the public and private sector.

In addition, $2.7 billion has been included for the Head Start Program; an increase of $600 million over the amount provided in fiscal year 1992.

LIHEAP

A program that is of critical importance to Pennsylvania is the Low Income Home Energy Assistance Program. Funding for this program supports grants to States to deliver assistance to low-income households to help meet the growing costs of heating and cooling their homes. This conference report includes $1,350,000,000 in fiscal year 1993. Also included is an advance appropriation of $1,437,000,000 for fiscal year 1994 with $142,000,000 of this amount available to reimburse costs incurred in fiscal year 1993. This will permit a program level in fiscal year 1993 of nearly $1.5 billion.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES [SAMHSA]

The conference report before us today includes over $2 billion for the newly created Substance Abuse and Mental Health Services Administration. These funds will continue to support State mental health planning grants, demonstration programs involving IV drug abusers, pregnant, and postpartum women and their infants.

In reviewing the current distribution of full time equivalent positions within SAMHSA I have serious concerns about whether the current staff levels will enable all three centers to adequately perform the mandated functions. I am particularly concerned that although additional programs have been transferred to the Center for Substance Abuse Treatment [CSAT] the level of FTE's assigned to that center seems woefully inadequate. According to an August 17, 1992 report produced by the ADAMHA Division of Personnel Management, a total of 668 FTE's were projected to be assigned to SAMHSA. The expected distribution of personnel was: Office of the Administrator—136–147, Center for Substance Abuse Prevention [CSAP] 197, Center for Substance Abuse Treatment [CSAT] 181, and Center for Mental Health Services 143.

It is my understanding that although the Center for Mental Health Services currently has 143 FTE's and the Center for Substance Abuse Prevention has 185 personnel, the Center for Substance Abuse Treatment has 125 FTE's, 56 less than had been projected. This inequity in FTE levels threatens the ability of SAMHSA to carry out its mandate to provide leadership in improving drug and alcohol treatment in this country. I raise the health issue because in restoring funds to the Department of Health and Human Services, salaries and expenses account, the Secretary of HHS and Administrator of SAMHSA now have greater flexibility in correcting this inadequacy. Since I know that they share my commitment to mental health services and substance abuse treatment and prevention, I am confident that this issue will be swiftly resolved.

In closing, Mr. President, I again want to thank Senator HARKIN and his staff and the other Senators on the subcommittee for their cooperation in a very tough budget year.

Mr. HATFIELD. Mr. President, I join the chairman of the subcommittee, the distinguished Senator from Iowa, in supporting the conference report that is before the Senate today. I want to take this opportunity to thank Senators HARKIN and SPECTER as well as the other members of the subcommittee for bringing before the Senate such a comprehensive bill under very tight budget constraints.

This agreement contains $245.7 billion and encompasses a wide range of programs which will serve the people of this Nation in improving job opportunities, educational excellence, and biomedical research advances.

BIOMEDICAL RESEARCH

The conference agreement before us today contains $10.3 billion to continue the support of the National Institutes of Health. These funds will expand this Nation's medical research into the causes, treatment, and cures of the vast array of diseases and illnesses that are only beginning to be understood. The funds not only will provide the country with enhanced health and health care, but a strengthened economy and an improved competitive position in the world market.

ALZHEIMER'S DISEASE

Last year, I urged the Senate to embark on a national program to rid this country of the scourge of Alzheimer's, a disease that affects 4 million Americans. We set a goal of $500 million, the amount scientists say is needed to mount a full scale attack on this dread disease. I am pleased to report that this effort is beginning to pay off. Last week, scientists uncovered important new information that will help in our efforts to develop new drugs to treat or perhaps reverse this disease. I am therefore pleased that this conference agreement includes $300 million, including $295 million for research, and $4.9 million for the State grant program to help families caring for Alzheimer's patients at home.

AIDS

Mr. President, few could argue with the fact that AIDS, a disease that was virtually unheard of a dozen years ago, continues to plague our society. The conference agreement includes $2.1 billion to continue the strong commitment to research, prevention, and treatment programs to fight this dread disease. The agreement also includes $348 million for early intervention, comprehensive care, and aid to cities hardest hit by the disease.

FAMILY AND COMMUNITY SUPPORT SERVICES

During these difficult economic times many families and communities are struggling to meet the basic needs, such as food, housing, clothing, transportation, and medical care. I am pleased, therefore, that the conference agreement reflects substantially the recommendations for low-income services programs, such as the community services block grant, the Low Income Home Energy Assistance Program and refugee resettlement assistance.

For the community services block grant, the agreement provides $372 million. This is an increase of $12 million above the level recommended by the House and reflects a rejection of the proposal by the administration to eliminate the funding for this program. These funds will support the delivery of antipoverty and supportive services by over 900 community action agencies operating out of over 4,000 outreach centers in communities throughout the country.

For the Low Income Home Energy Assistance Program, the agreement recommends a total of $2.7 billion for energy assistance to low-income households in fiscal years 1993 and 1994. The agreement reflects the decision of the conferees to agree to the Senate recommendation of $1.3 billion for the program in fiscal year 1993, an increase of over $400 million over the level recommended by the House and $200 million over the President's request.

Finally, the conference report provides $381.5 million for refugee and entrant assistance programs and services. While this amount is $23 million below the Senate bill, it represents an increase of nearly $60 million above the House and $154 million above the President's budget request. The conferees also included language in the conference report outlining the parameters for development and implementation of any major program change with regard to the administration of refugee cash and medical assistance. This, in my view, was essential in order to ensure that refugee services are maintained and that all refugees have an equitable level of services.

EDUCATION

Mr. President, by far the most direct, rewarding, and important investment in our children and youth is education. I think we have all come to recognize that a strong investment in education is essential for our national economic growth and security. The conference agreement provides $31.3 billion for education programs, an increase of $1.9 billion over last year's funding level. I am also pleased to report that funding for Eisenhower Math and Science Education Programs has increased $8 million over last year's level to $248 million, math and science consortia is increased to $13.6 and $3.4 million is recommended for clearinghouse activities. Also included at my urging is $1 million for a before and after school program to create safe havens for inter-city youth.

I am also happy to report that Head Start funding has increased $600 million over the fiscal year 1992 level to $2.7 billion.

URBAN GRANTS

Mr. President, many of the urban universities across this Nation play an important role in contributing to the needs and priorities of the cities in which they are located. To help these universities in their efforts, this bill contains $9.4 million to provide grants to urban universities to encourage community involvement in solving education, health, crime, and economic development problems exclusive to their particular urban area.

STUDENT FINANCIAL ASSISTANCE

The agreement includes $10.3 billion to help this Nation's youth achieve a college education by providing grants to the neediest students and low interest loans.

FOREIGN LANGUAGE ASSISTANCE

This Nation must improve the quality and quantity of instruction in foreign languages. These languages are critical to our economic and security interests. Language instruction must be started in the early grades to give students the opportunity to obtain useful levels of efficiency. This bill includes $10.9 million for grants to help schools with this endeavor.

LIBRARIES

And finally Mr. President, I want to bring to the attention of the Senate the important role libraries play in supporting and strengthening a student's education in this country. This bill helps bolster that support by providing $146.1 million for library services and construction, career training and literacy programs.

Mr. GORTON. Mr. President, I wish to echo the remarks of the chairman of the subcommittee, my friend and colleague from Iowa, Senator HARKIN. This is the culmination of almost a year's very, very hard work on his part and by the members of the subcommittee and, of course, members of the staff.

Senator HARKIN has had an unenviable task in dealing with requests totaling literally tens of billions of dollars, almost without exception, requests for important national priorities in the field of job training, in the field of education, up and down the line, in a myriad of health fields for treatment and prevention, for research, for experimentation. And as a member of the subcommittee in only his second year in such an assignment, this Senator can say how difficult it is to reconcile so many requests for so many important programs.

The Senator from Iowa has done a magnificent job of attempting to distribute a very, very large amount of money in an absolute sense but in some respects a relatively small amount of money when measured against the demand and, for that matter, the need for the kinds of services which are provided by this subcommittee.

Perhaps as early as next year or the year after this, the subcommittee will have under its jurisdiction more dollars in overall spending than any other subcommittee which itself will reflect the importance of the work which it does. I am privileged to be a member of the subcommittee and to have played a role in putting this bill together. But primary credit goes to the Senator from Iowa who has worked so hard and so long on it.

The Senator from Iowa has already pointed out that we operated under very constrained circumstances this year. Nevertheless, there are a number of important areas in which increases in programming has been significant for Head Start, for the National Institutes of Health, for the Centers for Disease Control, for the Corporation for Public Broadcasting, among others, but we were engaged in a zero sum game. Once the total ceiling was established an increase in one program inevitably meant a decrease in another program.

Suffice it to say, this is a responsible proposal. It is a proposal which the President of the United States can sign. It is a proposal which for another year will give a degree of certainty for all of those organizations and individuals which benefit from it. It has had stripped from it much of the legislative addenda which was controversial in nature both on the floor of the Senate during the original debate on the bill and in the other House as well.

Finally, I would like to join the chairman of the subcommittee in paying tribute, more particularly, to the chairman of the House subcommittee, Congressman NATCHER.

The last 2 years, during the course of conference committees, has been my first opportunity to get to know and to deal with that absolutely extraordinary individual, a man who seems to be able to keep the details of almost every program in this bill in his own mind, who has extremely strong views about the nature of his priorities but who, to the maximum possible extent, the desires and the priorities of others.

Hard work in this case, I believe, has produced as responsible a bill as could have been found under the circumstances. I commend it to my colleagues, and I hope that it will be promptly passed and sent to the President and signed.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank Senator GORTON for his kind remarks and, again, for his outstanding help and assistance in getting this bill through.

I say to him that I look forward to working with him next year on this bill, too. Hopefully, we will have a little bit better bill next year and it will be a little bit easier than what we have had in getting this bill completed.

REFUGEE RESETTLEMENT PROGRAMS

Mr. HATFIELD. I want to thank the chairman and the ranking member who have provided important leadership on behalf of the many important programs and services in the Labor, HHS and Education appropriations bill. I am particularly grateful for your leadership on issues relating to funding of domestic resettlement programs for refugees. His leadership has produced a budget in these difficult times that I believe is workable. However, there are areas that I would like to clarify with the distinguished chairman.

Mr. HARKIN. I thank the Senator for his generous comments and for his support during this process. His leadership has provided enthusiasm and stability during a very difficult economic period. I would be pleased to clarify any matter with him from our recent conference deliberations.

Mr. HATFIELD. The conference agreement, while not endorsing or prohibiting implementation of a privatization of the administration of refugee cash and medical assistance services, does allow the Office of Refugee Resettlement to pursue development of this option. As the Senator is aware, this reform is a concept on which I have some grave reservations, and would like to clarify for the record a couple of items.

First, was it the intention of the conferees that the funds appropriated for social services and targeted assistance are intended to be allocated to State and local governments for refugee programs and services and not intended as general discretionary funds for the Director?

Mr. HARKIN. The Senator is correct. The conference report states specifically that these funds are intended for State-administered programs and services.

Mr. HATFIELD. As I stated earlier, I have reservations about the administration's reform proposal and am not convinced that turning administration of the cash and medical assistance program over to voluntary agencies is the most effective method for administration in all States and communities. In Oregon, for example, the program is jointly administered by the State, local voluntary agencies and mutual assistance associations. This approach has proven effective in my State, and I am pleased the Office of Refugee Resettlement has agreed to continue support for the Oregon demonstration program.

Because of my lingering concerns, I would like to recommend that the authorizing committees maintain careful oversight as this Private Resettlement Program [PRP] is developed and implemented.

Two specific areas of oversight are critical. I am concerned about adequate notification to States and the well-being of the affected refugees relating to the termination of the State-managed cash and medical assistance programs. In particular, it is essential that adequate review of any restructuring of the medical program occur prior to its implementation.

Finally, as I stated in a letter to the chairman of the authorizing committee earlier this year, I have grave concerns about equitable access and treatment for all refugees throughout the States under a privately administered program. As you know, the present program assures equitable access and treatment for all refugees. However, with the proposed restructuring of the program I fear we will find many areas of our country where refugees will not be able to be served.

Mr. HARKIN. I thank the Senator for his thoughtful comments. As he knows, the conference report requires that any major program changes comport with criteria previously outlined by the authorizing committees and I share his concern that the authorizing committees maintain oversight over these matters he has raised.

Mr. GRAHAM. I add my thanks to the Senator from Iowa for his leadership in support of the refugee program. I appreciate the clarification he has offered in response to the distinguished ranking member of the Appropriations Committee. I also have a question for the subcommittee chairman.

In the conference report, the conferees address concerns about the program shift as the Office of Refugee Resettlement proceeds with its privatization initiative. Clearly, at some point the States need to know whether they will continue to administer the cash and medical assistance portion of the refugee program.

Already the target date for implementing the Private Refugee Program [PRP] has been pushed back until February. Everyone agrees that a certain point in the fiscal year exists after which excessive drawdowns will make privatization impossible during fiscal year 1993. My concern is that ORR will notify States of its intent to switch to the PRP before all the details have been worked out. If so, the great possibility exists that we will expect the State to take responsibility for continuing to administer the entire refugee program through the end of the fiscal year, without allowing them sufficient notice.

Therefore, I am seeking assurance that ORR must provide ample advance notice before terminating the current programs, which are principally run by the States and localities. Given the administrative procedures which must be undertaken either to terminate or restart the program, 90 days seems to me a bare minimum notice which the States should be able to expect from ORR.

So, I would like the assurance of the distinguished chairman of this subcommittee that it is the intention of the conferees to allow these funds to continue to be used in the current program until at least 90 days after ORR has officially notified the States of impending program changes. Furthermore, and this is a key and separate point, I want to be sure that the conferees intend that such notification only be made after a comparable medical care system has been certified by the Secretary of HHS and the contracts have been prepared which guarantee the right of the refugees to appeal sanctions or unequal income maintenance treatment.

Mr. HARKIN. Yes, I agree with the Senator from Florida. While I am not certain what is the precise number of days, it is clearly our intention that States must be given substantial notice to discontinue services, and the conditions you have outlined must exist before such notification is given.

Mr. GRAHAM. I am pleased to have this issue clarified for the RECORD, so that ORR can be certain of congressional intent on this critical matter. I thank the chairman.

Mr. REID. Mr. President, I would like to commend the distinguished chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, the Senator from Iowa [Mr. HARKIN], for his tireless leadership and excellent work in drafting the conference report on H.R. 5677, now being considered by the Senate. With great skill and compassion, he has worked under considerable restraints to craft a consensus package that is designed to benefit those served by the many critical social programs under the subcommittee's jurisdiction.

Mr. President, I would also like to commend the Senator from Iowa [Mr. HARKIN] for his work with me to set aside funds within the appropriation for the Older Americans Act to study and research the efficacy and benefits of art, dance/movement, and music therapy for older Americans. The Special Committee on Aging, upon which I serve, has conducted two hearings on the benefits of these innovative approaches. These hearings documented the serious research that has been done in these fields. The evidence we compiled indicates that while these therapies show great promise, more needs to be done to refine and document their effects upon human health.

As a member of the Aging Committee and the Appropriations Subcommittee, I will watch very closely how the Administration on Aging [AOA] oversees the conduct of research and demonstration projects in these fields. I expect that AOA will adhere to the report of the Senate Committee on Appropriations with regard to the resources that are to be dedicated to these projects.

The language in the Senate report requires some clarification. It is my expectation that in following the general guidelines laid out in the report, the AOA will exercise its discretion in determining how best to award grants. The purpose of the committee in directing and AOA to conduct study in these fields is to find the best ways of improving the health and quality of life for older Americans. I believe AOA is well equipped to determine how best to award funds based upon the principle that, through a competitive process, the best projects with the greatest prospect for improving the lives of older Americans will be selected.

The Senate report indicates that these projects might be "administered through a competitive grant to an organization representing certified therapists." This language could have unintended consequences because neither art nor dance/movement therapists use a certification process. This was a technical error in drafting the report, and should not in any way be interpreted by the AOA to mean that the committee intended that organizations representing art or dance/movement therapists be excluded from being awarded grants. The committee intended there to be a level playing field so that organizations representing all of these fields should be eligible for funding, as AOA best sees fit. Further, the committee expects that AOA should award grants to as many agencies as it considers appropriate, not necessarily to only a single organization. The overriding priority that is made explicit in the report, and over which the AOA should not exercise discretion, is that the full amount that the committee made available for these studies be used for the purpose the committee intended.

Mr. President, I urge the adoption of the conference report on H.R. 5677.

THE CHICAGO HEALTH INITIATIVE

Mr. SIMON. Mr. President, I would like to talk briefly with the chairman of the subcommittee about a creative health project in Chicago. I believe the chairman is familiar with the program—the Chicago Health Initiative.

The Chicago Health Initiative works in conjunction with a number of entities—community based organizations, local health care offices, church related groups and others providing basic health care to the Chicago community. Together, by targeting specific groups, they increase the health care resources available for prevention and treatment. I understand that the parent organization of the Chicago Health Initiative—Lutheran General HealthSystem, testified before your subcommittee earlier this year.

Mr. HARKIN. That is correct.

Mr. SIMON. I understand that, while the Chicago Health Initiative was interested in being designated to receive money through this appropriations bill, their program does not meet any of the funding categories contained in the bill.

For the Chicago Health Initiative to receive Federal funding, proposals will have to be submitted directly to HHS. I anticipate that I will be working with this project in the year to come to identify and compete for grants that will support and enhance the good work they are already doing.

I would welcome the involvement of the chairman of the subcommittee in those efforts.

Mr. HARKIN. I thank the Senator from Illinois. I, too, was impressed with the work being done by the Chicago Health Initiative and believe they should explore options at the Department of Health and Human Services.

AIDS CLINICAL TRIAL GROUP PROGRAM

Mr. JOHNSTON. Mr. President, in fiscal year 1992, the recompetition selection process of AIDS clinical trial centers by the National Institute for Allergy and Infectious Diseases [NIAID] resulted in the funding of 28 centers. This decision provides funding for these centers for the next 4 years. These centers, in addition to providing much needed care and services to AIDS patients, conduct very important studies to test the efficacy of potential drugs and drug combinations for the treatment of HIV infection and resultant illnesses in adults and in children. Because of their important contributions to these studies, seven centers, previously funded but not selected in this competition, received funding from NIAID to continue their important programs and serve enrolled patients through December 31, 1992.

There is no question that these seven centers submitted meritorious applications and received good technical evaluation scores during peer review. There was absolutely no scientific basis for the discontinuation of these units. The continuation of these programs through 1993, verify their importance to the overall goal of AIDS research and care.

If any of these centers which received a reprieve go out of operation as of December 31, 1992, this would mean that those adults currently receiving treatment at these centers for AIDS will not have access to the cutting-edge experimental drugs and treatment therapies they now have, unless they can get to and be accepted in one of the other adult ACTU Centers. Mr. Chairman, many of these patients have been very ill for a long time and for many of them the resources and stamina required to relocate near, or travel to, another center does not exist. Consequently, they will have to drop out of the trials program altogether.

This is of particular concern for those adult patients now being served at a center in New Orleans, LA. The center is located at the Tulane and LSU medical schools. On average since its establishment in 1987, this adult unit has been serving 135 active patients at all times, many of whom receive all of their medical care from the center's research time. Without the center, these patients have no plausible alternative to receiving the critical care they require. I'd also note that these patients come from throughout the southern Gulf States region—many from Louisiana, but also from Mississippi, southern Alabama and the Florida Panhandle region. If this unit in New Orleans closes, the nearest alternative treatment centers for these patients will be centers in Birmingham, AL—some 340 miles away—and in Galveston, TX—over 350 miles away. I wish to reemphasize that in the vast majority of cases, the resources and stamina required to travel to these alternative centers, simply does not exist.

This situation could very well be true for some patients currently served at the other six defunded centers at Duke University, Penn State's Hershey Medical Center, St. Luke's Roosevelt Hospital in New York City, SUNY-Stony Brook on Long Island, the University of Cincinnati, and the University of Massachusetts Medical School in Worcester.

All seven of these centers have developed a large, highly specialized staff of physicians, researchers, clinical nurses, and other health professionals with specific expertise and skills in the treatment of AIDS patients. These researchers, doctors, and nurses will now have to choose between relocating to another center to continue their work on AIDS, or seeking alternative—but less comprehensive—support for their work. Some may even refocus their efforts on other areas altogether. Given the scope and magnitude of this important research in the future health care of this country, we can scarcely afford to lose the valuable data and research efforts generated in these centers.

Moreover, the Federal Government has invested millions-of-dollars in building the skills and knowledge base of researchers at Tulane and the other six ACTUs. If these researchers and health professionals are forced to leave the AIDS research effort, a very significant investment will be lost. Consequently, rather than discontinuing these important research and care facilities, more effort should be expended to provide an increase in funding and support.

Also to be noted is that even though demographic considerations were a part of the competitive selection process, the seven defunded centers have enrolled more females, minorities, and IV users than is the average enrollment of these vulnerable groups at all centers. Given that the enrollment of women and people of color into adult clinical trials requires continued vigilance, the high enrollment of these groups in the seven defunded centers cannot be ignored. I point out to you for emphasis that the New Orleans Center has enrolled African Americans into clinical trials at twice the average rate—22 versus 12 percent. We cannot ignore these statistics.

Mr. President, it is also important to stress the geographic imbalance that exists in the present existing and newly funded ACTUs. The northeast and west coasts are more than adequately represented with a high concentration of ACTUs located in those areas. However, the South and the gulf coast are woefully underrepresented with only Galveston and Birmingham having funded ACTUs.

Mr. President, I am concerned that the seven defunded centers are so important to the overall commitment to AIDS clinical research and care that if any are discontinued, years of care and research will be compromised. I would also point out that although the adult clinical trials program is only 5 percent of the overall NIAID budget, many of the most important breakthroughs in AIDS research have come through this program.

As I understand the conference agreement for the fiscal year 1993 NIH budget, the conferees agreed to move three-quarters of the way to the higher number, funding NIAID at $989,800,000 as a result. This is about $21,000,000 less than the budget request for NIAID, but I would point out that it is about $28,800,000 more than NIAID received last year according to the tables printed in the Senate committee report (S. Rept. 102-397).

It is my strong hope, Mr. Chairman, that within this overall increase of over $28 million, NIAID will find a way to continue funding for these existing adult units so that the patients and families who rely on them can continue to have hope. If these units were funded at current levels, it would take an additional $12.1 million beyond the amount assumed in the budget request.

While I understand that the conferees did not earmark any funds within these accounts, I would point out that both the House and Senate reports provided increases for the adult clinical trial units beyond the budget request indicating concern by both committees about the fate of these units and the patients they serve. In my view, this is critically important, even if it means that each of these centers would receive reduced operating costs.

Is it the chairman's understanding that nothing in the conference agreement would deter NIAID from reallocating funds within the amount provided so that these seven centers can stay in operation?

Mr. HARKIN. That is certainly possible within the funds provided in the conference agreement, and indeed would not be inconsistent with both the House report and the colloquy the Senator and I engaged in on this subject on September 17, 1992, during Senate debate on this bill.

The Senator has continued to make a very compelling case for the need to keep these units open, both on scientific and humanitarian grounds. I fully understand the Senator from Louisiana's concern, and recognize his particular concern about the fate of the New Orleans Center, which he has brought to my attention on several occasions.

Therefore, we have encouraged NIAID to find a way to reallocate priorities so that additional funds can be made available for adult trial units and that these seven centers can remain in operation. I would also encourage the administration to take a close look at this issue and the budget estimates they are preparing for fiscal year 1994, so that sufficient funds can be made available to rectify this situation in future years.

Mr. JOHNSTON. I thank the Senator and will look forward to working with him and his staff in trying to find a way to assure that these seven centers, and in particular the center in New Orleans, stay open.

SOCIAL SERVICES RESEARCH

Mr. BUMPERS. I would like to engage the chairman of the subcommittee on matters related to social services research account. It is my understanding that the Senate report includes $5 million in tha account for the section 505 of the Family Support Act of 1988, the job creation demonstration. The House did not include funding for this program in its recommendation. During the conference, the House receded to the Senate and, therefore, the Senate language on section 505 stands. Is that the case?

Mr. HARKIN. The Senator is correct. The conference agreement assumes the availability of $5 million within social services research for the job creation demonstration.

DISPLACED HOMEMAKERS NETWORK

Mr. SIMON. Mr. President, I understand that the Appropriations Committee added $485,000 to the Women's Bureau to maintain funding for the displaced homemakers network. I am pleased that Congress has continued to demonstrate our support for the important work of this organization.

Mr. HARKIN. The Senator is correct. There is a long history of committee support for the technical assistance and training services the network provides to the more than 1,300 local programs across the country. These services have a proven track record of resulting in improved programs for displaced homemakers at the local level. In this conference agreement, we have added $485,000 to the Women's Bureau specifically for the continuation of the technical assistance and training services provided by the national displaced homemakers network. Displaced homemakers and local programs in Iowa and around the country have benefited from these services.

Mr. SPECTER. I also want to reiterate the committee's support for maintaining funding for the displaced homemakers network in fiscal year 1993. The displaced homemakers network has a long track record of being an effective provider of technical assistance and training to local programs. I have heard from many of my constituents in Pennsylvania about the high quality and importance of the services that the network provides. We intend for the department to continue to provide technical assistance and training for our displaced homemaker programs through the network with the funds that were added to the Women's Bureau.

AMENDMENT 63

Mr. REID. Mr. President, I would like to commend the chairman for his leadership on the passage of this bill and outstanding statesmanship on many of the difficult issues that faced the conferees.

So that we might clarify some of the specifics related to decisions made during the course of this bill's consideration, I would like to engage the chairman in a colloquy in order to provide some legislative history that should be utilized by NIH in the implementation and administration of the program provided through amendment 63.

Mr. HARKIN. I would be delighted to discuss this matter.

Mr. REID. I thank the Senator. Is it the chairman's understanding that with regard to the parameters of consideration for the competitive process to be employed with the funds provided through amendment 63, that the Senate intent for the portion dedicated toward a diabetic eye care facility in Boston was based upon outside witness testimony?

Mr. HARKIN. The Senator is correct?

Mr. REID. And is it the chairman's further understanding that the intent was based upon testimony and accompanying attachments presented on July 29, 1992, by Ron Kahn, in which the criteria for funding of a diabetic research facility is listed?

Mr. HARKIN. The Senator is correct.

Mr. REID. Finally, Mr. President, was the decision of the conference to support the Senate provision also based on these criteria?

Mr. HARKIN. The Senator is correct on the assumptions and intent on underlying the congressional action on this amendment.

Mr. REID. I thank the chairman for his clarification.

DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

Mr. ADAMS. Mr. President, I want to bring to the attention of my colleagues the work of the District of Columbia Institute for Mental Health.

Mr. President, the D.C. Institute for Mental Health is the largest nonprofit provider of outpatient mental health services in the national capital area, serving some 3,000 poor and underinsured children and adults annually at its four programs located in Anacostia, northern Georgia Avenue corridor, and Connecticut Avenue. Working with people who are seriously at risk for mental illness due to social, economic, and biologic factors, the institute is the last resort for many thousands of people who would otherwise cycle in and out of inpatient and emergency services—people often facing the combined stressors of poverty and family disintegration, for whom success in school or work would become an impossible goal without the range of treatment and support services offered through the institute.

Without public funding of any kind during its first 24 years of operation, the institute was on the verge of fiscal and regulatory collapse in 1989. With the help of $1 million in a Federal appropriation each year for the past 2 years through the D.C. appropriations bill, the institute has undertaken a massive rebuilding of its fiscal and program infrastructure, building toward a more competent and independent funding base which will enable it in the years ahead to see more of the city's neediest children, at risk families and adults—not only returning people to productive lives, but preventing unnecessary disability as well as saving the city and Federal Government millions of dollars in Medicaid expenditures.

As a nonprofit organization, it has provided mental health and now substance abuse treatment to some of the most seriously mentally ill adults, at-risk children and families that would otherwise go unseen by the city government and the various for-profit mental health systems due to their economic limits. The institute's population has an average annual income of $9,450 and a median of $5,000.

Mr. President, when I speak of the institute providing service to the most seriously at-risk populations, I speak of children who have seen their parents and other family members killed as a result of violence; people who have been neglected and abused; alcohol, and drug abusers whose condition is more complicated due to emotional disturbance; victims of AIDS; grandparents experiencing depression and anxiety as they parent their grandchildren, their own children either addicted to drugs or killed in drug-related violence. The institute's services reach the economically hard-stricken area of this city and its surrounding jurisdictions.

The Subcommittee on the District of Columbia was unable to continue its support of the institute in fiscal year 1993, despite the inclusion of funds in both the House and Senate bills, because of a reduced allocation in order to bring our bill into line with the President's budget request. We were faced with having to eliminate all special project funding and reduce the city's budget by more than $25 million.

I know that everyone has been faced with unappealing choices in the level of funding we have been able to provide, but because of the important contribution of the Institute to the mental health system of the Nation's Capital, we need to make every effort to make sure that the city does not lose this vital resource.

Mr. President, I would like to ask the Senator from Iowa [Mr. HARKIN] if he would agree that the institute would be an excellent resource and recipient of funds under programs of the newly reorganized Substance Abuse and Mental Health Services Administration, including the substance abuse demonstration project under the auspices of the Washington Area Council of Governments.

Mr. HARKIN. Mr. President, I certainly agree with the Senator about the valuable role the District of Columbia Institute for Mental Health plays in providing health services to so many families in Washington. I recall the institute from my days as chairman of the Appropriations Subcommittee on the District of Columbia.

The fiscal year 1993 Labor-HHS bill, as the Senator mentions, contains funding for a number of programs that serve the citizens of D.C., including the mental health and substance abuse block grants administered by the Substance Abuse and Mental Health Services Administration. The Labor-HHS bill also provides first-year funding of $3 million to initiate a model comprehensive program for treatment of substance abuse in the National Capital Area, mandated under the ADAMHA Reorganization Act, Public Law 102-321. This program will bring together the resources of the Council of Governments of Washington and the surrounding areas in order to address the problem of substance abuse.

As the Senator noted, the problems of substance abuse and mental health disorders are interrelated and often intertwined. It is sensible policy and effective management of resources to provide comprehensive treatment for these problems together, rather than trying to separate substance abuse treatment from mental health services.

Mr. ADAMS. It is my understanding that the authorization for this program allows the HHS Secretary to make a grant to an organization of governments or another public or nonprofit private entity. Is that the Senator's understanding?

Mr. HARKIN. That is correct. Section 571 of Public Law 102-321 also states that services may be provided through cooperative agreements with public and nonprofit entities.

Mr. ADAMS. I thank the Senator. I believe the District of Columbia Institute for Mental Health could be an important member of the coalition that will carry out this comprehensive treatment program, and encourage the Council of Governments to work with the institute to ensure that their high quality services can be offered under the comprehensive treatment program.

DROPPING OF PRO-KIDS

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report and to praise the chairman of the subcommittee, Senator HARKIN for his extraordinary efforts to support some of the most critical Federal programs for our Nation's children, the elderly, and those who are suffering from illness and disease.

At the same time, I must note, with very great disappointment, that the conference report does not include a very important provision, included in the Senate bill through an amendment that I offered, to protect the health of our Nation's children.

This provision was based on legislation called PRO-KIDS, which stands for "Preventing Our Kids from Inhaling Deadly Smoke" (S. 3169), which I introduced in August of this year.

PRO-KIDS will protect children from secondhand smoke while they are participating in federally funded children's programs such as Head Start, WIC, health care, and day care programs. The provision included in the Senate legislation would have required participants in federally funded programs to establish a nonsmoking policy if they provide health services to children under the age of 5 or provide other social services primarily to children under the age of 5.

Mr. President, this provision is designed to prevent our children from being exposed to a carcinogen, environmental tobacco smoke, or secondhand smoke. In a recent draft report, the Environmental Protection Agency concluded that secondhand smoke was indeed a group A carcinogen, a group that includes toxins such as asbestos, benzene, and arsenic.

The evidence is clear that secondhand smoke is taking an enormous toll on the health of Americans, particularly our children. According to the EPA, an estimated 2,500 to 3,300 lung cancer deaths per year among nonsmokers result from exposure to secondhand smoke. Secondhand smoke causes more than 200,000 lower respiratory tract infections in young children annually, including bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations.

Furthermore, secondhand smoke exacerbates asthmatic symptoms in children and is associated with 8,000 to 26,000 new asthma cases in children. In a separate study, the American Heart Association concluded that exposure to secondhand smoke increases the risk of lung cancer, heart disease, and emphysema and that approximately 50 percent of all children are exposed to secondhand smoke.

Mr. President, the EPA report to which I referred, has passed several scientific reviews and is due to finally be released by the EPA at the end of this year. But this is not the first word that we have heard on the dangers of secondhand smoke. The American Heart Association also released a report this past summer which reached the same conclusion. The report states that since 1964, thousands of studies have been concluded which show that secondhand smoke increases the risk of lung cancer, heart disease, and emphysema.

Mr. President, we know that secondhand smoke kills and we need to rid the air we breath from this carcinogen. As a first step, we should protect our children.

This proposal is not overreaching or burdensome. This legislation would simply require nonsmoking policies that would limit indoor smoking in facilities associated with federally funded programs to those areas which are not normally used to serve children and which are ventilated separately from these areas. Evidence accumulated by the EPA and other entities shows that separate ventilation is necessary to prevent secondhand smoke from recirculating through the ventilation system right into the room used by the children.

In cases where unusual extenuating circumstances prevent total compliance, programs could apply for a partial waiver from this provision if they protect children from exposure to secondhand smoke to the extent possible.

Mr. President, the Federal Government has a series of requirements that grantees must comply with in order to receive Federal funds. In order to receive Federal funding, grantees must certify to the Federal Government that they are complying with a myriad of Federal health, safety, and nondiscrimination laws like the Drug-Free Workplace Act, the Americans with Disabilities Act, the Safe Drinking Water Act, the Fair Labor Standards Act, and title VII of the Civil Rights Act of 1964.

I would also note that this proposal would not create a smoking police force or stop funding to an entity if a person defiantly smokes in front of children. It simply requires that the recipients adopt such a nonsmoking policy and make a good faith effort to enforce it.

It would not create any new burden on Federal grantees. All the amendment requires is that a grantee draft, submit, post, and enforce a no-smoking policy or separately ventilate smoking areas. I have been told that local affiliates of the American Cancer Society and other organizations will donate no-smoking signs to entities that adopt no-smoking policies.

Children are the most vulnerable members of our society. They depend upon us to protect them and safeguard their health. Isn't it time to give our children, especially those who depend on the Federal Government for valuable services like health care and preschool training, the same protection we already accord to some Federal workers and airplane travelers?

So what happened, Mr. President? Why is this reasonable, narrowly constructed proposal, endorsed by the American Heart Association, the American Lung Association, the American Cancer Society, the Association for Respiratory Care, the Association of Maternal and Child Health Programs, the Asthma and Allergy Foundation of America, and the National Coalition for Cancer Research not in this legislation?

That reason is the powerful tobacco lobby. They have worked in the conference to stop this small but important step to protect our Nation's children from deadly secondhand smoke. Their action means that children will be denied protection they need so that the tobacco lobby can, once again, maintain the fiction that they are not peddling a product deadly, not just to the smokers themselves, but their children as well.

If I sound disappointed, Mr. President, it's because I am. Needless sickness and health could be prevented by the swift passage of this proposal. Now our Nation's children will have to wait.

Let me once again thank the distinguished subcommittee chairman, Senator HARKIN, who I know shares my deep conviction over this issue. We will continue to work together on efforts to discourage smoking, like the amendment the Senator from Iowa offered to the tax bill, which would have reduced the tax deduction for cigarette advertising.

I pledge to continue this fight in the next Congress. It is too important to the Nation's children to abandon.

Mr. CHAFEE. Mr. President, I would like to commend the members of the conference committee for their diligent efforts to retain almost the entire Senate request for the Low-Income Home Energy Assistance Program [LIHEAP]. The agreement includes $1.346 billion for LIHEAP—$455 million more than the amount recommended by the House of Representatives.

As you all know, LIHEAP provides home energy aid to low-income families struggling to pay for necessary home energy costs, such as heating. These costs are fixed. Heating is a necessary fact of life in many areas of this country. In my State of Rhode Island, where winters can be fierce, heating is not luxury.

For a low-income household, fixed heating costs represent a significant—often disproportionate—share of the family's budget. Energy bills can eat up as much as 25 percent of a family's annual income, causing the need for heat to compete with other necessities such as food and shelter. Elderly and other persons living on fixed income often face the same dilemma. According to the Department of Health and Human Services, LIHEAP dollars cover only a portion of the average recipient's energy bill—approximately 20 percent. But that 20 percent provides a real boost and can make all the difference in the world to a family or elderly person struggling to make ends meet.

Even though the last couple of winters have been relatively mild, requests for LIHEAP assistance in Rhode Island and elsewhere have increased significantly. In its most recent report to Congress, the Department of Health and Human Services estimated LIHEAP served 5.8 million households in 1990—roughly one-fifth of the 25 million eligible households.

In Rhode island, unemployment continues to hover just under 10 percent and housing costs can consume up to half a family's monthly income. Last year's credit union crisis dealt another blow to families and elderly persons who were shut off from funds in savings and checking accounts. That is why LIHEAP is so important to my State, and why every penny of assistance counts—not only to Rhode Islanders, but also to the millions of households across the nation that benefit from LIHEAP.

On another matter, I am pleased to note that the conference report provides $89 million for a program I authored called Even Start, a joint parent/child literacy program that operates in all 50 States. This appropriation is $19 million above this year's level, and almost the entire $90 million requested by President Bush.

Mr. President, our Nation has set six education goals to be achieved by the year 2000. Even Start goes hand in hand with these goals, especially goals 1 and 5—that all children will enter school ready to learn and that every American adult will be literate. The program helps parents develop the skills they need to become partners in their child's education and helps youngsters to reach their full potential as learners by integrating early childhood and adult education into a unified family-centered program. I commend the conferees for their efforts to increase funding for this program.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report accompanying the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1993. I commend Senator HARKIN, the subcommittee chairman, for putting together this final bill. Many worthy programs compete for limited funds in this appropriations bill and the Senator from Iowa had to make some very difficult choices in crafting this bill. These choices are particularly difficult because of the outmoded budget agreement that has limited our ability to transfer funds from Defense spending to critical domestic needs in New Jersey and throughout the Nation. I regret that several amendments to transfer unnecessary funds from Defense to programs contained in this bill failed.

I am pleased that the conference report includes funding for a number of important programs which I requested that are designed to address critical domestic needs. One of the biggest health challenges of the last decade has been the AIDS epidemic. The AIDS epidemic now affects young and old, men and women, black and white, urban and rural. This epidemic, which is now growing at approximately 35 percent per year, has been crippling our public health system for the past few years.

In response to this epidemic and the tragic death of Ryan White, the Congress passed the Ryan White CARE Act in 1990. I was a cosponsor of this legislation that was designed to provide emergency funding for AIDS care, prevention and education. The bulk of the funding was designed to go to 16 original target areas, including Hudson County, NJ, and the Newark, NJ, metro area, and the 50 States.

The Labor-HHS appropriations bill includes $185 million for title I [target areas] of the Ryan White CARE Act, which is an increase of $63 million over last year's level. This increase is even more necessary because there are now 24 areas eligible for title I assistance. This bill also includes $115 million for title II of the same act which is reserved for State programs. I commend the subcommittee for including this increase even though the Labor and Health and Human Services allocation was below last year's level plus inflation and hope that we can work together in the future to provide the highest possible funding for this program.

The $185 million for title I programs will provide about a 26-percent increase in funding for AIDS care and education programs in Newark, NJ, and Hudson County, NJ, as well as other hard hit areas across the United States.

This bill also provides funding for the National Pediatric-Family Resource Center in Newark, NJ. This center provides valuable medical treatment, foster and child care, drug treatment, clinical drug trials, transportation, nutrition and case management to families of victims of AIDS. The funding in this bill will ensure that this center continues to provide these valuable services in northern New Jersey.

Lead poisoning is also a major problem in my State and throughout the Nation. The U.S. Public Health Service estimates that 3 to 4 million children have blood levels high enough to cause health problems and impair cognitive development. The Centers for Disease Control [CDC] has initiated a lead poisoning prevention program that provides grants to States and localities to establish community-based lead prevention programs. Last year, the Congress appropriated $21.3 million for this program. The House of Representatives only provided $20.8 million in their fiscal year 1993 bill. I strongly urged the Labor-HHS Subcommittee to drastically increase funding for this program. The conference committee has accommodated this request by providing $30 million. This will ensure that we will have greater resources to fight this major health problem.

This conference report also restores a House cut in the domestic refugee and entrant assistance program by providing $381 million. While this is less than last year's funding, it is more than the President's proposal which would have cut this program by 50 percent. I commend the subcommittee for recognizing how critical the domestic refugee and entrant assistance program is to successful resettlement of refugees fleeing desperate situations in their home countries.

Mr. President, I have been extremely concerned about the increasing cost of higher education in our country today. In the past 11 years, the price of both public and private tuition has increased faster than the Consumer Price Index [CPI], in some years two to three times faster. This has had an adverse impact on the ability of American families to send their children to college. In an attempt to begin the process of reversing this trend, I was successful in creating a National Commission on the Cost of Higher Education in the Higher Education Act. I am pleased that the Labor-HHS appropriations conference report contains $1 million so that the Commission can begin its work of looking for solutions to hold down the increasing cost of college tuition. It is my expectation that the Commission will soon offer the Congress a series of proposals to achieve this goal and the Congress will closely consider these recommendations. I am also pleased that the majority leader has appointed me to serve on this Commission.

Mr. President, I have also been concerned about meeting the need for innovative elementary and secondary education programs to improve our Nation's schools. This final bill includes $3 million for a model community education employment center [CEEC] authorized by the Carl D. Perkins Vocational and Applied Technology Act of 1990. I secured the authorization for the overall program because there is a great need for innovative school-based programs to help low income, disadvantaged children to graduate from high school and secure meaningful employment. I am pleased that the conference report which accompanies the bill encourages the Department of Education to test the success of this model in an urban school district in New Jersey.

This conference report also includes $4.2 million for computer-based instruction programs funded through the Secretary's fund for education innovation. I secured authorization for this program in 1988 and it has received appropriations since fiscal year 1989. The Computer Education Program provides funds for special projects that expand and strengthen computer education resources in elementary and secondary schools. It is designed to increase opportunities for our young people to receive hands on experience with computers and technology.

This legislation also includes $3 million to support Recording for the Blind, which is a nonprofit organization dedicated to making educational materials accessible to blind and print disabled people, and is located in Princeton, NJ. Recording for the Blind raises almost 80 percent of its funds from private sources and has almost 5,000 volunteers working at all of its studios. Despite these outstanding efforts, Recording for the Blind needs a modest appropriation to meet the growing need for these materials. I am pleased that this conference report provides a $1 million increase in this appropriation for fiscal year 1993.

I am also pleased that this conference report provides funding for the construction of four new Job Corps Centers. The Job Corps Program is one of the best investments that the Federal Government makes in our youth. The Job Corps returns $1.46 for every dollar invested. It also places more than 80 percent of its graduates into jobs, continued education or the military. Despite this strong record of success, Job Corps serves less than 1 percent of those eligible in my State. I will be working closely in the next few months to develop a proposal to have one of these new centers located in New Jersey.

I will continue to work in the future to increase funding for vital programs contained in this legislation.

Mr. DODD. Mr. President, I rise today in strong support of the conference report on appropriations for the Departments of Labor, Health and Human Services, and Education. The distinguished chairman of the subcommittee, Senator HARKIN, and the distinguished ranking member, Senator SPECTER, have done an outstanding job in crafting legislation that preserves funding for a number of programs critical to children and families. The tight budget situation made their work particularly difficult this year. Many hard choices had to be made. Each of us might quibble with a few numbers here or there. But, overall, this is a bill that demonstrates continuing commitment to programs families in my own State of Connecticut and the rest of the country count on.

The children these programs seek to help will be the backbone of our workforce in the 21st century. The foundation we lay now with these children will determine whether or not our Nation is strong and economically competitive 20 or 30 years from now. But when half of inner-city children are not adequately immunized, when 5½ million American children are hungry, when 1,500 American children drop out of school every single day—then, Mr. President, we cannot hope or expect to have the workforce we need and, sadly, these children's expectations must fall as well. So, this bill is not just must more spending on softhearted social programs. It is a critically important investment in our future.

A program particularly important to Connecticut is the Low-Income Home Energy Assistance Program, or LIHEAP. A warm home in winter is not a frill; it is a basic necessity of human survival. A recent study in Boston of underweight children found that during cold spells, these children's parents were being forced to choose between paying the heating bills or buying food. This is an unacceptable choice by any standards of human decency.

Last year, approximately 75,000 Connecticut households got help from the State's $30.9 million LIHEAP allocation to keep their homes warm in winter. The cuts proposed, first by the President and then by the other body, would have devastated these families. The Senate strove for more humane numbers and was able to hold those numbers in conference. LIHEAP will receive $1.34 billion in fiscal year 1993, down somewhat from the $1.5 billion it received last year. However, the conference agreement also provides $1.4 billion in advance funding for fiscal year 1994. $143 million of that advance funding could be used to cover shortfalls for 1993, if needed. Thus, the total funds available for 1993 will be only slightly less than in 1992—about $30.77 million in Connecticut.

We cannot underestimate the importance of the advance funding, provided in accordance with requirements in the 1990 Human Services Reauthorization Act, which I sponsored. The move to advance funding will enable States to plan ahead, setting their benefit levels well before the heating season begins and thus helping families budget household resources to avoid crises.

Other programs vital to America's children fared well. The increase for Head Start, almost $600 million, will mean that my State of Connecticut will receive over $4 million in additional funds to help over 800 more children participate. The Child Care and Development Block Grant will receive more than $67 million in new funds. For Connecticut, that means a total of $6 million for child care next year. Having worked so long and so hard to see a Federal Child Care Program become a reality, Mr. President, it is most gratifying to see it grow and flourish.

The conference agreement also accepts the more generous Senate numbers on several programs that provide health care children and families in my State desperately need. These include the Community Health Centers, the Maternal and Child Health Block Grant, the Preventive Health Services Block Grant, and Lead Poisoning Screening. Childhood Immunization Programs and the Ryan White Comprehensive Care Program also received increases. Connecticut will see at least half-a-million-dollars in new money to help improve the health of the children in our State.

Mr. President, this year, more than any other, we have had to face the harsh realities of resources that fall far, far short of the tremendous need many of our children experience. There are many programs we would have liked to have received more funds. Many very worthy programs had to take small cuts to meet the overall target for the bill. But the distinguished Senators from Iowa and Pennsylvania, as well as the other members of the conference committee, have made the hard choices about how to allocate resources. They are to be commended, and I urge my colleagues to support this legislation.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined the Conference Report on H.R. 5677, the Labor, Health and Human Services, Education, and Related Agencies appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $16 million and under its 602(b) outlay allocation by $44 million.

I compliment the distinguished manager of the bill, Senator HARKIN, and the distinguished ranking member of the Labor, Health and Human Services, and Education Subcommittee, Senator SPECTOR, on all of their hard work given the very tight budget constraints on their subcommittee.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Labor, Health and Human Services, Education, and related agencies appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Labor-HHS Subcommittee Spending Totals—Conference

[Dollars in millions]

Bill summary	Budget authority	Outlays
Domestic discretionary	61,638	61,966
Senate 602(b) allocation	61,650	62,007
Difference	−12	−41
Defense discretionary	496	407
Senate 602(b) allocation	500	410
Difference	−4	−3
International	11	11
Senate 602(b) allocation	11	11
Difference	....	....
Mandatory total	170,664	169,915
Senate 602(b) allocation	170,664	169,915
Difference	0	0
Bill total	232,809	232,299
Senate 602(b) allocation	232,825	232,343
Difference	−16	−44
Domestic discretionary above (+) or below (−):		
President's request (CBO)	−499	167
House-passed bill	488	−158
Senate-reported bill	479	340
Senate-passed bill	−26	211
Defense discretionary above (+) or below (−):		
President's request (CBO)	496	407
House-passed bill	−4	−3
Senate-reported bill	−4	−3
Senate-passed bill	−4	−3
International above (+) or below (−):		
President's request (CBO)	....	....
House-passed bill	0	0
Senate-reported bill	0	0
Senate-passed bill	0	0

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement to H.R. 5677, the Labor, Health and Human Services and Education appropriations bill for fiscal year 1993.

The bill provides $213.8 billion in budget authority and $171.4 billion in new outlays for programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

When outlays from prior-year budget authority and other completed actions are taken into account, the bill, as adjusted, totals $232.8 billion in BA and $232.3 billion in outlays for fiscal year 1993.

Mr. President, I am very pleased to note that utilization of budget gimmicks such as delayed obligations and emergency contingency appropriations have been kept to a bare minimum in this conference agreement.

The conference agreement stays below its 602(b) allocation by $15.8 million in budget authority and $44.2 million in outlays, and by preliminary OMB estimates, will be at or below the levels of the President's request.

Mr. President, this has been a very tight year in terms of domestic discretionary appropriations. Nonetheless, I am pleased that some programs I am concerned about have gotten fairly good increases in funding for 1993 in the Labor-Health and Human Services conference report.

NATIONAL INSTITUTE OF MENTAL HEALTH

This conference report includes $585 million in funding for the NIMH, a 4.4-percent increase over 1992 funding.

During Senate consideration of this bill, I offered an amendment that the Senate adopted to increase funding for this Institute to the President's request of $596 million.

While I would have liked to see us fund NIMH at that level, I am grateful that the conferees provided NIMH with at least an inflation increase.

With this increase, NIMH can continue to carry out its very exciting research agenda that promises to help millions of American families suffering from severe mental illnesses.

This agenda includes implementation of the decade of the brain, the schizophrenia national research plan, the national plan for research on child and adolescent mental disorders, and the national plan of research to improve care for severe mental disorders.

HEALTH CARE FOR THE HOMELESS

The conference report also includes $58 million for health care for the homeless, a 4-percent increase over 1992 funding.

In the Senate, I offered an amendment that would have funded this program at $62 million in 1993.

Nonetheless, I am very encouraged that the conferees nearly split the difference between the House and Senate funding levels.

This program provides critical primary health care to homeless Americans, many of whom are mentally ill.

I hope that, as a first priority, the increase in funding can be used to make sure existing grantees can meet their objectives before too many new grantees are started up.

COMMUNITY HEALTH CENTERS

I was proud to be a cosponsor in the Senate of an amendment that added $40 million to the original Senate mark for community health centers.

These centers are simply the most cost-effective way we have available to spread access to essential primary health care services to needy Americans.

The conference report took half of that increase—$20 million—bringing 1993 funding to $559 million, or a 4.9-percent funding increase over 1992.

I believe dramatically expanding these health centers must be an integral part of health reform because so many Americans live in rural areas and poor communities that are underserved by doctors.

I introduced a bill last year that would double funding for these centers over the next 5 years, providing a 20-percent increase each year.

In 5 years, these centers could be providing primary care to 12 or 14 million Americans instead of the 6 million served today.

Although I am pleased that the conference report provided some increase, at the rate we are going, we will not provide the resources these centers need to serve the many millions of Americans who don't have good access to primary care.

We need to make these health centers a top priority for funding, particularly given the large and growing numbers of Americans without health insurance.

Mr. President, I appreciate the support of the conferees on the vitally important programs, and I urge adoption of this conference agreement.

Mr. HARKIN. Mr. President, we are prepared to yield back our time.

Mr. GORTON. Will the Senator yield?

Mr. HARKIN. Yes.

Mr. GORTON. Does the Senator know if the Senator from Florida desires to use his time?

Mr. HARKIN. I am about to propound a unanimous-consent request on that specific topic.

Mr. President, I ask unanimous consent, on the yielding back of all time on the managers' part, that the time reserved for the Senator from Florida be available after the conference report is adopted and the amendments in disagreement are disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN] is recognized.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time run equally on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I yield back the remainder of our time.

Mr. HARKIN. I yield back the remainder of our time.

The PRESIDING OFFICER. The question then occurs on agreeing to the conference report.

The conference report was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendments of the House to the amendments of the Senate in disagreement, considered and agreed to en bloc, are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$4,066,584,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$750,000 is appropriated for the Glass Ceiling Commission authorized by title II of the Civil Rights Act of 1991; and, in addition, $750,000 is appropriated for the National Center for the Workplace authorized by title XV, part A, of Public Law 102–325; and, in addition, $12,638,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$3,162,127,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$64,356,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$1,684,610,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $408,982,000: Provided, That of such amount, $2,000,000 shall be made available to carry out section 706 of the ADAMHA Reorganization Act, P.L. 102–321, in lieu of amounts that would otherwise be provided for such purpose under section 706(e) of such Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$991,805,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$48,591,000*

On page 25 of the House engrossed bill, H.R. 5677, strike all in line 19 and insert in lieu thereof the following: *National Institute of Nursing Research*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$192,763,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$109,608,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 68 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$2,023,524,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$960,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *: Provided, That no portion of amounts appropriated for the programs of the Department of Health and Human Services shall be available for obligation pursuant to section 571 of the Public Health Service Act, other than an amount of $3,000,000 from amounts appropriated to carry out section 510 of that Act*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$110,578,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$65,495,650,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$2,179,900,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended; the $2,179,900,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$16,009,657,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$4,899,142,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$200,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$812,000,000 shall be available in fiscal year 1994 and the remainder*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *Section 204(b)(4) of the Immigration Reform and Control Act of 1986 is amended by adding the following at the end thereof: "Any funds not expended by States by December 30, 1994 shall be reallocated by the Secretary to States which had expended their entire allotments, based on each State's percentage share of total unreimbursed legalized alien costs in all States. Funds made available to a State pursuant to the preceding sentence of this paragraph shall not remain available after June 30, 1995.".*

Section 204(b)(5) of the Immigration Reform and Control Act of 1986 is amended by striking the period at the end thereof and adding the following: ", Provided, That with respect to States in which total allowable unreimbursed State and local costs incurred prior to October 1, 1992 exceed $100,000,000 within each such State's allocation, the State shall first reimburse all allowable costs incurred between October 1, 1990, and October 1, 1992, before reimbursing costs incurred on or after October 1, 1992, except for State and local administrative costs and for costs of services required to enable aliens granted temporary residence under section 235A(a) of the Immigration and Nationality Act to attack citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act: Provided further, in reimbursing costs incurred prior to October 1, 1992, each State shall reimburse each provider at the same pro rata rate."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 95 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: On page 76 of the House engrossed bill, H.R. 5677, insert after line 19 the following: *SEC. 513. Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1993 shall, during fiscal year 1993, obligate and expend funds for consulting services in excess of an amount equal to 92 percent of the amount estimated to be obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1993; Provided, That notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1993 is reduced by an amount equal to 8 percent of the amount expected to be expended by such department, agency or instrumentality during fiscal year 1993 for consulting services. As used in this section, the term "consulting services" includes any services within the definition of "Advisory and Assistance Services" in the Office of Management and Budget Circular A–120, dated January 4, 1988.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$64,973,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 112 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *SEC. 216. Notwithstanding any other provision of this Act, funds appropriated under this Act for salaries and expenses of the Department of Health and Human Services are hereby reduced by $110,000,000: Provided, That the fiscal year 1994 budget justification material shall specify amounts budgeted for* *administrative costs within object classes 11 through 32 by appropriation account and by organizational entity, with comparisons to fiscal year 1993 comparable amounts.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 125 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$756,204,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 135 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken, amended to read as follows: *Provided further, That funds provided in this Act shall be available for assistance in defraying the costs of the education of military dependents as a result of temporary dislocations caused by transfers, return of military families from overseas, and closures of foreign and domestic bases, and $500,000,000 shall be made available to the Department of Defense, provided that this entire amount may be transferred to the Secretary of Education and merged with and made available under the Impact Aid program except that nothing in this proviso shall modify any provision of Public Law 81–815 or Public Law 81–874 including those provisions related to eligibility or payment levels for any student or school district*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 137 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$1,543,750,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$1,229,843,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$1,486,431,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 163 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *and part H of said title, $7,516,123,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 170 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *of which $1,000,000, which shall remain available until expended, shall be for the Commission on the Cost of Higher Education as authorized by part C of title XIV of the Higher Education Act and $1,000,000, which shall remain available until expended, shall be for the National Commission on Independent Higher Education authorized by part B of title XIV of said Act*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 171 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *including subpart 2 of part A and part D, XI*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 184 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$195,570,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 191 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$278,184,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 213 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *, of which $2,500,000 shall be for demonstration of online and dial-in access to a statewide, multitype library bibliographic database through a statewide fiber optic network housing a point of presence in every county, connecting library services in every municipality, to be awarded competitively*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 214 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert: *together with an additional $2,000,000 which shall be available for the expenses of non-Federal experts to review applications and proposals for competitive awards made by the Department*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 217 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matters inserted by said amendment, insert: *SEC. 307. ANNUAL LOAN LIMITS—*

(a) AMENDMENT.—Section 468 of the Higher Education Amendments of 1992 is amended—

(1) in paragraph (3), by striking "and" after the semicolon;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) the changes in section 464(a)(2) (A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1992 provided that the loan does not result in a violation of sections 464(a)(2) (A), (B) and (C) as in effect prior to such date of enactment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on July 23, 1992.

Resolved, That the House recede from its disagreement to the amendment to the Senate numbered 236 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *SEC. 511. Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by .8 per centum.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 237 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *SEC. 512. (a) Beginning in fiscal year 1994, and in each fiscal year thereafter, the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under section 1105 of title 31, United States Code.*

(b) For purposes of this section, consulting services include—

(1) management and professional support services;

(2) studies, analyses, and evaluations;

(3) engineering and technical services (excluding routine engineering services such as automated data processing and architect and engineering contracts); and

(4) research and development.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 238 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *514*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 239 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *SEC. 515. Funds appropriated in Public Law 102–170 for the National Commission on Children shall remain available until expended.*

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Iowa suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. NUNN. Mr. President, in a few moments I hope to lay before the Senate the conference report on H.R. 5006, the National Defense Authorization Act for Fiscal Year 1993.

This conference report authorizes programs for the Department of Defense, the national security programs of the Department of Energy, and civil defense for fiscal year 1993.

The conferees have worked very hard for the last month to resolve over 1,600 language and funding differences between the House and Senate versions of this bill. Since we did not complete action on this bill in the Senate until September 18, we had to finish a very difficult conference in a very compressed period of time.

I want to thank Chairman ASPIN, Congressman DICKINSON, and the other conferees from the House for their cooperation in this conference. I also want to thank my friend and colleague, Senator WARNER, the ranking minority member of the Armed Services Committee, and all of the members of the Armed Services Committee, for their cooperation and support throughout the conference.

This conference agreement provides the legislative framework to continue the process of reshaping the U.S. Defense Establishment for a post-cold-war world. It contains a range of initiatives to assist individuals, communities, and businesses in adjusting to the effects of the defense drawdown. It requires and promotes an across-the-board review of military roles and missions. It calls for increased civilian-military cooperation to meet some of the critical needs in cities and communities across the Nation.

BUDGET IMPACT OF THE CONFERENCE AGREEMENT

This conference agreement authorizes a total of $274.3 billion in budget authority for the national defense function for fiscal year 1993. This is $7.2 billion below the President's amended budget request, and $3.1 billion below the level contained in the budget resolution for fiscal year 1993. This is also $200 million lower than the level contained in the Senate bill which we passed 2 weeks ago.

In outlays, the bill is $3 billion below the budget request and $1 billion below the budget resolution level.

The result is that, once again, the defense funding level for fiscal year 1993 is below the level agreed to in the Budget Summit agreement of 2 years ago, below the President's budget request in January, and below the level of the budget resolution adopted by Congress in the spring.

MAJOR CONFERENCE ISSUES

Mr. President, this is one of the most complex and far-reaching defense authorization conference reports in recent years. I won't take the time to list all of the provisions in the agreement; the conference report was printed in the CONGRESSIONAL RECORD for Thursday, October 1, I will take just a few minutes today to summarize some of the major provisions in this legislation.

ASSISTING PERSONNEL, COMMUNITIES AND THE INDUSTRIAL BASE IN ADJUSTING TO THE DEFENSE DRAWDOWN

In my view some of the most important provisions in this conference agreement are in the area of defense conversion and transition.

Earlier this year, a Democratic Task Force on Defense Transition headed by Senator PRYOR and a Republican Task Force on Adjusting the Defense Base headed by Senator RUDMAN made a series of recommendations to address the problems associated with the downsizing of our defense establishment. The Defense authorization bill passed by the Senate 2 weeks ago included a broad range of conversion and transition programs, and the House bill also had very detailed legislative proposals in this area.

This conference agreement authorizes a total of $1.5 billion for defense conversion assistance to individuals, communities, and the industrial base. Included in this total is $463 million for the up-front accrual costs, if implemented, of early retirement incentives for military members. Over the 5-year transition period, these incentives will produce a net savings of $1.1 billion due to reductions in the number of senior military personnel on active duty.

In the area of personnel transition initiatives, the conference agreement:

Authorizes active duty personnel in nontransferable skills, such as combat arms, to apply for up to 1 year of educational leave of absence to obtain civilian skill training.

Authorizes active duty personnel in surplus categories who have 15 but less than 20 years of service to apply for early retirement, and to accrue additional military retirement credit if they take critical jobs in areas such as education, law enforcement, and health care.

Authorizes selected reservists in surplus categories who have 15 but less than 20 years of service to apply for reserve retirement, with benefits commencing at age 60.

Authorizes selected reservists who have at least 20 years of service to apply for an immediate, reduced retirement annuity.

Authorizes separation pay for selected reservists who are involuntarily separated.

Continues Reserve GI bill assistance for selected reservists who are involuntarily separated.

Authorizes Job Training Partnership Act assistance for DOD civilian employees 12 months in advance of a base closure or realignment.

Authorizes a resignation incentive of up to $25,000, and an early retirement incentive of up to $25,000, for DOD civilian employees in surplus skill categories and for employees at military installations facing closure or realignment.

Authorizes DOD to pay for up to 18 months the Government's contribution for a Federal health insurance plan for a DOD civilian employee who is involuntarily separated due to a reduction-in-force.

Authorizes $50 million for DOD support for the Department of Labor's worker relocation and training programs under the Job Training Partnership Act.

To assist communities in dealing with the problems of defense transition and conversion, the conference agreement:

Adds $50 million to the $4.9 million requested for the DOD Office of Economic Adjustment for planning grants to communities adversely affected by the closure of military installations or the drawdown of defense business.

Authorizes $80 million for economic development grants administered by the Department of Commerce's Economic Development Administration for the capital investment needs of communities adversely affected by base or defense plant closures.

Authorizes $50 million for DOD to make supplemental grants to local school districts with large numbers of DOD dependents to mitigate the effect of the dependents on the districts, and $8 million for payments to local school districts that are losing large numbers of DOD dependents through base closures or realignments.

In the area of defense industry and technology, the conference agreement:

Authorizes $100 million for dual-use critical technology partnerships to stimulate industry investment in vital defense technologies.

Authorizes $50 million for commercial-military integration partnerships to foster the development of commercial technologies that can also meet future reconstitution requirements and other needs of DOD.

Authorizes $100 million for regional technology alliances to promote the development of products that build upon regional strengths in particular industries and technologies.

Authorizes $25 million for defense advanced manufacturing technology partnerships to encourage government-industry cooperative efforts in manufacturing technologies, especially those which would significantly reduce the health, safety, and environmental hazards of existing manufacturing processes.

Authorizes $100 million for Defense manufacturing extension programs to support the manufacturing programs of regions, States, local governments, and private, nonprofit organizations.

Authorizes $30 million for manufacturing engineering education programs.

Authorizes $200 million for dual-use technology and industrial base extension programs. This will enable the Secretary of Defense, working with the Secretaries of Energy and Commerce, to support programs sponsored by the Federal Government, regions, States, local governments, nonprofit organizations, and private entities that assist defense-dependent companies in acquiring dual-use capabilities.

Requires cost-sharing from non-Federal sources for all the technology and industrial base programs.

Expands the Small Business Innovative Research Program, which uses a percentage of funds from each agency's research and development budget to fund research proposals from small business concerns. DOD and other agencies will increase their share from the current rate of 1.25 percent to 1.5 percent in fiscal year 1994, with annual increases of .25 percent each year until reaching 2.5 percent in fiscal year 1998.

Establishes a DOD office of technology transition which would be responsible for monitoring DOD research and development activities; identifying activities that have potential commercial applications; serving as a clearinghouse to facilitate the transition of technologies to the private sector; and assisting firms with regulatory problems associated with technology transition.

COMPREHENSIVE REVIEW OF ROLES AND MISSIONS IN DOD

Mr. President, our committee had a major initiative in this bill to address the long-standing problem of the assignment of roles and mission to the military services.

I outlined in a speech earlier this year the redundancy and duplication in the current allocation of the roles and missions of the services, and I outlined some of the considerations and questions that needed to be answered which I believe have the potential of saving not millions or hundreds of millions but billions of dollars every year for the taxpayers.

This conference report emphasizes the need for a comprehensive, no-holds-barred review of roles and missions of the military services in the Department of Defense; outlines areas for review; and requires the JCS Chairman's roles and missions report mandated by the Goldwater-Nichols Department of Defense Reorganization Act, together with the Secretary of Defense's views, to be submitted to Congress.

In addition, the conference agreement:

Retains funding for continued operation of EF-111 standoff jammer aircraft only if the roles and missions study justifies continued operations and the Air Force fully budgets for the cost of the EF-111 fleet in the fiscal year 1994-99 future year defense program.

Prohibits obligation of more than 65 percent of funds authorized for major new tactical aircraft until 60 days after Congress receives the roles and mission review and a comprehensive affordability assessment of tactical aviation modernization.

Expresses the sense of Congress that the Army and Marine Corps should seek ways to complement each other's capabilities and should emphasize areas in which each service has a comparative advantage and directs the JCS Chairman to examine the integration and cooperation of Marine Corps and Army capabilities in his roles and missions review.

Removes legislative restrictions on the Defense Department's ability to compete maintenance workload between DOD depots and the private sector during fiscal year 1993.

Requires a competition between Navy EP-3 and Air Force RC-135 tactical intelligence aircraft by transferring the requested upgrade funds to a central account and requiring the Secretary of Defense to select only one aircraft to be upgraded.

Requires a plan to restructure the budget and missions of the Defense Nuclear Agency to reflect the deemphasis on nuclear weapons and the application of unique Agency expertise to other defense problems.

CIVILIAN MILITARY COOPERATIVE ACTION PROGRAM

A third major initiative in the Senate bill that was adopted by the conference is the establishment of a civilian-military cooperative action program. This program will build on a variety of past DOD efforts and encourage the military services to provide assistance, consistent with their military mission, to civilian projects that address critical domestic problems in areas such as health care, nutrition, education, and infrastructure. The military's efforts under this program will be structured to fill needs that are not otherwise being met, and to provide this assistance in a manner that does not compete with the private sector or with services provided by other Government agencies.

Mr. President, the relief activities of the military following Hurricane Andrew represent the type of domestic role that the committee had in mind in establishing the Civilian-Military Cooperative Action Program. The Defense Department's assistance in south Florida makes use of equipment and facilities that were acquired for military purposes; it employs the Armed Forces in activities that provide real training and improve the readiness and morale of the troops and units involved; and it provides assistance that is not otherwise available from the private sector or from other Federal agencies. The Civilian-Military Cooperative Action Program will encourage these kinds of activities by the military services to assist civilian agencies and local communities around the country on an ongoing basis.

INCREASING EFFICIENCY AND REDUCING COSTS OF DOD OPERATIONS

The Armed Services Committee made a concerted effort this year to increase the efficiency and reduce the costs of operations throughout the Defense Department. Many of the funding adjustments recommended by the committee and adopted by the conferees are based on recommendations made by the General Accounting Office; the DOD inspector general; and the military service audit agencies.

The conferees:

Adopted a major initiative to improve DOD inventory management that results in savings of $3 billion in fiscal year 1993.

Authorized the sale of large amounts of material which the Defense Department has determined are no longer required in the National Defense Stockpile. Projected revenues from these sales are approximately $500 million in fiscal year 1993 and $600 million in fiscal 1994.

Reduced recruiting support costs by 5 percent or $24 million; required a 10-percent reduction in the number of military personnel serving in recruiting activities over the next 2 years; and directed the Navy and Air Force to consider consolidating their active and reserve recruiting functions into a single organization like the Army and Marine Corps.

Required DOD to submit a plan to reduce the cost of space systems, space launch capabilities and space-related control activities by 15 percent below the current baseline of planned expenditures.

Reduced funds for administrative travel (-$200 million); consultants (-$45 million); printing and reproduction costs (-$16 million); and administrative airlift flying hours (-$18 million).

Reduced funds for classroom training and education programs for military members (-$100 million) to reflect lower force levels.

INCREASING UTILIZATION OF THE NATIONAL GUARD AND RESERVE FORCES

The conferees' recommendations on the National Guard and Reserves are intended to maintain robust forces that would emphasize small unit combat, combat support, and combat service support roles. The conferees also recognized that in peacetime, National Guard and Reserve Forces should assist civic improvement programs consistent with military training requirements.

The conference agreement moderates the requested reductions in National Guard and Reserve components to allow time for DOD to realign their roles and missions. It also authorizes the Chief of the National Guard Bureau to enter into an agreement with the Governors of one or more States to carry out a pilot program during fiscal years 1993 and 1994 for National Guardsmen to conduct training by providing health care to medically undeserved populations in those States.

TACTICAL AIRCRAFT MODERNIZATION PROGRAMS

One of the most difficult issues facing the conferees was in the area of tactical aviation modernization. The military services currently have earmarked more funds for tactical aircraft modernization than for any other combat mission. Five major tactical aircraft currently on the drawing boards would require over $6 billion in fiscal year 1993 and over $400 billion in total investment costs over the next 20 years.

The conferees outlined a comprehensive framework for analyzing the future direction of tactical aviation modernization.

It is very apparent, Mr. President, to anybody who studies that there is no way in our current fiscal environment that all of these aircraft can be afforded. The question is which ones can be afforded and can we rationalize this so we can avoid duplication and save billions of dollars.

The framework in this conference report calls for a through review of Service roles and missions to determine overall requirements, and a detailed affordability analysis of various modernization alternatives. Funding for the F-22, AX and F-18E/F in fiscal year 1993 would be limited until that analysis is completed.

On specific programs in the fiscal year 1993 budget, the conference agreement:

Authorizes the budget request of $2.2 billion for the F-22 Air Force fighter.

Authorizes the budget request of $165 million to initiate a competitive prototype development of the AX long-range bomber.

Authorizes $943.6 million (a reduction of $190 million from the budget request) for development of the F-18E/F aircraft; restricts the funds until DOD caps the development and production costs and conducts a cost and operational effectiveness analysis; and prohibits entering production until flight tests prove the air worthiness of the aircraft.

Continues development of the RAH-66 Comanche Army helicopter, but with a requirement that the full development costs must be included in the future year defense plan before all the funds can be obligated, and accelerates modification of the existing AH-64 Apache helicopter fleet.

Scales back procurement of the existing F-18C/D aircraft—a reduction of $580 million from the budget request—in light of prospective consolidation of Navy and Marine Corps F-18 squadrons.

Authorizes the budget request of $683.2 million for 24 F-16 aircraft in fiscal year 1993, and directs that no funds could be used for advance procurement unless the tactical aviation modernization studies justify continued production of the F-16.

STRATEGIC PROGRAMS

Every defense authorization conference seems to have vigorous debates on the B-2 and SDI programs, and this conference was no exception.

The conferees authorized a total of $2.7 billion to complete the B-2 program at 20 aircraft. Of this total, $900 million can be obligated without any restrictions in order to assure that there will be no break in production. The remaining $1.8 billion cannot be obligated until a number of performance and cost certifications and reports have been provided to the congressional defense committees, and a subsequent vote by both the Senate and the House of Representatives permits obligation of these funds.

The conference report authorizes a total of $4.05 billion for SDI, including $1.1 billion for theater missile defenses, which we have reorganized into a separate theater missile defense initiative [TMDI]; $2 billion for development of an initial treaty-compliant ABM system; and $300 million for work on the Brilliant Pebbles space-based interceptor program. Total funding for SDI and TMDI is $1.35 billion below the President's budget request.

One of our top priorities in acting on the SDI program this year was to reduce the level of technical risk and concurrency that SDIO had built into their planning. In the future, the program must be conducted according to sound acquisition procedures, including not committing to production or development until adequate testing has been completed. In this regard, the conferees deleted last year's 1996 target date for deployment of the first ABM site—a date which last year had been represented to us as realistic but which turned out to be clearly impractical. We now anticipate that the initial, treaty-compliant ABM deployment would likely occur in the 2002-2003 timeframe, but that depends on the availability of appropriate technology and the results of the test program.

SDIO has identified an option for fielding some test missile prototypes and a test radar at the first site on an earlier timetable. In the conference report we do not prohibit them from planning for these options, but we have included a provision in lawmaking it clear that we have not authorized SDIO to exercise any such option. Whether we might at some point in the future authorize an early deployment using test prototypes—as we did with the JSTARS radar surveillance aircraft during the gulf war—will depend on the development of the test program, the maturity of the technology, and our assessment of the threat.

The conference report also incorporates an important change in the Brilliant Pebbles Program. I have been concerned that SDIO continued to spend excessive amounts on this program, despite Congress' clear direction last year excluding it from the architecture for the multiple-site limited defense system. Since that eventual multisite system will not likely be completed until the second half of the next decade—in other words, sometime after 2005—there is no need to develop Brilliant Pebbles for possible deployment any sooner.

We had considerable debate in the conference on the space-based interceptor funding level. We finally settled on $300 million for fiscal year 1993. That level is $275 million below the administration's request and $160 million below last year's appropriation. This action puts the Brilliant Pebbles funding profile on a downward slope, a course I believe is fully justified given the uncertainty over how and where this option might fit into the picture.

In other SDI-related action, the conferees added language to last year's Missile Defense Act making it clear that Congress expects any U.S. ABM deployments to comply with the ABM Treaty as it now exists or may be amended. We directed DOD to transfer out of SDI and back to DARPA or the military services those far-term, follow-on technologies, such as lasers, which are not expected to be available for incorporation in operational weapons in the next 10 to 15 years. Finally, we put a cap of $135 million on SDIO contracts for headquarters support services. Last year, SDIO spent $160 million on such contracts, a level the conferees felt was clearly excessive.

OTHER CONFERENCE INITIATIVES

Mr. President, I want to briefly mention several other conference provisions.

I am pleased that the conferees agreed to the Senate provision that expands the 1991 Soviet Nuclear Threat Reduction Act by authorizing United States assistance for demilitarization of the former Soviet Union and for expanded military-to-military contacts. The conference report also increases the Defense Department's authority to transfer funds from other areas for these so-called Nunn-Lugar initiatives from the current level of $400 to $800 million.

I am also pleased that the conferees agreed to authorize several military- and civilian-based youth opportunities programs that were included in the Senate bill. The military-based programs will be operated by the National Guard, and the civilian-based programs by the Commission on National and Community Service. The objective of these programs will be to improve the life skills and employment potential of at-risk young people through training and work in community service projects. I want to acknowledge the contributions of Senator BYRD in developing the National Guard-Based Program, and Senators BOREN and KENNEDY in developing the civilian-based program.

The conferees also authorized the expansion of the Junior Reserve Office Training Corps [JROTC] that we have in our high schools from 1,600 to 3,500 units. This is a very popular and effective program that gives young people a sense of discipline, self respect and accomplishment. Gen. Colin Powell, who himself is a role model for young people throughout our country, played a key role in encouraging this initiative.

Finally, Mr. President, I want to briefly mention two provisions that are not in this conference report.

The conferees agreed not to include any limitations on U.S. nuclear weapons testing in this conference report since Congress has already enacted legislation in this area in the Fiscal Year 1993 Energy and Water Development Appropriations Act. Also, during the conference the House conferees indicated that the House is expected to take up the Senate-passed bill, S. 3144, authorizing reproductive health services, including abortions, for military members and their dependents stationed overseas in military medical facilities on a reimbursable basis. For this reason, the conferees decided not to include any legislation on this subject in this conference report. I understand that this bill, S. 3144, passed the House earlier this afternoon.

CONCLUSION

In closing, Mr. President, I want to thank again all of the members of the Armed Services Committee for their diligent work throughout the year on this bill through the whole year. As usual on a bill of this size, the chairmen and ranking minority members of the subcommittees performed the lion's share of the work of the conference.

I want to say a special word of thanks to my close friend and colleague, the Senator from Virginia, the ranking minority member of the committee.

The Senator from Virginia has been a stalwart on this bill, as he has on every other bill since he has been on the committee. He will continue to be a vital part of our Armed Services Committee. He will not be ranking member next year. Senator THURMOND will be taking that post. I look forward to working with Senator THURMOND.

I can only say no one as chairman of a committee could have had a better partner, a better colleague, and a more trusted individual to do business with. When we agreed, we worked closely; when we disagreed, we put the cards on the table. No one can ask for a better relationship.

The Senator from Virginia will continue a vital role in the U.S. Senate. He will still be a vital part of our committee. He will be, we hope on the Democratic side, the ranking member on the Intelligence Committee next year. Of course, he hopes he will be chairman, but the voters will determine that in November. In any event, he will be playing an important role, and I thank him for his stalwart efforts on the part of every man and woman who serve in the military, on the part of our national security and on the part of the taxpayers of this Nation.

I want to thank the staffs of both the House and Senate Armed Services Committees for their untiring and professional efforts on this bill. I also want to add a special note of appreciation to Greg Scott and Charlie Armstrong of the Senate legislative counsel, and Bob Cover, Sherry Chriss, and Creg Kostka of the House legislative counsel for their work on this bill.

Mr. President, this conference report represents the culmination of a great deal of hard work by many Senators. It is a good bill which continues the process of reducing and restructuring our defense establishment in an orderly way, and I urge my colleagues to support it.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I am especially pleased that my distinguished colleagues on the Senate Armed Services Committee have increased the very successful Department of Defense Transition Assistance Program.

The Transition Assistance Program has proven itself to be one of the most successful first steps for active duty men and women moving from the military to civilian life. It helps those soon to leave the service with counseling on job search and employment skills for the private sector. It ensures that they know what health and insurance benefits they have for themselves and their families. It provides information on private sector programs available to them in regard to retraining, education, and employment opportunities. And it also gives them counseling on how to look for a new career.

The program has been universally applauded by both the service members and those who have the responsibility to administer it. Up to now, the only problem that the program had was that budget constraints made it impossible to reach all department service members.

With the passage of the Defense authorization bill, the Transition Assistance Program will be expanded through 1995 to meet the increased demands created by the force reductions.

I congratulate my colleagues on the Senate Armed Services Committee for their efforts to bring this important program to the many deserving men and women who will need its services over the next 2 years.

Mr. WARNER. Mr. President, I certainly thank my good friend of many years, 14 to be exact and many before that when I was Secretary of the Navy. We worked together and we have been a good team, if I may say with some modesty. We will continue. I will happily remain on the committee.

Senator THURMOND, a man of unparalleled background in military affairs, I think one of the last Members, if not the last member of the U.S. Senate to have gone across the beaches at Normandy, will quite rightfully assume his place as ranking member on the leadership of the committee, in all probability, but that still remains to be seen, pending the outcome of the elections. But for the moment, we are all happy that Senator THURMOND at long last will take on this responsibility. It is one he has weighed very heavily in years past when he has allowed Senator Goldwater, Senator Tower, and myself to take over leadership positions which he was rightfully entitled to under the rules of our caucus.

I thank my good friend for the kind remarks. We are about to pass a historic bill on behalf of the men and women of the Armed Forces. A month to 6 weeks ago, Mr. President, I did not think this bill could pass for a variety of reasons. But our chairman tenaciously worked in a bipartisan manner, worked with the President and the President's White House staff, the Secretary of Defense, Members on both sides of the aisle and this bill is a great credit to his leadership.

This bill is a credit to his leadership in being able to resolve very serious issues on which there were credible and honest differences of opinion. But we succeeded. We succeeded and momentarily we will pass that bill.

Mr. President, I join our distinguished chairman, the Senator from Georgia, in expressing our appreciation to the Members of the Senate Armed Services Committee. I noted just a moment ago that the Senator from Illinois [Mr. DIXON] was on the floor. He may reappear. I see the distinguished senior Senator from South Carolina present.

We work as a team, and I think we carried forth with our responsibility, to the extent it can be achieved in a legislative body, working in a nonpartisan manner on behalf of the men and women of the Armed Forces and our overall defense posture for the United States.

I join with the distinguished Senator from Georgia in expressing my thanks and appreciation, again, to all of our colleagues in the Senate and the House Armed Services Committee under the leadership of Mr. ASPIN and Mr. DICKINSON—Mr. DICKINSON, likewise, will soon be retiring—for their cooperation in achieving a final resolution of the differences between the two Houses on the fiscal year 1993 defense authorization bill.

I also want to express my appreciation to the members on both the majority and minority staff of the Senate Armed Services Committee, together with members of the staff of the House Armed Services Committee and the military representatives who take care of the individual members on the committee with respect to their particular needs.

We all, as I say, operate as a team, and I think this year we have achieved another excellent piece of legislation which is in the interest of our Nation.

Within this conference agreement, we have made every effort to ensure that our military services continue to maintain the high standards of effectiveness we have grown to expect of them as we adjust to reduced defense budgets and reduced defense threats to our national security. Thruout this process we were continually mindful of the difficulties these sweeping changes impose on our military personnel and their families, our DOD civilians and the men and women in our defense industries.

After extended discussion, the conferees agreed on a diversified program to assist personnel, communities, and the industrial base in adjusting to the post-cold-war defense drawdown. The initiatives authorized in this bill are available to the Secretary of Defense to use at his discretion as a tool in managing the potentially adverse impact of reductions in defense spending. I am sure the Secretary will use these authorities wisely and with compassion for those whose livelihoods will be affected in the coming years; and that is both men and women in uniform, DOD personnel and again men and women in the defense industry.

Mr. President, I am particularly pleased that the conferees agreed to authorize the full request for long-lead funding for the next replacement aircraft carrier, CVN-76. This is a matter on which I, Senator ROBB, and indeed all members of the Virginia delegation in the House of Representatives as a team worked very hard for, not just this year but for several years. I thank our colleagues, both in the Senate and in the House for making this possible.

The action of the conferees is fully consistent with and lays the foundation for the Navy's plan for full authorization of the carrier in fiscal year 1995. Construction of this ship is essential, in my judgment and the judgment of others, to maintain the modernization program for the Navy's carrier fleet, requiring retirement of older ships and replacement of the new carriers into the next century.

Recently we just retired the USS *Midway* after over 40 years of service, all over the world. A carrier is a small island of the United States, and is free to move anywhere in international waters at any time. Throughout our history Presidents have been awakened in the middle of the night to face a crisis and often their first question is, "Where is this crisis, and where is the nearest U.S. carrier which I may wish to direct to help that crisis?"

Carriers are the most flexible element of our overall force structure to provide the backbone for our forward deployed forces. Moreover, this year's funding is essential to maintain the nuclear power industrial base, particularly since no other nuclear-powered ships are now on order. Two Virginia facilities work on nuclear ships: the nuclear shipbuilding at Newport News Shipbuilding, and the nuclear powerplant work at the facilities of Babcock-Wilcox in Lynchburg, VA. These facilities are essential to maintain this industrial base. Construction of this ship in 1995 is important for maintaining our shipbuilding, and this industrial base. The aircraft carrier is an important program for Virginia, but more important it is vital to the future security of our Nation.

AVIATION

With respect to tactical aviation modernization issues, the conferees created a modernization yardstick by which to judge the acquisition of tactical aircraft, based on future defense needs and balanced by the reality of defense budget constraints. The role of tactical aircraft has long been seen throughout the world as one of the United States greatest strengths. This bill, I believe, both preserves and perpetuates that strength.

The conferees agreed to authorize the 20-aircraft B-2 bomber fleet. This action will keep the B-2 production line moving, thereby avoiding a break that could increase the cost of the program. I have confidence that the performance tests will be satisfactory and that the B-2 Program will finally be completed.

MISSILE DEFENSES AND SPACE

Mr. President, I am pleased that the conferees agreed to authorize more than $4 billion for missile defense programs. The restructured program is proceeding in accordance with the Congress' direction in the Missile Defense Act of 1991 to provide a measure of protection to Americans from limited strikes of ballistic missiles.

Mr. President, let me now turn to the issue of space. Regardless of force size, DOD will continue to require space-based communications, missile warning, surveillance, navigation, and weather forecasting. In order to meet these requirements, DOD currently spends about 15 percent of its total investment funding, that is, procurement and R&D funding on space-based systems, a level of funding which is 20 percent greater than the total investment budget of the Army. Moreover, DOD projects that investment in space systems will continue to increase over the future years defense plan.

Recognizing the growing operational and budgetary significance of space, the conferees emphasized the need for increased administration and congressional focus on space issues. The conferees, in the statement of managers, incorporated language from the Senate report directing the Secretary of Defense to develop an integrated space strategy in order to ensure proper funding of high priority efforts, to contain costs, to integrate promising technologies, and to increase launch and spacecraft availability. The conferees look forward to receiving the Secretary's report, which is due on April 15 of next year, so that we may take into account his recommendations on these important matters.

JROTC

Mr. President, one of the most significant items in this conference agreement is the increased authorization for the Junior Reserve Officers Training Corps [JROTC]. At the time the Senate Armed Services Committee was studying ways to better utilize the talents and resources of our military services to help the young people of our country, Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, recommended to the President and to our committee that we consider a major expansion of the Junior ROTC Program. An examination of the JROTC Program convinced us that General Powell's recommendation was on target.

The JROTC Program currently provides leadership and citizenship training to approximately 225,000 cadets in schools across the United States and its territories and in the Department of Defense School System. The mission of the JROTC is: "To Motivate Young People to be Better Americans." This mission has remained unchanged for 75 years since the National Defense Act of 1916 established this important program.

The JROTC Program is structured to develop personal responsibility and qualities of integrity, loyalty, patriotism, and dedication in members of the cadet corps. The program stresses the importance of self-discipline and offers a support structure designed to help cadets avoid drugs, alcohol, and other harmful activities plaguing our schools. Cadets are taught methods of heightening self-image and are steered toward positive, productive behavior as an alternative to gang membership, as well as an added incentive to stay in school and graduate.

A key indicator of the program's success is that senior JROTC cadets generally graduate from high school at a rate up to 20 percent higher than other seniors. Since graduation from high school correlates strongly with success later in life, the JROTC Program is considered extremely valuable in the positive development of young people of high school age.

To qualify as a JROTC cadet, a student must be physically fit, at least 14 years old, of good moral character, and maintain an acceptable standard of academic achievement.

JROTC instructors are selected from the most qualified retired officers and noncommissioned officers. These instructors provide extremely positive role models for young cadets in the program. At a time when many highly qualified military personnel are retiring from the service earlier than they might have planned as a result of the sharp reductions underway in the military services, an expansion of the JROTC Program provides not only substantial benefits for the young people of our Nation, but also creates increased job opportunities for many military retirees within their area of experience. Although instructors must be certified by the respective military services, they are actually employees of the individual school system. These instructors receive their military retired pay plus the difference between their retired pay and what their pay and allowances would have been if they remained on active duty. The military service and the high school each pay one-half of the difference.

I am personally aware of an outstanding JROTC instructor, Commander Ronald A. Wild (ret.) from Southhampton, NY, who is an instructor in the JROTC Program at William Floyd High School in Mystic Beach, NY. I assure my colleagues that if Commander Wild is typical of JROTC instructors, then the Nation is very well served by the JROTC Program and will benefit significantly from its expansion.

The President announced on August 24 of this year his plan to expand the JROTC Program by approximately doubling the number of JROTC units from about 1,500 up to 2,900. By adopting this conference report, the Congress will provide the necessary authorization for a total of 3,500 JROTC units.

ENVIRONMENTAL ISSUES

Mr. President, I have some concerns about the conferees' actions on environmental issues. While total defense spending is declining, spending on environmental cleanup and research continues to grow. The Department of Defense is attempting to live within a limited defense budget by reducing infrastructure costs and closing unnecessary bases. But real savings do not materialize until the base is closed, the property is closed, the property is cleaned to agreed environmental standards, and the property is transferred out of DOD's control.

One major problem in this process is the long lag-time between the base closure decision and the actual transfer of the base, at which time no additional DOD expenditures are required. To reduce this time, several actions must be coordinated. One such action would be to speed the process of assessing environmental cleanup requirements, finalizing a contract with an environmental cleanup company, and beginning the cleanup operation in a timely manner. Unfortunately, major environmental cleanup contracts are somewhat reluctant to move swiftly in this area because of potentially heavy liability risks and insufficient insurance to cover the increased risks.

The Department currently lists over 17,000 sites at over 1,800 installations nationwide where environmental cleanup activities may be necessary. DOD depends upon private industry for the expertise and technology to restore these sites to accepted environmental standards. However, many environmental restoration contractors are concerned about their potential exposure to substantial legal and financial liability resulting from association with DOD's waste cleanup programs. These firms are not willing to risk their businesses, even with the enormous dollar amount of potential contracts available for these activities.

Most of the firms with the expertise and technology to deal with the large scope of the DOD cleanup program have made it clear that they will not participate in DOD contracts without adequate liability protection.

Mr. President, the Senate-passed bill included a provision to authorize contractor indemnification, which could have provided an incentive for major contractors to participate in the cleanup process. Unfortunately, the conferees chose not to accept the Senate position and, instead, directed yet another study of the need for indemnification. As a result of the conference position, a substantial part of the DOD cleanup effort will be delayed at least until next year at the earliest, and the most-qualified environmental restoration firms are not likely to participate.

Mr. President, this issue has been under study for years, but the Department of Defense has yet to propose a policy on contractor indemnification. The latest study directed by the conferees must be submitted to the Armed Services Committee by May 15 of next year.

Mr. President, the Congress has an obligation to the public to ensure that the environmental cleanup of these sites proceeds as safely, rapidly, and effectively as possible. The Armed Services Committees will continue to oversee DOD's progress in this area. I will urge my colleagues next year to take decisive action on the indemnification issue to ensure that this obstacle to proceeding with DOD's environmental restoration program is removed.

BURDENSHARING ISSUES

Mr. President, the conference report includes a number of provisions dealing with relations with our friends and allies around the world. The most controversial of these were the provisions on burdensharing. As my colleagues know, the House bill contained a number of burdensharing provisions which called for drastic and rapid cuts in U.S. troop strengths overseas, and reductions as high as $3.5 billion in U.S. spending on overseas basing activities in fiscal year 1993. In my opinion, and that of a majority of the Senate conferees, the House burdensharing package would have seriously damaged U.S. relations with our allies, as well as the quality of life of U.S. troops stationed overseas.

The conferees agreed to a carefully craft compromise on these issues that addresses the belief that our allies should do more to offset the cost of deploying U.S. forces overseas, without losing sight of the fact that U.S. troops are stationed overseas first and foremost because it is in our national security interest to do so. The conferees agreed to require a reduction in U.S. spending on overseas operation and maintenance and military construction of $500 million, or approximately 5 percent, from the requested level; call on the President to enter into agreements which would require our allies to assume an increased share of the costs of U.S. military installations overseas; reduce U.S. troops in Europe to a level of 100,000 by the end of fiscal year 1996; and reduce the overall level of U.S. forces permanently stationed overseas to 60 percent of its fiscal year 1992 level by the end of fiscal year 1996.

Mr. President, I endorse the decisions of the conferees in reaching agreement on the many issues in disagreement between the two Houses, and I urge my colleagues to vote in favor of the conference report.

Mr. DOMENICI. I am extremely pleased that the conference committee included language that provides equitable treatment of spouses or former spouses of Armed Forces members who are terminated as a result of misconduct of the member or former member involving abuse of that member's dependent.

This rectifies an omission of present law that prohibits an abused family from receiving the benefits to which it would have otherwise been entitled had the abuse never occurred.

Simply said, this provision corrects an injustice suffered only by military families. This language now provides some measures of relief for those who have experienced dual hardships: The abuse itself and the adverse financial consequences for disclosing the abuse.

I sincerely appreciate the efforts of the chairman of the Armed Services Committee for ensuring that these families receive the benefits they have so rightfully earned.

Upon review of this language, I would like to ensure that I understand certain provisions of this legislation.

First, it is my understanding that a spouse or former spouse is eligible to receive a portion of retirement benefits providing there is a court order for the spouse or former spouse to receive such payments. The court orders may include such orders as a separation agreement, a divorce decree, an order for separate maintenance, a modification of a final decree of divorce, or an order to set aside a decree. Further, it is my understanding that the requirement to provide such an order in no way implies that a spouse is required to divorce or seek a divorce to be eligible to receive such benefits.

Mr. NUNN. That is correct. The bill uses the definition in 10 U.S.C. 1408(a)(2), which includes a court order involving a legal separation, as well as a divorce.

Mr. DOMENICI. Second, it is my understanding that this language covers all dependents who were victims of abuse, including a spouse, a former spouse, and a dependent child of a former member of the armed forces. Therefore, these dependents are eligible to receive such benefits as medical and dental care, commissary and exchange store privileges, and any other benefits deemed appropriate.

Mr. NUNN. I agree. The purpose of this provision is to provide the dependents of the former member with the same benefits as would have been provided under the Former Spouse Protection Act if the member had been retired rather than discharged.

Mr. DOMENICI. Third, it is my understanding that it is the intent of this language that no payments will accrue to a spouse or former spouse prior to the date of enactment of this act. Using a hypothetical case, this means that a spouse or former spouse who was separated or divorced from an Armed Services member in 1989, and now makes an application to the Secretary concerned with an acceptable court order obtained subsequent to enactment of this act, will be eligible for benefits assuming all other conditions of the act have been met, as of the date of service upon the Secretary. We anticipate that the certification of the amount due will be issued expeditiously by the Secretary.

Mr. NUNN. That is the intent of the conferees.

Mr. DOMENICI. Fourth, I would like to note that as passed by the Senate, the amendment requested a specific study by the Department of Defense for transmittal to Congress no later than February 28, 1992. It was the intent that this study would be all-inclusive relative to Armed Forces members, regardless of the years of service.

To this end, I note that the revised conference report language does not require this study to be transmitted to Congress until December 15, 1993. I would like to suggest strongly that every possible attempt be made to provide this report as expeditiously as possible before the required date of transmittal, preferably no later than June 15, 1993. I do not believe this should prove to be a difficult task. Given the seriousness of this issue for families of Armed Forces members who are not retirement-eligible, every effort must be made to ensure that we quickly address the problems for this special group of people, as noted by both the chairman and ranking minority member for the Armed Services Committee during the Senate debate of this matter.

Mr. NUNN. I agree that every effort should be made to complete the study expeditiously and transmit it to Congress by next June.

I commend my friend, the Senator from New Mexico, for bringing this problem to the attention of the Senate. He has made a vital contribution, and I believe the conference agreement will do much to assist in addressing the serious problem of spouse and child abuse. I appreciate the opportunity to clarify my understanding of the intent of these provisions.

Mr. DOMENICI. I thank my good friend, the distinguished Senator from Georgia, for his thoughtful clarifications and kind remarks.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, Representative Joseph Cannon, who served in the House of Representatives for 46 years and as the Speaker from 1903 to 1911, is quoted as saying: "Nearly all legislation is the result of compromise."

The conference report on the fiscal year 1993 national defense authorization bill that the Senate is now considering is a good compromise. In my judgment, this legislation incorporates the best of both the House and Senate bills. It supplies the basis for a strong national defense, provided we do not bow to the continuing pressure to cut defense spending even further.

Mr. President, the able chairman of the Armed Services Committee, Senator NUNN, and ranking member, the distinguished senior Senator from Virginia, JOHN WARNER, have already presented a comprehensive overview of the report. Therefore, I will emphasize only a few issues that I consider important to the Nation.

First, the conference report authorizes improvements in health care benefits for our men and women in uniform. Over the past several years, as the defense budget has declined, the benefits for our service members—both active and retired—have eroded. This bill will restore credibility to the military medical care system.

Mr. President, one of the most difficult issues that the Armed Services Committee has dealt with since 1990 is the draw down in size of our volunteer forces. This conference report supplies extensive personnel transition benefits for both the active and reserve components. These benefits are the Nation's acknowledgment for a job well done and a mechanism to ease the transition into the civilian economy.

The conference report also provides a broad range of programs to address the needs of our communities and businesses that are impacted by the defense drawdown. Based on my own experience with the closing of Myrtle Beach Air Force Base, I know the $4.9 billion allocated for this effort is sorely needed.

Mr. President, the final point I wish to make on the conference report is in regard to the decision to make minimal cuts to our Reserve components. The administration requested a reduction of 169,000 men and women in the Reserves. The conferees reduced that number to approximately 94,000. We have been criticized for not taking greater cuts. I reject that criticism. Last year's defense bill mandated an independent study of the existing and projected active and reserve component force structure, force mix, and end strength and directed that study to make recommendations for reductions or revisions in the future. That study is due later this year. To have made the cuts recommended by the administration would have prejudged the results of the study and would have been a disservice to the loyal and dedicated men and women in our reserve components. In my judgment, the conferees acted with integrity and forethought in retaining the higher Reserve component end-strength.

Mr. President, in closing I want to compliment all of the conferees for their dedication and willingness to compromise on their particular programs. It was this spirit of cooperation that made the conference agreement possible. First and foremost among these are our chairman, Senator NUNN, and the ranking member, Senator WARNER. They spent countless hours negotiating with members to lead us to this outcome. It was only through their tenacity, skill, and genuine concern for the defense of our great Nation that we are about to pass and send to the President the fiscal year 1993 national defense authorization bill. I want to thank and congratulate them on their leadership.

Mr. President, I urge adoption of this conference report and yield the floor.

Mr. PELL. Mr. President, I would like to congratulate the Senator from Georgia, Senator NUNN, and the Senator from Virginia, Senator WARNER, for the balance in this bill, and also for the attention that was given to conversion. I think it is an excellent bill, and I am very glad to support it.

Mr. NUNN. Mr. President, I thank the Senator from Rhode Island for his remarks, and I thank him for his splendid cooperation. I also congratulate him on his splendid leadership on the START Treaty which passed earlier this week. The Foreign Relations Committee spent a great deal of time and effort in that. They are to be commended.

I thank the Senator from South Carolina for his statement and for his stalwart support in all these years on the defense authorization committee. And I have already said today, but will repeat while he is on the floor, that I look forward very much to continuing our close relationship and particularly working closely with him as the ranking Republican on this committee next year. He has been a joy to work with over the years, and I think without any doubt we will have a good partnership as we proceed to handle the national security interests of this country, whether he is ranking Republican or whether he is chairman of the committee, and depending on the outcome of the November election.

Mr. WARNER. Mr. President, will the chairman yield for just a moment?

I wish to also join in thanking the distinguished chairman of the Foreign Relations Committee. Our two committees work together very closely in a cooperative spirit, among the members of the two committees as well as the staff of the two committees. We have joint jurisdiction over a number of matters from time to time by referral to each of the committees. Without that cooperation, we could not do our work.

Also, again I thank the Senator from South Carolina, Senator THURMOND, for his contribution. We look forward to working under his leadership next year. The road has not always been smooth for Senator NUNN and I, but I imagine things might move a little more swiftly under the guidance of Senator THURMOND, our distinguished colleague from South Carolina.

Mr. THURMOND. I thank the Senator for his kind remarks. It will be a pleasure to work with him, also. He is an able chairman.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Nebraska [Mr. EXON].

Mr. EXON. I thank the Chair.

Mr. President, let me add my words of thanks particularly to Senator NUNN and Senator WARNER, the most effective two leaders that we have had in the Armed Services Committee.

Also I wish to thank my very dear friend, Senator THURMOND, who I have worked with in tandem for the last several years on the strategic and nuclear deterrent subcommittee. I look forward to serving with him next year on the committee as he takes over the Republican side of the committee.

It is our hope that he will not be the ranking majority member, but we hope that whatever position in which Senator THURMOND serves along with our distinguished colleague from the State of Virginia we will continue to work in tandem on a bipartisan basis. I have served on many committees. I have served on many conferences with the House of Representatives. I think there have been few if any partisanship whatsoever brought into any of the decisions that were made.

Just let me say that I think that the proposal that we are about to pass here is one more salute to the excellent relationship between the Senator from Georgia and the Senator from Virginia, who I think have led with great distinction in tandem the responsible decisions that the Armed Services Committee has made over the years.

This was a particularly difficult year. It is much easier to be chairman of the committee, or the ranking member thereof, when we had all of the money in the world, so to speak, to spend on about everything that anyone could ever have imagined.

This was a watershed year. I believe that the committee has come up with a very responsible bill amountwise. We are going to have further challenges as we go on down the road.

I predict, Mr. President, that the Armed Services Committee will continue to work out our differences on a nonpartisan basis. And therefore, lead the way to a responsible national defense figure in the budgets that will follow, while recognizing that we have a very tough job to do and many, many important decisions, difficult ones indeed that we will face, and we have faced them in the past.

Thanks again to the chairman of the committee, Senator NUNN, and the ranking member, Senator WARNER, for a job exceptionally well done in the opinion of this Senator.

I yield the floor.

Mr. NUNN. Mr. President, first let me thank my colleague from Nebraska for his kind words, and most of all for his terrific leadership in one of the most difficult areas of our committee, and that is the strategic subcommittee. That subcommittee has some of the most contentious and in many ways the most important issues that not only confront our committee but confront the world as we struggle to make our country safer, and to make the world safer.

The Senator from Nebraska has been a pillar of strength in that area for years, with his common sense, his sound judgment, his tenacity, and his courage. I am deeply indebted to him as the chairman of this committee. And I thank him very much.

Mr. President, I will take just a moment to explain one provision that is an important provision in this bill that has been dropped by the conferees. I want to explain briefly why.

This provision in question was section 914, entitled: "Continuing Requirement for Reporting on Operational Activities." Simply stated this provision required the Secretary of Defense to ensure that the Armed Services Committees of both the House and Senate are fully and currently informed of all operational activities carried out by the Department of Defense. The provision made clear that matters covered by the War Powers Resolution would continue to be reported pursuant to that legislation and would not be affected by our bill.

The term operational activity was defined as an activity involving introduction of unit or units of the Armed Forces into the territorial air space or waters of another country for other than traditional peacetime activities or routine support for such activities. This provision was modeled after existing laws relating to the Department of State and the intelligence community and the requirement for the Secretary of State and the Director of central intelligence to keep the oversight committees of the Congress fully and currently informed of their activities.

By a letter dated September 22, 1992, Secretary Cheney advised us that it is his view that the proposed legislation was unnecessary, and unwise, and unconstitutional. The latter two concerns were based upon the President's authority and duties as Commander in Chief to ensure that no action was taken that could imperil the safety or success of the military operation.

Secretary Cheney stated that making information available to 74 Members of the Congress, 54 in the House and 20 in the Senate, on details of sensitive military operations would put American lives at risk and jeopardize the success of military missions.

I want to emphasize that at this point the legislation merely created an after-the-fact notification requirement. It would not have required notification of any contingency planning.

While I do not in any way concede the validity of the Secretary's constitutional argument, it would have been a fairly simple matter to refine the language of our provision to narrow the number of Members who would be informed so that the operational security would be preserved. More importantly, Secretary Cheney expressed his view that the legislation was unnecessary because in his words "existing executive legislative customs with respect to consultation and notification observed as a matter of comity keep appropriate congressional leaders informed with respect to significant military activities."

Additionally, the General Counsel of the Department of Defense assured our staff that the committees on armed services will be kept advised of operational activities as a matter of comity and in a spirit of cooperation.

Finally, Secretary Cheney advised that if the legislation was presented to the President, his senior advisers would recommend that he veto it. Accordingly, since we have received the assurance that the Defense Department would ensure that we will be informed of operational activities, and in order to avoid a veto on this important legislation at such a late date in the legislative session, we have decided to drop this provision.

I want to assure the Senate, however, that my intention is to revisit this in the next session of Congress. I will carefully monitor the Department of Defense's cooperation with the Armed Services Committee throughout the coming year. It may be that legislation will not be necessary, because I hope we will be fully and currently informed by the Defense Department, and will not first learn of an operational activity from the news media.

That has not always been the case, and I want to make it clear that this is our expectation. We believe we have received the word of the Department of Defense and the Secretary through his spokesman on this matter.

If we are not kept informed, as we believe we have been assured that we will be, I can assure the Senate that I will sponsor legislation next year to ensure that the Armed Services Committee is able to exercise its important oversight and legislative responsibilities.

This is an important matter. It will not drop. It will not slip through the cracks. We expect to be informed. We will make sure that the number of Members will be appropriately limited, depending on the circumstances, and upon the executive branch request, but we do not intend to be bypassed in this area.

It would be absolutely ridiculous to believe that we have control over intelligence activities through the CIA, and then to have the whole Defense Department be able to conduct operational activities without informing the Congress in a timely fashion. I wanted to make this point abundantly clear as to why the provision was dropped, as to the assurances we have received, and as to the dedication of this Senator. I believe most of the Members of this body want to make sure that we are informed, as we believe it is the duty of the executive branch to inform us, as to what is transpiring with our military forces.

I yield the floor.

JOB TRAINING FOR RECENTLY DISCHARGED SERVICEMEMBERS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am delighted that the conference report on H.R. 5006, the National Defense Authorization Act of 1993, includes, in subtitle G of title 44, the Service Members Occupational Conversion and Training Act of 1992, a job training program for servicemembers who recently have been discharged from the military. I worked closely with the distinguished chairman of the Armed Services Committee, Mr. NUNN, and ranking Republican member, Mr. WARNER, on these provisions.

The Senate unanimously passed only a few days ago in S. 2515 a job training program that would be similar in many respects except that it would be for unemployed veterans generally. That measure was introduced on April 2, 1992, by the distinguished Senator from Arizona, my colleague on the Veterans' Affairs Committee, Mr. DECONCINI, and I was delighted to work with him in the development of S. 2515 and to join as a cosponsor.

I also note the efforts of my good friend and chairman of the House Committee on Veterans' Affairs, Mr. MONTGOMERY, as well as the chairman of the House Veterans' Affairs Committee's Subcommittee on Education, Training, and Employment, Mr. PENNY, who authored H.R. 5254, a veterans' job training bill similar to S. 2515, and succeeded in including in the original House version of H.R. 5006 a job training program for servicemembers leaving the military. Subtitle G of title 44 of the conference report reflects the culmination of our efforts in this regard this year within the limitations imposed by the inclusion of this program in defense authorization legislation and the use of Department of Defense funding for the program.

Mr. President, we expect 400,000 servicemembers to be separated from the Armed Forces over 5 years due to the downsizing of the military establishment. Another 300,000 per year will leave the military through attrition.

Mr. President, I am concerned that many of the soon-to-be-separated servicemembers entered the Armed Forces in hopes of long, satisfying careers and that, in light of the current weakness of the economy, those careers will come to a premature end at a most unfortunate time. The program contained in the conference report would provide incentives to employers to hire and train eligible individuals in fields leading to stable, long-term employment.

Specifically, this program would provide job training opportunities to unemployed ex-servicemembers discharged on or after August 2, 1990, who are unemployed for at least 8 of 15 weeks prior to application for the program, who specialized in an occupational skill that is not readily transferable to the civilian work force, or who have a service-connected disability rated at 30 percent or more.

The program would provide payments to employers in order to defray the costs of a participant's training. The amount payable to an employer would be 50 percent of the participant's salary except that payments would not exceed $12,000 for those with service-connected disabilities rated at 30 percent or more or $10,000 for all other participants.

Mr. President, this job training program incorporates certain features of the Emergency Veterans' Job Training Act of 1983, later named the Veterans' Job Training Act [VJTA], enacted in Public Law 98–77 on August 15, 1983, as significantly revised by section 11 of Public Law 100–323, enacted on May 20, 1988. I am especially pleased that the program incorporates various improvements that I developed and were enacted in 1988 in Public Law 100–323 to improve the administration of VJTA and facilitate the successful completion of job training programs by participants through more effective counseling and consultative services. The program would furnish to eligible participants employment counseling and guidance services relating to the development of job-readiness skills. Also, the program would authorize case management services to those who need such assistance, particularly those who withdraw, either voluntarily or involuntarily, from a job training program and apply to participate in another such program. Under the case management program, a disabled veterans outreach program specialist would personally interview the participant within 60 days after the beginning of the participant's training program and generally monthly thereafter unless, in certain cases, case management services are not necessary.

Mr. President, in closing I thank the members of the House and Senate Armed Services Committees for agreeing to include this measure in the conference report, and my good friend from Arizona, Mr. DECONCINI, for his outstanding contributions in the development of this important job training program.

The program in the conference report is badly needed to assist servicemembers who are being displaced from the military, through no fault of their own, into difficult economic circumstances. Now that we have reached the point at which major reductions in our military establishment are possible, we have a direct and important responsibility to assist servicemembers who will be facing the prospect of long unemployment lines. This job training program seeks to fulfill this responsibility.

Mr. GLENN. Mr. President, I think it's great that we now have an agreed Defense authorization bill, and one that is very, very far reaching in many issue areas. As always, Sam NUNN and JOHN WARNER, as chair and ranking member of the Senate Armed Services Committee, accomplished a herculean task in putting people and issues together to get what I feel is an outstanding piece of legislation.

There is one matter, however, that is not addressed in the fiscal year 1993 Defense authorization bill, a matter that both the House and the Senate agreed to, in fact a nonconferenceable item. That is the provision that grants access to reproductive health care services overseas to U.S. military women and military dependents on a prepaid basis, a service that is readily available in this country but is unavailable, unsafe, or extremely expensive overseas.

Mr. President, the Senate affirmed this provision just 2½ weeks ago as part of the floor debate on the fiscal year 1993 Senate Defense authorization bill. An amendment to delete this provision was defeated by the convincing vote of 55 to 36.

Nonetheless, despite overwhelming support by both Houses of Congress and all four committees of jurisdiction for this provision. President Bush said he would veto the Defense authorization bill if that provision were in it. With so much contained in the underlying bill both for our Nation and for so many millions of people, both military and civilian, the Senate and House Armed Services Committees in conference elected to split this badly needed abortion provision out of the underlying bill and send it to the President separately for signature.

I have no doubt that the President will follow through on his threat to veto the reproductive health services bill; however, I doubt seriously he will confront the issue head on. It would just be too hard a veto to justify to a nation which overwhelmingly subscribes to this legislation. Rather, I fully expect a Presidential pocket veto on the bill. By not acting on it at all, the President prevents the bill from becoming law because the 102d Congress will no longer be in session to reaffirm its position.

Mr. President, once again I want to compliment Senator WIRTH, our colleague from Colorado, for sponsoring this provision, not only this year, but for the past 3 years. He and I have worked closely together over these years to achieve equality for our women in uniform, to remove them from the status of second-class citizens as they serve their country overseas.

In the interest of clarity, I want to repeat some of my earlier remarks of 2 weeks ago to ensure that the Senate and the American public are fully aware of the ramifications of this reproductive health care services provision.

Mr. President, the issue is clear: This Nation has an obligation to ensure that each individual in the military who serves our country overseas has access to the same family health care that could be received here in the United States; to deny servicemembers and their families this equal protection is both discriminatory and grossly unfair. The bill that will be sent to the President ensures that this obligation is honored. We cannot have one standard for Americans here, and a separate standard for our military personnel who are serving our country at foreign locations.

Mr. President, the issue we are debating today dates back to June 1988 when the then Assistant Secretary of Defense for Health Affairs put out a letter prohibiting U.S. military health care facilities overseas from providing the then available full range of reproductive health services after September 30, 1988. The Secretary was not reacting to any statutory direction. Rather, he was reflecting a judgment of the administration that allowing military members and their families overseas to continue to receive prepaid reproductive health services in U.S. facilities overseas, "might suggest insensitivity to the spirit of the congressionally enacted policy of withholding government involvement in the provision of abortions."

So let's be clear—it was not Federal law that created a health and financial burden for our military members and families overseas; it's because the Assistant Secretary of Defense didn't want DOD to be accused of insensitivity. I suggest that, far from curing a problem, the Secretary, in his policy letter, did exactly the opposite by demonstrating gross insensitivity to the needs of our military personnel and their families.

Mr. President, the Congress has acted responsibly to correct this injustice, only to see the bill headed for a Presidential veto which the Congress will not be in session to overturn.

I emphasize to everyone that this provision grants access only. It does not dictate in any way how any individual may in her conscience decide to act.

Mr. President, I can summarize the issue in very succinct terms: Many of our military personnel overseas are stationed in areas where safe reproductive health care is not available in local facilities, or, if it is available, it is extremely expensive compared to similar services that were provided in U.S. military facilities overseas on a prepaid basis prior to October 1988. All this bill does is restore the right of access to these services on a prepaid basis, and to correct the second-class citizenship status of our people serving their country overseas.

So, Mr. President, I repeat what I said at the outset of my remarks. I think it is very unfortunate that we have had to package this provision separately from the underlying fiscal year 1993 Defense authorization bill in order to avert a veto by President Bush of the whole authorization bill.

Since apparently the President and the administration is determined to keep our women in uniform, and female military dependents overseas relegated to second-class citizenship status, let him answer to the American electorate. For my part, I pledge to renew my fight as necessary next year to ensure that we succeed once and for all in enacting this badly needed provision into law.

SELECTED MANPOWER PROVISIONS

Mr. President, I also want to offer some short comments today about the manpower provisions in the fiscal year 1993 Defense authorization bill.

As chairman of the Manpower and Personnel Subcommittee of the Armed Services Committee, I want to tell my colleagues and the American public that this bill contains the most substantive, far-reaching, and inclusive package of manpower provisions we have ever enacted in my years on the committee.

In crafting the bill, we particularly emphasized initiatives which address the transition needs of military members, DOD civilians, and workers in displaced defense industry as we continue the Nation's dramatic downsizing of defense manpower and force structure. Importantly, we put a high premium on qualifying persons who are leaving military and defense-oriented positions so that they can enter public and community service, a segment of our domestic economy that so desperately needs help.

As we pulled this bill together, we coordinated very actively with a number of other Senate committees and, in particular, the Veterans' Affairs Committee, the Labor and Human Resources Committee, and the Governmental Affairs Committee whose work is represented in many ways in our bill. I want to express my thanks and appreciation to those Senators and staff members on these other committees for their fine work.

But I want most particularly to thank my good friend from Arizona, Senator JOHN MCCAIN, the ranking member on the Manpower Subcommittee, for his hard work, thoughtful initiatives, and active cooperation in putting together this bipartisan package of provisions.

One last recognition of quality performance: Mr. Fred Pang of the subcommittee staff has been a never-ending source of good ideas, sound advice, and intelligent negotiation with other individuals and organizations as we crafted manpower legislation over the past 6 years that he has been on the staff; his performance this year has been particularly noteworthy. I think that few, if any, would disagree with my judgment that Fred is the finest defense manpower expert in this town of many notable experts, and I thank him for his hard and effective work on the committee's behalf.

With that preamble, I want to highlight a number of manpower provisions that I think are especially far reaching and substantive that are contained in the bill. I ask unanimous consent that the highlights be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE AUTHORIZATION HIGHLIGHTS

I. ACTIVE FORCES TRANSITION ENHANCEMENTS

1. Active duty early retirement. Authorizes active duty personnel who have 15 but less than 20 years of service to apply for and be approved for early retirement.

2. Opportunity for certain persons to enroll in the Montgomery G.I. Bill. Permits recipients of the special separation benefits (SSB) program and the voluntary separation incentive (VSI) to pay a $1,200 contribution and elect to participate in the Montgomery G.I. Bill.

3. Reserve drill pay exemption. Repeals the VSI program requirement that any active or reserve pay be fully offset against current VSI payments; repeals the VSI provision disallowing any credit under the civil service retirement system for those years of military service countable for determining VSI payments; makes VSI recipients eligible for the involuntary separation benefits package.

4. Improved conversion health policies as part of transitional medical care. Extends the term of conversion health policies from 12 to 18 months.

5. Continued health coverage for members and dependents upon separation. Establishes a program for continued health benefits coverage under the federal employees health benefit (FEHB) program for former service members and their dependents who are no longer eligible for health care in the military health care delivery system.

II. GUARD AND RESERVE TRANSITION INITIATIVES

1. Transition period and members affected. Applies to personnel in the Selected Reserve from October 1, 1991 to the end of fiscal year 1995.

2. Restriction on reserve force reduction. Prohibits the involuntary separation of a Selected Reservist during the transition period ending September 30, 1995 until the Secretary of Defense has promulgated and submitted to Congress regulations that implement these provisions.

3. Transition plan requirements. Ensures that both separating active and reserve com-

ponent personnel will be given priority over non-prior service applicants for Selected Reserve positions.

4. Force reduction period retirements. Allows Selected Reservists who have 20 years of credit for reserve retirement and who are in a Selected Reserve unit to apply for reassignment from the Selected Reserve unit to the Retired Reserve in order to draw an immediate, reduced retirement annuity.

5. Retirements with 15 years of service. Allows Selected Reservists who have at least 15 but less than 20 years of credit for reserve retirement to apply for reassignment from the Selected Reserve to the Retired Reserve, with eligibility for reserve retirement pay at age 60 based on the number of years of reserve retirement credit they have accrued.

6. Separation pay. Authorizes the payment of separation pay to Selected Reservists who have six but less than 15 years of service and who are being involuntarily released from the Selected Reserve because their units are being deactivated during the transition period.

7. Waiver of continued service requirement for reserve G.I. Bill benefits. Allows Selected Reservists who must leave the Selected Reserve because of the National Guard and Reserve downsizing during the transition period to continue to receive reserve G.I. Bill educational assistance.

8. Commissary and exchange privileges. Authorizes Selected Reservists who must leave the Selected Reserve because of the National Guard and Reserve downsizing during the transition period to retain their eligibility to use military commissary and exchange shopping facilities for two years following the date they leave the Selected Reserve.

III. DOD CIVILIAN PERSONNEL TRANSITION INITIATIVES

1. Re-employment of certain displaced federal employees. Requires federal agencies to give full consideration to qualified displaced Department of Defense employees for up to 24 months after the employee has been separated before hiring candidates outside the agency.

2. Reduction-in-force notification requirements. Requires federal agencies to issue specific written notices to all federal employees and their representatives at least 60 days prior to a reduction-in-force (RIF) action.

3. Restoration of certain leave. Allows federal civilian employees at military bases scheduled for closure between October 1, 1992, and December 31, 1997, to accumulate unlimited annual leave.

4. Skill training programs in the Department of Defense. Allows the Secretary of Defense to provide up to one year of training in Department of Defense training facilities to separated civilian employees from October 1, 1992 through September 30, 1995.

5. Separation Pay. Authorizes the Secretary of Defense to establish a program to offer separation pay to regular or early retirees as well as to employees who resign voluntarily in order to encourage eligible employees to accept regular or early retirement. The separation pay would be equal to the amount an employee would receive as if eligible under the severance pay formula or $25,000, whichever is less.

6. Thrift savings plan benefits for federal employees separated by a reduction-in-force. Allows federal employees who are involuntarily separated due to a reduction-in-force to withdraw their thrift savings plan (TSP) accounts in lump sum payments, or elect to leave their money in the plan.

7. Continued health benefits. Allows involuntarily separated Department of Defense civilian employees to elect to continue health benefits coverage under the federal employees health benefits program (FEHBP) for up to 18 months following separation.

IV. DEFENSE EFFORTS TO RELIEVE SHORTAGES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS AND TEACHER'S AIDES

1. Teacher and teacher aide placement program for separated members of the armed forces. Authorizes the Secretary of Defense to establish a program to assist eligible servicemembers in becoming teachers and teacher's aides upon separation from the military services.

2. Teacher and teacher's aides placement program for terminated defense employees. Authorizes the Secretary of Defense to establish a program to assist civilian employees of the Department of Defense and Department of Energy in becoming teachers and teacher's aides upon termination of employment as a result of reductions in defense spending or the closure or realignment of military installations.

3. Teacher and teacher's aide placement program for displaced scientists and engineers of defense contractors. Establishes a program to assist eligible scientists and engineers employed by defense contractors or subcontractors in becoming teachers or teacher's aides.

4. Funding for fiscal year 1993. Authorizes $65 million to fund teacher and teacher's aide provisions.

V. JOB TRAINING AND EMPLOYMENT AND EDUCATIONAL OPPORTUNITIES

1. Active force personnel transition enhancements. Requires the Secretary of Defense, in consultation with other appropriate Cabinet Secretaries, to implement a program to encourage and assist separating or retiring military personnel to enter public or community service jobs.

2. Educational leave of absence. Authorizes active duty personnel who do not have readily transferable skills, such as personnel in the combat arms, to apply for up to one year of educational leave of absence to obtain civilian skill training.

3. Retirement credit for critical underserved jobs. Authorizes active duty personnel who are approved for early retirement to accrue additional military retirement credit if they take critical, underserved jobs, such as in education, law enforcement, and health care.

4. Training, adjustment assistance, and employment services for discharged military personnel, terminated defense employees, and displaced employees of defense contractors. Expands title III of the Job Training Partnership Act (JTPA) to provide $75 million to fund re-employment and training programs specifically designed to meet the needs of individuals who are displaced by the drawdown in defense activity by the government and industry.

5. Participation of discharged military personnel in upward bound projects to prepare for college. Authorizes the Secretary of Defense to assist eligible members of the armed forces in an upward bound project to prepare for college.

6. Improvements to employment and training assistance for dislocated workers under the Job Training Partnership Act. Amends the dislocated worker program of the Job Training Partnership Act by expanding the responsibilities of state dislocated worker units, providing more flexibility for state rapid response assistance to defense conversion re-employment problems, and permitting the transfer of federal property and equipment to job training programs or education programs at no cost.

7. Job Bank program for discharged military personnel, terminated defense employees, and displaced employees of defense contractors. Authorizes the Secretary of Defense to establish a program to expand the services and access to the Interstate Job Bank of the United States Employment Service and authorizes $4.0 million for that purpose.

8. Extension of appropriations for assistance. Extends through fiscal year 1995 the authority for appropriations for certain employment, job training, and other assistance provided by the National Defense Authorization Act for Fiscal Year 1991.

VI. SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992

1. Purpose. To provide additional means by which the Secretary of Defense can manage the drawdown of the armed forces and to provide additional forms of assistance to servicemembers who are forced or induced to leave the military and directs the Secretary to implement the program not later than 60 day after the date of enactment.

2. Eligibility. An individual must: (1) be unemployed at the time of applying to participate in the program; (2) either (a) be unemployed for at least 8 of 15 weeks prior to application for the program (not taking into account periods of temporary or intermittent employment), (b) have specialized in an occupational skill that is not readily transferable to the civilian workforce (as determined by the Secretary), or (c) have a service-connected disability rated at 30 percent or more; (3) have served in active military service for more than 90 days; and (4) be discharged on or after August 2, 1990. Participants will be provided the opportunity to appeal a denial of certification.

3. Period to training. Requires a job training program to provide training for a period of not less than 6 months nor more than 18 months in an occupation in a growth industry or in an occupation requiring the use of new technological skills so as to permit training in a field of employment providing a reasonable probability of stable, long-term employment.

4. Approval of employer programs. Excludes from a job training program any position that consists of intermittent employment, is in any department of the federal government, displaces other employees, or violates certain other conditions outlined in that provision.

5. Payments to employers. Provides for the implementing official to make certain payments to employers.

6. Provision of training through educational institutions. Allows an employer to enter into an agreement with an educational institution to provide training under this program.

CUBAN DEMOCRACY ACT OF 1992 (TITLE XII OF S. 3114, THE NATIONAL DEFENSE AUTHORIZATION ACT)

Mr. MACK. I would like to ask a question of my colleague and fellow original cosponsor of the Cuban Democracy Act of 1992, which is title XII of the National Defense Authorization Act. My question relates to section 1205(e) of the act, which permits telecommunications service to Cuba from the United States. The intent of this language was to open up communications to Cuba for the families and friends of Cuban nationals living outside of Cuba. By virtue of this provision, United States companies can now provide telecommunications services from the United States to Cuba. This provision does not, however, appear to permit foreign subsidiaries of U.S. firms to provide the same services from outside the United States. In fact, section 1206 of this act expressly prohibits foreign subsidiaries of United States firms from obtaining licenses for transactions with Cuba. In my view, it was not the intention of the authors that subsidiaries of United States companies be prohibited from trading with Cuba in cases where the Cuban Democracy Act permits trade by United States companies based in the United States. My question is, was it the intent of Congress to permit only the provision of telecommunication service from the United States to Cuba, or to permit United States firms and their subsidiaries, wherever located to provide such service?

Mr. GRAHAM. I agree with the Senator's understanding. It was not the intent of Congress for subsidiaries of U.S. companies to be prohibited from trade that would be permitted under the Cuban Democracy Act if they were located in the United States. Specifically, the intent of section 1205(e) is to allow United States firms and their foreign subsidiaries to provide telecommunications service and facilities to Cuba.

SECTION 836

Mr. WARNER. Section 836 prohibits the award of certain DOD contracts that require the use of special access information to be performed. It is my understanding that the requirements in section 836 with respect to the definition of the term "proscribed category of information" are not intended to require any change in existing policy regarding security classification or the related definitions presently used, just as such requirements also are not intended to restrict in any way the Secretary of Defense's administrative discretion over such matters.

Mr. BINGAMAN. Speaking as the author of this provision, I agree with the understanding of the Senator from Virginia.

Mr. MACK. I am pleased to support this legislation, for in addition to the vitally important national defense initiatives which it embraces, it includes three very important provisions for the State of Florida.

This bill places Congress officially on record designating Mayport as the next homeport for nuclear-powered aircraft carriers on the east coast. For the past three decades, Mayport has played a vital role for the Navy and for America. This legislation guarantees that Mayport will continue to defend freedom around the world for decades to come. As nuclear carriers replace conventional ones, America simply must create a second homeport for them on the east coast. I'm happy, but not surprised, Mayport has been identified as the ideal choice. I want the city of Jacksonville, as well as Mayport's dedicated men and women, to know that this action brightens and solidifies Mayport's future.

This bill includes the Cuban Democracy Act, which I have worked hard for several years to see passed into law. Because of this legislation, a stronger embargo against Fidel Castro is finally close to certainty. The bottom line on this issue has little to do with trade. It's about human rights and freedom. The people of Cuba will now have greater hope that America stands squarely behind them in their charge for freedom against their tyrannical dictator. They understand that freedom is the core of all human progress. Strengthening the embargo against Castro will squeeze the funds he needs to continue his tyranny. This measure will help bring him down. Let the countdown to freedom begin.

This bill includes three important measures designed to help the men and women who were attached to Homestead Air Force Base put their lives back together in the wake of Hurricane Andrew. America has an obligation to help our servicemembers and their families in the time of need. Many of Homestead's personnel lost their homes during Hurricane Andrew, and have now been assigned to new duty stations. Unfortunately, they didn't have the opportunity to fix, sell or rent their homes before they were ordered out and forced to establish second residences. They now face the very real threat of bankruptcy unless we move to help them. This action will provide Homestead's eligible military and civilian employees with the financial assistance and hope they need to help them begin the long process of recovery.

While I cannot endorse all the provisions of this year's defense authorization, many important steps are taken. I was disappointed that the President's full request for the strategic defense initiative was not authorized, but pleased that long-lead funding for the next aircraft carrier, CVN-76, was fully funded. I am troubled by the scope of some of the defense conversion initiatives embraced by the bill, but happy to see that several important RDT&E programs include the A-X, V-22, *Comanche* helicopter, Close Combat Tactical Trainer and Advanced Tactical Airborne Reconnaissance System were funded.

Mr. RIEGLE. Mr. President, in 1989, the National Center for Manufacturing Sciences [NCMS] began establishing a nationwide teaching factory network for the rapid deployment of advanced manufacturing processes and technologies. It is NCMS' goal to pursue a 150-center network geographically distributed in proportion to manufacturing activity, with at least one center in every State. It is the purpose of these centers to help small- and medium-sized companies meet the Defense Department's needs for high-quality defense-critical goods that are produced in a timely, cost-effective manner. Especially during these changing times, I am hopeful that the centers can help facilitate the transition from defense to commercial markets while maintaining a strong industrial base.

It is my understanding that teaching factories, such as the Institute for Advanced Flexible Manufacturing Systems in West Virginia and the Advanced Manufacturing Center at New Mexico State University, could be supported by various programs included in this legislation, like Regional Technology Alliances, Defense Manufacturing Extension, and Dual-Use Technology and Industrial Base Extension Programs.

It is the intent of this legislation that organizations be allowed to compete for funding to establish teaching factories under the transition programs included in this bill.

Mr. BUMPERS. Mr. President, I would like to express my support for the concept of teaching factories and intend to follow the progress of the establishment of such a program in the State of Arkansas. Small companies are the core of our industrial and technology base, but often are unable to successfully adopt the new technologies and processes needed to become world-class manufacturers. Teaching factories will help combat that problem. In addition, these centers could also have an added objective of strengthening domestic small business manufacturing capabilities in the critical technologies as defined by the Departments of Defense and Commerce. DOD can work with industry through these centers to insure that the needs of the defense industrial base, especially in the area of critical technologies, are met with domestic suppliers.

According to the U.S. Small Business Administration, less then 10 percent of defense manufacturing is performed by U.S. small business. Furthermore, significant subtier defense manufacturing jobs have migrated offshore. I believe that Congress and DOD should consider initiating a program that would search out critical component manufacturing which has migrated offshore in the past due to inadequate domestic capability. Then, using teaching factories, we can help small businesses extend their capabilities to include the production of these components. In this way we are able to help small manufacturers during this time of defense build-down, while ensuring that we have strong and competitive domestic supply tiers. I intend to look into the development of such a concept early next year.

Mr. PRYOR. Mr. President, I join my colleagues in showing my support for these centers. The University of Arkansas and the NCMS are working together to establish such facility in Fayetteville, AR. Teaching factories can be a tool for maintaining our industrial base and the various components of the Technology and Industrial Base Transition and Reinvestment Program can be a vehicle to help support this effort. Teaching factories can help these new programs meet their goal of a more competitive manufacturing base in the United States.

Mr. BINGAMAN. Mr. President, the Senator from Michigan is correct that it was our intention that teaching factories, as well as other cost-shared assistance efforts, be eligible to compete on a merit basis for funding under the programs authorized in this bill. The defense manufacturing extension program in particular is geared toward extension efforts such as those that teaching factories may undertake.

Mr. COATS. Mr. President, since 98 percent of all manufacturing firms employ less than 500 people, the health of these small firms is critical. Improvements in manufacturing technology can help companies, especially those adversely impacted by the defense build-down, by restructuring their production process so that they can more easily produce multiple product lines. The teaching factory concept designed by the NCMS, may prove helpful in assisting these small manufacturers to modernize especially during this time of transition. I support the notion that teaching factories should be eligible to compete for assistance under the Industrial Base Transition and Reinvestment Program.

Mr. RIEGLE. Mr. President, I appreciate the comments from my colleagues. As a Senator from one of the key manufacturing States in our Nation, I am encouraged to see such recognition of the importance of teaching factories and NCMS' efforts.

Mr. WARNER. As far as I know, on this side, all matters are concluded.

UNANIMOUS-CONSENT AGREEMENT

Mr. NUNN. Mr. President, I ask unanimous consent that when the conference report accompanying H.R. 5006 is received from the House, the Senate be deemed to have agreed to it, the motion to reconsider laid upon the table, and all of the above occur without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DIXON. Mr. President, the conference report on H.R. 5006, National Defense Authorization Act for Fiscal Year 1993, continues the process of reshaping the U.S. defense establishment for a post-cold-war world. This bill represents the culmination of a great deal of hard work by the members and staff of the Armed Services Committee, and I urge my colleagues to support it.

As chairman of the Subcommittee on Readiness, Sustainability and Support, I want to take a few moments to highlight for my colleagues the provisions in the conference report under the subcommittee's jurisdiction. My subcommittee has oversight responsibility for programs totaling approximately $99.5 billion in the fiscal year 1993 defense budget, the largest funding jurisdiction of any subcommittee on the Armed Services Committee and a little over one-third of the total defense budget.

One of the major issues facing the conferees was the overall level of funding in the O&M accounts, which are the accounts that provide funding for training, operating tempo, and maintenance and repair of equipment. The House version of the Defense authorization bill made reductions in these accounts totaling almost $6.2 billion below the budget request. The reductions in the Senate bill were much more modest—approximately $2.3 billion below the budget request. I am pleased that the conferees came out closer to the Senate level than the House level by recommending reductions totaling $3.1 billion in these accounts for fiscal year 1993.

The conferees endorsed the Readiness Subcommittee's major initiative in the area of inventory management in the Department of Defense. This initiative will produce savings of $3.0 billion in fiscal year 1993 by:

Reducing new inventory coming into the DOD supply system by putting a cap of 65 percent of sales on obligations for new purchases of inventory through the defense business operations fund;

Encouraging the military services to return excess stocks located in operating units to the supply system to reduce future purchases by withholding funds from the O&M accounts that can only be used if these excess stocks are turned in;

Addressing the problem of excess on order stocks that we discussed in our hearings this year and that GAO has talked about—procurements for items for which a requirement no longer exists—by reducing funds in the Army and Air Force that can be recouped through cancelations of these unnecessary purchases;

Reducing overall funding requested by operating units and weapons system program offices to purchase new inventory in fiscal year 1993 by 5 percent; and

Directing the Defense Department to review their retention policies for retaining stocks in the supply system. Current policies require the services to retain many items in stock far past their useful life.

We have to be careful in this area, because inventory purchases can have a direct relationship to training and readiness. I think we have crafted a package of initiatives that provides enough incentives to the military services that they can recoup a large portion of this reduction by changing the way they order and manage their secondary item inventories.

In the area of recruiting, the conferees also adopted the Readiness Subcommittee's three-part initiative that:

Reduces O&M funding for recruiting in fiscal year 1993 by $24 million, providing a level of recruiting support in fiscal year 1993 that is 5 percent below fiscal year 1992 and 10 percent below fiscal year 1991;

Requires a reduction of 10 percent over the next 2 fiscal years in the number of military personnel assigned to recruiting functions in the military services. This provision will reduce recruiting costs by $130–150 million per year once the reductions are in place; and

Directs the Air Force and the Navy to consider consolidating their active and reserve recruiting organizations under a single command similar to the Army and Marine Corps recruiting commands.

There were a number of what I would call economy and efficiency reductions in the Senate-passed bill under the subcommittee's jurisdiction that affect all of the military services. Almost all of these—including reductions in travel and printing costs, contract advisory and assistance services, and administrative airlift flying hours—were adopted by the conferees.

The Readiness Subcommittee also had jurisdiction over portions of the defense transition and conversion initiatives in the Senate bill dealing with assistance to local communities which were adopted by the conferees. These initiatives include an increase of $50 million for the Defense Department's Office of Economic Adjustment; a total of $155 million for the job retraining and economic development grants authorized the Defense Economic Adjustment Act that we passed in 1990; and $58 million for payments to local school districts heavily impacted by DOD military dependents.

There are several legislative provisions adopted by the conferees which I want to highlight. One would broaden the authority we enacted last year for the military services to compete their depot maintenance workload between DOD depots and private contractors. This competition program is beginning to produce real savings, and I am glad the conferees agreed with the Readiness Subcommittee that it should be expanded beyond the pilot program contained in last year's Act.

In the environmental area, the conference agreement would ensure that individuals and entities who acquire land as a result of the base closure process are fully protected from any future environmental liabilities associated with the Defense Department's use of the land. A second provision requires the Defense Department of take aggressive actions to eliminate wherever possible the use of ozone depleting substances.

COTS

Mr. DIXON. Mr. President, I am advised on a problem in the drafting of the conference report on the 1993 National Defense Authorization Act.

As chairman of the Readiness Subcommittee, I have long been an advocate of the use of commercial-off-the-shelf [COTS] technologies by DOD whenever effective and efficient.

My staff was assured last summer that DOD was considering COTS technologies for use in the corporate information management [CIM] systems.

My staff later learned that COTS technologies are not being provided for in the environmental CIM, currently being organized in OSD.

Language was drafted for the conference report that would have asked DOD to analyze the use of COTS technologies in the CIM Programs and report to the committee.

I would request that the chairman of the Readiness Subcommittee in the next Congress address this problem at the earliest opportunity.

Mr. WARNER. Mr. President, I ask unanimous consent that statements by any members of the Armed Services Committee or other Members of the Senate in relation to this conference report, H.R. 5006; that the RECORD remain open today throughout the course of the day to receive those statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, in closing I again, want to thank the staffs of both the House and Senate Armed Services Committee for their untiring and professional efforts, along with Gregg Scott and Charlie Armstrong, of the Senate Legislative Counsel; and Bob Cover, Sherry Chriss, and Greg Kostka, of the House Legislative Counsel for their extraordinary work on this bill. Our staffs have worked around the clock, virtually, for the last 2 weeks, and they worked very diligently during August; otherwise, we would not have been able to handle the important section of this report. This is an unusually long conference report, because of the defense conversions provisions which are enormously important, but also rather detailed and complex.

Mr. President, again, I thank the members of my staff, Arnold Dunaro, David Lyles, Fred, Pang, and Andy Effron who are on the floor now, along with every single other member of our dedicated committee staff. I thank Pat Tucker, Les Brownlee, and many others on Senator WARNER'S staff that are worked together. The staff always works hard, but I have never known of a more diligent effort than this one. Anyone looking at this conference report, and realizing that it was put together in the last 10 days, can only marvel at the efficiency and effectiveness and hard work of every member of the committee staff. Without them, we could not get the job done. We are grateful to them.

Mr. President, I yield.

Mr. WARNER. I join the distinguished chairman in expressing my profound appreciation for all members of the committee and for the work done by the majority and minority staff. I want to thank Pat Tucker, who is beside me in the Chamber, Les Brownlee, Ann Elise Sauer, Skip Ringo, Judy Ansley, Ken Johnson, Jack Mansfied, Gary Sojka, Mark Robinson, Ron Kelly, Jon Etherton, George Lauffer, Jennifer Atkin, Sarah Hoyt, Susie Wigdale, and Barbara Gallo. We thank them all.

Mr. NUNN. Mr. President, I think the minority has us outnumbered. I am going to have to go back and check.

Mr. WARNER. I think there are a few more of us working here today, but that is all right. We work together as a team. For the RECORD, all should know that our staffs work very closely together.

NATIONAL AFRICAN-AMERICAN MEMORIAL MUSEUM ACT

Mr. WARNER. At this time, Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 520, S. 523, a bill to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution, to which Senator GARN and myself and others have appended an amendment relating to the facilities for the future Air and Space Museum.

Also included in this is a revision of the Senator from Virginia, together with the Senator from Utah [Mr. HATCH] and others, whereby a portion of the new facility be named in honor of our departing colleague, the Senator from Utah [Mr. GARN]. This particular building that will be named in his honor will, hopefully, be the one that will house certain space elements which will be a part of the permanent collection in this Air and Space Museum.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 523) to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Rules and Administration with an amendment striking all after the enacting clause and inserting in lieu thereof the following:

TITLE I—NATIONAL AFRICAN AMERICAN MUSEUM

SEC. 101. SHORT TITLE.

This title may be cited as the "National African American Museum Act".

SEC. 102. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities is inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restricts the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture includes the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99–511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

SEC. 103. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

SEC. 104. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries Building of the Smithsonian Institution to house the Museum.

SEC. 105. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

(b) COMPOSITION AND APPOINTMENT.—The Board of Trustees shall be composed of 23 members as follows:

(1) The Secretary of the Smithsonian Institution.

(2) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(3) Twenty-one individuals of diverse disciplines and geographical residence who are committed to the advancement of knowledge of African American art, history, and culture appointed by the Board of Regents, of which 9 members shall be from among individuals nominated by African American museums, historically black colleges and universities, and cultural or other organizations.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—As designated by the Board of Regents at the time of initial appointments under paragraph (3) of subsection (a), the terms of 7 members shall expire at the end of 1 year, the terms of 7 members shall expire at the end of 2 years, and the terms of 7 members shall expire at the end of 3 years.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

(e) NONCOMPENSATION.—Except as provided in subsection (f), members of the Board of Trustees shall serve without pay.

(f) EXPENSES.—Members of the Board of Trustees shall receive per diem, travel, and transportation expenses for each day, including traveltime, during which they are engaged in the performance of the duties of the Board of Trustees in accordance with section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service.

(g) CHAIRPERSON.—The Board of Trustees shall elect a chairperson by a majority vote of the members of the Board of Trustees.

(h) MEETINGS.—The Board of Trustees shall meet at the call of the chairperson or upon the written request of a majority of its members, but shall meet not less than 2 times each year.

(i) QUORUM.—A majority of the Board of Trustees shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Board of Trustees.

(j) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United State Code, the chairperson of the Board of Trustees may accept for the Board of Trustees voluntary services provided by a member of the Board of Trustees.

SEC. 106. DUTIES OF THE BOARD OF TRUSTEES OF THE MUSEUM.

(a) IN GENERAL.—The Board of Trustees shall—

(1) recommend annual budgets for the Museum;

(2) consistent with the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, and cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

(D) creating opportunities for—

(i) research fellowships; and

(ii) professional and student internships;

(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other appropriate matters.

SEC. 107. DIRECTOR AND STAFF.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint a Director who shall manage the Museum.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees under subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and such 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 108. DEFINITIONS.

For purposes of this title:

(1) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) The term "Board of Trustees" means the Board of Trustees of the National African American Museum established in section 105(a).

(3) The term "Museum" means the National African American Museum established under section 103(a).

(4) The term "Arts and Industries Building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the succeeding fiscal years.

TITLE II—EXTENSION OF THE NATIONAL AIR AND SPACE MUSEUM

SEC. 201. EXTENSION OF THE NATIONAL AIR AND SPACE MUSEUM.

The Board of Regents of the Smithsonian Institution is authorized to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Effective October 1, 1992, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $9,000,000 to carry out the purposes of this title.

Amend the title so as to read: "A bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.".

Mr. WARNER. Mr. President, I rise to speak on a bill that passed the Senate earlier today. This legislation, S. 523, authorizes the establishment of the National African-American Museum within the Smithsonian Institution. The museum will provide a centralized location for exhibitions, scholarships, collections of artifacts and documents, educational programs and training of museum professionals, in the areas of African-American life, art, history, and culture. This landmark legislation creates the first single institution devoted entirely to African-Americans which collects, analyzes, researches, and organizes exhibitions on a scale comparable to those of major museums devoted to other aspects of American life. I look forward to its establishment in the arts and industries building on The Mall just a few blocks from our Nation's Capitol.

I would now like to speak on title II of S. 523, which authorizes the Board of Regents of the Smithsonian Institution to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

I believe we are all aware of the fact that legislation to expand the National Air and Space Museum at Washington Dulles International Airport has four times been favorably reported by the Senate Committee on Rules and Administration and that this marks the third time the U.S. Senate has approved such legislation. The Board of Regents of the Smithsonian has voted at least six times in favor of sighting the extension at Dulles.

Last Wednesday the House of Representatives, by a vote of 106 to 317, overwhelmingly rejected an attempt to establish an advisory panel to determine the site for the planned extension and I ask unanimous consent that an editorial from the September 30, 1992 Washington Post regarding the Smithsonian extension site selection process be included in the record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit I).

Mr. WARNER. This legislation is the result of many years of hard work by Senator GARN, who serves on the

Smithsonian Board of Regents, the Board of Regents and its staff, and the Commonwealth of Virginia. The legislation represents an objective decision to do what is best for the future of the Smithsonian Institution and most importantly, the American public.

In September 1983, the Smithsonian Board of Regents first approved the National Air and Space Museum plan to expand at Washington Dulles International Airport. Since then, the Board has expressed support for the extension at Dulles over and over again. Through four Governors—John Dalton, CHARLES ROBB, Gerald Baliles, and now Douglas Wilder—the Commonwealth has also continued to support the concept of the extension and its location in Virginia.

This legislation would serve to further the objectives of the National Museum Amendments Act of 1965 which directs the National Air and Space Museum to "collect, preserve, and display aeronautical and space flight equipment of historical interest and significance."

I believe that it is accurate to state that the National Air and Space Museum now holds the most impressive and significant collection of spacecraft and aircraft in the world. However, due to the limited exhibition space in The Mall building coupled with the size and weight of many of the artifacts, only 25 percent of the museum's collection is on display. Therefore, such significant air and spacecraft as the Boeing 367–80, the Saturn V launch vehicle, the Boeing Flying Fortress, the B-29 *Enola Gay*, and the space orbiter *Enterprise* cannot be displayed and enjoyed by the nearly 10 million visitors the museum receives each year. In addition, the museum's space limitations inhibit the interpretation of aerospace technology's significant contribution to all societies and the possibilities which it holds for the future.

The limited storage space and poor conditions at the Smithsonian Garber facility in Suitland, MD, endangers artifacts currently in the Air and Space Museum collections and curtails its ability to accept other artifacts.

Irreplaceable aircraft—A priceless part of our national heritage—are deteriorating because congress cannot make a decision on the sighting of this museum extension. This can no longer be tolerated.

The continued, strong support from the Board of Regents, the Commonwealth of Virginia and the Senate for this project is a testimony to the importance of the extension. I would like to reiterate that this support has been for the extension of the museum at Dulles. Therefore, I must mention the substantial financial commitment which the Commonwealth has made to this project.

Virginia's commitment includes: a $3 million interest-free loan for planning and design work; State bonding authority to finance up to $100 million in debt for the initial construction phase of the extension; a commitment to provide the required site improvements at a total cost of $26 million; in direct funds, $6 million toward the construction costs, and another $6 million raised through private and local contributions; a pledge to work with local governments, the Washington Metropolitan Area Transit Authority and others to develop rail passenger service between the West Falls Church Metro Station and the museum site by the year 2000; a willingness to initiate metrolike bus service between the extension and the Smithsonian's facilities on The Mall, and plans for construction of the Barnsfield road interchange on Route 28 at an estimated cost of $15 million.

The support for the museum's extension at Dulles is also largely due to the site's logistical and physical characteristics.

These characteristics include: proximity to an active runway; flexibility in building configuration and space for future expansion; adequacy of existing and projected transportation networks for visitor access and artifact movement; compatibility with existing airport operations and absence of vibration, noise, and fumes; potential numbers of visitors; geological configuration and subsurface conditions, and the availability of utilities and vital support services.

It is important for the Senate to be aware of the General Accounting Office's [GAO] involvement in the proposed extension. In February and March 1991 the Smithsonian met with officials from GAO to resolve several concerns which GAO staff had expressed with the scope of the proposed extension and the Smithsonian's site selection process.

In addition to the site characteristics mentioned previously, the Smithsonian reemphasized the importance of siting the extension in the Washington-Metropolitan area rather than splitting the collection between The Mall location and a remote location. Such a split could not provide "A comprehensive and balanced view of the history, technology, and social aspects of air and space flight." Smithsonian officials realized in the 1960's that an extension of the building on The Mall would be necessary and since that time the proposed expansion has always been viewed as an extension of the museum on The Mall, not as a separate museum.

The Smithsonian also verified the significant cost differential in constructing and operating an extension at Dulles versus a remote location.

After much discussion and study, the GAO concluded in a March 20, 1991 letter to House Interior Appropriations Subcommittee Chairman YATES that "we now believe the choice of Dulles International Airport as the preferred site can be objectively defended by the Smithsonian."

In addition, in May 1991, the Board of Regents concurred to the GAO's recommendation and agreed to reduce the scope of the extension limiting it to meeting the museum's most immediate needs to protect, preserve, and restore the collection and provide public access to significant portions of the collection. This reduces the overall project cost to $162 million, half of the originally estimated cost.

Mr. President, it is time for self-interested parties to accept the conclusions of the Board of Regents, the Senate Committee on Rules and Administration, the U.S. Senate and the GAO that Washington Dulles International Airport is the most practical, convenient, and cost-effective location for the extension of the Air and Space Museum.

I call on every Member of the Senate to support this amendment which will make the expansion of the National Air and Space Museum at Washington Dulles International Airport a reality. As we have so recently witnessed in the operations of Desert Storm in the Persian Gulf, Air and Space Technology has and will continue to greatly impact every facet of our lives. The creation of this extension will enable visitors from all over the world to experience first hand the magnitude and significance of man's technological achievements.

A MUSEUM RAFFLE IN THE HOUSE?

Today's pork barrel special on the floor of the House is H.R. 3281, an outlandish proposal to raffle off the Smithsonian's planned National Air and Space Museum extension to some site in the United States—instead of letting the facility be where the Smithsonian's Board of Regents has voted five times since 1983 to put it—in the Washington region at Dulles International Airport. Like other efforts over the years to undo a logical plan for putting the museum at Dulles, the latest bill is an attempt to lobby support for sticking the museum annex at the abandoned Denver Stapleton Airport when the new airport opens in that city. That idea, along with other suggestions that the annex site be switched to Baltimore-Washington International, has been studied and rejected before. Why vote for another expensive delay, this time with an expensive "nationwide competition" for a site?

In a "Dear Colleague" pitch from Reps. David Skaggs of Colorado and Benjamin Cardin of Maryland, the bill is described as "your chance to get a Smithsonian museum in your district." At some unspecified cost, it would set up a "national competition" to select a site. This would be an expensive duplication—the Smithsonian's regents started their search for a site in 1981 with criteria that included proximity to the Mall and an active runway to move some of the biggest items, such as a Boeing 707 and 747. The Smithsonian spent $350,000 to study BWI and Dulles as possible sites. Then in 1989, at the request of the mayor of Denver, it spent an additional $50,000 to study Stapleton in Denver. On five separate occasions, the board has reasserted its preference for Dulles. The late Carmen Turner, undersecretary of the

Smithsonian, last year requested a GAO review of the selection process. GAO concluded the choice of Dulles could be "objectively defended by the Smithsonian."

Congress should let the Smithsonian stick to its original logical plan. House members can let this happen by rejecting the rafflestall bill, which is being pushed in the last-minute rush to adjournment.

Mr. SIMON. I am pleased the Senate has passed S. 523, the National African-American Museum Act. I thank my colleagues for sharing my belief that the time has come for this country to build a national museum to honor and document the heritage of this country's 30 million African-Americans. I would specifically like to thank Senators JOHN MCCAIN and WENDELL FORD for their efforts in support of this legislation.

Some will continue to ask why this museum? Why not an Irish-American or a German-American museum? Frankly, the history of the United States unfortunately shows us that two racial groups were severely mistreated and had a very different American education. Their experience should be remembered and their heritage should be celebrated. One group, native Americans, has been successful in having its story told nationally on The Mall. The second, African-Americans, will be when this act is signed into law.

African-Americans have made significant contributions to America's rich heritage. Regrettably however, to date the full story of African-American history has not been told. The time has come for the creation of a world-class museum to highlight these valuable contributions and display them for all the world to see and appreciate. S. 523, the National African-American Museum bill, introduced this Congress, would create such a museum within the Smithsonian Institution.

Museums are tools of immense power to educate, enrich, and entertain. An African-American Museum would help to educate all Americans about the contributions of African-Americans. The museum will help facilitate the knowledge and understanding of African-American culture that may change unhealthy attitudes and help foster better relations between people of all races.

African-Americans make up 12 percent of the population in the United States, and there are over 29 million African-American citizens. Of the over 40 million school children in the United States, 16.2 percent are African-American. These children need to learn about their ancestors' role in shaping this Nation. Indeed, all Americans would be enriched by this knowledge. In addition, of the 30 million visitors to the Smithsonian every year, many are from other countries. These travelers also use museums to gain cultural impressions and information. If we are to preserve and present the American heritage to all Americans and to the world, then we must include the contributions of African-Americans.

ESTABLISHING THE AFRICAN-AMERICAN MUSEUM UNDER THE AUSPICES OF THE SMITHSONIAN INSTITUTE

Some have expressed concern about placing the museum within the Smithsonian given its poor record on minority issues. I believe that there is validity to this complaint; however, I am encouraged by the Smithsonian's expressed commitment to improve in this area.

The Smithsonian Institution's 5-year prospectus, "Choosing the Future," outlines the Smithsonian's commitment to cultural pluralism throughout the institution. Among the new initiatives are the wider recruitment, hiring, and retention of women and minority professionals, an increase in African-American programming, and more effective outreach to diverse cultural audiences. As stated in the prospectus, "The Institution is committed to changing its exhibitions and educational programs to provide the public with meaningful and comprehensive interpretations of all cultures. It has also committed to internal institutional changes affecting the current profile of its work force and the representation of cultures on its administrative and advisory boards and commissions."

The Smithsonian Institution would bring prominence and stature to the National African-American Museum, as well as its 146 years of museum experience.

EXPANSION OF THE ANACOSTIA MUSEUM

A few have pointed to the Anacostia Museum as an example of a national African-American museum supported by the Smithsonian Institution. The Smithsonian created the Anacostia Museum as a neighborhood and community museum in 1967. It was never meant to be a world class or national institution. It is the proponent's intent, however, that the National African-American Museum would not exist alone, but rather in cooperation with the Anacostia Museum, the National Afro-American Museum and Cultural Center at Wilberforce, the Dusable Museum, and other institutions devoted to the presentation and preservation of African-American history and culture.

AFRICAN-AMERICAN MUSEUM BUILDING

Some have argued that the story of African-Americans could be told in a wing of an existing Smithsonian facility or in a location other than on or near The Mall. The proponents believe that such a move would shortchange the extensive and extraordinary heritage of African-Americans. Relegating the African-American experience to a wing of an existing facility would not afford the African-American community the accord and acclaim it is due as a result of its rich heritage and contributions to the building of our great Nation. In addition, there are no Smithsonian facilities on The Mall that would accommodate the volume of materials anticipated for the national and international center showcasing African-American history and culture.

The Smithsonian Institution's African-American Institutional Study recommended that the Arts and Industries Building, located at 900 Jefferson Drive SW, Washington, District of Columbia, be used to house the museum.

The Arts and Industries Building is the second oldest building on The Mall and is between the Hirshorn Museum and the Smithsonian Castle. The building possesses 173,000 square feet, which makes it comparable in size to most mid-sized museums in this country. The choice of using an existing edifice over building a new museum not only preserves a historic building and will save millions-of-dollars, but will also allow the Smithsonian to respond more immediately to an under-represented and underserved audience.

AVAILABILITY OF COLLECTIONS AND THE ROLE OF THE NATIONAL MUSEUM AND EXISTING MUSEUMS

The proponents do not believe it is their or Congress' role to determine what should or should not be exhibited or collected by the National African-American Museum. We do encourage the Smithsonian Board of Regents and the National African-American Museum's Board of Trustees to consult with other African-American museums, historically black colleges and universities, cultural and other organizations supportive of the National African-American Museum.

There are many wonderful private museums, such as the previously mentioned DuSable Museum in Chicago, IL and the Dunham Foundation of Cultural Arts in Saint Louis, MO, that are dedicated to the preservation and presentation of African-American heritage. These museums contribute greatly to their communities, and should continue to do so. It is our vision the National African-American Museum would work in consultation and cooperation with existing appropriate institutions and organizations. For example, it would be appropriate for the National African-American Museum to work with the African-American Museum Association, the National Afro-American Museum and Cultural Center, and the Schomburg Center for Study of African American Life and History.

We often describe American culture as a multipatterned quilt, intertwined with many fabrics. A fundamental thread of the American fabric is the history, culture, and art of African-Americans. To a remarkable degree, the heritage of African-Americans is a unique and vital chronicle of something that is undeniably and fundamentally American, the pursuit of freedoms afforded to all in a democracy. We must complete the quilt and finish the loose ends. If we are to truly educate Americans about our history and culture, and if we wish to present to the world an accurate picture of American heritage, we must showcase the African-American experience in a freestanding national museum.

I thank my colleagues again for their vote, and I look forward to swift action in the House of Representatives.

Mr. GARN. Mr. President, I take the floor to express my full support for S. 523. The bill would create the National African-American Museum and authorize planning for an extension of the National Air and Space Museum. Authorizing these two important entities within the Smithsonian complex, and including mechanisms to mitigate their impact on the Federal budget makes a great deal of sense. To delay cannot fail to drive up the costs of these needed facilities.

Title I of the measure, pertaining to the National African-Building at 900 Jefferson Drive as its home. At the very heart of the museums and visitor traffic on The Mall, this prime location has the further advantage of being immediately adjacent to the National Museum of African Art. The ability to put the Museum into an existing structure, which happens to be the historic first home of the U.S. National Museum, will greatly reduce the time required to open it to the public and the costs of its creation.

Establishment of the Museum will assist in addressing the crisis that exists in the collection and preservation of African-American patrimony. We risk losing important documents and objects if we do not make a major effort to alert the Nation to the value of many items whose historical significance has not been adequately recognized. The Museum, in particular, expects to focus its collections on material of the African diaspora; the 20th century's civil rights and labor movements; images of African-Americans in the media; and the art of contemporary African-Americans. It will, as well, engage in collecting in all historic periods.

The Museum also will work with museum organizations, communities, and individuals to preserve materials locally and to address collaboratively the needs of the field in doing so. To link that work and its own resources, the Smithsonian, through the Museum proposes to develop an African-American collections database so that information on collections and their location throughout the country would be available to museum curators and other researchers as they plan exhibitions and public educational programs.

Title II of S. 523 reflects the need of the Smithsonian to provide a replacement facility for the inadequate and outmoded structures near Suitland, MD. That facility currently houses the restoration laboratory, exhibition production and maintenance services, archives, and storage functions of the National Air and Space Museum, which cannot be stored in the Museum's existing building on The Mall. To meet these requirements, it is important to extend those functions at a nearby location while relying on nonappropriate sources of funding to a major extent.

On at least six occasions over the past 9 years, the Board of Regents of the Smithsonian Institution has recommended that an extension of the National Air and Space Museum be constructed at Washington Dulles International Airport so the Museum may continue to fulfill its historic mandate to "memorialize the national development of aviation and space flight * * *." Twice before authorizing legislation has passed the Senate, only to fail in the House.

The existing National Air and Space Museum on The Mall is the most popular museum in the word. Its approval stems from the manner in which its artifacts, from the Wright Flyer to the Pioneer 10 spacecraft, are exhibited to the public, as well as from the fact that the American people are captivated by the idea of flight and space exploration.

The crucial matter of preserving a collection is the heart of any museum's function. In spite of the wonderful job that is currently being done, it is obvious that the present site of the museum's restoration and preservation activities, the Paul E. Garber Facility at Suitland, is totally inadequate for the existing collection, and absolutely unsuitable for the needs of the future.

The icons of air and space are large: The prototype Boeing 707—which introduced the commercial jet age, generated billions of dollars for U.S. workers and investors, and shrank the world—should be available as an example of our aviation heritage. But it is too large for The Mall Museum. The space shuttle *Enterprise*—which I was pleased to help obtain for the Smithsonian—should be available for close inspection. The speedy and mysterious SR-71 Blackbird is also awaiting exhibit space, as are other examples of our achievements. These machines are too large to be exhibited in the museum on The Mall; indeed, most of them cannot even be disassembled for transportation to The Mall. The Regents of the Smithsonian Institution believe the best location is at nearby Dulles International Airport.

I am aware that there are those who would like to disperse the Air and Space Museum to the many corners of the land, but I believe that bridge has already been crossed in the numerous studies within and without the Smithsonian Institution, and by the many decisions of the Board of Regents pursuant to its statutory authority. Under the accepted criteria the decisions always and unequivocally designated Dulles International Airport as the site of the extension. I recognize that there is room for regional air and space museums, and I am committed to assist and foster these developments. But I believe there should be but one National Air and Space Museum, and that should be kept as compact and unified in display, administration, and support as possible.

The Smithsonian does not seek to expand museum activities through extensive new construction that would be costly in itself and would require the long-term commitment of increased levels of Federal program and operating funds. Locating the extension at Washington Dulles International Airport, where a number of its aircraft are stored, will permit the new facility to be managed as part of the existing Museum, thereby avoiding the costs of an additional administrative and support superstructure.

The Dulles location also will permit the Institution to take advantage of the very generous financial package offered by the Commonwealth of Virginia, which several years ago enacted bonding authority for the extension. While a modest increment of Federal funding may be required for the overall project, the Smithsonian expects to explore a variety of financing options, including fund-raising in the private sector, to complement the Virginia offer and ease Federal requirements for its support.

The extension will provide adequate space and modern systems that will enhance the Institution's capacity to enter into collaborative programs with other organizations and share the resources of the National Air and Space Museum with communities beyond the immediate Washington, DC area. Clearly, the utilization of emerging technologies is key to accelerating the distribution of information about the Museum's resources such as collections, exhibitions, and public programming, as well as to establishing real-time communications between organizations.

Mr. President, I ask that my colleagues approve S. 523 so that these important and thoughtful initiatives can proceed.

Mr. ROBB. Mr. President, I rise in support of S. 523, Senator SIMON'S bill to authorize the establishment of a National African-American Memorial Museum within the Smithsonian. I do so for two reasons.

First, the construction of a museum dedicated to African-Americans is long overdue. Our African-American citizens have a unique relationship to this country and their history represents some of our Nation's greatest errors and most important struggles. The process of making this museum a reality should help us to further the process of healing and understanding.

Second, and more parochially, I am pleased that the Senate is again acting to authorize the construction of an extension to the National Air and Space Museum at Dulles International Airport.

The Commonwealth of Virginia and I have been avid supporters of the Air and Space Museum extension at Dulles since the Smithsonian first broached the idea in 1983, while I was Governor. My friends and successors in that office, Jerry Baliles and Doug Wilder, have maintained the Commonwealth's commitment to the project.

The Dulles extension of the museum is a much needed addition to the Smithsonian's facilities. The wonders that are housed in the museum on the Mall are only a fraction of the dreams that can be housed in the extension. From the *Enola Gay* to the SR–71 to the shuttle *Enterprise*, there are simply too many remarkable items that are currently inaccessible to us because the museum on The Mall can't possibly accommodate all of them.

I would like to thank the Rules Committee for its assistance in moving this legislation again. And, personally, I am pleased that the Senate is acting on this legislation prior to our colleague Senator GARN'S retirement and is including recognition of his commitment to the museum in the bill.

Again, I urge the Senate's wholehearted support of these two important museums; I hope that the House will act on this legislation quickly, and that the Congress will be spared consideration of this athorization again in the future.

Mr. MCCAIN. Mr. President, I rise today to offer my strong support for S. 523, the National African-American Museum Act. While I am relatively new to this debate, the passage of this bill represents the culmination of many years of hard work on the part of many people both in and out of Congress. I am very proud to have had the opportunity to cosponsor and support this important effort.

Regrettably the history of minority groups in our Nation has not received the attention that it deserves. This has not been due to lack of achievement but because often their achievements have been overlooked. Our great Nation is comprised of many cultures, all of which have contributed greatly to our society. With the passage of S. 523, we have an opportunity today to fully recognize the many contributions of African-Americans to our Nation.

Museums play an important role in educating our society. This museum will serve to better educate all Americans as to the diversity and richness of our history. Lately, there has been an increased focus on race relations. I sincerely believe that racism prevails in an atmosphere where people are unaware of the contributions minorities have made to our society. While I am not so naive as to believe that this museum will end racism, I believe it offers us a great opportunity to help dispel one of its root causes—ignorance.

In my statement before the committee I quoted Dr. Carter G. Woodson when he said "that History is being daily made, but it ceases to be history unless it is recorded and passed on to coming generations." This museum will ensure the words of Dr. Woodson were not in vain.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 523), as amended, was passed as follows:

S. 523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL AFRICAN AMERICAN MUSEUM

SEC. 101. SHORT TITLE.

This title may be cited as the "National African American Museum Act".

SEC. 102. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities is inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restricts the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture includes the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99-511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

SEC. 103. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

SEC. 104. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries Building of the Smithsonian Institution to house the Museum.

SEC. 105. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

(b) COMPOSITION AND APPOINTMENT.—The Board of Trustees shall be composed of 23 members as follows:

(1) The Secretary of the Smithsonian Institution.

(2) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(3) Twenty-one individuals of diverse disciplines and geographical residence who are committed to the advancement of knowledge of African American art, history, and culture appointed by the Board of Regents, of which 9 members shall be from among individuals nominated by African American museums, historically black colleges and universities, and cultural or other organizations.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—As designated by the Board of Regents at the time of initial appointments under paragraph (3) of subsection (a), the terms of 7 members shall expire at the end of 1 year, the terms of 7 members shall expire at the end of 2 years, and the terms of 7 members shall expire at the end of 3 years.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

(e) NONCOMPENSATION.—Except as provided in subsection (f), members of the Board of Trustees shall serve without pay.

(f) EXPENSES.—Members of the Board of Trustees shall receive per diem, travel, and transportation expenses for each day, including traveltime, during which they are engaged in the performance of the duties of the Board of Trustees in accordance with section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service.

(g) CHAIRPERSON.—The Board of Trustees shall elect a chairperson by a majority vote of the members of the Board of Trustees.

(h) MEETINGS.—The Board of Trustees shall meet at the call of the chairperson or upon the written request of a majority of its members, but shall meet not less than 2 times each year.

(i) QUORUM.—A majority of the Board of Trustees shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Board of Trustees.

(j) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United State Code, the chairperson of the Board of Trustees may accept for the Board of Trustees voluntary services provided by a member of the Board of Trustees.

SEC. 106. DUTIES OF THE BOARD OF TRUSTEES OF THE MUSEUM.

(a) IN GENERAL.—The Board of Trustees shall—

(1) recommend annual budgets for the Museum;

(2) consistent with the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, and cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

(D) creating opportunities for—

(i) research fellowships; and

(ii) professional and student internships;

(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other appropriate matters.

SEC. 107. DIRECTOR AND STAFF.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint a Director who shall manage the Museum.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees under subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and such 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 108. DEFINITIONS.

For purposes of this title:

(1) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) The term "Board of Trustees" means the Board of Trustees of the National African American Museum established in section 105(a).

(3) The term "Museum" means the National African American Museum established under section 103(a).

(4) The term "Arts and Industries Building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the succeeding fiscal years.

TITLE II—EXTENSION OF THE NATIONAL AIR AND SPACE MUSEUM

SEC. 201. EXTENSION OF THE NATIONAL AIR AND SPACE MUSEUM.

The Board of Regents of the Smithsonian Institution is authorized to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Effective October 1, 1992, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $9,000,000 to carry out the purposes of this title.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read "A bill to authorize the establishment of the National African-American Museum within the Smithsonian Institution".

Mr. WARNER. Mr. President, I would like to further say with respect to the matter just passed by the Senate that many, many Senators worked on various portions of this bill. First, of course, Senator SIMON took the lead with respect to the African-American Museum, as well as other Members of the body.

The Air and Space Museum at Dulles was a dream that was really, in many respects, conceived by our former colleague, the Senator from Arizona, Senator Goldwater. He and I worked on this together with Senator GARN and others for many years. As a matter of fact, I think the Senator has passed this particular piece of legislation, I know of four times. I think this is the fourth time. And each time, for reasons which I suppose are clear to some, it did not go through the House.

I hope as a challenge to Members of the House, particularly those of the Virginia delegation, this bill will be passed this year, because not only is it very important that we have the authority to proceed with this historic museum honoring black Americans on the mall incorporated with the Smithsonian, but also to move forward with the Air and Space Museum.

There are many artifacts going way back in the history of aviation stored in various places all over the United States and weather and Father Time are taking their toll. I am hoping we can get underway with this edifice again which will memorialize the work of many, many persons as relates to our aviation history.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I be permitted to speak up to 5 minutes as in morning business and the time continue to run against the 30 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CIRCUMVENTION PROVISION IN THE TAX BILL

Mr. D'AMATO. Mr. President, for a number of years, we have seen American companies at time disadvantaged by unfair practices. Courts have made rulings and have said that the practices that have been utilized by foreign competition have been unfair. Notwithstanding that, we have seen a pattern of activity called circumvention, which has thwarted the enforcement of these court orders. I am not going to be more specific than to say that this has had devastating consequences throughout the country and that there is a constituency within the State of New York.

Both the senior Senator, Senator MOYNIHAN, and myself have come to recognize that we will be terribly disadvantaged unless we are permitted to seek legislative relief. We have been able to come to a point where the administration and others who have heretofore been reluctant have agreed not to oppose, because of the narrowness in which the legislation has been crafted, to deal with the problems in the circumvention and the illegal dumping, as it has adversely impacted on this one company.

We are talking about a number of jobs, lots of jobs, that will be lost. We are talking about giving an opportunity and we do not for sure know that it will take place, but an opportunity for peoples' lives to be saved and for them to be able to keep their jobs.

Now we have the two tax committees in conference. The provision that I mentioned, one sponsored by Senator MOYNIHAN and myself, was in the Senate version. The conferees are meeting, and we know what conferences are about. Most, if not all, of the work at times is undertaken by staff and they are dedicated staff and they are good, they are competent and they are professional. I have been given to believe that staff has dropped out this provision. That is staff.

I am going to suggest that as important as this bill is to lots of Americans, I am not going to back down at this point in time unless that provision is included, and there is no justification for it not to be included because it does not cost this country one penny and it saves American jobs. This Senator will avail himself of every legal, parliamentary maneuver to see to it that we have a full discussion before that bill is closed out and before we go home and before we just turn our backs on the last chance that these workers might have to retain their jobs. It is a chance but, by gosh, I think we owe it to them.

So I say to my colleagues who are working on this bill, make no mistake about it, this Senator will not be dissuaded because of the final hours or because, after all, we will not get a bill unless this provision is included. I will take to the floor and maintain whatever rights I have to protect the interests of these people, which both the senior Senator, my distinguished colleague and friend, Senator MOYNIHAN, and I have labored to bring about.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to associate myself with the gravity of the issue that my friend and colleague raises. We are speaking—we should be specific—of the situation of the Smith Corona manufacturing facilities in Cortland County, NY. It is not hard to keep them in mind. They are the last place in the United States where the automatic portable typewriter is made, one plant in the United States.

It is being systematically driven out of business by a Japanese firm which can turn you into one of those persons who really do feel that there is a raging and altogether unethical competition between our two countries taking place.

This plant turns out a very fine product. It had been completely redesigned about 8 years ago, as I recall. Immediately, this Japanese firm began dumping a competitive product, clearly priced below cost of manufacture, designed to eliminate the last such firm in this country, after which there is a monopoly available to the Japanese.

The Commerce Department did impose antidumping fees, where upon a very slight modification was made in the Japanese model and the dumping resumed. It there is no more clear example of predatory trade practice. I learned antidumping laws from Harry Hawkins who did the reciprocal trade agreements with Cordell Hull. I am not new to this one subject on trade. I know it. It is exactly what the 1930 legislation was designed to get rid of in the world. It is shameless.

My colleague from New York has brought this up with the administration. I understand the administration will support this measure.

Mr. D'AMATO. That is correct. The administration will not oppose this.

Mr. MOYNIHAN. They will not oppose it. It has been very narrowly drafted, carefully so and it ought to be included, and I hope it will be. I associate myself with that view.

Mr. D'AMATO. I thank my colleague.

Mr. MOYNIHAN. I thank my colleague.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, as with most issues in the United States, there are always two sides to the issue. I respect greatly both my colleagues from New York and I think that they have been tenacious on this issue.

The other side of the issue relates to the extent to which we are really making a significant change in law after the fact. The company in question did make a petition and the law ruled against them. It related to where component parts derived, whether they came from the country of origin or from third or fourth countries. And the law says country of origin.

Under the reading of the law, the company involved did not prevail. This is an attempt after the decision has been rendered to redefine the basis for a decision so that it would apply to not only the country of origin in which the good was derived but that it would apply to third parties as well. This is a fair disagreement.

I did not know this debate was coming up. I happened to be walking through the Senate when I heard my distinguished colleagues from New York speaking about this.

I know it is important to their State that it come out the way that the amendment in the bill anticipates. The amendment is primarily directed at one company, and the flip side is that it would disadvantage companies in my State and in the State of Tennessee, and that of course is why I would oppose the amendment and hope that the conference would drop the amendment.

We each have our interests to represent, and that is what I try to do here. I do not think it is wise, after the fact, to change the basis for decision that would apply primarily to one company, and I thank the Chair and I thank my distinguished colleagues from New York.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from New York.

Mr. MOYNIHAN. Let me thank—I am sure Senator D'AMATO would join me—our colleague from New Jersey, Senator BRADLEY, for the thoughtful and moderate tone in which he spoke.

I would simply say, not in reply but simply an extension of my remarks, that American trade policy has a lot at stake in this issue. It is such an unexampled instance of predatory trade practice. I have not seen—I use the word shameless. Nothing will stop this Japanese firm from violating the clear intent of our laws. In the end, the manufacturer has decided to close his American operation and move to Mexico. And that is not what we need as we move toward a North American Free-Trade Agreement.

The simple fact is there is symbolism here.

The typewriter was invented in the United States, a simple machine, a great 19th century machine, put together not very scientifically. You can spell the word "typewriter" on the top row of keys and the salesmen could exhibit it that way.

Syracuse was the center of the manufacturing in the Nation. It dropped down to this town in Cortland nearby. There is only one plant in the United States that makes portable typewriters. It is about to be closed and sent to Mexico because of Japanese practices which are indefensible, in my view. And I tend to be on the soft side of that argument, again having learned it all from Harry Hawkins, who was Cordell Hull's assistant in this matter.

But in this case make no mistake. I think those who look to an expanding trade system ought to look to this measure. The American people would not understand it if we do not enact it.

Mr. President, I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I have a unanimous-consent request which has been cleared on both sides. I ask unanimous consent that when the majority leader moves to proceed to the consideration of the conference report to accompany H.R. 776, the Comprehensive Energy Policy Act, the Senate vote on the motion to proceed without any intervening motion or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I might proceed for 5 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GEORGE BRETT'S 3,000TH BASE HIT

Mr. DANFORTH. Mr. President, Wednesday night a great man accomplished a great milestone. George Brett, the star third and first baseman for the Kansas City Royals for the last 20 years, drove a single to right field for his 3,000th base hit, a crowning achievement to a glorious career.

Brett's accomplishments as a baseball player are many and varied, but he will probably be best remembered for his remarkable ability to come through in the clutch. How many times have Kansas Citians been comforted by the knowledge that at a key point in a Royals game, George Brett was coming to bat. Who can forget Brett's eighth inning, three-run home run in the fifth game of the 1976 playoffs against the Yankees to tie the score. Or his three home runs in one game off Catfish Hunter in the 1978 playoffs. Or what might be the greatest hit in Kansas City Royals history, when Brett, in the seventh inning of the third game of the 1980 playoffs, blasted a three-run home run into the upper deck of Yankee Stadium off Rich Gossage, icing Kansas City's first American League championship. That year, Brett captivated baseball fans everywhere by batting .390. Who can forget Brett leading the Royals to a World Series championship in 1985, single-handedly staving off defeat against Toronto in the third game of the playoffs by hitting two home runs after hitting .335 with 30 home runs in the regular season.

In these clutch moments and throughout his career, Brett has exemplified what all of us strive for in our professional lives—intense focus, tremendous skill, supreme confidence, great effort, and excellent sportsmanship. Watching Brett turn a double into a triple, steal a base, slide hard into second base to break up a double play, make a diving stop at third base, or run out even the most routine ground out, is watching baseball in its purest form. It's what makes all of us dream of becoming baseball players.

Brett's professional accomplishments are only part of his legacy. Even since he joined the Kansas City community, Brett has proven himself to be one of its most outstanding citizens. Brett has been involved in dozens of community service activities. It is fitting, and not surprising, that Brett wanted to find a way to combine his commitment to helping people with his drive towards 3,000 hits. Brett donated the baseballs from his 2,975th hit through his 2,997th hit to the Keith Worthington Chapter of the ALS Association for auction to the highest bidder. Both on and off the field, Brett has exemplified the Kansas City ideals of excellence and pride in community.

It is easy to understand why Brett is one of the most popular sports figures of our day, one of the most revered members of the Kansas City community, and one of the Midwest region's great representatives to the country.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO PROCEED TO S. 2899

Mr. MITCHELL. Mr. President, I ask unanimous consent that the motion to proceed to S. 2899 be deemed agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, the Senate today has completed action on the Labor-HHS appropriations conference report, the Department of Defense authorization conference report, and has adopted the motion to proceed to the National Institutes of Health reauthorization bill.

We have also obtained an agreement that will permit us to proceed directly to a vote on the motion to proceed to the energy conference report when that is received in the Senate on Monday.

Accordingly, there will be no further rollcall votes today. It will not be necessary for the Senate to be in session on tomorrow.

The Senate will reconvene on Monday morning, and there will be a long and very busy day on Monday. Senators are hereby placed on notice of that fact.

The Senate will vote on the cable TV override at 6 p.m. on Monday. Prior to that, the Senate will consider and enact: the legislative appropriations conference report, the Department of Defense appropriations conference report, the foreign operations appropriations conference report, and I am not able to state at this time whether rollcall votes will be necessary. I hope they will not be, but that remains for each Member of the Senate to decide on Monday. Therefore, rollcall votes are possible throughout the day, and Senators should be placed on notice of that fact because we have to complete action on these measures on Monday.

In addition, on Monday we expect to receive from the House the Energy conference report and the urban aid tax bill conference report and the urban aid tax bill conference report, and it is my hope that we can at least begin proceedings on those measures; although I am advised that opposition to the energy bill may require the filing of a cloture motion on that measure.

There will be other measures that the Senate will be considering on what I hope will be either the final day or a day very close to the final day.

I thank the distinguished Republican leader for his cooperation, and I now yield to him for any questions or comments he wishes to make.

Mr. DOLE. Mr. President, I think the majority leader has outlined what we have remaining. On this side, I am advised that depending on what may or may not be in the urban aid tax bill, there could be an effort on this side not to let that conference report come to a final vote.

So we have not seen what I understand may be an almost completed conference report, or the suggestions by the two chairmen, of House Ways and Means Committee and the Finance Committee. I have had a number of inquiries, and they are indicating no time agreements on the conference report until everybody has had a chance to study it thoroughly.

Otherwise, I think it will be a busy day on Monday, but it is possible, in my view, hopefully, to conclude everything by Tuesday noon of next week.

Mr. MITCHELL. This many be one of those rare occasions when I am more hopeful than the Republican leader. I am shooting for Monday night, barring the necessity for cloture votes thereafter.

If they are required, of course, then it would not be possible to complete action at that time. But we have made significant progress toward that objective, and I expect that we will continue that progress on Monday.

Mr. President, I yield the floor.

DEFENSE AUTHORIZATION BILL

Mr. DOLE. Mr. President, I want to take just a minute to thank the ranking Republican of the Senate Armed Services Committee, Senator WARNER, for the tremendous service he has given to the committee, the Senate, and to our Nation.

Today, our military stands as the finest fighting force ever assembled. They are the best trained and best equipped military in the world. America is more secure—the world is a safer place—than any time in recent history.

This is the legacy that Senator WARNER leaves as he departs the committee as its ranking member. Our Nation owes Senator WARNER a sincere debt of gratitude for his dedication, hard work, and commitment to peace through strength. The victory over Communism is, in many ways, his victory. Let me also extend my sincere appreciation to Pat Tucker, minority staff director, Les Brownlee, deputy staff director, Ken Johnson, Skip Ringo, Ann Sauer, Ron Kelly, Gary Sojka, George Lauffer, John Etherton and other members of Senator WARNER's excellent staff who have done the tough jobs that have made these important bills possible. The Nation is grateful for your service and more secure today because of your effort and dedication.

Mr. FORD. I ask unanimous consent that we may proceed in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

OUTPATIENT PRESCRIPTION DRUGS FOR MEDICARE BENEFICIARIES

Mr. RIEGLE. Mr. President, I rise today to address a growing health care crisis among senior and disabled Americans enrolled in Medicare. Many Medicare beneficiaries take daily or periodic prescription drugs for conditions like heart disease, high blood pressure, arthritis, and osteoporosis but lack access to affordable outpatient prescription drugs. Since more people are living longer and surviving long-term, chronic illness more frequently, the need for high quality, reasonably priced prescription drugs among our older and disabled population is increasing as well. Advances in pharmaceutical research and development have resulted in patients being treated in a less invasive manner, with shorter hospital stays and quicker recovery time. But many Medicare beneficiaries have limited access to these often more cost-effective treatments.

NEED FOR NEW OUTPATIENT PRESCRIPTION DRUG BENEFIT

Part A of the Federal Government's Medicare Program pays for drugs when they are associated within patient hospital stays. Medicare part B pays for physician services, but generally does not provide coverage for self-administered prescription drugs. About 75 percent of older Medicare beneficiaries have private insurance coverage supplementing Medicare but often still do not have good coverage of their out-of-pocket drug costs. And only very low-income elderly and disabled persons have drug coverage through Medicaid.

According to the American Association of Retired Persons [AARP], almost two-thirds of people over 65 pay for drugs out of their own pocket, spending an average of over $270 per year on prescriptions. The average senior citizen needs about 15 prescriptions per year. In 1992, it is estimated that one-third of seniors will spend over $650 per year for their prescription drugs, and one in five seniors will spend over $1,000 per year for their prescription drugs. Based on this compelling need, it comes as no surprise that a recent AARP report showed that 90 percent of Americans, age 45 and older, believe the Government should provide prescription drugs at low cost to older Americans.

Persons with disabilities also need access to affordable prescription drugs. Medicare provides health care coverage for about 3 million beneficiaries under age 65 who are disabled. On average, disabled beneficiaries under age 65 obtained 22 prescriptions and incurred $405 in associated costs.

The AARP survey also found that more than 70 percent of Americans support the concept of expanding the Medicare Program to cover the cost of outpatient prescriptions.

Although the Medicare population's use of outpatient prescription drugs has increased by an average of 4 percent per year from 1980 to 1987, the cost of these prescriptions has increased by an average of 16 percent each year per prescription. A recent study by the Families USA Foundation supports the conclusion that drug companies are raising prices many times faster than the number of prescriptions dispensed. In addition, a report by the Senate Special Committee on Aging, chaired by my colleague, Senator PRYOR, finds that without cost containment, total U.S. spending on pharmaceuticals is expected to increase from $67 billion in 1990 to $145 billion by the year 2000.

In 1988, Congress attempted to limit the financial burden that Medicare beneficiaries face from out-of-pocket drug spending in the Medicare Catastrophic Coverage Act. Many considered the drug benefit the single most important benefit of that bill. Unfortunately, this crucial benefit was revoked only 1 year later with the repeal of the 1988 act.

LEGISLATIVE PLANS FOR THE 103D CONGRESS

We can no longer expect Medicare beneficiaries to continue to absorb spiraling cost inflation of prescription drugs out of their own limited budgets. In Michigan, more than 1.2 million persons are covered through Medicare; nationwide, we have more than 33 million. That is why today I am putting in the RECORD a proposal to create a benefit under Medicare to provide coverage for outpatient prescription drugs. I ask unanimous consent that an outline of the plan immediately follow my remarks.

Mr. President, I intend to introduce a bill to establish a outpatient drug benefit under Medicare as soon as possible after the start of the 103d Congress. Because of the complex problems associated with developing a meaningful benefit while at the same time controlling prescription drug cost inflation, I will use the time from now until the start of the next Congress to work with my colleagues and members of the beneficiary and pharmaceutical manufacturing communities to develop a final plan.

My objective with this plan is to improve access to affordable prescription drugs for Medicare beneficiaries, while at the same time ensuring that pharmaceutical manufacturers will continue to invest in new, innovative, and cost-effective drugs to treat the unique therapeutic needs of Medicare population. We need to control drug spending for this population and at the same time be aware of the changing demographics of the population. And we need quality assurance to assure that pharmaceuticals are used appropriately and that new drugs are incorporated into the benefit rationally.

One lesson we have learned from our experience with the Catastrophic Coverage Act is that making drugs affordable must be part of any prescription drug benefit. The structure of the benefit will depend greatly upon the effectiveness of the cost controls.

PROPOSAL FOR OUTPATIENT MEDICARE DRUG BENEFIT

My plan would provide coverage for FDA-approved outpatient prescription pharmaceuticals, biologicals, and insulin to all Medicare beneficiaries under Medicare part B. Cost containment mechanisms would ensure that the price of drugs purchased by Medicare beneficiaries accurately reflects both the cost of research and development of the product and the need for an economical pricing policy. Reasonable annual deductible and copayment levels would be determined by a variety of factors including the total cost of the new benefit and the new benefit and the effectiveness of the cost controls.

Making drugs more affordable is a critical objective of my plan. In my proposal, I outline several options for making drugs affordable. In developing these options, I considered the aggregate purchasing power of Medicare beneficiaries, especially in the area of establishing the payment rates for covered drugs. An independent board of health care experts, in consultation with the Secretary, would be established to develop the plan for determining the payment rates and would consider several different alternatives specified in the outline for this. This proposal would also reduce drug costs and maintain the highest quality of care by encouraging the use of generic substitute drugs whenever possible and by implementing a program for drug utilization review [DUR].

Funding for the benefit would be held in a separate account within the supplemental medical insurance trust fund to enable the Secretary and the Board to monitor expenditures for this sector of the health care economy.

I encourage my colleagues to take a close look at this proposal. I know they have heard, as I have, from countless constituents about the tremendous financial burden of keeping up with out-of-pocket prescription drug spending places on them. I am sure they have heard from individuals on fixed incomes, many of whom rely on daily doses of lifesaving drugs, that spending for these prescriptions is eating up a larger and larger chunk of their monthly budget. I believe the answer to their concerns is an outpatient prescription drug benefit under Medicare. I also urge Medicare beneficiaries and organizations who represent them, as well as providers and manufacturers, to review the proposal and provide us with their views on the bill.

Mr. President, I look forward to working with my colleagues during the 103d Congress to bring this proposal to its fruition.

There being no objection, the outline was ordered to be printed in the RECORD as follows:

MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT PROPOSAL

I. COVERED OUTPATIENT DRUGS

Create new benefit under Medicare Part B to cover drugs that are:

(1) Dispensed upon prescription;

(2) Approved for safety and efficacy by the Food and Drug Administration;

(3) Biological products licensed under the Public Health Service Act;

(4) Identical to drugs used or sold prior to the 1962 Drug Amendments;

(5) "DESI" drugs for which the Secretary has not issued notice of a hearing;

(6) Certain intravenous drugs provided in the home with the establishment of quality standards for providers.

(7) New and innovative drugs may be added to the list of covered drugs through a process developed by the prescription Drug Expenditure Board (described in section III), involving utilization review, economic justification studies and technology assessment to facilitate the adoption of innovations at the earliest possible time. This will include certain experimental drugs which are associated with peer-reviewed and approved protocols conducted in connection with peer-reviewed and approved research programs.

II. DEDUCTIBLE AND COPAYMENT

A. No payment would be made for services covered under this provision until an annual deductible has been met, except for immunosuppressive drug therapy for one year immediately following transplant surgery, since these therapies are already covered under Medicare Part A. Annual deductible is to be determined.

B. Beneficiary other cost-sharing, including copayments, are to be determined.

III. DRUG AFFORDABILITY

A. Establish a Prescription Drug Expenditure Board to develop appropriate methods to lower costs and assure access to affordable drugs and continued research and innovation. The Board, in consultation with the Secretary, would be required to establish a process for to determining reasonable payment rates for covered drugs taking into consideration the aggregate purchasing power of Medicare beneficiaries.

The Board would also specifically monitor drug spending using information from the separate account established in the SMI trust fund and make recommendations on annual spending goals and appropriate accounting procedures, including the need for contingency funds. The Board would also review and report to Congress on increases in prescription drug prices, utilization of drugs by the Medicare population, administrative cost resulting from drug coverage and other ways to control all drug costs under Medicare, including drugs currently covered under Medicare.

The Director of the Congressional Office of Technology Assessment shall provide for the appointment of a Prescription Drug Expenditure Board to be composed of individuals with expertise in the provision and financing of covered drugs. The Board will consist of 11 individuals, serving 3 year terms, who are recognized experts in the fields of health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as at least one individual who is a Medicare beneficiary.

Among the options considered for establishing reasonable payment rates for covered drugs, the Board would consider:

Option (1) Program payments set at 80 percent of the lesser of the actual charge for the drug and a payment limit. The payment limit would vary depending upon whether the drug is single source of multiple source.

The payment limit for single source drugs, and for multiple source drugs with restrictive prescriptions, would be the lesser of: (1) the 90th percentile of actual charges for the drug within a geographic area, and

(2) the sum of an administrative allowance plus the average wholesale price. The administrative allowance would be $5 per prescription if the drug is provided by a participating pharmacy, and $3 if provided by a nonparticipating pharmacy.

In the case of multiple source drug without a restrictive prescription, the payment limit would be the administrative allowance plus the median of the average wholesale prices for the drug.

The Secretary would conduct certain surveys to determine the average wholesale prices of both single and multiple source drugs.

The administrative allowance would be updated annually by the implicit price deflator for the gross national product. The Secretary would be permitted to reduce the administrative allowance for drugs dispensed through a mail service pharmacy.

The Secretary would publish a list of comparative wholesale prices of commonly prescribed outpatient drugs, and distribute the list to hospitals, physicians, Social Security offices, senior citizen centers and appropriate places. (This option is modeled after the drug benefit in the Catastrophic Coverage Act of 1988.)

Option (2) The program would attempt to negotiate acquisition cost allowances with manufacturers that meet federal criteria for prices. Those with negotiated prices would be participating manufacturers, with their products fully recognized by the program with no balance billing for patients whether or not the deductible is met.

For products of nonparticipating manufacturers for which over half of sales are not to beneficiaries of federal programs, the estimated average acquisition cost would be set on the basis of actual transaction prices (e.g. as determined by marketing research firms). Otherwise the acquisition cost allowance will be based on the average cost in the last year before passage of the program, increased by the CPI.

Participating manufacturers would have to agree to the prices that meet federal criteria on all products covered by all federally supported prescription programs.

The products of non-participating manufacturers would be covered only in circumstances in which the drug offers substantial unique therapeutical advantages according to criteria set by the Secretary. Approvals may be according to protocols or may be on an individual patient basis.

Payment made to pharmacists on the basis of (i) a designated acquisition cost set in advance for each drug calendar year and (ii) a pharmacist fee.

Networks of participating pharmacies would be selected through a competitive bidding process based on criteria that included access, other routine services (such as record keeping, waiting times, hours of operation, including at least one 24-hour pharmacy in each medical service area, etc.), administrative assistance (e.g. providing preprinted labels and other information) and pharmacy fee.

Option (3) Develop other ways to convene negotiations between appropriate parties—manufacturers, beneficiaries and providers—to determine payment rates for covered drugs; or any other mechanisms that the Board deems appropriate.

B. Require the Secretary to implement a Drug Utilization Review (DUR) Program for covered drugs which insures that:

(1) Covered prescriptions are appropriate;

(2) Medically necessary;

(3) Not likely to result in adverse health outcomes;

The program would be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs. The DUR program, including prospective and retrospective drug review, would be modeled after the DUR program of the Medicaid Drug Rebate amendments of 1990, section 1927 of the Social Security Act.

C. Encouraging generic substitution by allowing pharmacists to make substitutions, after consultation with the beneficiary, unless the doctor specifically indicates on the prescription that generic substitution is not allowed.

IV. ENROLLMENT

A. Current Part B beneficiaries would be enrolled on a voluntary basis, with a Part B penalty applying for each year they delay enrollment. The penalty would be 10% of the additional premium cost of the drug benefit portion of the premium for each year the beneficiary is not enrolled.

B. Drug benefit would be a standard Part B benefit for new enrollees.

V. PARTICIPATING PHARMACIES

A. Secretary would establish a participating pharmacy program, where pharmacies agree annually to:

(1) Accept assignment for all Medicare claims;

(2) Provide beneficiaries with information on drugs;

(3) Keep records the Secretary deems appropriate;

(4) Advise beneficiaries on the availability of generic substitute drugs;

(5) Submit claims electronically utilizing equipment and technical assistance provided by the Secretary.

B. Establish civil money penalties for pharmacies which voluntarily violate terms of this participation agreement.

VI. USE OF CARRIERS, FISCAL INTERMEDIARIES, AND OTHER ENTITIES IN ADMINISTRATION

A. Authorize use of contracted entities, carriers or fiscal intermediaries to

(1) Process claims for covered drugs;

(2) Provide pharmacies with information on whether an individual beneficiary has met their deductible;

(3) Use an electronic claims processing system;

(4) Pay claims within a specified time limit.

VII. STANDARD CLAIM FORM

Require the Secretary to develop and distribute a standardized claim form for covered drugs and for electronic billing.

VIII. COORDINATION WITH EXISTING PROGRAMS

A. Provide for coordination of covered outpatient drug benefit with contracted Health maintenance organizations (HMO's).

B. Require the Secretary to develop, in consultation with the National Association of Insurance Commissioners (NAIC), revisions to NAIC's minimum benefit requirements and model standards for supplemental Medicare insurance ("Medigap") plans to incorporate appropriate coverage in light of this new benefit and develop appropriate transition requirements.

IX. PREMIUMS

A. The Part B premiums would, as under current law, be set at 25% of the costs of the program. Amounts collected for this benefit will be placed in a new, separate, drug benefit account within the Supplemental Medical Insurance (SMI) Trust Fund. Payments for benefits would be administered through the SMI Trust Fund.

X. FINANCING

A. The provision will be fully financed, as required, on a pay-as-you-go basis, but the proposal as written does not specify a financing mechanism necessary to cover the full cost of implementing such a program. Part of the financing of the plan may be from a manufacturers rebate program for drugs currently being covered under Medicare.

A TRIBUTE TO DR. BARBARA McCLINTOCK

Mr. MOYNIHAN. Mr. President, I rise today in tribute to one of the world's leading geneticists, Dr. Barbara McClintock, who died September 4 at 90 years of age. I am proud to note that Dr. McClintock spent most of those 90 years in the great State of New York, contributing mightily to the world's understanding of genetics. Most of us are fortunate to make one major contribution in our lives. Dr. McClintock made two. The first was her development of staining and microscopic techniques in the 1930's that enabled her to demonstrate how chromosomes recombine during reproduction to create new combinations of genes. She was immediately honored for that work.

Her second, and most important contribution, was observing that genes are not inherited simply, like beads on a string, but that some jump from site to site. At the time of her discovery, the work was not understood. In fact it was ignored, much like Gregor Mendel's work with peas was ignored for 40 years until the world was ready to understand. We now know that jumping genes, and other movable genetic elements, are important for normal development and immune system functioning. When these movements occur incorrectly they can result in genetic diseases, such as cancer.

Dr. McClintock's conclusions in the 1940's were based on the patterns of color in corn kernels, and how they changed from one generation to the next. In fact, it was only after completely new models for understanding genetics came about with the revolution in molecular biology in the 1970's that the work became intellectually accessible to a wider group of scientists. Like many people throughout history whose work is ahead of its time, Dr. McClintock's work was ignored, even reviled. But she persevered, working alone at the Cold Spring Harbor Laboratory in Cold Spring Harbor, NY, which provided support for her work over five decades, even when the work was unpopular.

Dr. McClintock garnered honors and prizes throughout her long career. She was elected as a member of the National Academy of Sciences in 1944. Only the third woman to be elected to the National Academy of Sciences. In 1945 she was elected president of the Genetics Society of America, and received the National Medal of Science on 1970. However, it was not until the early 1980's that the world properly recognized her unique contributions. When the biologists of the 1970's provided molecular evidence for her pioneering findings, Dr. McClintock was honored with the first MacArthur Laureate Award, $60,000 a year for life, in 1981, and a Nobel Prize in Physiology and Medicine in 1983. In many ways the geneticists were relieved that experimental techniques had evolved to the point they were able to understand the significance of Dr. McClintock's work. They knew there was something to it; they just did not know what.

In 1982 a book was written about Dr. McClintock by Evelyn Fox Keller. It is titled "A Feeling for the Organism: The Life and Work of Barbara McClintock." I recommend it as reading material to my colleagues and especially to students who would be scientists. Dr. McClintock's philosophy was that there is a need to look at scientific problems with fresh eyes, to approach questions from nonconventional as well as conventional ways, and above all to look for and appreciate the subtleties and complexities of life.

As J.R.S. Fincham notes in a recent issue of Nature, Dr. McClintock's "solitary style of work, total independence of thought and extraordinary record of getting things right have elevated her to the status of prophet in the eyes of some." Dr. McClintock never gave up. She continued to work at her laboratory at Cold Spring harbor Laboratories until 4 months before her death, putting in 7-day weeks, sometimes 16 hours a day. The world has lost what the New York Times calls "A Top Geneticist of (the) Century." Although saddened by her loss, we should be grateful for her accomplishments and for the fact that Dr. McClintock lived to see her work appreciated.

Mr. President, I ask unanimous consent that the September 4 New York Times obituary about Dr. Barbara McClintock be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 4, 1992]

DR. BARBARA McCLINTOCK, 90, GENE RESEARCH PIONEER, DIES

(By Gina Kolata)

Dr. Barbara McClintock, one of the most influential geneticists of the century, died on Wednesday night at Huntington Hospital on Long Island. She was 90 years old and lived nearby at the Cold Spring Harbor Laboratory, where she had conducted research for more than 50 years.

She died of natural causes, said Lisa Gentry, a spokeswoman for the lab.

Dr. McClintock had an uncanny ability to understand the nature of genes and how they interact decades before biologists discovered the molecular tools to dissect genetic material. Working with corn all her life, she is best known for her discovery that fragments of genetic material move among chromosomes, regulating the way genes control cells' growth and development.

In the 1930's, she was a discoverer of the fact that chromosomes break and recombine to create genetic changes in a process known as crossing over, a discovery that explained puzzling patterns of inheritance. She also discovered a structure called the nucleolar organizer of the chromosome, which seemed to order the genetic material during cell division, a finding that was not explained by molecular biologists for another three decades.

Modern genetics has known no figure quite like Dr. McClintock, who worked alone and chose not to publish some of her revolutionary observations for years, explaining later that she thought no one would accept the findings. She never gave lectures, as most scientists do to build their careers. Instead, until her last days, she worked in her laboratory at Cold Spring Harbor 12 hours a day, six days a week. Until 1986, she did not have a telephone, requesting that anyone who wanted to talk to her write a letter instead.

Dr. McClintock's findings were so profound that she garnered honors and prizes throughout her long career, including membership in the National Academy of Sciences in 1944, president of the Genetics Society in 1945, the National Medal of Science in 1970, the first MacArthur Laureate Award, for $60,000 a year for life, in 1981, and a Nobel Prize in Physiology or Medicine in 1983.

'GIANT FIGURE' IN GENETICS

She was the first woman to win an unshared Nobel Prize in that category and the third woman to win an unshared Nobel science prize. The first was Marie Curie in 1911 and the second was Dorothy C. Hodgkin in 1964, both for chemistry.

"She was a giant figure in the history of genetics," said Dr. James Shapiro of the University of Chicago. "I think she is the most important figure there is in biology in general."

Dr. James Watson, director of the Cold Spring Harbor Laboratory and codiscoverer of the structure of DNA, the chemical that makes up genes, said Dr. McClintock was one of the three most important figures in the history of genetics, one of "the three M's," he said. The other two, Gregor Mendel and Thomas Hunt Morgan, lived in the 19th and early 20th centuries and laid the groundwork for notions of inheritance.

J. R. S. Fincham of Edinburgh, Scotland, writing in the Aug. 20 issue of Nature, a British science journal, said that Dr. McClintock's "solitary style of work, total independence of thought and extraordinary record of getting things right have elevated her to the status of a prophet in the eyes of some."

Dr. McClintock spent her professional life working on corn, using the telltale patterns of the colored kernels to disclose the breaking, joining and rearranging of genes and chromosomes inside the cells. Because the pigments of the kernels are inherited, Dr. McClintock could trace genes through the changes in the colored kernels of corn.

ASTONISHING EARLIER DISCOVERIES

To the astonishment of molecular geneticists, whose precise tools now allow them to cut and snip submicroscopic genes, Dr. McClintock's discoveries about the nature of genes and inheritance were made at a time when no one even knew what DNA was.

In the 1930's, Dr. McClintock established her reputation by becoming one of the scientists to develop an understanding of chromosomes as the basis of heredity, work that was honored by her National Medal of Science.

Dr. McClintock's Nobel Prize was for her discovery that the genetic material is not fixed, but instead is fluid. Small fragments of DNA, called transposable elements, actually move from place to place and, in doing so, they control the expression of genes.

Dr. McClintock made this discovery nearly 40 years before she won the Nobel Prize, at a time when genetics was still so rudimentary that her ideas baffled other scientists and were often dismissed outright or ignored.

In an introduction to a volume of papers about Dr. McClintock, produced in celebration of her 90th birthday, Dr. Nina Fedoroff of the Carnegie Institution of Washington and Dr. David Botstein of Stanford University described Dr. McClintock's plight. Her ideas about transposable elements, they wrote, were "ahead of her time and Barbara found herself in an anomalous and unique position," adding, "She was universally respected and admired as one of the leading geneticists of her era, yet the reaction to her latest and perhaps most profound discoveries and insights was often uncomprehending or indifferent and not infrequently dismissive or even hostile."

FILED HER EARLY DATA

Concluding that she could never convince the scientific community, Dr. McClintock doggedly carried on with her work, carefully filing her data away and writing them up only in her annual reports to the Carnegie Institution of Washington, which supported her work.

In her biography of Dr. McClintock, "A Feeling for the Organism," Dr. Evelyn Fox Keller of the Massachusetts Institute of Technology wrote that geneticists were baffled by Dr. McClintock's ideas because they seemed too much at odds with the very nature of Darwinian evolution. The theory of evolution holds that changes occur randomly in genes, giving rise to changes that may or may not prove beneficial.

Dr. McClintock, however, was saying that purposeful changes occur in genes, that transposable elements jump to specific places to insert themselves into genetic material and alter it.

Another stumbling block, Dr. Keller said, was that Dr. McClintock was working with corn, a species whose complex patterns of development were clear to her but not to many others. And she had done her work alone without the benefit of long discussions trying to explain her ideas to colleagues.

Finally, in the late 1970's, when molecular biologists isolated transposable elements in bacteria and then discovered that they were universally used by cells to control genes, Dr. McClintock's work was rediscovered and widely celebrated as prescient.

Dr. Shapiro said: "I think the implications of this work are just being realized. The idea that the genome is capable of repairing itself, and that it is capable of reconstructing itself, that there are systems in the cell that can detect damage and do appropriate things to repair it, has tremendous implications for evolution as well as for genetics."

Because Dr. McClintock worked alone, emphatically rejecting reductionism, because she was so often right and saw so clearly when others were muddled, she has gained a reputation as almost a mystic. Dr. Shapiro said she was more, "someone who understands where the mysteries lie than someone who mystifies."

Dr. McClintock "understands the complexity of the genome and the limits to our understanding of it," he said, adding, "She appreciated that the problems we are addressing are enormously deep and complex."

Dr. Keller described Dr. McClintock as a person who from infancy valued her solitude and independence.

Barbara McClintock was born on June 16, 1902, in Hartford, Conn. The daughter of a doctor, she grew up in Brooklyn and learned to love science while attending Erasmus Hall High School there. When she was 17, she enrolled at Cornell University's College of Agriculture, a university that had been extremely hospitable to women.

When she was a junior she was invited to take the university's graduate course in genetics and became, unofficially, a graduate student. From the time she received her Ph.D. in 1927 until 1941, she worked at Cornell University and at the University of Missouri, collaborating with some of the country's most eminent geneticists. From 1941 until her death, Dr. McClintock worked at Cold Spring Harbor, following her own course.

Dr. McClintock is survived by a sister, Mignon Crowell, who lives in Florida, and a brother, Thomas N. McClintock of Newtown, Conn.

CONGRESSIONAL BUDGET OFFICE REPORT—S. 2527

Mr. JOHNSTON. Mr. President, on September 30, the Committee on Energy and Natural Resources filed the report to accompany S. 2527, a bill to restore Olympic National Park and the Elwha River ecosystem and fisheries in the State of Washington.

At the time this report was filed, the Congressional Budget Office had not submitted its budget estimate regarding this measure. The committee has since received this communication from the Congressional Budget Office, and I ask unanimous consent that it be printed in the RECORD in full at this point.

There being no objection, the estimate was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 30, 1992.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2527, the Elwha River Ecosystem and Fisheries Restoration Act.

Enactment of S. 2527 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you want further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2527

2. Bill title: The Elwha River Ecosystem and Fisheries Restoration Act

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on September 22, 1992.

4. Bill purpose: S. 2527 would direct the Department of the Interior (DOI) to acquire the Elwha and Glines Canyon water projects for $29.5 million, subject to the appropriation of the necessary funds. DOI would be required, by January 31, 1994, to study the feasibility of acquiring the projects and to develop plans for full restoration of the Elwha River ecosystem and fisheries. If funds are provided for these purposes, DOI also would be required to: implement the restoration plan; protect existing water quality and availability in the area; and enter into long-term leases with the city of Port Angeles and the Lower Elwha Klallam Tribe. The bill would authorize such sums as may be necessary to acquire the facilities and to implement restoration plans. These funds would be available only after the study is completed.

Finally, S. 2527 would direct DOI to acquire land in Clallam County, Washington, for housing, economic development, and moorage for fishing boats for the Lower Elwha Klallam Indian Tribe, and would authorize appropriations of $20 million to carry out these activities.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1993	1994	1995	1996	1997
Estimated authorization level	3	1	41	3	3
Estimated outlays	2	1	33	5	5

This table does not include the costs to implement the restoration plan or to protect water quality. These costs would range from about $20 million to $100 million, beginning in 1995. The precise costs of carrying out these activities will not be known until after DOI completes the required study.

In addition, we estimate that funds totaling about $6 million would be necessary after 1997 to complete tribal housing and economic development activities, and that outlays for these purposes in 1997 and 1998 would total about $12 million.

The costs of this bill fall within budget functions 300 and 450.

Basis of estimate: CBO assumes that S. 2527 will be enacted early in fiscal year 1993 and that funds to study restoration options will be provided beginning in that year ($2.5

million in 1993 and $1 million in 1994). We estimate the DOI would acquire the water project facilities in 1994 at the specified cost of $29.5 million. Subsequent costs to carry out restoration activities—including the protection of water quality—could range from $20 million to $100 million depending on the restoration options chosen.

CBO assumes that the funds for tribal housing and economic development would not be appropriated until DOI completes the restoration report in 1994. Also, CBO assumes that the amounts authorized for land acquisition and planning related to the land acquisition would be appropriated over several years. Accordingly, CBO estimates that the funding requirements would be about $11 million in fiscal year 1995 and about $3 million annually for fiscal years 1996 and 1997. The remainder of the funds would be needed after 1997.

CBO estimates that all funds would be spent at historical rates for similar activities.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. CBO estimates that enactment of S. 2527 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Theresa Gullo and Patricia Conroy (226-2860).

11. Estimate approved by:

C.G. NUCKOLS,
Assistant Director for Budget Analysis.

TRIBUTE TO THE HONORABLE WILLIAM L. DICKINSON UPON HIS RETIREMENT FROM THE U.S. HOUSE OF REPRESENTATIVES

Mr. SHELBY. Mr. President, I would like to take this opportunity while debating the conference report on the DOD authorization bill to honor the service of the Honorable WILLIAM "BILL" DICKINSON of Montgomery, AL, who is retiring from the U.S. House of Representatives at the end of the 102d Congress.

Mr. President, BILL DICKINSON has served the people of the Second Congressional District of Alabama in the U.S. House of Representatives for 14 terms. As a native Alabamian born in Opelika, AL, BILL DICKINSON has done as much for the State of Alabama as anyone in recent memory.

BILL began his service to his country in the U.S. Navy during World War II and has not stopped since. Aside from fighting for his country, BILL's early accomplishments include his acceptance to the Alabama bar, his service as a judge in the Fifth District Court of Alabama, his selection as Outstanding Young Man of Alabama Jaycees in 1961, and his appointment as the assistant vice president of the Southern Railway System.

Despite this impressive resume, BILL's greatest accomplishments have been realized during his 28 years in the U.S. House of Representatives. As a member and then ranking minority member of the House Armed Services Committee, BILL DICKINSON has been an invaluable asset and ally to the State of Alabama and the country. Through his guidance and leadership the United States built up the strongest military in history, which directly led to the downfall of communism throughout the world and greatly reduced the likelihood of a worldwide nuclear war. Were it not for the foresight of people like BILL DICKINSON, the United States would not be the dominant player it is today in the international community.

I have enjoyed working with BILL over the years and will truly miss his support and friendship. He is leaving behind a distinguished career and an honorable legacy. I wish him and his family the best of luck and an enjoyable retirement. BILL has certainly earned it.

ADDRESS OF JOHN BRADEMAS ON DEMOCRACY IN EASTERN EUROPE

Mr. PELL. Mr. President, I would like to draw to the attention of my colleagues the text of a recent address by our distinguished former colleague in the House of Representatives where he was majority whip, the Honorable John Brademas. As many of my colleagues are aware, after his long and distinguished career in the House, Dr. Brademas went on to serve as president of New York University, from 1981 until this year.

Recently, Dr. Brademas contributed a thoughtful address on democratic and economic conditions in the countries of Central and Eastern Europe and the former Soviet Union to a conference sponsored by the U.N. Development Program in Bucharest, Romania.

Dr. Brademas makes a compelling argument that despite domestic dilemmas, the United States cannot afford to ignore this historic opportunity to help the countries of the former Soviet Union and Eastern Europe develop open economies and parliamentary democracies.

I urge my colleagues to read Dr. Brademas' remarks, and I ask that the text of the address be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF DR. JOHN BRADEMAS, PRESIDENT EMERITUS, NEW YORK UNIVERSITY

MARKET ECONOMICS AND DEMOCRATIC POLITICS: TOWARD A NEW ERA FOR CENTRAL AND EASTERN EUROPE

(U.N. Development Round Table on Global Change, September 4-6, 1992, Bucharest, Romania)

I am honored to have been invited by the distinguished Administrator of the United Nations Development Programme, Dr. William H. Draper III, and Dr. Leonard Silk, for many years the highly respected economics columnist of the New York Times, to take part in this second UNDP Round Table on Global Change.

I speak to you from two perspectives.

First, as a Member of Congress for twenty-two years (1959-81), I've had the opportunity several times to travel to this part of the World—to Czechoslovakia, Hungary, Poland, Yugoslavia, the former Soviet Union and Romania.

Indeed, during my service in Congress, I twice visited Romania, on both occasions meeting the late Communist dictator, Nicolae Ceaucescu, once in his home in Bucharest and another time near Lake Constanza. I must tell you, however, that my recollections of my visits to the beautiful painted monasteries of Moldovitsa, Sucevitsa and Voronets are much more agreeable!

During my last four years in the House of Representatives, I was Majority Whip, that is to say third-ranking Democratic leader, with responsibility for counting votes and generating support for the positions of my party on contested issues.

As a legislator, I sat on the House committee, with principal responsibility for education at all levels—prekindergarten through school, college and university—the arts and humanities, libraries, museums, and other institutions of leaning and culture and for services to the elderly and the disabled.

The second viewpoint I bring to these discussions stems from my having served for over a decade, 1981 to 1992, as President of New York University, the largest private university in the United States.

Three references to my own personal background as an American politician, legislator and university leader may help you better understand why I believe so strongly that the nations of the West, particularly the United States, must play a constructive part in encouraging, in the countries of Central and Eastern Europe and the former Soviet Union, the development of democratic political institutions and market-oriented economies.

A DIFFERENT WORLD

The subject of this Round Table is "Global Change: Systems and People." You and I know that the international environment in September of 1992 is far different from the time, just nearly two years ago, of the last such UNDP meeting, in Turkey, in September 1990.

The cascade of events since then has been dizzying—the crumbling of the Communist empire, the disintegration of seventy years of totalitarian governments and command economies and the beginnings of reform of the old, inhuman and ultimately unworkable structures.

Last fall, as President of New York University, I was in Moscow, a city I had as a Member of Congress visited over thirty years ago. I have, therefore, seen with my own eyes something of the extraordinary changes during those three decades. In the summer of 1991, I welcomed to New York University, nine days after his election as the first President of the Russian Republic, Boris Yeltsin, and what Yeltsin said then would have been unthinkable even three years ago. He endorsed human rights, a market economy, freedom for the Baltic states and the teachings of the Gospel!

In the Middle East, ancient enemies are flirting fitfully with the prospect of genuine dialogue about how to find a lasting peace.

Authors of the accord that merged the European Community and the European Free

Trade Association seek economic and other benefits for 380 million people in 19 nations. The North American Free Trade Agreement, just signed by Canada, Mexico and the United States, promises a market of nearly as many consumers, with a combined economic output of $6 trillion.

Alongside these generally positive developments, however, are the horrendous war in Yugoslavia; violent ethnic struggles in some of the new republics of the former Soviet Union, including Romania's neighbor, Moldova; ongoing strife in Kashmir and Cambodia; and continuing Communist dictatorships in China and North Korea.

And, as I write, in late August, Saddam Hussein continues to thumb his nose at the United Nations and the entire civilized world and brutally repress Kurds and Shiites.

Standing on the sidelines, as it were, with the bulk of the planet's population and least of its comforts, are the developing countries of Africa, Asia and Latin America. The terrible tragedy of Somalia is the most dramatic example of how distant humankind is, as we approach the 21st century, from a world where thousands of people no longer starve.

Americans, too, face a burgeoning array of problems of our own, from combating crime and drugs to cleaning up the environment, from fighting AIDS to dealing with homelessness, from reinvigorating a listless school system to reigniting a stalled economy.

Worse, our ability to finance the immense efforts necessary to address these troubles has progressively deteriorated. This year's deficit in the budget of our Federal government has soared to nearly $400 billion, over $1 billion a day, a fact with profoundly crippling consequences for our strength at home and abroad.

Despite our domestic dilemmas, Americans cannot ignore our obligations to the wider world. Indeed, for the first six months of this year, I served on a commission, sponsored by the Carnegie International Endowment for Peace, of twenty-three Americans—Democrats, Republicans, Independents—former Senators, Representatives, secretaries of defense, ambassadors—all of whom had served in government with some responsibility in foreign affairs. Our charge was to articulate a new rationale for U.S. foreign policy following the collapse of Communism.

"CHANGING OUR WAYS; AMERICA AND THE NEW WORLD"

The Commission's report, Changing Our Ways: America and the New World, was released last July. Here is what we said about the first of the two subjects I wish to discuss:

If the countries of the former Soviet bloc can establish functioning market economies in this decade, it would be an historic accomplishment at least equal to the reconstruction of Western Europe and Japan in the 1950s.* * *

The Commission strongly endorses a major U.S. commitment to this transition. The United States has taken on such a challenge before and has been the better for it.* * *

With respect to the second theme of my remarks, our Commission report declares that Americans must care about democratization elsewhere in the world and that "expanding freedom" must be "one of the central pillars of our foreign policy."

TWIN OBJECTIVES: DEMOCRACY AND MARKET ECONOMIES

How should America pursue these twin objectives of democracy and market economies in the former Communist bloc countries?

First, I believe we must forge in the United States a partnership across several sectors—business and industry, labor, private foundations, colleges and universities, and the Federal government.

Second, a significant portion of the resources of that partnership must be targeted on the training of managers and on education in market economics. Without knowledgeable practitioners, flourishing economies cannot be successfully developed.

Third, some of the resources must be directed to encouraging the building of genuinely democratic political institutions.

Why, the United States, working with our European and Japanese colleagues—and competitors!—should create such a partnership must be obvious. At our best, Americans are champions of free peoples and open markets. Again, to cite our Carnegie Commission report, history teaches that democratic societies do not attack one another; that stable democracies are generally better trade and investment partners than repressive regimes; that environmental policies are more advanced in democratic nations because initiated by an informed public; that free nations more effectively protect the rights of their citizens.

The American contribution need not come only from the government. Nor must our participation always take the form of money. The United States has much else of value to offer. As fundamental to economic development as roads, bridges, tunnels, power and communications is brainpower—trained minds, skilled managers, educated leaders.

TRAINING NEW MANAGERS

The development of competitive economies in Central and Eastern Europe will depend in large part on how rapidly and well new managers can be trained and new knowledge imparted. You and I know the conceptual problems in these countries. Just what is a free market? How does it work? What are the basic skills required to operate in a market economy? How does one set up a business, calculate profit and loss, perform basic accounting, establish production and marketing goals? All these functions, essential to economic advance in the modern world, require education and training.

Certainly, one source of education and training in Central and Eastern Europe will be American business and industry as American firms become actively involved here.

I note, for example, the purchase by Phillip Morris of a controlling interest in the Tabak cigarette maker and the K-Mart acquisition of the Prior & Maj department store, both in Czechoslovakia; the purchase by General Electric of a half-interest in Tungsram of Budapest and, by Sara Lee, of a controlling interest in Compack, third-largest food company in Hungary.

Only a few weeks ago, by the way, my wife and I lunched in Gundel, the magnificent 19th century restaurant in Budapest, renovated by the famed Hungarian-born American restaurateur, George Lang. Particularly impressive to us were not only the splendid restoration and marvelous food but that Mr. Lang had insisted, before opening the restaurant, on rigorous, months-long training of the entire staff.

Acquisitions like these as well as the move to privatize industries in Central and Eastern Europe demand specific financial know-how. But from where does this know-how come? As the New York Times reported recently ("Czechoslovakia's Wall Street Brigade,"), Czech officials anxious to do business with Western firms realized quickly that they were not equipped for high-finance transactions and so welcomed the arrival of American bankers and investment advisors who both improved the terms of the agreements for the Czechs and provided them some hands-on education in market economics.

Clearly, Western and Japanese acquisitions in Central and Eastern Europe can bring with them both an infusion of management skills and experience in a market economy. These capabilities can be imparted either by on-the-job example or in formal training sessions set up by the companies.

Even as each corporation will tailor in-house instruction to fit its own needs, broad-gauged educational programs remain the province of colleges and universities. In the United States there are some 3,500 institutions of higher learning, with an enormous diversity of academic strengths. At New York University, for example, we offer courses and carry out research on subjects ranging from business to law, from the humanities to medicine, from the performing arts to computer science, and we are particularly strong in European area studies.

Here I return to the idea of partnership for although many American institutions of higher learning can supply the expertise, most are unable, as non-profit organizations, to subsidize such assistance. Universities must depend for financial support on such sources as private foundations, business and the SEED program of the Federal government.

THE "SEED" PROGRAM

SEED is the acronym for the Support for Eastern European Democracy Act of 1989, a legislative umbrella for a variety of programs directed at stimulating, in Eastern Europe, particularly through the private sector, economic development; and encouraging democratic political institutions.

To carry out the purposes of SEED, Congress appropriated $370 million for each of the fiscal years 1991 and 1992.

Although most of the SEED money has gone to Hungary and Poland, SEED projects have also benefited Bulgaria, Czechoslovakia, Yugoslavia and Romania. This support has provided food, children's relief, orientation for parliamentarians, trade and business advice, water pollution control training, and student exchange. SEED programs in Romania have totaled, in 1991 and 1992, nearly $31 million.

In voting the money for SEED, Congress emphasized several specific uses, among them practical training in business management, which Congress urged be offered in both the United States and Eastern Europe.

I add that administrative responsibility for SEED is lodged in the agency for International Development (AID) and the United States Information Agency (USIA).

As I have been speaking of aid from the U.S. government, I must note that this is a campaign year in the United States and that on November 3, we shall elect a President and Vice President, all 435 Members of the House of Representatives and one-third of the 100 members of the Senate.

The subject of my remarks to you today, American assistance to former Communist bloc countries, could become a controversial issue in the campaign. I am, however, pleased to note that legislation, the so-called Freedom Support Act, to provide financial help to the states of the former Soviet Union, is backed by both President Bush and Democrats and Republicans in Congress and appears, as I write, on the way to becoming law.

This measure provides $417 million in bilateral aid for humanitarian and technical assistance, for defense conversion and other efforts to encourage free market and democratic reforms. The bill also contains $15 million for a Democracy Corps, to enable private U.S. citizens to promote democratic institutions at the local level in the Commonwealth of Independent States.

Although this legislation is commendable, I believe most objective observers agree that, measured by the immensity of the stakes, assistance from the United States and the West generally has been far too modest and far too slow in coming. For the goal here is nothing less than to lay the basis for genuine democracy in a vast, once totalitarian land that is obviously still in profound economic trouble and where free political institutions are by no means assured.

TO ENCOURAGE REFORM IN RUSSIA

A recent editorial comment from the Financial Times of London ("Risks facing Russian reform" August 13, 1992) makes my point in blunt fashion:

> The fundamental error of the West has been to view reform in the former Soviet Union, particularly in Russia, as just another of those problems of impoverishment that beset it. This attitude explains why assistance was offered too late and was probably too little. * * *
>
> * * * Reforming Russia is the most important economic challenge since the construction of post-war Western Europe.

"Things are rotten in the state of Russian reform," warns the FT. "Worse, the West's tardy assistance makes it appear as much of the problem as of the solution. If things continue to slide as they have in recent weeks, the question will soon be asked: Who lost Russia?"

As I am sure most of you know, it was not until both former President Richard Nixon and Governor Bill Clinton publicly pressed President Bush on aid to Russia that he finally showed some signs of life on the issue.

GOVERNOR CLINTON'S LEADERSHIP

As a Democrat, I strongly commend to your attention the address delivered by Governor Clinton at the Foreign Policy Association in New York on April 1, in which he outlined in specific terms what ought to be American policy to encourage free political and economic institutions in Russia and the rest of the former Soviet Union. Although Russia is obviously a case to be considered on its own, I believe that what Governor Clinton said about it represents a perspective applicable in many ways to the formerly Communist countries of Central and Eastern Europe.

Said Governor Clinton:

> * * * From Russia to Central Europe, from Ukraine to the Baltics, the U.S. and our allies need to speed the transition to democracy and capitalism by keeping our markets open to these countries' products, offering food and technical assistance, helping them privatize key industries, converting military production to civilian uses and employing weapons experts in peaceful pursuits.

Governor Clinton went on to spell out in concrete, specific terms what should be the contribution of the United States to encourage economic reform in Russia.

The Governor said:

"* * * Our nation's greatest resource is ultimately not our dollars nor our technical expertise but our values of pluralism and enterprise and freedom and the rule of law—and our centuries of experience in making those values work. In an era of fledgling democracies, those values can be our proudest export and our most effective tool of foreign policy."

What Governor Clinton said last spring in New York is important, of course, not only because he is now the leader of the Democratic Party in the United States but also because he is likely to become our next President and, in the context of what I have been saying to you, his statement on U.S. policy toward the countries of the former Communist world represents the kind of wise, vigorous leadership the world has a right to expect from America.

In addition to aid provided by the U.S. government, American colleges and universities can play a significant role in promoting market economies with programs of management training.

NEW YORK UNIVERSITY'S ROLE

My own institution, New York University, through our School of Continuing Education, has already launched a few such programs. Because they are models of the partnership of which I have been speaking, let me say a word about them. Here I note that the NYU School of Continuing Education, one of the largest in the United States, has for over seventy years served those who, while pursuing their education, may also hold down jobs and support families. Through flexible study arrangements, one can work toward a degree or learn any of a wide range of professional skills. The School today, under Dean Gerald Heeger, offers some 2,500 courses and approximately 15,000 persons enroll in classes each semester.

One SCE project, to be undertaken in cooperation with Charles University in Prague, will offer English language training and technical education in such areas as business management, environmental management, finance, banking, taxation, real estate development, marketing and public relations, tourism and hospitality industries, biotechnology and business and construction management.

The seminars, each lasting several weeks, will be held in Prague, each devoted to one of these subjects. We expect a total of 350 to 500 persons to participate in these courses. The "students" will include executives, managers, trade union leaders and technical school instructors. Attendees will be role models for others and will be urged to pass their freshly acquired knowledge on to their colleagues.

This "teach the teacher" aspect makes the program not only a renewable resource but an expandable one. There can be an invaluable multiplier effect.

The first program of this kind, on real estate privatization and managerial practices, was held in Budapest last year. Attended by all the district mayors of the City, the seminar was so successful that the Deputy Mayor of Budapest told me last June that my university is being invited to conduct another on tourism and public relations.

Also planned for the Spring of 1993 and also cosponsored by Charles University is a conference, organized by New York University's School of Continuing Education and our Medical Center, on developments in biotechnology.

The objectives of this conference will be to encourage biotechnology transfer by fostering relationships between Western firms and Central and Eastern European researchers.

Another NYU-SCE program will take place in the Ukraine for some 100 representatives of the Ukrainian National Bank and the Association of Commercial Bankers in the Ukraine. The goal will be to give practical training and advice on privatizing the banking system.

Allow me here to make a broader point. I suggest that the establishment of programs of continuing education in Central and Eastern Europe could be a highly effective instrument for communicating knowledge in ways that allow immediate impact. In a country like Romania, for example, where of a total population of 23 million, just 200,000 persons have university-level degrees, programs that retrain the work force regardless of degree level can quicken the pace of transformation from command to market economy.

Let me hasten to say that New York University is not the only one in the United States to offer management education to Central and Eastern Europe. Several other American universities are engaged in such efforts.

I do, however, want to draw your attention to a program underway in Czechoslovakia and Romania because it represents a low-cost, high-yield means of facilitating communications between universities in the East and in the West and thereby speeding the sharing of knowledge and information, a process essential to a vibrant economy.

A PROGRAM FOR ROMANIA

Initiated by a long-time personal friend and distinguished American diplomat, former U.S. Ambassador to Romania, Harry Barnes, and a professor of computer science at George Mason University in Virginia, Stephen Ruth, the program aims at creating computer link-ups in Romania to make possible swift exchange and dissemination of ideas both within and outside the country.

Ambassador Barnes and Professor Ruth tell me that they expect that in a year, a few thousand researchers and educators in Romania could be linked with their colleagues in the rest of the world and that infrastructure improvements are now being fashioned to enable in yet another year as many as 10,000 Romanians to communicate with their academic and other counterparts by computer.

I have also been told that, in order to offer the kind of management training I have been discussing several Romanians have been planning to establish a business school in this country.

There are already management education centers in Czechoslovakia, affiliated with the University of Pittsburgh, and in Hungary. Professor Ruth believes it is possible to set up a high-quality business school in Romania. He is convinced that such a school could spread good business practices and, through short courses, seminars and guest lectures, could begin immediately. Organizing an MBA program would require more time.

Dr. Ruth also points to lessons Romania could learn from the business schools in Czechoslovakia and Hungary. For example, students must understand that they must work hard. They must have already had some relevant academic courses. There must be first-class faculty.

His last stipulation is perhaps the most difficult: adequate financial support beforehand.

Dr. Ruth adds that the most advanced technology for academic networking should be used as it is an information technology low in unit-cost, easy to access and capable of producing results from the outset.

I would observe that I do not believe providing management training both in Eastern Europe and the United States mutually exclusive. For example, short courses—six to seven weeks—in business management at an

American university for managers from Eastern and Central Europe can be combined with internships with a business firm in the community where the university is located. Academic and practical experience can go hand in hand.

And not only can managers benefit from spending some time on American university campuses. Five leading business schools in the United States—at Harvard, MIT, Northwestern, the University of Pennsylvania and Stanford—this year afforded some 100 Central and Eastern European professors the chance to join senior-level American executives for a summer of instruction in marketing, finance and organizational behavior.

According to a New York Times article, "Teaching the Ex-Communists Capitalism" (August 1, 1992), Marcel Duchaneau of the Academy of Economic Studies in Bucharest, a participant in the Stanford course, said, "We have to change the mentality of our managers. We have to teach them to take risks and to see this activity of making money as honorable and important."

The point of this experience, of course, is that the professors will return to their own universities better able to teach their own students.

BUILDING FREE POLITICAL INSTITUTIONS

I have so far discussed initiatives in the United States to promote management training in Central and Eastern Europe, but also crucial to economic development here is the building of free political institutions.

No one can quarrel with the proposition that to nurture democracy in countries unaccustomed to it is fraught with difficulty. Preparing the most basic voter information materials and recruiting and training volunteer poll watchers for elections are examples of activities that are essential but not easy. Assuring free, fair and open elections is very hard work.

Of course, even more fundamental—and potentially more dificult—is the recruiting of men and women ready and able to assume political leadership in a fledging democracy.

There are several ways in which the United States and European Community states can assist, through private organizations as well as, where appropriate, governments. From helping develop political parties and build free labor unions, encouraging independent media, advising local government and stimulating citizen action groups to providing information on campaign and election management and the operation of legislatures, both the United States Government and American private groups can play constructive roles.

A CONGRESSIONAL TASK FORCE

Let me note by way of example the work of the U.S. House of Representatives Special Task Force on the Development of Parliamentary Institutions in Eastern Europe.

Created in 1990 by House Speaker Thomas Foley at the suggestion of its chairman, Congressman Martin Frost of Texas, the Task Force is assisting legislative bodies in the new democracies of Hungary, Poland, the Czech and Slovak Republics, Bulgaria and the Baltic countries.

So far, Congress has voted $15 million to purchase—for parliamentary libraries—books, periodical and newspaper subscriptions and basic automated tools such as copy machines and personal computers. In addition, the funds have helped train parliamentary and library staff both in the United States and the home country. The Library of Congress, working through its Congressional Reference Service, has given invaluable aid and advice in this entire effort.

Even ex-legislators, through the United States Association of Former Members of Congress, are engaged in promoting democracy. The Association has sent former members of Congress and Capitol Hill staff, some speaking the relevant languages, to consult with Hungarian and Polish parliamentarians and has arranged meetings in Washington, D.C., with Administration and Congressional leaders for parliamentary delegations from Eastern Europe.

Another effort in this general field is the Institute of East-West Dynamics, an affiliate of the United Nations, which seeks to become a bridge between the U.N. system and private elements eager to encourage market economies not only in the former Communist bloc but elsewhere in the world. In addition to collaborating with universities, like my own, to train new managers needed by economies in transition, the Institute plans a parallel training program for parliamentarians.

NATIONAL ENDOWMENT FOR DEMOCRACY

Yet another U.S. initiative I must mention is the National Endowment for Democracy. The NED, of which I have just become a board member, is a non-for-profit organization, created by Act of Congress, that operates outside government, to strengthen democractic institutions around the world. The NED has concentrated much of its effort in Central and Eastern Europe as well as the republics of the former Soviet Union.

Here in Romania, NED has encouraged independent trade unions and independent publishers as well as organizations that promote respect for human rights, for the rule of law and for minorities.

Among the organizations working in Romania that receive support from the NED are the National Democratic Institute for International Affairs, and the National Republican Institute for International Affairs. The National Republican Institute provides training and material support for the development of democratic parties in Romania and participates in election monitoring activities.

The National Democratic Institute works with The Pro Democracy Association (PDA), a Romanian civic organization that pushes hard to prepare Romanians for elections. Last February local elections were held and, as you know, national elections are to take place in just two weeks.

PDA trained and deployed 7,000 poll watchers throughout Romania during the February elections. Following the elections, the domestic observers, who were instructed in proper election procedures and who acted impartially, were asked by the Romanian government to organize a meeting for party leaders and a government officials to discuss election law reform.

Unfortunately, Romania took a step backward when just last spring Parliament moved to curtail the access of domestic observers to the next election.

Here, I must respectfully submit—and I speak as one who was himself fourteen times a candidate for election to the Congress of the United States—without the presence of qualified national and international observers, Romania is demonstrating an unwillingness to embrace the most basic tenets of free political institutions: open and fair elections.

So that you can understand how seriously the development of democracy in Romania is taken in the United States I must advise you of two significant actions taken within the last few weeks by our Congress.

CONGRESS URGES ROMANIAN GOVERNMENT TO RESPECT HUMAN RIGHTS

I refer first to a letter dated August 13, 1992, sent to President Ion Iliescu and signed by 48 Members of Congress—Democrats, Republicans, liberals and conservatives—stating, in unusually blunt fashion, how resumption of most-favored-nation treatment for Romania, obviously important to economic advance here, will depend on "* * * free and fair elections; an independent media; civilian control of the Romanian Intelligence Service (SRI); and the protection of human rights and civil liberties, including the rights of ethnic minorities."

The letter is sent with explicit reference to the national elections for the President and Parliament of Romania scheduled for September 27, 1992.

Second, the United States Senate on August 11, 1992 passed a "sense of the Senate" Resolution that makes many of the same points as the House letter, but adds a criticism of Romania for allowing, in violation of United Nations sanctions, the transport of goods to Serbia and Montenegro.

Because these actions in the U.S. Congress are directly relevant to the theme of my address and because election day in Romania will soon be here, I trust you will appreciate why I feel it imperative to bring them to your attention.

TOLERANCE ESSENTIAL TO DEMOCRACY

I hope you will allow me here to make a fundamental point. Essential to the development of a genuinely democratic society—and of a government to serve it—is tolerance, respect for the ideas and viewpoints of men and women with whom one may not agree. This respect for differences, commitment to pluralism rather than a single ideology or attitude, is indispensable to any nation that pretends to be civilized.

Particularly important in this regard is the treatment of minorities. We need look only to the doctrine of "ethnic cleansing" that has brought such terrible tragedy to what used to be Yugoslavia.

Romanians know better than I how hatred by one group for another has divided the people of this land. For the cases of hostility to the Hungarian minority are not matters in which Romanians can take pride. In any democratic country the majority has a special responsibility to be attentive to the concerns of minorities. As an American of considerable experience in the political life of my own country, I know—I have seen—how demogogues have attempted, at times with success, to provoke one group to hate another in the United States.

So in offering these comments, I am well aware that no modern democracy is without flaw in assuring tolerance of, if not, respect for, diversity. I do, however, insist that this must be a goal toward which we in the West and more to the point, the peoples of the emerging democracies, must strive. Otherwise, there will be more Yugoslavias and more closed societies, of Left and Right.

Although I have spoken of several efforts to promote democratic political institutions and market-oriented economies, I have obviously not attempted to be exhaustive. Governments and private organizations in other countries, especially in Europe, have undertaken similar activities.

Let me conclude my remarks with an observation on the public-private partnership I have advocated and the significance I assign to it. We all realize that after nearly three generations of command economies and authoritarian governments in Central and Eastern Europe, there are massive obstacles to the establishment of parliamentary democracies and market economies. To achieve these goals will be neither simple nor easy. But to do so is essential.

For building democratic political institutions in the nations of Central and Eastern Europe and transforming their economies are objectives crucial not only to the quality of life of the peoples of this region but to creating a world where peoples everywhere enjoy the blessings of peace, justice and freedom.

TRIBUTE TO MATTIE LEE WILLIAMS BONNETTE

Mr. THURMOND. Mr. President, I rise today to pay tribute to Mrs. Mattie Lee Williams Bonnette, who passed away on September 29, 1992. Mrs. Bonnette was a lovely lady and an educator of great dedication and ability, and she will be deeply missed.

Mrs. Bonnette was a graduate of Winthrop College. In an era when few women pursued higher education, she earned a master's degree from the University of South Carolina, and she devoted her life to teaching others. She taught in several schools before becoming principal of Ridge Spring-Monetta High School, and she also served as assistant superintendent of area 4, Aiken County schools. In addition, she served as dean of Ridge Spring Community College, and she was well known for her dedication to the welfare of her many students.

Mrs. Bonnette was also active in the community, participating in a number of organizations and clubs, as well as her church, Ridge Spring Baptist. In addition, she was active in a number of professional organizations, including the American Association of University Women

Mr. President, Mrs. Bonnette was a woman of substance, and her years of teaching benefited many in our State. I would like to take this opportunity to offer my deepest condolences to her daughter, Jean Bonnette Houston; her brothers, C.B. Williams and Senator Marshall Williams; and the rest of her family.

ARAB, ALABAMA'S CENTENNIAL

Mr. HEFLIN. Mr. President, it is my pleasure today to congratulate the Marshall County city of Arab, AL, as it celebrates its 100th anniversary this year. Arab, located in the north-central region of the State, southeast of Huntsville, has a long and rich history that mirrors that of Alabama and the South as a whole. Its story is one of early settlers, native Americans, party politics, war, agriculture, and economic development characteristic of so many towns throughout the South and the Nation. Every history is unique, however, and Arab's is no exception.

Janet Calhoun, president of the Arab Historical Society, is editing "Trails and Traces, People and Places," to be published as an Arab centennial project. It is the fascinating story of Arab going all the way back to the early days of America's existence as a nation. What makes it most interesting is that it traces the town's settlement and development against the backdrop of the history of America itself.

Janet has prepared a short summary of Arab's history, excerpted from the upcoming book, and I ask unanimous consent that it be printed in the RECORD immediately following my remarks.

Again, I proudly commend and congratulate Arab on the occasion of the 100th anniversary of its incorporation, and wish the good people of this area many more decades of growth and prosperity.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

Even though Arab is just now celebrating their 100th year as an incorporated town, there have been people living around here since 10,000 years before the birth of Christ. For centuries tribes of Indians claimed this land. By 1790, it was the Cherokees who lived in the area and hunted in the vast forest on top of Brindlee Mountain.

When the first settlers came to Northeast Alabama, the Cherokees were already civilized and living in log cabins and raising crops. Some of them owned stores, ferries, and plantations with slaves. They proved to be remarkably friendly and helpful to the early settlers.

Andrew Jackson came through this area in 1813 on his way to fight the Creek Indians. He built a road and established Fort Deposit, a supply fort, near Warrenton. The road, known as Jackson's Trail, was Marshall County's first wagon road and was used over a hundred years. He built another road in 1813 which extended from Warrenton across Brindlee Mountain to Ditto's Landing at Whitesburg.

The United States acquired the land that is now the Arab area in 1814 and gave the settlers the right to settle it in 1816. Settlers, traveling by packhorses or in wagon trains, came to the Arab area by following the "Old Cumberland River War Trail" through Winchester, Tennessee and on to Huntsville, Alabama via of an 1810 post-road. From there they took the road to Ditto's Landing on the Tennessee River.

Since the Tennessee River was the first "highway" through this area, many settlers came on flatboats. That method of travel enabled them to bring their furniture, livestock, farm equipment, and provisions.

After crossing the Tennessee River, the old Indian Trace, called Bear Meat Cabin Road, was taken south. The first fifteen miles was in Cherokee territory. Arab was an additional three miles south. The road continued south twenty miles to Bear Meat Cabin (Blountsville) where a Tennessee trading post was established. The road then went on to Tuscaloosa. It was considered to be a fairly good road.

The Georgia State Road, established by Federal authority in 1816, opened access from Georgia. The north/south road from Ditto's Landing to Arab was authorized by Congress in 1818 as a Federal post road. First called Bear Meat Cabin Road, it became the Huntsville St. Stephens Road since it connected Huntsville with the 1817–1819 capital of the Alabama Territory. Alabama's first stage line traveled this route and was part of the main mail route between Cincinnati, Ohio and New Orleans.

In 1819, the Cherokees gave up their land north of the Tennessee River. Jackson's soldiers had seen the beauty of that area which had not been settled. Some returned after the Creek Indian War and settled there. Many of these men were well educated with political experience and gave the new settlements good leadership.

In 1822 Philip Dedman Clack homesteaded land in Eddy, now north Arab, which he purchased for one bit an acre (12½ cents). Afterwards he built a two-story stagecoach inn known as "Clack's Stand".

Roads at that time were crude trails, passable in a wagon in good weather and on horseback otherwise. They had deep holes, rocks, choking dust or deep mud with stumps cut just low enough not to interfere with axles of wagons. A system of privately owned and maintained roads were developed to accommodate the stages. State charters were granted which regulated road building, maintenance and toll charges. The Alabama Legislature designated the section of the Huntsville Road through Arab as Clack's Turnpike".

Stage coach inns were located all along the road that still goes through downtown Arab. Horses had to be changed every ten to fifteen miles. Many of these inns still stand in 1992 and some are in good condition. They add a colorful chapter of Arab's history.

The Joseph Thompson family, who provided the leadership for Arab's beginning, moved into Marshall County in 1836 and settled to Brown's Valley. By 1840 they moved to Thompson's Falls. The Thompsons are Arab's founding fathers.

Stephen Tuttle Thompson moved to what is now Arab in 1858. Others were also beginning to settle on the mountain. They were farmers, hunters, trappers, cutters of timber, small scale stock raisers, blacksmiths and some merchants, professional, and teachers.

They grew a little cotton for paying taxes and buying things they could not produce such as coffee, etc. Corn was the crop grown to feed animals and make bread. While oxen were the beast of burden, farmers also had horses, mules, and "milch" cows which they gave open range. The average farm was too small and generally too rough for the use of machinery which the farmers could not afford anyway. Lack of transportation and communication held back progress.

The settlers were 50% Scotch Irish from the Carolinas, Tennessee and Georgia. They were adventurous men and women who followed the old tails to a new land in quest of a better life. Filled with the love of liberty and civil rights, they were determined to establish a good life.

House raisings, clearing new ground and log rollings were three of the leading social activities with economic advantages. Big meals went with these occasions. Corn husking and cotton picking bees, staged at night, added more fun. People danced the Virginia Reel and played fiddles.

There was no danger of their being swept away by anarchy, socialism, communism, or fascism for they were filled with religious zeal, brains, foresightedness, and determination. How they reacted as history unfolded around them was influenced by their beliefs, goals, opinions and values. Their torch has been passed from generation to generation and their mark is stamped on their heirs today.

Since most of the men were small farmers, they had to assert themselves to protect their rights. They had little goods but wanted an opportunity to be part of the decision making process without being shackled with the economic barriers of the privileged class. Traces of that political thought are still alive in 1992.

They were mostly Union Democrats, a political party active at that time. "Union" to them stood for the opposition to the privileged class. Evidence to this thought is still found in the names of communities around here such as Union Grove, Union Chapel and Union Hill. Union sentiment was strong in the area.

When the Civil War broke out, this area had reasons to oppose secession. They had no slaves and little connection with South Alabama. They felt by seceding they would lose their Tennessee markets for they thought Tennessee would not secede. Many wanted to secede from secession and refused to enlist in the Confederate Army. Some hid out because they had no fight with the U.S. Government. They felt a democracy should allow individuals to choose whom they would serve.

Stringer Woods became Arab's first merchant when he opened a store in 1865. D.T. Thompson soon bought the business and sold it to Stephen Tuttle Thompson. Other businesses included tanneries, saddles & harness makers, distilleries, carriage & wagon makers, grist & saw mills, cotton gins and blacksmith shops.

In 1882 when Arab's post office opened, the town officially became "Arab". Tuttle Thompson, the first postmaster, attempted to name the town for his son, Arad. He sent that name to Washington, but it came back Arab. So Arab it has been for 110 years.

When the stagecoaches were replaced by railroads, roads were no longer operated as turnpikes, but became the responsibility of the county. Not enough taxes were raised to pay for adequate building and maintaining of roads. Locally, the voters repeatily voted down taxes which would have given them better roads. The results were low prices, stagnated progress isolated communities, and lack of competitive markets. A crop mortgage system kept the farmers constantly in debt. This "catch 22" also served to keep them in this system for quite some time.

Here's an example to indicate how bad the early roads really were. If you had to go to the county seat in Guntersville, you probably would have gone in an oxen drawn wagon. You and your animal would have stayed overnight at a place such as A.G. Henry's Camp House for the trip took two days. For comparison in 1945 it took 35–40 minutes and in 1992 you can arrive in 15 minutes.

An event that helped Arab to move forward was the opening of the Bank of Arab in 1909. It was Arab's first bank and the building still stands in 1992.

Arab for reasons not yet determined, had to be reincorporated in 1916. The population of Arab in 1920 was 264. In 1922, Arab had $65.05 in the bank and by 1926 the town hired a city attorney at $25 year. During 1928, city taxes were set for business from $10–$25 while pool rooms and billiards were $500.

Times became very hard in the late 1920's and 1930's in Arab. Fifty cents a day was the going wage. Not having money didn't bother people for no one had any. Christmas was a short reprieve from the reality of life during the lean years. Somehow they got through it all.

The TVA (Tennessee Valley Authority) was one of the greatest helps for Marshall County. Many opposed it for they wanted no governmental controls over their lives. However, the long term benefits for the majority outweighed the measures which went against the wishes of the minority for it brought electricity within the reach of everyone.

Thousands of trees were planted in Marshall County by young men (18–25). Families received $25 out of the $30 monthly pay. It put money into the sagging economy.

The WPA (Works Progress Administration) put people on relief but they worked for what they received. They paved "farm to market roads" and built large public buildings such as schools, city halls and court houses. Summit School south of Arab was WPA built and it still stands.

Other programs came into being such as the REA (Rural Electrification Administration) and the FHA (Farmers' Home Administration) which helped the farmer to modernize his home on insured loans.

Arab's merchants helped to shape the town's political thought, leisure and work traditions. Business lenders were often called upon to offer leadership and to solve city problems. Merchants have been and still are called on to give donations to support a large portion of the town's projects. Today in 1992, through the Arab Chamber of Commerce, the merchants are collectively playing a vital role in the success of Arab.

Arab is very fortunate to have many business firms and services that have catered to the public's needs for 40 years or more. Several have been continuous over eighty years. Fifteen firms and services in Arab represent 827 continuous years in business. Their continuity in business has given a sense of well-being, stability, confidence, and trust to this community.

In 1931–1932, Mayor Squire Marsh of Arab worked a year with the help of friends to acquire the right-away from farmers to widen the road both north and south of Arab. This continued the work started on the north side of the Whitesburg Bridge and was done so the highway through Arab could become a State Highway. This meant the state would maintain the chert road. In downtown Arab during this time buildings on one side of Main Street were cut off ten feet to widen the road. Merchants on the other side paid the cost.

About this time, the U.S. road building focus changed to building interstate and tourist highways. These highways became the very symbols of progress. Southerners also began to view them as their goals since they still promised the hope of a better future. So the widespread use of the auto brought about the change for better roads.

New job opportunities arose, for motor vehicles needed fuel, oil, spare parts, and garage mechanics. All of this generated a new national culture which showed up in filling stations, tourist cabins, roadside ads, and a variety of auto related businesses. General stores and livery stables were the first to offer these services. Soon Gulf, Standard, Shell and Texaco stations sprung up everywhere. A brick Gulf station was built downtown in Arab in 1936 by Charles Boyles and is still standing.

The year 1936 saw the Whitesburg Bridge opened as a free bridge. To get ready for this, bituminous surfacing of 4½ miles of Main Street toward Birmingham and 2 miles toward Guntersville was completed. An elegant twenty-two room hotel was opened to accommodate the tourist that used the highway through Arab on their way to Florida.

In 1939, the Farmer's Exchange opened downtown offering good prices for what the farmer had to sell. Anything the farmer needed was sold at reasonable prices or they swapped what they had for what they needed. The week it opened, large hens were ten cents a pound. They had a grist mill to grind farmer's corn or feed. This building still exist in its original state in 1992.

During the 1940's, farmers were very strongly urged to plant Kudzu! It was the magic vine that prevented soil erosion, made good hay and good grazing. Seeds were $1 a pound. As a result of this widespread miracle plant, Alabama is covered over with a jungle type weed which devours everything in its path.

Cotton was the cash crop and eight big warehouses downtown attest to that fact. Cotton farming could not have been accomplished without mules. The old mule barn still stands downtown in 1992 just the way it was when the last mule was sold.

The total cash income per farm in Alabama in 1940 was $498. That was $72 better than it was in 1939 and $111 of it was AAA government payments.

In 1941, Huntsville was selected for a big government chemical plant for manufacturing and loading shells and bombs for World War II. The 30,000 acre site was to be located between the air port and the Tennessee River and would employ 5,000 people. The boom for Arab was on for by the 1950's many a new person had moved into Arab to live while they worked at Redstone Arsenal in Huntsville.

By 1945, the U.S. Government agreed to take over the Huntsville-Oneonta Road through Arab as federal Highway 231. The government built a $40,000 a mile road which was double the cost of ordinary black topping. Arab finally had an adequate road and it was part of the road that was billed as the "Shortest Route to Florida". And for the second time the road through Arab was an important route south.

All of these changes accelerated Arab toward modernization. As changes were made, things began to disappear. Among them were the small country stores for it was within the reach of the farmers to go to larger stores in town which offered more variety. Small one and two room schools vanished due to consolidation, better roads and bussing students long distances.

Because of the influx into Arab of people who were employed at the Redstone Arsenal and other related industries in Huntsville, Arab's population increased 87.8% from 1950–1960. It was difficult for the city to keep pace with the ever increasing needs of the people.

The building industry was booming, bringing more and more demands for utilities, new streets, water, fire and police protection. The schools were bursting at the seams. At this time Bluebell was the only factory in Arab.

Today Arab is coming to her own and is not just a bedroom community for another town. Many diversified industries have located here. Arab, although only a town of 6,000 in its city limits has a greater shopping area of 35,000 people who are located in small communities all over Brindlee Mountain.

Sadly all of this progress has not come about without a cost. Dixie as we once knew it has begun to disappear. It happened along the highways where 20th century modernization took the form of chain stores, fast foods, gas stations and motels that all look alike. The area's cultural identity is being replaced with a wholesale sameness as everywhere else with McDonald's, Hardee's, Walmart, Captain D's, Arby's, Kentucky Fried, Pizza Hut, Dominoes, and Pasquale's. Arab has them all.

No history could be complete without mentioning how the adults educated their young to inherit the town they toiled to develop. Schools were a big interest in Arab and they still are today.

By 1883 the Northern Methodist built a log church downtown Arab that was also used as a school. Several frame schools were built but when the state of Alabama planned to build a brick high school in each county, Arab wanted it located here. Guntersville was selected to get the school and Arab's people were very disappointed. In 1921, they decided to build their own. Many families couldn't give money so they gave days of labor. Some borrowed money by mortgaging their farms. Bricks were molded out of dirt dug from the basement. A kiln was kept going day and night to bake the bricks. It was a beautiful school and it still stands in 1992.

Needless to say with such love and dedication, a lasting bond was formed among the students, parents and teachers for the building and for each other. The impact and lasting influences from that pride in educating their children is still reaping rewards in 1992.

Arab always wanted the best education they could provide for their children. The results of that attitude shows up on the ATC scores which reflect high grades well above state and national levels.

Not many people get to attend their 66th Senior Class Reunion but here in Arab not only has that happened but two of the teachers of the class of 1926, Jewel Edmondson and Frances Crawford, and their high school building (the one described above) are both still with them!!!

In 1948, a modern, new high school was erected on Guntersville Road at a cost of $155,000 and a football stadium which cost $11,000 was completed about the same time. A new gym was built in 1953. This school burned in 1975 and was replaced with a multi-million large sprawling building.

Adults were hard on children in early Arab and really made them mind. Yet the children who grew up in these homes say that their bonds of childhood remain. The opinions they hold of their parents are that they were ordinary people who were good, honest and hardworking folks whom they loved, respected and honored. They feel that they will never be as sure of their place in the world as they were when they were growing up at home. Parents gave them the gift of themselves.

Youngsters had to help with the work at home both inside and out. Many a youngster at age 10 or 12 would break up and plant 10 acres of cotton with a team of mules. Even the little ones had to take water and lunches to the others.

Religious influences were powerful. The early method of spreading the Gospel to the settlers was the circuit riders. They brought the news, told of Indian movements, and were a welcomed change from the harsh routines. Their presence had a real effect on society.

Most of the earliest churches were started with small congregations of 8–12 members. They met under bush arbors. The Methodist and the Baptist were the largest denominations in Arab. In the summer after the crops were laid by or harvested, revivals were held and everyone went to all revivals. It was nothing for them to go as far as 10–12 miles in a horse drawn wagon to church. Sacred Harp singing was widely enjoyed.

Discipline was strict in the early churches. Members were expelled for drinking, fighting, sexual immorality, horse racing, card playing, dancing or harmful gossip. This area had said of it in early days, "It is a section where virtue and religion reign supreme, where people are contended and live at home, where neighbors recognize each other's rights and live in perfect harmony and where nobody but a lawyer would starve."

TRIBUTE TO SENATOR STEVEN SYMMS

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of our colleagues who will not be joining us for the 103d Congress, my good friend from Idaho, Senator STEVE D. SYMMS.

It has been my pleasure to serve with Senator SYMMS since he joined this body in 1980. He came here as a highly qualified individual, and has distinguished himself admirably over the past 12 years, earning the respect of Members on both sides of the aisle.

Americans think of Idaho as part of the Great American West, where rugged and patriotic individuals established themselves with little tolerance for Government interference. This philosophy of hard work and self-reliance has played an important role in Senator SYMMS' public service, both as a Member of the House of Representatives and as a U.S. Senator.

A native of Idaho, Senator SYMMS graduated from the University of Idaho in 1960, and chose to serve his Nation as an officer in the Marine Corps. Upon completing his tour with the corps, he returned home to help manage his family's fruit ranch. He worked on the ranch for 9 years before once again answering the call to public service, this time to run for the U.S. House of Representatives. He was elected and served with distinction for 8 years. In 1980, STEVE moved across the Hill, becoming the junior Senator from the Gem State by defeating a four-term incumbent.

As a Member of the Senate, STEVE SYMMS has made many valuable contributions. On the Armed Services Committee, he has fought hard to maintain a strong national defense, and he has been a valiant advocate for the Marine Corps, working to see that they remain America's quick-deployment force. Senator SYMMS has also served on the Environment and Public Works Committee, where his great love for the outdoors has been channeled into significant legislation designed to protect the environment while increasing its availability for recreational uses. He has championed the cause of fiscal conservatism, and been a valuable ally in the fight to control wasteful Government spending.

Senator SYMMS has been a reasonable and persuasive voice for restraint on the Joint Economic Committee, the Budget Committee, and the Finance Committee. Finally, as a lifetime member of the National Rifle Association, Senator SYMMS has vigorously protected Americans' second amendment rights whenever they were threatened in the U.S. Senate.

Mr. President, STEVE SYMMS is a man of character, courage, compassion, and ability, and he has been an energetic advocate of the people. He will be deeply missed by this Senator and his many other friends in this body. I would like to take this opportunity to commend him for his excellent service to the people of Idaho and the United States, and wish him and his lovely wife Loretta luck in all their future endeavors.

TRIBUTE TO MAYOR ROBERT G. WALDROP

Mr. HEFLIN. Mr. President, we all know of those local elected leaders from our States who, because of their long tenures in office, accomplishments, dedication, and hard work, seem to define the term "public servant." These are the ones who do not necessarily seek headlines, but whose satisfaction comes from doing good things for their communities. I know of no other leader who fits this definition and style of public service more aptly than Homewood, AL, Mayor Robert G. Waldrop. Mayor Waldrop, one of the longest serving mayors in the State, will be leaving his post on October 5, after 24 years of service. More than anyone else, he deserves credit for the success and growth of this Birmingham suburb over the last 24 years.

Mayor Waldrop originally entered the political arena after completing two other full careers: for 15 years, he was a pharmacist and for the 18 after that was a successful insurance agent for Liberty National Insurance Co. He has worked virtually his entire life. As if to portend his career as a pharmacist, his first job was at a drugstore when he was only 12 years of age in the small coal-mining town of Parrish, in Walker County. His own father was once mayor of Parrish.

Bob graduated high school in 1932, attended Auburn University for 1 year, then went to Birmingham to study at Howard College, now Samford University. In 1941, he and his wife Louise moved to Homewood. He left school a couple of years later to join the U.S. Army. After the war, he reentered Howard and completed his bachelor's degree in pharmacy.

By the 1960's, Bob had become well known in Homewood as president of the Lions Club and as a member of the library board. In 1968, several concerned citizens prompted him to consider running for mayor. There was a concern among Waldrop and local merchants about the number of small companies which had left the town. Since Homewood was his hometown and its concerns were his, he decided to run, and, if elected, serve one 4-year term. The rest, as they say, is history: he has been mayor ever since, remaining in office a little longer than he had anticipated.

Mayor Waldrop has been in the unique position of watching his city grow and expand from a budget of $1 million to over $7 million. He watched as the library doubled its number of books and services and moved to a new location. He watched Homewood break away from the county school system and establish its own, now recognized as one of the best in the State. He has seen Brookwood Hospital grow into one of the leading health care institutions in the State. He has served on the board of directors of Lakeshore Rehabilitation Complex, helping to make decisions that have resulted in a $7 million renovation of the facility.

During his six terms as mayor, over 100 acres of park land have been added to the city and three swimming pools built. Mayor Waldrop initiated assessment-free street paving and waste pickup. Brookwood Village was constructed, and the Green Springs area annexed into the city during his tenure. In appreciation for his many years of service, Homewood's high school stadium was named in his honor.

At the State level, Bob Waldrop was effective in addressing issues of importance to local officials. He served for a term as president of the Alabama League of Municipalities, which he recounts as a very exciting time for him. As its president, Mayor Waldrop was instrumental in getting the League's Workers' Compensation Fund established in 1976. He has served on the board of the fund since its inception, and as its president in recent years. He was also on the committee that created the Alabama Municipal Insurance Corp., a mutual insurance company offering liability, property, and casualty insurance to cities and towns. The mayor served on the first board of this company. He presided over the spouses' breakfast at the annual League of Municipalities convention for over a decade.

It is evident to all who know him that Mayor Robert Waldrop has served his community with a tremendous spirit and very apparent that he is a part of Homewood and Homewood a part of him. Although the voters in Homewood, like those in thousands of communities and jurisdictions across the country, opted for change this year, Mayor Waldrop can take pride in the fact that he did an outstanding job in looking after their interests and ensuring the progress of their city. He will long be remembered for his unique role in Homewood's history, and his legacy is one that mayors all over the State and country can look to as one to emulate.

It is my pleasure to commend Bob Waldrop for being the quintessential public servant. I am confident that his community has not seen the last of his tireless devotion. I wish him all the best in his future endeavors.

Mr. President, I ask unanimous consent that a resolution adopted September 14 by the Homewood City Council in honor of Mayor Waldrop be printed in the RECORD immediately following my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION NO. 92-21

Whereas, Robert G. Waldrop has served as Mayor of the City of Homewood, Alabama, since his election to that office in 1968 continuously to the present; and

Whereas, since Mayor Waldrop's election to office in 1968, the City of Homewood has enjoyed tremendous growth, expansion and success in business and opportunity for its residents; and

Whereas, during Mayor Waldrop's tenure as Mayor, he has received numerous awards and commendations, and has expended great energies to the benefit of the residents of the City of Homewood, Jefferson County, and the State of Alabama, which accomplishments include, but are not limited to, the following: (1) original organizer of the Jefferson County Mayor's Association in 1969 and served as its President from 1972 through 1974; (2) a motivating force and promoter of the Homewood School System; (3) honored by the Shades Valley Civitans as the Outstanding Citizen in Homewood in 1970; (4) elected the Boss of the Year in 1971 by the Alabama Business Women's Association; (5) honored by the Homewood Board of Education, by naming the football stadium the "Robert G. Waldrop Stadium" in 1976; (6) was elected President of the Alabama Workmen's Compensation Insurance Corporation for the State of Alabama; and (7) was elected President of the Alabama Legal Municipalities in 1976, and has served for the last fifteen (15) years on the Executive Board of the League; and

Whereas, Mayor Waldrop has provided the excellent leadership necessary for the development and growth of the City which accomplishments include development and expansion of a fine school system, development and expansion of Brookwood Hospital as a premier hospital in the southern portion of Jefferson County, annexation of numerous acres of property for residential and commercial development providing an excellent tax base and residential setting for Homewood residents, all of which growth and developments will be well chronicled in the history of the development of the City of Homewood, Alabama; and

Whereas, the members of the City Council of the City of Homewood desire to express officially, as well as individually, their appreciation for the outstanding services which Robert G. Waldrop has rendered to the City of Homewood and its residents during his twenty-four (24) years of service as Mayor of the City of Homewood; and

Now, Therefore, be it Resolved by the City Council of the City of Homewood, Alabama, at a regular meeting duly assembled, a quorum being present, as follows:

1. That the City Council of the City of Homewood, by the adoption of this Resolution, does publicly commend, thank and state as an expression of appreciation to Mayor Waldrop for the long and dedicated service which he has rendered to the citizens of Homewood as Mayor of the City of Homewood.

2. That the City Council of the City of Homewood desires to make a public statement of their thanks and gratitude to Robert G. Waldrop for his long and dedicated service to the City of Homewood and do by the adoption of this Resolution make such statement.

3. That the City Council of the City of Homewood does direct that a copy of this resolution, after its adoption by the City Council, be distributed to Robert G. Waldrop, members of his family and that appropriate certified copies thereof be forwarded by the City Clerk to such other persons or organizations as she deems appropriate in the premises.

4. That this resolution shall be made a part of the official minutes of the meeting of the Homewood City Council.

TRIBUTE TO SENATOR WARREN RUDMAN

Mr. THURMOND. Mr. President, I rise today to pay tribute to a respected colleague and good friend who will not be joining us for the 103d session of Congress: The senior Senator from New Hampshire, WARREN RUDMAN. Senator RUDMAN is one of the finest Senators I have had the pleasure of serving with during my 38 years in the Senate, and I shall miss him.

There can be no doubt that Senator RUDMAN is a patriotic and public-spirited person. Upon his 1952 graduation from Syracuse College, then-Lieutenant RUDMAN was sent to Korea by the U.S. Army, where he served with distinction as an infantry officer. He rose to the rank of captain, and shortly after leaving the Army, he entered Boston College, where he earned a law degree. Following completion of his studies, he practiced law, first privately, and then as the attorney general of New Hampshire.

In 1980, after defeating an incumbent Democrat, Senator RUDMAN came to Washington to serve his Nation yet again, this time in the U.S. Senate. He quickly showed himself to be a legislator of great potential, and was voted the most promising Member of the Senate class of 1980. During his two terms in the Senate, he has established a reputation for commitment and integrity. He has served with distinction as vice chairman of the Senate Ethics Committee, and has also become one of the most recognized national advocates for fiscal restraint.

Senator RUDMAN is an expert on financial matters, and he has argued vigorously for more commonsense spending during his tenure on the Senate Appropriations Committee. His commitment to eliminating the deficit led him to coauthor the Gramm-Rudman-Hollings deficit reduction law. He has also served on the Senate Intelligence Committee and the Governmental Affairs Committee, and has played an active role on the Permanent Subcommittee on Investigations.

Mr. President, WARREN RUDMAN is a man of character, courage, compassion, and ability, and he has earned the friendship and respect of Members on both sides of the aisle. His dedicated service to the people of his State and the Nation, and his formidable skills as a lawmaker will be deeply missed by this Senator and many others when the next Congress convenes. I would like to take this opportunity to commend him for his excellent service and wish him the very best in all his future endeavors.

TRIBUTE TO JOSEPH M. FARLEY

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Joseph M. Farley, a distinguished leader from Alabama who has played a key role in the electric utility and nuclear energy industry. This year, Joe Farley retires as chairman of the board of the Southern Nuclear Operating Co. and corporate counsel of the Southern Co. in Birmingham, AL. He will also retire as chairman of the American Nuclear Energy Council, which represents over 100 utilities and organizations with interests in nuclear energy.

Joe Farley has worked in the field of law and the nuclear energy industry for over 40 years. With an engineering degree from Princeton University and a law degree from Harvard, he returned to Alabama to practice law. In 1965, he became executive vice president of Alabama Power, and was elected president of that utility company in 1970. During his time as president of Alabama Power Co. he was the driving force in business recruitment for the entire State. During the years between 1970 and 1989, Alabama enjoyed one of its greatest growth periods in business expansion. In 1989, Joe was named executive vice president of the Southern Co., one of the Nation's largest investor-owned utilities. It serves over 6 million people, and is the parent company of Alabama Power, Georgia Power, Gulf Power, Mississippi Power, and Savannah Electric.

In 1991, Joe became president and chief executive officer of Southern Nuclear Operating Co., a subsidiary of the Southern Co. formed to provide operating and management expertise in the nuclear energy industry. It was under the expert management and diligent leadership of Joe Farley that the nuclear energy industry made its most significant gains in its 40-year history.

Joe Farley has long recognized the need for safe storage for spent nuclear fuel and decommissioned reactors. An example of his concern for both energy and the environment were the successful efforts to break the impasse between the Federal Government and the State of Nevada on the site characterization of the Yucca Mountain as a potential high-level nuclear waste repository. In August, Nevada granted the Department of Energy a water permit that will further advance the proceedings.

Joe also led the effort to restructure the Federal Government's Uranium Enrichment Program. This will, in turn, make our domestic enriched uranium more competitive on the world market. He often testified before congressional panels whose members respected both his integrity and his enormous knowledge of the business sector; both Chambers knew of his expertise in understanding the role electric utilities play in America.

During the 102d Congress, for example, he testified before House and Senate committees examining such diverse issues as nuclear energy regulation, safety and design certification of advanced reactors, funding for advanced nuclear research, foreign uranium pricing, restructuring the Department of Energy's uranium enrichment enterprise, and decommissioning costs and high-energy waste disposal. Joe has been instrumental in developing a sound national energy policy, working with both the Congress and the White House.

Mr. President, I am proud to commend and congratulate Joseph M. Farley, an Alabama favorite son, for a job well done. His leadership in energy matters over the decades set a standard for the field that others will have to work extremely hard to match. I wish him all the best in his future endeavors.

TRIBUTE TO SENATOR ALAN DIXON

Mr. THURMOND. Mr. President, I rise today to pay tribute to my friend and colleague, Senator ALAN DIXON of Illinois, who will be leaving us at the end of this Congress. Senator DIXON is a man of integrity, ability, and dedication, and he will be missed, especially by this Senator.

Senator DIXON has a long and distinguished record of public service. Before his election to the Senate in 1980, he served Illinois as a police magistrate, a State representative, a State senator, State treasurer, and Secretary of State. Here in the Senate, he has been a devoted advocate for his State and our Nation.

Senator DIXON established himself early on a staunch fiscal conservative and a supporter of a strong national defense. He is known for his hard work and common sense, and I have especially enjoyed working with him on the Senate Armed Services Committee, where he chairs the Subcommittee on Readiness, Sustainability, and Support. He has also served with distinction on the Banking, Housing and Urban Affairs Committee, and the Small Business Committee.

As much as anything else, it is Senator DIXON's warm sense of humor and gentlemanly manner which have endeared him to his colleagues on both sides of the aisle. I have always found him to be a fair, just and worthy advocate for the people of Illinois and our Nation, and he is also an excellent speaker.

Mr. President, I would like to take this opportunity to commend Senator DIXON for his fine service. I wish him and his lovely wife Joan the very best in the future.

THE SUPREME COURT CONFIRMATION PROCESS

Mr. HATCH. Mr. President, regrettably, the Supreme Court confirmation process has steadily deteriorated in recent years. The process has degenerated into one determined by raw politics. The use of litmus tests, blatant and subtle, is becoming entrenched. In an earlier period starting in the 1950's, conservative Senators, mostly but not always from across the aisle, occasionally asked issue and case specific questions of nominees to determine whether the nominees were too liberal. In the last few years, litmus tests on privacy, abortion, and support for racial preferences have been used to try to stop Supreme Court nominees.

Indeed, for some Senators, acceptance by a nominee of Griswold, which held that there is a right of marital privacy that encompasses the use of contraceptives, is not enough. One of my colleagues, in opposing Judge Thomas, said:

> It is not good enough that a nominee begrudgingly pledges not to reverse the battles already fought and won. Rather, I am looking for a nominee's disposition with respect to the questions of personal freedom not yet framed.

First, this suggests a belief that a nominee pledges at a confirmation hearing to adhere to a prior result, especially for the rest of the nominee's tenure on the Court, rather than merely state a present opinion that he or she is free to change in a given case based on its facts, the briefs, oral argument, and independent legal research. I respectfully submit that such a belief reflects a fundamental misunderstanding of the confirmation process, the judicial process, and the importance of the independence of the judiciary.

Second, liberals seems to believe that preservation of precedents they favor is mainstream jurisprudence, but reversing them is judicial activism or rightwing, no matter how untenable the precedent may be a matter of neutral constitutional or statutory interpretation. Indeed, no matter how many inaccurate epithets are tossed at Republican administration nominees such as rightwing or ultraconservative, restraining and even reversing the judicial activism of the Warren Court is neither radical nor extreme. This is so even if I or others may agree with a particular Warren Court decision that has been characterized as an example of judicial activism. Distinguished jurists such as Justice Harlan often dissented from Warren decisions, and I know of no one who suggests he was some kind of extremist.

The notion that the Supreme Court has recently moved to the far right cannot be taken seriously. It is ironic that many of those who claim a particular manifestation of judicial restraint is out of the mainstream could not find the mainstream if they paddled for days and days.

Third, if, in the future, each Senator imposed a litmus test based on his or her own notion of personal freedom protected by the Constitution—or some other litmus test—either the Senate will never confirm another nominee or a nominee will have to undertake what 51 Senators considers a pledge on those litmus tests. The Senate will then have proceeded either to have destroyed the independence of the Supreme Court or to have reduced the confirmation process to a charade where nominees tell Senators what they want to hear, and, once confirmed, do their duty as they see fit.

Other Senators would require a nominee to commit on the issue as to whether there is a constitutional right to an abortion. When a Senator asks the nominee "to tell us here and now whether you believe that the Constitution protects a woman's right to choose to terminate her pregnancy," the nominee is being asked to decide a principal, underlying issue in a number of cases that may come before the Supreme Court. It is irrelevant for the Senator to add, "Oh, but don't tell me how you're going to decide a particular case:" once a nominee gives an answer to the question, the nominee is well on the way to deciding particular cases which will before the court.

Nominees have been asked detailed questions about the establishment and free exercise clauses of the first amendment, and asked to comment on recent, closely divided cases. Some seem to suggest that if a nominee does not answer some questions on certain issues, he or she is unlikely to be confirmed. And when a nominee declines to answer a question concerning an issue that may be the next candidate for litmus test status, such as on abortion, he or she is unfairly accused of inconsistency on his or her responsiveness. But, it is not the nominee who is at fault; it is a highly politicized process out of control.

In his confirmation hearings, Justice Thurgood Marshall repeatedly refused to answer questions asked by Senator McClellan, a Democrat, regarding Miranda versus Arizona and Escobedo versus Illinois. These were two important and controversial 5-4 Supreme Court decisions favoring criminal suspects at the expense of the police. [Hearings before the Committee on the Judiciary, U.S. Senate, on the nomination of Thurgood Marshall, of New York, to be an Associate Justice of the Supreme Court of the United States, 90th Cong., 1st Sess. at 8-14 (1967).] In response to a direct question concerning Miranda Justice Marshall replied: "I am not saying whether I disagree with [Miranda] or not, because I am going to be called upon to pass upon it. There is no question about it, Senator. These cases are coming to the Supreme Court." [Id. at 9.]

Later, after he repeatedly refused to answer questions posed by Senator Ervin, again a Democrat, regarding the fifth amendment, Justice Marshall asserted. "I do not think you want me to be in the position of giving you a statement on the fifth amendment, and then, if I am confirmed and sit on the Court, when a fifth amendment case comes up, I will have to disqualify myself. * * * But I think it would be wrong for me to give that opinion at this time. When the case comes before the Court, that will be the time." Id. at 53.

Justice Marshall summarized his position thus: "My position is, which in every hearing I have gone over is the same, that a person who is up for confirmation for Justice of the Supreme Court deems it inappropriate to comment on matters which will come before him as a Justice." [Id. at 55.]

Justice Marshall was a well-known liberal at the time of his appointment. He had a track record. Liberals defended his right not to respond to the Democratic Senators and still merit confirmation. Last year, some liberals sought to hold a moderate to conservative black nominee to a higher standard than they wanted applied to the liberal Thurgood Marshall, and which was, in fact, applied to Justice Souter, a mere 2 years ago. The confirmation process has become a case of whose ox is being gored.

I might add both Justices Souter and Thomas were asked about the constitutionality of the death penalty. I believe the death penalty is constitutional. But others do not, including respected jurists such as former Justices Brennan and Marshall. It is an issue that will certainly come up during the Supreme Court tenure of these two recent nominees. They should not have had to answer that question. I certainly hope no one believes that the justices are not free to change their minds, after hearing the facts of a case, and reviewing the precedents and other relevant legal materials. What, then, is the point, of seeking assurances on this or any other issue?

Chairman BIDEN conducted the Souter and Thomas hearings in his usual fair manner. But the current confirmation process was distorted by the frenzied reactions of special interest groups. Political pressure is brought to bear on Senators to judge a nominee based on how that nominee is expected to vote on issues of concern to the group—especially by proponents of abortion and reverse discrimination. They have every right to do so, but it ill serves the American people.

The long delay before the nominee's hearings begin gives full opportunity for what I have described in an earlier confirmation in the Judiciary Committee as a search and destroy mission against a nominee. His or her personal life is deeply probed. The church he or she attends is scrutinized. Prior writings and speeches are not only scrutinized but quoted out of context and the quotes are ballyhooed to the media as if they are major evidence against a nominee. Judge Thomas had a single, throwaway line in a speech referring to Lewis Lehrman's article on natural law and abortion, and suddenly the nominee is said to be predisposed on Roe versus Wade.

Justice Thomas' writings on natural law were exaggerated and distorted, as part of a scare campaign to make the nominee appear to have strange views. His record of public service was distorted, with misleading excerpts from public documents and misrepresentations of the facts of particular events fed to the news media.

Voluminous document requests are dumped on the nominee. Media campaigns are cranked up.

All the while, the nominee is constrained to be silent before the hearings begin in deference to the Judiciary Committee. Knowing the recent history of these nominations, I cannot fault the Bush administration for mounting a major effort to assure a fair portrayal of the nominee in the media.

At the hearings, opponents of recent nominees engaged in a race to the cameras and microphones. They jockeyed for the catchiest sound bites in order to manufacture fear in the public about the nominee. This, in turn, necessitated an organized effort by supporters of the nominee in a battle for access to the media.

Enormous energy is expended on combing every word the nominee has ever written, as if he is bound forever by every such word. And in the hearing itself, quotes are taken out of context and distorted. I and others correct the record, but the same distortions are repeated in the markup after the hearing and in floor statements. The nominee's assertion that earlier expressed personal policy views will not be substituted for his or her judging is ignored.

If the nominee has referred favorably, in any way, to another writer, some of my colleagues seemed to assume that all views of those writers should be attributed to the nominee. At different times during the Thomas confirmation, it seemed some of my colleagues thought Prof. Stephen Macedo, Prof. Thomas Sowell, or Lewis Lehrman was the most recent nominee to the Supreme Court.

Following the conclusion of the hearing, and apparently orchestrated to coincide with the eve of the committee vote, some of Thomas' opponents stooped so low as to make public a nearly finished draft opinion in a pending court of appeals case on which Thomas was then sitting. This constitutes nothing less than a subversion of the judicial process itself in the desperate, ideological drive to defeat a nominee.

The confirmation process has, indeed, sunk to a low level and, unfortunately, has remained there. And all of this was before someone leaked confidential Senate information to the news media in a last-ditch effort to defeat the nominee by destroying him personally.

I might add that the process of historical revisionism is well underway regarding that episode. Some have suggested that the firestorm over Professor Hill's charges was ignited by disgust over Republican questioning of Professor Hill and Justice Thomas. The record rebuts that specious claim. Indeed, most Americans sided with Justice Thomas after hearing the testimony. Further, my mail reflects a great deal of consternation over what was done to Justice Thomas during the confirmation process.

The failure of the second round of hearings to sink the Thomas nomination is no excuse to point fingers elsewhere when the American people register their concern about Congress.

Moreover, if we are going to revise committee confirmation processes, I have a suggestion for consideration. The Judiciary Committee, which routinely retains outside consultants to comb a nominee's record and guide senatorial questioning, ought to provide funds to nominees to obtain counsel to assist them when their character and integrity are impugned. The interests of the administration are not coextensive with those of any nominee under the kinds of attacks we have seen in recent years.

I have great respect for Senators WARREN RUDMAN and JOHN DANFORTH. The aid they each rendered their friend and former employee, David Souter and Clarence Thomas, respectively, has been appropriate and helpful. And I mean no disrespect to either Senator when I ask: Are the only nominees in the future able to win confirmation ones with respected patrons in the Senate? Must a nominee have battalions of former and current employees at his prior places of employment, a U.S. Senator working full time, and others mounting a major effort to counter the distortions of his or her opponents?

I am also disturbed that some of Justice Thomas' opponents seemed to have voted against him in significant part because of other Justices who are presently on the Supreme Court. I take it this is some form of guilt by anticipated association in the minds of these particular opponents.

Moreover, I respectfully submit, using a pending nomination to lay down a marker to the President with respect to future nominations, as I believe some of my colleagues, in part, sought to do, is inappropriate and unfair to a particular nominee before the Senate. We are evaluating one nominee at a time, not current members of the Court or potential future nominees.

REFORM

The model nomination process I described on the Senate floor in earlier speeches during the last two Supreme Court confirmations has not been followed.

In speeches during the last 2 years, I have mentioned a distinguished task force assembled by the 20th Century Fund to consider the way the Federal judiciary is selected. Former New York Gov. Hugh Carey chaired the task force. It recommended, with two dissents, that:

> Supreme Court nominees should no longer be expected to appear as witnesses during the Senate Judiciary Committee's hearings on their confirmation. * * * The task force further recommends that the Judiciary Committee and the Senate base confirmation decisions on a nominee's written record and the testimony of legal experts as to his competence.

This would return the process more to the way it was undertaken until 1925. Until then, no Supreme Court nominee appeared before the Senate. The task force added, with one dissent:

> But if nominees continue to appear before the committee, then the task force recommends that Senators should not put questions to nominees that call for answers that would indicate how they would deal with specific issues if they were confirmed.

Indeed, this reflects the manner in which the Judiciary Committee handled nominees from 1925 into the 1950's. Of course, it is a far cry from the way the committee has frequently functioned in the last 35 years.

In my view, we should question nominees only about their ethics, competence, legal ability, general view of the role of the Supreme Court in our Federal system, willingness to separate personal policy views from one's judicial decisionmaking, and independence—did the nominee make commitments on issues to get nominated or confirmed?

CONCLUSION

In 1990, in my additional views on the nomination of David H. Souter (Exec. Rept. 101-32), I said:

> The trend begun in this committee in the mid-1950's of probing the nominee's views on controversial issues seems to have accelerated in recent years. If the trend continues, that is something I will have to bear in mind if I am here when a member of the other party sends us a Supreme Court nominee.

Unfortunately, the trend has not only continued, it has accelerated. I despair that the confirmation process for Supreme Court nominees will be reformed in any meaningful way. Given the highly politicized manner in which nominees have been treated in the last several years, it cannot be expected that Republicans will adhere to a process under a Democratic President, should one be elected, that my friends on the other side of the aisle have all but abandoned and repudiated under the last two Republican Presidents. Of course, I am not suggesting that Republicans should or will resort to the campaign of distortions and attempted character assassination which marked the Bork and Thomas nominations. But if Republican nominees are to be quizzed on their positions on abortion, reverse discrimination, and on various other issues, I do not believe Democratic nominees can expect to escape similar scrutiny. I do not say this as a threat or with any pleasure, but just as a reflection of reality.

ADVICE AND CONSENT

Mr. HATCH. I wish to address briefly the advice and consent clause in Article II, Section 2 of the Constitution. Some commentators have misread the plain language of that important clause. They suggest that the Constitution mandates, or at least contemplates, that the President seek the advice of the Senate before he or she nominates someone to the Supreme Court. This is a myth gaining increasing currency.

The Framers rejected vesting the Supreme Court appointment power in both Houses of Congress or in the Senate alone. While the Constitutional Convention also rejected placing the appointment power in the President alone, the Framers adopted a compromise which left no doubt that the President has the predominant role in appointing Supreme Court Justices. Article II, Section 2 reads in relevant part: "* * * he shall nominate, and by and with the advice and consent of the Senate, shall appoint * * * judges of the Supreme Court * * *."

The Constitution's plain language is clear: The President has sole power to nominate to the Supreme Court the person of his or her choice. Presidential nomination authority is unshared. The Senate's advice and consent duty comes into play only after the President has made a nomination to the Supreme Court.

The appointment power, thus, combines the President's sole power to nominate, with the Senate's sole power to advise and consent to the nomination. The Senate can reject or approve a nominee, and its Members can convey their reasons for that decision. The President provides the confirmed nominee with his or her commission. Indeed, even with the Senate's advice and consent role, the Constitution speaks of the appointment power as vested in the President. Moreover, the Constitution grants the President alone the power to make recess appointments—to fill up vacancies, such as those on the Supreme Court, during the Senate's recess, until the end of the Senate's next session.

Some of my colleagues have indicated that no Supreme Court nominee is worthy of confirmation unless the President has consulted the Senate in advance or picks a nominee that somehow splits the perceived difference in judicial philosophy between the Senate and the President. Indeed, remarkably, some have said they would oppose a nominee as soon as the nomination is announced in the absence of either of these two conditions, no matter how qualified or worthy the nominee.

I respectfully submit that these conditions are profoundly inconsistent with our constitutional scheme.

I might add that comparing a Presidential budget to a Presidential nomination to the Supreme Court, is, in my view, and with the greatest of respect, a reflection of this disregard for the constitutional scheme. The nomination of a Supreme Court Justice not only in textually committed to the President, it is an appointment to the highest court in a coequal branch of government.

Alexander Hamilton, in the Federalist Papers, wrote at some length on this very issue. I believe he confirms my view of the nomination power. In Federalist 66, he denied that the Senate would be biased in favor of the judges coming before them for trial on impeachment charges merely because the Senate had consented to the judges' appointment in the first place. Hamilton noted that the Senate "will merely sanction the choice of the Executive * * *" during the appointment process.

Hamilton went on to describe "the nature of the agency of the Senate in the business of appointments. It will be the Office of the President to nominate and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice he may have made. They might even entertain a preference to some other person at the very moment they were assenting to the one proposed, because there might be no positive ground of opposition to him; and they could not be sure, if they withheld their assent that the subsequent nomination would fall upon their own favorite, or upon any other person in their estimation more meritorious than the one rejected. Thus it could hardly happen that the majority of the Senate would feel any other complacency towards the object of an appointment than such as the appearances of merit might inspire and the proofs of the want of it destroy."

In Federalist 76, Hamilton expanded on this point. In defending Article II, Section 2, Hamilton said, "I proceed to lay it down as a rule that one man of discernment is better fitted to analyze and estimate the peculiar qualities adapted to particular offices than a body of men of equal or perhaps even of superior discernment."

Hamilton gives several reasons for this view: that one person will have a keener sense of duty to pick a good choice; that one person will have fewer personal attachments than a group of persons; "in every exercise of the power of appointing to offices by an assembly of men we must expect to see a full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which are felt by those who compose the assembly." I might add Mr. President, that Hamilton is on target in this insight.

In responding to the contention that the President alone should have the entire appointment power, Hamilton made clear again the nature of the respective roles of the President and Senate:

> But it is easy to show that every advantage to be expected from (vesting the entire appointment power in the President alone) would, in substance, be derived from the power of nomination which is proposed to be conferred upon him; while several disadvantages which might attend the absolute power of appointment in the hands of that officer would be avoided. In the act of the nomination, his judgment alone would be exercised; and as it would be his sole duty to point out the man who, with the approbation of the Senate, should fill an office, his responsibility would be as complete as if he were to make the final appointment. There can, in this view, be no difference between nominating and appointing. The same motives which would influence a proper discharge of his duty in one case would exist in the other. And as no man could be appointed but on his previous nomination, every man who might be appointed would be, in fact, his choice.
>
> But (the President's) nomination may be overruled: This it certainly may, yet it can only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted by the preference they might feel to another to reject the one proposed; because they could not assure themselves that the person they might wish would be brought forward by a second or by any subsequent nomination. They would not even be certain that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected and might have the appearance of a reflection upon the judgment of the Chief Magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.
>
> To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from state prejudice, from family connection, from personal attachment, or from a view to popularity. And, in addition to this, it would be an efficacious source of stability in the administration.

I believe that Alexander Hamilton's explanation of the nomination and advice and consent powers is apt and I commend it to the attention of my colleagues.

TRIBUTE TO SENATOR TIMOTHY WIRTH, UPON HIS RETIREMENT FROM THE U.S. SENATE

Mr. THURMOND. Mr. President, I rise today to pay tribute to my friend and colleague, Senator TIMOTHY E. WIRTH of Colorado, who is retiring from the Senate at the close of the 102d Congress, after 6 years of service.

Senator WIRTH is a native of Colorado, where his family has lived for five generations. He grew up in Denver and Jefferson Counties, and began his political career in the U.S. House of Representatives in 1974, serving 12 years there. Prior to his work in public service, Senator WIRTH was a high school teacher, and he continues to teach classes on a volunteer basis at all levels of Colorado's school system.

Elected to the Senate in November 1986, Senator WIRTH has distinguished himself as a hard worker and a strong advocate for various causes. He serves on four committees, including Armed Services; Budget; Banking, Housing, and Urban Affairs; and Energy and Natural Resources.

Mr. President, Senator WIRTH has been an able and dedicated Senator, and I have enjoyed serving with him. I wish him and his lovely wife, Wren, much future success.

RETIREMENT OF JOHN LIPTON

Mr. PRYOR. Mr. President, Arkansas is losing one of its stellar members of our legislature this year with the announced retirement of John Lipton of Warren, AR.

John Lipton is serving this 12th consecutive term in the Arkansas House of Representatives and is completing a term as the Speaker of the House.

Representative Lipton is cochairman of the legislative Joint Performance Committee and serves on the House Insurance and Commerce Committee, the House Public Health, Welfare and Labor Committee and the Joint Budget Committee.

Mr. Lipton chairs the Arkansas Quality Management Board, which oversees State government's quality management initiative, and is cochairman of the Correction Resources Study Commission. He is also a member of special committees studying the State Police, the State Department of Correction, and the Game and Fish Commission.

Currently cochairman of the Arkansas Advisory Council for Vocational-Technical Education, John served as an appointee of President Carter on his National Advisory Council on Vocational Education.

Mr. President, John Lipton has been a steady, yet progressive, leader in our General Assembly and he will be sorely missed. I wish him well in his future endeavors and know that his departure from the legislature does not mean his departure from positions of service to his fellow man.

I am proud to call John Lipton my friend.

A TRIBUTE TO SENATOR ALAN CRANSTON

Mr. THURMOND. I rise today to pay tribute to my esteemed colleague Senator ALAN CRANSTON of California, who will be retiring at the end of this session. Senator CRANSTON is a man of ability and dedication, and he has represented the State of California in the U.S. Senate for the past 24 years.

During his tenure in this body, Senator CRANSTON has served on the Senate Committees on Intelligence; Banking, Housing, and Urban Affairs; Foreign Relations; and Veterans' Affairs, where he is currently the chairman.

As chairman of the Veterans' Affairs Committee, Senator CRANSTON has supported the enactment of a wide variety of programs and benefits designed to meet the special needs of our Nation's veterans. He has demonstrated a strong commitment to veterans, and has been presented with national awards from the American Legion, the Disabled American Veterans, the Paralyzed Veterans of America, and AMVETS.

Senator CRANSTON is also a businessman, a writer/reporter, and an athlete. As a businessman, he made his mark in real estate and investment. As an athlete, Senator CRANSTON set the world record for 55-year-olds in the 100-yard dash in 1969. As a writer/reporter, Senator CRANSTON was notably sued, indirectly, by Adolf Hitler for writing a tabloid version of Hitler's book "Mein Kampf."

Mr. President, Senator ALAN CRANSTON is a man of intelligence, ability, and determination. He will be deeply missed in Washington and I wish him the very best in the future.

SENATOR TIM WIRTH

Mr. PRYOR. Mr. President, one of the saddest days for me in my public life was the day that I was driving in my car in south Arkansas and heard on the radio that Senator TIM WIRTH had announced his retirement from the U.S. Senate.

During the Democratic Convention in New York in July, I had occasion to address the Colorado caucus. I stated to them at that time how much TIM WIRTH would be missed. A sense of pride and affection swept the room when I mentioned his name. Not many of us in politics today can evoke that type of response from the people that elected us.

A product of the Watergate generation of Democrats in the House of Representatives, TIM WIRTH rose to the chairmanship of the Energy and Commerce Subcommittee on Telecommunications, Consumer Protection and Finance—a subcommittee which regulates everything from securities to communications, from Wall Street to cable television.

The people of Colorado promoted him to the Senate in 1986. While in the Senate, he has been recognized for his expertise on environmental issues, arguably the most knowledgeable Member of the Senate on the issue of global warming and the greenhouse effect.

What I have always found in dealing with TIM WIRTH is his openness and his sincerity. We have respected each other's opinion; we have agreed to disagree when that was necessary; and we have stood side by side on issues when we could.

I value his friendship and will miss our daily comradeship; the people of Colorado will miss his dedication, his energy and devotion; the country will miss his intellect and his integrity.

TRIBUTE TO SUSAN KIRKLAND

Mr. HEFLIN. Mr. President, it is with a great sense of sorrow and sadness that I rise today to pay tribute to Susan Kirkland, a truly outstanding young lady who interned in my office just this past summer. Susan, only 22 years of age, died on Sunday, September 27 after a long illness.

All Members of this body are familiar with the en masse arrival of interns on Capitol Hill at the beginning of each summer. They come here all starry-eyed about being in their Nation's Capital, seeing all the monuments and other sites, and witnessing the Federal governmental process up close. Some are here mostly to have a good time. After all, they are young, driven, and trying to find themselves, many away from home for the first time in their lives.

Others come to learn, to leave an impact, to get a foot in the door in order to advance themselves in preparation for their futures. We enjoy their time here, for they tend to invigorate the place with a special sense of spirit and energy for those staffers and Members who might get a bit cynical at times.

Susan Kirkland was one of those interns who did indeed leave her mark. This is not really surprising, since she grew up in a rather political family I have known well for many years. The Kirklands of Andalusia AL, as a naturally political family, instilled in Susan a strong desire to meet and interact with other people; she relished meeting and learning about new people. Upon her arrival in Washington back in May, the day after her graduation from the University of Alabama, she instantly became a part of our office family. Everyone came to know her as an intelligent, bright, well-spoken, polite, southern lady, but with an air of innate curiosity and thirst for knowledge that set her apart. Something about her told us that there were many more books to read, places to see, interesting people to meet, and things to learn than she would ever have the time for, no matter how long she lived. Susan wanted to make an impact, and she did.

Susan had majored in history and minored in English and fine arts while at Alabama. She was an active member of Delta Delta Delta sorority, made the dean's list several semesters, was a member of the Cardinal Key Honor Society, Panhellenic, the Student Alumni Association, the University Singers, was active in the Student Alumni Association, and served as vice president of the history club. She was also assistant curator of the Museum of Natural History located on the Tuscaloosa campus and was a teaching assistant with the history department. Susan had studied for a time at Oxford University in England, which she always referred to as one of the highlights of her young life. Her time there, she said, opened up so many new worlds for a girl from a small town in Alabama. For someone who loved exposure to new people, ideas, cultures, and places as much as Susan did, that experience was priceless.

During her most recent illness, Susan told her mother, Jeanice, that the 5 weeks she had spent in Washington were the most fulfilling and happy time in her life. When she graduated from college, she had originally planned to attend law school, but her short time here, her mother said, gave her new direction. Being in Washington made her realize that what she really wanted to do was go to graduate school and then come back here to work in an area of government, perhaps at one of the Smithsonian museums.

I want to say a special thanks to our distinguished Senate Chaplain Dr. Halverson for the many kindnesses he expressed to Susan and her family while she was ill. I know he gave them great comfort. Susan even rallied for a while, after seeing a copy of the opening prayer he gave for her on the Senate floor.

Mr. President, it is never easy losing someone we love, and, of course, it is a cliche to say that it is harder when it is someone so young and full of promise, as Susan Kirkland was. But that is indeed the case with Susan. We can, however, be glad that she lived such a full life, and accomplished so much in her 22 years. She came to be an inspiration, not only to her younger peers, but to us older folks as well.

I would like to have inserted into the RECORD at this point "A Tribute to an Andalusian," by Caroline Jackson, who Susan lived with during her internship. It is a beautiful tribute that tells about her time in Washington in the memorable summer of 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A TRIBUTE TO AN ANDALUSIAN

Delta flight 640 brought Susan Kirkland to Washington this past Mother's Day. I met her and my niece, college Tri Delt sisters, at the airport. They felt excitement over their upcoming five weeks' work in Senator Howell Heflin's office. They had told their Alabama parents not to worry. Susan, 22, had just celebrated her birthday and graduated from the University of Alabama.

Having lived here 27 years, I embraced the chance to show them around. That afternoon, we bought subway tickets to Union Station and walked to find the Senate Office Building where their work would begin the next day.

After her second work day, Susan expressed gratitude that her supervisor had given her "real work" to do. She asked me how to arrange an interview at the Smithsonian. Museum work was her career goal after a master's program to begin this fall back in Tuscaloosa.

Each day, she and my niece walked past flower vendors and George Washington's bust from their university dorm room to the subway. In the days to follow, they saw Gorbachev, heard Ted Koppel speak at the National Press Club, and helped me sell at a book fair where they met Oliver North. They heard the Ambassador to India speak at a World Affairs Council and enjoyed a picnic with friends during a Crosby Stills and Nash concert at Wolf Trap amphitheatre.

Each Thursday night, they savored the Congressional softball game, a ritual in which "Bama Bangers" challenge other Congressional staff teams.

They tried their first Indian food here and enjoyed Chinese fare before a musical production at Ford's Theatre.

While Susan learned more about Washington, she taught many around her about Alabama. On the large wall map in Senator Heflin's office, she pointed out Andalusia. New Yorkers she met here loved the sound of her town's name. She explained Andalusia's football rivalries. She talked lovingly of her family. The Seaside, Florida tee-shirt she wore reminded us of her favorite vacation site.

Susan was regal and graceful with peaceful eyes. We called her "the Breck girl" because of her shiny hair and flawless face. Alert to life, she saw her nation's capitol and Washingtonians with a sense of history, compassion and humor.

When Jeanice, her mother, came to visit on Susan's last weekend here, we drove to see Columbus' ships in the Annapolis harbor.

Susan was spunky, looking past the surgery scheduled back in Birmingham to next summer. She hoped then to return to Washington and work at a museum.

Yesterday Susan Kirkland's funeral services were held at the Andalusia Baptist Church. Her personality, values, and humor will grace the rest of our lives. If she read this tribute, she would respond as she did to every well-deserved compliment: "You're too kind."—CAROLINE JACKSON, a Washington friend.

SEPTEMBER 30, 1992.

SENATOR ALAN DIXON

Mr. PRYOR. Mr. President, ALAN DIXON's departure from the Senate this year will mark the end of a career of public service that goes back to 1949 when he was elected police magistrate in Belleville, IL.

He served 20 years in the Illinois Legislature and as State treasurer and secretary of state before his election to the Senate in 1980.

ALAN DIXON has always championed the little guy. When he rises to speak in the Senate, we know that it is a cause for which he has done his homework and for which he fervently believes. His combination of wit and sarcasm have often brought debates in this body from lofty plateaus back to Earth and to just how our deliberations will affect the guy living on "Main Street."

"AL the Pal," as he has affectionately been called by an electorate that has supported him in great numbers for the better part of 40 years, has worked to help lead us out of the savings and loan mess, a thankless task at best. He is recognized for his expertise on banking, finance, trade, and securities matters.

Through his stewardship on the Armed Services Committee, ALAN DIXON has provided the leadership that has resulted in the beginnings of some serious procurement reform at the Department of Defense.

Mr. President, I am proud to call ALAN DIXON my pal and wish him well as he leaves the Senate. We thank him for his dedication and devotion to this institution.

TRIBUTE TO SENATOR JAKE GARN

Mr. THURMOND. Mr. President, I rise today to pay tribute to my esteemed colleague and good friend Senator JAKE GARN of Utah, who will be retiring at the end of this session. Senator GARN is a man of character, courage, compassion, and capacity, and he has done an outstanding job representing the State of Utah in the U.S. Senate for the past 18 years.

Senator GARN is a man of many talents, as his record shows. He served with distinction as a Navy pilot, achieving the rank of lieutenant, and is a retired brigadier general in the Utah Air National Guard. He has also been a successful businessman, working as an insurance executive for 8 years, and his previous public service includes stints as both city commissioner and mayor of Salt Lake City.

Probably the one thing about Senator GARN which has most captured the imagination of the public is his brief but renowned career as an astronaut. In 1985, the Senator was part of the crew on a flight of the space shuttle *Discovery*, performing various medical tests and serving as a payload specialist.

Throughout his career in the Senate, Senator GARN has been an effective representative of his State and a conscientious advocate for the American people. He is known for his strong adherence to conservative principles and his passionate dedication to those causes he holds dear. He is also known as a good man to have in your corner, and his colleagues on both sides of the aisle respect him for his knowledge, hard work and integrity.

During the past 18 years, Senator GARN has established himself as a proponent of a strong national defense, an opponent of wasteful spending, and one of the most eloquent and forceful spokesmen for the space program. He served as chairman of the Banking, Housing, and Urban Affairs Committee for 6 years, and is currently its ranking member. He is also a member of the Appropriations Committee, the Energy and Natural Resources Committee, and the Senate Rules Committee.

Mr. President, Senator JAKE GARN is a living example of the hard work and determination which earned his home State the title of "The Industrious State." He is a man of intelligence, ability, and principle, a true patriot, a loving husband and father, and an outstanding Senator. He will be deeply missed in Washington, especially by this Senator, and I wish him and his lovely wife Kathleen the very best in the future.

MORTON H. HALPERIN MOVES ON

Mr. HATCH. Mr. President, I would like to take a few minutes to pay tribute to a friend of mine, Morton H. Halperin. Mr. Halperin will be leaving his position as Director of the Washington Office of the American Civil Liberties Union on October 31 of this year, after 20 years of work for the ACLU. Morton will become a Senior Associate of the Carnegie Endowment for International Peace and will also serve as the Baker Professor in the Elliot School of International Affairs at George Washington University.

I have sometimes disagreed with the ACLU and Mort while on other occasions we have worked well together. Most recently, I was pleased to work with Mr. Halperin and others as the lead cosponsor of the Hate Crimes Statistics Act, since enacted into law, and on the Religious Freedom Restoration Act. I also wish to note that Mort and the ACLU have opposed the politically correct speech code movement on college campuses. This I greatly respect.

In all of these matters, whether we have been on the same side or opposing sides, I have found Mr. Halperin to be knowledgeable, forthright, and honest.

Mr. Halperin's long career in public service and in the public policy area as a private citizen stretches back over 30 years to his days as a student.

He joined the Defense Department as a Special Assistant for Planning to the Assistant Secretary of Defense for International Affairs from 1967 to 1969, having taken advanced degrees in international relations. In 1967, at the age of 29, he became Deputy Assistant Secretary of Defense for International Security Affairs. He served as senior staff to the National Security Council in 1969.

These are not all of the positions Mr. Halperin has held in the public policy field, nor are they all of his accomplishments, but I do wish to mention one particular distinction. In 1985, the MacArthur Foundation awarded him a 5-year grant known as the genius award.

I wish Mort the best of luck in his future endeavors. I respect him and look forward to watching his achievements as well as his work in the future.

W.E.B. DuBois said "The cost of liberty is less than the price of repression." In my opinion, Morton Halperin has always been willing to bear and maintain the costs of liberty.

HIRE A VETERAN WEEK

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 542, a joint resolution designating the week of November 8, 1992, as "Hire a Veteran Week," that the Senate proceed to its consideration; that the resolution be deemed read a third time, passed, the preamble agreed to, motion to reconsider be laid upon the table, and any statements be placed in the appropriate part of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered

So the joint resolution (H.J. Res 542) was deemed read a third time, and passed.

The preamble was agreed to.

Mr. AKAKA. Mr. President, I rise in strong support of House Joint Resolution 542, a joint resolution designating the week of November 8 as National Hire a Veteran Week. This legislation, introduced by Representatives GEORGE BROWN last August, is identical to Senate Joint Resolution 336, which I introduced on September 10 with Senators ADAMS, BOREN, BUMPERS, BURDICK, CONRAD, CRANSTON, DASCHLE, DECONCINI, DOLE, GLENN, INOUYE, JEFFORDS, METZENBAUM, MURKOWSKI, PELL, PRESSLER, RIEGLE, ROCKEFELLER, SANFORD, SASSER, SHELBY, SIMPSON, and SPECTER.

Mr. President, the primary goal of National Hire a Veteran Week is to draw the attention of employers across the Nation to the valuable skills offered by former service persons and to educate the public about the many veterans employment programs that are currently offered by Federal, State, and local agencies. Such programs include the Veterans' Employment and Training Service, Disabled Veterans Outreach Program, National Veterans Training Institute, Federal Contractor Program, the Job Training Partnership Act Programs for veterans, the Transition Assistance Program, and the Local Veterans Employment Representative Program. And, just a few days ago, the Senate passed the Uniformed Services Employment and Reemployment Rights Act, which makes major improvements in current veterans employment rights, and the Veterans Employment and Training Act, which would provide subsidies to veterans and employees if they participate in veterans training programs.

These programs comprise a framework through which veterans can receive job training, counseling, assistance with job searches, and information to protect their reemployment rights. They also inform employers of tax credits and other financial assistance they can receive for employing veterans and eligibility for special Job Training Partnership Act veterans funds.

Encouraging employers to hire veterans is especially important at a time when tens of thousands of service members are expected to enter the civilian job market as a result of the Persian Gulf war and post-cold-war military reductions. In fact, the Bureau of Labor Statistics reports that a staggering 991,000 veterans are currently out of work. Over the next 5 years, the armed services are expected to discharge a minimum of 400,000 military personnel and lose another 300,000 per year through attrition. In such an environment, we need to encourage employers to hire veterans, not only out of a sense of gratitude to those who served in defense of our Nation, but also out of a sense of economic self-interest.

It is an unfortunate fact that military personnel often have a difficult time finding civilian employment because employers do not realize that military experience can translate into civilian job skills. One of the primary aims of Hire a Veteran Week is to articulate the job-related qualities that many military personnel possess, such as a sense of discipline and responsibility, the ability to work independently or as part of a team; and, the ability to use or adapt to new technology.

Mr. President, veterans are not looking for charity. They have a myriad of relevant skills and resources that they can bring to the job site, if only they are afforded the opportunity. Hire a Veteran Week will help expand these opportunities by letting the general public and potential employers know that military service is one of the finest preparations for private sector employment.

SMALL BUSINESS RESEARCH AND DEVELOPMENT ENHANCEMENT ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Committee be discharged from further consideration of S. 2941, relating to small business development, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2941) to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3398

(Purpose: To provide for a substitute)

Mr. FORD. Mr. President, on behalf of Senator LEVIN send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. LEVIN for himself and Mr. BUMPERS, proposes an amendment numbered 3398.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

SMALL BUSINESS INNOVATION RESEARCH [SBIR] PROGRAM

Mr. LEVIN. Mr. President, I am pleased that the Senate is about to pass a very important measure that will create jobs, increase this country's capacity for technological innovation, and boost American competitiveness in the global marketplace. I am talking about reauthorization of the Small Business Innovation Research [SBIR] Program, which was originally established in law in 1982. Senator RUDMAN, whose bill we are amending and passing today, was also the chief sponsor of that law. He and I and many of our colleagues worked very hard during 1981 and 1982 to bring an SBIR bill to the Senate floor that enjoyed wide and bipartisan support.

The amendment which I am proposing today, on behalf of myself and Senator BUMPERS, chairman of the Small Business Committee, is also the product of extensive bipartisan discussions and negotiations between the Senate and House of Representatives. S. 2941, as we are amending it, has not had to face the uphill battle that the original 1982 bill did. The SBIR program now enjoys a well-deserved reputation for success. At the hearing before my Small Business Subcommittee on Innovation, Technology and Production, there were few criticisms of the program. Instead, the hearing witnesses, correspondence, and the Federal agencies, have been very supportive of this program. Even the Wall Street Journal, which is not noted for its praise of Government programs, and the General Accounting Office [GAO], which has often reported on Government programs that are failing to achieve their goals, have reported favorably on the SBIR program.

The GAO did recommend some minor changes to the program relating primarily to contracting and procedural matters to make the program run more smoothly. The amendment which Senator BUMPERS and I are proposing incorporates those suggestions as well as numerous comments from Senators RUDMAN, WOFFORD, BAUCUS, MIKULSKI, KASTEN, and many other colleagues on and off the Small Business Committee. A complete description of the bill appears in the section-by-section analysis of the substitute amendment. I ask unanimous consent that the section-by-section analysis be printed in the RECORD following my statement. I will just highlight for my colleagues a few of the major provisions of the substitute amendment which Senator BUMPERS and I are proposing.

Mr. President, the primary purpose of the bill is to reauthorize the SBIR Program until 2001, which would otherwise sunset at the end of fiscal year 1993, and to expand it. Right now, 1.25 percent of the extramural research funds of the agencies with such budgets over $100 million is awarded to small businesses for commercializing Federal technology. This is done in three very competitive phases, the last phase being funded by the private sector or by an agency from non-SBIR funds. The bill, as amended, will double the percentage of agency extramural research funds going to SBIR by fiscal year 1997, 1.5 percent in 1993 and 1994, 2 percent in 1995 and 1996, and 2.5 percent thereafter. The total dollar amount of SBIR awards in fiscal year 1991 was $484 million. By 1997, this amount will be approximately $1.2 billion, and includes previously excluded Department of Defense and Department of Energy research funds.

The inclusion of these funds in this well-regarded program opens up new opportunities for small businesses formerly employed in defense work to create new commercial uses of Federal technologies. The substitute provides a new focus on technologies that are critical to our country's national and economic security. These critical technologies will get special consideration when agencies develop research topics, and agencies are encouraged to meet or exceed the current 80-percent figure of SBIR awards being made in these areas.

Taking into consideration testimony presented to the committee, we are also increasing the award ceilings of phases I and II—from $50,000 to $100,000 and from $500,000 to $750,000 respectively—to stimulate even more competitive and higher quality research and development proposals. This suggestion and others were provided by Mark Clevey of MERRA, a nonprofit institution that assists Michigan companies in obtaining SBIR awards.

The substitute amendment includes a title establishing the Small Business Technology Transfer Pilot Program [STTR]. A similar program was included in the House bill, H.R. 4400, but was not part of S. 2941. The purpose of the STTR Program is to allow small businesses in conjunction with nonprofit institutions to compete for Federal research and development funds to commercialize Federal and other technology.

STTR is closely patterned after the SBIR Program in terms of its funding source and its competitive process. Five agencies—the Departments of Defense, Energy, Health and Human Services, and the National Aeronautics and Space Administration and the National Science Foundation—may allocate a small percentage of their extramural research or research and development funds to STTR awards. The percentage increases as follows: 0.05 percent in 1994, 0.1 percent in 1995, and 0.15 percent in 1996. This equates to approximately $25 million the first year, over $50 million the second year, and over $75 million in the third year, depending on those agencies future appropriations.

The STTR Program is authorized for only 3 years. The General Accounting Office will conduct a review of its success in its final year. At that point, it will be up to Congress to decide whether to continue the program. The STTR Program is designed as a pilot program because concerns have been raised about the ability of small businesses and large nonprofit institutions to work together effectively and equitably to commercialize. Various safeguards have been included to ensure that STTR funds are used in the manner for which they are intended.

Mr. President, the cold war is over, but the struggle for global economic security continues. We need the SBIR Program and others like it to ensure that we are able to compete in an increasingly complex, technology-driven world. Our major competitors have no qualms about their governments providing means to encourage innovation at small or large businesses. The SBIR Program is a tool that our country must have to out-commercialize our competitors and give our small businesses a chance to compete in the big leagues.

Finally, as I stated earlier, this substitute amendment is the product of much compromise and negotiation. It reflects the work of the Small Business Committees and Senate Armed Services Committees on both sides, and the House Science and Technology Committee. I would particularly like to recognize Congressman IKE SKELTON's efforts at shepherding the bill through the House. Also, Patty Forbes of the Senate Small Business Committee staff has been of great assistance in preparing this amendment.

Mr. President, I urge passage of the amendment in the nature of a substitute and the bill, S. 2941, the Small Business Innovation Research Program Reauthorization of 1992.

I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF SUBSTITUTE AMENDMENT TO S. 2941

TITLE I

Section 101—Title

The Small Business Innovation Research Program Reauthorization Act of 1992.

Section 102.—Findings and Purposes

Congress finds that the Small Business Innovation Research program (SBIR) has been a successful method of involving small businesses in furthering Federal research and development, encouraging technological innovation and stimulating commercialization of Federal technologies. The program has improved the nation's competitiveness and increased U.S. exports from small businesses. However, small business' share of Federal research and development funds has not significantly changed over the life of the program. Additional outreach efforts are necessary to meet the goal of the original enabling legislation to encourage socially and economically disadvantaged firms' participation in SBIR. Congress believes the SBIR program should be expanded and improved.

Section 103.—Amendments to the SBIR program

This section makes several changes to the Small Business Innovation Research (SBIR) program as authorized by Section 9 of the Small Business Act, which are intended to: encourage federal agencies to provide greater attention to commercialization; increase the total extramural research and development (R & D) funds allocated for SBIR and the size of individual awards made to small business; and, improve the administrative processes by which small businesses receive awards and ensure that they retain appropriate intellectual property rights and appropriate rights to perform follow-on funding agreements relating to research they developed under SBIR Phases I and II.

Subsection (a)—This subsection adds "commercial potential" as a consideration in the proposal process. SBIR evaluators may look to the following as evidence of commercial potential:

(1) the small business' record of successfully commercializing SBIR or other research;

(2) the existence of Phase II funding commitments from private sector or non-SBIR Federal funding sources;

(3) the existence of Phase III follow-on commitments, which may be funding commitments or other types of substantial commitments, i.e., production agreements; and,

(4) such other indicators of commercial potential as may be appropriate.

Though some agencies intentionally direct their programs toward proposals with greater commercial potential, insufficient attention has been paid to this aspect of the SBIR program. Federal extramural R & D funds are best spent on awards which can further individual agencies' missions and the country's economic security. Specifically, the Department of Defense could enhance its program significantly through greater attention to prospects for commercialization. Through SBIR, the Department should, to the maximum extent practicable, provide emphasis on converting the capabilities of businesses that are economically dependent on Department of Defense business to capabilities having both defense and non-defense commercial applications.

Subsection (b)—This subsection increases the percentage of Federal extramural R & D funds allocated for SBIR awards by agencies with extramural R & D budgets of more than $100 million. The percentage will increase from 1.25% to 1.5% for fiscal years 1993 and 1994, to 2% for fiscal years 1995 and 1996, and to 2.5% in fiscal years thereafter. This subsection also prohibits the use of SBIR funding for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses.

Subsection (c)—This subsection includes, in the total funds dedicated by the Department of Defense to SBIR awards, certain Department of Defense research and development activities related to operational systems development and atomic energy research, excluding the Department of Energy's nuclear weapons and naval reactors programs. This is not intended to exclude the nuclear weapons complex remediation activity budget from the total funding available to the SBIR program.

Subsection (d)—This subsection requires agencies to give special consideration to the critical technologies lists prepared by the Secretary of Defense and the Director of the Office of Science and Technology Policy when preparing general research topics lists. These lists identify technologies which are important to the Nation's national and economic security. This section is not intended to require that agencies show a preference in making awards to proposals for R & D in critical technologies areas. However, according to the Small Business Administration, nearly 80% of all awards are now made in critical technologies areas. When practicable, agencies are encouraged to maintain this level and to work to achieve a goal of 90%. Agencies are also encouraged to develop broad research topics to ensure that proposals are not limited by narrow solicitations.

Subsection (e)—This subsection requires agencies to make award payments to recipients within 12 months of the award and completion of all pertinent requirements. Payments are subject to later audit by the agencies should unallowable costs be identified subsequent to payment. Many awardees have experienced unacceptable delays in receiving full payment from federal agencies. Many awardees have also experienced delays in receiving the results of technical evaluations. To improve efficiency and enhance the quality of future proposals, the participating agencies are encouraged to respond to requests for technical evaluations in a timely and appropriate manner.

Subsection (f)—This section requires the Small Business Administration to make several modifications to its SBIR program policy directive to provide for:

(A) retention of small business' rights to SBIR project-related data for four years;

(B) continued use of transferred federal property by small businesses for two years as part of a Phase III SBIR project;

These provision—A & B—address concerns raised about fair and appropriate treatment of small business intellectual property rights. They do not prohibit the federal government from offering to purchase or otherwise negotiating and making an agreement with an SBIR awardee regarding the rights to data in less than four years.

(C) procedures to ensure that, to the extent practicable, an agency enters into follow-on, non-SBIR funding agreements with an SBIR awardee, if the agency intends to pursue the further development of technology which was the subject of that awardee's first and second phase research or research and development;

This change should help encourage SBIR agencies planning to work on a company's SBIR-developed technology after SBIR funding ends to enter into Phase III or non-SBIR funding agreements with the SBIR company. This change is intended to protect small businesses from agencies which attempt to take over a small business' research effort without adequate compensation. The General Accounting Office has recommended that descriptive procedures be developed to guide agencies wishing to conduct follow-on funding for SBIR research or research and development without fear of violating the Competition in Contracting Act's competitive procedures. Follow-on funding can include commitments for production, licensing agreements, etc.

(D) an increase to $100,000 in the amount an agency may award for Phase I, and to $750,000 for Phase II awards;

No increase in the award ceiling has occurred since 1982, though R & D costs have increased significantly. These ceilings may be adjusted at five year intervals to accommodate changes in economic conditions.

(E) notification to the agencies and potential SBIR applicants of the critical technologies lists;

(F) enhanced outreach to women-owned and socially and economically disadvantaged small business concerns, additional efforts to improve their performance in Phase III, and tracking of awards to these concerns;

The General Accounting Office found a relatively lower participation rate by socially and economically disadvantaged small businesses in Phase III. There may also exist a similarly lower level of participation by women-owned small businesses. However, data on the SBIR participation of such firms is not currently collected. Therefore, this bill requires the SBIR agencies and SBA to track the participation of such firms. Tracking of awards to all of these concerns, will assist the GAO and Congress in determining whether the goals of this and the original legislation have been met.

(G) technical and programmatic information to encourage agencies to develop gap-funding programs to address the delay between the Phase I award and the Phase II application and award;

Small businesses are having difficulty surviving the funding gap that occurs between the making of Phase I awards and the application for and making of Phase II awards. The Department of Energy has developed a program to assist small businesses in this regard. The SBA should consider this program and private sector alternatives when advising other agencies on how to alleviate this difficult period. The SBA and participating agencies should also consider coordinating SBIR application processes and procedures to increase uniformity among them to make applying for an SBIR award easier for small businesses.

(H) procedures to ensure that multiple SBIR award winners applying for further awards document satisfactory progress toward commercialization of the subjects for which they won previous SBIR awards in their applications for subsequent Phase I awards.

The General Accounting Office and witnesses before the Senate Small Business Committee have indicated that there may be multiple award winners that seek only to conduct research and development activities and have made little or no progress toward commercializing technology useful to the Federal Government or the private sector. Agencies should be aware of this possibility and take steps to prevent any misuse of SBIR funds. Multiple award winners are defined as small businesses that have received more than 15 Phase II awards during the five years immediately prior to the submission of an SBIR proposal. In their proposals for future Phase I awards, they will be required to demonstrate their success in securing Phase III funding as a result of work done under previous Phase II awards.

(I) collection of agency data for use by the General Accounting Office in completing reports required by this Act.

Subsection (g)—This subsection eliminates the surveying and reporting responsibilities of the Office of Science and Technology Policy. These responsibilities were not being performed and the program was able to function successfully without them.

Subsection (h)—This subsection requires participating agencies to provide written justification of a quarterly basis, whenever an SBIR award is made for a solicitation topic that received only one proposal. This is intended to provide an opportunity for the Administration and the Congress to identify unwarranted sole-sourcing of SBIR awards in a timely fashion. SBA and the participating agencies should improve the timeliness of the publication of the annual report required by subsection (g)(8) of Section 9 of the Small Business Act. The agencies are also required to include in their annual report an accounting of all multiple award winners' receipt of further awards and of the number and dollar amount of awards made under critical technologies topics.

Subsection (i)—This section requires the participating agencies to inform each SBIR awardee of the expenses of the awardee that will be allowable under the funding agreement.

Section 104.—Extension of SBIR program

This section extends authorization for the SBIR program until October 1, 2000, the beginning of fiscal year 2001.

Section 105.—Report of Comptroller General

This section directs the Comptroller General to provide a report to Congress not later than March 31, 1996, on the success of the federal agencies' SBIR programs in meeting the requirements of this Act and the goals of section 9(f) of the Small Business Act, including the extent to which they promote the participation of socially and economically disadvantaged small business concerns. The report will review federal agencies' methods for promoting commercialization through this program, including to what extent they promote the development of critical technologies

The report will also include: a) an analysis of awards made when a program solicitation receives only 1 proposal; b) an analysis of the impact of agency application reviews and funding cycles on awardees' financial status and ability to commercialize, with particular attention to gaps in SBIR funding between the first and second phases; c) an analysis of multiple award winners' success in commercializing SBIR research or research and development; d) an analysis of the effectiveness of the new program authorized in section 301, which authorizes the agencies to provide discretionary technical assistance to SBIR awardees; and, e) recommendations to Congress for tracking the extent to which foreign firms or U.S. firms with substantial foreign ownership benefit from technology or products developed as a direct result of SBIR research or research and development.

Section 106.—Department of Defense Recommendation

The Secretary of the Department of Defense shall provide a recommendation to Congress on the effect of the increase in the SBIR percentage on the quality of research or research and development in 1996, and whether or not a further increase in the percentage to 2.5% will adversely affect the quality of research or research and development. This recommendation does not halt the increase to 2.5%, unless Congress acts to do so.

TITLE II

Section 201.—Title

The Small Business Technology Transfer Act of 1992.

Section 202.—Establishment of Small Business Technology Transfer Pilot Program (STTR)

Subsection (a)—This subsection creates the pilot STTR program and establishes it as a responsibility of the Small Business Administration.

Subsection (b)—This subsection defines the STTR program and models it after the SBIR format, including the first and second phases, and the review of scientific, technical and commercial merit. Under STTR however, proposals responding to agency solicitation can only be made by cooperative research and development arrangements between small business concerns and non-profit research institutions or small business concerns and federally funded research and development centers (FFRDCs). In these arrangements, not less than 40% of the work must be performed by the small business concern, and not less than 30% by the non-profit research institution or the FFRDC. A non-profit research institution means an organization owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. "Non-profit research institution" includes FFRDCs for the purposes of this Act. Federal funded research and development centers' operations and responsibilities are described in the Federal Acquisition Regulations (35.017) and a master list of FFRDCs is maintained by the National Science Foundation.

Subsection (c)—This subsection adds a new subsection (n) to Section 9 of the Small Business Act and authorizes funding for agencies participating in the Small Business Technology Transfer Research (STTR) program. The STTR program is a 3 year pilot program intended to foster technology transfer from universities, FFRDCs, and other non-profit research institutions to the private sector through work with small businesses.

(1) Agencies with an extramural research or research and development budget over $1 billion (the Department of Defense, the Department of Energy, the National Science Foundation, the Department of Health and Human Services, and the National Aeronautics and Space Administration) may expend .05% of that budget on STTR awards for fiscal 1994, .1% in 1995, and .15% in 1996.

(2) None of the STTR funding is available for costs associated with agency salaries or expenses or, in the case of non-profit institutions, federally funded research and development centers, or small businesses, none of the STTR funding is available for costs associated with salaries, expenses or administrative overhead, except those allowable direct or indirect costs specifically related to STTR work.

(3) Funding agreements with small business concerns for research or research and development which result from competitive or single course selections other than an STTR program shall not be counted toward meeting the percentage goals in paragraph (1).

(4) The General Accounting Office will submit a report on the STTR program by March 31, 1996. The report will provide GAO's assessment of the quality of research performed under the STTR program, of STTR's effect on the performance of agencies' research programs, and the effect, if any, on the SBIR program. The report will include GAO's assessment of the commercial potential of research conducted under the STTR program, if enough information is available.

A new subsection (o) is added to Section 9 of the Small Business Act that outlines each agency's responsibility under the new STTR program in very similar form and format to those applicable to the SBIR program as amended by this legislation.

However, there are three significant additional responsibilities for agencies participating in the STTR program. One, agencies must develop a model agreement that will allocate intellectual property rights between small business concerns and research institutions. Two, agencies must develop procedures to ensure that recipients of STTR awards are in fact small business in good standing, and in compliance with law and regulations governing the definition of the term small business concern. The small businesses must maintain management and control of the STTR funding agreement. Third, to the extent possible, agencies must develop procedures to ensure that federally funded research and development centers are free of conflicts of interest and do not use special access to agency information or personnel to obtain STTR awards. These provisions are included to protect the small business STTR participants because of concerns that university and large non-profit research institutions would have the advantages of scale and experience in developing such agreements, and managing such projects, which could potentially overwhelm small businesses.

A new subsection (p) is added to Section 9 of the Small Business Act requiring the SBA to issue an STTR policy directive substantially similar to the modified SBIR policy directive that is required by this legislation. This includes, among other things, the ceiling on the size of the awards for Phase I at $100,000. But, Phase II awards are capped at $500,000.

TITLE III

Miscellaneous and technical amendments

Section 301.—Discretionary Technical Assistance to SBIR Awardees.

Section 301 adds a new subsection (q) to section 9 of the Small Business Act and authorizes agencies, on a discretionary basis, to provide technical assistance to Phase I recipients. The purpose of the subsection is to improve the technical quality of SBIR research to meet agency needs and to improve the rate of commercialization by recipient firms—the two principal goals of the SBIR program.

The provision suggests two features that the technical assistance might include: access to technical experts; access to technical literature. Evidence from at least one state-sponsored program suggests that providing access to a network of scientists and engineers, as well as on-line access to a database of technical and business information, can substantially improve the performance of small technology firms, including SBIR recipients.

To provide the technical assistance, each agency will be permitted to select one vendor annually through a competitive process, based on the vendor's ability to help small businesses improve research and commercialize products. Agencies may select the same, or a different, vendor each year.

Assistance during the first phase may be up to a value of $4,000 in addition to the amount of a recipient's award, to be paid from agencies' SBIR budgets. Agencies may allow second phase recipients to purchase such technical assistance only by utilizing funds already provided within recipients' research awards.

Provisions of Section 105(a)(2)(B) instruct the General Accounting Office to examine Section 301 activities after a period of four years. The GAO will focus on:

(1) the extent to which each SBIR agency has implemented this program and to which the program has improved agency research;

(2) the program's contribution to companies' ability to commercialize the products of their research;

(3) the cost of the program and the average cost per company; and

(4) the extent to which SBIR companies continue to use the service after completion of the program.

Section 302.—Extension of the Technology Transfer Demonstration Program

This section extends for two years the Small Business Technology Transfer program, authorized by section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note), which would otherwise expire in fiscal year 1993. No money has been appropriated yet for the program, which is intended to use a group of community colleges to facilitate small business efforts to adopt new technologies, particularly advanced manufacturing practices.

Section 303.—Reporting Requirements.

Subsection (a) would eliminate a Small Business Administration report to the Congress relating to subcontracting plans. Under Section 8(d) of the Small Business Act, government prime contractors (and major subcontractors) are required to negotiate plans for subcontracting with small business concerns and disadvantaged small business concerns, if the prime contract (or subcontract) exceeds statutorily specified dollar thresholds. The negotiation of specific goals for individual subcontracting plans is the responsibility of the contracting officer. Standards for determining the adequacy of proposed goals is addressed in statute and implementing regulations. Goals negotiated by the contracting officer and the contractor are subject to review by SBA representatives.

In the event the subcontracting goals negotiated by the contracting officer are deemed to be inadequate, they may be appealed. The final decision regarding the adequacy of the subcontracting goals negotiated by the contracting officer is made by the agency conducting the procurement. The report being eliminated requires SBA to annually provide to the Congress a listing of the subcontracting plans in which SBA disagrees with the final determination of the agency regarding the adequacy of the negotiated subcontracting goals. The report categorizes the bases of SBA objections in very broad categories. Although this reporting requirement has been in place since 1978, in practice, it has not proved to be an effective tool in fostering maximum implementation of the subcontracting program.

Subsection (b) clarifies a reporting requirement relating to purchases made from Federal Prison Industries (FPI) by the various executive agencies. Under 4124(c) of title 18, United States Code, each executive agency is required to report its purchases from FPI to the Government-wide Federal Procurement Data System (FPDS), authorized by Section 6(d)(4) of the Office of Federal Procurement Act. The statutory modification makes clear that such FPDS reporting regarding purchases from FPI shall be undertaken in the same manner as the reporting of other purchases. Specifically, purchases below the $25,000 small purchase threshold may be reported in a summary manner, while those in excess of the small purchase threshold will continue to be reported on the Standard Form 279, which provide more information.

Section 304.—Small Business Institutes.

This section amends section 8(b)(1) of the Small Business Act to add a new subparagraph (E) which authorizes the Small Business Administration to fund Small Business Institutes, at any public or private institution of higher education through grant, contract or cooperative agreement. Small Business Institutes have been operating successfully since 1972 by using college and university students to provide business counseling and other assistance to small business concerns. The students receive college or university credit in exchange for this work.

Section 305.—Additional SBIR and STTR Provisions

This section adds a new subsection (r) to section 9 of the Small Business Act to make clear that, notwithstanding the requirements of the Competition in Contracting Act, a Federal agency participating in the SBIR program may enter into a Phase III funding agreement with an SBIR company for additional work to be performed during or following the company's Phase II award without additional competition. The competition for Phase II awards satisfies any competition requirement of the Competition in Contracting Act.

In addition, this section requires each SBIR and STTR agreement to include a provision which sets for the respective rights of the United States and the small business concern with respect to intellectual property and follow-on research.

Section 306.—Sense of the Congress Concerning American-made Equipment and Products.

This section provides the sense of the Congress that SBIR awardees should purchase American-made equipment and products whenever possible if such purchase is consistent with the goals of the SBIR program.

Section 307.—Technical Corrections.

Subsection (a) makes a technical correction to section 714(b)(4) (the surveying and mapping section) of the Small Business Competitiveness Demonstration Program Act of 1988.

Subsections (b) and (c) of section 307 amend section 7(m) of the Small Business Act to permit the Small Business Administration to carry forward from fiscal year 1992 to fiscal year 1993 its unexpended authority to establish new microloan programs.

Subsection (d) of this section restores the term "private" to the term community development corporation within the definition of intermediary contained in section 7(m) of the Small Business Act.

Subsection (e) amends section 5(f) of the Small Business Act to clarify cross-references contained in paragraph (4); conflicts of interest in the operation of the program; and to protect the small business with respect to intellectual property rights and follow-on contract opportunities.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3398) was agreed to.

Mr. BUMPERS. Mr. President, today, we have the opportunity to reauthorize a program that has been showered with compliments by both the small business community and the participating Federal agencies. The Small Business Innovation Research [SBIR] Program, which was initially authorized by the Small Business Innovation Development Act in 1982, resulted from the efforts of the Senator from New Hampshire [Mr. RUDMAN]. The program was based on a successful pilot program at the National Science Foundation and the recommendations from the 1990 White House Conference on Small Business.

The concept is simple: Emphasize the benefits of technological innovation and the ability of small businesses to transform research and development results into new products. The implementation was even more practical. Each executive agency that has an extramural research or research and development budget of $100 million annually is required to reserve not less than 1.25 percent of that budget for the SBIR Program. To set the program in motion, the agencies issue solicitations that list and describe the topics to be addressed by the small businesses and invite the small businesses to submit proposals based on those topics.

The program itself has a three-tier structure. The first phase is designed to determine the scientific and technical merit of the proposed idea. The second phase is designed to further develop the idea into a working model. The third phase is, at least in my assessment, the most important part of this program. It says that, where appropriate, the company should pursue commercial applications of the research which may also include non-SBIR, Government-funded production contracts with a Federal agency for the products intended for Government use. It is important to note that not all phase I awardees receive phase II awards. The small businesses must show that there is actual merit and feasibility with their proposals; nothing is certain. A comprehensive 1992 GAO study illustrates that the goal of private-sector commercialization is being met by most businesses contracted with Federal agencies; however, it criticizes the Department of Defense for lacking in the commercialization area (GAO/RCED-92-37).

Mr. President, it is not often that we can stand here and sing the praises of a successful Federal program. The SBIR Program has established itself as one of the most effective technology programs in the Federal Government. It has earned the respect of scientists and engineers in the Federal Government and small businesses across the Nation. Inc. magazine has called SBIR "the most important piece of small business legislation yet enacted in our lifetime." Likewise, the SBIR Program has been a major stimulus to technological innovation which fuels economic growth, while at the same time satisfying the Federal Government's research and development needs.

In testimony before the Senate Small Business Committee, I believe the statement by the National Science Foundation's Division Director for Industrial Science and Technology Innovation is indicative of the views of the Federal agencies with regard to the SBIR Program:

> The accomplishments of the program to date indicate that the SBIR Program at the Foundation has met the goals of the legislation. We believe that the three-phased SBIR Program is a very effective method for converting research into technology for the market place. Research quality has been high. New products and processes have reached the market and enhanced the economic performance of American industry.

Not surprisingly, the small business community has rallied behind the SBIR Program and has supported its expansion. Again, in Senate testimony, a representative from a Michigan based nonprofit association of R&D businesses typified the views of small businesses:

> Overall, SBIR helps to improve the U.S. economy by spurring technological innovation, fostering economic growth, and improving productivity. The small firms today help make America competitive in the world—that's a fact. It is [the work of small businesses] that develops new technologies, products and processes critical to the economy and the quality of life in the United States.

Mr. President, this program not only needs to be reauthorized, it needs to be expanded. Because of its funding mechanism, even in its expanded form, the SBIR Program does not increase the deficit. The current SBIR Program is scheduled to sunset on October 1, 1993. To that end, on the House side, Congressman IKE SKELTON took the lead on the SBIR bill. His tireless efforts resulted in H.R. 4400, which passed the House in mid-August. H.R. 4400 is substantially similar to our committee substitute. Congressman SKELTON is to be commended for his leadership with respect to this small business program.

On the Senate side, both Senator LEVIN, who chairs the Small Business

Subcommittee on Innovation, Productivity and Technology, and Senator RUDMAN, have been real leaders on the SBIR reauthorizing bill. Senator RUDMAN's bill, S. 2941, has been used as a working model to reauthorize the program. Senator LEVIN prepared the committee substitute to S. 2941, which I now offer, and with which Senator RUDMAN is in complete agreement.

Indeed, this committee substitute builds upon the successes of the SBIR Program and addresses the concerns raised by the GAO study. Primarily it would phase in an increase in the set-aside percentage from 1.25 percent in fiscal year 1992 to 2.5 percent for fiscal years after 1995. The substitute would also increase the ceiling for phase I awards from $50,000 to $100,000, and phase II awards from $500,000 to $750,000.

Much of the 1992 GAO study commented on the success rate of commercialization by small businesses. The GAO discovered from those businesses responding to its survey that approximately one-third of phase II awardees were successful in commercialization. Even though this is an impressive figure, more emphasis needs to be placed on commercialization. This reauthorization bill outlines criteria where agency evaluators can consider commercial potential when making SBIR awards. Commercialization, after all, is an important goal of the SBIR Program.

Finally, recognizing the significance of other research and development organizations, this reauthorization proposal would also establish a pilot Small Business Technology Transfer [STTR] Program. This 3-year pilot program is modeled much after the SBIR Program, but with separate percentages set-aside. Its purpose is to facilitate cooperative research between small businesses and nonprofit research institutions or small businesses and federally funded research and development centers [FFRDC]. Agencies with extramural research or research and development budgets of $1 billion are authorized to set aside 0.05 percent of that budget for STTR awards for fiscal year 1994. This percentage is phased in at 0.5 percent increments through fiscal year 1996.

I urge all Senators to support the substitute amendment and the bill.

Mr. RUDMAN. Mr. President, I am very pleased to rise in support of S. 2941, the reauthorization of the Small Business Innovation and Research Program [SBIR]. I would like to thank Senator LEVIN, chairman of the Subcommittee on Innovation, Technology, and Productivity, for his assistance with this legislation. In addition, I would also like to thank the chairman and ranking Republican of the Small Business Committee, Senators BUMPERS and KASTEN, for their efforts to get this legislation passed in a timely manner.

The SBIR Program is one of the most successful small business programs in existence today. The legislation to create this program was the second measure I introduced upon coming to the Senate in 1981. I was pleased to see it enacted into law in 1982 and reauthorized in 1986. As I prepare to end my second term and career in the Senate, I am proud to point to the SBIR Program as one of my greatest legislative contributions.

The SBIR Program is scheduled to expire on October 1, 1993. By reauthorizing SBIR prior to the end of the 102d session, Congress will ensure the continuity of a program which is vital to the future of small business innovation and competitiveness.

Today, this body will consider a committee substitute to S. 2941, legislation which I offered this past July. I have worked with the Small Business Committee in developing the substitute which I believe makes a few changes that will serve to strengthen the program in the long run. This includes increased outreach to socially and economically disadvantaged firms and greater protection for small business intellectual property rights. In addition, the efforts of the House Committees on Small Business, Armed Services, and Science and Technology were crucial to developing a bipartisan consensus on the increased level of funding for the program.

Mr. President, I thank my colleagues for their past and present support of this important program, and I yield the floor.

Mr. HATFIELD. Mr. President, 3 months ago to this day, I joined my good friend from New Hampshire, Senator RUDMAN, in his effort to secure the reauthorization of the Small Business Innovation Research [SBIR] Program. Today, I rise again as this legislation passes the Senate to complement the Senator from New Hampshire and his dedicated staff for their tremendous efforts on behalf of this worthy program. In my opinion, he should regard passage of this legislation as one of the outstanding achievements of his illustrious career in this body.

I would also like to thank my good friend from Michigan, Senator LEVIN, for taking up this worthy cause. This legislation was introduced quite late in the legislative year, and Senator LEVIN, in his capacity as chairman of the Small Business Committee's Subcommittee on Innovation, Technology and Productivity, demonstrated great leadership in shepherding this legislation through the Senate.

As a cosponsor of the legislation introduced by Senator RUDMAN in 1982, I have been proud to watch this program evolve. I know that the genius of the SBIR Program lies in its recognition that small businesses represent our greatest, largely untapped source of innovators and productivity.

Oregon, with more small businesses per capital than any other State, is truly the Small Business State. In Oregon, 9 out of 10 businesses are small businesses. Small businesses are the backbone of Oregon's economy today, and they are the hope for its economy tomorrow. For example, of the 44,929 jobs created in Oregon between 1984 and 1988, small businesses created 125 percent, large firms having lost jobs.

Even though it is small, as Federal programs go, SBIR has shown unexpected success in all areas. My own State of Oregon has seen many productive developments as a result of the SBIR Program. Oregon has also been the beneficiary of the SBIR Program's investment in innovation.

Mr. WELLSTONE. Mr. President, the Small Business Innovation Research [SBIR] Program has become one of the most successful small business programs in the Federal Government. It is one of our most effective technology policy programs. I am extremely pleased that we are about to reauthorize SBIR through the remainder of this decade, as well as to provide for its expansion.

I would like to thank my friends Senator BUMPERS, the chairman of the Small Business Committee, and Senator LEVIN, chair of the Subcommittee on Innovation, Technology and Productivity, for their stewardship of this bill. And I thank my colleagues on the Small Business Committee for their cooperation concerning an innovative new provision, included in the program for the first time with this reauthorization, which I will describe later in my statement.

The SBIR Program's goals are to strengthen the role of small, high-tech companies in federally funded research, and to promote innovation and commercialization through that research. I consider this area of economic policy—the commercialization of high-technology research—to be key to our economic future.

We know that smaller firms are generating most of this country's new ideas. They also are generating most of our new products and jobs in the technology area. That is certainly true in my State, even though several large technology companies are headquartered there, as well. Nurturing and promoting our small-firm, high-technology sector is crucial to the health and international competitiveness of the American economy as we move into the new century.

The SBIR Program has worked extremely well. Separate reports published in the past year by the Small Business Administration [SBA] and General Accounting Office [GAO] each document its success according to several measures. On top of performing research aimed at gaining what Federal agencies consider to be important knowledge in its own right, companies also are turning that research into commercially useful products and processes. The SBA found that one-fourth of SBIR companies sell products based on their federally funded research within 4 years.

I think the success of one Minnesota company is an excellent illustration of the program's worth. Data Sciences of Roseville, MN, has developed, with the help of several SBIR research contracts over a period beginning in 1983, important new products for the biomedical testing market. In fact, the Innovation Development Institute honored Data Sciences last year for its work in developing socially significant technology. The company makes implantable electronic devices that make animal testing more humane and more reliable. Thanks to SBIR, Data Sciences has grown from two individuals working in their spare time into a company with 40 employees and $2 million a year in sales. There are many other similar examples in Minnesota and across the country.

SBIR is broadly supported in Minnesota. The State itself, in cooperation with the SBA's Small Business Development Center Program, funds a nonprofit agency which specializes in matching small technology companies with SBIR research projects. That agency, called Minnesota Project Innovation, has taken Minnesota from a position of being 38th among States in attracting SBIR projects in 1983, to No. 15 in 1990. Minnesota companies were awarded 55 research contracts worth a total of nearly $8 million from Federal agencies through the SBIR Program in 1990. In 1991, Minnesota firms were awarded nearly $7 million through 51 contracts.

I am particularly gratified that this reauthorization will include an important innovation to the SBIR Program. Evidence suggests that this innovation can substantially improve the quality of SBIR companies' research, and could significantly boost the capacity of SBIR companies to commercialize the results of their research. The provision is based on the successful experience of another State-sponsored program in my State, Minnesota Project Outreach [MPO]. I am pleased that my colleagues have agreed to this improvement.

MPO currently provides comprehensive information services to small businesses and entrepreneurs in Minnesota to aid in developing and marketing new products and processes. In just over 2 years of operation, MPO's service has achieved remarkable results for Minnesota companies, documented in a report prepared by the Industrial Technology Institute and by a survey conducted by staff of the House Small Business Committee. We have conducted further informal interviews with owners of Minnesota technology companies participating in both MPO and the Federal SBIR Program, as well as with administrators of MPO and Minnesota Project Innovation. These interviews indicate great promise and enthusiastic support for the idea of combining the two successful program ideas—the Federal SBIR Program and the State-sponsored MPO concept—as a significant step forward in promoting technology transfer.

The new provision is discretionary for Federal agencies. I hope the agencies participating in SBIR will avail themselves of it. The experience of Minnesota Project Outreach suggests that technical assistance, such as access to a network of scientists and engineers, as well as on-line access to a database of technical and business information, can greatly enhance companies' performance.

SBIR is an underappreciated success story in American industrial and technology policy. I am convinced it will prove invaluable to our economic success in the years ahead.

Mr. KASTEN. Mr. President, I rise today in strong support of S. 2941, the Small Business Research and Development Enhancement Act of 1992, a bill which reauthorizes the Small Business Administration's SBIR Program.

I would like to thank the distinguished Senator from New Hampshire [Mr. RUDMAN] for his leadership in strengthening the SBIR Program. I would also like to commend the chairman of the Small Business Committee, Senators DALE BUMPERS, and CARL LEVIN for bringing this substitute amendment to the floor of the Senate.

The SBIR Program provides small businesses with Federal research dollars to research and develop innovative ideas, new products, and new technological advancements that are essential to America's economic future. Without the SBIR Program, many small business entrepreneurs could not afford to conduct such research.

America's support for research and development is needed now more than ever because of dramatic increases in global competition in high-technology industries. Technology does not stand still. In order to be the world's economic leader tomorrow, America must invest in R&D to foster new technological advancements today.

In 1982, Senator RUDMAN sponsored legislation which created the SBIR Program. It was considered a forward-looking piece of legislation designed to strengthen the technological capacity of the private sector. Since then, the SBIR Program has proven its effectiveness by sparking increased private sector involvement in developing new technologies.

Under S. 2941, the SBIR program will be extended another 7 years through October 2000. Policy directives for the Small Business Administration [SBA] have been expanded to encourage greater participation by both minority and women small business entrepreneurs.

The bill would also require the Federal agencies to give special consideration, when practicable, to the list of critical technologies designated annually by the Secretary of Defense and the Office of Science and Technology Policy.

The legislation increases the percentage allocated from the extramural R&D budgets of the participating Federal agencies from a current 1.25 to 2.5 percent. This percentage increase is needed to adjust for the dramatic rise in R&D costs over the last decade. The increase will be implemented gradually as such: to 1.5 percent in fiscal year 1993, to 1.5 percent in fiscal year 1994 and 1995, and 2 percent in fiscal year 1996 and 2.5 percent thereafter.

The General Accounting Office would be required to report to Congress on the progress of the program with the R&D increase, before the adjustment is made to 2.5 percent. The Secretary of Defense has also been directed to provide recommendation to Congress concerning the effects of the increase on research programs at the Defense Department. The SBIR award amounts have also been modified to account for economic conditions: Phase I award has been increased to $100,000 and phase II has been increased to $750,000.

S. 2941 establishes a new program, the Small Business Technology Transfer [STTR] Program, to further technology transfer to the private sector through combined work between small businesses and universities, federally funded research and development centers [FFRDC's] and other nonprofit research institutions. Small business will be required to conduct a minimum of 40 percent of the work. The format of the STTR Program is designed after SBIR.

My home State of Wisconsin has several resource centers for research.

Expenditures on research and development at the University of Wisconsin in Madison exceed all other public universities across the Nation in the areas of science and engineering. STTR will help provide additional networks for rapid advancement of the technological industry through research partnerships. Five Federal agencies with extramural research budgets exceeding $1 billion have the discretion to participate—DOD, DOE, NSF, HHS, and NASA. The agencies are authorized to expend a certain percentage of their research budgets for STTR: 0.05 percent in fiscal year 1994, 0.1 percent in fiscal year 1995 and 0.15 percent in fiscal year 1996. The GAO has been directed to report on the accomplishments of the STTR program after 3 years to determine its future needs.

The SBIR Program has opened the floodgates for a new technology to reach our Nation's businesses in today's increasingly competitive markets. We must continue to build on this success to allow for greater opportunities in the future. Higher quality of research means higher quality products to commercialize, and a higher standard of living for the American people. I am proud of Wisconsin's SBIR track record—from 1983 to 1991, 53 companies have participated in the SBIR program, receiving a total of 113 Phase I and II awards amounting to over $5 million—quite a record!

With the importance of high-technology worldwide, I want to ensure that Wisconsin, as leader in the high-technology industry and the rest of the country, play a key role in this vital sector of our economy. The future of our Nation's economy banks on our ability to innovate and create new technology. We are experiencing some of the most fascinating changes in today's international business market. As trade barriers drop, markets expand, and exchange rates fluctuate, competition intensifies. SBIR is an exceptional tool for meeting challenges that lie ahead. At a time when our economy is in such dire need of investment, we cannot afford to pass up one that will generate such unlimited returns.

I am pleased to say that the SBIR Program shares bipartisan support in Congress. It has been one of the few Federal programs to receive praise from the administration, Congress and the small business community alike. I am glad to see the quick passage of S. 2941 and look forward to working with the future SBIR participants in Wisconsin and across the country.

Mr. BAUCUS. Mr. President, I rise today to support the Small Business Innovation Research Program Reauthorization Act of 1992.

Small businesses have played a critical role in our economy. They are responsible for employing over 100 million people in the United States. And they have made significant contributions to the research and development of new technologies and products and ensuring the future competitiveness of our Nation's industries.

The current SBIR Program requires all Federal agencies with a budget of $100 million or more for research and development to set aside 1.25 percent of their R&D budgets for allocation to small business.

A Government report issued at the time of SBIR's inception in 1983 demonstrated that small businesses were just as successful, if not more so, than large corporations and universities at conducting high-quality innovative research. Small businesses were producing 2½ times as many innovations based on the number of employees than larger corporations. But before the SBIR was instituted, large firms were almost three times more likely to receive public funds for R&D than smaller firms.

I think that the SBIR Program has been an unqualified success. Under SBIR, many small businesses have been able to successfully participate in the research of new technology used in most sectors of our economy. And not only are these small businesses researching new technology, they are successfully developing it and bringing it to the market. It is this successful marketing of SBIR-related technologies that has made the program so competitive.

Today I rise to support the reauthorization of SBIR which increases funding levels for SBIR from 1.25 percent of all Federal agency R&D budgets of $100 million or more to 2.5 percent of those budgets.

Let me emphasize: This legislation does not increase the amount of money these agencies will spend. It simply redirects a larger portion of their budgets toward small businesses.

As I mentioned, the SBIR has been instrumental in bringing new technologies to the market. At a time of increasing global economic competitiveness this marketing of technology becomes vital to economic growth. But it is not the R&D of just any technology that will be important to our Nation's future, rather it is R&D in critical, key-growth technologies.

Research in areas such as superconductors, biotechnology, and optoelectronics begins a process of product development that will bear fruit in an infinite variety of new products and technologies.

Currently upward of 70 percent of the SBIR budget is dedicated to research in these areas of critical, key-growth technologies.

In addition to increasing agencies R&D funding for small businesses, the report language accompanying the bill sets an 80 percent floor on spending for key-growth technologies. Over the next 5 years, 90 percent of the SBIR budgets will be committed to key-growth technologies. Key technologies will be chosen by both the Department of Commerce and the Department of Defense.

The legislation also requires an accounting of the number of SBIR awards made to these critical technologies in order to assure that funding does not fall below the 80 percent level.

I am confident that a government commitment now to the development of growth technologies will help create the foundation upon which to continue expanding in the future.

Ms. MIKULSKI. Mr. President, I rise to support S. 2941, the Small Business Innovation Research Program Reauthorization Act. This is an extremely important bill; one that helps America continue to develop cutting-edge technology and research by focusing limited Government funds on small and creative companies.

This bill means that more small businesses will be able to focus their skills to provide research and technology that Government agencies need. It means that the most creative small companies in Maryland and across the country have the chance to develop new products and create more high-technology jobs. And the bill goes further, establishing a pilot program that encourages businesses to cooperate with research institutions to create new products and ideas.

SBIR is one of the Government's most effective programs. It targets technology or research needed by Federal agencies, and those agencies provide funds to small businesses to help them develop what each agency needs. There is a strong and careful review process that only awards funds in phases—making sure that the Government's goals are being achieved at each step in the process, and that only the very best companies get awards.

Because of its careful review structure, SBIR has been effective at focusing dollars on the most promising small companies—helping them grow and create jobs while they perform jobs this country needs.

S. 2941 takes several steps to make the current SBIR program better. It allows for managed growth in the amount of SBIR awards performed by agencies. S. 2941 brings SBIR funding up from the current 1.25 percent of extramural R&D at the largest Federal agencies to 2 percent after 4 years. Then, after a study is done to ensure that the growth in SBIR is successful, the funding would go to 2.5 percent after 6 years, if Congress approves of the increase. The bill also requires closer attention by agencies to making awards for development of critical technologies—those that are most important to the economic future of our country. At the same time, this bill also makes sure small businesses are treated fairly and that they are paid on time, while ensuring that they work toward commercialization of their products.

There is a very important new STTR pilot program that I worked to include in this bill, and it's based on a program developed in my own State of Maryland. This Small Business Technology Transfer Research Program [STTR] will test the idea of using SBIR-type awards for small businesses that have cooperative arrangements with research institutions. It is an important step in recognizing that cooperation between businesses and researchers can lead to critical technological breakthroughs. These cooperative agreements encourage researchers to look beyond their ivory towers, and to turn their knowledge toward helping develop needed technology.

STTR is based on the Maryland Industrial Partnership Program, a successful State of Maryland technology development program with many of the same goals as SBIR. I will be looking carefully at the STTR pilot, as I think it has great potential to contribute to the development of new, critical technologies in this country.

S. 2941 is a good bill for small businesses and a good bill for America. It targets the best high-technology small companies, and gives them a chance to develop and create skilled private sector jobs while the Government gets critical products and information it needs. I look forward to the Senate passing the SBIR reauthorization and to seeing it become law very soon.

Mr. WOFFORD. Mr. President, I strongly endorse the committee substitute to S. 2941, the Small Business Innovation Research Program Reauthorization Act and I salute Senator LEVIN, who chairs the Subcommittee on Innovation, Technology and Productivity, for his leadership in improving and expanding the SBIR Program.

When it created the Small Business Innovation Research Program in 1982, Congress sought to stimulate technological innovation, use small businesses to meet Federal research and development needs, increase private sector commercialization of innovations derived from Federal R&D, and foster and encourage participation by minority and disadvantaged persons in technological innovation. It seems to have largely achieved these purposes. A Pennsylvania SBIR awardee wrote to me that "the SBIR Program seems to be one of those rare governmental ventures that strongly multiplies its beneficial impact through the normal commercial structure of the country."

Although Pennsylvania SBIR awardees who responded to my query for their evaluation of the program generally praised it, they expressed several areas of concern. Particularly, they complained about delays in evaluating phase I awards, gaps in funding between the completion of phase I and the granting of phase II awards, and difficulties in obtaining technical evaluations of their proposals. I have worked with my colleagues on the Small Business Committee to have these concerns addressed. And I am satisfied that the legislation being adopted today addresses these concerns and improves the SBIR Program.

Mr. President, I would again like to thank my colleagues on the Small Business Committee, particularly Senators BUMPERS and LEVIN, for working with me to improve the SBIR Program.

Mr. DODD. Mr. President, I rise in strong support of S. 2941, the Small Business Research and Development Enhancement Act of 1992. I want to take this opportunity to commend Senators RUDMAN, LEVIN, and the distinguished chairman of the Small Business Committee, Senator BUMPERS, for their work on this very important measure.

Mr. President, as we develop strategies to help communities and industries overcome the burden of defense cuts, one area that must not be overlooked is small business. The reasons for this are many.

For one, small businesses are the most vulnerable to defense cuts. For another, small businesses are essential to sustained economic growth and job creation, accounting for nearly two-thirds of U.S. job growth since 1976. Finally, small businesses make up some of the most innovative and flexible components of our industrial base. In fact, Mr. President, high-technology small business is today the fastest growing sector of our economy.

Over the past decade, these small businesses have been greatly assisted by the SBIR Program. Under this program, each Federal agency is required to set aside 1.25 percent of its research budget to provide grants to small businesses that pursue innovative technologies. In 1990, this program provided 108 grants valued at a total of nearly $20 million within the State of Connecticut alone

The legislation before us would reauthorize this legislation until the year 2000 and also modify it in two fundamental ways. First, it would double the size of the set-aside from 1.25 to 25 percent by 1997. This will increase the total funding under this program to approximately $1 billion per year.

Second, this legislation would establish a companion program, called the Small Business Technology Transfer Program. Under this program, 0.15 percent of each Federal agency research budget would be provided to small businesses that form consortia with universities or other research institutions. This program will help bring new technologies out of the laboratory and into the private sector.

Mr. President, the SBIR Program is one of the most valuable and cost-effective programs run by the Federal Government today. The legislation before us today will ensure that this important program stays on the books for years to come. I hope this measure will receive strong support from my colleagues.

Mr. PRESSLER. Mr. President, I am pleased to join my colleagues on the Small Business Committee in reporting out legislation to reauthorize the Small Business Innovation Research [SBIR] Program. The SBIR Program has proven to be a valuable tool for fostering Federal research and development through the involvement of America's small businesses.

The committee's review of the SBIR Program revealed that while the program has been successful, improvements could be made. I believe this reauthorizing legislation addresses the program's shortcomings and will further the overall success of the program.

I am particularly pleased that many South Dakota businesses have participated in the SBIR Program since its creation in 1982. It is my hope that by reauthorizing SBIR and enhancing the present program, the participation rate of businesses in rural States will be increased.

In addition to SBIR's reauthorization, this legislation creates the Small Business Technology Transfer Pilot Program [STTR]. The pilot program is designed to promote technology transfer to the private sector and requires cooperative research between small businesses and nonprofit research institutions. This pilot program will allow us to determine whether the intent of the legislation is being realized. It is the committee's hope STTR will prove to be as valuable as the SBIR Program.

Mr. LIEBERMAN. Mr. President, concern over the state of U.S. competitiveness, technological advancement, and product innovation has focused a growing attention on federally sponsored research and development.

The need for technological advancement and product innovation cannot be understated if we are to increase our level of international competitiveness. Technological advancement and product innovation can drive an economy by creating new goods: Services, processes, industries, jobs, and capital. Technological advancement can improve productivity and quality. And, technological advancement can help compensate for competitive disadvantages U.S. firms must face including comparatively higher costs of capital and labor.

While the United States remains the world leader in basic, precommercial research and in many areas of applied research—largely due to direct Federal support—we must understand that research alone does not lead to improved productivity and economic growth. Research and development is merely the first step. It is commercialization—the process of moving products from our laboratories to our factories—that leads to increased productivity, economic growth, job creation, and the ultimate rise in our standard of living. But, Mr. President, this is also where we fail.

We must, as our competitors do, aggressively support emerging technologies, so they can be transformed into commercially viable products for the international marketplace. According to the private, nongovernmental Council on Competitiveness, in 1988 the United States spent 0.2 percent of the total Federal Government R&D budget on industrial development—compared to 4.8 percent in Japan and 14.5 percent in Germany.

The U.S. Government spends approximately $75 billion annually on federally sponsored R&D. This research generally focuses on meeting the needs of Federal agencies, but also supports work in areas where there is an identified need for basic, precommercial research, *not* being supported by the private sector. While, under the current system, there is no question as to the usefulness and quality of Federal R&D, the return is generally long-term, not necessarily commercially marketable, and often not evident.

With the end of the cold war, increased international competition, and economic recession, combined with the reality the Government needs to provide more and better services with less revenue, I believe we must take a hard look at federally sponsored R&D. How can we improve the economic and social return on investment from Federal research? How can we assure that our investment spills over to the commercial marketplace where technology can be sold to generate income, create jobs, and improve productivity?

Fortunately, the Small Business Innovation Research Program provides us with one excellent model. Created in 1982, SBIR not only recognizes the necessity and desirability of commercializing federally sponsored R&D, but also recognizes the important role small business plays in the economy. The fact is that small business is the principal source for product innovation and job creation.

Mr. President, SBIR is no mere set-aside. It is a forward-looking, successful, and unique approach to the acquisition of Federal R&D. I fully support its reauthorization and its expansion. The bill before us will more than double the size of the program by fiscal year 1995. It will place a stronger emphasis on product commercialization. It will increase the weight placed on the commercial viability of research topics. And, this bill will focus SBIR on technologies critical to our Nation's competitiveness.

The reauthorization of SBIR was included in the Democratic economic leadership strategy and defense diversification plan. I was pleased to be a part of both of those efforts and to be an active participant in the reauthorization process, working with Senators BUMPERS, LEVIN, and RUDMAN in the Small Business Committee. This bill represents an important legislative effort and I urge my colleagues to support its passage.

Mr. KERRY. Mr. President, I would like to express my support for the Small Business Research and Development Enhancement Act of 1992. This legislation reauthorizes the Small Business Innovation Research Program and triples the program's size. SBIR enjoys widespread, bipartisan support because it provides a crucial bridge between Government research and real-world products. I am happy to be a cosponsor of this worthy legislation.

The SBIR Program designates for small businesses a small portion of the funds that Government agencies spend on research and encourages these businesses to commercialize the results of their research. Because it merely earmarks already appropriated funds, it does not increase the deficit. And because the agencies select the SBIR small business awardees based on their ability to perform the research required, the Government does not become involved in picking winners and losers.

The GAO and the SBA evaluated the program and both concluded that SBIR is successful at producing commercially viable products from Government-business research projects. SBIR helps us take advantage of the enormous sums of money spent on Federal R&D in our efforts to keep the United States competitive.

Today, United States companies are falling behind their European and Japanese counterparts in many industries in which the United States was once dominant. This is happening not because U.S. research is poor. U.S. basic research, much of which is supported by Federal dollars, is the finest in the world. But there is a failure on the part of U.S. companies to commercialize the results of sophisticated U.S. basic research.

I believe this failure is substantially a result of the U.S. system of capital investment which results in underinvestment both in small companies and in projects with a long-term payback. Small companies are facing a devastating credit crunch as a result of the recession and tougher lending requirements by banks. America's short-term mentality creates a credit crunch for projects whose payback is longer than the next quarter—but turning basic research into a product for which American consumers will pay takes time, often longer than a small business can wait.

The SBIR Program attacks both of these problems. It gives small businesses access to the research money of the Federal Government. And it encourages those who do the research to commercialize it—either on their own or in cooperation with a large firm. This inevitably leads to more jobs for American workers and more innovative products for American consumers.

The SBIR Program leverages Federal R&D dollars in a way that will help make this Nation more competitive without either spending more or picking winners and losers. I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Research and Development Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Amendments to small business innovation research program.
Sec. 104. Extension of SBIR program.
Sec. 105. Reports of the Comptroller General.
Sec. 106. Recommendations of the Secretary of Defense.

TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

Sec. 201. Short title.
Sec. 202. Establishment of small business technology transfer pilot program.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Discretionary technical assistance to SBIR awardees.
Sec. 302. Extension of the technology transfer demonstration program.
Sec. 303. Reporting requirements.
Sec. 304. Small Business Institutes.
Sec. 305. Additional SBIR and STTR provisions.
Sec. 306. Sense of the Congress concerning American-made equipment and products.
Sec. 307. Technical corrections.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Innovation Research Program Reauthorization Act of 1992".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the small business innovation research program established under the Small Business Innovation Development Act of 1982, (hereafter in this Act referred to as the "SBIR" program) has been a successful method of involving small business concerns in Federal research and development;

(2) the small business innovation research program has been an effective catalyst for the development of technological innovations by small business concerns;

(3) small business innovation research program participants have provided high quality research and development in a cost-effective manner;

(4) the innovative products and services developed by small business concerns participating in the small business innovation research program have been important to the national defense, as well as to the missions of the other participating Federal agencies;

(5) the small business innovation research program has effectively stimulated the commercialization of technology developed through Federal research and development, benefiting both the public and private sectors of the Nation;

(6) by encouraging the development and commercialization of technological innova-

tions, the small business innovation research program has created jobs, expanded business opportunities for small firms, stimulated the development of new products and services, and improved the competitiveness of the Nation's high technology industries;

(7) the small business innovation research program has also helped to increase exports from small business concerns;

(8) despite the general success of the small business innovation research program, the proportion of Federal research and development funds received by small business concerns has not increased over the life of the program, but has remained at 3 percent; and

(9) although the participating Federal agencies have successfully implemented most aspects of the small business innovation research program, additional outreach efforts are necessary to stimulate increased participation of socially and economically disadvantaged small business concerns.

(b) Purposes.—The purposes of this title are—

(1) to expand and improve the small business innovation research program;

(2) to emphasize the program's goal of increasing private sector commercialization of technology developed through Federal research and development;

(3) to increase small business participation in Federal research and development; and

(4) to improve the Federal Government's dissemination of information concerning the small business innovation research program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

SEC. 103. AMENDMENTS TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) Definition of the Small Business Innovation Research Program.—Section 9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)) is amended—

(1) in subparagraph (A), by inserting "that appear to have commercial potential, as described in subparagraph (B)(ii)," after "ideas"; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

"(B) a second phase, to further develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering, among other things, the proposal's commercial potential, as evidenced by—

"(i) the small business concern's record of successfully commercializing SBIR or other research;

"(ii) the existence of second phase funding commitments from private sector or non-SBIR funding sources;

"(iii) the existence of third phase, follow-on commitments for the subject of the research; and

"(iv) the presence of other indicators of the commercial potential of the idea; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards; and

"(ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria; and".

(b) Required Expenditures for SBIR by Federal Agencies.—Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended to read as follows:

"(f) Federal Agency Expenditures for the SBIR Program.—

"(1) Required expenditure amounts.—Each Federal agency which has an extramural budget for research or research and development in excess of $100,000,000 for fiscal year 1992, or any fiscal year thereafter, shall expend with small business concerns—

"(A) not less than 1.5 percent of such budget in each of fiscal years 1993 and 1994;

"(B) not less than 2.0 percent of such budget in each of fiscal years 1995 and 1996; and

"(C) not less than 2.5 percent of such budget in each fiscal year thereafter,

specifically in connection with SBIR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) Limitations.—A Federal agency shall not—

"(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

"(3) Exclusion of certain funding agreements.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an SBIR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).".

(c) Inclusion of Certain Department of Defense Research and Development Activities.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended in paragraph (1), by striking "for the Department of Defense" and all that follows through "development" and inserting "for the Department of Energy it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs".

(d) SBIR Solicitations.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) unilaterally determine research topics within the agency's SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified by—

"(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; or

"(B) the Secretary of Defense, in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority;".

(e) Deadline for Final Payment Under SBIR Funding Agreements.—Section 9(g)(7) of the Small Business Act (15 U.S.C. 638(g)(7)) (as redesignated by subsection (d)(1)) is amended by inserting before the semicolon the following: "and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements".

(f) Modifications to SBIR Policy Directives.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended—

(1) in paragraph (2), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(3) by inserting before "The Small Business Administration" the following:

"(1) Policy directives.—"; and

(4) by adding at the end the following new paragraph:

"(2) Modifications.—Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—

"(A) retention by a small business concern of the rights to data generated by the concern in the performance of an SBIR award for a period of not less than 4 years;

"(B) continued use by a small business concern participating in the third phase of the SBIR program, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of an SBIR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(C) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an SBIR program enters into follow-on, non-SBIR funding agreements with the small business concern for such research, development, or production;

"(D) an increase to $100,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to $750,000 in the second phase of an SBIR program, and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations;

"(E) a process for notifying the participating SBIR agencies and potential SBIR participants of the 1991, 1992, and the current critical technologies, as identified—

"(i) by the National Critical Technologies Panel (or its successor), in accordance with section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(ii) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(F) enhanced outreach efforts to increase the participation of socially and economically disadvantaged small business concerns, as defined in section 8(a)(4), and the participation of small businesses that are 51 percent owned and controlled by women in technological innovation and in SBIR programs, including the third phase of such programs, and the collection of data to document such participation;

"(G) technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program;

"(H) procedures to ensure that a small business concern that submits a proposal for a funding agreement for the first phase of an SBIR program and that has received more than 15 second phase SBIR awards during the preceding 5 fiscal years is able to demonstrate the extent to which it was able to secure third phase funding to develop concepts resulting from previous second phase SBIR awards; and

"(I) procedures to ensure that agencies participating in the SBIR program retain the information submitted under subparagraph (H) at least until the General Accounting Office submits the report required under section 105 of the Small Business Research and Development Enhancement Act of 1992.".

(g) Elimination of Surveying and Reporting Requirement.—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended to read as follows:

"(k) [Reserved].".

(h) Reporting of Awards Made From Single Proposal, to Multiple Award Winners, or to Critical Technology Topics.—

(1) In general.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(*l*) Reporting of Awards Made From Single Proposal, to Multiple Award Winners, or to Critical Technology Topics.—

"(1) Single proposal.—If a Federal agency required to establish an SBIR program under subsection (f) makes an award with respect to an SBIR solicitation topic or subtopic for which the agency received only 1 proposal, the agency shall provide written justification for making the award in its next quarterly report to the Administration and in the agency's next annual report required under subsection (g)(8).

"(2) Multiple awards.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8) an accounting of the awards the agency has made for the first phase of an SBIR program during the reporting period to entities that have received more than 15 awards for the second phase of an SBIR program during the preceding 5 fiscal years.

"(3) Critical technology awards.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8), an accounting of the number of awards it has made to critical technology topics, as defined in subsection (g)(3), including an identification of the specific critical technologies topics, and the percentage by number and dollar amount of the agency's total SBIR awards to such critical technology topics.".

(2) Conforming amendment.—Section 9(g)(5) of the Small Business Act (15 U.S.C. 638(g)(5)) (as redesignated by subsection (d)) is amended by inserting "subject to subsection (*l*)," before "unilaterally".

(i) Information on Allowable Expenses.—Section 9(g)(5) of the Small Business Act (as redesignated by subsection (d)) is amended by inserting before the semicolon the following: "and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement".

SEC. 104. EXTENSION OF SBIR PROGRAM.

(a) Repeal Provision.—Section 5 of the Small Business Innovation Development Act of 1982 is hereby repealed.

(b) Termination Date.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(m) Termination.—The authorization to carry out the Small Business Innovation Research Program under this section shall terminate on October 1, 2000.".

SEC. 105. REPORTS OF THE COMPTROLLER GENERAL.

(a) Interim Report.—

(1) In general.—The Comptroller General of the United States shall submit to the Congress an interim report concerning the quality of research performed under SBIR program funding agreements entered into during fiscal year 1993 and thereafter. Copies of the interim report shall be furnished to each agency that has participated in the SBIR program in fiscal year 1993 or thereafter.

(2) Contents of report.—The Comptroller General shall include in the interim report required under paragraph (1)—

(A) an assessment of the quality of the research performed under the SBIR program funding agreements entered into by each agency that has participated in the SBIR program beginning in fiscal year 1993 or thereafter, specifically addressing—

(i) with respect to each such agency, whether or not there has been a demonstrable reduction in research quality; and

(ii) in the case of such reduction, whether an increase in each such agency's required SBIR participation in accordance with section 9(f)(1) of the Small Business Act (as amended by subsection (b) of this section) would adversely affect the performance of the agency's research programs;

(B) an analysis of the program authorized by section 301 of the Small Business Research and Development Enhancement Act of 1992, considering, among other things—

(i) the extent to which each SBIR agency has implemented the program and the extent to which the program has improved the quality of agency-sponsored research and development;

(ii) the effect of the program on recipient companies' ability to develop and commercialize technology;

(iii) the cost of the program and the average cost per recipient company; and

(iv) the extent to which SBIR companies continue to use the service after completion of the program; and

(C) such other factors as the Comptroller General may deem appropriate.

(b) Final Report.—The Comptroller General of the United States shall transmit to the Congress a final report containing—

(1) a review of the progress made by Federal agencies in meeting the requirements of section 9(f) of the Small Business Act (as amended by this Act), including increases in expenditures required by that subsection;

(2) an analysis of participation by small business concerns in the third phase of SBIR programs, including a systematic evaluation of the techniques adopted by Federal agencies to foster commercialization;

(3) an analysis of the extent to which awards under SBIR programs are made pursuant to section 9(*l*) of the Small Business Act (as added by section 103(h)) in cases in which a program solicitation receives only 1 proposal;

(4) an analysis of the extent to which awards in the first phase of the SBIR program are made to small business concerns that have received more than 15 second phase awards under the SBIR program in the preceding 5 fiscal years, considering—

(A) the extent to which such concerns were able to secure Federal or private sector follow-on funding;

(B) the extent to which the research developed under such awards was commercialized; and

(C) the amount of commercialization of research developed under such awards, as compared to the amount of commercialization of SBIR research for the entire SBIR program;

(5) the results of periodic random audits of the extramural budget of each such Federal agency;

(6) a review of the extent to which the purposes of this title and the Small Business Innovation Development Act of 1982 have been met with regard to fostering and encouraging the participation of women-owned small business concerns and socially and economically disadvantaged small business concerns (as defined in the Small Business Act) in technological innovation, in general, and the SBIR program, in particular;

(7) an analysis of the effectiveness of the SBIR program in promoting the development of the critical technologies identified by the Secretary of Defense and the National Critical Technologies Panel (or its successor), as described in subparagraph 9(j)(2)(E) of the Small Business Act;

(8) an analysis of the impact of agency application review periods and funding cycles on SBIR program awardees' financial status and ability to commercialize; and

(9) recommendations to the Congress for tracking the extent to which foreign firms, or United States firms with substantial foreign ownership interests, benefit from technology or products developed as a direct result of SBIR research research or research and development.

(c) Dates of Submission.—The report required—

(1) under subsection (a), shall be submitted to the Congress not later than March 31, 1995; and

(2) under subsection (b), shall be submitted to the Congress not later than 5 years after the date of enactment of this title.

SEC. 106. RECOMMENDATIONS OF THE SECRETARY OF DEFENSE.

Not later than March 31, 1996, the Secretary of Defense shall submit a recommendation to the Congress addressing whether there has been a demonstrable reduction in the quality of research performed under the SBIR program since the beginning of fiscal year 1993, such that increasing the percentage under section 9(f)(1)(C) of the Small Business Act (as amended by section 103 of this Act) would adversely affect the performance of the research programs of the Department of Defense.

TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Technology Transfer Act of 1992".

SEC. 202. ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM.

(a) Additional SBA Duties.—Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (4), by inserting "and small business technology transfer pilot programs" after "small business innovation research programs"; and

(2) in paragraphs (5), (6), and (7), by inserting "and STTR" after "SBIR" each place such term appears.

(b) Small Business Technology Transfer Pilot Program Defined.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'Small Business Technology Transfer Program' or 'STTR' means a pilot program under which a portion of a Federal agency's extramural research or research and development effort is reserved for award to small business concerns for cooperative research and development through a uniform process having—

"(A) a first phase, to determine, to the extent possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations;

"(B) a second phase, to further develop proposed ideas to meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of STTR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-STTR Federal funding awards; and

"(ii) for which awards from non-STTR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria;

"(7) the term 'cooperative research and development' means research or research and development conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern, and not less than 30 percent of the work is performed by the research institution; and

"(8) the term 'research institution' means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto).".

(c) Establishment of Small Business Technology Transfer Programs by Certain Federal Agencies.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

"(n) Required Expenditures for STTR by Federal Agencies.—

"(1) Required expenditure amounts.—Each Federal agency which has an extramural budget for research or research and development in excess of $1,000,000,000 in fiscal year 1994, 1995, or 1996, is authorized to expend with small business concerns—

"(A) not less than 0.05 percent of such budget in fiscal year 1994;

"(B) not less than 0.1 percent of such budget in fiscal year 1995; and

"(C) not less than 0.15 percent of such budget in fiscal year 1996,

specifically in connection with STTR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) Limitations.—A Federal agency shall not—

"(A) use any of its STTR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses, or, in the case of a small business concern or a research institution, costs associated with salaries, expenses, and administrative overhead (other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the governmentwide Federal Acquisition Regulation issued in accordance with section 25(c)(1) of the Office of Federal Procurement Policy Act); or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentage specified in paragraph (1).

"(3) Exclusion of certain funding agreements.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an STTR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).

"(o) Federal Agency STTR Authority.—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

"(1) unilaterally determine categories of projects to be included in its STTR program;

"(2) issue STTR solicitations in accordance with a schedule determined cooperatively with the Administration;

"(3) unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified—

"(A) by the National Critical Technologies Panel (or its successor) in reports required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(B) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(4) unilaterally receive and evaluate proposals resulting from STTR solicitations;

"(5) unilaterally select awardees for its STTR funding agreements and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement;

"(6) administer its own STTR funding agreements (or delegate such administration to another agency);

"(7) make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of the completion of such requirements;

"(8) submit an annual report on the STTR program to the Administration and the Office of Science and Technology Policy;

"(9) develop a model agreement not later than July 31, 1993, to be approved by the Administration, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(10) develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that federally funded research and development centers (as defined in subsection (e)(8)) that participate in STTR agreements—

"(A) are free from organizational conflicts of interests relative to the STTR program;

"(B) do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

"(C) use outside peer review, as appropriate; and

"(11) not later than July 31, 1993, develop procedures for assessing the commercial merit and feasibility of STTR proposals, as evidenced by—

"(A) the small business concern's record of successfully commercializing STTR or other research;

"(B) the existence of second phase funding commitments from private sector or non-STTR funding sources;

"(C) the existence of third phase follow-on commitments for the subject of the research; and

"(D) the presence of other indicators of the commercial potential of the idea.

"(p) STTR Policy Directive.—

"(1) Issuance.—The Administrator shall issue a policy directive for the general conduct of the STTR programs within the Federal Government. Such policy directive shall be issued after consultation with—

"(A) the heads of each of the Federal agencies required by subsection (n) to establish an STTR program;

"(B) the Commissioner of Patents and Trademarks; and

"(C) the Director of the Office of Federal Procurement Policy.

"(2) Contents.—The policy directive required by paragraph (1) shall provide for—

"(A) simplified, standardized, and timely STTR solicitations;

"(B) a simplified, standardized funding process that provides for—

"(i) the timely receipt and review of proposals;

"(ii) outside peer review, if appropriate;

"(iii) protection of proprietary information provided in proposals;

"(iv) selection of awardees;

"(v) retention by a small business concern of the rights to data generated by the concern in the performance of an STTR award for a period of not less than 4 years;

"(vi) continued use by a small business concern, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of the STTR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(vii) cost sharing;

"(viii) cost principles and payment schedules; and

"(ix) 1-year awards for the first phase of an STTR program, generally not to exceed $100,000, and 2-year awards for the second phase of an STTR program, generally not to exceed $500,000, greater or lesser amounts to be awarded at the discretion of the awarding agency;

"(C) minimizing regulatory burdens associated with participation in STTR programs;

"(D) guidelines for a model agreement, to be used by all agencies, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(E) procedures to ensure that—

"(i) a recipient of an STTR award is a small business concern, as defined in section 3 and the regulations promulgated thereunder; and

"(ii) such small business concern exercises management and control of the performance of the STTR funding agreement pursuant to a business plan providing for the commercialization of the technology that is the subject matter of the award; and

"(F) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an STTR program enters into follow-on, non-STTR funding agreements with the small business concern for such research, development, or production.".

(d) Timing of Issuance of Policy Directive.—The policy directive required by section 9(p) of the Small Business Act (as added by subsection (c) of this section) shall be published—

(1) in proposed form (with an opportunity for public comment of not less than 30 days), not later than April 30, 1993; and

(2) in final form, not later than July 31, 1993.

(e) Report of the Comptroller General.—Not later than March 31, 1996, the Comptroller General of the United States shall submit a report to the Congress and the head of each agency that is required to make expenditures under the STTR program that—

(1) sets forth the Comptroller General's assessment, with respect to each such agency, of—

(A) the quality of research performed under funding agreements awarded by that agency under the STTR program since the beginning of the program;

(B) whether or not the STTR program has affected the performance of that agency's research programs; and

(C) the commercial potential of research conducted under the STTR program, if sufficient data is available;

(2) contains the Comptroller General's assessment as to the effects of the STTR program, if any, on the research quality and goals of the SBIR program; and

(3) determines the agencies and the federally-funded research and development centers' compliance with the procedures developed under section 9(g)(10) of the Small Business Act, as amended by this section.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DISCRETIONARY TECHNICAL ASSISTANCE TO SBIR AWARDEES.

(a) In General.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(q) Discretionary Technical Assistance.—

"(1) In general.—Each Federal agency required by this section to conduct an SBIR program may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in SBIR projects with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through on-line data bases, for the purpose of assisting such concerns in—

"(A) making better technical decisions concerning such projects;

"(B) solving technical problems which arise during the conduct of such projects;

"(C) minimizing technical risks associated with such projects; and

"(D) developing and commercializing new commercial products and processes resulting from such projects.

"(2) Vendor selection.—Annually, each agency may select a vendor for purposes of this subsection using competitive, merit-based criteria, to assist small business concerns to meet the goals listed in paragraph (1).

"(3) Additional technical assistance.—

"(A) First phase.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to first phase SBIR award recipients in an amount equal to not more than $4,000, which shall be in addition to the amount of the recipient's award.

"(B) Second phase.—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than $4,000 per year.

SEC. 302. EXTENSION OF THE TECHNOLOGY TRANSFER DEMONSTRATION PROGRAM.

Section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note) is amended—

(1) in subsection (g), by striking "1993" and inserting "1995"; and

(2) in subsection (i), by striking "1991, 1992, and" and inserting "1994 and 1995".

SEC. 303. REPORTING REQUIREMENTS.

(a) Report on Deficient Subcontracting Plans.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraph (12) as paragraph (11).

(b) Small Purchases From Federal Prison Industries.—Section 4124(c) of title 18, United States Code, is amended in the first sentence by striking "to the General Services Administration" and all that follows through "Procurement Policy Act" and inserting "acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act) in the same manner as it reports other acquisitions".

SEC. 304. SMALL BUSINESS INSTITUTES.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended—

(1) by redesignation subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) In carrying out its functions under subparagraph (A), to make grants (including contracts and cooperative agreements) to any public or private institution of higher education for the establishment and operation of a small business institute, which shall be used to provide business counseling and assistance to small business concerns through the activities of students enrolled at the institution, which students shall be entitled to receive educational credits for their activities.".

SEC. 305. ADDITIONAL SBIR AND STTR PROVISIONS.

Section 9 of the Small Business Act (15 U.S.C. 638), is amended by adding at the end the following new subsection:

"(r) Third Phase Agreements.—

"(1) In general.—In the case of a small business concern that is awarded a funding agreement for the second phase of an SBIR or STTR program, a Federal agency may enter into a third phase agreement with that business concern for additional work to be performed during or after the second phase period. The second phase funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to third phase agreements with that agency or any other agency.

"(2) Definition.—In this subsection, the term 'third phase agreement' means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

"(3) Intellectual property rights.—Each funding agreement under an SBIR or STTR program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.".

SEC. 306. SENSE OF THE CONGRESS CONCERNING AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) Purchase of American-Made Equipment and Products.—It is the sense of the Congress that an entity that is awarded a funding agreement under the SBIR program of a Federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

(b) Notice to SBIR Awardees.—Each Federal agency that awards funding agreements under the SBIR program shall provide to each recipient of such an award a notice describing the sense of the Congress, as set forth in subsection (a).

SEC. 307. TECHNICAL CORRECTIONS.

(a) Small Business Participation Rates.—Section 714(b)(4) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended by inserting "or other services in support of such contracts" after "(including surveying and mapping)".

(b) Microloan Program Funding.—Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended—

(1) in subparagraph (A), by adding at the end the following: "If, at the end of fiscal year 1992, the Administration has funded less than 50 microloan programs under this subparagraph, the Administration may, in fiscal year 1993, fund a number of additional microloan programs equal to the difference between 50 and the number of microloan programs actually funded in fiscal year 1992."; and

(2) in subparagraph (B), by striking "In the second" and inserting "In addition to any microloan programs authorized to be funded in fiscal year 1993 in accordance with subparagraph (A), in the second".

(c) Definition of Intermediary.—Section 7(m)(11)(A)(ii) of the Small Business Act (15 U.S.C. 636(m)(11)(A)(ii)) is amended by inserting "private," before "nonprofit".

(d) Secondary Loan Markets.—Section 5(f)(4) of the Small Business Act (15 U.S.C. 634(f)(4)) is amended by striking "5(e), 7(a)(6), or 7(a)(8)" and inserting "7(a)(6)(C) or subsection (e) of this section".

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HEALTH CARE FRAUD PROSECUTION ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 776, S. 2652, the Health Care Fraud Prosecution Act, filed today by the Judiciary Committee.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2652) to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Fraud Prosecution Act of 1992".

SEC. 2. INCREASED PENALTIES FOR HEALTH CARE FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended by inserting after chapter 50A the following new chapter:

"CHAPTER 50B—HEALTH CARE FRAUD

"Sec.

"1101. Health care fraud.

"§1102. Penalties

"(a) IN GENERAL.—In the case of an offense under section 1101 not described in subsection (b) or (c), the offender shall be sentenced to a term of imprisonment of not more than 10 years.

"(b) SERIOUS PHYSICAL INJURY OR ENDANGERMENT OF LIFE OF PATIENT.—In the case of an offense under section 1101 that—

"(1) caused serious physical injury to a patient; or

"(2) endangered the life of a patient,

the offender shall be sentenced to a term of imprisonment of not more than 20 years.

"(c) DEATH OF PATIENT.—In the case of an offense under section 1101 that caused the death of a patient, the offender shall be sentenced to a term of imprisonment of not more than life.

"§1103. Restitution

"In sentencing an offender convicted under section 1101, the court—

"(1) shall order the offender to pay restitution to the patient and, if the payor was the United States, to the payor, for loss sustained as a result of the offender's fraudulent activity; and

"(2) may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 50A the following new item:

"50B. Health care fraud.".

SEC. 3. FORFEITURE OF FRAUD PROCEEDS

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of an offense or of conspiring to commit an offense under—

"(A) section 1101;

"(B) section 301(t) of the Federal Food, Drug, and cosmetic Act (21 U.S.C. 331(t)); or

"(3) section 301 (a), (b), (c), or (k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (a), (b), (c), and (k)), if the offense or conspiracy involved a drug and was done with intent to defraud or mislead any person or entity,

shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense.".

SEC. 4. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in fiscal year 1993 for the purposes of carrying out the purposes of this Act and the amendments made by this Act—

(1) $20,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 200 special agents and support staff to investigate health-care fraud cases;

(2) $5,000,000 to hire, equip, and train no fewer than 50 assistant United States Attorneys and support staff to prosecute health-care fraud cases; and

(3) $5,000,000 to hire, equip, and train no fewer than 50 investigators in the Office of Inspector General, Department of Health and Human Services, to be devoted exclusively to health-care fraud cases.

SEC. 6. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 7. RULE OF CONSTRUCTION,

Nothing in this Act or the amendments made by this Act shall be construed to affect any right that a person may have to bring a civil action for the person and for the United States Government under section 3730 of title 31, United States Code, or any other law, based on an act or omission that many constitute an offense under section 1101 of title 18, United States Code, as added by section 2.

SEC. 8. SENSE OF THE SENATE REGARDING FALSE CLAIMS ACT.

It is the sense of the Senate that citizen suits under section 3730 of title 31, United States Code (commonly known as the qui tam provisions of the False Claims Act), should be used to their full effect in combating health care fraud against the Government.

SEC. 9. GRANTS TO STATE AND LOCAL GOVERNMENTS.

(a) GRANTS.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to States and units of local government for the purpose of creating health care fraud control units for the purpose of investigating, and assisting such units in investigating, health care fraud and abuse.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out subsection (a).

AMENDMENT NO. 3399

Mr. FORD. Mr. President, I send an amendment to the desk on behalf of Senator BIDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BIDEN, proposes an amendment numbered 3399.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Fraud Prosecution Act of 1992".

SEC. 2. INCREASED PENALTIES FOR HEALTH CARE FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended by inserting after chapter 50A the following new chapter:

"CHAPTER 50B—HEALTH CARE FRAUD

"Sec.

"1101. Health care fraud.

"1102. Penalties.

"1103. Restitution.

"§1101. Health care fraud

"(a) DEFINITION.—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.

"(b) OFFENSE.—A health care provider or other person that engages in conduct constituting an offense under section 1341 or 1343 for the purpose of or in connection with the provision of health care services or supplies or the payment therefor or reimbursement of the costs thereof, when—

"(1) the amount of loss caused by the fraudulent conduct exceeds $10,000; or

"(2) the offender had previously been convicted of fraud in Federal or State court, shall be fined under this title, imprisoned in accordance with section 1102, or both.

"§ 1102. Penalties

"(a) IN GENERAL.—In the case of an offense under section 1101 not described in subsection (b) or (c), the offender shall be sentenced to a term of imprisonment of not more than 10 years.

"(b) SERIOUS PHYSICAL INJURY OR ENDANGERMENT OF LIFE OF PATIENT.—In the case of an offense under section 1101 that—

"(1) caused serious physical injury to a patient; or

"(2) endangered the life of a patient,

the offender shall be sentenced to a term of imprisonment of not more than 20 years.

"(c) DEATH OF PATIENT.—In the case of an offense under section 1101 that caused the death of a patient, the offender shall be sentenced to a term of imprisonment of not more than life.

"§ 1103. Restitution

"In sentencing an offender convicted under section 1101, the court—

"(1) shall order the offender to pay restitution to the patient and, if the payor was the United States, to the payor, for loss sustained as a result of the offender's fraudulent activity; and

"(2) may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 50A the following new item:

"50B. Health care fraud.".

SEC. 3. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of an offense or of conspiring to commit an offense under—

"(A) section 1101;

"(B) section 301(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(t)); or

"(3) section 301 (a), (b), (c), or (k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (a), (b), (c), and (k)), if the offense or conspiracy involved a drug and was done with intent to defraud or mislead any person or entity,

shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense.".

SEC. 4. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in fiscal year 1993 for the purposes of carrying out the purposes of this Act and the amendments made by this Act—

(1) $20,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 200 special agents and support staff to investigate health-care fraud cases;

(2) $5,000,000 to hire, equip, and train no fewer than 50 Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute health-care fraud cases; and

(3) $5,000,000 to hire, equip, and train no fewer than 50 investigators and support staff in the Office of Inspector General, Department of Health and Human Services, to be devoted exclusively to health-care fraud cases.

SEC. 6. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to affect any right that a person may have to bring a civil action for the person and for the United States Government under section 3730 of title 31, United States Code, or any other law, based on an act or omission that may constitute an offense under section 1101 of title 18, United States Code, as added by section 2.

SEC. 8. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) lawsuits under the False Claims Act (sections 3729 and 3730 of title 31, United States Code), including the qui tam provisions, should be used to their full effect in combating health care fraud against the Government;

(2) the United States Sentencing Commission should modify the sentencing guidelines relating to frauds to prescribe offense levels for health care fraud committed in violation of section 1101 of title 18, United States Code, that are commensurate with the seriousness of a fraud of that nature, as reflected in the increased maximum penalties authorized in section 1102 of that title; and

(3) the Attorney General should promulgate prosecution guidelines to ensure that health care providers are not prosecuted under this Act for bookkeeping errors or accidental billing mistakes.

SEC. 9. GRANTS.

(a) FRAUD CONTROL UNITS.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to States and units of local government for the purpose of creating health care fraud control units for the purpose of investigating, and assisting such units in investigating, health care fraud and abuse.

(b) MEDICAL SOCIETIES.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to State medical societies for the development and implementation of programs designed to combat health care fraud.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out subsections (a) and (b).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3399) was agreed to.

Mr. THURMOND. Mr. President, today, the Senate is considering S. 2652, the Health Care Fraud Prosecution Act. Health care fraud is a growing problem which drains precious resources from our economy. The size of the health care industry and the large amount of money involved make it an attractive target for fraud and abuse. That is why I have worked closely with Senator BIDEN in drafting this bipartisan measure.

This bill is a comprehensive measure aimed at providing law enforcement with the necessary resources to fight fraud in the health care industry. This bill creates new Federal penalties for mail and wire fraud committed by health care providers. It requires health care crooks to pay mandatory restitution. The bill also subjects those convicted of health care fraud to criminal forfeiture.

The bill encourages citizens to get involved in the fight against health care fraud. It permits the Attorney General to give awards for information leading to health care fraud convictions and calls attention to qui tam citizen suits.

Finally, the bill also provides grants to State and local officials for prosecuting health care fraud. Grants to State medical societies for development and implementation of antifraud programs are also authorized. It also increases the number of investigators and agents dedicated to fighting health care fraud.

Only through strategic planning, such as that being undertaken by the FBI, can our Nation's efforts against health care fraud truly succeed. Coordinated efforts combined with additional investigative resources should prove to be a valuable investment. Furthermore, additional tools to assist in our efforts, such as the powerful weapon of criminal forfeiture, must be made available to Federal authorities. This bill furthers these objectives and will help establish a sound policy in our fight against this serious fraud.

I worked closely with Senator BIDEN in drafting this legislation. It is the result of a bipartisan effort.

For these reasons, I urge my colleagues to support this bill.

S. 2652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Fraud Prosecution Act of 1992".

SEC. 2. INCREASED PENALTIES FOR HEALTH CARE FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended by inserting after chapter 50A the following new chapter:

"CHAPTER 50B—HEALTH CARE FRAUD

"Sec.
"1101. Health care fraud.
"1102. Penalties.
"1103. Restitution.

"§ 1101. Health care fraud

"(a) DEFINITION.—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.

"(b) OFFENSE.—A health care provider or other person that engages in conduct constituting an offense under section 1341 or 1343 for the purpose of or in connection with the provision of health care services or supplies or the payment therefor or reimbursement of the costs thereof, when—

"(1) the amount of loss caused by the fraudulent conduct exceeds $10,000; or

"(2) the offender had previously been convicted of fraud in Federal or State court,

shall be fined under this title, imprisoned in accordance with section 1102, or both.

"§ 1102. Penalties

"(a) IN GENERAL.—In the case of an offense under section 1101 not described in subsection (b) or (c), the offender shall be sentenced to a term of imprisonment of not more than 10 years.

"(b) SERIOUS PHYSICAL INJURY OR ENDANGERMENT OF LIFE OF PATIENT.—In the case of an offense under section 1101 that—

"(1) caused serious physical injury to a patient; or

"(2) endangered the life of a patient,

the offender shall be sentenced to a term of imprisonment of not more than 20 years.

"(c) DEATH OF PATIENT.—In the case of an offense under section 1101 that caused the death of a patient, the offender shall be sentenced to a term of imprisonment of not more than life.

"§ 1103. Restitution

"In sentencing an offender convicted under section 1101, the court—

"(1) shall order the offender to pay restitution to the patient and, if the payor was the United States, to the payor, for loss sustained as a result of the offender's fraudulent activity; and

"(2) may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 50A the following new item:

"50B. Health care fraud.".

SEC. 3. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of an offense or of conspiring to commit an offense under—

"(A) section 1101;

"(B) section 301(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(t)); or

"(3) section 301 (a), (b), (c), or (k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (a), (b), (c), and (k)), if the offense or conspiracy involved a drug and was done with intent to defraud or mislead any person or entity,

shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense.".

SEC. 4. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in fiscal year 1993 for the purposes of carrying out the purposes of this Act and the amendments made by this Act—

(1) $20,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 200 special agents and support staff to investigate health-care fraud cases;

(2) $5,000,000 to hire, equip, and train no fewer than 50 Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute health-care fraud cases; and

(3) $5,000,000 to hire, equip, and train no fewer than 50 investigators and support staff in the Office of Inspector General, Department of Health and Human Services, to be devoted exclusively to health-care fraud cases.

SEC. 6. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to affect any right that a person may have to bring a civil action for the person and for the United States Government under section 3730 of title 31, United States Code, or any other law, based on an act or omission that may constitute an offense under section 1101 of title 18, United States Code, as added by section 2.

SEC. 8. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) lawsuits under the False Claims Act (sections 3729 and 3730 of title 31, United States Code), including the qui tam provisions, should be used to their full effect in combating health care fraud against the Government;

(2) the United States Sentencing Commission should modify the sentencing guidelines relating to frauds to prescribe offense levels for health care fraud committed in violation of section 1101 of title 18, United States Code, that are commensurate with the seriousness of a fraud of that nature, as reflected in the increased maximum penalties authorized in section 1102 of that title; and

(3) the Attorney General should promulgate prosecution guidelines to ensure that health care providers are not prosecuted under this Act for bookkeeping errors or accidental billing mistakes.

SEC. 9. GRANTS.

(a) FRAUD CONTROL UNITS.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to States and units of local government for the purpose of creating health care fraud control units for the purpose of investigating, and assisting such units in investigating, health care fraud and abuse.

(b) MEDICAL SOCIETIES.—The Attorney General, acting through the Director of the Bureau of. Justice Assistance, may make grants to State medical societies for the development and implementation of programs designed to combat health care fraud.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out subsections (a) and (b).

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MONTANA WILDERNESS BILL

Mr. DOLE. Mr. President, I have been contacted by the distinguished Senator from Montana [Mr. BURNS], and he is still hopeful that we can appoint conferees on S. 1696, the so-called Montana wilderness bill. As he indicated and has already been indicated on the floor by the leaders, time is running out.

It was the hope of the Senator from Montana, Senator BURNS, that we could appoint conferees today and there could have been a conference over the weekend and we could get this matter resolved between now and Monday, or sometime on Tuesday. That has not been done.

I simply want the RECORD to reflect that Senator BURNS very much would like to see that accomplished even before we go out today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2679. An act to promote the recovery of Hawaii tropical forests, and for other purposes.

The message also announced that he House agrees to the amendments of the Senate to the bill (H.R. 5194) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2044) to assist Native Americans in assuring the survival and continuing vitality of their languages; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1977, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 707) to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4059. An act to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes;

H.R. 4157. An act to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965;

H.R. 6047. An act to amend the United States Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, administrative authorities;

H.R. 6049. An act to amend the Congressional Award Act to revise and extend authorities for the Congressional Award Board;

H.R. 6077. An act concerning United States participation in a Cascadia Corridor commission; and

H.R. 6093. An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, and 1995, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 223. Concurrent resolution expressing the sense of the Congress that the International Red Cross/Red Crescent Movement should include Magen David Adom as a legitimate national society of that Movement;

H. Con. Res. 367. Concurrent resolution authorizing the presentation of a program on the Capitol grounds;

H. Con. Res. 370. Concurrent resolution concerning the humanitarian crisis in Somalia; and

H. Con. Res. 371. Concurrent resolution to make corrections in the enrollment of the bill H.R. 5482.

At 1:37 p.m., a message from the House of Representatives announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 25, 40, 63, 84, 130, 136, 145, 148, 152, 164, 165, 176, 216, 218, and 224 to the bill, and agrees thereto; and that the House recedes from its disagreement to the amendments of the Senate numbered 4, 12, 18, 24, 45, 52, 55, 60, 62, 65, 68, 69, 70, 73, 75, 77, 78, 79, 80, 87, 88, 95, 103, 112, 125, 135, 137, 138, 154, 163, 170, 171, 184, 191, 213, 214, 217, 236, 237, 238, and 239 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4059. An act to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 4157. An act to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; to the Committee on Environment and Public Works.

H.R. 6047. An act to amend the United States Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, and other provisions of law to make certain changes in administrative authorities; to the Committee on Foreign Relations.

H.R. 6093. An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, and 1995, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 223. Concurrent resolution expressing the sense of the Congress that the International Red Cross/Red Crescent Movement should include Magen David Adom as a legitimate national society of that Movement; to the Committee on Foreign Relations.

H. Con. Res. 367. Concurrent resolution authorizing the presentation of a program on the Capitol grounds; to the Committee on Rules and Administration.

H. Con. Res. 370. Concurrent resolution concerning the humanitarian crisis in Somalia; to the Committee on Foreign Relations.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The ACTING PRESIDENT pro tempore (Mr. SANFORD) announced that on today, October 3, 1992, he had signed the following enrolled bills and joint resolution which had previously been signed by the Speaker of the House:

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes;

H.R. 3508. An act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes;

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug;

H.R. 5673. An act to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research; and

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1622. A bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes (Rept. No. 102–453).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCONNELL:

S. 3314. A bill to amend the Food Stamp Act of 1977 to identify and curtail fraud in the food stamp program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself and Mr. KENNEDY):

S. 3315. A bill to provide for an endowment grant program to support the establishment of regional centers that promote locally based, volunteer-operated, private citizens', scholarship programs, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL:

S. 3314. A bill to amend the Food Stamp Act of 1977 to identify and curtail fraud in the Food Stamp Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMP ANTI-FRAUD ACT OF 1992

Mr. MCCONNELL. Mr. President, today I am introducing legislation that will enable our Government to crack down on the fraud and trafficking abuse that is occurring in the Food Stamp Program. The Food Stamp Program, like most assistance programs we have, is not immune from fraud. The amount of money lost because of fraud is very difficult to determine; however, it is estimated to be in the millions of dollars. From trafficking food stamp coupons to trading the stamps for guns and drugs, the violations are deplorable and the transgressors must be brought to justice.

More than 25 million Americans are enrolled in this program which hands out over $20 billion in benefits a year. In a program as large as the Food Stamp Program, the Government must have the necessary tools to administer and enforce the rules of the program. We cannot afford to lose the taxpayers' money to fraud and waste in the Food Stamp Program. For every 1 percent of Food Stamp Program funds that are lost to fraud, there could be $200 million to give as benefits to the food stamp recipients.

The 1990 farm bill required the submission of identification numbers by the retailers and beefed up the penalties to assist USDA in targeting and punishing the violators. These measures have helped; however, the Department is still limited in the information it can share with other agencies in their attempts to target and identify Food Stamp Program abusers.

My bill, the Food Stamp Anti-Fraud Act of 1992, will give the Food and Nutrition Service the tools it needs to identity violators and coordinate its efforts with other law enforcement agencies. Specifically, this legislation will expand the use of the application information and identification numbers provided by the retailer to FNS. Currently, the use of application information is restricted to persons directly involved in the Food Stamp Program and to State agencies that operate the Special Supplemental Food Program for Women, Infants, and Children [WIC]. Furthermore, the use of the Social Security and taxpayer i.d. numbers is limited to the maintenance of a list of those already sanctioned for or convicted of violating the Food Stamp Act.

The Department has been stifled by these restrictions in their efforts to eliminate fraud in the Food Stamp Program. My bill would enhance the Department's investigative activities by allowing them to match and verify existing information on retailers in their efforts to provide evidence of violations of the Food Stamp Act by retail establishments. This legislation expands the use of the retailer's i.d. numbers so that law enforcement and investigative agencies, such as the FBI, the IRS, the Office of Inspector General [OIG], and the Financial Crimes Enforcement Network [FINCEN] could use the i.d. numbers to verify the identity of violators.

Let me give you an example of how this legislation will help the Department locate abusers. Someone could go into a retail food store with $50 in food stamps and ask the storekeeper of the food concern to pay $.60 on the dollar for the coupons. If the storekeeper agreed to the exchange, the recipient could come out of the deal with $30 in hard cash, and the retailer would end up with an extra $20 after cashing the coupons in, all without food products ever exchanging hands. It is obvious there are two guilty parties here: the recipient and the retailer.

The Department has the rules and authority in place to handle the investigation of such an incident; however, they do not have the ability to follow through and positively identify the retailer. When the investigators need to confirm the amount of food sales and coupon redemption information, they must rely solely on the information reported by that retailer. My legislation will give the Department the possibility of calling the IRS, or State taxing authorities, to check the data.

States already have this ability to verify eligibility information by using Social Security numbers for a variety of Federal programs, including AFDC, Medicaid, Supplemental Security Income and the Unemployment Compensation Program. USDA currently has the authority to verify the information provided by the recipients of food stamps, but they do not have the same access to check the information provided by retailers. This legislation will make our laws consistent and allow USDA to verify information provided by the retailers who accept or want to accept food stamps when needed.

My bill also beefs up the penalties against both recipients and retailers if they are found to have traded food stamps for guns, drugs, ammunition, or explosives. The cap that is currently placed on the civil money penalties for retailers would be lifted, and a recipient would be permanently disqualified if they traded their food stamps for the aforementioned items. This is not an unreasonable punishment for these people who have been found to so blatantly abuse this Government program.

I want to stress that the vast majority of participants in the Food Stamp Program, be it recipients or retailers, are not involved in illegal activities. Most of the participants are honest, trustworthy citizens, and the stories of food stamp fraud you hear do not occur every day, but they do happen. The

Food Stamp Anti-Fraud Act does not change the rules of the game, it only changes the penalties for violators and gives the Department the necessary tools to build the integrity of the program.

This legislation does not change eligibility requirements for recipients or retailers. It will not affect the honest participants in the Food Stamp Program. It will help our government find and eliminate fraud in our Nation's largest food assistance program.

By Mr. DURENBERGER (for himself and Mr. KENNEDY):

S. 3315. A bill to provide for an endowment grant program to support the establishment of regional centers that promote locally based, volunteer-operated, private citizens' scholarship programs, and for other purposes; to the Committee on Labor and Human Resources.

DOLLARS FOR SCHOLARS COMMUNITY SCHOLARSHIP FOUNDATION DEVELOPMENT ACT

• Mr. DURENBERGER. Mr. President, I rise today to join with my distinguished colleague from Massachusetts, Senator KENNEDY, in introducing the Dollars for Scholars Community Scholarship Foundation Development Act.

This important piece of legislation is designed to help establish community-based scholarship foundations in towns, cities, and neighborhoods all over America. It would authorize a one-time investment of $40 million to help establish 25 area offices to help stimulate establishment of these local foundations.

Based on Dollars for Scholars experience all over the country, it's estimated that this investment will result in:

The startup of over 2,000 local scholarship chapters by the year 2000 and 4,000 local chapters by the year 2005;

Over $200 million in new private sector support for college scholarships by the year 2000 and over $750 million by the year 2005;

And, more than 100,000 volunteers encouraging and supporting their local students who go on to college.

Mr. President, many of us both on and off the Labor Committee spent much of the past 18 months completing action on a 5-year reauthorization of the Federal Higher Education Act.

We made a lot of progress during that reauthorization in making student loans and grants more available to more students, including students more from middle-income families.

And, I'm especially proud that my IDEA proposal—for direct loans that base their repayment on post-college income—will be tested in higher education institutions all around the country beginning in 1994.

But, despite all of what we were able to do in this year's higher-ed bill, we still haven't met the commitment to higher education this Nation owes its next generation. We still need to encourage more of what Dollars for Scholars is doing every day in towns and cities and neighborhoods all across America.

Even in Washington, $40 million is a lot of money. But, I'm viewing this bill as a solid investment—an investment that will pay back much more than it costs up front by leveraging hundreds of millions of dollars in new private-sector support for higher education.

That's one important purpose behind this bill—to get more private-sector resources committed to higher education—in towns and cities and neighborhoods all over America.

Dollars for Scholars has a proven track record in getting that job done. I saw evidence of that record recently when I helped honor the first-ever Dollars for Scholars scholarship winners from Minneapolis North High School. As I met these students, their teachers, parents, and chapter officers, I could tell this program is going to help these students do great things—in college and throughout their lives and careers.

So, I'm firmly convinced that this legislation is one of the best investments the Federal Government could ever use to make it possible for thousands of bright and ambitious Americans of all ages go to college.

There are also two other benefits of this legislation, Mr. President, that I would like to point out.

First, having a local Dollars for Scholars Program makes an important statement to young people about the value their home community places on higher education.

A program like this provides a tangible incentive to remain in high school, to work hard, and to take all the right steps to get ready for both the opportunities and challenges of going to college.

Those are all reasons I've also been urging Education Secretary Lamar Alexander to make Dollars for Scholars a central element in the President's America 2000 initiative.

On top of the message it sends, Dollars for Scholars also adds a degree of personal accountability that might be missing in many other state or federally funded student aid programs.

Experience has taught us, Mr. President, that students who receive scholarships donated by friends and neighbors will work extra hard in college knowing that the folks back home are cheering them on.

On those dark days when you'd just as soon hang it all up, there's that little extra incentive to make good on the investment that the people you care about the most have made in you and in your future.

That's why I'm so excited about introducing this bill and together with Senator KENNEDY making this bill an important cornerstone of our work to encourage public private partnerships in next year's reauthorization of the Elementary and Secondary Education Act.

Mr. President, I would ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dollars for Scholars Community Scholarship Foundation Development Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation towards achievement, and financial resources for aspiring postsecondary students;

(2) local communities, working to complement or augment services being offered by area schools and colleges, can raise the educational expectations and increase the rate of college attendance of their youth by forming locally based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized financial assistance;

(3) proven methods of stimulating such community efforts can be promoted through Federal support for the establishment of regional centers that organize and challenge community efforts to develop educational incentives and support for local students; and

(4) using Federal funds to leverage private contributions to help students attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

(b) PURPOSE.—It is the purpose of this Act to establish not more than 25 regional centers to promote the development of locally based, volunteer organizations which encourage students to participate in postsecondary education by—

(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

(2) providing financial assistance for the pursuit of postsecondary education.

SEC. 3. PROGRAM AUTHORIZED.

(a) PROGRAM ESTABLISHED.—From amounts made available to the Secretary pursuant to section 7(a) in each fiscal year, the Secretary shall award a grant to an eligible organization having an agreement with the Secretary under section 5 to enable such organization to support the establishment of not more than 25 regional centers that foster the development of community scholarship foundations to improve high school graduation rates and postsecondary attendance through the provision of academic support services and tangible financial assistance for the pursuit of postsecondary education.

(b) REGIONAL CENTERS.—The regional centers established under subsection (a) shall be—

(1) part of, responsible to, and overseen by, the eligible organization; and

(2) staffed by professionals trained to create, develop, and sustain community scholarship foundations in towns, cities, and neighborhoods.

SEC. 4. ELIGIBILITY.

(a) ELIGIBLE ORGANIZATION.—An organization shall be eligible for an endowment grant under section 3 if such organization—

(1) has extensive experience in creating, developing, and sustaining community scholarship foundations;

(2) has demonstrated the capacity to sustain newly created community scholarship foundations through ongoing training and support programs;

(3) has been in existence for a period of 5 years prior to the date of enactment of this Act;

(4) is exempt from income taxes under section 501(c)(3) of the Internal Revenue Code of 1986;

(5) ensures that each of such organization's local affiliated chapters meets the criteria specified in paragraph (4);

(6) has received a ruling that provides the option for each new community scholarship foundation affiliated with such organization to file Form 990 under such organization's group roster;

(7) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out its scholarship and academic support activities; and

(8) has local affiliated chapters described in subsection (b).

(b) LOCAL AFFILIATED CHAPTERS.—Each local affiliated chapter of an eligible organization described in subsection (a) shall—

(1) be a nonprofit organization, recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (or shall meet this criteria through affiliation with the eligible organization in accordance with subsection (a) of this section;

(2) be formed for the purpose of providing educational scholarships for local residents;

(3) solicit broad-based community support in its fund-raising activities;

(4) be broadly representative of the local community in the structures of its volunteer-operated organization and have a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or postsecondary personnel, parents, students, community agency representatives, and representatives of the business community;

(5) award scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or the presence of disability; and

(6) give priority in awarding scholarships to needy students in its local community.

SEC. 5. CONDITIONS FOR GRANT.

The Secretary shall make the endowment grant under this Act on the basis of an agreement with an eligible organization that—

(1) contains such terms and conditions as may be necessary to ensure that the endowment funds will be used to support a program development officer and office who will work with local communities to establish community scholarship foundations and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of such foundations;

(2) contains terms and conditions requiring the eligible organization to establish regional centers serving each area of the United States (including the territories and possessions of the United States);

(3) contains terms and conditions specifying that, if appropriated funds are not sufficient to support 25 regional centers, the eligible organization establishing such centers will give preference to those areas of the United States with higher than average school dropout rates and lower than average postsecondary institutional enrollment; and

(4) contains such assurances as the Secretary may require with respect to the management and operation of the endowment funds.

SEC. 6. DOLLARS FOR SCHOLARS ENDOWMENT FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States an endowment fund to be known as the Dollars for Scholars Endowment Fund. The Fund shall consist of amounts appropriated to the Fund pursuant to section 10 of this Act.

(b) INVESTMENT.—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the Fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligation shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION.—Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) INTEREST AND PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

SEC. 7. EXPENDITURES FROM THE FUND.

(a) IN GENERAL.—The interest and earnings of the Fund shall be available annually to the Secretary to enable the Secretary to award a grant annually to an eligible organization in accordance with this Act.

(b) AUDIT.—The activities of each eligible organization receiving a grant under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the eligible organization, pertaining to such activities and necessary to facilitate the audit.

SEC. 8. REPORT; TERMINATION OF GRANT PAYMENTS.

(a) REPORT.—Each eligible organization receiving a grant under this Act shall annually prepare and submit to the Secretary a report demonstrating such organizations compliance with the provision of this Act.

(b) TERMINATION.—The Secretary shall terminate grant payments under this Act for any eligible organization which the Secretary determines is not in compliance with the provisions of this Act.

SEC. 9. DEFINITIONS.

For the purposes of this Act—

(1) the term "Fund" means the Dollars For Scholars Endowment Fund established in section 6(a);

(2) the term "Secretary", unless otherwise specified, means the Secretary of Education; and

(3) the term "community scholarship foundation" means a tax-exempt, publicly supported, locally organized, volunteer-operated, broadly representative organization (formed in towns, rural communities, or neighborhoods of large cities) whose purpose is to raise funds for local scholarships, make scholarship awards to local deserving students, and provide academic support activities to encourage educational achievement.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund $40,000,000 for fiscal year 1993 to carry out this Act.•

ADDITIONAL COSPONSORS

S. 3092

At the request of Mr. NUNN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 3092, a bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia.

S. 3295

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 3295, a bill to amend title 10, United States Code, to establish within the Office of the Secretary of Defense the position of Director of Criminal Investigations; and for other purposes.

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 3295, supra.

ADDITIONAL COSPONSORS

The additional cosponsors for October 2, 1992, are as follows:

S. 15

At the request of Mr. BIDEN, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 492

At the request of Mr. SIMON, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 492, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such Act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such Act to employers and employees in the construction industry, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1372

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1777

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 2362

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2362, a bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new physicians.

S. 2810

At the request of Mr. GORE, the names of the Senator from Ohio [Mr. GLENN] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from West Virginia [Mr. BYRD], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Mississippi [Mr. LOTT], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

S. 2949

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 2957

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2957, a bill to amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied, to permit a qualified conservation contribution where the probability of surface mining is remote, and to defer some of the scheduled reduction in estate tax rates.

S. 3002

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to provide for optional coverage under State Medicaid plans of case-management services for individuals who sustain traumatic brain injuries, and for other purposes.

S. 3119

At the request of Mr. CONRAD, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 3119, a bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes.

S. 3228

At the request of Mr. BOREN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 3228, a bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 to strengthen the protection of native biodiversity and to place restraints on clearcutting and certain other cutting practices on the forests of the United States, and for other purposes.

S. 3278

At the request of Mr. BAUCUS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 3278, a bill to amend the Internal Revenue Code to exempt companies from the railroad retirement and unemployment taxes.

SENATE JOINT RESOLUTION 300

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Illinois [Mr. DIXON], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. DANFORTH], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 300, a joint resolution to designate the week commencing October 4, 1992, as "National Aviation Education Week."

SENATE JOINT RESOLUTION 311

At the request of Mr. SEYMOUR, the names of the Senator from Nevada [Mr. BRYAN], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Joint Resolution 311, a joint resolution designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week," and for other purposes.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE JOINT RESOLUTION 328

At the request of Mr. COCHRAN, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 328, a joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 338

At the request of Mr. GRASSLEY, his name was withdrawn as a cosponsor of Senate Joint Resolution 338, a joint resolution designating the week beginning October 24, 1992 as "World Population Awareness Week."

AMENDMENTS SUBMITTED

NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

BURNS AMENDMENTS NOS. 3394 THROUGH 3397

(Ordered to lie on the table.)

Mr. BURNS submitted four amendments intended to be proposed by him to the bill (S. 2899) to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes, as follows:

AMENDMENT NO. 3394

At the appropriate place, insert the following new section:

SEC. . No fewer than one-fourth of the members shall be from a rural State. "Rural" in this instance is defined as a State in which the population has fewer than one million people and there are fewer than ten people per square mile.

AMENDMENT NO. 3395

At the appropriate place, insert the following new section:

SEC. . Whereas, the State of Montana has been a leader in many areas of scientific research and continues to be in the forefront of scientific discovery, the Office of Scientific Integrity, an independent entity, shall, following an allotted time for bidding by the principal cities, be located in the State of Montana.

AMENDMENT NO. 3396

At the appropriate place, insert the following new section:

SEC. . Of the grant applications received, forty (40) percent of the monies shall be designated for rural States. "Rural" is defined in this case as any State which has a population of fewer than one million in an area greater then 100,000 square miles.

Included among purposes for which a grant may be made is the demonstration of telemedicine. Special consideration should be given to demonstration projects that involve rural outreach.

AMENDMENT NO. 3397

At the appropriate place, insert the following new section:

SEC. . TELECOMMUNICATIONS AND RURAL HEALTH.—The Secretary of Health and Human Services shall conduct a two-year study, and subsequently issue a report, determining the impact of telecommunications on the delivery of health care services to rural areas or areas considered to be Health Professional Shortage Areas [HPSA's].

In conducting this study, the Secretary shall use data gathered by Telemedicine projects now in existence and provide grants to encourage other demonstration projects in rural settings.

The Secretary shall also, with the assistance of the Director of the National Library of Medicine, determine the impact of providing continuing education and training to health care providers through telecommunications.

For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1995.

SMALL BUSINESS INNOVATION DEVELOPMENT AMENDMENT ACT OF 1992

LEVIN (AND BUMPERS) AMENDMENT NO. 3398

Mr. FORD (for Mr. LEVIN and Mr. BUMPERS) proposed an amendment to the bill (S. 2941) to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Research and Development Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Amendments to small business innovation research program.
Sec. 104. Extension of SBIR program.
Sec. 105. Reports of the Comptroller General.
Sec. 106. Recommendations of the Secretary of Defense.

TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

Sec. 201. Short title.
Sec. 202. Establishment of small business technology transfer pilot program.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Discretionary technical assistance to SBIR awardees.
Sec. 302. Extension of the technology transfer demonstration program.
Sec. 303. Reporting requirements.
Sec. 304. Small Business Institutes.
Sec. 305. Additional SBIR and STTR provisions.
Sec. 306. Sense of the Congress concerning American-made equipment and products.
Sec. 307. Technical corrections.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Innovation Research Program Reauthorization Act of 1992".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the small business innovation research program established under the Small Business Innovation Development Act of 1982, (hereafter in this Act referred to as the "SBIR" program) has been a successful method of involving small business concerns in Federal research and development;

(2) the small business innovation research program has been an effective catalyst for the development of technological innovations by small business concerns;

(3) small business innovation research program participants have provided high quality research and development in a cost-effective manner;

(4) the innovative products and services developed by small business concerns participating in the small business innovation research program have been important to the national defense, as well as to the missions of the other participating Federal agencies;

(5) the small business innovation research program has effectively stimulated the commercialization of technology developed through Federal research and development, benefiting both the public and private sectors of the Nation;

(6) by encouraging the development and commercialization of technological innovations, the small business innovation research program has created jobs, expanded business opportunities for small firms, stimulated the development of new products and services, and improved the competitiveness of the Nation's high technology industries;

(7) the small business innovation research program has also helped to increase exports from small business concerns;

(8) despite the general success of the small business innovation research program, the proportion of Federal research and development funds received by small business concerns has not increased over the life of the program, but has remained at 3 percent; and

(9) although the participating Federal agencies have successfully implemented most aspects of the small business innovation research program, additional outreach efforts are necessary to stimulate increased participation of socially and economically disadvantaged small business concerns.

(b) PURPOSES.—The purposes of this title are—

(1) to expand and improve the small business innovation research program;

(2) to emphasize the program's goal of increasing private sector commercialization of technology developed through Federal research and development;

(3) to increase small business participation in Federal research and development; and

(4) to improve the Federal Government's dissemination of information concerning the small business innovation research program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

SEC. 103. AMENDMENTS TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) DEFINITION OF THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM.—Section 9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)) is amended—

(1) in subparagraph (A), by inserting "that appear to have commercial potential, as described in subparagraph (B)(ii)," after "ideas"; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

"(B) a second phase, to further develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering, among other things, the proposal's commercial potential, as evidenced by—

"(i) the small business concern's record of successfully commercializing SBIR or other research;

"(ii) the existence of second phase funding commitments from private sector or non-SBIR funding sources;

"(iii) the existence of third phase, follow-on commitments for the subject of the research; and

"(iv) the presence of other indicators of the commercial potential of the idea; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards; and

"(ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria; and".

(b) REQUIRED EXPENDITURES FOR SBIR BY FEDERAL AGENCIES.—Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended to read as follows:

"(f) FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.—

"(1) REQUIRED EXPENDITURE AMOUNTS.—Each Federal agency which has an extramural budget for research or research and development in excess of $100,000,000 for fiscal year 1992, or any fiscal year thereafter, shall expend with small business concerns—

"(A) not less than 1.5 percent of such budget in each of fiscal years 1993 and 1994;

"(B) not less than 2.0 percent of such budget in each of fiscal years 1995 and 1996; and

"(C) not less than 2.5 percent of such budget in each fiscal year thereafter,

specifically in connection with SBIR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) LIMITATIONS.—A Federal agency shall not—

"(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

"(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an SBIR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).".

(c) INCLUSION OF CERTAIN DEPARTMENT OF DEFENSE RESEARCH AND DEVELOPMENT AC-

TIVITIES.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended in paragraph (1), by striking "for the Department of Defense" and all that follows through "development" and inserting "for the Department of Energy it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs".

(d) SBIR SOLICITATIONS.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) unilaterally determine research topics within the agency's SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified by—

"(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; or

"(B) the Secretary of Defense, in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority;".

(e) DEADLINE FOR FINAL PAYMENT UNDER SBIR FUNDING AGREEMENTS.—Section 9(g)(7) of the Small Business Act (15 U.S.C. 638(g)(7)) (as redesignated by subsection (d)(1)) is amended by inserting before the semicolon the following: "and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements".

(f) MODIFICATIONS TO SBIR POLICY DIRECTIVES.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended—

(1) in paragraph (2), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(3) by inserting before "The Small Business Administration" the following:

"(1) POLICY DIRECTIVES.—"; and

(4) by adding at the end the following new paragraph:

"(2) MODIFICATIONS.—Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—

"(A) retention by a small business concern of the rights to data generated by the concern in the performance of an SBIR award for a period of not less than 4 years;

"(B) continued use by a small business concern participating in the third phase of the SBIR program, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of an SBIR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(C) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an SBIR program enters into follow-on, non-SBIR funding agreements with the small business concern for such research, development, or production;

"(D) an increase to $100,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to $750,000 in the second phase of an SBIR program, and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations;

"(E) a process for notifying the participating SBIR agencies and potential SBIR participants of the 1991, 1992, and the current critical technologies, as identified—

"(i) by the National Critical Technologies Panel (or its successor), in accordance with section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(ii) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(F) enhanced outreach efforts to increase the participation of socially and economically disadvantaged small business concerns, as defined in section 8(a)(4), and the participation of small businesses that are 51 percent owned and controlled by women in technological innovation and in SBIR programs, including the third phase of such programs, and the collection of data to document such participation;

"(G) technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program;

"(H) procedures to ensure that a small business concern that submits a proposal for a funding agreement for the first phase of an SBIR program and that has received more than 15 second phase SBIR awards during the preceding 5 fiscal years is able to demonstrate the extent to which it was able to secure third phase funding to develop concepts resulting from previous second phase SBIR awards; and

"(I) procedures to ensure that agencies participating in the SBIR program retain the information submitted under subparagraph (H) at least until the General Accounting Office submits the report required under section 105 of the Small Business Research and Development Enhancement Act of 1992.".

(g) ELIMINATION OF SURVEYING AND REPORTING REQUIREMENT.—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended to read as follows:

"(k) [Reserved].".

(h) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(*l*) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

"(1) SINGLL PROPOSAL.—If a Federal agency required to establish an SBIR program under subsection (f) makes an award with respect to an SBIR solicitation topic or subtopic for which the agency received only 1 proposal, the agency shall provide written justification for making the award in its next quarterly report to the Administration and in the agency's next annual report required under subsection (g)(8).

"(2) MULTIPLE AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8) an accounting of the awards the agency has made for the first phase of an SBIR program during the reporting period to entities that have received more than 15 awards for the second phase of an SBIR program during the preceding 5 fiscal years.

"(3) CRITICAL TECHNOLOGY AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8), an accounting of the number of awards it has made to critical technology topics, as defined in subsection (g)(3), including an identification of the specific critical technologies topics, and the percentage by number and dollar amount of the agency's total SBIR awards to such critical technology topics.".

(2) CONFORMING AMENDMENT.—Section 9(g)(5) of the Small Business Act (15 U.S.C. 638(g)(5)) (as redesignated by subsection (d)) is amended by inserting "subject to subsection (*l*)," before "unilaterally".

(i) INFORMATION ON ALLOWABLE EXPENSES.—Section 9(g)(5) of the Small Business Act (as redesignated by subsection (d)) is amended by inserting before the semicolon the following: "and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement".

SEC. 104. EXTENSION OF SBIR PROGRAM.

(a) REPEAL PROVISION.—Section 5 of the Small Business Innovation Development Act of 1982 is hereby repealed.

(b) TERMINATION DATE.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(m) TERMINATION.—The authorization to carry out the Small Business Innovation Research Program under this section shall terminate on October 1, 2000.".

SEC. 105. REPORTS OF THE COMPTROLLER GENERAL.

(a) INTERIM REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress an interim report concerning the quality of research performed under SBIR program funding agreements entered into during fiscal year 1993 and thereafter. Copies of the interim report shall be furnished to each agency that has participated in the SBIR program in fiscal year 1993 or thereafter.

(2) CONTENTS OF REPORT.—The Comptroller General shall include in the interim report required under paragraph (1)—

(A) an assessment of the quality of the research performed under the SBIR program funding agreements entered into by each agency that has participated in the SBIR program beginning in fiscal year 1993 or thereafter, specifically addressing—

(i) with respect to each such agency, whether or not there has been a demonstrable reduction in research quality; and

(ii) in the case of such reduction, whether an increase in each such agency's required SBIR participation in accordance with section 9(f)(1) of the Small Business Act (as amended by subsection (b) of this section) would adversely affect the performance of the agency's research programs;

(B) an analysis of the program authorized by section 301 of the Small Business Research and Development Enhancement Act of 1992, considering, among other things—

(i) the extent to which each SBIR agency has implemented the program and the extent to which the program has improved the quality of agency-sponsored research and development;

(ii) the effect of the program on recipient companies' ability to develop and commercialize technology;

(iii) the cost of the program and the average cost per recipient company; and

(iv) the extent to which SBIR companies continue to use the service after completion of the program; and

(C) such other factors as the Comptroller General may deem appropriate.

(b) Final Report.—The Comptroller General of the United States shall transmit to the Congress a final report containing—

(1) a review of the progress made by Federal agencies in meeting the requirements of section 9(f) of the Small Business Act (as amended by this Act), including increases in expenditures required by that subsection;

(2) an analysis of participation by small business concerns in the third phase of SBIR programs, including a systematic evaluation of the techniques adopted by Federal agencies to foster commercialization;

(3) an analysis of the extent to which awards under SBIR programs are made pursuant to section 9(*l*) of the Small Business Act (as added by section 103(h)) in cases in which a program solicitation receives only 1 proposal;

(4) an analysis of the extent to which awards in the first phase of the SBIR program are made to small business concerns that have received more than 15 second phase awards under the SBIR program in the preceding 5 fiscal years, considering—

(A) the extent to which such concerns were able to secure Federal or private sector follow-on funding;

(B) the extent to which the research developed under such awards was commercialized; and

(C) the amount of commercialization of research developed under such awards, as compared to the amount of commercialization of SBIR research for the entire SBIR program;

(5) the results of periodic random audits of the extramural budget of each such Federal agency;

(6) a review of the extent to which the purposes of this title and the Small Business Innovation Development Act of 1982 have been met with regard to fostering and encouraging the participation of women-owned small business concerns and socially and economically disadvantaged small business concerns (as defined in the Small Business Act) in technological innovation, in general, and the SBIR program, in particular;

(7) an analysis of the effectiveness of the SBIR program in promoting the development of the critical technologies identified by the Secretary of Defense and the National Critical Technologies Panel (or its successor), as described in subparagraph 9(j)(2)(E) of the Small Business Act;

(8) an analysis of the impact of agency application review periods and funding cycles on SBIR program awardees' financial status and ability to commercialize; and

(9) recommendations to the Congress for tracking the extent to which foreign firms, or United States firms with substantial foreign ownership interests, benefit from technology or products developed as a direct result of SBIR research or research and development.

(c) Dates of Submission.—The report required—

(1) under subsection (a), shall be submitted to the Congress not later than March 31, 1995; and

(2) under subsection (b), shall be submitted to the Congress not later than 5 years after the date of enactment of this title.

SEC. 106. RECOMMENDATIONS OF THE SECRETARY OF DEFENSE.

Not later than March 31, 1996, the Secretary of Defense shall submit a recommendation to the Congress addressing whether there has been a demonstrable reduction in the quality of research performed under the SBIR program since the beginning of fiscal year 1993, such that increasing the percentage under section 9(f)(1)(C) of the Small Business Act (as amended by section 103 of this Act) would adversely affect the performance of the research programs of the Department of Defense.

TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Technology Transfer Act of 1992".

SEC. 202. ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM.

(a) Additional SBA Duties.—Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (4), by inserting "and small business technology transfer pilot programs" after "small business innovation research programs"; and

(2) in paragraphs (5), (6), and (7), by inserting "and STTR" after "SBIR" each place such term appears.

(b) Small Business Technology Transfer Pilot Program Defined.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'Small Business Technology Transfer Program' or 'STTR' means a pilot program under which a portion of a Federal agency's extramural research or research and development effort is reserved for awards to small business concerns for cooperative research and development through a uniform process having—

"(A) a first phase, to determine, to the extent possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations;

"(B) a second phase, to further develop proposed ideas to meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of STTR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-STTR Federal funding awards; and

"(ii) for which awards from non-STTR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria;

"(7) the term 'cooperative research and development' means research or research and development conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern, and not less than 30 percent of the work is performed by the research institution; and

"(8) the term 'research institution' means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto).".

(c) Establishment of Small Business Technology Transfer Programs by Certain Federal Agencies.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

"(n) Required Expenditures for STTR by Federal Agencies.—

"(1) Required expenditure amounts.—Each Federal agency which has an extramural budget for research or research and development in excess of $1,000,000,000 in fiscal year 1994, 1995, or 1996, is authorized to expend with small business concerns—

"(A) not less than 0.05 percent of such budget in fiscal year 1994;

"(B) not less than 0.1 percent of such budget in fiscal year 1995; and

"(C) not less than 0.15 percent of such budget in fiscal year 1996,

specifically in connection with STTR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) Limitations.—A Federal agency shall not—

"(A) use any of its STTR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses, or, in the case of a small business concern or a research institution, costs associated with salaries, expenses, and administrative overhead (other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the governmentwide Federal Acquisition Regulation issued in accordance with section 25(c)(1) of the Office of Federal Procurement Policy Act); or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentage specified in paragraph (1).

"(3) Exclusion of certain funding agreements.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an STTR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).

"(o) Federal Agency STTR Authority.—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

"(1) unilaterally determine categories of projects to be included in its STTR program;

"(2) issue STTR solicitations in accordance with a schedule determined cooperatively with the Administration;

"(3) unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified—

"(A) by the National Critical Technologies Panel (or its successor) in reports required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(B) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(4) unilaterally receive and evaluate proposals resulting from STTR solicitations;

"(5) unilaterally select awardees for its STTR funding agreements and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement;

"(6) administer its own STTR funding agreements (or delegate such administration to another agency);

"(7) make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of the completion of such requirements;

"(8) submit an annual report on the STTR program to the Administration and the Office of Science and Technology Policy;

"(9) develop a model agreement not later than July 31, 1993, to be approved by the Administration, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(10) develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that federally funded research and development centers (as defined in subsection (e)(8)) that participate in STTR agreements—

"(A) are free from organizational conflicts of interests relative to the STTR program;

"(B) do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

"(C) use outside peer review, as appropriate; and

"(11) not later than July 31, 1993, develop procedures for assessing the commercial merit and feasibility of STTR proposals, as evidenced by—

"(A) the small business concern's record of successfully commercializing STTR or other research;

"(B) the existence of second phase funding commitments from private sector or non-STTR funding sources;

"(C) the existence of third phase follow-on commitments for the subject of the research; and

"(D) the presence of other indicators of the commercial potential of the idea.

"(p) STTR POLICY DIRECTIVE.—

"(1) ISSUANCE.—The Administrator shall issue a policy directive for the general conduct of the STTR programs within the Federal Government. Such policy directive shall be issued after consultation with—

"(A) the heads of each of the Federal agencies required by subsection (n) to establish an STTR program;

"(B) the Commissioner of Patents and Trademarks; and

"(C) the Director of the Office of Federal Procurement Policy.

"(2) CONTENTS.—The policy directive required by paragraph (1) shall provide for—

"(A) simplified, standardized, and timely STTR solicitations;

"(B) a simplified, standardized funding process that provides for—

"(i) the timely receipt and review of proposals;

"(ii) outside peer review, if appropriate;

"(iii) protection of proprietary information provided in proposals;

"(iv) selection of awardees;

"(v) retention by a small business concern of the rights to data generated by the concern in the performance of an STTR award for a period of not less than 4 years;

"(vi) continued use by a small business concern, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of the STTR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(vii) cost sharing;

"(viii) cost principles and payment schedules; and

"(ix) 1-year awards for the first phase of an STTR program, generally not to exceed $100,000, and 2-year awards for the second phase of an STTR program, generally not to exceed $500,000, greater or lesser amounts to be awarded at the discretion of the awarding agency;

"(C) minimizing regulatory burdens associated with participation in STTR programs;

"(D) guidelines for a model agreement, to be used by all agencies, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(E) procedures to ensure that—

"(i) a recipient of an STTR award is a small business concern, as defined in section 3 and the regulations promulgated thereunder; and

"(ii) such small business concern exercises management and control of the performance of the STTR funding agreement pursuant to a business plan providing for the commercialization of the technology that is the subject matter of the award; and

"(F) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an STTR program enters into follow-on, non-STTR funding agreements with the small business concern for such research, development, or production.".

(d) TIMING OF ISSUANCE OF POLICY DIRECTIVE.—The policy directive required by section 9(p) of the Small Business Act (as added by subsection (c) of this section) shall be published—

(1) in proposed form (with an opportunity for public comment of not less than 30 days), not later than April 30, 1993; and

(2) in final form, not later than July 31, 1993.

(e) REPORT OF THE COMPTROLLER GENERAL.—Not later than March 31, 1996, the Comptroller General of the United States shall submit a report to the Congress and the head of each agency that is required to make expenditures under the STTR program that—

(1) sets forth the Comptroller General's assessment, with respect to each such agency, of—

(A) the quality of research performed under funding agreements awarded by that agency under the STTR program since the beginning of the program;

(B) whether or not the STTR program has affected the performance of that agency's research programs; and

(C) the commercial potential of research conducted under the STTR program, if sufficient data is available;

(2) contains the Comptroller General's assessment as to the effects of the STTR program, if any, on the research quality and goals of the SBIR program; and

(3) determines the agencies and the federally-funded research and development centers' compliance with the procedures developed under section 9(g)(10) of the Small Business Act, as amended by this section.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DISCRETIONARY TECHNICAL ASSISTANCE TO SBIR AWARDEES.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(q) DISCRETIONARY TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—Each Federal agency required by this section to conduct an SBIR program may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in SBIR projects with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through online data bases, for the purpose of assisting such concerns in—

"(A) making better technical decisions concerning such projects;

"(B) solving technical problems which arise during the conduct of such projects;

"(C) minimizing technical risks associated with such projects; and

"(D) developing and commercializing new commercial products and processes resulting from such projects.

"(2) VENDOR SELECTION.—Annually, each agency may select a vendor for purposes of this subsection using competitive, merit-based criteria, to assist small business concerns to meet the goals listed in paragraph (1).

"(3) ADDITIONAL TECHNICAL ASSISTANCE.—

"(A) FIRST PHASE.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to first phase SBIR award recipients in an amount equal to not more than $4,000, which shall be in addition to the amount of the recipient's award.

"(B) SECOND PHASE.—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than $4,000 per year.

SEC. 302. EXTENSION OF THE TECHNOLOGY TRANSFER DEMONSTRATION PROGRAM.

Section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note) is amended—

(1) in subsection (g), by striking "1993" and inserting "1995"; and

(2) in subsection (i), by striking "1991, 1992, and" and inserting "1994 and 1995".

SEC. 303. REPORTING REQUIREMENTS.

(a) REPORT ON DEFICIENT SUBCONTRACTING PLANS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraph (12) as paragraph (11).

(b) SMALL PURCHASES FROM FEDERAL PRISON INDUSTRIES.—Section 4124(c) of title 18, United States Code, is amended in the first sentence by striking "to the General Services Administration" and all that follows through "Procurement Policy Act" and inserting "acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act) in the same manner as it reports other acquisitions".

SEC. 304. SMALL BUSINESS INSTITUTES.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended—

(1) by redesignation subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) In carrying out its functions under subparagraph (A), to make grants (including contracts and cooperative agreements) to any public or private institution of higher education for the establishment and operation of a small business institute, which shall be used to provide business counseling and assistance to small business concerns through the activities of students enrolled at the institution, which students shall be entitled to receive educational credits for their activities.".

SEC. 305. ADDITIONAL SBIR AND STTR PROVISIONS.

Section 9 of the Small Business Act (15 U.S.C. 638), is amended by adding at the end the following new subsection:

"(r) THIRD PHASE AGREEMENTS.—

"(1) IN GENERAL.—In the case of a small business concern that is awarded a funding agreement for the second phase of an SBIR or STTR program, a Federal agency may enter into a third phase agreement with that business concern for additional work to be performed during or after the second phase period. The second phase funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to third phase agreements with that agency or any other agency.

"(2) DEFINITION.—In this subsection, the term 'third phase agreement' means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

"(3) INTELLECTUAL PROPERTY RIGHTS.—Each funding agreement under an SBIR or STTR program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.".

SEC. 306. SENSE OF THE CONGRESS CONCERNING AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that an entity that is awarded a funding agreement under the SBIR program of a Federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

(b) NOTICE TO SBIR AWARDEES.—Each Federal agency that awards funding agreements under the SBIR program shall provide to each recipient of such an award a notice describing the sense of the Congress, as set forth in subsection (a).

SEC. 307. TECHNICAL CORRECTIONS.

(a) SMALL BUSINESS PARTICIPATION RATES.—Section 714(b)(4) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended by inserting "or other services in support of such contracts" after "(including surveying and mapping)".

(b) MICROLOAN PROGRAM FUNDING.—Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended—

(1) in subparagraph (A), by adding at the end the following: "If, at the end of fiscal year 1992, the Administration has funded less than 50 microloan programs under this subparagraph, the Administration may, in fiscal year 1993, fund a number of additional microloan programs equal to the difference between 50 and the number of microloan programs actually funded in fiscal year 1992."; and

(2) in subparagraph (B), by striking "In the second" and inserting "In addition to any microloan programs authorized to be funded in fiscal year 1993 in accordance with subparagraph (A), in the second".

(c) DEFINITION OF INTERMEDIARY.—Section 7(m)(11)(A)(ii) of the Small Business Act (15 U.S.C. 636(m)(11)(A)(ii)) is amended by inserting "private," before "nonprofit".

(d) SECONDARY LOAN MARKETS.—Section 5(f)(4) of the Small Business Act (15 U.S.C. 634(f)(4)) is amended by striking "5(e), 7(a)(6), or 7(a)(8)" and inserting "7(a)(6)(C) or subsection (e) of this section".

HEALTH CARE FRAUD PROSECUTION ACT OF 1992

BIDEN AMENDMENT NO. 3399

Mr. FORD (for Mr. BIDEN) proposed an amendment to the bill (S. 2652) to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Fraud Prosecution Act of 1992".

SEC. 2. INCREASED PENALTIES FOR HEALTH CARE FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended by inserting after chapter 50A the following new chapter:

"CHAPTER 50B—HEALTH CARE FRAUD

"Sec.
"1101. Health care fraud.
"1102. Penalties.
"1103. Restitution.

"§ 1101. Health care fraud

"(a) DEFINITION.—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.

"(b) OFFENSE.—A health care provider or other person that engages in conduct constituting an offense under section 1341 or 1343 for the purpose of or in connection with the provision of health care services or supplies or the payment therefor or reimbursement of the costs thereof, when—

"(1) the amount of loss caused by the fraudulent conduct exceeds $10,000; or

"(2) the offender had previously been convicted of fraud in Federal or State court,

shall be fined under this title, imprisoned in accordance with section 1102, or both.

"§ 1102. Penalties

"(a) IN GENERAL.—In the case of an offense under section 1101 not described in subsection (b) or (c), the offender shall be sentenced to a term of imprisonment of not more than 10 years.

"(b) SERIOUS PHYSICAL INJURY OR ENDANGERMENT OF LIFE OF PATIENT.—In the case of an offense under section 1101 that—

"(1) caused serious physical injury to a patient; or

"(2) endangered the life of a patient,

the offender shall be sentenced to a term of imprisonment of not more than 20 years.

"(c) DEATH OF PATIENT.—In the case of an offense under section 1101 that caused the death of a patient, the offender shall be sentenced to a term of imprisonment of not more than life.

"§ 1103. Restitution

"In sentencing an offender convicted under section 1101, the court—

"(1) shall order the offender to pay restitution to the patient and, if the payor was the United States, to the payor, for loss sustained as a result of the offender's fraudulent activity; and

"(2) may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 50A the following new item:

"50B. Health care fraud.".

SEC. 3. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of an offense or of conspiring to commit an offense under—

"(A) section 1101;

"(B) section 301(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(t)); or

"(3) section 301 (a), (b), (c), or (k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (a), (b), (c), and (k)), if the offense or conspiracy involved a drug and was done with intent to defraud or mislead any person or entity,

shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense.".

SEC. 4. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in fiscal year 1993 for the purposes of carrying out the purposes of this Act and the amendments made by this Act—

(1) $20,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 200 special agents and support staff to investigate health-care fraud cases;

(2) $5,000,000 to hire, equip, and train no fewer than 50 Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute health-care fraud cases; and

(3) $5,000,000 to hire, equip, and train no fewer than 50 investigators and support staff in the Office of Inspector General, Department of Health and Human Services, to be devoted exclusively to health-care fraud cases.

SEC. 6. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to affect any right that a person may have to bring a civil action for the person and for the United States Government under section 3730 of title 31, United States Code, or any other law, based on an act or omission that may constitute an offense under section 1101 of title 18, United States Code, as added by section 2.

SEC. 8. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) lawsuits under the False Claims Act (sections 3729 and 3730 of title 31, United States Code), including the qui tam provisions, should be used to their full effect in combating health care fraud against the Government;

(2) the United States Sentencing Commission should modify the sentencing guidelines relating to frauds to prescribe offense levels for health care fraud committed in violation of section 1101 of title 18, United States Code, that are commensurate with the seriousness of a fraud of that nature, as reflected in the increased maximum penalties authorized in section 1102 of that title; and

(3) the Attorney General should promulgate prosecution guidelines to ensure that health care providers are not prosecuted under this Act for bookkeeping errors or accidental billing mistakes.

SEC. 9. GRANTS.

(a) FRAUD CONTROL UNITS.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to States and units of local government for the purpose of creating health care fraud control units for the purpose of investigating, and assisting such units in investigating, health care fraud and abuse.

(b) MEDICAL SOCIETIES.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to State medical societies for the development and implementation of programs designed to combat health care fraud.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out subsections (a) and (b).

ADDITIONAL STATEMENTS

THE PEORIA JOURNAL-STAR MARKS A BUDGET "MILESTONE"

• Mr. SIMON. Mr. President, the beginning of the new Federal fiscal year on October 1 marked an inglorious budget milestone for the Nation. For the first time in our history, we have begun to spend more of our Federal budget on gross interest payments than on any other spending category—more even than on defense or Social Security.

These huge and growing interest payments are a deplorable waste of resources and tax dollars. They are strangling the Nation's ability to respond to our urgent needs in education, in job training, in health care, in our infrastructure.

Because of the paramount significance of the spiraling growth of these interest payments to our economic vitality and to our future, this basic budget fact deserves the attention of every citizen and every voter. Why, then, did this milestone come and go on October 1 without acknowledgment by the White House or in the Congress, or even on most editorial pages? The reason is that controlling the deficit will take strenuous effort and will risk political pain.

As my colleagues know, I do not believe the political will for concerted action on the deficit is likely to be mustered among our constituents or their elected leaders without the discipline of a constitutional amendment to restore the Federal budget to a pay-as-you-go basis, unless 60 percent of the Congress votes to the contrary. I will be reintroducing the balanced budget constitutional amendment in the 103d Congress.

One newspaper that did mark this milestone and describe its significance is the Peoria Journal-Star, and I hope that other newspapers will follow its example.

I ask that the editorial be printed in the RECORD, and I call it to the attention of my colleagues and to others who may see it here.

The editorial follows:

[From the Peoria Journal-Star, Oct. 1, 1992]

HERE'S WHERE YOUR FEDERAL TAXES GO

We couldn't let the first day of the new federal budget year pass without this depressing note:

For the first time in the history of the country, interest payments will consume more of your federal tax dollar than any other item. Some milestone!

For those of you who like numbers, here are the big three, courtesy of the Federal Office of Management and Budget: Gross interest: $307.5 billion; Social Security: $300.7 billion; and Defense: $291.8 billion.

Gross interest, of course, buys the nation nothing. No highways, no schools, no college educations, no reconstruction of cities, no health care for the uninsured, no rooms for the homeless, no jobs for the jobless. It pays for what we bought earlier, mostly in the 1980s, when we were too selfish, foolish and gutless to pay for what we wanted with current dollars. It is, as much as anything else, a transfer of wealth, from the wallets of today's taxpayer to the accounts of those with money to lend.

Sixty cents on the dollar Americans pay in individual income taxes goes to service the debt. The interest burden is nearly triple all of the corporate income taxes collected.

The debt is the primary reason we are powerless now to fight the recession with public investment, in infrastructure and public works, or with private investment through lower taxes and increased borrowing. It makes every problem we face—from health care to urban decay—extraordinarily more difficult to solve.

This is not a day to celebrate.•

COMMONWEALTH OF INDEPENDENT STATES SCIENTISTS IMMIGRATION ACT

• Mr. BROWN. Mr. President, I would like to commend the House and the Senate for the final passage late last night of the Soviet Scientists Immigration Act of 1992. I would especially like to commend my colleague from Kansas, Senator DOLE, for his strong support from the outset, and also for the important assistance of the Senator from New York, Senator MOYNIHAN. Congressman BEREUTER of Nebraska was an able and effective ally in the House of Representatives, and guided this bill past many difficult opponents.

With the collapse of the Soviet Union and the emergence of the Commonwealth of Independent States [CIS], some of the Commonwealth's best and brightest scientists have encountered real hardship—unemployment, food shortages, and a future of great uncertainty. Many are increasingly skeptical that free market reform will yield concrete benefits for the near term. Reports indicate Iran, Libya, North Korea and other irresponsible nations bent on developing weapons of mass destruction have made overtures to these scientists hoping to lure them to their nuclear research labs.

The final passage of this act is a significant step in creating alternatives to jobs in rogue nations in the Middle East. It waives the job offer requirement for scientists from the former Soviet Union with expertise in nuclear technology as well as broadening the classification of those with exceptional ability. Both of these changes to current immigration law will make it easier for scientists of the Commonwealth of Independent States to come to the United States, without endangering American jobs here.

Other aspects of the original proposal have either been undertaken by the administration already or are under consideration by the administration, and have consequently been removed from the final version of the bill. The first recommendation, that some of the money allocated for destruction of Soviet nuclear weapons be used to keep the scientists gainfully employed in research and other projects necessary for transition to a peaceful, high-tech economy, was adopted in large part in the plan announced by Secretary Baker earlier this year. The administration's plan will establish two scientific research centers for these scientists, one in Russia and one in the Ukraine. Clearly, this is a step forward. However, it is the hope of the authors of this bill that these projects will enhance the objectives of nonproliferation of weapons of mass destruction. And, furthermore, that the byproducts of such research be designed to enhance American competitiveness as well as provide returns to the taxpayer to the greatest extent possible.

The second recommendation included in the original bill language urged the administration to put these scientists at the front of the line for international exchange programs they are currently eligible for, especially ones that will permit them to cross-train into another specialty, including business or law. It is our hope and intent that, even though this admonition is absent from the current bill for procedural reasons, the executive branch will make every effort to format its exchange programs to accommodate these scientists.

Mr. President, the final passage of this small but important piece of legislation is a significant step forward. I want to thank my colleagues for their assistance, especially Senator SIMPSON, the ranking Republican on the Immigration Subcommittee of the Judiciary Committee and his staff, initially Carl Hampe and now Cordia Strom. I would also like to thank Senator KENNEDY, the chairman of the subcommittee, and Michael Myers of his staff for their assistance.•

MAKING WELFARE WORK: A FAMILY APPROACH

• Mr. HARKIN. Mr. President, public assistance rolls are skyrocketing after nearly two decades of minimal growth. The number of families receiving aid to families with dependent children [AFDC], which provides cash to poor families, grew from 3.1 to 3.7 million between 1973 and 1989, an increase of only 600,000. After 1989, the figures turned steeply upward. By October 1991, 4.6 million families were receiving welfare, an increase of 24 percent in only 2 years.

As the number of welfare recipients has increased, so has the cost to taxpayers. Some State legislators have responded to the increase in welfare expenditures by proposing harsh, paternalistic approaches that seek to break dependence on welfare by punitive measures, including penalties aimed at women who become pregnant while on public assistance.

In contrast, other legislators, philanthropic organizations, and community action agencies have responded to the increase in poverty and welfare with a renewed effort to examine the effectiveness of social services for low-income children and families. These leaders argue that our current approach to human services is fragmented and scattered and, as a result, it is wasteful and ineffective. We have hundreds of separate programs, each to address a different need, yet these isolated efforts often fail because they do not take into account that many of the people served have multiple problems. Moreover, leaders of the service integration movement argue that the needs of children in particular may be impossible to solve if the family as a unit is not taken into account; we simply cannot isolate children's needs from the needs of their families.

Activities are now under way at the local, State, and national levels, under both public and private auspices, to integrate and coordinate services across systems, and to make services more responsive to the needs of children and families. A recent report entitled "Making Welfare Work: A Family Approach" represents a qualitative assessment of a major initiative of this kind, the Iowa Family Development and Self-Sufficiency [FaDSS] Demonstration Grant Program. The report, prepared by former Iowa State Senator Charles Bruner and his colleagues at the Child and Family Policy Center of Des Moines, is both enlightening and genuinely encouraging. Reflecting initial discoveries the Iowa program has made by working with AFDC families in a holistic, comprehensive way, "Making Welfare Work" indicates that progress is forthcoming in the fight to engender self-sufficiency among families characterized by chronic dependence on public assistance.

In 1987, both the Iowa General Assembly and Iowa Gov. Terry Branstad made welfare reform a priority for the 1988 legislative session. The FaDSS Grant Program emerged from the general assembly's welfare reform interim committee as one of several State welfare reform initiatives. The FaDSS Program embodies a simple premise—that families bring more than employment need into the welfare office, including needs relating to family budgeting, nutrition, health and hygiene, parent-child relations, substance abuse, food, clothing, and housing. Evidence indicates this is especially true of families that are chronically dependent on public assistance. Nonetheless, the Federal Job Opportunity and Basic Skills [JOBS] Program of the Family Support Act, the major welfare reform legislation of the last decade, emphasizes employment skills and job training while neglecting the social and psychological needs both children and adults in households receiving aid to families with dependent children [AFDC].

Breaking with the tradition of our fragmented social service system, the Iowa FaDSS demonstration programs represent a new, noncategorical approach to working with the neediest families. The enabling legislation prescribed a list of elements that grant proposals should address, pointing grantees toward providing comprehensive, community-based, and family-centered support. Another key element of the 10 FaDSS demonstration programs that have been funded is a new worker, a family development specialist, who serves as a partner to families in their work toward self-sufficiency. Rather than operating in a clinical manner, family development specialists work with families across a range of social and economic concerns. They help clients define and obtain the services they need most, they serve as a reality check in helping the family define its goals, and they encourage the family to identify its strengths and accomplishments. While family development specialists may refer families to outside professionals—for substance abuse treatment, mental health counseling and the like—the nonclinical orientation of the specialists is designed to produce trusting relationships with clients, and to underscore the family's responsibility and self-confidence in their ability to independently meet their needs.

While the Iowa FaDSS programs are relatively young, the Bruner report outlines a number of valuable lessons to be drawn from the 10 sites. Initial evidence suggests that families do, indeed, bring more than employment and training needs into the welfare office. Moreover, these data indicate that it is possible to target a subset of the AFDC population whose long-term needs for public support are sufficient to warrant significant investments in interventional, comprehensive services that go beyond economic viability to address parent and child social development and interaction. In order to achieve true progress in righting the course of troubled families, family development specialists must receive training and staff support commensurate with the great deal of discretion required of them. Also, rather than providing services to families, the family development specialists are most effective as partners with families, helping them to set goals and identify personal decisions at critical points in their growth and development.

The FaDSS Program represents a fundamentally different approach to welfare reform, and the findings described in this report should become an integral part of the debate on State and Federal efforts to facilitate self-sufficiency among families on public assistance. An essential contribution to that debate is the argument, made by Bruner and his colleagues, that comprehensive family development strategies demand a new form of evaluation that can capture gains across several important dimensions of individual functioning and social services. FaDSS programs are designed to improve outcomes for families on AFDC, but these improved outcomes may be in a number of areas, including welfare independence, employment, parent-child interaction, child development, and family stability. In the search to deliver effective services, and so promote self-sufficiency, the "challenge to evaluation is to capture * * * 'added value' everywhere it occurs."•

THE STRUGGLE OF LATIN-RITE CATHOLICS IN RUSSIA

• Mr. DECONCINI. Mr. President, believers of many faiths, including Latin-rite Catholics, suffered great hardship during seven decades of state-sponsored atheism in the former Soviet Union. Prior to 1917, there were 150 Latin-rite Catholic parishes in the European part of Russia.

Despite imprisonment, deportation, exile, and various forms of discrimination, believers in Russia, and elsewhere were strengthened by their faith and remained steadfast in their beliefs. The condition of believers in Russia has improved significantly in recent years. Nevertheless, the legacy of the past has not disappeared entirely.

I recently received information from Archbishop Tadeusz Kondrusiewicz on the continuing struggle of Latin-rite Catholics in Russia. Archbishop Kondrusiewicz was appointed by Pope John Paul II last year to serve as administrator for Latin-rite Catholics of the European part of Russia. As co-chairman of the Helsinki Commission I am particularly concerned over reports that these Catholics are being denied their right to establish and maintain places of worship in keeping with existing CSCE commitments.

While Latin-rite Catholic parishioners have been allowed to register and are free to worship in Russia today, many continue to be deprived of places to worship. Church buildings which were not razed by the Communists were often converted into offices, apartments, warehouses, or used for other purposes. In Moscow, for example, the churches of Sts. Peter and Paul and the Immaculate Conception are being used by technical institutes. In Kaliningrad there are three churches: Holy Family, used as a concert hall, St. Joseph's, used as a building supply factory, and St. Wojtech's, used as a research institute. In Piatigorsk, the Church of the Transfiguration has been leased to an evangelical group. These are but a few examples, though I should point out that the total number of church buildings is rather small.

Archbishop Kondrusiewicz's efforts to have existing church structures returned or permission granted for the construction of new churches have been impeded by bureaucratic foot dragging. As a result many Latin-rite Catholics have been forced to celebrate mass and conduct other religious activities outdoors or in cramped apartments, denied possession or use of their churches.

I urge the Russian authorities to review this matter and to facilitate the return of these churches without further delay.•

• Mr. RIEGLE. Mr. President, in February 1990, the world hailed the South African Government's release of Nelson Mandela. Many viewed this historic event as a sign that President F.W. de Klerk was ready to begin serious negotiations to end the violence that led to the deaths of more than 52,000 people between 1984 and 1990. In the months following Mandela's liberation, President de Klerk further raised the hopes of apartheid's foes by ending the national state of emergency, releasing over 5,000 political prisoners and lifting a ban on democratic parties. De Klerk's actions prompted President Bush to lift sanctions imposed by the United States in 1986 and cleared the way for formal negotiations between the ANC and the South African Government which began in December 1991.

Despite this progress, South Africa remains mired in brutal, internecine conflict. Violence, which has marked the South African political scene for years, has escalated greatly under de Klerk's government. On June 17, 1992, in a particularly savage event in the township of Boipatong, between 39 and 50 people, including infants and a pregnant woman, were massacred. The indifference, and possible complicity, of South African security forces in this tragic incident represented a major setback for the reform process in South Africa.

Only 3 months after President de Klerk initiated measures to quell the violence that caused the deaths at Boipatong, another slaughter in the black homeland of Ciskei occurred. On September 17, Oupa Gqozo, the military leader of Ciseki—an entity artificially created and backed by the South African Government—ordered most of his white-officered police force to open fire on a crowd of 50,000 peaceful demonstrators. After a barrage of automatic gunfire, lasting more than two minutes, 28 protestors lay dead. Many of those killed were shot in the back on South African soil, across the border with Ciskei, as they ran from Gqozo's forces.

The persistent violence has taken its toll on the talks to reform South Africa's constitution and government structure. Faced with Pretoria's indifference to black on black violence and a lack of negotiating progress, the ANC called off the second round of formal constitutional negotiations, known as the Convention for a Democratic South Africa [CODESA].

While the recent meeting between President de Klerk and ANC leader Mandela seems to have put the negotiating process back on track, institutional and social barriers denying blacks fundamental rights endure. Indeed, the basic facts have not changed: Blacks still do not have the right to vote; thousands of exiles may not return to their homes in South Africa; and, the economic disparity between whites and blacks is as large as ever. The vast majority of South African whites still have well-paying jobs and live comfortable middle-class lives. Most blacks, on the other hand, live in squalor and endure very high levels of unemployment. Yes, there has been progress in removing the legal framework underpinning apartheid. But, the struggle does not end there. America must demand that blacks not be denied the right to play a fair and equal role in governmental decisionmaking and constitutional reform.

President Bush lifted the 1986 sanctions with high hopes for reform. All too often, though, our aspirations have been dashed by disappointing breakdowns in constitutional negotiations or yet another massacre. While I welcome the reinvigorated spirit of cooperation represented by the de Klerk-Mandela meetings, let us remember that the burden remains upon Pretoria as the parties negotiate to eliminate racial discrimination in South Africa. Before the United States revokes remaining sanctions on South Africa, more fundamental change is necessary. I stand with the long oppressed majority in South Africa. The United States must not lift pressure on South Africa until meaningful reform occurs.●

ORDERS FOR MONDAY, OCTOBER 5, 1992

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Monday, October 5, that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day, that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes and that Senator ADAMS be recognized for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. MONDAY, OCTOBER 5, 1992

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 4:25 p.m., recessed until Monday, October 5, 1992, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Saturday, October 3, 1992*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O gracious God, that the good words we say with our lips, we will believe in our hearts, and all that we believe in our hearts we will practice in our daily lives. We acknowledge how casually we may articulate the vision and hopes for our communities and Nation and how easily our words can lose their meaning. Teach us, O God, to understand the power of our words when they are translated into the concerns of every day and how our words can be instruments of healing and of justice. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. BALLENGER] please come forward and lead the House in the Pledge of Allegiance?

Mr. BALLENGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

FREE THE BRADY BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, handguns used by violent criminals, by deranged people, by drug-crazed people, claim many thousands of victims, and some here on Capitol Hill. Handguns claimed another victim yesterday here on Capitol Hill. The Omnibus Anti-Crime Control Act of 1992 went down because of objections largely raised by those who oppose the Brady bill, which has been folded into that act.

The Brady bill, of course, simply calls for a waiting period of a few days before a handgun purchase can be concluded.

Because the Brady bill was in the crime bill people objected, and so another victim, the crime bill, has been claimed by handguns.

Mr. Speaker, I hope that even in the waning days of this Congress, the last 2 or 3 days, that a continued effort be made to free the Brady bill. This Chamber, of course, voted the Brady bill up as a freestanding bill. I think we owe it to Jim and Sarah Brady, who have labored so valiantly and given so much to this effort, to keep trying to pass the Brady bill.

RECOMMENDING PASSAGE OF S. 1675, A BOON TO AMERICAN COMPANIES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, suppose you as a businessman were approached by a truckline and offered a 10-percent cut in freight cost. Since trucking was deregulated it made sense.

Now 4 or 5 years later you are told that the truckline is bankrupt—bad management does that—and you have to pay back that 10 percent, or be sued. The trucker is gone but you have to pay for his mistakes.

This is the case for thousands of companies throughout this country, including my own company in Hickory, NC.

The ICC estimated the cost of those lawsuits to business at $32 billion. That is four times our cost in Desert Storm or quadruple the cost of Hurricane Andrew.

These avaricious law suits will bankrupt companies, destroy jobs, and also destroy any possibility of economic recovery.

There ought to be a law against this but I guess we'll go home without passing one. What we should do is pass S. 1675 which solves part of the problem.

TELLING IT LIKE IT IS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, President Bush said, "Let's get it on." Bill Clinton said, "Let's get it on." Ross Perot said, "Let's go get it." Mr. Speaker, the biggest word in American politics is "it."

Could "it" be 47 million Americans without health insurance? Or is "it" 10 million unemployed Americans? Or is "it" jobs going overseas in record numbers? Is "it" bankruptcies?

I think it is time for the White House to tell us where it is, what it is, and what they are going to do about it, because we know how it is. In fact, I believe the White House just doesn't get it, because Arsenio Hall has created more jobs in the last 4 years than President Bush. That is telling it like it is.

THE TAKE PRIDE IN AMERICA PROGRAM

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I rise today and use this opportunity to kick off what is in fact the largest countywide Take Pride in America Program to date in this country. At this very hour 25,000 of my constituents are gathering at 48 specific locations and 37 municipalities, where they are conducting an intensive effort ranging from park cleanup to stream cleanup to tree and bulb planting to all sorts of Take Pride Programs in Delaware County.

I rise to acknowledge the hard work and efforts that went into the 1 year of planning for this effort, the cooperation of the Department of the Interior, and all of those hundreds and thousands of individuals and those organizations that have coordinated this massive effort. I wish that I could be there with them, but the press of business requires me to be here in Washington.

I would urge municipalities all across this country to get involved in our national Take Pride in America Program.

AMERICA NEEDS A COMPREHENSIVE GET TOUGH ON CRIME PROGRAM

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I wonder how many more deaths, how many more family tragedies, how much more anxiety across America it is going to take to move leadership of the institution to pass get tough on crime legislation.

There is a virulent epidemic of crime and lawlessness out there. It is brutal, it is real, it is everywhere, it pervades throughout, and people are frightened and worried. Law enforcement cannot keep our streets, our businesses, our homes free from crime because we are not giving them the tools to do the job, the legislation to back them up.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Headlines and evening newscasts paint a dismal picture of innocent people maimed and killed in their own neighborhoods, and worse, of a generation of young people who still believe crime does pay, and use role models from prison. Those same stories depict a Congress stymied by partisan gridlock and status quo leadership.

We have been talking about the need for tougher laws, tougher penalties, and tougher enforcement. As we race to the finish line of the 102d Congress, we have to start nibbling on the edge and tackle the challenge. A car theft bill and a public referendum in the District on the death penalty is not exactly a comprehensive get tough on crime program. It is a matter of life and death for the people of this country, literally.

AMERICA SHOULD UNDERSTAND WHO KILLED THE CRIME BILL

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, the Omnibus Crime Bill was enacted many months ago here in the House, and a sister bill enacted in the Senate. We went to conference with the Senate, and the conference report that evolved was a good, hard-hitting crime bill that would help to resolve many of the problems of violent crime in this country.

The conference report was passed by the House of Representatives, it went to the other body, and it was held up for the past few months by a filibuster by the other side of the aisle, by the minority, by orders of the Attorney General. We understand now that the bill is dead.

I think that we ought to understand who killed a very hard-hitting crime bill. It was not this side of the aisle, it was not the Democrats, it was the other side.

OFFSHORE OIL DRILLING: THE FLORIDA COAST

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, today I rise to express my concern with one particular decision of the conference committee which negotiated the national energy strategy bill. The conferees, for a myriad of reasons, decided to drop the title affecting offshore oil drilling from the bill. I am concerned with this policy decision, as are my constituents in Florida.

Mr. Speaker, let me quote from a story which appeared on the AP wire Thursday. It read:

> An offshore rig that had been spewing oil into the gulf of Mexico for almost 2 days caught fire Thursday as workers tried to cap it. One person was hurt, the Coast Guard said. The injured person, whose identity was not available, was taken ashore by helicopter-ambulance.
>
> The well spewed 42 gallons of crude a minute when it blew out at the wellhead Tuesday * * * the oil formed a slick that by Wednesday afternoon reached East Timbalier Island and Timbalier Island, among a fragile chain of barrier islands about 65 miles south of New Orleans.

Mr. Speaker, when my Florida colleagues and I stand in the well and espouse the dangers of offshore oil drilling, this is what we are talking about.

My Florida delegation colleagues and I have fought hard to ensure that our beaches remain pristine and inviting by preventing oil drilling from taking place near our shores. Every year, we make our case to the Interior Committee. This year, we wanted to establish a long-term policy through the national energy bill.

Apparently, our efforts will not bear fruit in the stripped down NES. But make no mistake, our resolve is clear. As stewards of our State's natural resources, I believe we need to protect these resources for the next generation of Floridians just as we inherited them.

□ 1010

SUPPORT FOR BUDGET REFORM ACT

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, I want to endorse a badly needed budget reform that is currently before this Congress. It is not a line item veto. It is an opportunity, however, to extend greater budget accountability to the U.S. House of Representatives and the U.S. Senate.

I am opposed to a line-item veto. I think that that measure would in fact extend radically enormous new priority making powers to the executive branch. I think if anything it would lead to more spending rather than less. It would put the executive branch, whichever political party, in a position to extort votes from Members of the House and Senate.

On the other hand, I would be the first to say that we need greater accountability, a majority vote opportunity to vote on individual spending items. I think that by having that opportunity to stand up and be counted on individual spending items this institution would be in a position to restore greater confidence on the part of the American public. We would be in a position for greater budget responsibility without at the same time that kind of shift of power and priority making to the executive branch.

I think this is an important, a very modest progressive reform. It is a 2-year experiment. If it does not work, we will withdraw it. But I think it is something that this institution should go forward with.

POLITICAL GARBAGE

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the Republicans are desperate, reaching down into the political garbage bag to hold onto the Presidency. Yes, and the President, who does not look too Presidential these days, is distorting the truth in ads.

But the worst of all are the President's political garbage collectors in the House of Representatives. The rhetoric I have heard from them last night is the most tasteless I have ever heard on this floor. They owe an apology for the scurrilous and the distasteful and the venomous attacks that they made on Bill Clinton, and they are using the American taxpayers' dollars to do it.

It is the ultimate lowest point of this campaign.

A PROMISE PRESIDENT BUSH KEPT

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I would like to talk about one promise that President Bush kept. I want to tell Members about this promise. To me it was a far more important promise than any other promise he could make, perhaps the most important one a President of the United States could make.

I have three sons. I have a 17-year-old, I have a 16-year-old, and I have an 11-year-old. I am concerned about their future.

Let me tell you about the promise that Mr. George Bush, our President, made and kept. When it came time to remove Saddam Hussein from Kuwait and win the Persian Gulf war, he said, "This will not be another Vietnam," and he kept his promise 100 percent. That is enough to earn my vote, and it should be for the vote of many Americans. Mr. Bush has done an outstanding job as Commander in Chief, and gave top priority to protecting American lives.

We could have had a rerun of the Vietnam era. Mr. Bush knew what the stakes were and what the likely cost would be. But we were successful because he made a strong commitment.

Mr. Speaker, in the future we may have another war and that could be my son, it could be your son, and it could be many other sons. Looking to the future other families with teenage sons can remember that George Bush met his promise.

KEEP EXTRACURRICULAR ACTIVITIES IN HIGH SCHOOLS

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, critical components toward the successful development of students are: First, their ability to participate, and second, their actual participation in high school extracurricular activities. These activities, however great or limited, have proven their significance in establishing institutional identity, but more importantly, these activities have added a uniqueness, and have added a distinction, to that student's life.

To eliminate extracurricular activities, specifically sports, as has been proposed in some of Chicago's high schools and many, many high schools in our Nation, is the wrong approach toward balancing a distressed budget. High school sports are very much an integral part of a student's life.

During the course of investigative hearings by the Subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, expert witnesses underscored in their testimony the critical role of high school sports.

As recent as last Friday, September 25, 1992, at a sports braintrust workshop I cochaired in conjunction with the Congressional Black Caucus' Legislative Week, the executive director of the College Football Association pointed out that:

> According to the National High School Federation, approximately 5.3 million young people participate in high school athletics. Students who participate in activities, including music and drama as well as sports, tend to have a higher grade point average, better attendance records, and have fewer discipline problems, while experiencing a lower dropout rate.

He also pointed to a recent survey, by the University of Colorado, involving 6,799 high school students, that those taking part in extracurricular activities had an average GPA of 2.96 on a 4 scale compared to a 2.35 for nonparticipants.

He went on to emphasize in his testimony that, "perhaps the most impressive statistics is the study by the National High School Federation, revealing that 96 percent of the dropouts in high school have not participated in school activities."

I also agree with his view that:

> It is unfortunate that when school budgets are reduced, high school activities usually suffer from a disproportionate reduction in available funding. The net cost of funding high school activities, which includes band and drama as well as athletics, is between 1 percent and 3 percent of the high school budget. That is not much considering that 60 to 70 percent of students participate in some activities in many schools.

Mr. Speaker, as a mother and grandmother, and as chairwoman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, I think this country not only can afford it, but it must afford high school extracurricular activities; and that, Mr. Speaker, must include sports as well.

FAR-REACHING EFFECTS OF THE GAG RULE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, with the House's failure to override the President's veto, the gag rule now goes into effect. The Supreme Court's decision in Rust, the administration's muzzling of health professionals and the Congress' failure to stop it, will mark a stain on our country's proud history.

What is at stake goes far beyond the immediate issue of abortion. For what has now been countenanced is that some Americans—the poorest, most helpless among us—will now have basic information about their constitutional rights—just affirmed by the Court—and their medical options withheld from them.

Middle-income and wealthy Americans will continue to be properly informed of their rights and options in the face of an unintended pregnancy. But poor women will not. They will instead be lied to—by order of their Government.

The implications in terms of information control by the Government are endless and should concern every American, regardless of their position on the sensitive question of abortion.

This was not the proper ground on which to fight the abortion battle. We will look back upon this gag rule, Mr. Speaker, and say it began a process of destroying the relationship between the Government and the governed that in a free society must be based on good faith, truth, and candor. That has now become a victim in this unfortunate struggle.

TRIBUTE TO MARVIN FALL

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, I rise today to insert in the RECORD an article from the Concordia Blade Empire that pays tribute to a friend and public servant in Jamestown, KS, a community in my district.

I commend this article to the attention of my colleagues because in giving credit to local Jamestown Postmaster Marvin Fall, credit is certainly due and in a larger sense Marvin's example of public and personal service is typical of many fine postal employees who serve rural America so well.

Mr. Speaker, our U.S. Postal Service is going through a difficult time with regard to budget cuts, technological change and restructuring; and we hear a lot about that. I am sure those within the USPS will persevere and am hopeful we in rural America will survive the inevitable changes that are coming.

But, regardless of restructuring and cost cutting and technology let me again remind my colleagues that the Postal Service must rely on people. And, in this regard the example and career of Marvin Fall is exemplary of postal employees who have done an outstanding job, who care and who have been significant leaders and part of their communities.

Thank you Marvin, for the job you have done, for the example of personal service and for being a good friend to all who have come in your office and come out with a smile.

The article referred to follows:

[From the Concordia Blade-Empire, Sept. 28, 1992]

JAMESTOWN POSTMASTER RETIRES WEDNESDAY

(By Sharon Coy)

Marvin Fall, Jamestown, enjoys talking and helping people. In his 32 years with the U.S. postal service he has done a lot of both.

Fall, who has served as postmaster at Jamestown for the past 18 years, will begin his retirement after he is officially checked out at 9 a.m., Wednesday.

"It's been a great life," said Fall describing his postal service career which began in Jewell County when he was appointed postmaster at Montrose. He served there for 14 years before being appointed to Jamestown.

Fall said in Montrose he often delivered mail personally during bad weather, scooped snow, delivered groceries and checked on elderly residents to make sure they were okay. "I've always tried to help people," he said.

When Fall came to Jamestown in June 1974, his wife Carolyn took over his duties at the Montrose post office until it was closed the following December.

Fall, who was born and raised in the Montrose-Mankato area, is not the first in his family to have a postal service career. His grandfather, the late Joseph F. Fall, was the last carrier to carry mail from the Montrose office.

Prior to Fall's Montrose appointment, he served two years in the Army during the Korean War.

Fall said the income from his Montrose postal job was too low for him to make a living so he also worked nights at the packing plant in Mankato.

Since coming to Jamestown, Fall said he has made many special friends and that he particularly has enjoyed talking to some of the elderly widows who come to the post office. He said he always tried to take time to listen to their troubles or give them a hug.

He remembers one woman telling him she didn't have any time for a hug, she had an appointment, but he said she waited around for five minutes until she got one.

Fall's love for visiting sometimes put him behind in his work. "Sometimes I talked so much during the day. I had to come back at night to finish my work," he said.

At Jamestown, Fall also sometimes provided curb delivery service. If people weren't able to climb the steps, they could honk their horns and he would take their mail out to them.

Fall said probably the most exciting thing that ever happened during his years at

Jamestown was in the spring of 1987 when rural carrier Don Hutchinson was attempting to cross the Buffalo Creek bridge and his truck was swept off the road into flooding Buffalo Creek.

Hutchinson was pulled to safety by area farmers Greg Thoman and Dave Walker. A sheriff's vehicle towed the truck out of the creek. More than a thousand pieces of mail had been submerged. It was dried out at the Concordia post office and delivered. All the mail was recovered but one individual's bundle.

Fall has seen a number of changes since he came to Jamestown. What he notices the most is how the town's size has dwindled.

When he first came to work here, Jamestown had two restaurants, a newspaper, a beauty salon and wig shop, grade and high schools, a combination locker plant-hardware and appliance store, two gas stations, two individually owned elevators, two grocery stores and two bars.

The schools are now closed and except for the one elevator, the other businesses no longer exist. The post office has only 72 boxes, while at one time Fall was distributing mail to 158 boxes.

Fall said the town is so tame now that deer and foxes can sometimes be seen near its main street.

In spite of the fact that the town has grown smaller, Fall said he plans to continue to make his home in Jamestown after his retirement. He says he wants to do some work on his house and also hopes to do some traveling.

The Falls have three sons, Monte who works for the Flamingo Hilton and lives with his wife Jade in Reno; Kevin, who is a CPA in Dallas and married to the former Sheir Lanoue of Concordia and Jaime, who is a communications director in Washington, D.C. and is married to the former Tammy Harris of Concordia. They also have three grandsons. His family plan to honor him with an open house when they are all home in November for Thanksgiving.

Clearly, what Fall will miss most about his work is the people. "I don't know who they'll get to replace me," he said, "but they'll never find anybody who'll love the Jamestown people more than I do."

Betty Barrett, Jamestown, will be in charge of the Jamestown Post Office until a new postmaster is appointed.

NAFTA GOOD FOR AMERICA

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, the distinguished House majority leader wants to emasculate the North America Free Trade Agreement by pushing for a cross-border transaction tax as a condition for ratification of the pact. But the purpose of a free-trade agreement is to lower tariffs—remove taxes—on trade between countries, not create new ones. The majority leader seems to place new taxes ahead of job creation.

The majority leader claims a transaction tax is necessary to pay for the job-loss and environmental costs of NAFTA. What protectionist Democrats fail to mention is that NAFTA has been negotiated.

The agreement will include provisions to ensure that low-skill, low-wage, American workers harmed by the agreement will receive training for the high-technology high-wage jobs that NAFTA spawns. In addition, nearly every economist who has looked at the agreement predicts that hundreds of thousands of new jobs will be created by it.

And to our great shock, Governor Clinton is waffling away from his original support of a free trade agreement with Mexico. He supports the agreement—but with unspecified conditions. The crusade for free and open markets for American products appears to be another war Bill Clinton will decline to participate in. The chance to get a headstart on ripping the leather off of Americans' wallets, however, is a battle candidate Clinton enthusiastically enlists in.

Members should not be deceived by the false rhetoric of the majority party. NAFTA means more jobs at better wages and a cleaner environment for all of North America.

□ 1020

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair must admonish Members that under the 1-minute rule, 1-minute talks, they should be subject to the rules of comity in debate and should not cast personal aspersion on certain groups in the House of Representatives.

CONFERENCE REPORT ON H.R. 5677, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, October 2, 1992, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of Thursday, October 1, 1992, at page H10583.)

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. PURSELL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 5677, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise at this time to present the conference report on the bill, H.R. 5677, for the fiscal year 1993 appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies.

Mr. Speaker, on our subcommittee we have four members who are present today who have served all down through the years with diligence and honor who will not be with us when we begin the 103d Congress. Our ranking minority member on this subcommittee, the gentleman from Michigan [Mr. PURSELL], has been one of the best ranking minority members and one of the best members ever to serve on the Committee on Appropriations and on the Labor-HHS-Education Subcommittee. We are going to miss the gentleman from Michigan [Mr. PURSELL].

In addition to the gentleman from Michigan [Mr. PURSELL], as you know, Mr. Speaker, the gentleman from California [Mr. ROYBAL] will not be with us beginning with the 103d Congress. Not only does he serve on this subcommittee, but he is chairman of the Subcommittee on Treasury and Postal Service. We will miss the gentleman from California [Mr. ROYBAL].

In addition, the gentleman from New York [Mr. MRAZEK] will not be with us, another outstanding Member of the Congress and of our Committee on Appropriations.

And the gentleman from Minnesota [Mr. WEBER], a member of the full Committee on Appropriations and on the subcommittee that is now presenting the bill, will not be here; another good Member of the House and one that we will miss.

Mr. Speaker, at this time I would like for you and the Members to know that our chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN], one of the ablest Members who has ever served in the Congress, has always helped us with this bill, not only this year for the fiscal year 1993 appropriations, but for every year since I have been chairman of the subcommittee and for every year that I have served on this subcommittee, and we certainly appreciate his help.

Mr. Speaker, the conference agreement provides $241,292,000,000 for the three Cabinet Departments and 18 related agencies funded in this bill. Of this amount, $179,147,000,000 of the total amount is for mandatory programs such as Medicaid, Aid to Families with Dependent Children, and Supplemental Security Income. $62,145,000,000 is for discretionary programs. These totals are within our 602(b) allocation. Mr. Speaker, also, the total amount of this bill is under President Bush's budget request. This has been confirmed by the Office of Management and Budget.

We have had to make difficult choices in bringing this conference report to the House. All 242 amendments in disagreement have been resolved.

Some of our major programs in the bill, for instance, chapter 1, Mr. Speaker, we have $6,699,000,000; Pell grants, $5,998,000,000; Head Start, $2,779,000,000; Job Corps, $966,000,000; for Ryan White, we have a $72,000,000 increase over our 1992 funding. We have for tuberculosis control an increase of $58 million over our 1992 level, which brings the total now to $103 million.

Mr. Speaker, at this time I want to thank our friend, the gentleman from New York [Mr. SCHUMER], who has worked with us on this particular matter, not only this year but in previous years. Long before we started the hearings on our subcommittee, the gentleman from New York [Mr. SCHUMER] came to me explaining about tuberculosis not only in New York City but in the State of New York and all throughout this country. The usual medicines applying to tuberculosis, as we know it, do not work well on the new strain which is striking many people in their country. It is a serious matter. That is the reason why we have the increase that we do.

For breast, ovarian, and cervical cancer research, we have a substantial increase, and I would like to place in the RECORD at this point the name of all 29 of the ladies in this House.

HELEN BENTLEY, BARBARA BOXER, BEVERLY BYRON, BARBARA-ROSE COLLINS, CARDISS COLLINS, ROSA DELAURO, JOAN KELLY HORN, NANCY JOHNSON, MARCY KAPTUR, BARBARA KENNELLY, MARILYN LLOYD, JILL LONG, NITA LOWEY, and JAN MEYERS.

PATSY MINK, SUSAN MOLINARI, CONSTANCE A. MORELLA, ELEANOR HOLMES NORTON, MARY ROSE OAKAR, ELIZABETH PATTERSON, NANCY PELOSI, ILEANA ROS-LEHTINEN, MARGE ROUKEMA, PATRICIA SCHROEDER, LOUISE SLAUGHTER, OLYMPIA SNOWE, JOLENE UNSOELD, BARBARA VUCANOVICH, and MAXINE WATERS.

Mr. Speaker, not only this year but down through the years all of the 29 ladies in this House on both sides of the aisle have worked with us on this matter and what it means to the women of this country. I wish it was possible for me to go into every State with the ladies in this House, including the District of Columbia, and say to the women in this country, "Here is what the ladies in the House have done to help us with this matter."

Mr. Speaker, we have a total, as you know, here for the National Institutes of Health of $10,363,000,000.

When I became a member of this committee, we had $73 million for the National Institutes of Health. Now the amount is $10,363,000,000, and if I had my way it would be $15 billion. Here is where you ought to spend your money, take care of the health of your people, and educate your children, and you continue living in the strongest country in the world.

Mr. Speaker, here we have, as far as energy assistance is concerned, which is of great concern to all of our Members, $1,346,000,000 for 1993, and in advance, for the 1994 appropriation, $1,437,000,000.

We have discretionary funding in the bill for education of $23,157,000,000.

We have in this bill no earmarks. We have dropped the legislative proposals which were objectionable to our colleagues. As far as abortion, the conference agreement continues current law which has remained the same since 1981. The only exception, is if the life of the mother is endangered. The Senate receded on the issue of rape and incest in order to get the bill signed into law.

I have been approached by the chairman of the Committee on the Judiciary who is concerned about the proposed restructuring of the Refugee Resettlement Program. I want to assure the chairman that it is the understanding of the conferees that the Committee on the Judiciary should closely monitor the implementation of any program changes to insure, among other things, that any new program does not result in costs being transferred to State and local governments. Additionally, with respect to funds for refugee social services and targeted assistance, other than a 15-percent set-aside for Social Service funds, all of these funds are to be used by the States and counties.

The bill also includes $325 million in fiscal year 1993 for additional grants to States under the State Legislation Impact Assistance Program.

Mr. Speaker, it has been a distinct honor and a privilege for me to serve on this subcommittee, as I have said to you, with the other members of the subcommittee. We have an excellent staff on our subcommittee. They work day and night, month after month to assist us with this bill, and that not only applies to the subcommittee staff but to the entire staff on the full Committee on Appropriations.

Mr. Speaker, at this time I recommend this conference report to the Members.

□ 1030

Mr. Speaker, I reserve the balance of my time.

Mr. PURSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take a couple of minutes to personally address the members and staff of this great committee, a committee that I love dearly: BILL NATCHER, you have been a great mentor for me and a great chairman, an outstanding representative of the United States, and I am proud to serve with you as the ranking member on this subcommittee.

Also, I would like to say to the gentleman from Illinois [Mr. PORTER], who may be the new ranking member on this subcommittee, I congratulate him for taking that leadership in January. I wish you, JOHN, the best on our side of the aisle.

I also want to thank some of our senior Members with whom I have personally worked over the years. JOE EARLY, the great leader on the National Institutes of Health. I said someday NIH ought to put a bust out there of JOE EARLY for all of his tenacious work, for all of the institutes out there.

JOE, I want to wish you the very best.

To NEAL SMITH, the second Member, the senior member on the majority, for his common sense and wisdom and understanding over the years. NEAL, I wish you the very best and I thank you for your leadership. He is also another cardinal and has been very helpful on this subcommittee for me, particularly on education.

ED ROYBAL is also leaving. He has been a terrific consultant, I have worked with ED on some programs, and I wish him well in this retirement.

BILL YOUNG, also on our committee, I wish him the very best on the bone marrow transplant program, where his leadership nationally has been outstanding.

We are also going to lose, on our side, VIN WEBER who has made major contributions in the rural programs for Minnesota.

I also want to thank our staff.

To Mike Stephens, who has been a leading expert nationally, and certainly a consultant for us. Mike, I want to thank you for your leadership as a senior staff person.

Bob Knisely, I want to thank you for your leadership and for your great advice and help to me personally over the years. Also, to Mark Mioduski, who is relatively new to the subcommittee. Also to Susan Quantius for your leadership, advising us on our subcommittee. John Blazey, on our Appropriations Committee staff, I want to thank you for your help over the years.

Kevin Kraushaar, I want to thank you for your leadership in my office and for your leadership on this bill. Kevin is a young attorney who has given me great advice and wisdom.

Dr. David Recker, who is going on to take a big job in research. Dr. Dave, I want to thank you for your leadership, and for helping me with this bill.

This is a great conference report, Mr. Chairman. It is a tight one. I think it is only 2 percent over last year. I support this conference report and was happy to sign the conference committee report.

Our discretionary spending is $61 billion, broken down into three major departments of Education, Labor, and

Health. From fiscal 1992 it is up only 2 percent, but it is a tight bill, a clean bill.

We saw only one delayed obligation this year, in the low-income fuel. Mr. Chairman, I congratulate you. The House bill had no delayed obligations. I recommend to OMB and the Senate that they not have any delayed obligations next year, and that we eliminate this one. I hope that can be a goal for 1933.

Mandatory spending, $179 billion, is up 13 percent.

Mr. Speaker, that is where the deficit problem is, in the mandatory program which we have little control over as a subcommittee.

The conference report contains $680 million for delayed obligations, and obviously that is going to be the problem for next year.

I also want to mention the education problems. Secretary Lamar Alexander's programs went unauthorized. It was unfortunate for us as a subcommittee that we could not seriously debate a lot of the education programs that the administration had proposed that were obviously good policies.

Because of the fact that new programs were not authorized, the education budget is relatively business-as-usual. There are no new major ideas in this education budget. I hope we can maintain a policy of local State control of education and watch very carefully the mandates that the special interests, particularly the NEA, are trying to force on local education. I think that is very bad policy. I hope Chairman FORD and others keep a watchful eye on the importance of local education and local control.

Our college student financial aid is up to $7.4 billion. We have a major shortfall in that area and we have got millions of young people who want to go to college. I think the committee over the years has bent over backward to accommodate that basic need in our society.

The National Institutes of Health is one of the favorite programs in our committee. I think it is severely underfunded. We need to look at the budget priorities of this Nation. The space program, which we debated heavily this year, is funded at about $15 billion. We are only giving the National Institutes of Health $10 billion. I really think that priority ought to be reversed. I hope that Congress, in the oncoming years, will look at an opportunity to really set national priorities, and triple the increase in the National Institutes of Health for research in cancer, heart disease, lung disease, diabetes, Nursing Research Center, and others. There exists an opportunity to really break through on the needs of our people with major diseases and chronic illnesses that need the help of this Nation.

AIDS funding has accelerated dramatically. We have spent over $16 billion since 1981 on AIDS.

With due respects to Magic Johnson, who recently quit the AIDS Commission, criticized President Bush, I think he should realize that we put over $2 billion in AIDS in this bill. There is more money for AIDS than there is for heart disease, cancer, and other killers. Although AIDS ranks only ninth in the top 10 killers in this Nation. It is a very important issue.

We have got major killers ahead of it, and I hope the committee, in the coming years can have some restraint and address the other pressing issues facing the health of our Nation.

This is an outstanding bill, and I recommend it to you today.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I want to congratulate the gentleman from Kentucky [Mr. NATCHER] and the gentleman form Michigan [Mr. PURSELL] for the fine job they did along with my other colleagues on the subcommittee in bringing out this conference agreement.

Mr. Speaker, this conference agreement includes funds for all phases of education, both higher and secondary, including universities, colleges, and community colleges, vocational education, disadvantaged education, adult education, and historically black colleges, including Mississippi Valley State University at Itta Bena, MS.

It is directed to meeting the health and other needs of our people and our country. We must look after the people's health and education.

It is encouraging to see our subcommittee under the chairman of the gentleman from Kentucky [Mr. NATCHER] give attention to Americans and America. We have got to give our country that attention, because our country is what all of our money is based on. An educated, healthy population, with adequate housing, food, and nutrition from a strong agricultural base, provides the foundation for our national strength and future.

Mr. Speaker, ours is a great country. We need to take care of all of it in order to maintain a strong, healthy nation. I assure you no chairman and no subcommittee does a better job than BILL NATCHER and the members of this subcommittee.

Mr. Speaker, I urge this conference report be adopted.

Mr. NATCHER. Mr. Speaker, at this time I yield 3 minutes to the gentleman from Iowa [Mr. SMITH], who not only serves on this committee but is chairman of the Subcommittee on Commerce, Justice, State, and the Judiciary of the Committee on Appropriations.

Mr. SMITH of Iowa. Mr. Speaker, I support this conference report. I want to point out the amount of work that is represented in this conference report. I do not think very many realize it.

This conference report contains 242 amendments that represent differences between the House and the Senate; 242 differences. This bill has been worked on all year, especially by the gentleman from Michigan [Mr. PURSELL] and the gentleman from Kentucky, the chairman of the subcommittee [Mr. NATCHER]. It is a tremendously big bill. It represents months and months of work.

I commend the gentleman from Michigan [Mr. PURSELL] and also the others who are leaving the subcommittee for their sizable contributions and important work the gentleman from California [Mr. ROYBAL], the gentleman from New York [Mr. MRAZEK], and the gentleman from Minnesota [Mr. WEBER]. They have all been valuable members and have worked together with the staff on this bill.

But this bill happens to also be an example of something else. Just last night the President signed a big energy bill. It included the super collider and there are other bills that will be taken up the next couple of days, such as the foreign aid bill which do not include as much funding as the President requested.

The President wanted more money for the super collider than was included in that bill. He also wants $1.2 billion more for foreign aid than is in that bill. If we had a line item veto or if we were operating under the bill to be voted on later today called a rescission bill, after all this work that has gone into these bills, after they have been reduced and balanced out, the President could submit 100 rescissions, for example, and say, "Until you appropriate more for foreign aid and the super collider, you are not going to prevail on the items your constituents think are more important."

□ 1040

That kind of pressure should not be available to the President of the United States, no matter who he is. It would result in more deficits, in higher appropriations annually than we have at the present time.

He could say no more money for PBS than he asked for, and there is $45 million more for PBS than he asked for.

He could zero out other programs and say, "Until the Congress appropriates all the money I want for the super collider, and until I get all the money I want for foreign aid, the funding for several popular programs will be rescinded." That would increase the deficits, and is not the way we should proceed. That rescission bill will come up later today.

Just as an example, the President could submit on this bill a hundred different rescissions and tie us up for 3 or 4 weeks, because under the House rules Members are entitled to an hour of debate on each one of those rescissions. He could tie us up for 3 weeks around here until we give in to give him the additional $2 billion for foreign aid and the super collider he requested or whatever program it is that is his pet program, after we worked all year to trim these bills.

So I recommend this bill to us today, and I also hope that we will vote against that rescission bill when it comes up later today.

Mr. PURSELL. Mr. Speaker, before I introduce my second ranking member, I yield 1 minute to one of the senior members of the Committee on Appropriations, the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I thank my friend for yielding me this time.

I concur with what our friend, the gentleman from Iowa [Mr. SMITH] just said. Certainly I am one of the few Republicans, I guess, that is opposed to the line item veto. I do not want this President or a possible President Clinton to have that line item veto. Any President I do not think should have that authority to override the judgment, the experience, and all the work that the House of Representatives and the committee put into it.

Mr. Speaker, I rise today in support of this conference report, with some regret.

I regret, first, the administration did not request enough for cancer research. Cancer is the No. 2 killer in this country, second only to heart, a very close second and growing more rapidly. I wish we had more money for cancer research in this.

I know the chairman next year will be working very hard. We are going to be supporting him to add to this and to fully fund the need for cancer research. I do appreciate what is in this bill. I only wish there were more.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Speaker, I am going to revise and extend my remarks extensively on the NIH.

I want to congratulate the gentleman from Kentucky [Mr. NATCHER], and especially the gentleman from Michigan [Mr. PURSELL] since he is leaving in the staff of this particular committee.

Let me say through the Speaker, what is so important about this bill? In my opinion, this is not a good bill. It is the best we could get for the money that was available, but it is not a good bill.

The gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] have followed the process with the dollars in this bill and what the testimony was before the committee, the opportunities that are available.

I commend the two leaders on this committee with regard to putting $2.8 billion in funding for fuel assistance. There is $1.5 billion allowed for this particular year just to keep up with fuel assistance.

But my reservation, Mr. Speaker, is with regard to the NIH.

I especially want to thank the gentleman from Michigan [Mr. PURSELL]. He brought the nursing training back up to where it was a year ago. Without his insistence, we would not have had that; but in the NIH in the United States Congress, this is the first time I can remember in my 18 years on the committee, we are less than the President of the United States requested in each and every institute, $216 million less than the President's request.

As we come to a time where the opportunities are so great, where this committee listened to the testimony specifically about cystic fibrosis, we have tested a therapy in animals that has been effective in each and every animal. The Heart and Lung Institute is going to go for the rack board late this year. By April of next year, with their approval, we will be testing cystic fibrosis therapy in human beings. It will give us a process that will be used in each and every disease; yet this particular bill is $216 million less than the President's request in NIH.

We are not making available the opportunity as the gentleman from Iowa [Mr. SMITH] just said. We are putting billions of dollars into a super collider, the new space station.

The research is at our fingertips, what we can do with cancer.

We have to thank the other body for breaking down the walls, which we could not do in this House. We are going to put $200 million from Defense Appropriations into women's diseases. Each and every one of us should be proud of that, but we must look at what is not in this bill. It is not because of Chairman NATCHER. He bent the Budget Committee time after time to get a bigger allocation for this specific thing. As he just said in his statement, if he had his way, it would be $15 billion.

The problem is the diseases that are facing this country are solvable. We must look to see what the NIH does this particular upcoming year with regard to cystic fibrosis.

I suggest, because of the testimony I have heard, not because of me, but because of what I have heard, that we are going to have a major breakthrough, and those are the type of things we can have with this type of budget in each and every institute.

For the first time in the history of the Congress, we are less than the Presidential request.

Mr. Speaker, I rise in support of the conference agreement on H.R. 5677, and ask permission to revise and extend my remarks.

I want to congratulate the gentleman from Kentucky, and especially the gentleman from Michigan since he will be leaving this committee and the House. They have done an excellent job under very difficult circumstances.

Let me say though, that in my opinion, this is not a good bill. It is the best we could get, given the funding allocation we had to work with, but it is not a good bill.

We should be investing more resources in the areas of health, and education and research. As the chairman has so often said: This is the people's bill. It is the bill that can help make a difference in the lives of children and families—indeed in the lives of all citizens.

The gentleman from Kentucky and the gentleman from Michigan have followed the process in allocating funds in this bill and took into account the testimony before our committee about the needs that exist and the opportunities that are available.

I commend the two leaders of this committee for providing a $2.8 billion 2-year funding package for the fuel assistance program. The agreement provides a $1.5 billion program level for this year—fiscal 1993—$500 million higher than the President's request. The bill will provide help to millions of low-income families and elderly individuals who will need assistance in paying their heating costs this winter.

It also includes $1.44 billion in advance funding to convert LIHEAP to a forward funded basis. For cold weather States, such as Massachusetts, whose fuel assistance programs begin in October, the advance funding is particularly important. It will mean a more timely and effective program.

I especially want to thank the gentleman from Michigan for his fine work. He brought funding for nurse training programs back up to where it was a year ago. Without his insistence, we would not have had that.

My reservation, Mr. Speaker, is with regard to the National Institutes of Health. In my 17 years on the committee, this is the first time that I can remember being under what the President of the United States requested in each and every institute. We are $216 million less than the President's request.

We have come to a time when the opportunities are so great. This committee heard testimony about an exciting opportunity in cystic fibrosis research. Researchers have tested a therapy in animals that has been effective in each and every animal. The National Heart, Lung and Blood Institute is going to go before the review board later this year for final approval for clinical trial. With the board's approval, by April of next year NHLBI will be testing a cystic fibrosis therapy in human beings. It will give us a process that will be used in many, many diseases.

Yet, this bill provides $216 million less than the President's request for the NIH. We are not taking advantage of the opportunities available as the gentleman from Iowa just said. We are putting billions of dollars into a super collider, the manned space station.

The research breakthroughs are at our fingertips.

We have to thank the other body for breaking down the firewall, which we could not do in this House. We are going to apply $200 million defense appropriations into research on women's health. We should be proud of that, but we must look at what we are not doing in this bill. It is not because of the chairman. He went to the Budget Committee time after time to get a larger allocation for medical research. As he just said, if he had his way, NIH would be funded at $15 billion.

The problems of conquering the diseases that are facing this country are solvable. We must look to see what the NIH does in the upcoming year with regard to cystic fibrosis.

The testimony I have heard, what I have heard, leads me to believe that we are going to have a major breakthrough. And, this is what we can have within each and every institute with adequate resources.

However, the funding level is inadequate to take advantage of the array of promising opportunities before us. The number of new and competing grants, and the number of grants overall, to find the cause and to prevent and treat so many diseases will decline. A few years ago, NIH was funding over 6,000 new and competing grants. This year, the number will drop to about 5,000, and possibly less. NIH used to fund over 30 percent of approved research grants. Now, it will fund less than 25 percent, and some institutes will fund less than 20 percent.

New drugs and therapies ready for clinical trials will not be tested. We will not be able to translate our new knowledge into new drugs and treatment modalities to improve the health and quality of life for our citizens.

We will not be able to make the kind of progress that we can and should make in unraveling the mysteries of Alzheimer's disease, breast cancer, prostate cancer, AIDS, and so many more diseases. To win these battles, we need to charge, not retreat, not tread water.

Mr. Speaker, I hope that we will do much, much better next year.

Having said this, I would like to point out that the bill gives special attention to a number of programs important to children, families, and women's health.

The agreement includes $375 million for the community services block grant program. The budget request proposed to terminate this program which helps local community action agencies to provide a range of services to low-income individuals. These funds will enable CAA's to continue to run fuel assistance programs and provide housing, health and emergency services to families and individuals in need of assistance.

The conference agreement gives special attention to the health needs of women and children. It emphasizes preventive and primary care—programs that we know work and save money in the long run.

The bill includes $341.7 million for the Childhood Immunization Program, a 15-percent increase.

It includes $664.6 million for the maternal and child health block grant and $79 million for the Health Start Program—programs which will improve pregnancy outcomes and help reduce infant mortality.

The bill provides a 45-percent increase for the Breast and Cervical Cancer Screening Program.

For the Family Planning Program, the bill provides $173.4 million, a 16-percent increase. For many women, this program is their only source of health care.

There is a $571.2 million increase for the Head Start Program, to help more children become ready for school and achieve their full potential.

An 8.2-percent increase has been provided for the child care block grant.

The Substance Abuse Treatment Program and the Ryan White Care Program also receive an increase in funds.

Mr. Speaker, there are many programs in this bill where we should be investing greater resources—where we wanted to do more. I hope that we will do so next year.

Mr. PURSELL. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER], our second-ranking new Member next year.

Mr. PORTER. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I want to commend my chairman and the staff on both sides of the aisle for the hard work they have put into this bill. We are very proud of our able, expert staff, that worked so hard for us.

I also want to commend my colleague, the gentleman from Michigan. First, let me thank him for his kind words, but I actually would become ranking on two of my subcommittees. No decision has been made in that regard as yet. It would be the call of our ranking member on the Appropriations Committee as well.

Our colleague, the gentleman from Pennsylvania [Mr. GOODLING] reminds me that it takes a vote of the conference besides that.

So I thank the gentleman from Michigan [Mr. PURSELL] for his thoughts.

Let me say that the gentleman from Michigan [Mr. PURSELL] has been, and his constituents, of course, know this, but everyone should know it, the career of the gentleman from Michigan [Mr. PURSELL] has been part of the solution to our country's problems, and not part of the problem.

I have to say, Mr. Speaker, that there are many people here who are part of the problem, but the gentleman from Michigan [Mr. PURSELL] has been part of the solution. He has come here to govern, not just to express his philosophy over and over again at the opposite side, but to take responsibility for the bottom line, to make the tough decisions that it takes to make this country work. We need more people like the gentleman from Michigan [Mr. PURSELL] in this Chamber. We wish him well in his retirement. We are going to miss him a great deal. He has been an outstanding Congressman for his constituents and for our country.

Mr. Speaker, this bill, as our chairman often says, is a good bill, but there are exceptions. One of the exceptions that I am most profoundly disturbed by is once again our underfunding of the Account for Impact Aid. The Department of Education is responsible in effect for paying the tuition for the children of military personnel who attend local schools and are required by law to be educated by them, and yet for years now, this is probably the fifth or sixth year in a row, Impact Aid has been going down as a priority, and this year is no exception. Mr. Speaker, it is less this year than it was last year and this simply cannot continue.

It is inevitable, Mr. Speaker, that schools will eventually go bankrupt as we underfund the account and fail to provide to them the resources that they are entitled to have to educate children of military personnel. The first ones to be hit are the best schools, those that provide the most help for children, spend the most money and provide the best quality of education to them.

And who has been hurt? Two of my school districts are going bankrupt. The one at the Great Lakes School District 187, a consolidated district, is going bankrupt. It will close its doors at the end of the school year.

Another in my district at Fort Sheridan, District 111, is also going bankrupt. Both of them have spent a great deal of money to educate the children in their districts. Their tax efforts are the highest among many high-tax effort districts in the area, and yet each one every year increasingly is going more and more into debt until they are reaching the end of the line because the Federal Government is failing to provide what ought to be an entitlement. It is in the nature of a contractual obligation, a fair share of the funding to educate those children.

□ 1050

Mr. Speaker, in the House I was able to put in, with the support of my chairman and my ranking member, an emergency provision for school districts like these in my district that are going under that will set aside $10 million of the total appropriation, not new money, but would set aside $10 million so that it could be paid to districts who meet the criteria and are most in extremis.

Unfortunately, the Senate did not put the same provision in the Senate version of this bill. Failure to put that provision in meant that it went to conference, and the Senators did not support the amendment, and so school districts like mine who are in very difficult straits will not receive support this year that they need to stave off bankruptcy.

The Senators said, Mr. Speaker:

> There is no support on our side for an amendment like this.

That is going to come back to haunt them because, not only my school districts, but others across America, are going increasingly into debt. Eventually this problem is going to break upon us.

What has to be done is get the funding up for this obligation; what has to be done next year is to provide new formulas so that school districts that have high tax effort and high costs for quality education are rewarded proportionately more than those that have very close costs and do not put in a great tax effort to support their local schools.

This is an ongoing problem, Mr. Speaker. It must be handled. The bill failed to do so. It is an exception to an otherwise good bill, and we must take action to solve this problem.

Mr. Speaker, I also want to draw attention to another provision of the conference report which I believe is very important for the future of health care. During the conference on this bill, I offered report language to direct the creation of an Office on AIDS at the new Substance Abuse and Mental Health Services Administration [SAMHSA]. We agreed in the conference that on this issue we would not try to legislate on an appropriations bill, nor did we want to micromanage the activities of the new agency. Instead, we modified the language I offered to encourage the establishment of an AIDS Office with direct programmatic responsibility for several programs currently administered in other offices at SAMHSA.

The sad reality motivating this effort is the horrible AIDS epidemic which is killing Americans everywhere. The spread of AIDS has exacerbated underlying social problems like substance abuse and has profound mental health implications. I believe that SAMHSA's predecessor could have taken a greater leadership role on HIV disease. I believe the creation of a new agency—SAMHSA—offers a new opportunity to focus attention in the drug abuse and mental health community on AIDS.

I am extremely impressed with Dr. Elaine Johnson's leadership in making the transition from the old Alcohol, Drug Abuse and Mental Health Administration [ADAMHA] to the new SAMHSA structure. I understand that Dr. Johnson has committed to establishing an Office on AIDS within the Administrator's Office, and I hope that SAMHSA will accept the urging of Congress to assign direct programmatic responsibility to the new office. While I appreciate the good will of the agency staff in addressing AIDS comprehensively at the new agency, I am concerned that we establish an agency structure to ensure that AIDS remains a high priority at SAMHSA well beyond the next administration.

I understand that the Office on AIDS is supported by a wide range of outside groups including the American Psychological Association, the AIDS Action Council, the American Psychiatric Association, and the Therapeutic Communities of America. These groups support creation of an office with programmatic responsibility.

Under my proposal, three specific programs would be assigned to the new office: outreach demonstrations to injecting drug users not in treatment, AIDS mental health clinical training, and AIDS mental health service demonstrations. In addition, the new office would have a policy setting function, an administrative coordinating function, and any additional programmatic responsibilities deemed appropriate by the Administrator of SAMHSA.

For several years Congress has funded outreach demonstrations to promote HIV prevention among drug users not in treatment. These demonstrations indicate that outreach works to get drug users into the public health system and many into treatment. As a result, these individuals reduce their own high-risk behaviors and limit behavior that puts others as risk of infection.

This program, which has demonstrated effectiveness, has been cut from a high of $50 million to only $10 million in this fiscal year. Because of the funding constraints and administrative problems including the transition of the program from the National Institute on Drug Abuse [NIDA] to the Office of Treatment Improvement [OTI], many drug abusers who would otherwise have been engaged in the public health system and prevention activities have been irrevocably lost to shooting galleries and ultimately to HIV infection.

While OTI, which focuses on drug abuse treatment through outreach, and the HIV prevention demonstration for drug abusers not in treatment often produce complementary results, they do not focus on the same goals. As a result, the HIV demonstrations have not been as effective in reducing HIV transmission among drug abusers as they might otherwise have been.

Many substance abuse service grantees engaged in outreach efforts strongly support the establishment of an AIDS Office in the SAMHSA Administrator's Office with responsibility for program administration of the outreach effort. I have a copy of a letter to Dr. James Mason, the Assistant Secretary for Health from several outreach project directors, including those from Chicago, Dayton, Denver, Miami, New York, and San Francisco. These grantees believe that a more equitable balance between HIV prevention goals and drug abuse treatment goals will improve the effectiveness of HIV prevention programs.

These HIV prevention programs are not at a critical juncture. I believe these programs should be administered from an office which focuses first on AIDS. This office should be provided with responsibility and resources adequate to the task. Such an effort might include transfer of HIV prevention outreach staff from OTI to the new office. I do not believe Congress should simply saddle the Administrator with new responsibilities without transferring the resources to effectively carry out those new responsibilities. In addition, such a transfer of resources and personnel would provide the HIV prevention outreach programs with internal agency advocates who identify with the objectives and goals of the program.

I am also concerned about the level of support provided by Congress and ADAMHA for aids-related mental health services. As far as I am aware, the Federal Government provides no programs specifically focused on mental health demonstration programs, service system evaluations, dissemination activities or ongoing AIDS mental health service delivery. I am particularly concerned about this situation because many of the gravest problems facing HIV-positive individuals initially involve mental health issues such as adjusting to life with a chronic but terminal and highly stigmatized disease and frequent bouts of debilitating illness.

During consideration of comprehensive AIDS legislation in 1987, the House overwhelmingly adopted a floor amendment authorizing a demonstration program to look at the efficacy of mental health interventions. The demonstrations were passed as section 2441 of Public Law 100–607 and subsequently reauthorized in the ADAMHA Reorganization Act (Public Law 102–321) in section 118. Congress indicated its further interest in these kinds of activities in the Statement of the Managers of the Conference on the ADAMHA Reorganization Act which stated that the new agency would be responsible for "appropriate mental health services for individuals with [HIV] illness."

These congressionally approved mental health interventions should assist the prevention of HIV transmission and the reduction of severe mental health complications that often attend knowledge of HIV infection. However, these demonstrations have never been funded. By assigning this activity to the new AIDS office, I hope that the Administrator could begin the process of initiating these important demonstrations. In addition, I look forward to the possibility of an administration request for mental health demonstration funding in 1994 and issuance of an RFP for applications for competitively awarded grants.

I commend the administration for its efforts regarding AIDS mental health training for health care providers. This program brings a compassionate understanding of the social and psychological issues that face the HIV infected to psychologists, psychiatrists, social workers, peer counselors, and other service providers who may care for HIV positive individuals but who might not otherwise understand the special mental health problems associated with HIV. This program has shown a high degree of success in providing innovative training opportunities and making a lasting impact on HIV care providers.

Unfortunately, as with the outreach programs, AIDS mental health training programs have not, in my opinion, had the ongoing support they deserve. For 1993, the program is funded at just over $3 million, enough to fund eight competitive awards for general training around mental health issues, four renewals and two contracts to national organizations for training of providers across the country in psychology and psychiatry. Despite the efforts on the part of this program to address new concerns in AIDS such as new rural AIDS cases and women and children with HIV, it still must struggle to meet the demands placed upon it.

During a recent grant review, awards to applicants were reduced arbitrarily by half in order to increase the number of training program awards. Clearly, this approach is less than satisfactory, and I hope the administration will submit a 1994 funding request commensurate with the need for these services and will consider the need to transfer the necessary personnel and resources to the new Office on AIDS to assure continued smooth program administration.

The new office must address other needs as well, such as the AIDS mental health needs of the severely mentally ill including primary prevention and education and the needs of HIV positive individuals with psychoneurological complications.

I believe that as a part of the Public Health Service response to AIDS, the new office can play an important leadership role in providing policy direction to the field, providers and the general public in the areas of AIDS substance abuse and mental health. By working with State and local providers, State substance abuse and mental health service agencies, community-based AIDS service providers, and service providers in private settings, the new office should have an important role in directing national attention to the problems of substance abuse, mental health and AIDS. The staff of the new office would also play an important role in supporting a SAMHSA National AIDS Advisory Panel, which should be reconstituted.

Staff in the office should be assigned responsibility to coordinate all of the HIV activities with SAMHSA. Centers would continue to have responsibility for AIDS as a component of their other programs. Only AIDS specific programs as identified above would necessarily be administered by the new office.

I believe that the reorganization of ADAMHA provides a real opportunity to focus attention on critically needed HIV mental health and substance abuse services.

As a member of the Appropriations Subcommittee on Labor, HHS, and Education, I will continue to work with the new agency and the new office to ensure that they have the resources they need to carry out these very important activities.

Mr. NATCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank the distinguished gentleman from Kentucky [Mr. NATCHER] for yielding me this time, and I would appreciate his engaging me in a colloquy.

I understand from the conference report that the conferees intend to allow, but have not endorsed an office of refugee resettlement plan to implement a program of interim income support, case management and employment services for newly arriving refugees.

Is it your understanding that all refugees who are not eligible for AFDC and SSI will receive resettlement assistance and services through this program if it is implemented?

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, the gentleman from California [Mr. EDWARDS] is correct.

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman, the gentleman from Kentucky [Mr. NATCHER].

Is it your further understanding that if the proposed program is implemented, that the termination of the existing cash and medical assistance program occur only after a proposed regulation is published and all comments are carefully considered in developing a final regulation for the termination, and that there must be assurances of continuity of refugee services during transition?

Mr. NATCHER. Mr. Speaker, the gentleman is correct.

Mr. EDWARDS of California. Finally, is it the gentleman's understanding that with respect to medical care, the conference report requires the Secretary, 30 days prior to implementation of a new medical program, to certify that such a change would provide the optimal medical care possible to newly arrived refugees with the resources available, and be generally comparable to the level of care that is currently provided to refugees under Medicaid?

Mr. NATCHER. The gentleman is correct.

Mr. EDWARDS of California. Mr. Speaker, I thank the distinguished chairman who has always been so cooperative on these very sensitive matters.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I know that some Members are saying, "Gee whiz, this bill simply doesn't do enough for health, it doesn't do enough for job training, doesn't do enough for education," and that is absolutely right. but I think we have to ask why, and the reason that it does not is very clear.

Mr. Speaker, the existing budget rules require that the budget be handled in three separate envelopes, separate envelope for foreign aid, separate evelope for defense, and separate envelope for the rest of the budget, the domestic budget. We are precluded by law from taking any of the savings that we have achieved in either foreign aid or the defense budget and transferring them to very high priority domestic programs.

Until that is changed, Mr. Speaker, we are going to continue to underfund, desperately underfund, the investments that we have to make in this bill, and two others that come before the House, in order to increase the future economic strength and job growth of this country.

So, I think that it is fair to say that every Member who voted against the so-called walls bill to bring down those walls slightly and allow us to transfer some portion of those savings into this area guaranteed that whatever bill was produced here today would be inadequate. I think we need to understand that, and I think the Members need to understand that, if they want true economic change, if they want to free up the ability of this Government to finally begin making the investments necessary, to strengthen our economy by increasing the investments we make in kids' education, increasing the investments we make in science by way of health research, increasing the investments we make in the quality of our work force by strengthening job programs the way they need to be strengthened, none of that will happen without a change in the budget rules to allow us to transfer some of those savings into these areas.. And that has to be the top priority of this Congress under whoever is elected President, if we want to keep faith with the people's desire to see a decent living standard for most working families through the rest of this century.

Mr. PURSELL. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. YOUNG], the outstanding leader in Florida, and the national leader as well, on bone marrow.

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of the bill, and I would like to say, Mr. Speaker, to our colleagues that I did not think anyone would ever take the place of our very colorful, lovable former colleague, Silvio Conte. He was just too unique. But as the ranking member on this subcommittee, Mr. Speaker, the gentleman from Michigan [Mr. PURSELL] has done a real outstanding job, and he moved into the vacuum created when Silvio died, and has just taken on that position and done a wonderful job. The Congress, the committee and the people of America are going to miss having CARL PURSELL here in Congress, working on these issues that are so important to all Americans.

This bill is directed to educational interests and to medical interests, not only for today, but for the future.

Mr. Speaker, I wish I had enough time to talk about all of the good things that I see in this bill. There are some areas where I would have liked to have seen more done, but there just was not enough money to go around. One of the main programs that I am involved with in this bill is the national bone marrow transplantation program, a program that has already been established as a medical miracle, and, as researchers continue their work in the field of studying bone marrow and what can be done medically through the use of bone marrow transplants, we are finding that the medical world might open up dramatically, even more than it has, by using the process of bone marrow transplantation.

The secret, though, is that to have the bone marrow transplant, the patient, who would die otherwise, has to have a donor, and the members of this committee and this Congress have been totally supportive of our efforts to establish the registry, which is now fully operational and cooperating with other registries around the world that have been patterned after ours. In our national registry alone we are approaching 700,000 persons who have been tested and typed and have put their names in the national registry as potential donors.

As my colleagues know, one of those donors was our own colleague, the gentleman from Florida [Mr. JAMES], who became the first Member of Congress to be a bone marrow donor, and I think those of my colleagues who know him think his life has been changed because he gave a second chance for life to another fellow human being. I am real proud of him and all the Members who have become part of that registry.

I want to thank all the Members for their tremendous support of this program: The gentleman from Kentucky [Mr. NATCHER], the gentleman from Michigan [Mr. PURSELL], the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from Pennsylvania [Mr. MCDADE], the people who in their leadership roles have supported all of our efforts to make sure that this program works.

☐ 1100

This bill helps to fund that program.

Mr. Speaker, I say again that this is a medical miracle, and every Member of this House can be proud of the support they have given to it and the fact that we have given many Americans a second chance for life when before they had none.

In other areas, our committee had to make some very difficult decisions. While mandatory spending in the bill increases by 13 percent over the 1992 level, our allocation only allowed discretionary spending over which the committee has control to rise just 2 percent.

In evaluating our committee's priorities, we made some very good decisions. Funding for Head Start will increase by $577 million over the 1992 level to $2.8 billion. This is a 26 percent increase. Federal child care assistance will increase by $68 million or 8 percent. And the committee has increased fourfold the amount of funding available to track and treat the rising number of tuberculosis cases, including a virulent new strain that has proven difficult to treat by existing means.

In other areas, however, our committee did not take strong enough actions to provide preventative help to our communities. Although the committee increased funding available to purchase doses of vaccines for distribution to disadvantaged children by $45 million or 15 percent over 1992 levels, we took a major step backward in supporting the organization charged with seeing that children actually receive their vaccines on schedule.

It is shocking to learn that more than half of our Nation's 2-year-olds living in urban areas do not receive their vaccinations on time. The United States ranks far below India and a number of other lesser developed countries in the percentage of children who are vaccinated on time. The National Vaccine Program was established by Congress in 1986 to coordinate the fragmented system by which the Federal Government seeks to distribute vaccines. Thirteen agencies within the Department of Health and Human Services, and three other Departments, play a role in distributing the vaccine as well as in promoting vaccine safety and speeding the development of new vaccines. Prior to the creation of the National Vaccine Program, there was no overarching program to coordinate the activities of these agencies, many with different agendas and sometime conflicting goals.

The National Vaccine Program, with what is minimal Federal support in relation to the amount we spend to procure vaccines, has had a major impact in determining the problems of our vaccine distribution system and in charting a plan for its improvement. A wide range of public health associations support the program including the American Academy of Pediatrics, the American Medical Association, the American Nurses Association, the Association of Junior Leagues International, the Association of Maternal and Child Health Programs, the Association of Schools of Public Health, the Children's Defense Fund, the March of Dimes, the National Association of Children's Hospitals, the National Association of Counties, and the United States Conference of Mayors.

Mr. Speaker, it is my hope that my colleagues will take another look at this program in the upcoming year to better understand why we must find a better way to ensure that every child is immunized by the age of two. There is no reason why the children of the greatest industrialized nation of the world should not be immunized against totally preventable diseases such as measles, mumps, and whooping cough.

Another preventative program that our committee seriously underfunded is the National Youth Sports Program. This is a program which provides 71,000 disadvantaged youth with the opportunity to spend time on a college campus to encourage them to stay in school so that they might one day pursue a college degree. For most children in the program, this is the first time they will ever be on a college campus.

The National Youth Sports Program is really a misnomer because it involves so much more than sports instruction. While sports may be a way to interest children to participate in the program, once there they receive physical exams; hot lunches; sex, drug, and AIDS education; career discussions; and in the past 2 years an impressive program of math and science instruction from college professors utilizing college facilities and resources.

I have visited with the children who have participated in the National Youth Sports Program in my district at the St. Petersburg Junior College and have been overwhelmed by the excitement and enthusiasm of the children.

For every $1 million we add to this program, we can open the eyes of 6,000 children to the importance of staying in school and getting a high school diploma and college degree. We can show them not only what school has to offer but how learning can be exciting and enjoyable. At an average cost of just $150 per child, we can take important steps to prevent many children from dropping out of school, from giving in to the temptation of drugs, and from just giving up to a life of despair.

Mr. Speaker, these two prevention programs are very, very small budget items in terms of our bill which totals $241 billion. These, however, are the types of programs we need to ensure that our Nation's children have a healthy start to their lives and receive a unique form of encouragement to help them remain in school and give them hope that with an education they can fulfill their greatest dreams and hopes.

Overall, this is a good bill which will help millions of people throughout our Nation. As always, it can be improved and it is my hope that my colleagues will join me in taking a hard look at two of the programs I discussed here that can use additional support because they make important contributions to the health and education of our Nation's youth.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the chairman of the subcommittee very much for yielding me this time, and I rise in full support of the bill and commend the members of the Committee on Appropriations for the fine work they have done.

In particular, I would like to recognize the distinguished chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER], for his really exquisite leadership in assuring that this bill provides increased funding to reinvigorate tuberculosis prevention and control programs at the Centers for Disease Control. The bill approbates $104 million for these programs, almost $40 million over the President's request.

The gentleman from Kentucky stood steadfast, despite all the various pressures this year and with our reduced funding, to make sure that this funding was available.

Let me say that this is a classic case where early funding can prevent greater problems. TB is a preventable disease. It is treatable. Even in new strains of TB that do not respond to regular medication, the drug-resistant strains can be treated, but only if we stare the problem in the face and deal with it. If not, TB could grow like AIDS has grown and in 5 or 10 years be one of the great, great scourges of this country. But due to the foresight of the gentleman from Kentucky, his courage, and his steadfastness, we have increased funding. We have significantly increased funding. I want to say that every Member who votes for this bill will be doing a great deal, not only for those who now are afflicted with TB and who could be cured of this eminently curable disease, but for the hundreds of thousands, if not millions, who might acquire TB if it were not for the excellent funding and the vigilance of this subcommittee, and Chairman NATCHER in particular.

So as we move this bill, we know we will save both lives and money. Delays, as we have learned from the inadequate responses to the AIDS crisis, exact terrible costs. We must not repeat those mistakes by delaying our response, and the subcommittee's action today on this bill shows that we are ready to meet the crisis.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the able ranking member of the authorizing committee, the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I rise in strong support of the conference report on H.R. 5677, the fiscal year 1993 appropriation bill for the Departments of Labor, Health and Human Services, and Education.

As is the case every year, Chairman NATCHER, the ranking member, the gentleman from Michigan [Mr. PURSELL], and the members of the Labor-HHS Subcommittee are to be congratulated for having so successfully upheld the priorities of this House in the course of the conference. Along with most of the other Members, I was well aware that they were confronted with a particularly difficult conference, and I wish our very able minority leader of this particular committee the very best as he goes on to whatever it is he is going to do. We are going to miss him here in the Congress of the United States.

I was particularly pleased to learn that the conference report provides $89 million for the Even Start Program, and I will assure both the chairman and the ranking member that we will use that money very well. The program is extremely well received and is doing some of the things we need to do in order to change the literacy situation in this country.

It was also gratifying to learn that the conference report earmarked $248,000 from the funding made available to the fund for innovation in education to permit the implementation of an important educational technology demonstration, and that $1.9 million from the funding made available to the rehabilitation services and disability research account will be used to provide transportation services to individuals with disabilities who are employed, seeking employment, or who are currently receiving vocational rehabilitation services.

I would like to express my appreciation for the $3.5 million made available for a cocurricular postsecondary demonstration program which will be conducted under the auspices of the fund for the improvement of postsecondary education. This demonstration will enable students of all academic majors to develop leadership skills which they will later apply in the public and private sectors.

Finally, I would like to say, for all the school districts in this country, thank you for the increased funding in the special education account. The Kildee-Goodling team on the Budget Committee has tried to tell others on the Budget Committee over the years that we fund 90 percent of the mandates, we promise 40 percent of the money, and we send 10 percent of the money. I appreciate that this committee is trying to make sure that the additional money gets out to those districts where it is greatly needed.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I rise today in strong support of the conference on H.R. 5677, the Labor-Health and Human Services-Education appropriations bill for fiscal year 1993. Let me say that we would not be here today, acting on this measure, had it not been for the fine leadership of our distinguished chairman, the gentleman from Kentucky, BILL NATCHER. Under his direction, our subcommittee worked diligently to produce an appropriations bill that would meet the pressing needs of our Nation. This was no easy task as we faced one of the most difficult years in making appropriations for many of our Nation's education, employment, and health and human services programs. Despite the budget constraints, we crafted a bill which recognizes the prevailing domestic needs which must be addressed, and which allocates funds according to these priorities.

I also would like to commend the gentleman from Michigan, CARL PURSELL, the ranking minority member of our subcommittee for the significant contributions he has made to this year's bill, and the many contributions he has made to the subcommittee over the years. It has been a pleasure to serve with CARL and his presence and insight will be sorely missed. I am certain this body joins with me in wishing him success.

Mr. Speaker, H.R. 5677 reflects a carefully sculpted approach, supporting many of the domestic programs serving both the working and the unemployed, students and those pursuing nontraditional educational endeavors, not to mention the poor, the sick, and the elderly.

In H.R. 5677, we fund programs ranging from protecting workers on the job, to training the unskilled laborer and the youth of America. This bill addresses the critical health needs of our Nation, certainly one of the top concerns of every American, through research and prevention programs, as well as through programs serving the most vulnerable and underserved. This measure also provides funding to support the education of our children, from preschool through high school and beyond. Without a doubt, H.R. 5677 serves each and every American in some manner.

Mr. Speaker, incorporated in the bill before us are some initiatives in which I have a very special interest. These programs include: health professions training for disadvantaged minorities; research on diseases that disproportionately impact minority Americans and women; violence prevention efforts; health care programs for the poor and disenfranchised; education activities for low-income and disadvantaged youth; and teacher training programs. I am proud to have been able to help increased funding for these programs. I know that my constituents in Cleveland will be appreciative of the efforts put forth to improve their quality of life, as well as the lives of persons nationwide.

So despite the budget constraints, Mr. Speaker, the committee displayed remarkable skill in addressing programs essential to maintaining and enhancing the quality of life for Americans. And while no one is completely satisfied with what we have been able to achieve in this bill, this measure balances the interests of people of all ages, interests, incomes, and backgrounds.

For these reasons, Mr. Speaker, I ask my colleagues to join me in passage of the conference report on H.R. 5677, the fiscal year 1993 Labor-Health and Human Services-Education appropriations bill.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the able leader on the authorizing committee, the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I am pleased to have this opportunity to speak in favor of the fiscal year 1993 appropriations conference report for the Departments of Labor, Health and Human Services, and Education. I have always commended the efforts of the chairman, Mr. NATCHER, the ranking Republican member, Mr. PURSELL, and the other members of the committee in producing bills, on an annual basis, that address many of the health and educational needs of this Nation. I believe, that this year in particular, they are truly deserving of high praise.

As one reviews the fiscal year 1993 bill, one finds that many of the education, health, and social service programs under the purview of this committee, have not been increased to many of our expectations or to those of our constituencies. However, this is not the fault of the chairman nor of the committee. All of us have contributed to this outcome. Over the last several years, we have all continued to play smoke and mirrors with the Federal budget. You can only play this game so long, before it catches up with you.

Despite the constraints placed on the committee, this bill represents a commitment to health and education programs. I would like to take a moment to highlight some of these initiatives and their importance to western Wisconsin.

EDUCATION PROGRAMS

The 1993 Labor, HHS, Education appropriations bill will provide Federal education funds to States and local communities by funding key elementary and secondary education programs including: Chapter 1, chapter 2, vocational education, library assistance, drug education, math/science, and special education. This bill will allocate over $19 million in elementary and secondary education programs to western Wisconsin. Specifically:

Chapter 1: This bill will enable over 13,000 students in western Wisconsin to receive educational services through the chapter 1 program.

Chapter 2: This bill increases the chapter 2 program which enables State educational agencies and local educational agencies to fund school improvement programs, such as education reform initiatives. Over the past year, over 40 school districts in western Wisconsin have taken on the challenge of developing comprehensive education reform proposals. If the State and local educational agencies so choose, they may have the opportunity to use chapter 2 funds to assist them in implementing some of their education reform concepts.

Vocational-adult education: The fiscal year 1993 bill includes an increase for vocational and adult education programs. In particular, there is a significant increase for the Tech-Prep Program. I am proud to say that Wisconsin has been a leader in developing the Tech-Prep initiative. Wisconsin's Tech-Prep Program is an outstanding illustration of how State government, beginning with the Governor, the Wisconsin Higher Education System, local school districts, and the business community can all work together toward developing an initiative that provides both instruction in key subject areas and allows students to apply their knowledge through various apprenticeships.

Higher education: This Congress, I, as a member of the Education and Labor Committee, had the opportunity to draft several components of the 1992 Higher Education Act. This bill provides increases to various financial aid programs which are especially important to the over 50,000 western Wisconsin students who are pursuing postsecondary education opportunities.

HEALTH PROGRAMS

In addition to education programs, the FY 1993 Labor, HHS bill also provides funding for key health care programs. Western Wisconsin has benefited in recent years from many of the rural health programs included in this bill. Three key programs include:

National Health Service Corps: The 1993 bill has given this program a major boost by providing an $18 million increase over last year. The National Health Service Corps recruits primary health care practitioners for service in underserved rural and urban areas. This program is very important to western Wisconsin where we currently have nine communities seeking physicians and other health care professionals.

Rural Health Outreach Grants Demonstration Program: I am very pleased to see that the 1993 bill includes a $3 million increase for this initiative. This past summer, I had the opportunity to witness the success of one of the demonstration projects funded under this program. The project, KIDSCARE, is located in Balsam Lake, WI. KIDSCARE provides medical and dental services to children in rural communities who do not have health insurance and are not covered by Medicaid. Just this past week, two additional outreach grants were awarded to western Wisconsin, specifically to the Tri-County Memorial Hospital in Whitehall and to the Chippewa Valley Hospital in Durand. Their projects will focus on enhancing emergency medical care and preventive health care services.

Rural hospital transition grant program: The 1993 bill continues funding this initiative which has been very beneficial to rural hospitals. These grants assist rural hospitals desiring to change their delivery of services in order to remain financially viable. Many hospitals throughout western Wisconsin have received grants through this program. This week, new transition grants were awarded to Lancaster Memorial Hospital and Platteville's Southwest Health Center. These facilities will use the funding to recruit health professionals. In addition, several other western Wisconsin facilities will enter their second and third year of transition grant funding. These include Neillsville's Memorial Medical Center, Prairie du Chien's Memorial Hospital, and Osseo's Area Municipal Hospital. These transition grants focus on enhancing outpatient care and providing day care services to both children and seniors.

JOB TRAINING

This conference agreement provides over $4 billion for job training and employment assistance programs. JTPA programs are vitally important to the Nation and to western Wisconsin. These programs provide second chance employment/training for economically disadvantaged youth and adults and to dislocated workers. In fact, it is under these programs that the workers losing jobs at the Uniroyal Plant in Eau Claire have received $3.5 million in training moneys from JTPA's Dislocated Worker Program and from trade adjustment assistance.

SENIORS

Just last week, this body passed the conference report on the Older Americans Act [OAA]. The fiscal year 1993 Labor, HHS bill continues funding two key programs that are authorized under OAA, the seniors meals and employment programs. The seniors employment program has provided employment to over 10,000 Wisconsin seniors. For example, in my home county of Trempealeau, seniors work on various landscaping-construction activities for the Osseo-Fairchild School District. The seniors meals program serves over 20,000 western Wisconsin residents.

I would also like to take this opportunity to thank Chairman NATCHER, Mr. PURSELL, and the other members of the committee for increasing funding to Gallaudet University. The timing could not be better since we will most likely, tomorrow, we will pass the reauthorization of the Education of the Deaf Act which includes Gallaudet's authorization.

I would also like to take a moment to recognize and thank CARL PURSELL for his contributions not only to the Labor, HHS Subcommittee, but also to this institution. It has been both a pleasure and an honor to work with him.

Once again, I thank the chairman and the committee for their hard work and effort under very difficult circumstances. I urge my colleagues to support the bill.

□ 1110

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the distinguished gentleman from Kentucky for yielding.

Mr. Speaker, I thank this whole committee for its very hard work. The minute we did not vote to take the walls down, this committee went under seige. I think every Member has appeared in front of this committee, because it deals with the hearts, souls, and lives of America's people. So we have all been in there trying very hard to figure out how to make the budget dollars fit.

I thank the gentleman from Kentucky [Mr. NATCHER] for making the pieces fit just as well as he could under the incredible restraints we put on. The women's health care initiatives were funded as well as they possibly could be. I only wish we could have fully funded Head Start, but at least we made a great beginning toward moving that way.

Mr. Speaker, I think all the priorities were really dealt with very well, even though they were put in such a very tight fiscal box. Hopefully when those walls come down, we can do a much better job of attending to things that have been forgotten.

Mr. Speaker, I wish to thank the gentleman from Kentucky [Mr. NATCHER] very much, because the gentleman has really taken a lot of harassment from all of us, but has made the pieces fit. We thank him very much.

Mr. Speaker, I hope everybody votes resoundingly for this bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Michigan [Mr. PURSELL] has 9 minutes remaining, and the gentleman from Kentucky [Mr. NATCHER] has 7½ minutes remaining.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise to express my support for the Labor, Health and Human Services and Education appropriations conference report. This Member would like to thank the chairman of the subcommittee, the distinguished gentleman from Kentucky [Mr. NATCHER] and the ranking member, the distinguished gentleman from Michigan [Mr. PURSELL] for their thoughtful consideration of several requests.

The HHS appropriations bill is the second largest appropriations bill considered by Congress and includes a majority of the human resource programs in the Federal Government. Indeed, it has been said that every man, woman, and child in the United States is helped by the programs funded by this appropriations bill.

Today, however, this Member will speak, primarily, as a founding member of the Rural Health Care Coalition, a bipartisan group of 175 Members of Congress. This Member will comment about several rural health programs that are, for example, of critical importance to Nebraska.

As an example of what has happened around the Nation this Member would say that one of the most successful programs in rural or nonmetropolitan Nebraska is the Rural Health Care Transition Grant Program. My distinguished colleague from Wisconsin [Mr. GUNDERSON] has already mentioned this important program, but I would add that since 1989, 29 rural hospitals have received 3-year rural transition grants. While these grants can be used for a variety of things, I would like to highlight two hospitals in my district that have received transition grants. Butler County Health Center received a grant in fiscal year 1990 that it has used for management improvement, recruitment, and to enhance emergency and outpatient services. This hospital is an excellent example of a rural hospital adapting to the changing needs of its regional community. More recently, this past week, Osmond General Hospital was notified that it had received a transition grant for $42,000 to be used for a joint program with new small hospitals in Creighton and Plainview, two other nearby communities, to share ultrasound technology as a prevention and assessment tool. In addition, this grant will allow a joint mammography testing program for the three hospitals. These grants provide opportunities for small rural hospitals located in very sparsely settled areas to diversify and work together in order to continue providing essential health care services to rural America. This beneficial program was funded at $23 million in the conference report.

There are several other important rural health programs that have received funding under this legislation. Rural health outreach grants, the State Offices of Rural Health Grant Program, area health education centers, the National Health Service Corps, and other programs that provide incentives for health professionals and physicians to serve in rural areas are greatly needed.

Mr. Speaker, since we have very difficult fiscal and budgetary restraints, this Member appreciates the funding made available for these important programs. These rural health programs have been very beneficial to not only Nebraskans, but to people throughout America's rural areas. This Member urges his colleagues to support this conference report.

Mr. NATCHER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to congratulate the chairman and ranking minority member and all members of this committee for a fine bill that will help the quality of life of many Americans.

Mr. Speaker, I would like to engage in a colloquy with the gentleman from Kentucky [Mr. NATCHER].

Mr. Chairman, as one of the original sponsors of the legislation to establish the Claude D. Pepper Older Americans Independence Centers, I would like to know, on page 122 of Senate Report 102–397 that contains language which provides for at least one additional Pepper center grant in 1993, as I read the House Report language in the final conference report there is nothing in either report that would contradict this Senate language. Is that the understanding of the chairman?

Mr. NATCHER. Mr. Speaker, if the gentlewoman will yield, the gentlewoman is correct.

Ms. OAKAR. Mr. Chairman, in that case, might the administration use this Senate language as it determines the committee's intent for the use of new NIA funding?

Mr. NATCHER. Mr. Speaker, if the gentlewoman will yield further, the gentlewoman is correct. That is the understanding of our committee.

Ms. OAKAR. Mr. Speaker, I wish to thank the chairman. I also wish to compliment the gentleman from Kentucky [Mr. NATCHER] and members of the committee for giving high priority to women's health issues. This is Breast Cancer Awareness Month. Breast cancer is an epidemic. It affects one out of eight women in this country. The funds that were put in for breast cancer research and the funds that we hope will be in the defense appropriations bill will total close to the $300 million that the women have asked for. Thank you for not only this funding, but the increase in ovarian, cervical, prostate cancer, and cancer screening, and the priority for osteoporosis. A great job has been done and we are very grateful.

Mr. PURSELL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, it is no secret that our country leads the world in biomedical research and in advances in biotechnology. Part of that, most of that, a substantial portion of it, is due to the work done by the NIH unit on general medical sciences. Where we have noted on Capitol Hill just this past year a half dozen Nobel Peace Prize winners giving us tremendous reports on discoveries that have been made and remedies brought about on cellular biology and genetics and discoveries in DNA and their application to the formation of disease and the cure of disease, these are tremendous advances that are part of the CONGRESSIONAL RECORD and part of our history as a Congress in the present day and age.

Yet we saw the Senate in its NIH portion of this bill cut that amount to the general medical sciences of NIH, cut it out in favor of specific disease research, like cancer and others. But leave it to our own chairman, the gentleman from Kentucky [Mr. NATCHER], and ranking minority member, the gentleman from Michigan [Mr. PURSELL], to come to the rescue, when in conference they restored the monies for that general research. It is so vital to leave them unfettered and untrammeled to find out what is happening in the world of disease. We commend our respective colleagues for the work they have done in that regard.

One thing has failed though, and that is our emphasis on instrumentation for these scientists.

□ 1120

They cannot work without the technological help through microscopes and all the other gigantic mechanisms that are required. We have got to look at next year's budget for some increased help in instrumentation.

Mr. EARLY. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Massachusetts.

Mr. EARLY. Mr. Speaker, I thank the gentleman for the point he just made. He should go right at the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL].

In General Medical Science, which is the one institute that has no constituency, the other body reduced that figure $24 million, as far as to $824, and they had $862. The gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] insisted on that.

Mr. GEKAS. They saved the day.

Mr. EARLY. I would say to the gentleman, they brought it back to $839, but after the 8 percent, it is down to $833, which is a very threatening number.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Support this committee report and the fine work of Chairman NATCHER and the minority spokesman, Mr. PURSELL, but do not believe for a moment that we have met our obligation for medical research in America.

The National Institutes of Health will receive less than 3-percent increase for medical research, which means that they will be able to fund fewer than one out of four of the approved applications for medical research to find cures for heart disease, cancer, diabetes, and the serious illnesses which we as families across America fear the most.

The unfortunate thing is that we cannot call two bills at the same time on this floor. I would like to have a choice to vote on whether we should spend $44 billion to build 20 more B-2 bombers, or whether we should fully fund research to find a cure for Alzheimer's. I would like to have a choice on this floor of whether we should spend $4 billion for this nonsensical star wars research, or put the money into heart and cancer research to save the lives of Americans today.

Those are the real choices and the ones we should face honestly.

Mr. PURSELL. Mr. Speaker, I want to thank the gentleman from Ohio, LOU STOKES, with whom I have worked intensely on lupus. It has been a great opportunity for me to form this partnership with the gentleman from Cleveland.

I want to also personally thank Joanne and Melissa from the majority staff. I failed to mention them in my earlier remarks, and I wish to thank them for their help and their support. We have a great staff. It is a small staff, but a quality one, and we are very proud of them.

Mr. Speaker, I reserve the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I want to commend the gentleman from Kentucky, Chairman NATCHER, the vice chairman, the gentleman from Michigan, Mr. PURSELL, and the fine work that he has done. He will be leaving Congress, and Congress will surely miss him. Where many of the appropriators always say "We cannot find the money," I want to commend Chairman NATCHER, because he seems to find the money for worthwhile projects.

My initiative, the National Academy of Science, Space, and Technology, is now funded in this bill due to the efforts of Chairman NATCHER, the Vice Chairman CARL PURSELL. It will allow through competitive examinations the finest students in math and science to get a scholarship, and after their 4 years, they will have to give 4 years back to Uncle Sam.

We are now wallowing around on the bottom of the list in our proficiency in math and science, and the only way we are going to bring America out of it is to put some limited money into it. The gentleman from Kentucky [Mr. NATCHER] did that. I commend him for his efforts, and thank the committee for approving that provision.

This is a fine bill, and I support the conference report. I also want to commend the gentleman from Florida, BILL YOUNG, for his efforts in helping those individuals subject to bone marrow needs.

Mr. Speaker, I support this conference agreement. It incorporates many good educational initiatives and programs. One of those initiatives is the authorization over the next 5 years of my National Academy of Science, Space, and Technology Scholarship Program.

In short, my scholarship program calls on the Secretary of Education, after consultation with the Director of the National Science Foundation [NSF], to establish a National Academy of Science, Space, and Technology Advisory Board. The Advisory Board is made up of a broadly representative group of scientists, engineers, educators, and businessmen representing high technology industries.

Under the program, scholarships are awarded by competitive exam to the top scoring college bound student in each congressional district that plans to study science, mathematics, or engineering. The Advisory Board is responsible for designing the national exam and administering it. It is afforded the option of choosing among existing national exams, rather than designing an exam, to determine scholarship recipients.

The Advisory Board is also responsible for certifying the top 10 in each district as a way of recognizing the brightest students in these fields in each district, but only the top scorer would be awarded a scholarship.

The scholarship amount is for $5,000 and is renewable for each year of undergraduate study as long as the student maintains a relatively high grade point average, is a full-time student, and continues to study math, science or engineering.

The scholarship recipient from each district is permitted to study at any university in the United States that offers the baccalaureate degree in science, mathematics or engineering. Such institutions would be designated as member institutes of the National Academy.

Upon graduation, students are required, as a condition of the receipt of the scholarship, to complete 4 years of service in a physical, life, or computer science, mathematics, or engineering related capacity in the employ of the United States or any corporation or other entity that is at least 50 percent owned by U.S. nationals, and which are engaged in scientific or engineering research or endeavor. A student who fails to complete the service obligation would have to pay the Federal Government back for the full amount of the scholarship awards plus interest. This repayment obligation could only be waived as is permitted under section 558 of the Higher Education Act of 1965 with respect to scholarships under subpart 1 of part D of title V.

Under the conference agreement, the program is authorized at a level of $2.2 million for fiscal year 1993 and such sums as may be necessary for fiscal year 1994 through 1997.

Mr. Speaker, American students are consistently ranked below their foreign counterparts in math and science achievements. Moreover, it has been projected by the NSF that there will be a substantial shortage of scientists and engineers in the United States by the year 2000. These facts are distressing.

In order for America to regain the edge in global competition, the United States must produce enough citizens that are well-skilled in the math, science, and engineering fields and, at the same time, willing to use those skills to benefit this country. I believe that, because America's competitive future is tied to producing citizens that are well-skilled in these fields of study, the Federal Government has a significant role to play in providing a mechanism that will prevent shortages of citizens trained in these fields. One of the best incentives the Federal Government can provide are scholarships.

I believe that my scholarship program is exemplary due to one key concept: It requires students to return 4 years of service to the Federal Government. The war America fights today is economic, not military. Educating America's brightest young minds so that they can channel their expertise into research and development programs and into improving America's technology base is an important step toward regaining America's competitive advantage in the world again. The only way to affect those ends is to encourage and recruit America's brightest young minds to public service.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in support of this conference report. I want to commend the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] for the work they have done. This conference report is $16 million below the 602 subdivisions for discretionary budget authority, and $44 million below with regard to outlays. We made the effort, as many know here, to try to move some of the money from the defense area and foreign ops area to try to provide additional funding for the important programs that are included here. That was rejected.

In the next budget year these walls will come down. As a result of that, it seems to me that gives us the opportunity to truly set the right kinds of priorities for this country in which the Congress, working hopefully with the President, will decide how we use these savings and what areas we target. We did not have that opportunity this year.

I also want to take the time to particularly thank the chairman for providing additional funding for SLIAG to try to assist those States that are dealing with migrants, and that is a promise we made to this country. That is one that the chairman is helping us fulfill. I thank the chairman for that effort.

I rise in support of the conference report to accompany H.R. 5677, the Departments of Labor, Health and Human Services, and Education, and related agencies appropriations bill for fiscal year 1992.

The conference report provides $62,145 million in total discretionary budget authority which is $16 million below the 602(b) subdivisions for discretionary budget authority for this subcommittee. The conference report is $44 million below the 602(b) subdivision in outlays.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "dear colleague" on how each bill compares to the budget resolution.

I look forward to working with the Appropriations Committee on its other conference reports.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, October 2, 1992.

DEAR COLLEAGUE: Attached is a fact sheet on the conference report to accompany H.R. 5677, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill for Fiscal Year 1993, which could be considered at any time.

The conference report is $16 million below the discretionary budget authority and $44 million below the outlay 602(b) spending subdivisions for this subcommittee.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[Fact sheet]

CONFERENCE REPORT TO ACCOMPANY H.R.5677, THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS BILL FISCAL YEAR 1993 (H. REPT. 102-974)

On October 2, the House Appropriations Committee filed the conference report to accompany H.R. 5677, the Labor-HHS appropriations bill for 1993. This conference report could be considered at any time.

COMPARISON TO THE 602(B) SUBDIVISION

The conference report provides $62,145 million in *total* discretionary budget authority, $16 million below the Appropriations subdivision for this subcommittee. The estimated discretionary outlays in the report are $44 million below the subdivision totals.

The report provides $61,638 million of domestic discretionary budget authority, $12 million less than the Appropriations 602(b) subdivision for this category. The estimated domestic discretionary outlays are $41 million below the subdivision total.

COMPARISON TO DOMESTIC SPENDING ALLOCATIONS

[In millions of dollars]

	Labor, Health and Human Services, and Education, and related agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	61,638	61,966	61,650	62,007	−12	−41
Mandatory	170,663	169,915	170,663	169,915		
Total	232,301	231,881	232,313	231,922	−12	−41

The conference report provides $11 million of international discretionary budget authority and $11 million outlays for the United States Institute of Peace. The estimated international discretionary budget authority and outlays are identical to the subdivision total.

COMPARISON TO INTERNATIONAL DISCRETIONARY SPENDING ALLOCATION

	Labor, Health and Human Services, and Education, and related agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	11	11	11	11		

The conference report provides $496 million budget authority, $4 million below the subdivision. Outlays in this category are $3 million below the subdivision total. These estimates represent a reclassification of a portion of the Impact Aid program.

COMPARISON TO DEFENSE DISCRETIONARY SPENDING ALLOCATION

	Labor, Health and Human Services, and Education, and related agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	496	407	500	510	−4	−3

PROGRAM HIGHLIGHTS

Following are the major discretionary program highlights for the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill for Fiscal 1993, as reported:

[In millions of dollars]

	Budget authority	New outlays
Department of Labor:		
Older Americans Community Service Employment	390	70
Job Training Partnership Act	4,172	199
(Job Corps)	(966)	NA
Bureau of Labor Statistics	275	234
Department of Health and Human Services:		
Head Start	2,779	NA
State legalization impact assistance	−812	−550
Community service block grant	441	294
Low-income home energy assistance[1]	1,346	624
Day care assistance[2]	893	0
National Institutes of Health	10,363	4,441
Centers for Disease Control	1,671	889
(Childhood immunizations)	(342)	NA
Alcohol, Drug Abuse and Mental Health Administration	2,007	803
Department of Education:		
Compensatory education	6,710	806
Student financial assistance	7,456	1,580
Impact aid[3]	750	606
School improvement programs (chapter 2)	1,532	184
Vocational and adult education	1,474	177
Libraries	146	50

[1] 50 percent of obligations delayed until last day of fiscal year.

[2] All obligations delayed until last day of fiscal year.

[3] Of this total, $496,000,000 has been reclassified as defense spending in 1993.

Mr. PURSELL. Mr. Speaker, I yield 1 minute of my time to my distinguished chairman, the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, I thank the gentleman for yielding time to me, and I yield to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, as a member of the Committee on Education and Labor and of the Committee on the Budget, I want to commend the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] for the excellent job they have done on this bill. The gentleman from Kentucky [Mr. NATCHER] believes, as I do, that Government's role is "protect, defend, and enhance human dignity." He has done that by the priorities he has set in this bill.

This country is clearly a better country because of the work of the gentleman from Kentucky, we are a more sensitive country. I and the people of my district thank him for his great sensitivity in moving this country along in a more humane path.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, let the RECORD show that I love BILL NATCHER, too.

I have some advice for the American people who are working, those who are working: Be very careful this next year. Don't have an accident on the job. If President Bush's request for the administration of Social Security had been granted, it would have doubled the time people would have to wait before their application for disability was even taken up, even looked at, from 3 months to 6 months.

This conference report appropriates $250 million less than the President requested. Why? It will not cover one drop of red ink, just cover it up.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Michigan [Mr. PURSELL] has 3 minutes remaining, and the gentleman from Kentucky [Mr. NATCHER] has 2 minutes remaining.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in very strong support of the bill. Kentucky has many treasures, but none greater than the gentleman from Kentucky, Mr. NATCHER, who along with his loyal friend and counterpart, CARL PURSELL, has put on the floor today one of the greatest bills that we will have a chance to vote for in this session of Congress. I could talk about the Job Training Partnership Act that is in here, I could talk about the $10 billion for the National Institutes of Health, including $43 million to complete the study on women's health matters, Head Start, and family violence prevention is included in here, $146 million for libraries, which in my hometown of Louisville are very important to us and to me, and the national writing project.

I would just say that I know what a great person BILL NATCHER is, how hard he works for all of us, how hard he works for the Nation. Despite these very difficult and tight economic times, the gentleman from Kentucky—and he deserves that appellation—the gentleman from Kentucky [Mr. NATCHER] seems always to be able to find means and methods to help the people of America. I want to thank the gentleman for being part of our delegation.

I rise in strong support of H.R. 5677, the bill making appropriations for the Departments of Labor, Health and Human Services, and Education for fiscal year 1993.

I also take great pride in commending the work of the gentleman from Kentucky, my friend and the dean of the Kentucky delegation, Mr. NATCHER. Under his guiding hand as acting chairman of the Appropriations Committee, the House is nearing completion on the 13 appropriations bills.

There are a number of very valuable programs of particular importance to the people in my community of Louisville and Jefferson County, and to all Kentuckians for which H.R. 5677 provides funding. The amounts and programs include: $4.2 billion for programs authorized by the Job Training Partnership Act; $10.3 billion for the National Institutes of Health, of which $43 million is earmarked for the second year of the Women's Health Initiative; $2.8 billion for Head Start; $3 billion for Foster Care and Adoption Assistance; $25 million for Family Violence Prevention and Services; $892 million for the Child Care and Development Block Grant Program; $146 million for assistance for libraries, and, $3.5 million for the national writing project.

Again, I commend the gentleman from Kentucky and all his colleagues on the committee for yeoman's work on a fine bill. I urge all Members to join me in supporting H.R. 5677.

Mr. NATCHER. Mr. Speaker, for our last speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I rise to thank Chairman NATCHER and my Massachusetts colleague JOE EARLY for their excellent work in saving the Fuel Assistance Program. While many are celebrating the fall foliage all over New England this weekend, there are thousands of families who live in fear of the freezing nights that are already upon us. We have fought long and hard to provide forward funding of fuel assistance, so the many vulnerable families will not only know that help is on its way this year, but the funding is set for next year. I am very pleased that we are able to halt once again the President's attempt to gut this program and provide longer range security for fuel assistance funding.

□ 1130

Mr. PURSELL. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me the time, and I will just take a minute.

This bill is $26.9 billion above fiscal year 1992. That is a 12.3-percent increase. Most of it is due to entitlement increases, and once again, this focuses attention on the necessity to get control of entitlements by capping them. We are seeing our entitlements grow by between 10 percent and 25 percent a year, and it is going to bankrupt America.

Either we do something about it now, or we are going to have hyperinflation where your money will not buy anything in about 6 or 8 years. We are facing escalating deficits that are going to bankrupt America if we do not get control of the pork and the entitlements.

If we cap them now at a reasonable level we can solve the problem. If we wait, everybody in America is going to hate every one of us.

Mr. VENTO. Mr. Speaker. I rise in support of this conference report on H.R. 5677. This funding measure meets important needs and obligations that the law requires and good sense dictates.

The funding for education and training programs is essential, and if not for the serious budget problems, would hopefully be even more substantial. Often national political speeches emphasize elementary and secondary education but don't recognize that the $15 or $16 billion provided by the National Government comprises less than 5 percent of the overall funding. Frankly, the education funding is most often for mandated programs and such special needs programs as compensatory education. Included in this measure is impact aid—over $750 million for districts which have a high percentage of Federal employees. This program should be phased out; the problems faced by these areas are not unique; the dollars spent by the defense and other public employees accrue to the benefit of the education programs in such communities.

Health care research and spending in this measure are very significant. Research on a myriad of problems is important, especially research on conditions affecting women, such as breast, cervical, and ovarian cancer which have received insufficient attention in the past. Some would say what the conference report provides is not enough. Breakthroughs in the treatment of cancer and heart ailments are important, but Congress is forced by budget and economic constraints to choose options that address basic human health care needs and limit increases as in this measure. Increased participation by the private sector should be expected and encouraged to help pick up the shortfall. The National Government and the taxpayer have been extraordinarily responsive on health care research. The misuse and abuse of dollars by institutions across the Nation is very disturbing and will undercut the funding and public support for these programs. The research institutions and universities should be on notice concerning questionable performance and accounting practices with Federal dollars.

Mr. Speaker, I am pleased that the House Conferees increased funding for the Low-Income Home Energy Assistance Program. In my State of Minnesota, this program is essential, especially during such a tough economic period when this help is needed more than ever. The $1.346 billion in this program will be well used and maintains the commitment of the Congress to this program.

In addition, I am pleased that the Refugee and Entrant Assistance Program will be funded above the House of Representative-passed spending level by nearly $60 million. Even this is below last year's level and far below what is needed by refugees today. The local communities and the refugees they have opened their arms to deserve our sound support. The problems that we face in Minnesota and many other areas of the country should not be borne solely by the State and local communities because the National Government is shrinking from its appropriate commitment. Our refugee policy is not a local but a national policy, therefore we must maintain appropriate funding. I am also reassured to see that the conference committee has not approved an administration proposal to privatize a portion of refugee programs. The administration wishes to proceed with this proposal without having gathered adequate information as to the efficiency and effectiveness of the plan or the input of the States or other organizations involved with refugee resettlement.

Mr. Speaker, this measure expands significantly available dollars, over $245 billion in fact, but it is not enough. Too often today, we are blind to the human deficit in our society. All Americans are concerned about the budget deficit. We all want to balance the national budget and find a way to pay our national debt. But as we are working to reduce the debt, Congress and the President should not do it at the expense of those without power, the poor, the unemployed, those without adequate education or health care services.

The policy decisions of the past decade have left the Nation with a large debt, $4 trillion and a yet unreported, uncounted human deficit which will cost more than money in the decades ahead. The national policies of the 1980's wasted dollars on inappropriate and wasteful tax cuts and unnecessary often redundant military hardware, contributing substantially to the overall $4 trillion debt of this Nation. During the 1980's the percentage of dollars spent on domestic needs declined from over 20 percent to less than 12 percent. And the human deficit, the people denied adequate housing, health care, education, and job training, has multiplied in the 1990's and will continue to harm our Nation for future decades. This measure is a small payment which tries to stretch limited dollars in a manner that addresses the problems of those in need today.

I urge support and hope we can do more in the years ahead to come to grips with the challenges facing the people of this Nation.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference report on H.R. 5677, the bill that authorizes appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies appropriations bill for fiscal year 1993.

Each year, we applaud Chairman NATCHER and the members and staff of the subcommittee for their work in drafting this legislation and bringing it to the floor. However, the chairman and his team deserve special acclaim for their work during this appropriations cycle.

The task before the subcommittee this year was perhaps the most challenging it has ever faced. To begin with, the subcommittee—as always—has a very small pot of money to work with. This is because nearly 75 cents of every dollar in this bill is for entitlement programs, like unemployment compensation, Social Security, and Medicare—for money that is automatically spent, and over which the subcommittee has no control. Only the remaining 25 cents is discretionary funding—the money that must be divided up among the programs that are so critical to us, especially now. Additionally, the spending caps that were set in place by the 1990 Budget Enforcement Act greatly restricted the use of what little discretionary funds the subcommittee had to work with.

In spite of the above, the subcommittee managed to set priorities and make hard choices. The result is a bill that continues to fund a lot of good programs, as well as to meet new needs. H.R. 5677 does not drive us deeper into debt, but helps us meet our goal of living within our means.

The funds in H.R. 5677 are used to minimize the effect that our economy has on workers, like those Californians who are dislocated by our declining defense industry. H.R. 5677 provides temporarily unemployed workers with both income and job search assistance, and supports job training and summer youth employment, as well as part-time, community-based jobs for low-income senior citizens, and employment and training programs for veterans.

H.R. 5677 funds health research, this year placing a high priority on women's health—in particular breast, cervical, and ovarian cancers. It funds research, education, and other activities aimed at preventing and treating AIDS, and supports educational programs for health care professionals. Community health centers that provide primary health care to medically underserved rural and urban areas as also sustained by the funding that this bill provides. The Centers for Disease Control, which ensures that serious problems—like those related to the spread of AIDS, sexually transmitted diseases and tuberculosis—can be addressed, is funded by this bill.

Child care programs, child support enforcement programs, Head Start, foster care and adoption assistance support services, nutrition services for our elderly citizens—all these key support systems are dependent upon the funding in H.R. 5677. H.R. 5677 also includes support for the JOBS work program, which was established by the Welfare Reform Act to assure that needy families with children obtain the education, training, and employment needed to avoid long-term welfare dependency.

H.R. 5677 also provides assistance to school districts for school improvement activities, as well as grants to States for drug-free schools and communities, math and science education programs, dropout prevention demonstration programs, and adult education and literacy programs. The bill also funds Federal assistance—in the form of grants and loans—to students seeking a higher education.

It is obvious that, without H.R. 5677, we would not be able to fund the essential programs that support our basic needs. A vote for the health, education, nutrition, and employment programs in H.R. 5677 is a vote for us all. America's families, workers, children, elderly, and veterans are dependent upon the programs and services that H.R. 5677 sustains and provides. I urge my colleagues on both sides of the aisle to support funding of basic benefits and services for all Americans.

Ms. PELOSI. Mr. Speaker, I rise today in support of the conference report on H.R. 5677, the fiscal 1993 appropriations bill for the Departments of Labor, Health and Human Services, and Education.

I commend Chairman NATCHER, ranking member CARL PURSELL, and the other members of the subcommittee and the staff for their diligent work in producing this conference report.

They had a difficult challenge putting this bill together with so many urgent domestic needs competing for fewer dollars. This task was complicated when the President refused to recognize the changing world and allow defense spending decided upon long ago to be reprogrammed towards today's crucial needs.

There are many important provisions in the bill for which the subcommittee should be commended. The conference agreement contains $877 million for AIDS research at the National Institutes of Health—more than the President's request.

I'm also pleased the conferees agreed to provide $186 million for emergency assistance grants under title I of the Ryan White CARE Act. These funds will help the country respond to the major increase in AIDS cases occurring this year. I also want to commend the conferees for resisting an effort to attach amendments to the bill proposed by Senator HELMS that would have seriously limited the effectiveness of Federal HIV prevention efforts.

Along with AIDS, the tuberculosis epidemic in this country requires a major response. The conferees provided a major increase in funding to respond to this crisis. AIDS victims are at a significantly greater risk for TB than healthy individuals and its transmission is much easier. Unlike AIDS, tuberculosis can be transmitted by cough, and we must not be lax in combating this disease.

I am heartened by Chairman NATCHER's commitment to monitoring the public health emergency created by the tuberculosis outbreak and his commitment to fund the necessary programs to bring the epidemic under control.

Mr. Speaker, it also is important to recognize the priority given women's health issues in this appropriation bill. The significant increase in funding for breast cancer is greatly appreciated. The bill sets us on a path towards correcting the historical inequities in investment in women's health research. The subcommittee should be commended for this effort.

Another program funded in this bill that is important to my district and my State is the State legalization impact assistance grants [SLIAG] program, which helps the State bear the costs of providing financial, medication, and educational assistance to refugees. Again, I commend the conferees for their understanding in providing funding for this program.

In this difficult budget climate, Chairman NATCHER and the subcommittee did an excellent job of prioritizing the Federal programs funded under their bill. I thank the chairman and the subcommittee members for their hard work and cooperation, particularly with the congressional caucus for women's issues.

Mrs. ROUKEMA. Mr. Speaker, I rise in support of the conference report on H.R. 5677, to provide fiscal year 1993 appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies. This measure provides funding for many of the Federal Government's most important people programs including funds for higher education, federally impacted schools, education of handicapped and disadvantaged children, Older Americans Act programs, Medicare and Medicaid, and many more too numerous to mention here today. I would like to direct my brief remarks to several issues of particular significance to me.

Mr. Speaker, I commend the distinguished chairman and ranking member of the subcommittee, Mr. NATCHER and Mr. PURSELL, who have worked diligently to develop a balanced bill in this exceedingly difficult fiscal environment. I thank them for including in this bill a technical correction to the Higher Education Amendments of 1992 that will serve to ensure that postsecondary schools with candidacy accreditation status remain eligible to participate in title IV student aid programs. This provision is vital to some 140 postsecondary institutions across the Nation, including two in my own congressional district. As a member of the House-Senate conference committee on the recently enacted amendments to the Higher Education Act, I can attest to the fact that there was no intention to terminate the eligibility of candidate schools, many of which are community colleges. This conference report will ensure that the eligibility of such schools is not interrupted.

Another technical amendment addresses a Perkins Loan program effective date that—if not corrected—would force some recipients of such loans to pay back moneys that they have already received for the current 1992–93 school year. I am pleased to note that this technical correction has also been included in this conference agreement.

Mr. Speaker, I am extremely dismayed to note, however, that the Senate language to permit Medicaid funding for abortion in cases of rape or incest has not been included in this conference agreement. It is nothing less than a national disgrace to deny to poor women—

who have been brutalized both physically and emotionally by rape or incest—a legal medical procedure that is available to all other women. I look forward to the day when we can finally secure for poor women access to the same legal medical procedures available to those who can afford them.

I do, however, wish to reiterate my support for what is, on balance, a fine conference agreement and I congratulate the gentleman from Kentucky, Mr. NATCHER, and the gentleman from Michigan, Mr. PURSELL, on a most difficult job well done. My most able colleague, Mr. PURSELL, will be sorely missed in the next Congress. I thank him for his many contributions to this House and I wish him well.

Mr. ROYBAL. Mr. Speaker, I rise in support of the conference report on the Labor, Health and Human Services, and Education and Related Agencies appropriation bill for fiscal year 1993. This will be my last appropriations bill where I will be able to vote for funding for the most important Federal agencies in our Government. It has been a great honor to have served on the subcommittee with the most dedicated and committed Members in this Congress and I will miss every one of them. I will especially miss the great leadership of Chairman BILL NATCHER who has been and continues to be a beacon of light and hope for education, health, labor, and other programs which benefit the citizens of this country. During my tenure on the subcommittee, I have seen the funding levels for these programs increase and expand and experienced the impact they have had on our local communities.

I also want to commend the leadership and cooperation of the ranking minority member, Mr. PURSELL. He also will be leaving at the end of this Congress, and I want to thank him for his support and help on many of the issues we consider so important for the country. I want to wish him a most productive and active retirement.

The staff of the subcommittee, the ones who work so hard to provide us with the information for our decisions, need a special thank you. Mike Stephens, Bob Knisely, Sue Quantius, Mark Mioduski, Joanne Orndorff, Melissa Bronez and John Blazey, as well as my own appropriations staff Jorge Lambrinos and Anna Lamberti, are the most professional and expert staff in the Congress and we have been blessed to have them as part of the subcommittee.

Finally, I want to bid farewell to all my collegues on the full committee, many of whom have become dear friends of mine.

These past 30 years of service as a Member of the U.S. House of Representatives have been good years. The honor of serving in such an great institution is one I wish I could convey to every citizen of this country.

At this time I would like to thank Chairman NATCHER and Senator HARKIN for accepting my package of recommendations on the State Legalization Impact Assistance Grants [SLIAG] in Conference which will mitigate the adverse impact of the deferral of SLIAG funds for fiscal year 1994 on service providers in California. My amendment requires any State with over $100 million in unreimbursed costs from prior years to first reimburse all allowable State and local costs incurred between October 1, 1990 and October 1, 1992 before new fiscal year 1993 costs are reimbursed. In doing so, the conferees have acknowledged that we must fulfill the commitment made to service providers in last year's conference report when we assured them that adequate funding would be provided in fiscal year 1993 and urged them not to reduce service levels. Now, after service providers have incurred costs in good faith, we have ensured that their costs will be reimbursed.

Unfortunately, the fiscal year 1993 SLIAG funding of $325 million is not enough to cover all unreimbursed costs from prior years in California. To ensure that all service providers—be they a State or local unit of government, school district, or community based organization—are treated equitably, the bill appropriately requires California to reimburse each provider's allowable fiscal year 1991 and 1992 costs at the same percentage rate. My amendment is intended to prevent the State of California from reimbursing itself first or at a higher rate to the detriment of county and other service providers in California.

I would point out that the bill included two exceptions to the requirements that the fiscal year 1991 and 1992 costs be reimbursed before fiscal year 1993 costs—a shortfall State may use its SLIAG funding to reimburse State and local SLIAG administrative costs incurred in fiscal year 1993 and to pay fiscal year 1993 costs for English and civics instruction required by pre-1982 aliens to qualify for permanent resident status.

Once again, I wish to express my appreciation for the cooperation and support of the gentleman from Kentucky, Mr. NATCHER, and the gentleman from Iowa, Mr. HARKIN. This is an extremely important funding source to newly legalized persons and the communities in which they reside. I want to take this opportunity to thank Joel Lane on my staff and Eve Maldonado, Yolanda Ruiz, Randy Davis and Mark Tajima, who provide expert advice on this most difficult and complicated issue on behalf of Los Angeles County. I also want to thank the hundreds of SLIAG community volunteers, and in particular Mr. Bert Corona of the Hermandad, for their faithful and undaunting support during these negotiations.

I also commend the conferees for providing $2.5 million for the continuation of the Consortium for Minorities in Teaching Careers Program which we began in fiscal year 1992. These funds will allow the continuation of last year's effort and provide for an expansion of the program. These funds will allow for the encouragement and training of minority students to become teachers.

I am also pleased that this conference report includes funding for Minority Centers of Excellence in Applied Gerontology within the Administration of Aging. These funds will allow for the establishment of at least two Minority Centers of Applied Gerontology for career preparation of minorities in the field of aging. It is expected that one center will be located at a historically Black college and one at a university with a high concentration of Hispanic students and strong ties to the Hispanic community.

Although I would have preferred higher funding for the programs in this conference report, we have provided some increases for such important programs as training and employment services for migrant and seasonal farm-workers, community health centers, Ryan White AIDS, tuberculosis, bilingual education, aging programs, the Hispanic Women's leadership program and many others.

This is good conference report, and I urge my colleagues to vote for its adoption.

Mr. REED. Mr. Speaker, I rise in support of the conference report on the fiscal year 1993 Labor, Health and Human Services and Education appropriations bill.

This bill includes language recommending that the Health Care Financing Administration [HCFA] provide funds for cooperative care demonstration projects with potential for costs savings. The Rhode Island Hospital, located in my district, has proposed such a project.

In designing this demonstration project, Rhode Island Hospital carefully reexamined the basic assumptions of health facility design and the traditional method of care provision, seeking new means for containing costs. The result of this analysis is the proposal to construct the Rhode Island Hospital-Women and Infants Cooperative Care Demonstration Project.

The centerpiece of the Cooperative Care Demonstration Project will be the large scale implementation of a novel method of health care delivery known as cooperative care. In the cooperative care center, patients and their care partners, who are usually spouses or relatives, will assume a much greater responsibility for patient care both in the hospital and following discharge than they would in a traditional hospital setting.

In a cooperative care hospital, patient rooms will contain accommodations for both the patient and their care partner, and patient rooms and treatment areas will be located on different floors. Both capital and operating costs will be reduced. In fact, RIH anticipates that the costs of hospital bed construction in the Cooperative Care Center will be 40 to 50 percent lower than they would be in a traditional hospital facility. This savings will be due primarily to the fact that patient floors will contain very limited amounts of extensive medical equipment, since this equipment will be concentrated on treatment floors where it will be used in an efficient and cost-effective manner. In addition, RIH estimates that operating charges in the Cooperative Care Center will be 20 to 30 percent lower than they are for traditional inpatient stays, due largely to the lower staff-to-patient ratios possible under the cooperative care system.

The Rhode Island Hospital and Women and Infants Hospitals believe a real demonstration of the cooperative care model, with quantifiable cost savings analysis and built-in mechanisms to facilitate projects replication is long overdue. I believe that through their efforts, these hospitals will show hospital administrators across the Nation that alternative, more cost-effective design models also exist for new hospital buildings.

For these reasons, I am pleased that language has been included in the Labor-HHS-Education appropriations bill recommending that the Health Care Financing Administration provide funds for such a demonstration project. I am hopeful that in awarding grants under this section of the bill, HCFA will give every possible consideration to an application for funding for the Rhode Island Hospital's Cooperative Care Demonstration Program.

Mr. LIGHTFOOT. Mr. Speaker, I rise in reluctant support of this conference report.

When the Labor-HHS appropriations bill left the House it was under the President's budget recommendation and had no accounting gimmicks in it. Now it returns to us $1.7 billion over the amounts this body approved and with over $600 million in deferred spending.

That does not amount to a great deal, in fact under 1 percent of the entire bill. But Congress still can't seem to bring in this particular bill at or under budget. If you don't like the amount we budget for Labor-HHS appropriations, raise it and make hard choices elsewhere.

And I am puzzled the bill left the House with $30 million for construction of two new Job Corps Centers and returns to us with $20 million for four New Job Corps Centers. I appreciate the conferees building the first new Job Corps Center since 1988, but the math escapes me. Especially since the conference report is $1.7 billion over what the House approved.

Nevertheless, I will support the bill. There is too much of value in the bill to hold it up for 1 percent. I also want to pay my respects to the gentleman from Kentucky, Mr. NATCHER and the gentleman from Michigan, Mr. PURSELL, for their efforts on behalf of the House. I can imagine how difficult it was trying to negotiate this bill with the other body. My frustration over this bill is not a reflection on their efforts but of the unrealistic spending levels set forth by the other body.

Mr. NATCHER defines the term gentleman and this House will greatly miss the leadership of Mr. PURSELL.

Mr. LAGOMARSINO. Mr. Speaker, I rise today in strong opposition to the reduction of SLIAG funding contained in the conference report on Labor-HHS-Education. While I recognize that the conference report contains many beneficial provisions, the reduction in SLIAG funding warrants its reconsideration.

My State of California is home to 55 percent of all the immigrants legalized under the 1986 immigration law. When Congress approved the Immigration Reform and Control Act, the Federal Government made a financial commitment to the States.

We knew the costs of integration would be high, and we knew this burden would fall on the States.

That's why Congress agreed to spend over $1 billion in SLIAG funds to reimburse the States. California is living up to its end of the bargain; now Congress must do its part.

I believe this can—and should—be accomplished without jeopardizing responsible efforts to reduce the deficit. Congress has enough money available to fulfill its SLIAG commitments if it sets the proper priorities.

The loss of these funds as reflected in this conference report could result in vital services being deeply cut across the board. Because of its current budget situation, the State of California can no longer afford to subsidize the programs designed to assist new immigrants.

Health care, education, and job training programs would all be cut. These are the very services that enable new immigrants to become productive members of the community. These programs help people help themselves.

For example, community based organizations—such as One Stop Immigration in my district—serve 53 percent of the new immigrant population's educational needs.

One Stop provides English instruction, civics courses, and basic job skills. It also receives half its funding through SLIAG.

In my district at least one health clinic has permanently closed its doors, and others will certainly follow without the funds promised by the Federal Government.

I've been a long and consistent supporter of SLIAG as have been many of my colleagues. If we choose to ignore the education and job training needs of these immigrants today, then we will most certainly pay more later in unemployment, AFDC, and other public assistance grants.

Mr. Speaker, I am also very concerned about the cut in import aid.

Mr. BLACKWELL. Mr. Speaker, I want to add my voice of support for the conference report on the fiscal year 1993 appropriation bill for the Department of Housing and Urban Development and Veteran Affairs. The conferees were forced to draft this report under an environment of severe fiscal constraint and veto threats, and I commend them for producing a measure that will address some of the most critical needs of the Nation's urban communities.

Mr. Speaker, I am particularly pleased that the conferees included language in their report providing $2,500,000 in funding for an innovative educational improvement project in Philadelphia, PA, to be developed and operated by LaSalle University. Using these funds, LaSalle University will establish the Institute for the Advancement of Mathematics and Science Teaching on its campus. The primary goal of the institute will be to enhance the level of science and mathematics instruction available to Philadelphia's students through the development of new instructional methods and the design of new curricula in the areas of math and science. The institute's resources will be accessible to undergraduate and graduate students who are working toward degrees in education, and, through a community outreach component, to inservice teachers and their students from elementary and secondary schools around the region. Particular emphasis will be placed on the developments of programs to address the particular needs of female minority students, who are underrepresented in the science- and mathematics-related professions.

Mr. Speaker, we have heard a great deal in these economically difficult times about the growing importance of education to our Nation's economic future. Mr. Speaker, in this increasingly global marketplace, we have learned that the scientific literacy of our children and those who teach will soon become perhaps the single greatest factor in our international competitiveness. Mr. Speaker, LaSalle University's proposal to establish the Institute for the Advancement of Mathematics and Science teaching on its campus reflects an appropriate understanding of the Nation's needs in science and mathematics education and an admirable willingness to begin working to address those needs on a regional and local level. I commend the conferees for recognizing the merits of this proposal, and thank them for including the funding support necessary to make it a reality.

Mr. HOYER. Mr. Speaker, I want to express my appreciation to the members of our subcommittee, and especially to Chairman NATCHER for his leadership and strong support for programs funded in the labor, health and education appropriations bill.

Almost every member of the committee has come to the floor to comment on the difficult funding problems we've had to confront as we determine funding priorities. There has been no effort as filled with choices as difficult as these we've had to face on this subcommittee.

This bill funds education for disadvantaged elementary and secondary students; health care for the homeless; job training; child care; energy assistance for poor Americans; funding for biomedical research, including breast and ovarian cancer, aids and diabetes; as well as tuberculosis and childhood immunizations. Despite the difficult budgetary constraints, our subcommittee managed to provide increased funding for many of these critically important priorities.

This subcommittee takes its responsibility to America's children and families very seriously, and the evidence is contained in the conference report before you today. I would like to take a moment to mention a few issues that are very important to me and which I believe are necessary investments in America's people and our future.

The conference report includes approximately $20 million for four new Job Corps Centers. If Job Corps had been adequately funded it may have been the success story of the last decade. Nearly 70 percent of enrollees go on to further their education or to unsubsidized private sector jobs.

Job Corps helps give young adults hope—a fact this subcommittee recognizes—a program this subcommittee has supported. This conference report also contains a nearly $25 million increase for child welfare services; 1,400 children died of abuse and neglect in 1990, a 54 percent increase in the last 6 years; 2.7 million children were reported abused and neglected recently, a 125 percent increase since 1980; and in 1989, 5,868 children were living in foster care, group homes or emergency shelters in Maryland alone.

In years past, Mr. Speaker, we sought to simply provide a nurturing and supportive childhood for our children. In 1992, Mr. Speaker, our biggest concern is trying to ensure that our children survive childhood.

I want to again, thank Chairman NATCHER for his very strong interest and support for child welfare services and other children's programs in this bill.

There are other issues which the house bill and the conference report address, including approximately $26 million for ovarian cancer research. The bill includes $6.7 billion for compensatory education for the disadvantaged. Chairman NATCHER, and our subcommittee have done the best we could. But our children's education, despite the rhetoric, is the highest national priority which has received the least attention. That must change in the next administration and in the next Congress.

We must reexamine our priorities, Mr. Speaker.

We must take a very close look at how we, at the Federal level, can best leverage resources to address national priorities for our childrens' health and education.

We must reevaluate and reform the dozens of overlapping and redundant Federal programs that have mushroomed in our well-intentioned effort to strengthen children and families.

We must do all of this, Mr. Speaker and we must begin to do it today.

No matter who sits in the White House in January; no matter who sits in this Chamber when the Speaker gavels the 103d Congress to order—Mr. Speaker, our children will not wait.

When this subcommittee meets to make these always difficult funding decisions next spring, let's ensure that the good job Chairman NATCHER and the subcommittee always try to do for children results in not just more dollars, but better programs—programs that give those people at the base of the pyramid who support children and families the flexibility and the guidance to do what they do best.

Mrs. VUCANOVICH. Mr. Speaker, I rise today in support of the conference report on H.R. 5677, which I believe is a sound investment for the future of the women in our Nation.

During the month of October, which is Breast Cancer Awareness Month, it is only fitting that Congress pass legislation which will provide funding for prevention programs and encourage efforts to find a cure for this disease. Since these are difficult financial times, I was very happy to see that $72 million is provided for breast and cervical cancer screening. This screening program will save many lives, the lives of American women. Without screening programs we cannot detect the cancer which destroys women's lives.

The bill also provides $2 billion for the National Cancer Institute and conferees have placed the highest priority on expanding funding for women's health, including breast, cervical and ovarian cancer. As a breast cancer survivor, I know the importance of finding a cure for breast cancer and other life threatening diseases.

In addition, Mr. Speaker, I was very glad that the conferees have addressed an issue which currently affects those in the medical field. I have heard from several dentists and dental employees in Nevada regarding their concerns relating to the Occupational Safety and Health Administration's [OSHA] bloodborne pathogen standard. I, along with several other Members, expressed my concerns and those of my constituents to the conferees, and am pleased that they in turn directed OSHA to reexamine the standard as it applies to the practices of dentistry and the practice of medicine in physician offices. This legislation further directs OSHA to consult with representatives of the dental and medical professions as well as representatives of health care workers as it reexamines the bloodborne pathogen standard. I am hopeful that all those involved can work together to address the concerns of the dental and other medical professions.

Lastly, I am pleased that this agreement provides $1.7 billion for job training, $671 million for summer youth employment programs, $966 for the Job Corps Program, and $566 for the Dislocated Workers Program. Each and every one of these programs is so important to the people in the State of Nevada and throughout the Nation.

H.R. 5677 is an important bill which will benefit all Americans by providing good health, proper education, and programs to revitalize our economy by helping our most needy citizens. I hope my colleagues will offer their support.

Mr. PURSELL. Mr. Speaker, I yield back the balance of my time.

Mr. NATCHER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NATCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 363, nays 47, not voting 22, as follows:

[Roll No. 457]

YEAS—363

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barrett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
de la Garza
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spence
Spratt
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—47

Allard
Allen
Archer
Armey
Ballenger
Barton
Bennett
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Combest
Cox (CA)
Crane
Dannemeyer
DeLay
Dornan (CA)
Dreier
Fields
Hancock
Hansen
Hefley
Herger
Hunter
Ireland
Johnson (TX)
Kyl
Lagomarsino
McCollum
Miller (OH)
Moorhead
Nichols
Nussle
Packard
Petri
Roberts
Rohrabacher
Roth
Schaefer
Sensenbrenner
Shuster
Smith (TX)
Solomon
Stump
Thomas (WY)
Walker

NOT VOTING—22

Baker
Barnard
Boxer
Chandler
Conyers
Davis
DeFazio
Dorgan (ND)
Edwards (OK)
Flake
Gephardt
Hayes (LA)

Holloway
Huckaby
Jefferson
Lipinski
Livingston
McCrery
Moran
Quillen
Staggers
Thomas (GA)

□ 1156

Mr. PETRI and Mr. DORNAN of California changed their vote from "yea" to "nay."

Mr. JACOBS and Mr. RHODES changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DORGAN of North Dakota. Mr. Speaker, due to a family obligation, I was unable to cast my vote on the conference agreement on H.R. 5677, Labor-HHS-Education appropriations for fiscal year 1993. Had I been here, I would have voted for the agreement.

PERSONAL EXPLANATION

Mr. MORAN. Mr. Speaker, during rollcall vote No. 457 on H.R. 5677 I was unavoidably detained. Had I been present I would have voted "aye."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4841. An act granting the consent of the Congress to the New Hampshire-Maine Interstate School Compact; and

H.R. 5925. An act to amend title VII of the Civil Rights Act of 1964 to establish a revolving fund for use by the Equal Employment Opportunity Commission to provide education, technical assistance, and training relating to the laws administered by the Commission.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2144. An act to restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes;

H.R. 2321. An act to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes;

H.R. 5193. An act to improve the delivery of health-care services to eligible veterans and to clarify the authority of the Secretary of Veterans Affairs; and

H.R. 5377. An act to amend the Cash Management Improvement Act of 1990 to provide adequate time for implementation of that Act, and for other purposes.

The message also announced that the Senate agrees to the report to the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5095) "An act to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and for other purposes."

The message also announced that Mr. MOYNIHAN, Mr. REID, and Mr. CHAFEE, from the Committee on Environment and Public Works, be appointed conferees, on the part of the Senate, on the bill (H.R. 5334) "An act to amend and extend certain laws relating to housing and community development, and for other purposes" for the consideration of title X of the Senate amendment of the above-entitled bill.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1146. An act to establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes;

S. 2977. An act to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes;

S. 3155. An act to establish the National Indian Policy Research Institute;

S. 3157. An act to provide for a National Native American Veterans' Memorial;

S. 3309. An act to amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes;

S. 3312. An act entitled the "Cancer Registries Amendment Act";

S. Con. Res. 134. Concurrent resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines; and

S. Con. Res. 140. Concurrent resolution relating to humanitarian relief and the human rights situation in Sudan.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2201) "An act to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States and the Baltic States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes."

The message also announced that pursuant to sections 1928a–1928d, as amended, of title 22, United States Code, the Chair, on behalf of the Vice President, appoints Mr. CHAFEE, Mr. WALLOP, Mr. COCHRAN, Mr. WARNER, Mr. GRASSLEY, Mr. MURKOWSKI, and Mr. BURNS, as members of the Senate Delegation to the North Atlantic Assembly Fall Meeting during the second session of the one hundred second Congress, to be held in Bruges, Belgium, November 15–19.

The message also announced that pursuant to sections 1928a–1928d, as amended, of title 22, United States Code, the Chair, on behalf of the Vice President, appoints Mr. BENTSEN, Chairman; Mr. HEFLIN; Ms. MIKULSKI; and Mr. AKAKA; as members of the Senate Delegation to the North Atlantic Assembly Fall Meeting during the second session of the one hundred second Congress, to be held in Bruges, Belgium, November 15–19, 1992.

CONFERENCE REPORT ON H.R. 5677, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the order of the House of Friday, October 2, 1992, the amendments in disagreement and motions printed in the joint explanatory statement of the Committee of Conference to dispose of amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 2, line 17, strike out "$4,060,578,000" and insert "$3,985,091,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$4,066,584,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 3, line 12, strike out "$12,870,000" and insert "$12,638,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$750,000 is appropriated for the Glass Ceiling Commission authorized by title II of the Civil Rights Act of 1991; and, in addition, $750,000 is appropriated for the National Center for the Workplace authorized by title XV, part A, of Public Law 102–325; and, in addition, $12,638,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 5, line 19, strike out "$3,191,418,000" and insert "$3,166,215,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$3,162,127,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 8, line 8, strike out "$63,756,000" and insert "$64,051,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$64,356,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Clerk will designate the next amendment in disagreement.

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the amendments numbered 25, 40, 63, 84, 130, 136, 147, 148, 152, 164, 165, 176, 216, 218, and 224 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The texts of the various Senate amendments referred to in the unanimous-consent request are as follows:

Senate amendment No. 25: Page 8, line 8, after "$63,756,000" insert ": *Provided*, That $600,000 shall be available for the National Commission on Private Pension Plans if an Act authorizing such Commission is enacted into law".

Senate amendment No. 40: Page 19, line 9, after "Center" insert ": *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the Health Care Quality Improvement Databank, and shall remain available until expended to carry out that Act".

Senate amendment No. 63: Page 26, line 25, after "transfer" insert ": *Provided further*, That $5,000,000 of this amount shall be available for extramural facilities construction grants if awarded competitively".

Senate amendment No. 84: Page 34, after line 11, insert:

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,449,000,000, to be available for obligation in the period October 1, 1992 through June 30, 1994, of which $143,095,000 shall be available for reimbursing States for costs incurred during the period October 1, 1992 through September 30, 1993.

Senate amendment No. 130: Page 49, line 1, after "2," insert "$1,800,000, to remain available until expended, which shall be for payments under section 3(e) to local educational agencies funded under such section for fiscal year 1992,".

Senate amendment No. 136: Page 50, line 17, after "3(a)" insert "or 3(b)".

Senate amendment No. 147: Page 52, line 16, after "1994" insert ": *Provided*, That any State agency eligible to receive funds under such subpart shall, at a State's discretion, be deemed to be a local educational agency for the purposes of part B of the Individuals with Disabilities Education Act".

Senate amendment No. 148: Page 52, line 16, after "1994" insert ": *Provided further*, That no State shall receive more per child under such subpart than it received for fiscal year 1992: *Provided further*, That any funds for such subpart that are not allocated because of the preceding proviso shall be available for carrying out section 611 of the Individuals with Disabilities Education Act".

Senate amendment No. 152: Page 53, line 16, after "expended" insert "and $354,000 shall be for construction and shall be available until expended".

Senate amendment No. 164: Page 55, line 10, after $8,101,170,000" insert ", which shall remain available through September 30, 1994".

Senate amendment No. 165: Page 55, line 10, after "$8,101,170,000" insert ", and of which $242,058,000 shall be available only for unfinanced costs in the 1992–93 and prior award year Pell grant programs".

Senate amendment No. 176: Page 57, line 3, after "expended" insert ", and $400,000 shall be available for section 1204(c)".

Senate amendment No. 216: Page 64, after line 10, insert

"SEC. 306. Funds currently available in Public Law 101–517 for a National Council on Educational Goals, or any similar entity, shall be available, if authorized in law, through fiscal year 1993 for operation of the currently existing National Education Goals Panel: *Provided*, That the restrictions in Public Law 101–517 concerning its composition, the procedures used in appointment of its members, and the voting procedures it follows in carrying out its functions shall not apply".

Senate amendment No. 218: Page 64, after line 10, insert

"SEC. 308. (a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—Section 1201(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)(5)) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and "or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on October 1, 1992."

Senate amendment No. 224: Page 67, after line 7 insert

"NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99–660, $450,000, which shall remain available until expended."

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreements to the amendments of the Senate numbered 25, 40, 63, 84, 130, 136, 147, 148, 152, 164, 165, 176, 216, 218, and 224, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

☐ 1200

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The next of the amendment is as follows:

Senate amendment No. 45. Page 21, line 5, strike out "$1,619,167,000" and insert "$1,658,612,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert $1,684,610,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 52 Page 23, after line 14, insert

"NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $410,502,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert

"NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $408,982,000: Provided, That of such amount, $2,000,000 shall be made available to carry out section 706 of the ADAMHA Reorganization Act. P.L. 102–321, in lieu of amounts that would otherwise be provided for such purpose under section 706(e) of such Act."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 55: Page 23, line 24, strike out "$990,055,000" and insert "$989,055,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$991,805,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 60: Page 25, line 22, strike out "$47,363,000" and insert "$49,000,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$48,591,000".

And on page 25 of the House engrossed bill, H.R. 5677, strike all in line 19 and insert in lieu thereof the following:

"NATIONAL INSTITUTE OF NURSING RESEARCH"

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 62: Page 26, line 15, strike out "$191,917,000" and insert "$188,400,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$192,763,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 65: Page 27, line 4, strike out "$70,090,000" and insert "$59,222,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 65 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$109,608,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 68: Page 27, line 13, strike out "$3,099,902,000" and insert $2,049,609,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 68 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$2,023,524,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 69: Page 27, line 14, strike out "$3,940,000" and insert "$970,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 69 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$960,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 70: Page 27, line 16, strike out all after "expended" down to and including "102–321" in line 19 and insert ": *Provided*, That up to $8,000,000 of funds made available to carry out section 1935(b) of the Public Health Service Act may be used to implement the provisions of section 571 of the Public Health Service Act".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert ": *Provided*, That no portion of amounts appropriated for the programs of the Department of Health and Human Services shall be available for obligation pursuant to section 571 of the Public Health Service Act, other than an amount of $3,000,000 from amounts appropriated to carry out section 510 of that Act".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 73: Page 29, line 5, strike out "$99,668,000" and insert "$70,572,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 73 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$110,578,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 75: Page 29, line 24, strike out "$67,311,234,000" and insert "$65,505,650,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 75 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$65,495,650,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 77: Page 31, line 3, strike out "$1,985,497,000" and insert "$2,165,062,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$2,179,900,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended; the $2,179,900,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 78: Page 33, line 15, strike out "$15,994,773,000" and insert "$15,983,164,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$16,009,657,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 79: Page 34, line 3, strike out "$4,652,150,000" and insert "$4,669,839,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$4,899,142,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 80: Page 34, line 9, after "required" insert: *Provided further*, That $10,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$200,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 87: Page 36, line 11, strike "$561,245,619" and insert, "$149,900,619".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 87 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$812,000,000 shall be available in fiscal year 1994 and the remainder".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 88: Page 36, after line 12, insert:

Section 204(b)(4) of the Immigration Reform and Control Act of 1986 is amended by adding the following: "Any funds not expended by States by December 30, 1994 shall be reallocated by the Secretary to States which had expended their entire allotments, based on each State's percentage share of total unreimbursed legalized alien costs in all States. Funds made available to a State pursuant to the preceding sentence of this paragraph shall not remain available after June 30, 1995.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 88 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

Section 204(b)(4) of the Immigration Reform and Control Act of 1986 is amended by adding the following to the end thereof: "Any funds not expended by States by December 30, 1994 shall be reallocated by the Secretary to States which had expended their entire allotments, based on each State's percentage share of total unreimbursed legalized alien costs in all States. Funds made available to a State pursuant to the preceding sentence of this paragraph shall not remain available after June 30, 1995.".

Section 204(b)(5) of the Immigration Reform and Control Act of 1986 is amended by striking the period at the end thereof and adding the following: ", *Provided*, That with respect to States in which total allowable unreimbursed State and local costs incurred prior to October 1, 1992 exceed $100,000,000, within each such State's allocation, the State shall first reimburse all allowable costs incurred between October 1, 1990 and October 1, 1992, before reimbursing costs incurred on or after October 1, 1992, except for State and local administrative costs and for costs of services required to enable aliens granted temporary residence under section 245A(a) of the Immigration and Nationality Act to attain citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act: *Provided further*, That in reimbursing costs incurred prior to October 1, 1992, each State shall reimburse each provider at the same pro rata rate."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 95: Page 36, line 22, after "gram" insert ": *Provided further:* That notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1993 shall, during fiscal year 1993, obligate and expend funds for consulting services in excess of an amount equal to 92 percent of the amount estimated to be obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1993: *Provided further*, That notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1993 is reduced by an amount equal to 8 percent of the amount expected to be expended by such department, agency, or instrumentality during fiscal year 1993 for consulting services. As used in the preceding two provisos, the term 'consulting services' includes any services within the definition of 'Advisory and Assistance Services' in the Office of Management and Budget Circular A–120, dated January 4, 1988".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 95 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert: On page 76 of the House engrossed bill, H.R. 5677, insert after line 19 the following:

"SEC. 513. Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1993 shall, during fiscal year 1993, obligate and expend funds for consulting services in excess of an amount equal to 92 percent of the amount estimated to be obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1993: *Provided*, That notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1993 is reduced by an amount equal to 8 percent of the amount expected to be expended by such department, agency or instrumentality during fiscal year 1993 for consulting services. As used in this section, the term "consulting services" includes any services within the definition of "Advisory and Assistance Services" in the Office of Management and Budget Circular A–120, dated January 4, 1988."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 103: Page 39, line 6, strike out "$61,901,000" and insert "$61,496,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 103 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$64,973,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 112: Page 47, after line 5, insert:

"SEC. 217. Notwithstanding any other provision of this Act, funds appropriated under this Act for salaries and expenses of the Department of Health and Human Services, excluding the Office of Inspector General, are hereby reduced by $140,000,000: *Provided*, That the aggregate annual full-time equivalent employment level for agencies funded under this Act is limited to the actual level provided in fiscal year 1992, except in those cases where Congress has specifically added full-time equivalents over this fiscal year 1992 level: *Provided further*, That those employees who are providing services to other organizations and whose salaries are reimbursed by the organizations requesting the services, shall not be counted for these purposes: *Provided further*, That the fiscal year 1994 budget justification material shall specify amounts budgeted for administrative costs within object classes 11 through 32 by appropriation account and by organizational entity, with comparisons to fiscal year 1993 comparable amounts."

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 112 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 216. Notwithstanding any other provision of this Act, funds appropriated under this Act for salaries and expenses of the Department of Health and Human Services are hereby reduced by $110,000,000: *Provided*, That the fiscal year 1994 budget justification material shall specify amounts budgeted for administrative costs within object classes 11 through 32 by appropriation account and by organizational entity, with comparisons to fiscal year 1993 comparable amounts."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 125: Page 48, line 18, strike out "$763,981,000" and insert "$757,756,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 125 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$756,204,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 135: Page 49, line 6, strike out all after "14(c)" over to and including "agencies" in line 1 on page 50.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 135 and concur therein with an amendment, as follows:

Restore the matter stricken, amended to read as follows: *Provided further*, That funds provided in this Act shall be available for assistance in defraying the costs of the education of military dependents as a result of temporary dislocations caused by transfers, return of military families from overseas, and closures of foreign and domestic bases, and $500,000,000 shall be made available to the Department of Defense, *Provided*, That this entire amount may be transferred to the Secretary of Education and merged with and made available under the Impact Aid program except that nothing in this proviso shall modify any provision of Public Law 81-815 or Public Law 81-874 including those provisions related to eligibility or payment levels for any student or school district

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 137: Page 51, line 16, strike out "$1,557,855,000" and insert "$1,553,611,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 137 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$1,543,750,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 138: Page 51, line 16, strike out "$1,237,463,000" and insert "$1,235,963,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 138 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$1,229,843,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 154: Page 54, line 6, strike out "$1,509,016,000" and insert "$1,492,836,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 154 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$1,486,431,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 163: Page 55, line 10, strike out "$8,101,170,000" and insert "$7,427,928,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 163 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "and part H of said title, $7,516,123,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 170: Page 56, line 16, after "$64,350,000" insert ", of which $1,000,000 shall be for a Commission on the Cost of Higher Education".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 170 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert ", of which $1,000,000, which shall remain available until expended, shall be for the Commission on the Cost of Higher Education as authorized by part C of title XIV of the Higher Education Act and $1,000,000, which shall remain available until expended, shall be for the National Commission on Independent Higher Education authorized by part B of title XIV of said Act".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 171: Page 56, line 19, strike out "XI-B" and insert "XI".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER, Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 171 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert "including subpart 2 of part A and part D, XI".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 184: Page 57, line 16, strike out "$195,278,000" and insert "$189,135,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 184 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$195,570,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 191: Page 59, line 22, strike out "$275,013,000" and insert "$276,669,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 191 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$278,184,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

□ 1210

The SPEAKER pro tempore (Mr. MONTGOMERY). The clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 213: Page 61, line 7, after "Act" insert ", of which $2,500,000 shall be for demonstration of online and dial-in access of a statewide, multitype library bibliographic database through a statewide fiber optic network housing a point of presence in every county, connecting library services in every municipality".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 213 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert ", of which $2,500,000 shall be for demonstration of online and dial-in access to a statewide, multitype library bibliographic database through a statewide fiber optic network housing a point of presence in every county, connecting library services in every municipality, to be awarded competitively".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 214: Page 61, line 14, strike out all after "$305,799,000" down to and including "awards" in line 19.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 214 and concur therein with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert: "together with an additional $2,000,000 which shall be available for the expenses of non-Federal experts to review applications and proposals for competitive awards made by the Department".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 217: Page 64, after line 10, insert:

SEC. 307. ANNUAL LOAN LIMITS.

(a) AMENDMENT.—Section 468 of the Higher Education Amendment of 1992 is amended—

(1) in paragraph (3), by striking "and" after the semicolon;

(2) in paragraph (4), by striking the period and inserting "; and "; and

(3) by adding at the end the following new paragraph:

"(5) the changes made in section 464(a)(2)(A), relating to annual loan limits, shall take effect for award years beginning on or after July 1, 1993.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on July 23, 1992.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 217 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 307. ANNUAL LOAN LIMITS.

(a) AMENDMENT.—Section 468 of the Higher Education Amendments of 1992 is amended—

(1) in paragraph (3), by striking "and" after the semicolon;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph;

"(5) the changes in section 464(a)(2) (A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1993, provided that the loan does not result in a violation of sections 464(a)(2) (A), (B) and (C) as in effect prior to such date of enactment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on July 23, 1992.

The SPEAKER pro tempore. The questions is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 236: Page 77, after line 14, insert:

SEC. 515. Notwithstanding any other provision of this Act, funds appropriated under this Act for salaries and expenses of the Department of Labor are hereby reduced by $15,000,000; salaries and expenses of the Department of Education are hereby reduced by $5,000,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $115,360,000: *Provided*, that as vacancies occur in full-time permanent positions of these departments, no more than 50 percent shall be filled, except in those cases where the Congress has specifically added full-time equivalents over the actual fiscal year 1992 usage levels.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 236 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 511. Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by .8 per centum.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. Natcher].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 237: Page 77, after line 14, insert:

SEC. 516. (a) Beginning in fiscal year 1994, an in each fiscal year thereafter, the Office of management and Budget shall establish the funding for consulting services for each department and agency as a separate line item in—

(1) each department and agency request for funding in any budget proposal submitted for inclusion in the annual budget of the United States Government submitted by the President to the Congress;

(2) each such budget proposal; and

(3) each budget annually submitted to the Congress under section 1105 of title 31, United States Code.

(b) For purposes of this section consulting services include—

(1) management and professional support services;

(2) studies, analyses, and evaluations;

(3) engineering and technical services (excluding routine engineering services such as automated data processing and architect and engineering contracts); and

(4) research and development.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 237 and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 512. (a) Beginning in fiscal year 1994, and in each fiscal year thereafter, the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under section 1105 of title 31, United States Code.

(b) For purposes of this section, consulting services include—

(1) management and professional support services;

(2) studies, analyses, and evaluations;

(3) engineering and technical services (excluding routine engineering services such as automated data processing and architect and engineering contracts); and

(4) research and development.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 238: Page 77, after line 14, insert:

SEC. 517. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Surgeon General of the United States determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs, except that such funds may be used for such purposes in furtherance of demonstrations or studies authorized in the ADAMHA Reorganization Act (Public Law (102-321).

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 238 and concur therein with an amendment, as follows:

In lieu of the section number named in said amendment, insert "514".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 239: Page 77, after line 14, insert:

SEC. 518. SENSE OF CONGRESS CONCERNING THE FUNDING OF DRUG DEMAND AND DRUG SUPPLY REDUCTION ACTIVITIES AND CONTINUATION OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

It is the sense of Congress that—

(1) the second budget submitted by the President to the Congress under section 1105 of title 31, United States Code, after the date of enactment of this Act should provide for the funding of activities to reduce the demand for drugs (including anti-drug education programs and treatment) in an aggregate amount that is equal to the aggregate amount of funding for activities to reduce the supply of drugs (including law enforcement uses, law enforcement grants, border control and customs efforts, prison construction and maintenance, and international eradication efforts;

(2) the Director of National Drug Control Policy should be assigned authority to implement and oversee the distribution of funds for drug demand and drug supply reduction activities in accordance with paragraph (1); and

(3) section 1009 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1506) should be amended to continue the existence of the Office of National Drug Control Policy beyond the current termination date of November 18, 1993.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 239 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 515. Funds appropriated in Public Law 102-170 for the National Commission on Children shall remain available until expended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to:

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

MILITARY HEALTH CARE INITIATIVES ACT OF 1992

Mrs. SCHROEDER. Mr. Speaker, pursuant to House Resolution 589, I call up the Senate bill (S. 3144) to amend title 10, United States Code, to improve the health care system provided for members and former members of the Armed Forces and their dependents, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 589, the gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 30 minutes, and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes.

The text of the Senate bill is as follows:

S. 3144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Health Care Initiatives Act of 1992".

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 715. REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1074c the following new section:

"§1074d. Reproductive health services in medical facilities of the uniformed services outside the United States.

"(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station in the same manner as any other type of medical care.

"(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost (including indirect costs) of providing the service.

"(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074c the following new item:

"1074d. Reproductive health services in medical facilities of the uniformed services outside the United States.".

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Colorado [Mr. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I rise in support of S. 3144, the Military Health Care Initiatives Act of 1992.

This bill contains the same text as was in section 637 of H.R. 5006, the House passed defense authorization bill and in section 716 of S. 3114, the Senate passed authorization bill. This section provides reproductive health services for service members overseas.

This is not a new provision. It responds to the 1988 decision of the Pentagon to restrict reproductive health services for service members and their families stationed overseas. Seeing the inequity of this situation, the House adopted this same provision in 1990 and 1991, as well as this year.

S. 3144 is the exact provision contained in the defense authorization bill. The bill simply states that service personnel and their families are entitled to all reproductive health services at military medical facilities abroad. In addition, service men and women would be required to pay all costs of any service ineligible for payment with appropriated funds.

Many U.S. service personnel are stationed in countries where legal abortion services are difficult or impossible to obtain, or are outrageously expensive.

While I would rather have seen this section included in the conference report on H.R. 5006, given the adjournment date, I agreed to move this provision as a separate bill as long as it was firmly coupled with the defense authorization bill.

The House fully debated this matter as a part of its consideration of H.R. 5006. This rule provides for the House to simply reaffirm its earlier votes on this provision and send it to the President.

This vote is about military morale and preparedness, and basic access to lawful medical care that is available in the States. Our service members and their families deserve no less.

Mr. Speaker, I urge our colleagues to vote for S. 3144.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in wholehearted support of the Senate bill, S. 3144, the Military Health Care Initiative Act of 1992. This bill contains exactly the same text as section 637 of the House passed defense authorization bill and section 716 of the Senate passed authorization bill. It also was in both of the appropriations bills in the House and the Senate. It is not a new provision. I would hope that we do not need to spend a whole lot of time here. It only responds to the 1988 decision of the Pentagon to restrict reproductive health care services for service members and their families stationed overseas.

Up until 1988, Mr. Speaker, members and their families were allowed to purchase with their own money reproductive health care services. In 1988 this was changed. Seeing the inequity of this situation, the House adopted the same position, and this position rescinds it in both 1990 and 1991.

So, here we are voting on it for the fourth time, and we would hope that everyone here could agree that the bill simply states that service personnel should be able to have exactly the same reproductive health services and military facilities abroad that men and women they are defending by being abroad can have at home.

But it is also subject to total payment for whatever cost there is so that there can be no taxpayer rancor here.

Mr. Speaker, this has been debated very, very thoroughly many, many times. I would urge our colleagues to vote for it.

Mr. Speaker, I reserve the balance of my time.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wonder if the gentlewoman from Colorado [Mrs. SCHROEDER] would enter into a colloquy with me.

As the gentlewoman has indicated, Mr. Speaker, this matter has come up several times, been voted on several times, but I just want to establish something for the record.

This legislation permits abortion in situations different from the so-called Hyde amendment as I understand it. Is there any limitation on the term within which an abortion can be performed under this bill?

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, under this bill, as the gentleman knows, each of the services has different requirements in their hospitals, but what it says is we do not override those, but we do say, if a service member or their family, only overseas, opts for these services, they of course must comply with whatever the service requires in that hospital, and they must pay the direct and indirect costs so the taxpayer is not funding any of it, and that is all it does, and that is all it has ever been intended to do.

Mr. DICKINSON. Mr. Speaker, I understand the money part. In the United States the various States have the ability to impose certain State rules and regulations concerning abortion. But what I asked and what I am not clear about is if, under this bill, someone in their seventh or eighth month wanted an abortion, could they receive an abortion in an overseas military hospital under this bill?

Mrs. SCHROEDER. No; because this is not an abortion on demand, which is what people are trying to phrase it as. What happens here is all the regulations that the military would have in each service—they have different regulations, as the gentleman knows—but they would kick in or they could provide regulations saying that they would comply with whatever they wanted to do. But each of the hospitals or each of the different services has requirements for their overseas hospitals. We do not impose State law on them, and, as the gentleman knows, before 1988 this was in effect, and the gentleman knows full well that this operated very fully, and it was abortion on demand, and it was done very respectfully with each of our services having their own criteria around it.

Mr. DICKINSON. Well, the other question that I think needs to be clarified so that Members are clear is, does there have to be any specific reason for the abortion, such as rape, incest, or life of the mother, or can it be for any purpose that the mother might desire?

Mrs. SCHROEDER. Well, my guess is that again it depends on each service and what criteria they would put on it. But, as the gentleman knows, they would operate under the Supreme Court decision, and the Supreme Court decision allows restrictions beyond the first trimester except for the life of the mother or severe health limitations.

□ 1220

So clearly my guess is that all the services are complying with the Constitution of the United States. As far as I am aware, every one of them is forced to raise their right hand and swear that they will. So they would be operating under the Constitution even though they are overseas, and with the criteria put on by *Roe v. Wade* for different trimester proposals, they could write regulations around those. We are not trying to regulate for each of the services. We trust them to put it in.

Mr. DICKINSON. Mr. Speaker, I appreciate the gentlewoman's ascribing to me knowledge that I do not have. Of course, the services can do what they want to do, and they do. I do not know what each of the three services require in terms of regulations dealing with abortion.

Does the gentlewoman therefore believe that each of the services can fashion its own requirements, and could they be different from service to service or even between hospitals within a service?

Mrs. SCHROEDER. Well, we know that each of the services sometimes have different requirements. They have had those in the past, and that has never bothered this body. But all of the services are under the Constitution of the United States, so, therefore, they cannot differ outside of that parameter. But within that parameter they can have varying rules, and they do have varying rules, as we have known from many of our hearings that we have had.

Mr. DICKINSON. Mr. Speaker, I thank the gentlewoman for responding to my inquiries, but I have to say that I am still in a quandary as to exactly what it is that this bill is allowing since it is not set out what each of the services may do nor is it clear if regulations are to be uniform throughout a particular service.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield further?

Mr. DICKINSON. Of course, I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, obviously the services must all operate under the *Roe v. Wade* decision, and the *Roe v. Wade* decision says they cannot put restrictions upon someone wanting an abortion in the first trimester. But in the second and third trimesters, as the fetus becomes more developed, they can put restrictions on as long as those restrictions would not impair the life of the mother.

I think what you would find if you went back and looked at military hospitals overseas is that they were practically all very early first-trimester decisions that were made unless there were some very, very critical issue involved.

Mr. DICKINSON. The gentlewoman is talking about actual practice, and, of course, one of the concerns is not what the usual practice is but rather what could be allowed. This is something that concerns a lot of people on both sides of the aisle.

Mrs. SCHROEDER. But as the gentlewoman knows, we cannot allow anything more than what *Roe v. Wade* permits, and I do not think anybody in this body thinks that military hospitals were running abortion mills before 1988. I do not think they thought that at all. So I am a little concerned about what the gentleman is trying to imply. Pre-1988, we know that each of the services had restrictions, they were very carefully monitored, and I think one of the things that we are finding more and more out about now is rape, and, unfortunately, rape and incest are two of the main reasons we have seen abortions being given in the military. We know that is still a tremendous problem as we look at the statistics today. I think what we are seeing is that we ought to restore that ability overseas that went on before and no one ever raised any rankle that the military was allowing people to abuse this.

Mr. DICKINSON. The reason I am asking the question is that the argument is made, and it has been made successfully before that we should not deny any overseas dependent the same right that a dependent would have in the United States.

Mrs. SCHROEDER. That is right.

Mr. DICKINSON. But that is not to say that they should have any greater right than if they were in the United States.

Mrs. SCHROEDER. The gentleman is absolutely correct.

Mr. DICKINSON. Would the rules applying overseas be different than the rules applying to military hospitals within the United States?

Mrs. SCHROEDER. No.

Mr. DICKINSON. That is what I was trying to clear up for the record.

Mrs. SCHROEDER. I appreciate the gentleman's question. That is a very sensitive question, and the gentleman is absolutely right. What we are saying is that they are all pledged to fight for the Constitution of the United States and pledged to uphold our rights and freedom, and we think when they are overseas, they should have the same rights and freedoms they would have if they were stateside. That is exactly what this is. The military must operate under the same Constitution and the same constitutional provisions that they have to operate under here at home.

Mr. DICKINSON. I thank the gentlewoman

Mrs. SCHROEDER. That is absolutely the same. That is what we are talking about, and that is our intent.

Mr. DICKINSON. Mr. Speaker, I thank the gentlewoman for the reply. I think there are probably some very strong differences of opinion.

Mr. Speaker, if I might make this inquiry, do I have time?

The SPEAKER pro tempore (Mr. DOWNEY). The Chair will inform the gentleman from Alabama that he has 30 minutes. He may not still have that amount of time remaining.

Mr. DICKINSON. Mr. Speaker, what is the remaining time that I have?

The SPEAKER pro tempore. The gentleman from Alabama [Mr. DICKINSON] has 20 minutes remaining.

Mr. DICKINSON. I thank the Chair.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I really dislike disagreeing so comprehensively with my friend, the gentlewomen from Colorado, as to what the law of Roe versus Wade is, but we have to understand it, and I wish she would read the case and understand what *Roe v. Wade* and its companion case, *Doe v. Bolton*, provides.

There are no restrictions imposed on abortion by *Roe v. Wade. Roe v. Wade* says that in the first 3 months a woman has an absolute fundamental right under the Constitution—they used to find it in privacy; now they locate it in liberty—to abortion. In the second trimester the State may—may—the State may have an interest in legislating to protect maternal health, not fetal health. So the fetus is still at risk, and we are up to 6 months now.

Now, in the last trimester *Roe v. Wade* does not restrict abortion. It says the State may even prohibit abortions if the life of the mother is in danger or the health of the mother is jeopardized. And then in *Doe v. Bolton* they describe and define "health" as the absence of distress or emotional well-being.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. No, I will not yield except on the gentlewoman's time, and I will yield all day under her time.

Mr. Speaker, for all intents and purposes under *Roe v. Wade* there are not restrictions on abortions, but the Court says that "the State may." But in this case there are no statutes governing abortions in military hospital.

The gentlewoman talks about regulations. Statutes supersede regulations, and if you read this bill, you will find that the bill provides abortions shall be made available in the same manner as any other type of medical care. That is all it says. It might be like an appendectomy or a tonsillectomy. So you can get a late term abortion during the last trimester, and no regulation is going to supersede this bill.

So what you are providing for, if you pass this bill, are abortions on demand throughout the entire period of gestation. There is no constitutional restriction on abortion, there is no Federal legislative restriction on abortion, and the Court has only said what the States may do. You are asking us to act as a State legislature, and we are not restricting abortions. So under this bill abortion on demand through the entire 9 months will be allowed.

Furthermore, what about the conscience of the doctors and the nurses? There are regulations that provide the consciences of the medical personnel should be respected. But does this statute supersede those regulations? A statute, after all, is an expression of the will of Congress, and if we pass this "turkey," what we are saying is that abortion shall be available in the same manner as any other type of medical care, as though killing an unborn child is any other type of medical care. It is wrong. We voted on this last June. It permits and authorizes abortion on demand without any restriction, and it uses taxpayer facilities to do it.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, let me ask the gentleman, is it true that children of military personnel are entitled to care within hospitals?

Mr. HYDE. Of course, and there is no parental consent here.

Mr. VOLKMER. There is no notification?

Mr. HYDE. That is right.

□ 1230

Mr. VOLKMER. Mr. Speaker, if the gentleman will yield, therefore you could have us approving using Federal funds to provide both the doctors and the hospitals for 13- and 14-year-olds to have an abortion without their parents even knowing about it.

Mr. HYDE. That is right. And it could be an 8 or 9-month fetus, too.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman knows that they do not operate on children in any of the military hospitals without parental consent; that they do have restrictions and all sorts of regulations.

Mr. HYDE. Mr. Speaker, reclaiming my time, does the gentlewoman from Colorado [Mrs. SCHROEDER] understand that a statute supersedes regulation when they are in conflict? Does the gentlewoman agree with that statement?

Mrs. SCHROEDER. Mr. Speaker, we have made it very clear that this is not what we are doing. We are saying we are going back to the pre-1988 position. I do not think the gentleman from Illinois [Mr. HYDE] would be arguing that military hospitals——

Mr. HYDE. Where do you say you are going back to the pre-1988 position?

Mrs. SCHROEDER. We have put that in all the legislative language. Pre-1988 this was permitted overseas in military hospitals. Surely the gentleman from Illinois [Mr. HYDE] is not saying that they were abortion mills and they were doing all these awful things.

Mr. HYDE. Mr. Speaker, reclaiming my time, President Reagan put a stop to this, my dear friend. There were no abortions in military facilities after the Reagan administration came in.

Mrs. SCHROEDER. It was not until 1988 that the restriction was put on.

Mr. HYDE. This is unrestricted. You cannot rely on *Roe v. Wade* nor any regulation. This is abortion on demand.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I think Members ought to first know why we are debating this issue again here today. It angers me, and I think it angers every woman in this country, every person in this country who believes in the basic fairness that a servicewoman in uniform stationed abroad or her dependents ought to be able to use their salary, and with that salary purchase abortion services—if their conscience deems that necessary—in the same manner that every other American whom they are defending is able to do here in the States. That is what this bill does.

But we are having to debate it again today, after having passed this amendment as a part of the Defense Authorization Act, for one reason and one reason alone, and that is this: the conferees on the defense bill providing for the defense of the entire United States of America decided that if this provision stayed in that bill, George Herbert Hoover Bush would bring down by veto the entire defense authorization bill. He would veto that bill because this provision says that servicewomen in service of our Constitution, in protecting our rights here at home, shall be able to acquire through their own salaries abortion services, if they are following their conscience and choose to do so, in the same manner as American women here in this country do.

Mr. WALKER. Mr. Speaker, I demand that the gentleman's words be taken down.

Mr. HYDE. He has done that twice now and it is very much out of order.

Mr. WALKER. I demand the words be taken down.

Mr. HYDE. I await the Chair's ruling.

The SPEAKER pro tempore (Mr. DOWNEY). The gentleman will suspend. The Clerk will report the words objected to.

Mr. HYDE. I hope this comes out of his time, Mr. Speaker.

Mr. AUCOIN. I am sure the gentleman does.

The SPEAKER pro tempore. It comes out of no one's time.

Mr. HYDE. A great disappointment.

□ 1240

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I ask unanimous consent to withdraw the words in my statement in which I referred to subjugation.

Mr. WALKER. Mr. Speaker, reserving the right to object, have the words been reported?

The SPEAKER pro tempore. The Clerk will report the words of the gentleman.

The Clerk read as follows:

I want America to know there is no function of the Government that George Herbert Hoover Bush would not subjugate to the agenda of the National Right to Life——

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, there were a series of words before that that also are of the same tenor, and this gentleman is objecting to the entire series of words.

The SPEAKER pro tempore. The Clerk will report the entire statement.

The Clerk read as follows:

This President was willing to bring down and subjugate the defense of the country because of the agenda of the National Right to Life Committee. He has done it before. He has brought down the Labor-HHS appropriations because of a similar amendment protecting a woman's right to choose. I want America to know that there is no function of this Government that George Herbert Hoover Bush would not subjugate to the agenda of the National Right to Life——

Mr. AUCOIN. Mr. Speaker, I ask unanimous consent to withdraw the word "subjugate" in very instance in which I used it.

Mr. WALKER. Mr. Speaker, reserving the right to object, the fact is that the word "subjugate" is not the problem. It is the whole tenor.

Is the gentleman asking unanimous consent to withdraw all of his words? If he is, then this gentleman has no problem with that. But if the gentleman is asking that he be allowed to substitute some other verb, when he revises and extends, that is not an appropriate request.

Mr. AUCOIN. Mr. Speaker, I will make that unanimous consent request. I will make that unanimous consent request.

Mr. WALKER. Mr. Speaker, further reserving the right to object, is the gentleman's request to strike all of the language read by the Clerk?

Mr. AUCOIN. Mr. Speaker, do I get my time back, if I do?

The SPEAKER pro tempore. That would be up to the gentlewoman from Colorado to grant the gentleman additional time if the pending request is granted. The gentleman still has 30 seconds, so he could speak for that time, or get additional time.

PARLIAMENTARY INQUIRY

Mr. HYDE. Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HYDE. Mr. Speaker, if I were to object to the gentleman's unanimous consent request, would that, as they say, "Take him off his feet" for the rest of the day? He could not speak anymore?

The SPEAKER pro tempore. The Chair would first have to rule and then the House would have to decide if the words were ruled out of order.

Mr. HYDE. Mr. Speaker, in view of the fact that the gentleman is in a very heated Senatorial contest, I would not want to interfere in that important campaign.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the gentleman's words will be withdrawn.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Speaker, I have a parliamentary inquiry?

The SPEAKER pro tempore. The gentleman will state it.

Mr. OBEY. Does this episode mean that sometimes rules of the House prevent one from speaking the truth on the House floor?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

Mr. HYDE. Mr. Speaker, I would move that the gentleman's words be taken down. He has ratified and reasserted everything that the gentleman has just withdrawn.

The SPEAKER pro tempore. The Clerk will report the words of the gentleman from Wisconsin.

□ 1250

Mr. HYDE. Mr. Speaker, the gentleman from Wisconsin [Mr. OBEY] should not be in that conference, under any orderly procedure. I am also concerned, Mr. Speaker, about the import of the gentleman's words that "the truth cannot be spoken in this House."

The SPEAKER pro tempore (Mr. DOWNEY). The gentleman was making a parliamentary inquiry. The Chairman had announced, if the gentleman will recall, that it was an inappropriate parliamentary inquiry. Then the gentleman made the point that he wanted the words taken down. We are awaiting the reporting of those words and the gentleman from Wisconsin will be seated.

The Clerk will report the gentleman's words.

The Clerk read as follows:

Does this episode mean that sometimes rules of the House prevent one from speaking the truth on the House floor?

The SPEAKER pro tempore. The Chair is prepared to rule. Because the gentleman from Oregon [Mr. AUCOIN], in response to the objections of the gentlemen from Illinois [Mr. HYDE] and Pennsylvania [Mr. WALKER], received unanimous consent to withdraw his comments with respect to the personal motives of the President of the United States. Those words have no bearing on the further statement of the gentleman from Wisconsin [Mr. OBEY].

The Chair had ruled that it was an improper parliamentary inquiry. The Chair does not believe that the gentleman from Wisconsin's words were a reference to any particular Member or personality. The point of order is overruled.

The gentleman from Oregon [Mr. AUCOIN] is recognized for 30 seconds.

PARLIAMENTARY INQUIRIES

Mr. DICKINSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from Oregon [Mr. AUCOIN] yield for a parliamentary inquiry?

Mr. AUCOIN. I yield for a parliamentary inquiry.

Mr. DICKINSON. Mr. Speaker, I was just trying to follow the play here. I had understood that there was a unanimous-consent request made, and I did not understand that the Chair had ruled. I thought there was a reservation to it. I think there is another Member standing here also to reserve.

The SPEAKER pro tempore. Let the Chair try to sort out the situation for the gentleman.

The gentleman from Oregon [Mr. AUCOIN] asked unanimous consent for his words to be removed. They had been removed. There was no objection to that request.

Mr. DICKINSON. Mr. Speaker, there were two reservations. One was removed, and I did not know that the other reservation had been withdrawn. I heard no ruling from the Chair. For that reason, I was confused.

The SPEAKER pro tempore. The Chair did not hear objections to the unanimous request of the gentleman from Oregon.

Mr. DICKINSON. I thank the Chair.

One other parliamentary inquiry, if I might. Are we at the point where we can proceed with the business of the House, or is there something else pending?

The SPEAKER pro tempore. The Chair certainly hopes so.

The gentleman from Oregon [Mr. AUCOIN] is recognized for 30 seconds.

Mr. AUCOIN. I ask the manager of the bill, Mr. Speaker, to yield me additional time.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 additional minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Let me just rephrase what I am trying to say, and speak the truth without impugning anyone, or stepping on anyone's toes.

The facts are these: The veto message, the message from the White House, was that the defense authorization bill would have been vetoed if this amendment had been a part of that Defense Authorization Act, so if the White House was prepared to veto that bill, this provision which I authored, which provides servicewomen stationed abroad their ability to use their dollars that they have earned to acquire abortion services, I find that truly amazing.

I would have to say that I apologize, in a sense, for being emotional in my earlier remarks, but I do get emotional when it comes to protecting the rights of women in this country, whether they serve abroad or whether they are citizens of this country. I do not like it when major legislation is vetoed because there is a simple protection for a woman's private right to choose included in that legislation.

Now we have this provision, split off from the authorization bill, standing alone, because members of the committee did not want to have that included and sent down to the President as a part of the overall bill. Again, women's rights were left out, left behind. I find great trouble with that. I find difficulty with the decision of the conferees to do that, because, once again, the right of a woman to freely exercise her conscience on this sensitive question was left behind. I find that extremely regrettable.

I have had testimony from doctors, a doctor stationed in Subic Bay in the Philippines, that is how I got interested in this matter in the first place, who talked about treating service women stationed in the Philippines, where it is against the law to acquire an abortion. He treats them in military facilities because they have had no recourse because of the regulations that are in place today but to go to back alleys, and they are victims of back alley abortions. He treats them in military facilities at taxpayer expense.

Some would say, "We do not want government dollars involved in abortion?" They are involved, Mr. Speaker. They are already involved. That unfairness must come to an end. This bill ends it. I ask my colleagues to support it.

Mr. DICKINSON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, would the gentleman from Oregon [Mr. AUCOIN] engage in a colloquy on my time?

Mr. Speaker, I would say to the gentleman from Oregon that I agree with him and have voted with him in the past on the substance of this issue. In the altercation that occurred, it seemed to me that the gentleman weakened his position significantly by the intentional misnaming of the President of the United States.

Much has been made of various candidates in and out of office and their ability to spell or not spell. I would hope the gentleman would tell me that the misnaming of the President of the United States was unintentional on his part.

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Oregon.

Mr. AUCOIN. Does the gentleman refer to when I called him George Herbert Hoover Bush?

Mr. THOMAS of California. Yes.

Mr. AUCOIN. Mr. Speaker, I guess that was a slip of the tongue.

Mr. THOMAS of California. I have to tell the gentleman that it certainly demeans the substance of the argument in which I agree with the gentleman, to have someone who indicates that he wants to elevate himself to the other body, that behavior clearly means we know where the other body stands.

PARLIAMENTARY INQUIRY

Mr. JONES of Georgia. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. JONES of Georgia. Mr. Speaker, I am somewhat confused by the objections on this matter. Is the objection from the minority side because the phrase "Herbert Hoover Bush"——

Mr. WALKER. Mr. Speaker, the confusion of the gentleman from Georgia [Mr. JONES] is not a parliamentary inquiry.

The SPEAKER pro tempore. The Chair would ask the Members to desist for a moment.

Mr. JONES of Georgia. Mr. Speaker, is the objection to the phrase "George Herbert Hoover Bush" an objection as an offense to the Republican President Bush, or to the Republican President Hoover?

Mr. DICKINSON. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry with respect to the words that have been uttered previously. They have been expunged from the RECORD and withdrawn.

Mr. DICKINSON. Mr. Speaker, could we get an accounting of the time remaining for each side?

The SPEAKER pro tempore. The gentleman from Alabama [Mr. DICKINSON] has 14 minutes remaining, and the gentlewoman from Colorado [Mrs. SCHROEDER] has 23 minutes remaining.

Mr. DICKINSON. Mr. Speaker, would the gentlewoman care to yield time at this time?

Mrs. SCHROEDER. Mr. Speaker, to get this debate back focused on the very, very important thing it is dealing with, which is women and their rights and their health, and women in uniform who are overseas protecting our rights and our health, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD], a very distinguished member of the Committee on Armed Services.

□ 1300

Mrs. LLOYD Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, there are many of us in this body who choose to be pro-life. This is our right. This is our choice. But we also believe that this is a very personal decision that other people can and should make for themselves.

Mr. Speaker, whatever their decision, it is the belief of this Member that this person should have access to quality, safe medical care that we want for all Americans, and especially Americans who are serving us on foreign soil. So this is a step to ensure that military personnel and their dependents stationed overseas have access to safe reproductive health care. And they should not have to rely on facilities that are not safe and are substandard.

So it is only fair that the same services available to military personnel in this country be extended to those stationed abroad. And this bill goes to great lengths to ensure that all costs, including indirect costs, will be paid for by the patient. No Federal funds will be used for abortion.

In addition, this in no way represents abortion on demand. And it would not lead to some kind of medically irresponsible policy on abortions at military hospitals.

I ask my colleagues to support this legislation.

Mr. DICKINSON. Mr. Speaker, it is my pleasure to yield 3 minutes to the very distinguished gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today in opposition to this bill, which is not a health care bill; it is merely another attempt in political posturing to bring another vote for "abortion-on-demand" this year. This bill is exactly the same as the AuCoin amendment to the DOD authorization bill, which received strong opposition in this Chamber in June of this year.

At a time when our economy is struggling and Americans are being hit hard with taxes and are indirectly paying for the numerous regulations that this Congress has placed upon businesses—the costs of which are passed down to the American consumer—it is unconscionable that we would put the U.S. taxpayer in the position of facilitating abortion-on-demand. This proposed legislation would do just that by mandating that medical facilities provide abortions, "in the same manner as any other type of medical care." This blatantly goes against the decision by the Supreme Court in *Harris v. McRae* which ruled that Government can distinguish between abortion and "other medical procedures" without violating equal protection guarantees. A majority of the Supreme Court Justices declared that:

> * * * Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life.

No matter which side of the debate a person finds him or herself on, it is important to note that the Justices termed abortion as a "termination of a potential life." This "potential life" should not be trivialized and buried in a discussion of the, quote, "right" of the mother.

This proposed legislation would even require military medical facilities to perform third trimester abortions upon request for any reason. The only exception to this policy of abortion for any reason would be a determination by the physician that the abortion would place the woman's health at risk.

Contrary to what has been argued by the other side, *Roe v. Wade* did not impose any restrictions on abortion; it removed them. States may pass laws placing some very limited restrictions on third trimester abortions as Pennsylvania did; but these abortions are not proscribed by the Court in Roe or in any other decision. Furthermore, military hospitals are Federal facilities governed by Federal law. And there is no Federal law prohibiting third trimester abortions or regulating abortions under any circumstances, nor does this legislation impose any limitations.

In the past, those on the other side have referred to hard case situations to garner support for this type of a policy of abortion-on-demand for any reason. They are ignoring the fact that current policy already permits the performance of abortions in military facilities when the mother's life is endangered.

I urge my colleagues to vote "no" on this bill.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of S. 3144, legislation to restore constitutional rights to military women.

This bill is identical to the AuCoin amendment which the House approved as part of the DOD authorization bill earlier this year. It would allow military personnel and their dependents to use their own funds to pay for abortions at overseas military health facilities. This bill is consistent with U.S. law and would simply allow servicewomen to obtain the same range of health services at those facilities that they can now obtain at home. The bill does not affect the current prohibition on DOD funding of abortions, except when the woman's life is endangered.

Mr. Speaker, this bill would assure the women of our Armed Forces that they need not sacrifice their constitutional rights in order to serve our country. I urge my colleagues to join me in supporting S. 3144.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, for those of you who have followed my position on this issue, you know I have, in recent years, supported the AuCoin amendment. I have done so simply because, to me, this is not an abortion issue at all. This is simply a question of whether the American military ought to have the same rights and privileges under the law as every other American citizen.

I think it is even worse than that. The truth is, without this provision, an American soldier in this country has privileges that an American soldier stationed abroad, against his will, does not have. I think that is wrong.

But I want to tell you a very disturbing experience that has happened regarding this issue. Most of you know that I have generally been pro-life. So I have to tell you that the Wisconsin Citizens Concerned for Life told me earlier that if I oppose the Freedom of Choice Act I would have their endorsement. Yesterday they called my office and said unless Mr. GUNDERSON reverses his position and opposes this bill, we will not endorse him.

That tells me two things. It tells me, No. 1, they are a liar. And it tells me, No. 2, they are trying to blackmail me on this issue.

Whether it be a pro-life group or any other special interest, I would rather lose the election than prostitute myself with a vote simply to gain their endorsement. This threat was very wrong. They know my public position on this issue. And in the interest of American soldiers, and their families, I hope we pass this bill and enact it into law.

Mr. DICKINSON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I yield to my colleague, the gentleman from San Diego, CA, Mr. DUNCAN HUNTER, to use as much of my 4 minutes as he may consume, but I would ask him to be merciful.

Mr. HUNTER. I thank the gentleman for yielding. I just wanted to say that it is tragic that the Department of Defense is being targeted to essentially experiment with this very radical abortion-on-demand act with which Members of Congress have had a great deal of difficulty when it was offered in the Judiciary Committee, and the political decision was made not to try to hammer this thing through this year.

Unfortunately, the unborn children who are going to be subjected to this very, very radical act through this particular provision are those children who are going to be aborted in military hospitals around the world, and I think it is a tragedy that this Department of Defense is going to be used as a Department of Aggression against unborn children. It is absolutely a mistake to attempt to target this radical act for experiment in the Department of Defense.

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I think a little history is in order here, because most of the players were eyewitnesses to the following history of abortion on demand in the military.

In my second year, under the guidance of a very distinguished former legislative leader from Illinois who was in his third year in this House, fourth year, and I was in my second year, I came to this well, and in August 1978, it was the fourth year of the gentleman from Oregon [Mr. AUCOIN], and the sixth year of the gentlewoman from Colorado [Mrs. SCHROEDER], and they remember this. I put an amendment in to cut off all abortions in the military. We won overwhelmingly.

I remember the gentleman from Illinois [Mr. HYDE] at the brass railing back there saying, "You have no idea, BOB, how important this victory is," because they were attacking me and all the pro-lifers on both sides of the aisle, that all we cared about was cutting off abortions for helpless, poor ladies of minority ethnic groups.

It went into effect September 1, 1978. I said then, and I say now, on my gravestone, I need nothing else, "He cut off abortions with U.S. defense dollars."

Now, for 10 years, the military got in a cheating position. We did not find out about it for about 6 or 7 years, and then in 1988, under a great American President, Ronald Wilson Reagan, we stopped them from giving abortions in military hospitals for a tiny stipend; you know, leave a dime on the desk before you go out. "I am in uniform training to be an abortionist, because I know that will make me a multimillionaire within 5 years" in this country where we watch our morality decline now on an hourly basis.

So I say to the good people on this side of the aisle and the good people on that side of the aisle, this is a moral, ethical issue of killing children in their mothers' wombs with our diminishing tax dollars.

As we draw our military down from 2 million great men and women to 1½ million, and if the Presidential election goes in the wrong direction, to under 1 million, what are we having proposed from a handful of people on the majority side, that we replace heroes with homosexual activists, that we send Chelsea into combat that her father avoided? That is the kind of weird choices we are being given.

I quote Patrick Henry, and the Washington Post will call it yelling and ranting, but I say, "Almighty God, forbid it."

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished author of this legislation, the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, until 1988 we had this law in place, and there was no objection to it. It worked very well. It applied only in those rare instances where military personnel serving abroad had need for these services. Our facilities handled them safely, adequately, without controversy.

It has only been in the last couple of years that the abortion debate in this Nation has taken on this highly politicized tone, and we have had to fight for something as basic as the individual's right to have the same services under the same rules, regulations, and laws available overseas just as they are here at home.

I do not see this as a major issue. I do not believe we are attempting in any sense to rewrite law. We are simply asking that people who serve this country in dangerous and sometimes unhealthy environments be treated as we would treat any American citizen or any military person stationed here in the United States.

I want to make clear that we have included in this language all of the flexibility that is needed in order to prevent any public funds from being spent. We say that those people serving on duty stations outside the United States should be treated in the same manner as they would with any other type of medical care; in other words, the regulations that can be written will cover not only the cost up front of an abortion but also the indirect costs.

We make it very clear that under payment for services we are talking about indirect costs as well as the direct costs, so that any overhead that is associated with this care will be factored in and billed to the individual who is desirous of using the services.

It is very humane; it is totally comprehensive. It does not use public funds. And it is fair to all people who serve this country.

I urge support.

Mr. DICKINSON. Mr. Speaker, I yield 1 minute to the very distinguished gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, according to a recent Gallup Poll, 88 percent of the American people are against family-planning abortions. That is the most radical proabortion position. Yet this bill represents the most radical position on abortion that this Federal Congress could adopt. It requires that our military facilities provide abortions on demand. You can say that it does not, but it does.

There are absolutely no restrictions whatsoever. It would require U.S. military hospitals overseas to provide abortions for any reason and at any point in the pregnancy. Now, that is the most radical proabortion position.

Some colleagues suggest that this is not really all that big a deal, all that important. They ought to consider the fact that this bill represents the most radical proabortion position possible. It would require military medical facilities to provide third-trimester abortions on request for any reason, unless, in the judgment of the physician, the abortion would place the woman's health at serious risk. That is it. That is the only restriction.

There is no Federal law that provides for parental notification or consent for a minor's abortion; and that, too, would be covered by this bill.

I urge my colleagues to vote no on this radical proabortion legislation.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, we are in the midst of a grand flurry of activity. Bills come up as fast as we can blink, and it is difficult to keep track of all of the various provisions as the Congress sails through a sea of legislation in anticipation of final adjournment.

In this climate, it may be tempting to give a bill an innocuous label and push it through the House with minimal controversy. Take this bill, for example. It has a rather innocuous title: Military Health Care Initiatives. Sounds good, does it not? But what does this bill really do? This bill would require—not allow, but require—U.S. military hospitals overseas to provide abortion on demand.

If passed, this bill will confer an absolute statutory entitlement to abortion in military hospitals abroad. This entitlement will exist regardless of how far along the pregnancy has come—4, 5, or even 8 and 9 months. It will exist regardless of the reasons the abortion is desired: it would include, for example, sex selection. This statutory entitlement will compel military medical personnel to perform abortions even if that doctor decides that taking an innocent unborn life is against his or her conscience. Under this military health bill, that doctor must perform that abortion against his or her will, or violate the law of the United States. What kind of choice is that?

Current Department regulations allow military medical doctors and nurses to decline to participate in abortion on the basis on conscience. But these regulations would be in jeopardy under this military health bill. If passed, this would be the only statutory law governing the provision of abortions in U.S. military facilities, other than a Federal-funding provision. By creating such a broad statutory entitlement to abortion on demand, the Congress will have essentially thrown the Department's conscience regulations out the window.

This amendment is an extreme approach to abortion—in overseas military hospitals, U.S. abortion policy becomes one of any: anytime, any reason, anyone. I strongly urge Members to take a look at what this innocuous-sounding bill really is, and vote against this attempt to create a statutory entitlement to abortion on demand.

□ 1320

PARLIAMENTARY INQUIRY

Mr. DICKINSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. SWIFT). The gentleman will state it.

Mr. DICKINSON. Mr. Speaker, normally it is my understanding that the committee, the proponents of the committee position, would have the right to close. This is not a committee bill. It did not come from the Armed Services Committee as such. I was wondering who has the right to close and how many more speakers there are.

The SPEAKER pro tempore. The manager of the bill, in this case the gentlewoman from Colorado [Mrs. SCHROEDER], has the right to close.

Mr. DICKINSON. All right. How much time does the gentlewoman from Colorado have, and how much time do I have?

The SPEAKER pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] has 16 minutes remaining, and the gentleman from Alabama [Mr. DICKINSON] has 4 minutes remaining.

Mr. DICKINSON. Mr. Speaker, does the gentlewoman have any further speakers?

Mrs. SCHROEDER. I have one more.

Mr. DICKINSON. If the gentlewoman would, I would ask that she proceed.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. I thank the gentlewoman for yielding to me.

Mr. Speaker, I listened very carefully to the debate. As I understand it, this provision, the substance of Mrs. SCHROEDER's bill today that she has offered has been passed by this House after a fair and good debate and was a part of the bill.

It seems to me the opposition here is trying to have it both ways. They have already been defeated once in a fair fight. Now they want to reverse the decision.

I also, as a veteran Member of this House, cannot understand what happened in the conference. Do conferees, are they supposed to go in and thwart the will of both the House and the Senate and on their own eliminate a duly passed provision? I am shocked at that, too. I think that is something that really should be against our rules. I know it is against the rules in conferences to bring up something new, but in conferences can they throw out something that has been debated and passed by a record vote in each of the bodies? Obviously, it can be done because the conferees have done it here. I presume Mr. DICKINSON was a conferee.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Alabama.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. EDWARDS] has expired.

Mr. DICKINSON. Mr. Speaker, I yield myself 1 minute in order to respond and advise the gentleman.

Mr. Speaker, it is surprising and refreshing too to hear a gentleman from that side of the aisle complaining on changing the rules or bending the rules. The Democrats are in charge of the Committee on Rules; the Democrats can make the rules, they can change the rules, and they can waive the rules. It was from that side of the aisle that this unusual procedure originated. S. 3144, was brought to the floor first, ahead of our bill, which I objected to. We had nothing to do with it. We are not in charge. If the gentleman does not like the way the Committee on Rules does business, take it up with the majority on his side because they are the ones that are responsible.

Mr. Speaker, I yield back.

Mr. EDWARDS of California. I thank the gentleman.

I certainly do not think I have to change the rules.

Mr. DICKINSON. Mr. Speaker, regular order.

Mr. EDWARDS of California. I just think it is a matter of equity——

Mr. WALKER. Regular order.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. DICKINSON] has the time.

Mr. EDWARDS of California. And I urge approval.

Mr. WALKER. Regular order.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DICKINSON. Mr. Speaker, if the gentlewoman from Colorado is going to close with her final speaker, I yield such time as he may consume to the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. I thank the gentleman for yielding time to me.

Mr. Speaker, make no mistake about it, S. 3144 is designed to force every overseas U.S. military health facility into providing abortion on demand at any time during pregnancy.

If this antichild legislation becomes law—it will be vetoed by the President—every DOD health facility would be forced to provide the means by which unborn children would be destroyed.

That is to say, the taxpayers of America, many of whom conscientiously object to abortion, would be forced to subsidize the training of military doctors to be abortionists. And if there are few takers found in the ranks to engage in this grisly business, the taxpayers would be forced to recruit abortionists for assignment overseas.

Additionally, the taxpayer would also have to subsidize the procurement and purchase of suction machines, chemicals poisons, and other specialized implements designed to dismember or poison the unborn child.

The nominal fee the individual mother would pay for the abortion in no way would cover these and other not-so-hidden costs.

Thus, pro-life taxpayers by the tens of millions would be forced to pay for facilitating abortion-on-demand as every hospital and health clinic is turned—overnight—into an abortion mill.

Let me remind Members—notwithstanding the inside the beltway public opinion on abortion—that Americans overwhelmingly reject abortion on demand and are adamant in their view that they don't want any part in a funding scheme that pays for it.

A May 1990 Gallup Poll found that 77 percent of Americans believe that abortion takes a human life and that 88 percent of Americans are against abortion as a method of family planning.

This legislation forces DOD health care facilities to perform family planning abortions—and abortions for absolutely any other reason.

Mr. Speaker, Gallup also found that 73 percent of Americans would actually support a legal prohibition on abortion in the 4th, 5th, and 6th months of pregnancy, and beyond, except to save the life of the mother.

This legislation, on the other hand, forces DOD facilities to perform abortions in the fourth, fifth and sixth months of generation—and beyond for family planning reasons or any other reason.

Finally, Mr. Speaker, during debate on this provision last June, both Mr. AUCOIN and Mrs. SCHROEDER clearly misspoke when they suggested that Roe versus Wade prohibited most third trimester abortions.

Mrs. SCHROEDER said at the time:

> There are no abortions in the final trimester under Roe versus Wade unless the life of the mother is in danger or the fetus is in such critical shape that it cannot survive independently.

Several law professors were absolutely astounded to hear this:

> We asked legal experts to comment on these statements and here's what they had to say:
>
> *Roe v. Wade* does not restrict abortions at any stage of pregnancy or fetal development. It permits states (and the federal government, in federal enclaves) to restrict abortion during the third trimester, except insofar as this would threaten the mother's physical or mental health, broadly construed. But in the absence of applicable state or federal law, third trimester abortions are legal.
>
> —Michael W. McConnell, Professor of Law, The University of Chicago.
>
> It appears from the Record that Rep. AuCoin and Rep. Schroeder have spectacularly misunderstood the import of the Supreme Court's 1973 abortion decisions. Rep. AuCoin and Rep. Schroeder imply that *Roe v. Wade* prohibited abortions in the third trimester except in exceptional cases. This is utterly incorrect. *Roe* prohibited no abortions.
>
> —Robert P. George, J.D., D.Phil (Oxford), Member, Department of Politics, Princeton University.
>
> These remarks are constitutionally illiterate. *Roe v. Wade* does not, by its own force, prohibit any abortions at any stage of pregnancy. *Roe*, and the Supreme Court's abortion jurisprudence generally, merely describes the circumstances under which government may constitutionally regulate or prohibit abortions.
>
> —Gary Lawson, Associate Professor of Law, Northwestern University.
>
> Rep. AuCoin's claim that *Roe v. Wade* limits abortion in the third trimester of at any other time during pregnancy is patently false. *Roe* is not a limitation upon, but an authorization of, abortion.
>
> —Douglas W. Kmiec, Professor of Law, University of Notre Dame.
>
> [The statement of Rep. Schroeder] is absolutely and totally false. (And so is the similar statement of Rep. AuCoin at page H 4154.) *Roe v. Wade* did not outlaw any abortions at any time.
>
> —Jules B. Gerard, Professor of Law, Washington University.
>
> The comments on Mr. AuCoin and Mrs. Schroeder are factually and legally incorrect * * *—in flat contradiction of the words of the Supreme Court itself. * * * [They] are simply misinformed about the reality of *Roe*

> *v. Wade*, 410 U.S. 113 (1973) and its companion case, *Doe v. Bolton*, 410 U.S. 179 (1973).
>
> The "health" exception of *Bolton* * * * clearly swallows whole the alleged option of a State to "regulate, and even proscribe, abortion" in the third trimester. Under *Roe v. Wade* and *Doe v. Bolton*, the federal government, States and Territories may *not* prohibit the actual performance of third trimester abortions.
>
> —Robert A. Destro, Associate Professor of Law, The Catholic University of America, Former member, U.S. Commission on Civil Rights.
>
> Here's what a leading advocate of legal abortion has said regarding *Roe v. Wade*'s extent:
>
> Our position is that *Roe* * * * establish[es] that the rights of women and the health interests of women always take precedent over the state's interest in potential life.
>
> —Kathryn Kolbert, Counsel for the ACLU.
>
> Say "No" to taxpayer-facilitation of abortion on demand.

Mr. DICKINSON. Mr. Speaker, I have one final concluding speaker. I yield the balance of my time to the very distinguished gentleman from Pennsylvania [Mr. WALKER].

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 1 minute.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, this bill is legislating in a way that should never be done in the House of Representatives.

What you have before us here is a bill that came out of nowhere. We were referred a little bit ago by the gentlewoman from Colorado, when she was asked a question which she could not answer, for the legislative history of the bill. There is no legislative history of the bill because it came out of no committee. There is no committee report on this bill. In fact, we cannot even find copies of this bill on our side of the aisle. And when we are asked about the language, we are referred to S. 3114, and we are told that is the language, the language is in there, take that language.

Well, that means that the language in this bill is language that was eliminated from a bill, which means that the language does not exist in terms of any kind of legislative history. And yet the gentlewoman tells us that is where to go to find the answers to Mr. HYDE's question.

Beyond that, we have two people out here claiming authorship of this body. Mr. AUCOIN comes out and tells us he authored the bill. Mr. FAZIO is introduced by the gentlewoman from Colorado as the author of the bill. The gentleman from California says the regs for this bill are yet to be written. The gentlewoman tells us that we can have all kinds of confidence because the regs are already there. The gentlewoman tells us that this refers back to 1988. I looked through the language of the bill. We cannot find anything in the bill that says anything about anything in 1988.

All of this is mush; it is legislating the way that nobody should ever vote for.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

I am very sorry we have to come here with this bill standing separately. I thought it would be part of the overall DOD bill. Three times it has been put in the overall Defense Department bill on both sides, and three times it has disappeared at the end because of a veto threat. This bill is not mush. This bill is about a fundamental issue of how this Government treats over half its population, women. And I think we have heard the Gallup organization quoted over and over again. I think you would find the Gallup organization finds Americans feel that our men and women in uniform overseas, protecting our rights, should have extended to them the same rights extended to the Americans that are relying upon them.

This bill has legislative history. We know what it means. It has passed here three times.

We know that there are conscience clauses and there are all sorts of regulations in military hospitals. This bill's language clearly implies that all of those are holding. It says, "the same manner as any other type of medical care." That means, therefore, subject to those regulations.

The new regulations that will have to be written are regulations that, if this passes, are going to be written because we wanted to take into effect the fact that some taxpayers would be very upset that they were subsidizing any of this. So, for the first time this bill says all direct and indirect costs must be paid by the service member requiring this. And that will require new regulations because I know of nothing else where that is allocated.

But that can be done. That is not that hard. And I just hope we can move on and finally close out this debate. I am sorry for the rancor, I am sorry for the things that have happened here, but I am not sorry to be standing up and defending our great service women who finally are entitled to this right.

In 1988 it was taken away from them. We have been seeing issue after issue from Tailhook to rape to everything else that has been going on in the military. I hope one more time this body rises strongly and says we do believe women in the military should have equal rights and they should have the same access to services at home, although we insist they pay fully for every dime so that no taxpayer will.

Mrs. LLOYD. Mr. Speaker, there are many of us who are pro-life who believe that the choice of abortion is a very personal decision that others can and should make for themselves. Whatever their decision, they should have access to the safe, quality, medical care we all want and deserve.

Originally, this legislation passed as an amendment to the defense authorization bill offered by Mr. AUCOIN of Oregon. The legislation would allow military personnel and their dependents stationed abroad access to abortion services, which they pay for themselves. It is the first step to ensuring that military personnel and their dependents stationed overseas have safe access to reproductive health care in medical facilities that are not substandard.

It is only fair that the same services available to military personnel in this country, be extended to those stationed abroad. The bill goes to great lengths to ensure that all costs, including indirect costs, would be paid for by the patient. No Federal funds would be used to pay for abortions. In addition, in no way does this represent abortion on demand and it would not lead to some kind of medically irresponsible policy on abortions at military hospitals.

My colleagues, this is not a new matter. We have passed it in both the defense authorization and appropriations bills. I certainly hope we can continue to support this language to restore fairness to military families overseas and ensure that all reproductive health care options are preserved.

Mr. FAZIO. Mr. Chairman, I rise in support of S. 3144, the Military Health Care Initiatives Act of 1992. This bill will ensure that women in the military, or female dependents of servicemen stationed overseas, have access to complete reproductive health services.

The text of S. 3144 is the same as that of the AuCoin-Machtley-Fazio amendment that has passed the House of Representatives as an integral part of the defense authorization bill for the past 3 years. The amendment was also fully debated when the House considered this year's defense authorization bill earlier this session.

Since mid-1988, the Department of Defense [DOD] has prohibited military personnel and their dependents from privately paying for abortions in overseas DOD facilities, even if there are no clinically safe private facilities available in the country in which they are stationed. This policy, which was not debated prior to its implementation by DOD, places in grave danger the life, health and welfare of millions of American women who are dependent on the military health care system, which was expressly established for the purpose of meeting all the health care needs of DOD personnel overseas.

S. 3144, on the other hand, gives our women in the armed services, as well as female dependents of those serving in the military, access to the quality medical care that they deserve. It does not, however, in any way attempt to rewrite the law. It does not require the Federal Government to pay for abortions; this is not a funding issue. Those women who are covered by this bill would be required to pay for all costs—both direct and indirect—associated with their abortions. S. 3144 also in no way affects the so-called Hyde amendment, which prohibits the use of DOD funds to pay for abortions except where the life of the mother would be endangered. This bill gives those women who serve our country overseas and rely on the Federal Government for their health care the same rights that the rest of us have, so long as they are willing to pay for them.

Put simply, the current DOD policy is unfair and callous. It denies American women overseas access to the quality health care that we provide for American women who remain here in the States. It forces our military females to choose between unsafe, illegal, local abortions and traveling at great cost to medical centers in other countries. This insensitive policy makes an already agonizing decision even more painful.

S. 3144, on the other hand is humane, comprehensive and fair, and again, does not require Federal funding. Mr. Speaker, I ask my colleagues on both sides of the aisle to support this important women's health issue. This protection is the least that we can offer to those women who have dedicated their lives and careers to the defense of our country.

☐ 1330

The SPEAKER pro tempore (Mr. SWIFT). Pursuant to House Resolution 589, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 220, nays 186, not voting 26, as follows:

[Roll No. 458]

YEAS—220

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Blackwell
Boehlert
Boucher
Brewster
Brooks
Brown
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Gallo
Gejdenson
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Gunderson
Hamilton
Hatcher
Hayes (IL)
Hefner
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones
Jontz
Kennedy
Kennelly
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Markey
Martinez
Matsui
McCandless
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Molinari
Moody
Moran
Morella
Morrison
Nagle
Neal (NC)
Nichols
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Pickett
Pickle
Porter
Price
Ramstad
Rangel
Reed
Richardson
Ridge
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (CA)
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Zeliff
Zimmer

NAYS—186

Allard
Allen
Annunzio
Applegate
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bonior
Borski
Broomfield
Browder
Bruce
Bunning
Burton
Byron
Callahan
Camp
Clinger
Coble
Coleman (MO)
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
de la Garza
DeLay
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Emerson
English
Ewing
Fields
Fish
Gallegly
Gaydos
Gekas
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hertel
Hobson
Hopkins
Hunter
Hutto
Hyde
Inhofe
James
Johnson (TX)
Kanjorski
Kaptur
Kasich
Kildee
Kleczka
Kolter
Kyl
LaFalce
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Luken
Manton
Marlenee
Martin
Mavroules
Mazzoli
McCollum
McDade
McEwen
McGrath
McMillan (NC)
McNulty
Michel
Miller (OH)
Moakley
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Natcher
Neal (MA)
Nowak
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Perkins
Peterson (MN)
Petri
Poshard
Rahall
Ravenel
Ray
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Thornton
Traxler
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—26

Alexander
Baker
Barnard
Boxer
Chandler
Davis
Dymally
Edwards (OK)
Espy
Frost
Gephardt
Guarini
Hayes (LA)
Holloway
Huckaby
Ireland
Jefferson
Lipinski
Livingston
McCrery
Mrazek
Oakar
Pursell
Quillen
Staggers
Thomas (GA)

☐ 1351

The Clerk announced the following pair:

On this vote:

Mrs. Boxer for, with Mr. Quillen against.

Messrs. DE LA GARZA, BEVILL, GAYDOS, and RIGGS changed their vote from "yea" to "nay."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MODIFICATION IN APPOINTMENT OF CONFEREES ON H.R. 4996, JOBS THROUGH EXPORTS ACT OF 1992

The SPEAKER pro tempore (Mr. SWIFT). Pursuant to the authority granted on October 2, the Chair, without objection, announces the following modification in the appointment of conferees on the bill, H.R. 4996, to extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

As additional conferees from the Committee on Banking, Finance and Urban Affairs for consideration of section 501 of the House bill, and modifications committed to conference:

Ms. OAKAR, Mr. NEAL of North Carolina, and Mr. LEACH.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Friday, October 2, 1992, in the order in which that motion was entertained. The votes will be taken in the following order: H.R. 2164; H.R. 2164, by the yeas and nays; and S. 2481, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

EXPEDITED CONSIDERATION OF PROPOSED RESCISSION ACTS OF 1991

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2164.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina [Mr. DERRICK] that the House suspend the rules and pass the bill, H.R. 2164, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 312, nays 97, not voting 23, as follows:

[Roll No. 459]

YEAS—312

Ackerman
Allard
Allen
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer
Armey
Atkins
AuCoin
Bacchus
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Clement
Clinger
Coble
Coleman (MO)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Darden
de la Garza
DeFazio
DeLay
Derrick
Dickinson
Dicks
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fazio
Feighan
Fields
Fish
Ford (MI)
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Long
Lowery (CA)
Luken
Machtley
Manton
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Molinari
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Nagle
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Olver
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Porter
Poshard
Pursell
Ramstad
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Stallings
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torricelli
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—97

Abercrombie
Andrews (ME)
Applegate
Aspin
Bevill
Blackwell
Bonior
Borski
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Conyers
Coyne
DeLauro
Dellums
Dingell
Dixon
Dwyer
Dymally
Early
Edwards (CA)
Engel
Espy
Evans
Fascell
Flake
Foglietta
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gonzalez
Green
Hayes (IL)
Hefner
Hertel
Jones
Kanjorski
Kaptur
Lehman (FL)
Levine (CA)
Lewis (GA)
Lowey (NY)
Martinez
McDade
McDermott
McHugh
Mfume
Mineta
Mink
Mollohan
Murtha
Myers
Natcher
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Payne (NJ)
Pelosi
Perkins
Pickle
Price
Rahall
Reed
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sanders
Savage
Scheuer
Serrano
Smith (FL)
Smith (IA)
Spence
Stark
Stokes
Synar
Torres
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Wheat
Whitten
Yates

NOT VOTING—23

Alexander
Baker
Barnard
Boxer
Chandler
Davis
Frost
Gephardt
Guarini
Hatcher
Hayes (LA)
Holloway
Huckaby
Jefferson
Lipinski
Livingston
Markey
McCrery
Mrazek
Oakar
Quillen
Staggers
Thomas (GA)

☐ 1411

Messrs. ROSE, COLEMAN of Texas, ROSTENKOWSKI, LEVINE of California, and ESPY changed their vote from "yea" to "nay."

Mr. BEILENSON changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWIFT). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

INDIAN HEALTH AMENDMENTS OF 1992

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2481, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the house suspend the rules and pass the Senate bill, S. 2481, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 335, nays 74, not voting 23, as follows:

[Roll No. 460]

YEAS—335

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barrett
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hamilton
Hansen
Harris
Hastert
Hayes (IL)
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin

Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Roberts
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zeliff
Zimmer

NAYS—74

Allard
Allen
Archer
Armey
Ballenger
Barton
Bateman
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Coble
Coleman (MO)
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Fawell
Fields
Gekas
Geren
Goodling
Hall (TX)
Hammerschmidt
Hancock
Hefley
Hopkins
Hubbard
Hunter
Ireland
Johnson (TX)
Lagomarsino
Lewis (CA)
Lewis (FL)
McEwen
Miller (OH)
Montgomery
Moorhead
Myers
Oxley
Packard
Parker
Pickett
Pursell
Quillen
Ritter
Rogers
Rohrabacher
Santorum
Sensenbrenner
Shuster
Solomon
Spence
Stearns
Stump
Taylor (MS)
Taylor (NC)
Thomas (CA)
Upton
Vander Jagt
Walker
Weber
Weldon
Wylie
Young (FL)

NOT VOTING—23

Alexander
Anderson
Anthony
Baker
Barnard
Boxer
Chandler
Davis
Frost
Gephardt
Guarini
Hatcher
Hayes (LA)
Holloway
Huckaby
Jefferson
Lipinski
Livingston
McCrery
Mrazek
Oakar
Staggers
Thomas (GA)

□ 1421

Mr. PICKETT changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5006, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. ASPIN. Mr. Speaker, pursuant to House Resolution 588, I call up the conference report on the bill (H.R. 5006) to authorize appropriations for fiscal year 1993 for military functions of the Department of Defense, to prescribe military personnel levels for fiscal year 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MFUME). Pursuant to House Resolution 588, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, October 1, 1992, at page 29761.)

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes, and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes.

Mr. KYL. Mr. Speaker, if the gentleman from Alabama is not in opposition and I am in opposition to the bill and I am a member of the committee, might I ask that the time be divided in thirds.

The SPEAKER pro tempore. Is the gentleman from Alabama [Mr. DICKINSON] opposed to the conference report?

Mr. DICKINSON. I am supportive of the conference report, Mr. Speaker.

The SPEAKER pro tempore. The time will be divided. The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 20 minutes, the gentleman from Alabama [Mr. DICKINSON] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. KYL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

GENERAL LEAVE

Mr. ASPIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill H.R. 5006.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to support the conference report on the National Defense Authorization Act for fiscal year 1993. The House and Senate Armed Services Committees have agreed on a $274.5 billion defense bill—the same defense number the Armed Services Committee reported to the full House last May and an unprecedented $3 billion below the budget resolution. The Senate resisted making these savings, but the House prevailed.

With the end of the cold war, we recognize that security starts at home. This bill begins to reinvest cold war defense resources in American economic security. The authorization for reinvestment initiatives totals about $1.1 billion, including programs to smooth the transition to a smaller defense while maintaining the technological and industrial bases necessary for national security. Other programs expand planning assistance to communities and provide job training opportunities to individuals, including assistance to certain service members and defense industry workers seeking State teacher certification.

Even though the cold war is over, we still face real threats, and this bill puts us on the road to the right defense for the new era. The conference agreement provides a significant installment on American economic security while reshaping important programs, such as tactical aircraft modernization plans and expanding the role of Army National Guard combat units. The conference agreement also allocates approximately $600 million for various forms of assistance to active duty and Reserve members of the military who are making the transition to civilian life.

In the burdensharing area, the conference report moves beyond burdensharing to burden reduction. We were successful in reducing $500 million from the President's request for overseas spending, and we required a reduction in overseas troop strength of 40 percent by fiscal year 1996 with a cap of 100,000 troops stationed in Europe.

Before addressing some of the other major substantive features of this year's conference agreement, let me say generally that the provisions in the conference report are responsive to the changed threat environment brought about by the stunning world events of the last few years and should prepare the country's defense establishment to be well positioned to respond to future contingencies. The bill moves us closer to a defense that works for the new realities of the post-cold-war world—a defense that will buy our country the systems and programs we need while we continue the historic build down of our forces.

Major actions of the conferees in the procurement area include the agreement to terminate the B-2 program at 20 aircraft and the authorization of $2.7 billion to build the final four planes if approved by Congress in a subsequent authorization. In addition, $825.5 million is authorized for National Guard and Reserve equipment, and the bill authorizes the acquisition of 36 F-18 and 24 F-16 aircraft.

With respect to shipbuilding, four DDG-51 destroyers and two coastal mine hunter ships are authorized. The bill also authorizes $613 million to acquire sealift ships and would establish a national defense sealift fund.

In research and development, the conference report funds the strategic defense initiative at $4.05 billion, a reduction of $1.4 billion from the President's request of $5.4 billion. Also included are the House provision creating a theater missile defense initiative [TMDI], funded at $1.1 billion, and $755 million for the V-22 Osprey tiltrotor aircraft. The national aero-space plane and the Comanche helicopter are funded at $150 and $443 million, respectively. The bill further authorizes $2.2 billion for the F-22 fighter.

In operations and maintenance, the conference report authorizes $84.1 billion, a $2.3 billion reduction from the President's request. In order to protect operational readiness and training, most of this reduction comes from overhead accounts such as excess inventories. The overall funding amount includes $1.2 billion for drug interdiction and $1.5 billion for environmental restoration. This section of the conference agreement also reduces pay for foreign nationals and encourages host nation burdensharing.

In the personnel area, the bill reduces active duty end strengths by 100,000 from fiscal year 1992 levels to a total of $1.76 million. The pay raise provided in the bill this year for military personnel is 3.7 percent. The conferees also agreed to a House Armed Services Committee initiative to enhance the combat readiness of the Army National Guard. The Army National Guard Combat Readiness Reform Act of 1992, included in the conference report, will operate to increase experience, enhance leadership skills, and augment the readiness rating system of the Army National Guard.

In other areas, the conference agreement provides an additional $400 million this year for demilitarizing the former Soviet Union and $168 million to combat the growing nuclear proliferation threat. The bill also authorizes $8.8 billion for military construction and family housing, and $12 billion for Department of Energy defense activities.

On balance, Mr. Speaker, the bill that comes out of this conference reflects a well-reasoned and prudent approach to funding national defense programs for the coming year. Under the authorizations made in this bill, our country will have a strong and flexible defense as world events continue to reshape our security relationships. I strongly urge my colleagues to support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DICKINSON. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we have labored long and hard to bring to the House this particular conference report. There have been many views expressed, and we had over 2,000 differences between the House and the Senate. I think we have done a good job. I am supportive of the bill.

Nobody got everything they wanted, but I think that this is as fair and equitable a bill as we could come up with. Certainly, this is one of the best conference reports in terms of reconciling differences between the House and the Senate that we have had in the last several years, as attested to by the fact that there were only three core conferees who did not sign the conference report, which is unusual in and of itself.

So I would ask all of the Members of the House to support the conference report. It is good as we could get. It is better than when it came out of the House, and certainly better than the Senate bill before we went to conference. We had nearly 100 outside conferees from 14 committees. We did a good job, and I would urge support for it.

Mr. Speaker, I reserve the balance of my time.

Mr. KYL. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I will oppose this bill, primarily for three reasons. First of all, because I am opposed to ceding responsibility of the Armed Services Committee to other committees of this body.

For example, the most important decision this country could make concerning our nuclear force, namely, nuclear testing, was ceded to the Energy Appropriations Committee. The House Armed Services Committee examined this issue carefully all year with witnesses inside and outside the administration. And yet in the end we were not even consulted as to the best policy for the directors of our laboratories or deterrent force or national security. The decision was based essentially on politics.

Because this body knew the administration would not veto the energy and water appropriation bill because of other features of that legislation, the decision was made to put the most radical of the testing moratoriums in that legislation rather than having the Armed Services Committee deal with it, and have it be a part of this DOD authorization bill. That is wrong. It is a bad precedent. We abdicate our responsibility in doing so. It is a serious matter and, therefore, causes me reluctantly to oppose our bill.

Second, I am concerned about the direction which the conferees adopted for the strategic defense initiative program. Specifically, the elimination of the Missile Defense Act, which was agreed to by both bodies and the administration last year. Changes to the Missile Defense Act would restate its goal, its first stated goal, as compliance with the ABM Treaty, which would not permit us to field the kind of missile defense system that would actually protect the United States anytime in this century. That is fundamentally wrong, and I am frankly very disappointed in the fact that an agreement that was reached last year has now been rejected by both bodies as a result of the compromise that is embodied in the defense authorization bill.

The overall funding level, and especially the funding level for Brilliant Pebbles, $300 million, is inadequate for the successful completion of this program, as I said, by the end of this century. And therefore, Mr. Speaker, I also oppose the bill because we have not properly dealt with the issue of the strategic defense initiative.

I would, just in passing, by the way, reference a statement made by the ranking member, BILL DICKINSON, who, of course, will not be with us in ensuing Congresses, but whose advice and counsel have been very important to me during the time that I have served in Congress. A piece that our ranking member, Mr. DICKINSON, put out notes that though this bill reflects the fact that the national security needs have changed, it also leaves a vacuum in which unchecked congressional politics could threaten a return to the hollow military days of the 1970's.

☐ 1430

He specifically talks about a couple of things in the bill that he is concerned with, noting with specificity the elimination of last year's consensus to deploy strategic defenses under the Missile Defense Act and also the fact that we have not made proper reductions in the Reserve and Guard components of our force in conjunction with reductions in our active-duty strength.

So the second aspect, changes in the strategic defense initiative, is important and another reason I oppose the bill.

The third primary reason I oppose the bill, Mr. Speaker, is that, in many respects, this defense bill looks more like the Labor-HHS bill rather than an authorization for defense. There is $1 billion allocated for so-called defense conversion. I certainly do not object to defense conversion when it is justifiable defense program. I do object when the conferees literally throw away $300 million of budget authority on programs that clearly will not be scored in the defense line, the 050 account. Once again, I am afraid politics has prevailed over sensible defense policy.

If we are going to effectively manage the defense drawdown, defense cannot be used as a cash cow for domestic programs.

And so, reluctantly, Mr. Speaker, I will be, for these reasons and others, opposing this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD] for the purposes of a colloquy.

Mrs. LLOYD. Mr. Speaker, I understand that the fiscal year 1993 Defense authorization conference report provides $227 million to purchase 73 MLRS launchers. The original House-passed bill specified that 29 launchers were to be used for the continued modernization of the National Guard. I seek assurances that it is the intent of the conferees that 29 launchers in the conference report be used to modernize the National Guard.

Mr. ASPIN. Mr. Chairman, will the gentlewoman yield?

Mrs. LLOYD. I am happy to yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, I thank the gentlewoman from Tennessee for her interest. She is exactly right. It is clearly the intent of the conferees that the 29 launchers authorized be used to modernize the National Guard.

Mrs. LLOYD. I thank the committee chairman for this important clarification.

Mr. Speaker, I rise today in the strongest possible support for the fiscal year 1993 Defense authorization conference report. H.R. 5006 is excellent legislation that expounds a new era in military posture and policy.

Under the able leadership of Chairman LES ASPIN and our departing ranking minority member, BILL DICKINSON, we on the committee have put together a sound, cost effective bill that preserves the elements of our defense posture that are critical to the future. I am pleased to report that the total amount authorized in H.R. 5006 is $7 billion less than the President and $3 billion below the budget resolution. In addition, the bill incorporates dynamic new provisions of burden sharing that will save over $7 billion annually by 1996.

Our personnel, the single most important component of our force structure are protected under this bill. We have gone to great lengths to make sure that the men and women are well trained and in possession of the best possible weaponry and equipment we can supply. In addition, we have kept important benefit programs alive and established new initiatives to ensure that we continue to attract quality individuals into military service.

The National Guard and Reserve, a dual use fighting force which proved its worth tenfold during Desert Storm, is also look after in the bill. The drastic cuts proposed by the Defense Department have been dismissed, and more realistic numbers concluded as a result of many hearings, have been established. The committee recognized the critical service role the Guard plays in the individual States and acted accordingly.

I am disappointed that the conferees were unable to accept a Senate-passed provision on contractor indemnification for clean up of DOD contaminated sites. We all agree that there is a tremendous amount of cleanup to be done at DOD sites and installations. Had we provided the indemnification that contractors need to do the cleanup, we could eliminate many of the delays that we are faced with now. In addition, we could have opened up the field of environmental cleanup to more businesses, increasing competition and quality work. While the idea of contractor indemnification is not abandoned in the conference report, it is effectively stalled. I anxiously await the outcome of the study provided for in the bill which I am sure will reinforce the need for indemnification.

Finally, Mr. Speaker, I want to mention what is perhaps the most innovative feature of our bill—the reinvestment initiatives. The reductions in Defense spending have taken an immediate effect on the defense industry. To cushion the blow of cancelled weapons systems on the defense industry and on American jobs, we have wisely included an assortment of reinvestment programs to diversify the industry and retrain workers where possible. These people who contributed significantly to our cold war victory deserve nothing less.

I wish to close by saying how proud I am of this bill and of the work our committee has done. Never before has a bill had the imprint of as many members as this one. H.R. 5006 prepares us for any future wartime scenario. It is smart planning on our behalf both from a warfighting and deterrent capability as well as a deterrent capability. I urge its overwhelming support.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE], also for the purposes of a colloquy.

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the Northeast-Midwest Congressional Coalition, which I cochair, assisted Congress in establishing the procurement technical assistance program, otherwise known as the PTA, with Federal, State, and local matching grants for programs designed to aid small businesses obtain DOD contracts. In my home State of Michigan, the centers helped secure some $197 million in Federal contracts, which led to the creation and retention of thousands of jobs.

While the original intent of the PTA program was to assist businesses with DOD contracts, it must be realized that program is adapted to the changing world order and the reality of a diminishing defense contract opportunities, but I believe the program is a cost-effective way to help companies diversify into other markets, State and local, for their goods, while still maintaining vitality of the defense industrial base. It is my understanding within the fiscal 1993 DOD authorization that $12 million has been set aside for the PTA program, and that the centers can engage in Federal, State, and local contracts.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. WOLPE. I am happy to yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, the gentleman from Michigan is exactly right. The PTA has been authorized at $12 million for fiscal year 1993, and the centers can assist companies in obtaining Federal, State, and local contracts.

The SPEAKER pro tempore (Mr. MFUME). The time of the gentleman has expired.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. DICKS] for the purposes of entering into a colloquy.

Mr. DICKS. Mr. Speaker, I ask the chairman of the Committee on Armed Services to join me in a colloquy.

Mr. Speaker, last year Congress approved the CHAMPUS reform initiative [CRI] into the States of Washington, Oregon, and Florida. This year the committees have expanded this to base closure installations in Texas and Louisiana.

In your bill, section 712, titled "Condition on Expansion of CRI to other locations" could have significant negative impact on obtaining health care for the State of Washington and Oregon. Could the chairman explain the intent of this legislation?

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I am happy to yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, it is the committee's intent to obtain the most efficient managed health care programs for the Department of Defense relative to standard CHAMPUS.

Mr. DICKS. The Department of Defense recently issued a formal Solicitation for Requests For Proposals for CRI expansion in Washington and Oregon. Is it the intent of your legislation to impede and delay the CRI expansion efforts of the fiscal year 1993 Appropriations Committee's action, which we are currently finalizing?

Mr. ASPIN. No, this legislation should not impede the Department of Defense's current Solicitation for Proposals for the CRI for Washington and Oregon.

Mr. DICKS. Your legislation then requires an additional 90 day delay before the expansion could begin. Let me ask the chairman, what is the intent of these additional delays?

Mr. ASPIN. Its intent was to give Congress the opportunity to review the Secretary's certification. Let me assure you that it was the committee's intent for the Secretary to provide the certification as soon as possible, following enactment of this bill, to ensure services could commence on the Department's planned start date as contained in the current solicitation.

The SPEAKER pro tempore. The time of the gentleman from Washington [Mr. DICKS] has expired.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. McCURDY. Mr. Speaker, I want to commend both the chairman of the committee and the ranking member and all those members who participated in the conference for their very diligent work in the area regarding preserving our defense industrial base and looking at the very difficult question of how to provide for economic conversion of many defense assets, and also the effort to provide transition assistance to those people that are either displaced or affected by the dramatic cutbacks in overall budget and spending over the foreseeable future.

There are basically four goals in preserving a defense industrial base. We have to supply and equip the force structure. It is imperative that we sustain production and maintenance and our repair operations and logistics. It is also important that we maintain our advanced research and development activities in order to preserve our technological superiority.

We also have to be able to have a base that can provide for reconstitution if necessary.

Within this bill there is $1 billion dedicated toward conversion and $600 million for transition assistance. I believe that the committee and the conference have paid appropriate attention to some very important items such as trying to develop programs for the development and application and support of dual-use technology.

We have created some partnerships and the ability for consortia to work with both commercial and military industries and technology including looking at some of the regional technology alliances. I believe this is an important development.

We also look at working to assist small businesses improve their capability to do defense work, but also to transition into more civilian applications which, in the long term, preserve those important skills that are essential to preserving a defense industrial base.

Mr. Speaker, we also have taken steps, by a sense of Congress, to change the name of the Defense Advanced Research Projects Agency, dropping the "Defense" and calling it ARPA, which I believe will encourage and foster an integration of national technology base which is important.

This is a good bill, good conference report. For all of those who have been concerned about defense conversion, they should be pleased.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. SPENCE], who next year will be the ranking member of this Committee.

Mr. SPENCE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think it is appropriate at this time to acknowledge the fact that we have five Members on our side of the aisle leaving the committee this year: the gentleman from Alabama [Mr. DICKINSON], our leader, who has served us well, and we wish him well in his future endeavors; the gentleman from Kentucky [Mr. HOPKINS], and the gentleman from Michigan [Mr. DAVIS], and the gentleman from New York [Mr. MARTIN], and the gentleman from Florida [Mr. IRELAND]. All of these gentlemen have served not only their constituents and their districts well but their country well. We wish them well and wish them Godspeed.

Mr. Speaker, I'm going to vote for this conference report.

It makes some investments in the people and the weapons needed to fight anywhere in the world.

But it won't give us the right defense for the future. Far from it.

Instead—it keeps the illusion going that with few threats left—it's safe to go on short changing our Armed Forces to cash in on short-run peace dividends. This is dangerous.

□ 1440

The defense of this country is a full-time challenge and a full-time commitment. If our forces aren't well-trained and equipped—they won't be there when we need them. We paid with too many lives in past wars to forget that.

Yes—we've beaten the cold war threat of the Soviets. Their fall proves that peace through strength works. But old threats don't die—they just change.

Meantime—look around the world: The nuclear club gets bigger, not smaller. Rogue nations are buying and building ballistic missiles. Others are stockpiling chemical and biological weapons. Even submarines and advanced aircraft are big sellers at the world's arms bazaar.

This is why our march home from the cold war should be orderly—not a rout. Cutting too much, too fast, and in the wrong places so the beancount adds up, isn't smart.

But we're embarked on a course of too many deep cuts in our defense establishment.

Let history record that I've expressed my concern—that once again we have not learned the lessons of history.

We're embarked on a course that will take us back to 1939 when we emasculated this country to the point that we were 17th in the world as a military power, between Portugal and Bulgaria.

That weakness—that horrible mistake—is what cost us so many lives during World War Two.

Likewise, we're doing irreparable harm to our economy. Pink slips are being handed out to thousands of workers, whose income is vital for the support of their families. The same families who won't be able to buy the goods and services from others whose jobs depend on these customers.

We are doing great harm to the industrial base—much of which has already been lost overseas.

The only shipbuilding capability we have is for the construction of naval vessels.

We are building no commercial ships. We have lost 120,000 jobs. Nineteen major construction yards have closed, and 25 major repair yards have closed.

This report authorizes only seven new ships for the Navy, down from 12 last year. No new submarine was authorized for the first time since 1954.

Six million people are employed in defense and related businesses, with 2.5 million jobs proposed for elimination by 2001. That's 250,000 each year.

This bill provides funds for retraining and conversion. That's fine, but what are we retraining people for? Jobs that don't exist, and converting plants to produce products with no markets.

Mr. Speaker, let's not forget the lessons of history. Let's not weaken our defenses too much and weaken our economy in the process.

Mr. KYL. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, I would ask my chairman, the gentleman from Wisconsin [Mr. ASPIN], if he would resume the floor for the purposes of a colloquy.

I would like to inquire of the chairman, Mr. ASPIN, about the conference resolution relating to the funding of the next nuclear-powered aircraft carrier, the CVN-76. The House included $832.2 million for long lead time components for the CVN-76 as requested in the budget, in support of full funding of the ship in fiscal year 1995. However, the Senate authorized only $350 million for fiscal year 1993 and in the report accompanying their bill recommended full funding of the ship in fiscal year 1996.

Mr. ASPIN. Mr. Speaker, if the gentleman will yield, I would say to the gentleman from Virginia that the Senate receded to the House. The conference agreement includes funding for long lead-time components as contained in the House bill. This funding level is fully supportive of full funding of the ship in fiscal year 1995.

Mr. BATEMAN. As I understand the chairman, the conference agreement is that the Senate receded to the House, and further, the agreement supports the Navy plan to full fund the carrier in 1995.

Mr. ASPIN. The gentleman is correct.

Mr. BATEMAN. I thank the chairman for the clarification.

Mr. Speaker, I rise in support of the conference report for H.R. 5006, the fiscal year 1993 Department of Defense authorization bill.

Speaking as the ranking Republican on the Military Personnel Subcommittee, I would describe the legislative provisions of H.R. 5006 as particularly strong when it comes to promoting the welfare of the men and women of our armed services, while maintaining an acceptable pace of the force drawdown.

Several of the personnel provisions in the report have special merit. The bill:

Provides a 3.7-percent military pay raise.

Reduces active forces by 100,000 as requested by the President.

Achieves a small reduction in the Reserve Force, while protecting Guard and Reserve units and force structure.

Gives the Secretary of Defense a greater range of personnel management tools to use in effectively managing the Active Force reductions over the next several years.

Provides a whole package of new transition benefits to members of the Reserve components who might be forced to leave the service over the next several years.

Establishes a program by which to significantly improve Active Army support to the National Guard, and to improve readiness in Guard combat units.

Mr. Speaker, my support for this conference report also relates to the process by which it was put together. We had less time this year than ever before to resolve hundreds of knotty issues, but, from my perspective, bipartisan Member involvement in finding resolution to those issues has rarely been better. Mrs. BYRON and I worked together with BILL DICKINSON, the ranking Republican, and Chairman ASPIN, as well as with Members of the other body. The result was an effective process and an improved conference report.

I want to mention one other item, Mr. Speaker. As we entered conference, the House bill contained a provision that required defense contractors to provide a special early retirement for certain employees laid off or terminated as a result of decreased defense spending.

I commend the conferees for striking that provision from the final conference report. While well-intentioned, the House provision would have wreaked havoc on existing pension plans of thousands of workers, jeopardized the tax-exempt status of many plans, and imposed millions of dollars of additional cost on an already struggling defense industry—cost which would have invariably been passed on to the taxpayers.

Mr. Speaker, in closing, I restate my support for the conference report and urge my colleagues to join me in voting to accept H.R. 5006.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I rise today to express my strong support for the conference report and particularly for the provisions addressing tactical aviation.

The tactical aviation package is complex. The military services are calling for the development of numerous different types of aircraft to perform numerous different missions. The House and Senate have come together, after much heated debate, to bring some clarification to this plan, and hopefully save the American taxpayer millions of dollars while continuing to meet the requirements of our fighter and attack pilots.

The Department of Defense wants to build a new fighter for the Air Force—the F-22 advanced tactical fighter. They want to build a new attack bomber for the Navy—the A-X. They want to build a combination fighter-attack aircraft for the Navy to replace the F-14 fighter and the A-6 bomber. And, they want to build a small fighter—the multirole fighter—to replace the F-16 for the Air Force.

It is hard to imagine where the Department is going to get all the money to do this. The defense budget declined $15 billion just this year. With the reduced threat, is it practical to believe that we can afford them all?

Well, I believe we can develop a proposal to assure that we can perform all the missions and afford all the cost. But, we must take a cautious and prudent approach to this question. This conference agreement does just that.

The agreement calls for the prototyping of the A-X and the F/A-18E/F, similar to the very successful strategy followed by the contractor of the F-22.

But, more importantly, it also calls for the Chairman of the Joint Chiefs of Staff and the Defense Science Board to issue separate studies examining the ways that new design aircraft can be modified, upgraded, or otherwise adapted so that a single aircraft type could be used by all of the services in parallel missions.

This is a critical point, and the direction we must go if we are to be able to afford modern, state-of-the-art aircraft to perform these missions.

This strategy could first be implemented with the F-22. The F-22 is proving to be a perfect program. It is perfect in cost, schedule, and performance. It is perfect in meeting the needs of air superiority dominance through the first three decades of the 21st century. It is perfect as the pathfinder program for the Packard Commission's recommendations of risk reduction through prototyping and competitive demonstration and validation, and perfect in meeting the economic and industrial base needs of our Nation by providing jobs in 38 States.

It seems logical to take this aircraft and explore the options for conversion to the other missions and roles of the various services. For example, a modified F-22 is a competitor in the A-X program. With adjustments to the structure—a strengthening of the keel so to speak—and alterations of the landing gear, along with swinging the wings, this aircraft can land on a carrier and fulfill the mission designed for the A-X.

Proposals for the now forgotten NATF should also be resurrected to ensure a state-of-the-art, modern replacement for the F-14. And, by utilizing the attack packages developed for the A-X, the Air Force could use the F-22 as a replacement for the F-15E or even the F-111.

My point is simple. No one questions the capabilities and the success of the F-22 program. Accordingly, this is an aircraft that could be used as the base for all our other tactical aircraft.

The conference agreement, although not going this far, requires the Chairman of the Joint Chiefs of Staff and the Defense Science Board to issue analyses of such a concept. It is this type of innovative thinking that is needed to solve our tactical aviation needs.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 5006. As the chair of the conventional panel, I'd like to talk about one of the major initiatives in the conference report—the modernization of tactical aviation. DOD plans to buy four new aircraft over the next two decades, including the AX, the F-22, the F/A-18E/F and the multirole fighter [MRF].

The Pentagon plan allows individual service priorities to determine future modernization, which presents several problems. The first is affordability. All four aircraft could ultimately cost more than $350 billion if they are built the way the Department plans to build them.

The second problem is timing. The Pentagon tactical air plan does not appear to provide the capability we need at the right time. The proposed order of development is the Air Force F-22 fighter; the Navy F/A-18E/F multirole aircraft; the Navy AX deep strike aircraft; and the Air Force MRF. We won on the policy; the Senate won on the money.

We believe the sequence should be determined by our post-cold-war national security needs. Three factors are at work: First, the need revealed by Desert Storm for more deep strike aircraft for regional contingencies; second, a diminished Soviet threat, which allows more time for the development of new systems; and third, aircraft age, which influences ownership cost and capability.

The conferees agreed that the changing security environment requires a systematic review of roles and missions as well as a fundamental reconsideration of the base force. Without these studies to provide an analytic foundation, no definitive solution to tactical aircraft modernization is possible. The conferees therefore required:

First, the Secretary of Defense to conduct a comprehensive review of long-term modernization plans for tactical aviation in terms of affordability;

Second, the Secretary of Defense to conduct a production rate analysis for all of the new aircraft;

Third, the Defense Science Board to provide technical assessments on the use of a single aircraft type by all services in parallel missions and the technical risks associated with each program;

Fourth, the Chairman of the Joint Chiefs of Staff to undertake a very comprehensive assessment of roles and missions in tactical aviation;

Fifth, and finally, the conferees directed that the Under Secretary of Defense for Acquisition must approve a revised acquisition; plan for the AX that includes a competitive prototyping phase. The conferees fenced 35 percent of all tactical aviation R&D funds until their reports are submitted.

In addition, the conferees agreed to the following:

On the F-22, the conferees agreed to the request of $2.2 billion.

On the F/A-18E/F, the conferees introduced prototyping to minimize technical risk and prevent a needless rush to production. They authorize $943.6 million in R&D but prohibited the Navy from obligating any procurement funds until it has completed an early operational assessment of the aircraft based in part on flight performance of not less than two R&D prototype aircraft.

On the AX, the conferees agreed to authorize $165 million in R&D and accepted the House position on the competitive prototype process and the use of current generation technology in the aircraft design.

On the F/A-18C/D, the conferees authorized $1.14 billion for 36 aircraft in fiscal year 1993 and $112.7 million in advance procurement for 36 aircraft in 1994.

Finally, the last issue resolved in this conference was the F-16. The Senate had wanted to terminate the F-16 this year. But, the House stood firm on its position and the conferees kept the F-16C/D in low-rate procurement in fiscal year 1993 for two principal reasons. First, the F-16 provides a hedge against potential problems with the follow-on system and, second, we wanted to preserve a system from which a next generation system might be derived. The F-16 soon will be the only Air Force fighter in production. Without low-rate production of this aircraft, the Air Force will be completely dependent on the successful development of the F-22 for the next generation fighter. That is a risky strategy. Therefore, the conferees authorized $683.2 million for 24 F-16 fighter aircraft in fiscal year 1993. The Secretary of Defense may continue production beyond these 24 aircraft after he completes the tactical aircraft master plan.

H.R. 5006 includes a $695 million equipment package for the Guard and Reserve. This package also includes $90 million to purchase operational support aircraft.

Originally, the Senate bill contained $162 million to buy operational support aircraft for the Guard and Reserve. The Senate bill specified the individual types of aircraft to be bought for each of the Guard and Reserve components. The House bill did not contain any money for these aircraft.

The conferees decided not to specify the individual types of aircraft. Instead, the conferees recommend an authorization of $90 million for a general category of operational support/medical evacuation aircraft.

Section 904 specifies that the Secretary of Defense undertake a study of the age, condition, requirement, and modernization plans for operational airlift components. We expect the Secretary to undertake this study in consultation with the National Guard and the Reserve components. Finally, section 904 prohibits the obligation of the funds until the study by the Secretary of Defense has been completed and submitted to the congressional Defense committees.

The conferees expect that this study will serve as a roadmap for the allocation of the $90 million authorized in H.R. 5006.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. MONTGOMERY], and then I would like to reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of this conference report, and I would like to say this is a good bill for the National Guard and Reserve. I would like to point out to my colleagues, you who are concerned about armories, the force structure of the Guard and Reserve is protected, and I think I can safely say today most of the armories in this country will not have to be closed under this legislation.

Mr. Speaker, I rise in support of the conference report on H.R. 5006, the DOD authorization bill for fiscal year 1993. After many hours of intense work on both sides of the aisle, we have crafted a bill that provides for the national security while at the same time recognizing the realities of the new world situation.

I commend the chairman of the Armed Services Committee, Mr. ASPIN, and the ranking minority member, Mr. DICKINSON, for a job well done. I also commend the committee and the staff for their efforts.

I especially want to note some items of interest to me. We approved the Department's plan for reducing the Active Forces and enhanced the transition benefits for separating service members.

We only made modest reductions to the end strengths of the National Guard and Reserves. This year, we also put a floor on the force structure of the Guard and Reserve as a way to preserve the units and protect most of the armories across the country.

This bill has $900 million in specific procurement funding for the Guard and Reserves. In direct procurement, there is $695 million for such items as trucks, helicopter upgrades, fighter aircraft upgrades, and C-130 aircraft. We also earmarked in the active component accounts over $300 million for items such as the multiple launch rocket systems [MLRS] and new engines for KC-135 aircraft.

The military construction accounts of the Guard and Reserves were increased as an indication of the increasing emphasis that we will be placing on the Guard and Reserves.

This bill includes a series of reforms aimed at improving the Army National Guard. I support these efforts to increase the readiness, management, and efficiency of the Army Guard.

The bill also authorizes voluntarily separated active duty people a chance to enroll in the Montgomery GI bill. The planned drawdown of the Armed Forces has resulted in many individuals leaving active duty prior to completion of a full career. The opportunity to further their education will ease their transition to civilian life.

This bill is supportive of our Armed Forces and I urge my colleagues to vote for it.

Mr. Speaker, I would like to have a colloquy with the gentleman from Virginia pertaining to section 904 of the conference agreement about operational aircraft and would ask the gentleman what is the time limit on the Defense Department saying what type of aircraft we needed for administration.

□ 1450

Mr. SISISKY. Mr. Speaker, I will tell the gentleman, the need for operational support airlift is known, but not the details required in the study. The study report as indicated in the accompanying report language would serve as a roadmap in allocating the funds authorized in the bill for fiscal year 1993.

The gentleman is also correct concerning the time limits of the study report. We intend that the report should be submitted in a timely fashion.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman.

Let me repeat again, this is an excellent bill for the Reserves. They are getting over $900 million in new equipment. They can do the job. Your Guard and Reserve is alert.

Mr. DICKINSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise to compliment the committee in several respects.

Mr. Speaker, this Member wishes to take a moment to sincerely thank the members of the Armed Services Committee for their efforts. This Member understands their task was difficult, and that the demands upon them were great. Indeed, as the United States proceeds in the down-sizing of our Armed Forces, it is particularly important that we carefully reexamine all our old assumptions and predispositions. Priorities and such decisions as those on force structure and procurement of weapons systems which we have long accepted must now be challenged and scrutinized. In this regard the chairman of the Armed Services Committee, the distinguished gentleman from Wisconsin [Mr. ASPIN], and the distinguished gentleman from Alabama [Mr. DICKINSON], and all the committee members have performed a genuine service to this Nation.

Because of the very nature of this legislation, there are matters on which this Member frequently takes a sharp exception. The judgment of the conference committee differs with this Member's views on a number of key issues. Nonetheless, this Member would extend his particular thanks for the committee's strong support for several projects that are critical to the future of the Nebraska Air National Guard. The Nebraska Air Guard is in the process of making the transition from a photo-reconnaissance unit to an air tanker squadron. They have embraced their new mission, and are moving forward with typical Nebraska enthusiasm.

Yet, despite the enthusiasm of our Air Guardsmen, it is quite clear that the existing physical plant is inadequate to serve this important new mission. The KC–135R's that the Air Guard will be flying have totally different support needs than the RF–4's that have been flown heretofore. Their modernization requirements are not extraordinary, but they are essential. The committee has agreed to support a number of important modernizations, including a fuel systems maintenance dock, a composite squadron operations facility, and a supply and communications building, and a new dining hall. These are not trivial requests, Mr. Speaker, and failure to authorize these projects would halt the Nebraska Air Guard from fulfilling its new mission.

In conclusion, I would again thank the committee for their support, and confidently predict these new facilities will be put to very good use.

Mr. DICKINSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BATEMAN]

Mr. BATEMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in wholehearted support of the comments earlier made by the gentleman from South Carolina [Mr. SPENCE].

Mr. DICKINSON. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I compliment the committee on producing an excellent conference agreement. I especially appreciate the language on FAR—Federal acquisitions regulations—covering ball and roller bearings.

I particular recognize the diligent efforts by the gentleman from South Carolina [Mr. SPRATT] that insured that the Defense Department will purchase hearings produced in the United States. This will insure the security of having this vital component produced domestically. In World War II, many lives and many airplanes were lost destroying the oil supply of Ploesti and the bearing factories of Schweinfurt. Bearings are critical to defense security.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], the distinguished ranking member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the conference report on H.R. 5006, the Department of Defense Authorization Act of 1993. As ranking Republican on the Committee on Post Office and Civil Service and a conferee on this measure, I am pleased that this legislation includes essential provisions addressing the problems associated with base closing and the Defense Department's downsizing.

I want to commend the gentleman from Alabama [Mr. DICKINSON], the ranking member of the Committee on Armed Services, whose expertise and advice we will sorely miss as he retires from the House after 28 years of distinguished service. We wish him good health and happiness in the days ahead.

Mr. Speaker, it is estimated that approximately 230,000 civilian positions must be eliminated through fiscal year 1997 to comply with mandates regarding baseclosings and downsizing. Both the Defense and the Office of Personnel Management acknowledge that the large number of employee reductions severely strain ongoing Federal agency placement programs designed to find jobs for displaced Federal workers.

In response, our Post Office and Civil Service Commission held hearings and marked up legislation addressing the problems of downsizing. That legislation, H.R. 4991, the Displaced Federal Employees Assistance Act of 1992, contained significant provisions designed to assist our civilian displaced employees. That legislation has been added to the Department of Defense authorization measure during floor consideration. Conferees have been able to work out a suitable package which meets both the needs of our Federal employees and the Defense Department.

With regard to that issue, key provisions of the conference report include: statutorily mandated notification of reduction-in-force, separation bonus incentives for regular or early retirees, as well as for employees who resign voluntarily; the establishment of skill training programs for displaced DOD civilian personnel; and continued health insurance coverage for those employees subject to reduction requirements.

I thank the gentleman from Missouri, the distinguished chairman of our Committee on Post Office and Civil Service, Mr. CLAY, and the gentleman from Wisconsin, the distinguished chairman of the Committee on Armed Services, Mr. ASPIN, for their diligent work and cooperation in equitably addressing the serious issues involving the Defense Department downsizing.

Accordingly, Mr. Speaker, I urge my colleagues to join in supporting this conference report on H.R. 5006.

Mr. KYL. Mr. Speaker, I am happy to yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I hope this conference report is defeated. The conference report fails in a very essential way, namely, in recognizing that with the cold war having been won by America, there is absolutely no justification for continuing the situation in which we deprive Americans of necessary programs so that we may provide expensive protection to Western Europe, Japan, and South Korea.

When this bill came to the House floor, it had some burdensharing proposals, not very many. We added on the House floor an amendment that the gentleman from Connecticut [Mr. SHAYS] and I sponsored to make a further cut of $3½ billion, more than was probably achievable; but then we went to conference.

It used to be said, Mr. Speaker, that the United States in the military area had never lost a war. We have changed things now that the world has gotten more complex, and what we can say is with regard to the military affairs of the United States, the Senate has never lost a conference. The conference goes forward and surrender begins before they cross the rotunda.

This is not simply a matter of institutional pride. It is a matter of dollars. This bill spends tens of billions of American dollars to make sure that Poland, Czechoslovakia, and the Soviet Union do not invade Western Europe. I think we could probably buy that protection a lot cheaper.

We read constantly about South Korea. They have a treaty with China. They are working with the Russians. Everything has changed on the South Korea Peninsula, or a lot of things, but we still have tens of thousands of troops there.

The public sometimes complains about foreign aid. We ought to be very clear; by far the vast amount of money that we spend overseas is spent on keeping troops in place, protecting middle-income and wealthy countries against the Communist threat that we have long since vanquished. That does not mean that the world has become a totally safe place.

The point is that this bill essentially ignores our cold war victory. We had a former Senator, George Aiken, whose prescription during Vietnam was, "Declare victory and get out."

What we have had on the part of many in this country is the notion that with regard to the cold war, we should deny victory and stay in.

Now, the Armed Services Committee has compromised. They have declared victory and stayed in. They have told us what a famous victory we won in this conference, but it does not save us a penny.

Understand, those of you who will go home and tell people why there is not enough money to fight cancer, why there is not enough money for law enforcement, why there is not enough money for environmental cleanup, part of the reason is that large amounts of it are being spent overseas.

Now, one of the arguments we have heard is that we cannot cut the military, it will be bad for the economy. The greatest act of intellectual gymnastics ever performed has been some of my friends on the other side who have suddenly found virtue in the Government as a job bank; but even that argument, flawed as it is, is irrelevant here, because the jobs we are talking about with burdensharing are in Germany, South Korea, and Japan.

As it comes back from the conference committee, this bill is one of the greatest gifts a nation in economic distress has ever given rich people. This bill provides, in the salaries of our armed services and in substantial other funds, more money for the people of Germany, Denmark, Belgium, Japan, South Korea, and the other wealthy nations of Western Europe and East Asia, more money than any nation has ever given overseas.

The question is, are people serious about deficit reduction? Those who have voted to balance the budget and talk about reducing the deficit, I should think would have a hard time explaining to people why they will make virtually no cut in the vast sums that we are spending overseas to deter a Communist invasion from our wealthy allies.

□ 1500

Those allies are well capable, if they felt the threat, of defending themselves. In fact, most of them are in fact reducing what they spend, and what we said in the house was we can either reduce our troop presence or ask them to pay for it. But they have got a happy alternative. They understand that they can have the best of both worlds.

There simply is no way to reconcile recognition of reality and concern for the deficit with a policy of continuing multi, multibillion-dollar subsidies by the United States of these economies.

Mr. DICKINSON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr CUNNINGHAM. Mr. Speaker, I would like to address what the gentleman from Massachusetts [Mr. FRANK] just spoke about, about having it both ways.

Here it is, for the RECORD; it is already in the RECORD. The gentleman from Indiana [Mr. BURTON] has fought over and over and over against pork barrel spending.

Look at the military construction. They say, "Oh, it's under budget." Look in here at the appropriations on their side of the aisle that has filtered these bills with pork barrel. Not one penny went to the deficit. It all went to pork barrel in their districts.

Second, Mr. Speaker, this bill sets forth home porting in San Diego, which means that sailors that come off of 6- and 9-month cruises have now got to drive 114 miles and have further family separations away from their families. Why? Because a California Senator on my side of the aisle thinks it is more important for votes than he does the American sailors.

Mr. DICKINSON. Mr. Speaker, I yield 1 minute to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I would like first to pay my compliments to the gentleman from Alabama [Mr. DICKINSON], and thank him for his many years of dedication and say how grateful we are for the knowledge that he has that can only be acquired by his many years of experiences, and I do thank him tremendously.

Mr. Speaker, I rise to express my opposition to section 808 of the Defense authorization conference report, a provision that represents a real setback for small businesses competing for defense contracts. I was a conferee on this bill, and was pleased by the cooperative attitude shown by the other conferees in resolving issues important to small businesses. Unfortunately, the refusal to recede from section 808 forced me and other conferees from the Committee on Small Business to refuse to sign the conference report.

Section 808 combines the mandatory contracting preference established for nonprofit organizations for the blind and severely disabled with the small business subcontracting goals prime defense contractors must strive to meet. At first glance, this seems harmless, or even a good thing to do, and I certainly support aiding these nonprofit organizations and their work to help the disabled. However, a closer look at how these programs currently operate, and how they will change under section 808, shows that this process does not benefit the nonprofits; it only benefits DOD and defense contractors, and cuts small businesses an even smaller piece of the pie.

Currently, Department of Defense contracting officers have a list of the products that can be procured from nonprofit organizations which employ the disabled. Under the mandatory preference, any items DOD needs which are on the list must be procured from the nonprofits. I support this effort on the part of DOD.

The separate, small business goal requires prime contractors to submit a plan for subcontracting to small businesses with their bid.

Section 808 combines these programs, allowing prime contractors to count business done with the nonprofits toward meeting their small business goal. Prime contractors win, because it will be easier for their companies to shirk their obligation to subcontract with small business. DOD contracting officers win, because they are relieved of the responsibility for contracting directly with the nonprofit. Who loses? The small business, fighting for survival and a few crumbs from the DOD contracting table, who must now compete with a nonprofit organization.

Mr. Speaker, nonprofits for the blind and disabled already have a mandatory preference in Government contracting. I don't see how shifting that preference to the small business subcontracting requirement benefits the nonprofits. Allowing major defense contractors to count dollars which are already set aside for the nonprofits does not benefit the nonprofits. It simply squeezes small business at a time when shrinking defense budgets are already hurting them.

Mr. DICKINSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise in opposition to the conference report. As a member of the Science, Space, and Technology Committee, I participated in the conference on the fiscal year 1993 Department of Defense authorization bill as a conferee on the provisions dealing with defense conversion and reinvestment. I am pleased that the bill now contains a provision stating that it is a policy objective of defense conversion and reinvestment to promote economic growth through the reduction of the deficit and the freeing up of capital for private investment in the civilian sector. The bill and the report also include language stressing that the activities undertaken within the defense conversion program should emphasize the national security needs of the Department of Defense.

I am concerned, however, that the authorizations for the portion of the defense conversion package, on which we were conferees, total $602 million for fiscal year 1993, well above the House-passed level of about $350 million.

I also oppose the inclusion in the conference report of an extensive section proposed by the Senate prescribing regulations concerning the national technology and industrial base periodic assessment. This section is an egregious example of congressional micromanagement, since it tells the Secretary what to analyze and how to do it, down to the smallest detail.

Finally, I oppose the sense-of-the-Congress language of section 4261 stating that the Defense Advanced Research Projects Agency should be renamed the Advanced Research Projects Agency. The Agency should retain its defense focus, and I cannot support report language warning that if the Secretary does not make this change by regulation Congress will do it legislatively in next year's bill.

The end of the cold war means, of course, that our defense needs are changing. There is justifiable concern that the defense build-down will affect the defense industry. It is my view, however, that the future economic welfare of those individuals and businesses is best served by a reduction in the Federal deficit, not the expenditure of over a half billion dollars in Government spending. The Defense Department's job is to protect the citizens of this country from threats to our national security; let's not turn into another Labor Department.

Mr. KYL. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I wonder what the American people think about this debate that is taking place today in the sense of reality that exists within this Congress. Let us talk about reality, Mr. Speaker.

Today 5 million children in the United States of America are hungry, and the U.S. Congress is not fully funding nutritional programs. My colleagues, the star wars program is not going to feed hungry children.

Mr. Speaker, today 2 million Americans are sleeping out on the streets, and tens of millions more lack adequate housing, and the B-2 bomber is not going to put a roof over the people in our country who need decent housing. B-2 bombers do not do that.

Mr. Speaker, 85 million Americans either lack full health insurance or adequate health insurance. We are the only Nation, except South Africa, in the civilized world that does not have a national health insurance program, and, as the gentleman from Massachusetts [Mr. FRANK] just mentioned, $135 billion to defend Japan and Europe is not going to provide health insurance for the millions of Americans who desperately need it.

We have millions of bright young men and women who want to go to college and get the best educational opportunity that they can. But the V-22 Osprey and the F-16 plane are not going to provide educational opportunity for millions of our young people.

The deficit, Mr. Speaker, is now $350 billion, and spending tens-of-billions-of-dollars on obsolete and unnecessary weapon systems does not deal with that issue.

Let us vote no on this legislation and reshape American priorities.

Mr. KYL. Mr. Speaker, I yield 5 minutes to the perspicacious gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I appreciate the gentleman from Arizona [Mr. KYL] yielding this time to me.

First of all, Mr. Speaker, let me say that I am sensitive to the fact that we need to shape a defense bill to reflect the changing world, and I want to pay tribute to my colleague, the gentleman from Virginia [Mr. SISISKY], for the work we did on the conventional panel to really force the Congress to make some hard choices recognizing that we cannot buy this myriad of aircraft that all the services are pushing for and that some very hard choices are going to have to be made. I would have liked for some of those choices to have been made this year in reality, which is a terrible word, and maybe that all can be changed come next Congress. We have got to make hard choices sooner so that we do not spend any money where it is not necessary on any of these defense programs. Mr. Speaker, I think this bill was good because we did make some hard choices in conventional and have set the stage to make additional hard choices next year.

In terms of the B-2 bomber, this really is a time for those who fought so long and hard, the gentleman from California [Mr. DELLUMS], my colleague, in particular, for us to feel good because we went from 132 that the Air Force wanted to build, and my colleagues might recall that it was the gentleman from California [Mr. DELLUMS] and I, armed with cold cups of coffee in a plastic mug, fighting the Secretary of Defense, the President, and the whole Defense Establishment. They wanted 132 planes, and we end up at 20. Now I would have rather had 16, I would have rather had 13, I would rather not have the program, but to go for the first time in history and have the Congress force the cancellation of a major weapon system is fabulous and will result in the savings, in my opinion, of somewhere between $40 and $50 billion for the American taxpayer.

We also, by the way, killed the expansion of the Pentagon, over $100 million program that was designed to expand the Pentagon by 500,000 square feet. Already the subcommittee killed that expansion recognizing it as really a Disneyland thought that, at the time when the cold war ends, that we can go forward with this expansion of the Pentagon. It was absurd, and I am glad we won that fight.

☐ 1510

Then on the issue of burden sharing, let me take a second here because I am very sensitive to the arguments that the gentleman from Massachusetts [Mr. FRANK] has made. I think it is very important that we take a look at the whole issue of this burden sharing and what is involved.

There are some numbers here that are absolutely mindboggling because we have gone along thinking over the years that we are spending, when we think about our operations and maintenance, as much as $100 billion on Europe. But let me put it straight.

In 1992, worldwide, the entire cost to the Pentagon budget, worldwide for military construction and operation and maintenance worldwide, was $12.5 billion.

In 1993 the administration request, the administration request, believe it or not, cut $2.3 billion from that $12.5 billion and presented to us a request for O&M and MILCON that totaled $10.2 billion, which is $2.3 billion below last year's level, and effected that amount by reducing the budget for O&M and MILCON by 18 percent.

Now, we came on the House floor, the gentleman from California [Mr. PANETTA] and I, and we offered an amendment as well. The gentleman from Massachusetts [Mr. FRANK] offered his amendment. It was about a $3.5 billion cut in addition to what the administration already had done.

We came before the conference committee for the first time since I have been here in 10 years and for the first time that the gentlewoman from Colorado [Mrs. SCHROEDER] who has been here about 20 years, we actually were forcing and providing meaningful cuts against the operations in Europe and directing our negotiators to force the Europeans to pay more. What we did, coming out of conference, was add an additional $0.5 billion.

So the administration requested $10.2 billion and we end up with $9.7 billion, which is a $2.8 billion cut. That represents a 23-percent reduction from this year 1992, to fiscal year 1993.

Would it have been possible, would it have been desirable, to have made a cut that was deeper than 23 percent? Well, yes, it would have been desirable to do it. It would have been ideal to have gone deeper. We do have outyear cuts that are even deeper.

But I want all Members to understand that the burden sharing cuts apprise a 23-percent change from 1992 to 1993. As Mayor Koch said, "it isn't everything in the world, but a 23-percent cut? That ain't bad, and I think we did pretty well."

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Two things. The gentleman's overall numbers leave out one small detail, the cost of the personnel. There is an underestimate by billions. Secondly, even on the limited numbers the gentleman talks about, I believe there has been far more than the 23 percent reduction in the threat faced by Western Europe.

Mr. KASICH. Mr. Speaker, reclaiming my time, let me say to the gentleman from Massachusetts [Mr. FRANK], we are cheered by what we were able to do by bludgeoning, and it was great, our allies in the gulf war to help pay the cost of the war. We never asked them to pay the cost of salary. We only asked them to share in the cost of all the operations made to MILCON, which is precisely what we are doing here.

The danger we get into when we ask the Japanese to fund our soldiers, and it is a debate we can reserve for next year, I am uncomfortable with the idea of asking the Japanese to pay the salaries of our soldiers and then demand operational control over a portion of them.

I think we did all right by reducing it 23 percent, and I will be glad to work with the gentleman to do it even better next year. It is the first victory we have had in burden sharing in this Congress.

The SPEAKER pro tempore (Mr. MFUME). The Chair would advise the gentleman from Wisconsin [Mr. ASPIN] has 10 minutes remaining, the gentleman from Alabama [Mr. DICKINSON] has 11 minutes remaining, and the gentleman from Arizona [Mr. KYL] has 2 minutes remaining.

Mr. ASPIN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Speaker, before the gentleman from Massachusetts [Mr. FRANK] leaves the floor, let me bring up one point I think the gentleman has to understand, and that is the personnel he is talking about that are in Europe are going to be paid, whether they are in Europe or whether they are in the United States. We are drawing down our total number of personnel. I just wanted to make the point.

Mr. Speaker, as chairman of the Subcommittee on Military Personnel and Compensation, I rise in support of the conference report accompanying H.R. 5006, the National Defense Authorization Act for fiscal year 1993. In marking up this bill, the committee's priority was protecting people, and I believe the conference agreement before you is totally consistent with that priority.

I want to commend all of my colleagues on the committee—and especially my ranking member, HERB BATEMAN—for their diligence and hard work on the difficult issues before us. We held 10 hearings during this authorization cycle focused on the force drawdown, the Reserves, and medical issues.

On the issue of end strengths, for the active duty force, we approved the 100,400 end strength reduction proposed in the President's budget. For the Guard and Reserve, the President's budget reduced Selected Reserve, the President's budget reduced Selected Reserve end strength by 115,997 below the 1992 level. The conferees split the difference between the House and Senate bills for a reduction of 3,617 instead. To protect reserve and guard force structure, the conference agreement places a floor on force structure at no less than the authorized end strength levels. In the case of both end strength and force structure for the Guard and Reserve, the conferees felt the cuts proposed in the President's budget were too steep and, therefore, prescribed a smoother glide path pending submission of the comprehensive Rand report on force mix options due by the end of the year.

I am pleased that the conferees agreed to a major initiative in the House bill—the Army Guard Combat Reform Initiative—with minimal change. This comprehensive reform package builds on the considerable work done both by the Personnel Subcommittee and the Defense Policy Panel. In addition to our hearing record, the reform package is drawn from the committee's lessons-learned study of Operation Desert Storm, the Army inspector general's special report on the National Guard brigades, and extensive General Accounting Office studies done for the committee.

Other highlights of the conference agreement include:

A 3.7-percent pay raise, effective next January;

Additional improvements in transition benefits for separating military personnel and their families, including improved medical coverage, enhancements to the special separation benefit [SSB] and voluntary separation incentive [VSI] programs, GI eligibility for both VSI and SSB takers, and a new, discretionary program of benefits for reservists and guardsmen adversely impacted by the force reduction.

The establishment of the Volunteers Investing in Peace and Security [VIPS] Program—a voluntary corps of military retirees and other separating service members with technical skills to help rebuild the sagging infrastructure of the former Soviet Republics—to be funded as a part of the Nunn-Lugar Soviet demilitarization programs also authorized by the conferees.

We spent considerable time arguing over several Senate provisions involving early retirement and the academies but were finally able to reach a compromise we can live with.

In the end, we agreed to the Senate's early retirement proposal, but only after making important modifications—first, clarifying that the program is both temporary and discretionary authority to the services, not an entitlement, and, second, that there will be a reduction in the formula used to calculate the annuity, in order to distinguish it from regular 20-year retirement.

On the academy issues, we were successful in either dropping objectionable Senate provisions, such as the section abolishing service academy bands, or in turning them strictly into reporting requirement, such as the section requiring a 50-50 civilian-military faculty mix.

In conclusion, I believe that the personnel titles of the conference agreement on H.R. 5006 before you today are another major step toward both maintaining a quality force and protecting our military people as we face the uncertain future ahead. I urge my colleagues' support.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I rise to discuss those provisions of the conference report dealing with foreign takeovers of American firms for which I was a conferee. These provisions include important amendments designed to ensure that the impact on U.S. technological leadership in the world is given thorough consideration when the President makes his decision whether to block a foreign acquisition of an American firm.

The subcommittee I chair has responsibility for the Exon-Florio amendment, under which the President has authority to investigate, and to block, foreign acquisitions that could threaten the national security. Last year I introduced, and the Energy and Commerce Committee reported, H.R. 2624, the Technology Preservation Act, that would make many of the same changes to the Exon-Florio national security law that are included in the conference report.

Since Exon-Florio became law 4 years ago, the administration has received notice of more than 700 foreign acquisitions. For only nine of these cases was a full Exon-Florio investigation conducted; and only one of these nine was actually blocked by the President.

During this time, a foreign government-controlled entity attempted to buy our country's leading missile producer. Over the last 4 years, foreign investors have bought more than 600 high-technology American firms; two-thirds of these were bought by Japanese investors. Foreign investors bought more than 140 U.S. computer firms; almost 100 American semiconductor and semiconductor materials firms; as well as more than 50 electronics firms, and more than 60 advanced materials firms.

It's time the President realized that the United States cannot be a world leader in technology, if we let cutting edge technology be put on the world auction block and be sold to the highest bidder.

The conference report contains important provisions to stop this from happening. It would require the President to conduct a full investigation whenever a foreign government-controlled entity tries to buy an American firm that could affect the national security.

It provides for the Defense Department to do assessments of the risk of diversion of critical defense technology posed by foreign acquisitions of U.S. firms and to share the results of such assessments with the other agencies that review these matters. It also recommends that the President's Science Adviser and National Security Adviser be made permanent members of the President's advisory committee that investigates the national security impact of foreign acquisitions.

In addition, the conference report confirms that the President has authority to impose conditions on foreign purchasers of U.S. firms, when necessary to satisfy national security concerns, and also requires the President to submit a report to Congress identifying conditions he imposes along with his reasons for either taking action or not taking action to block a foreign acquisition of a U.S. firm. In this way, the President's rationale for exercising his authority under Exon-Florio will become more clear, and he can be held accountable for his decisions.

Mr. Speaker, I believe the changes made by the conference report will strengthen our national security by securing many of the technological achievements of American firms. It is these achievements we must rely on to build a strong future for our children and our country.

Mr. KYL. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just wanted to say to my colleagues I think we have made a major mistake in changing the missile defense goals in our stated policy in this particular bill. We are here committing ourselves not to develop, test, or deploy any ballistic missile defense program, especially reaffirming the ABM Treaty. One would think that after our experience in Desert Storm, understanding that we now live in an age of missiles and understanding that many nations around the world without substantial navies, without substantial armies, without substantial air forces, are nonetheless developing the capability of delivering missiles to the United States or to our allies, that we would not make this foolhardy provision in this particular bill.

Mr. Speaker, I would hope that next year we would go back on course and move toward developing missile defense.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. SKELTON].

□ 1520

Mr. SKELTON. Mr. Speaker, I compliment Chairmen ASPIN, the other members of the committee, and staff for the hard work involved in producing the fiscal year 1993 defense authorization bill. It is a job well done.

This is the third defense budget passed since we developed a new defense strategy over 2 years ago. That strategy outlined a 25-percent reduction of the military over a 5-year period. Since fiscal year 1990 the number of personnel in the military has been reduced by over 300,000. Defense spending has been reduced by more than $30 billion over the past 3 years not counting inflation. If one factors in inflation, the cumulative reduction is more than 17 percent.

While some people would like to see greater cuts in defense spending, the hard fact is that such a course would simply cause greater economic hardship for both military personnel and civilian defense workers. It would also undermine the hard won efforts of the 1980s.

Despite the cuts made, we have a good chance of saving the one institution in America that works well—The U.S. military. I am pleased with the overall work of the fiscal year 1993 Defense Authorization Act. I am especially pleased with action taken on the B-2, SDI, and the National Guard reform package. Decisions taken in each of these programs will go a long way to ensuring continuing strength and vitality of our military.

The Air Force will be able to complete the purchase of 20 B-2 aircraft, if it can satisfy concerns about the stealthiness and cost of the plane. I am confident it can. Concerning SDI, the effort to encourage the Navy to adapt the Aegis weapon system as a theater ballistic missile defense system is a very wise course to pursue. Such a capability will well serve expeditionary forces committed in Third World contingencies. And equally important, the decisions taken to improve the relationship between Active and Reserve component forces in the package of reforms for the Army National Guard will pay great dividends in the coming years. This will finally ensure that the ideal of the total Army given birth almost 20 years ago will finally be translated into fact.

While I am concerned about the cuts in the operations and maintenance accounts [O&M], we will be able to revisit this issue next year. We should always remember that training is the key to readiness, and that readiness is the key to victory.

We tried to incorporate the lessons of the Persian Gulf war in our work on the fiscal year 1993 Defense bill. That war, the current fighting in the Balkans, and tensions in Korea make the case that the world remains a dangerous place. A strong defense has enabled us to maintain our freedoms and also to shape the course and direction of world affairs. We must maintain that capability in the years to come. By this legislation, we have begun the task of adapting the military for the 21st century.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I rise in support of the conference report on the National Defense Authorization Act.

The conference report represents a realistic approach to the national security needs of our Nation in a changed world.

We worked hard to hammer out an agreement. We have preserved the readiness posture of our military to meet any adversary. We will continue to support our troops with the same level of steaming hours, flying hours, tank hours and necessary training for our defense.

We have cut out wasteful spending by reducing the excessive inventories held in the Department of Defense which drastically reduces their ability to purchase more than they need. We also cut $2.2 billion from the DOD's cash reserves that were far in excess of what was needed.

The conference also reduced our overseas spending and the number of military stationed overseas. It requires the administration to finally undertake serious negotiations with our allies to bear more of the cost of U.S. overseas bases. The combination of force reductions and more host nation payments will result in an annual savings of $500 million from an already drastically reduced budget in 1993 and $8.6 billion in annual savings to our overseas basing costs by 1996.

In a major move, we are requiring the administration to report to Congress on the budget implications of any basing negotiations prior to entering into these agreements. This will help ensure that future agreements are more equitable.

Mr. Speaker, I urge my colleagues to support this conference report.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I rise in support of the conference report on H.R. 5006. I want to commend the chairman for his excellent work on putting together the package we have before us today. I also want to extend my appreciation to the staff of the Armed Services Committee for their professionalism.

Mr. Chairman, the package we consider takes major steps toward meeting future conflicts with a smaller military, reshaping our tactical aircraft programs, improves and expands the role of the Army National Guard, and reinvests our military savings in people. The reinvestment conversion proposals in the conference report minimizing the impact of defense cutbacks on former military, civilian, and Department of Energy workers by providing job retraining, education assistance as well as local impact funding for communities which will bear the burden of these reductions.

As Members know, the President signed into law the energy and water appropriations bill which includes a 9-month moratorium on nuclear testing with testing to end possibly by the end of 1996.

Regardless of what happens to the U.S. testing program, the time is now to find new missions for the Nevada test site facility. H.R. 5006 includes a provision providing for a study on the utilization of the Nevada test sites infrastructure for solar energy technology, environmental technologies research and testing, and an emergency management and response center.

The time to start planning for the impacts of the peace dividend is now.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today to thank the chairman for his assistance in helping us restructure the Chemical Weapons Disposal Program.

The Chemical Weapons Disposal Program needs to be fully understood by every Member of Congress. I must be honest, since a disposal site was not in my district, I knew very little about this program prior to meeting earlier this year with citizens from Kent County, MD.

Since that meeting, I have become quite involved in this program and have developed a strong opposition to the Army's proposal.

My opposition comes down to a simple fact. The EPA has stated on record that they have not done enough research on the human health effects of incinerator emissions. Knowing that, there is no way I could stand by for a year and allow the Army to proceed with a plan to build a chemical weapons incinerator in the backyards of the people of the Chesapeake region.

The Congress as a whole should be outraged at this program based on its run away cost increases. The original cost of this program was estimated at $1.8 billion, the current estimates are now a staggering $8 billion. And, this program is still in its early stages.

It is simply in the fiscal interests of Congress to restructure this program and begin to move forward on developing an alternative program.

That is why I am pleased to report today that this Defense authorization conference report recognizes this need and that we have accomplished a significant shift in the emphasis of this program.

In H.R. 5006, we have stopped the Army in their head-long rush to burn and have required them to thoroughly evaluate the possible use of an alternative technology. We also provide the Army with a direction for implementing an alternative program if an alternative technology is viable.

In addition, we have done something very unique for this program. We have set up a mechanism for public participation. Finally, the good people of Kent and Cecil County will have their voices heard.

This legislation establishes citizen's advisory commissions to provide direct input of local concerns. These local concerns must be addressed when the Army considers the option of an alternative technology program. The citizen commissions will operate as a vehicle for local citizens to drive their agenda forward.

Before I conclude, I must acknowledge the contributions of Mr. HOPKINS, and Senator FORD and Senator MIKULSKI. The product of this legislation was the combination of a year's long work on the part of each of us. This was truly a cooperative and successful effort.

Again, Mr. Speaker, I thank the chairman.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise today in support of the conference agreement on H.R. 5006, the Defense authorization bill for fiscal year 1993.

This measure authorizes $274 billion for defense in fiscal year 1993, which is $7 billion less than the President's request.

Prior to the House/Senate conference on the DOD authorization bill, I spent some time in my State visiting its military installations for in-depth budget briefings.

What I learned is that while the budgets of virtually every military installation have decreased over the last 5 years, their missions have stayed the same or increased. As a result of the shortage of O&M funds many of these installations are letting their infrastructure fall by the wayside. Roofs are leaking, buildings are falling apart, and roads are severely damaged. Installation commanders are having to make tough choices about what gets fixed and what does not. This backlog of maintenance and repair is only going to get worse if it continues to go unchecked.

Although my exploration of the backlog of maintenance and repair at military installations has, thus far, been limited to my own State, I am told that similar problems exist at military bases throughout this country. I reported my findings to the Joint House/Senate Conference Committee. I am pleased to report the conferees have joined me in recognizing that a problem exists in this area, and that it has to be corrected before it gets worse.

The conference report asks the Army to report on funding proposed for U.S. installations for maintenance and repair, minor construction, and other engineering support accounts. I applaud this effort, and I encourage my colleagues to vote in favor of the conference report.

Mr. Speaker, it is important to realize that it is impossible to maintain existing missions in our defense forces with decreasing defense budgets. The only option to maintain the missions is to take funding from the operations and maintenance accounts which affect operating overhead and the jobs of civilian workers.

The administration has proposed a 25-percent reduction in defense from 1990 through 1995 and an additional $10 billion per year from 1993 through 1997. The budget being debated today brings down the defense budget an additional $7 billion.

We must keep in mind that at some point we have to reach a floor if we are to maintain a defense force strong enough to deter aggression against the free world. It is important also to refer to the historical fact that throughout recorded history there has never been a lasting peace. Some countries who have ignored this fact no longer exist.

Mr. ASPIN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I rise today to express my sincere thanks to the conferees on the 1993 Defense Authorization Act. Faced with a changing and uncertain world, and confronted by tough fiscal realities, the two bodies of this Congress have come together to construct a threat-based, bottom-up approach for the defense of this Nation. Dramatic changes always inspire differing opinions, but I believe this authorization bill addresses many contentious issues in a reasonable and thoughtful manner.

I would like to again express my gratitude, along with that of my constituents, to Chairmen ASPIN and NUNN, and all the conferees, for addressing the concerns of the people of Long Beach, CA. On their behalf I urge all my colleagues to vote in support of the 1993 Defense Authorization Act.

Mr. ASPIN. Mr. Speaker, I reserve the balance of my time.

Mr. DICKINSON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, as a change of pace, I would like to highlight one aspect of the conference report which will have a positive impact on many of our Nation's veterans.

Since I was elected to the House of Representatives in the 98th Congress, I have been working to enact legislation that would eliminate a 19th century provision of law that requires a disabled career military veteran to waive the amount of his retired pay equal to the amount of his VA disability compensation.

Nationwide, more than 300,000 disabled retirees must give up their retired pay in order to receive their VA disability compensation. In effect, they must pay for their military retirement, something no other Federal retiree is required to do.

For those of you who are not familiar with this offset, let me give you an example of its inequitable effect on military retirees. It is possible that two Federal retirees with the same service-connected disability suffered in the same battle who have worked the same number of years in Federal service will be treated differently. Why? Because one served all his years in the military and the other served only 2 years in the military and the remainder in civil service.

The military retiree must pay for his disability benefits from his retirement check. But the civil service retiree may receive both his civil service retirement and his VA disability in spite of the fact that his military service is included in calculating his civil service retirement and in spite of the fact that he had been receiving VA disability during all his years as a civil servant.

The military retiree is unjustly penalized by the fact that he chose military service as his career. In effect, the military retiree is singled out solely because of his career choice.

Probably the most frustrating fact to me is that we have asked these brave men and women to serve during a time of need, under tremendous duress and danger, and yet the Government fails to abide by its commitment to provide full military retirement. How can we possibly expect to maintain a viable national defense if servicemembers realize that if they experience a service-connected disability they cannot receive VA disability compensation and military retired pay?

In the House of Representatives, my legislation to eliminate the offset has received widespread bipartisan support. Moreover, this legislation is backed by the Nation's veterans organizations. Given this overwhelming support in Congress and in the veterans community, Congress should be compelled to take action on this matter.

Therefore, I am pleased that the conference report to H.R. 5006 takes the first step toward eliminating this discriminatory offset. The conference report requires the Secretary of Defense to submit a report on alternative approaches to permit the concurrent payment of military retirement pay and VA disability compensation.

While I would have preferred the language that was contained in the Senate bill, S. 3114, I believe the conference report is an important step forward toward correcting an unfair law.

The time has come to make sure that we keep our promises to those who have shouldered the burden of our Nation's defense. Retired veterans should be rewarded rather than penalized for having served their country for 20-plus years. I hope that soon they can receive the compensation they have earned.

□ 1530

Mr. DICKINSON. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, when H.R 5006 was first considered in the House back in June, I commented that it was one of the most bipartisan bills to come out of the Committee on Armed Services in a number of years. Four months later, I stand here in the well and believe much the same thing about the conference report, H.R. 5006, H.R. 5006, the fiscal year 1993 Defense authorization bill.

As with any large bill, there are plenty of things not to like about it. Nevertheless, 38 of the 41 conferees of the House have signed it, manifesting their support. Many of the issues that we tend to judge a defense bill on, that are contained in the defense bill, such as the B-2 bomber, SDI funding, tactical aviation, modernization programs and so forth, have really fared far better than I had anticipated that they might. One thing that has led to this present situation of doing better than I thought was the fact that we were able to retain the firewalls that had been set up in the super budget committee conference that was set up a few years ago, because I have noticed several of the Members in their speeches earlier today figured on celebrating the opportunity of pulling down the firewalls so they can get at the defense budget, even though it is only 14 percent of the total Federal budget, to get at it more to spend for other social programs.

As for my highest, and I believe the committee's highest, priority, the men and women in uniform, in almost every instance, in every instance the conference has risen above politics and has protected the men and women, and has done our best to see that they were treated equally and fairly, which is our commitment to the people.

As I observed earlier this week, however, the conference report holds ominous signs for the future, such as steeper politically motivated spending cuts, the lack of a consensus on national security, which has created a vacuum in which we are not guided by policy as much as we are every politician's favorite ideas. Nothing better illustrates this point than the fact that our conference accommodated 92 outside conferees from 14 different committees of the House.

The lack of political will to make difficult, but necessary, force structure decisions on the Guard and Reserve will, if it goes unchecked, eventually unbalance our military forces and diminish our readiness to respond to crises around the world.

Mr. Speaker, as we reach the end of this bill and the end of this session of Congress, I would like to take a few moments of a personal nature to pay my respects and my thanks to my colleagues with whom I have worked on the committee for so many years, as has been pointed out. I have spent some 28 years in this body, 26 on the Committee on Armed Services. I have enjoyed so much the camaraderie, the fraternity that I have enjoyed and known over these many years.

I would like to pay a special tribute and thanks to the committee staff. They really are unsung heroes. Very few people realize the long, tedious, thankless hours that they put in. For instance, most of our staffers, senior staffers especially, have worked until 12 midnight, 11 or 12 o'clock, for the last 10 days, weekends included. They had to, to put this tremendously big and powerful and important bill in perspective, sort out the facts, to work out some 2,000 differences between us and the Senate. They really deserve the accolades of all of us. I certainly want to pay my respects to them.

It has been a pleasure working with Members from both sides of the aisle. Now, standing here, I realize that I have had the pleasure and the privilege of speaking from this rostrum for a very long time. This is the last opportunity I will have to speak from the rostrum, so just let me say to all present, to all of my colleagues, it has been great. I look forward to our continued association in the years to come, even though I will not be here to participate with them.

Mr. Speaker, I urge support and passage of this conference report, and I yield back the balance of my time.

Mr. KYL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I cannot let the moment pass without personally thanking my ranking member, the gentleman from Alabama [Mr. DICKINSON], for all he has done, not only for those on this side of the aisle, but for the strength of the United States of America. This country owes him a great debt of gratitude.

It also owes a great debt of gratitude to the final speaker in this debate, the gentleman from Florida [Mr. BENNETT], on the other side of the aisle, another great American who has contributed greatly to the defense of this country.

Mr. Speaker, in this last minute let me just indicate that I oppose the conference report, among other things, because it changes the goal of the strategic defense initiative. The goal now is to comply with the ABM Treaty. That is the primary goal.

I would like to put in the RECORD at this point a statement by former President Richard Nixon, in which he says in part,

> The time has come to move forward beyond the ABM Treaty. With more nations seeking membership in the nuclear club, it is only a matter of time before hostile states acquire missiles with intercontinental ranges. The U.S. and its allies cannot afford to remain defenseless against such potential threats.

He concludes,

> To significantly strengthen the strategic stability and security in the United States, the United States should develop coordinated limited space-based and wider ground-based defenses. The ABM Treaty should be modified accordingly.

For those reasons, Mr. Speaker, I urge opposition to this conference report.

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just tell the House that at this point there are a number of people who are leaving the House Committee on Armed Services this year. We will miss them all, but no more do we miss them than the two gentlemen who we will hear from last, the gentleman from Alabama [Mr. DICKINSON], who was just in the well, and the gentleman I am about to introduce, the gentleman from Florida [Mr. BENNETT]. Both of them have served on the Committee on Armed Services for a long time. In fact, for most of the Members of the House, myself included, I have never seen a defense bill or a conference report without the participation of those two gentlemen. I think that is true for the vast majority of the Members of this House.

We will miss them both. We congratulate them for their long service, and we wish them well in the future, but we will miss them terribly because of the contributions they have both made.

Mr. Speaker, I yield the final minute on this side to the gentleman from Florida [Mr. BENNETT], and it is very fitting that the debate should be wrapped up by him, who has served in this body for 44 years.

Here with us the last time on this conference report, we will hear from the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I am very touched. It is beyond my ability to respond adequately, but I would like to say a few things.

First of all, I thank the chairman for his excellent work on this bill and on other things that have gone before, and I thank the committee and the staff and all the people who have made it possible

Next, I would like to say something parochial. We have allowed the Navy to get both the carrier and amphibious ship by postponing some other expenditures that did not have to be made at this point. We can all be glad about that. This carrier will be an important part of our national defense when the ship breaks the ways early in the next century. We can be sure about that.

Finally, I would like to say that I think these brief remarks that I am now going to address are important to us all. I did not know I was going to make these remarks.

☐ 1540

This country has gone through nearly 50 years of cold war and has come out victorious. We no longer have the immediate threat or even the ultimate threat of Communism. And we ought to look at this a little bit; and when we gnash our teeth about all of the things that are wrong, that we have not solved in our country, deficits and all of that sort of thing, all of the bad things we could say about America, your Armed Services Committee and your Congress as a whole, and the people as a whole, decided in this period of time, these decades last past, that we were going to be strong. We were going to be strong enough to stand up as we should among the nations of the Earth, standing for peace on Earth, standing for propriety in the way in which nations conduct themselves, and standing as much as we could for our own individual benefits back home.

We deprived ourselves of a lot of things. A lot of countries have national health insurance and other things which are much more generous for their general populations than ours.

I speak for average Americans including people in blue collars and others. And they have been kicking in with their taxes through the years. And I do not find much complaint from them. I find that they feel that having our country strong, and having our country succeed in this great international battle that has taken place and that now has been won is much more important than whether or not their particular payroll receipts at a particular time was of a particular size.

So I think all of us who are leaving Congress, and there are many, and those who come here in this coming time should think about the fact that America has indeed lifted the world to a great plateau in the field of national and international peace and solidarity, and we ought to congratulate the American people, the middle-income, lower income, and higher income, all of the people in America who have been willing to stand behind a strong national defense.

So I congratulate America on it, and I think we should congratulate ourselves on it. This defense bill is a good example of the sound aspirations of the American profile, and this conference report should be approved.

Mr. CLAY. Mr. Speaker, civilian DOD employees facing major dislocations as a result of reductions in defense spending will soon benefit from provisions in this bill that were originally proposed in H.R. 4991, the Displaced Federal Employees Assistance Act. H.R. 4991 was approved by the Post Office and Civil Service Committee last May. Major features of H.R. 4991, including separation bonuses, continued health benefits, and RIF notification, are included in this legislation. I urge my colleagues to support the conference agreement.

This legislation is desperately needed. Currently, almost 50 percent of all Federal civilian employees are employed by the Department of Defense. As the General Accounting Office has testified, the Department will not be able to achieve the reductions that will be necessary over the next 5 years by relying exclusively on hiring freezes and attrition. This legislation will give the Department the tools to minimize the number of civilian employees who must be involuntarily separated. The legislation also provides crucial programs to alleviate some of the hardships on those employees who are separated.

In order to reduce the likelihood of layoffs, this legislation incorporates a separation bonus program similar to that first proposed in H.R. 4991 to encourage voluntary separations. Under this program, the Secretary of Defense is authorized to offer a one-time bonus of up to $25,000 to employees accepting voluntary separation. Conferees agreed to House language increasing the bonus cap by $5,000 to $25,000 in order to make the program more attractive to higher grade employees. The Secretary is authorized to offer this bonus to employees who accept voluntary separation, including employees otherwise eligible to retire either under normal retirement rules or the early-out rules. This is not an entitlement. Rather, the program is intended to enable the Secretary to offer bonuses where, in his view, such bonuses will serve to reduce or eliminate the need for involuntary separations. While we have granted wide discretion to the Secretary in choosing the circumstances in which bonuses will be offered, it is our intention that the program be used in a manner that does not discriminate on the basis of race, color, religion, sex, national origin, or age.

A number of programs have been included to ease the burdens on individuals, their families, and their communities in the event that involuntary separations of DOD civilian employees are necessary. As originally proposed in H.R. 4991, the conference agreement requires DOD to continue to pay its share of Federal employees health benefits [FEHB] premiums for up to 18 months for involuntarily separated employees who choose to retain FEHB coverage. As also provided in H.R. 4991, the conference agreement codifies the existing regulatory requirement that Federal agencies provide 60 days specific notice to affected employees before implementing a reduction in force and requires the Secretary of Defense to provide 120 days specific notice in advance of a reduction in force involving the separation of a significant number of employees.

Currently, regulations governing reductions-in-force define a significant reduction-in-force as one that affects 50 or more employees and require notice to State and local officials as well as employees and their representatives. (Federal Register, September 6, 1991, at 56 FR 43995.) It is our intention that a separation of a significant number of DOD employees, includes any reduction-in-force resulting in the separation of 50 or more employees. However, because a number of DOD facilities are in isolated, rural areas, where a separation of less than 50 employees may nevertheless have a significant impact upon the local economy, the conference agreement grants authority to the Secretary of Defense to develop appropriate regulations implementing the 120 days notice provision. Encouraging the continuation of health insurance coverage and ensuring adequate advance notice of layoffs are among the most important actions the Federal Government can take to reduce the hardships that layoffs will impose on both workers and the communities in which they live.

The conference agreement adopts three other provisions that are intended to cushion the impact of involuntary separations on DOD employees. First, it permits employees at military bases scheduled for closure to accumulate unlimited annual leave. Second, the conference agreement provides that involuntarily separated Federal employees who participate in the thrift savings plan may withdraw their TSP accounts in lump-sum payments, purchase an annuity, or leave their money in the plan. Third, the conference agreement allows the Secretary of Defense to provide up to 1 year of training in DOD training facilities to separated civilian employees.

Finally, the conference agreement adopts two provisions from H.R. 4991 that are intended to assist displaced DOD civilian employees in finding other jobs within the Federal Government. First, in order to promote awareness of employment opportunities, the conference agreement requires the Office of Personnel Management [OPM] to publish a list of all vacant positions in the competitive service. Second, the conference agreement requires Federal agencies to give full consideration to qualified displaced DOD employees for up to 2 years following their separation before hiring candidates from outside the agency.

In addition to these provisions, thanks to the efforts of our colleague from Indiana Mr. McCLOSKEY, the conference agreement directs OPM to report to the Congress by April 1, 1993, on the feasibility of providing health and life insurance and retirement benefits to temporary employees of the Federal Government.

Mr. Speaker, this is not everything that the Federal Government can or should do for DOD civilian employees adversely affected by downsizing. This is an area that will merit continued congressional scrutiny. It is, however, the least that we owe these people for the service they have performed for the Nation. I urge my colleagues to adopt the conference agreement. The cold war doesn't need any more casualties.

Mr. PANETTA. Mr. Speaker, today I am strongly supporting the House's adoption of the conference agreement on H.R. 5006, the fiscal year 1993 Defense authorization bill. I am doing so not only because it is a good plan for our Armed Forces budget in this fiscal year and it contains several provisions I am happy to see written into law, but also because the agreement includes a provision on which I have labored for the past 4 years, section 922 of the conference report, to authorize the Defense Language Institute Foreign Language Center [DLI] in law and to authorize the Secretary of Defense to establish a new personnel system at the center.

I am pleased to note that the other body receded and concurred entirely in the House provision on this issue. The Panetta amendment to the House bill on June 4, accepted by Chairman ASPIN of the Armed Services Committee in a group of amendments adopted en bloc, represented the hard work of dozens of individuals ranging from DLI itself to the Department of Defense, to the members and representatives of the National Federation of Federal Employees. Once again, I would like to thank my good friends IKE SKELTON, chairman of the Panel on Military Education and Chairman MAVROULES of the Subcommittee on Investigations for their ready cooperation and assistance as we moved to amend this bill. I would also like to thank Chairman SIKORSKI of the Civil Service Subcommittee and Chairman CLAY of the full Post Office and Civil Service Committee for their contributions to the progress and improvement of the measure. Beginning in 1988, all these good people and their representatives added their careful work to the crafting of this measure.

The final form of the provision, standing alongside my colloquy with Chairman SKELTON on June 5, and a letter from the Assistant Secretary of Defense for Force Management and Personnel, grants the DLI administration and faculty and union the ability to implement the new personnel system just as we have envisioned all along. The provision, the colloquy, and the Assistant Secretary's letter guarantee that the DLI administration will have the ability to implement the legislation according to the intent of my original legislation, H.R. 1685. Most importantly, the DLI administration will have the authority to institute a system of tenure for the faculty, to consult with the local union officials in the development of regulations implementing the legislation, and to devise a hierarchy of faculty positions aligned with higher levels of compensation.

Importantly, the legislation exempts DLI's faculty and staff from the civil service in order to allow the DLI administration and union to work together to create the unique personnel system required by the special characteristics of the Institute's mission and work force. At the same time, all the essential rights and privileges we honor for our Federal employees will remain available to the employees of the Defense Language Institute.

Finally, the provision collocates the charter for DLI in title X of the United States Code with the National Defense University. This is the appropriate place in the code for DLI's authorization, inasmuch as DLI is very much a Defense agency, serving not only all armed services but other Federal agencies as well.

With the House's passage of this measure, the faculty, administration, and staff of the DLI can look forward to its passage by the full Congress and the implementation of its provisions this year. Once more, I am very grateful for my colleagues' support for the measure, and I look forward to its acceptance by the other body.

Ms. OAKAR. Mr. Speaker, I rise in support of the conference report on H.R. 5006, the Defense Authorization Act for fiscal year 1993. In particular, I wish to address the defense economic adjustment provisions that are entitled the Defense Conversion Adjustment and Transition Assistance Act of 1992.

I am delighted that this year's defense legislation contains $1.5 billion for defense conversion, as we make the difficult but necessary transition from the vast military machinery of cold war America to the peacetime economics of defense conversion.

This $1.5 billion allocation springs from Legislation I originally introduced back in 1990, which authorized $200 million for defense conversion in division D of the Defense Authorization Act for fiscal year 1991. I am encouraged to see this substantial increase in funding; because it recognizes the magnitude of the problem with which we must deal, as we scale down our $300 billion annual Defense budget and begin the process of absorbing thousands of dedicated defense employees into our civilian economy.

One important feature of this legislation is the $80 million in aid it adds to the $50 million already provided in 1990 to States and localities under the program of the Economic Development Administration. This money will help those communities adversely affected by the Defense conversion process. The bill also adds $50 million to the resources of the Defense Department's Office of Economic Adjustment, which the 1990 legislation sought to strengthen for these purposes.

Another important feature is the $75 million that the bill would make available for the reeducation and retraining of displaced defense employees.

The conference report also provides support for the advanced manufacturing program which is consistent with advanced manufacturing centers. My own city of Cleveland has taken a leading role in this effort with the Cleveland advanced manufacturing program.

I have some misgivings that the conversion program in this legislation should be more civilian-oriented. I introduced my own bill—H.R. 5116—earlier this year, recommending a far more comprehensive approach to this issue. Nonetheless, I do believe this bill represents a positive development in our Nation's policy effort at economic adjustment and conversion and deserves our support.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of the conference report on the Defense authorization bill, and in particular the veterans job training provisions contained in the service members occupational conversion and training.

This job training program had its genesis in legislation written by Mr. TIM PENNY and myself, H.R. 5254, which would reestablish the Veterans Job Training Act.

Chairman PENNY of the Education, Training and Employment Subcommittee and I worked together to craft a bipartisan bill recreating the Veterans Job Training Act [VJTA]. We recognized that the rapid downsizing of the Department of Defense would lead to the early dismissal of thousands of uniformed personnel. It was our duty as members of the House Veterans' Affairs Committee to prepare a comprehensive plan to aid in their readjustment to civilian employment. In my opinion, the finished product, which was unanimously reported by the House Veterans' Affairs Committee, offers a conceptually sound job training program that will avoid the pitfalls of earlier job training approaches. The conference report before us contains the final version of this bill.

Mr. Speaker, in order to finance this new plan, the Veterans' Affairs Committee worked in conjunction with the House Armed Services Committee to include this job training plan in the DOD authorization bill. A modified—and in several instances, improved—version of H.R. 5254 was included in the economic conversion package which was adopted by the House and added as an amendment to H.R. 5006.

I know there was some concern about the scope of this economic conversion package, yet, I was very pleased that we were able to secure the necessary $100 million needed to finance the veterans' job training program. In this economic climate, the need for job training assistance for our former military personnel is great. It has been estimated that in my home State of New Jersey, approximately 24,000 veterans could be eligible for this type of job training over the next 3 years.

Mr. Speaker, the compromise reflected in the conference report follows our House passed measure quite closely. Participation in this new training initiative would be limited to those servicemembers who have been discharged on or after August 2, 1990, and had been unemployed for 8 of the 15 weeks before his application to the program. As an incentive to employers to hire and retrain veterans, payments would be made to employers to help reduce the training costs. In most circumstances, the subsidized training period must be completed between 12 and 15 months and must be in a field with a reasonable probability of long-term employment. We will not permit this program to subsidize dead-end jobs.

Special safeguards, Mr. Speaker, have also been included in this job training program which will protect the taxpayer and employees. For instance, wages paid to the veteran must be similar to those offered to other workers and cannot result in the displacement of current employees. The payment to the employer will be 50 percent of the first year salary, limited to $12,000. To ensure that the training results in long-term employment, the payments will be made either monthly or quarterly with 25 percent of the total payment suspended until 4 months after the completion of the training. I am also pleased that the provisions will require careful scrutiny will be made with regard to the quality of the training and the actual hours worked by the veterans. Finally, a program of counseling will be made available to the veteran to assist them in making good career and job training selections.

Mr. Speaker, as TIM PENNY and I [worked] to reauthorize VJTA it became apparent that the VA budget wouldn't be sufficient to accommodate new funding. So we began working to use DOD economic conversion funds to finance this program. After careful negotiation and preparation, our VJTA bill has found a new home in the Department of Defense. We all can rest assured that the Secretary of Defense shares our commitment to America's veterans and the DOD certainly has always prided itself in taking care of their own. I am also pleased that those service members whose specialties were in the combat arms—skills that are not readily transferable in the civilian job market—will be immediately eligible to participate in this program as will those veterans with service-connected disabilities rated at 30 percent or greater.

Mr. Speaker, I urge the House to approve this conference report and pass this needed job training program.

Mr. WILLIAMS. Mr. Speaker, I rise in support of the job training amendments in the DOD conference report. I congratulate Chairman ASPIN for the open way he solicited the participation of the Education and Labor Committee in drafting amendments to title III of the Job Training Partnership Act [JTPA]. These amendments expand the time period when individuals could receive services under the act.

Specifically, the provision that I fought for in conference provides eligibility to individuals 180 days prior to an announced closure. This will benefit the citizens of Havre, MT, because this provision permits services to be initiated 180 days prior to an announced closure even though individuals did not each receive pink slips.

When Burlington Northern announced a closure in Havre this year, individuals could not receive full services from title III of JTPA under current law and regulations, because it wasn't clear who among those impacted would be transferred to jobs outside Montana. As a result of this provision, the Burlington Northern workers in Havre, and any other workers similarly situated, would be eligible for immediate services.

Mr. EVANS. Mr. Speaker, I urge my colleagues to support the conference report to the fiscal year 1993 Department of Defense [DOD] Authorization Act. I believe it provides the proper balance of meeting our national security needs while helping our Nation deal with the downsizing of our Armed Forces.

In particular, I am especially pleased with the acceptance of the medical monitoring provision in the House's version of the bill dealing with current and former DOE employee's who have been exposed to hazardous and radioactive materials. Considering the patterns of abuse in the past concerning DOE's own studies on worker health, this provision is a breath of fresh air that will help us finally get a proper grip on the magnitude of health problems in DOE's work force.

Prior to this year, the workers and their unions led the charge to force the DOE to address the medical problems of these workers. Because of this provision, a number of compensation test cases, filed by the unions, may be rendered moot. I hope that this will not affect the award of reasonable attorney's fees for plaintiff's counsel. The legislation itself was passed, in large part, due to our recognition of the merits of these cases. We should not unduly penalize the plaintiff's who wisely sought legal recourse to protect worker's rights. And this should also not act as a deterrent to attorneys who may shy away from assisting DOE workers because of the ambiguous situation concerning the award of legal fees.

While the legislation does not address this problem, it also does not foreclose the awarding of just legal expenses. I hope that the courts will recognize this as well.

Mr. STUDDS. Mr. Speaker, I am pleased to see that the conference agreement deletes sections 1021–1023 of the Senate bill. This was the position recommended by our committee.

The provisions in question sought to rewrite section 2631 of title X of the U.S. Code. By doing so, the authors of the Senate provisions intended to reaffirm Congress' directive that all military cargo be carried on privately owned and privately operated merchant vessels documented under the laws of the United States. The changes also were designed to clarify the definitions of cargo, the terms of carriage, and the procedures to be followed in implementing the statutory mandate.

I applaud the Senate for attempting to reaffirm Congress' commitment to the military cargo preference law. Unfortunately, the Senate provisions needed perfecting, and during the conference there simply was not enough time to develop the specific language that would best carry out this purpose.

Mr. Speaker, I can assure you that next year, the House Merchant Marine and Fisheries Committee intends to work with the Armed Services Committee and the Senate to further refine and strengthen the military cargo preference statute.

Mrs. SCHROEDER. Mr. Speaker, as chairwoman of the Subcommittee on Military Installations and Facilities, I am pleased to rise in support of and report on the military construction and civil defense portions of the conference reported bill, H.R. 5006.

H.R. 5006 authorizes $4.8 billion for military construction and $3.9 billion for family housing, for a total of $8.7 billion. This bill also authorizes $142.5 million to carry out the civil defense functions of the Federal Emergency Management Agency.

With this bill, Congress has an opportunity to provide much-needed military construction which will spur economic growth in communities throughout the Nation. This bill will provide numerous opportunities for architects, engineers, construction workers, and building supply providers while also improving the quality of life for our service men and women.

The military construction division of H.R. 5006 builds on last year's premise that the military construction pause is not acceptable. There are urgent and ongoing construction requirements that must be addressed as we begin to renovate and rebuild the 40-year-old military infrastructure in the United States.

For family housing, the conferees provided $3.9 billion, which includes funding for 3,842 new units—all located within the United States. As we continue to bring military personnel and their families home from overseas, we have a responsibility to see that they are properly housed.

For the NATO infrastructure account, the House bill reduced the administration request of $221 million to $121 million. The Senate approved the administration request. The conferees approved $60 million, the level at which funds were appropriated. The conference report included language encouraging the NATO leadership to expeditiously develop a revised infrastructure investment program that supports the alliance's revised strategic goals and recognizes the reduced funding available to member nations.

For civil defense, the conferees approved the budget request of $142.6 million, a reduction of $10 million from the Senate bill and an increase of $10 million above the House bill.

The conferees agreed that Congress and the administration should consider fundamental changes in the Federal Government's organization, management, and funding for emergency response, including the possibility of associating all or part of FEMA's mission with a major Federal department. FEMA's current structure makes it difficult for it to carry out its mission and cause Government departments to respond immediately. The conferees directed the President to evaluate these issues and submit his findings to Congress by March 1993.

I think the military construction division of H.R. 5006 is an excellent component of the bill and I urge my colleagues to support it.

Mr. LAROCCO. Mr. Speaker, I rise today to speak to the issue of burdensharing. I recognize that Chairman ASPIN and my colleagues on the Defense authorization conference committee had the difficult task of trying to balance America's military preparedness with the need to reduce the overall defense budget. And I applaud their diligence.

However, the legislation before us today does not go far enough on the issue of burdensharing. When the House version of this bill was originally approved in June, I was proud to vote for a package requiring our allies—Japan, Korea, and Europe—to pay their fair share for the security provided by American troops.

In approving an amendment offered by our colleague from Massachusetts, Mr. FRANK, this body made it clear that the United States can no longer afford to bankroll the world's defense.

The Frank amendment called for a $3.5 billion reduction in the bill, to be offset by payments from those allies the American taxpayers are paying to defend.

Given the end of the cold war and the pressing economic needs in our own country, it is time for the United States to once again focus on the needs of its own citizens. Our intentional military presence is important and must be maintained. However, we should not be the only ones footing the bill. A defense that benefits all should be paid for by all. The cost of policing the world must be shared by those who benefit from it.

Operations Desert Shield and Desert Storm proved that the U.S. military is the best trained, best equipped and most responsive fighting force in the world. Given the changed world in which we now live, the Pentagon has acknowledged the need for a new type of defense strategy—one which requires quick mobility to meet smaller regional conflicts throughout the world.

I appreciate the efforts made by the conference committee to craft a defense bill which meets these new needs. However, the bill does not adequately require our allies to share the cost of a strategy from which they so clearly benefit.

While the conference report does contain some important cost saving measures, this bill does not go far enough. I regret the fact that we have missed an opportunity to save the American taxpayers an additional $3.5 billion. And I regret that we are being asked today to approve a conference report which is $3.2 billion more than that originally approved by this House.

Mr. Speaker, I ask my colleagues who claim to be committed to this issue to ask themselves what the true concept of burdensharing is supposed to be. Give us a defense bill which reflects the genuine needs of the post-cold-war era and vote "no" on the Defense authorization conference report.

Mr. EWING. Mr. Speaker, I applaud the spending cuts in the Defense authorization conference report. However, I believe the Frank-Shays burdensharing amendment, which was passed overwhelmingly by the House, should have been included.

I believe in peace through strength and maintaining a strong national defense. However, I also believe that the massive Federal deficit and the end of the cold war require us to drastically reduce defense spending. One way to do that is to require our allies to start picking up a greater share of the defense tab. This bill recognizes that, but should go even further.

The Frank-Shays amendment would have saved an additional $3½ billion by reducing troops in Europe, Japan, or Korea, or requiring United States allies to pick up a greater portion of the cost for these troops. We owe this to the American taxpayer, and I am disappointed that the conference committee deleted the Frank-Shays amendment.

Again, I support the cuts in defense which are being made. But until the budget is balanced we must make further reductions and require our allies to pay for a greater portion of their own defense.

Mr. GOODLING. Mr. Speaker, I rise in support of the conference agreement on H.R. 5006, the National Defense Authorization Act for fiscal year 1993. In particular, I want to express my support for the agreement reached on the $1.5 billion reinvestment package contained in this bill.

As the ranking minority member of the Education and Labor Committee, I was a conferee on provisions contained in this legislation that would provide assistance to members of the military, civilian employees of the Departments of Defense and Energy, and to employees of defense contractors who lose their jobs as a direct result of reduced defense spending. This legislation authorizes $75 million in fiscal year 1993 for training and employment assistance to these workers, as well as containing a number of other provisions to ease the transition of defense-related dislocated workers. I was also a conferee on provisions which attempt to bring the vast talents of the defense industry to the private sector. This agreement provides incentives to departing DOD workers to enter into the field of teaching, especially in underserved areas, and in the disciplines of math and science.

Mr. Speaker, this legislation is very important to a district such as mine. In York County alone, there are approximately 13,000 workers either employed by the Department of Defense, or employed by prime contractors or subcontractors that provide products for our defense infrastructure. And of course there are many other businesses that are dependent on these establishments. Many of these defense facilities and defense-related businesses have been and will continue to be hard-hit by reductions in defense spending, and this results in significant dislocation in southeastern Pennsylvania. In fact, it is estimated that for every one DOD-related dislocation, five other individuals will lose their jobs as a result of the ripple effect in communities such as ours that are negatively impacted by defense cutbacks. When you factor these five additional workers into the equation, it can be assumed that as many as 60,000 workers in the York area are potentially threatened by reduced defense expenditures. While many call the money saved through these reductions the peace dividend, I frankly do not believe there is a peace dividend for a defense worker who is handed a pink slip because of a canceled contract or a closed facility.

Earlier this year I introduced legislation, H.R. 5109, the Defense Diversification and Community Adjustment Act of 1992, which proposed assistance to negatively impacted communities in the form of technical assistance and grant money for diversification and adjustment to help businesses stay in business and avert worker dislocation. In cases where dislocation still occurred, my bill proposed amendments to the existing Defense Conversion Adjustment [DCA] Program under the Job Training Partnership Act, expanding eligibility as well as making other positive changes in the DCA program. I am pleased to note that many provisions similar to those contained in my bill were included as a part of the reinvestment package in the conference agreement we are considering today.

Again, I am very pleased that this year's DOD Authorization Act places so much emphasis on the transition and reinvestment needs of communities, businesses, and workers who have given so much in the name of this Country's defense. There is no doubt that economic conversion in the defense sector will continue, and it is our responsibility to assist those who helped us win the cold war to make the transition that will be required. I believe that the conference report on H.R. 5006 goes a long way in providing this assistance.

Mr. SKAGGS. Mr. Speaker, I want to state my support for the conference report on H.R. 5006, the National Defense Authorization Act for fiscal year 1993. I am pleased that four provisions that are important to me have been included in the conference report that we are considering today, and would like to thank and congratulate all of the conferees for their effort in completing work on this legislation before adjournment.

First, the inclusion of my amendment to deal with the problems defense nuclear workers face with the downsizing of the weapons complex is a victory for the tens of thousands of defense nuclear workers who, like their counterparts in the Department of Defense, have served their country's national security mission. It lets them know that their contribution has been respected, not just with words but with real practical assistance. This provision, included in the bill's comprehensive economic conversion package, will require the Department of Energy [DOE] to:

Minimize layoffs through the use of retraining of employees, early retirement, attrition, and other options.

Provide first preference to current nuclear workers when filling new positions—for waste cleanup, for example—in the weapons complex.

Retrain nuclear workers for work in environmental restoration and waste management activities at DOE facilities;

Provide relocation assistance to employees who choose to transfer to openings at other facilities.

Assist DOE employees who are to be laid off in obtaining employment retraining, education, and reemployment assistance.

Provide local impact assistance to communities affected by the restructuring plan being developed by DOE.

DOE would be required to submit to Congress a plan for carrying out this program within 180 days of enactment, and would be required to update the plan on an annual basis. The plan is to be based on consultations with representatives from State and local governments, employee unions, State and local educational institutions, community groups, and the Secretary of Labor. DOE will be required to notify the employees at the defense nuclear facilities and affected communities at least 120 days prior to any changes in its work force. This is an important step in the transition that these facilities will be undergoing, and will be welcomed by the workers, their families, and the communities they live in.

Second, I am pleased that the conferees included a provision the Senate put in its version of the bill that provides $40 million to continue reimbursing the cities of Broomfield, Thornton, Northglenn, and Westminster for the cost of the water diversion project to protect their water supplies from Rocky Flats runoff. This is important to the people of those cities who have had to live with the anxiety of wondering what plutonium and other toxics in their drinking water could do to their lives. Essentially identical language was included in the defense authorization bill for fiscal year 1992, and I'm happy to see it included in this year's bill as well.

Third, it's important that the bill contains the medical monitoring provision I sponsored in the House. It requires the Secretary of Energy, in consultation with the Secretary of Health and Human Services, the American College of Physicians and Surgeons, the National Academy of Sciences, labor organizations, and others, to initiate a medical evaluation program for current and former DOE employees who have been exposed to hazardous and radioactive substances, and provide those employees with comprehensive medical examinations to evaluate the consequences of their exposures. After being exposed to harmful substances, such as plutonium and beryllium, these workers must know that any harmful effects caused by that exposure will be discovered as soon as possible. This provision will give them that knowledge.

Passage of this provision may moot several pending workers' compensation suits across the country involving DOE workers who have been exposed to hazardous and radioactive substances at DOE facilities. If that happens, the workers' attorneys may not receive compensation they would have been entitled to under current law for handling cases they undertook because of the very concerns that prompted this legislation. That hardly seems fair, and that's why I supported language to state that reasonable attorneys' fees could still be awarded in such cases. In the end, however, no agreement on appropriate language could be reached; this is unfortunate.

Finally, I'm glad the conferees provided $2 million for site work for the redesign and development of the Fitzsimons Army Medical Center in Aurora, CO. Hundreds of thousands of active duty and retired military personnel throughout the Rocky Mountain region rely on this important facility for medical services, and the Army relies on Fitzsimons as its preeminent teaching institution for military medicine.

Economic analyses have shown not only that the redesign and reconstruction of Fitzsimons is the most cost-effective way to continue these critical benefits, but that the planned new replacement facility could generate savings to the Federal Government of $39 million annually. I'm disappointed that the conferees did not include $30 million, provided by the House bill, to complete design work on the new hospital, but I plan to work with members of the committee to ensure the inclusion of these critical funds in next year's bill.

Again, I support this conference report, and I urge my colleagues to do so as well.

Mrs. KENNELLY. Mr. Speaker, I rise today in support of the fiscal year 1993 Defense authorization conference report.

I believe this Defense bill reflects the necessary balance between our changing security needs and the realization that a restructuring of our Nation's defense is necessary in coming years. We have made the right choices, taking the proper first step in the post-cold-war era. This bill allows us to maintain our Nation's security and industrial base while beginning the conversion process.

With the cold war behind us, this conference report reflects our desire to begin more evenly distributing the cost of maintaining the security of our allies around the world. By adopting the Kasich-Gephardt-Schroeder burden sharing amendments, we have moved in the right direction. We will save billions of dollars that can be applied to other pressing needs, including the conversion and diversification of our defense industry.

I am most pleased about the inclusion of $1.5 billion in funds for conversion activities. This bill provides the technical assistance and transition initiatives necessary to assist the workers, communities, and companies affected by defense downsizing. I am gratified to see several provisions similar to those in my own conversion legislation included in this package. I urge my colleagues to vote for this conference report and the help it provides those hurt by defense downsizing.

Mr. REED. Mr. Speaker, I rise in strong support of the conference report on H.R. 5006.

This conference report represents the start of a new day in our Nation's defense policy. With this bill, we start the process of shaping our military forces and technology to the realities of the post cold war world.

One of the best examples of this new thinking is the $1.5 billion reinvestment package I and others helped to develop under the leadership and guidance of Chairman ASPIN, Mr. GEPHARDT, and Mr. FROST.

The end of the cold war means profound changes throughout the world. Here at home, the No. 1 change is the decrease in Government supported defense manufacturing and the loss of good paying defense jobs. The $1.5 billion set aside for reinvestment will help workers and communities adapt and prepare for the new reality of international economic competition.

I would like to point out three particular provisions of this reinvestment package that I urged the committee to include.

The first provision is one of the dual-use critical technologies consortia. Among the consortia to be created is a dual-use technology consortium for the application of robotics to defense environmental restoration activities. I believe that such an entity could capitalize on the critical technologies like robotics as well as the knowledge of engineers and industries which have years of experience in nuclear containment techniques. In addition to the clean up needs of DOD and DOE, there is a world wide environmental restoration market. Indeed, someone will have to deal with the environmental desolation that is so prevalent in the former-Soviet Union and Eastern Europe. With the creation of this consortium, American experts will be learning how to clean up our environment and ensuring that the United States doesn't fall behind in the emerging environmental restoration market.

The second provision would ensure that States without a preexisting industrial extension program, like Rhode Island, qualify for Office of Economic Adjustment funding to establish such programs.

The third provision is similar to legislation Mr. GEJDENSION and I introduced, H.R. 5017, which would expand the JTPA Program to cover defense dependent communities. This provision establishes a grant program to help communities prepare for the loss of jobs, and will help provide education, retraining, and placement assistance for all workers in defense-dependent communities.

Mr. Speaker, the House Armed Services Committee actively solicited the input of all Members on how to maintain our Nation's defense industrial base and help defense workers adjust to our changed military needs. I want to thank Chairman ASPIN and the committee for their efforts to include all Members in this process.

Mr. Speaker, I urge my colleagues to support this conference report because it lays the groundwork for America's future military and economic successes.

Mr. FRANKS of Connecticut. Mr. Speaker, I would like to commend my colleagues on the Armed Services Committee for the excellent job they have done on the Defense authorization bill for fiscal year 1993. I had to vote against this bill when it reached the floor in May because of amendments that created a hollow force. However, we have eliminated those provisions in conference and I now rise in support of the conference report.

While I shared in the rejoicing of the world when communism fell and cheered when the wall fell in Berlin I also found myself confronted with the fear that history would repeat itself. Every time we have downsized we have come dangerously close to destroying the very structure that allowed us to deter a conflict or win a war.

Our superior Armed Forces and advanced technology provided the deterrent to prevent a nuclear confrontation with the former Soviet Union. By dismantling that structure haphazardly our only accomplishment would be to put our country in a position of weakness and danger.

Further, cutting the Defense budget will destroy our Defense industrial base. The assumption that if we cut a project in mid-stream or even shelf it, we can reconstitute when necessary is simply not true. The cost to restart a program would be more than the manufacturing of the hardware. When we halt a program we lose the work force. How can we expect them to have the confidence to return to an industry that shut plants down in record numbers without considering the consequences?

Mr. Speaker, again I gladly support this conference report and am pleased that this Congress realized that downsizing our military does not have to mean destroying it.

Mr. SIKORSKI. Mr. Speaker, H.R. 5006, the National Defense Authorization Act for fiscal year 1993, contains a provision that establishes a personnel system for the Foreign Language Center of the Defense Language Institute located in Monterrey, CA. I thought that I would take this opportunity to insert in the RECORD the legislative history of this provision from the Post Office and Civil Service Committee's perspective.

On April 10, 1991, Representative LEON PANETTA introduced H.R. 1685, the Foreign Language Center of the Defense Language Institute Personnel Act. H.R. 1685 was jointly referred to the Committee on Post Office and Civil Service and the Committee on Armed Services.

On July 24, 1991, the Subcommittee on the Civil Service held a hearing on this legislation. Testimony was presented by Representative LEON PANETTA (D-California); Ms. Jean Barber, Deputy Associate Director, Office of Personnel Management; Mr. Ray T. Clifford, provost, Defense Language Institute Foreign Language Center; and Mr. Alfie Khalil, president, Local 1263 of the National Federation of Federal Employees.

On November 20, 1991, the Subcommittee on the Civil Service approved H.R. 1685 with an amendment in the nature of a substitute, by a 4–0 vote, a quorum being present. On March 11, 1992, the Committee on Post Office and Civil Service ordered H.R. 1685 favorably reported with an amendment in the nature of a substitute, by a 22–0 vote, a quorum being present.

As the Subcommittee on the Civil Service heard from witnesses testifying before the subcommittee in July, 1991, the current civil service personnel system does not provide the Defense Language Institute adequate flexibility to recruit and retain qualified foreign language instructors. In order to address these concerns H.R. 1685, as amended, creates a new personnel system, including separate pay, classification, hiring, and training provisions for civilian instructors at the institute that is on par with other Department of Defense instructional institutions such as the U.S. Naval Academy, the U.S. Naval Postgraduate School, the U.S. Coast Guard, the Air Force Institute of Technology, and the Army War College.

H.R. 1685, as amended by the Committee on Post Office and Civil Service, would do the following:

Establish civilian faculty positions at DLI;

Grant the Secretary of Defense the authority to establish a personnel system by regulation, including the qualifications, duties, tenure, and compensation of the civilian faculty, librarians, and staff at the DLI;

Give the Department of Defense 1 year to prescribe the regulations and ensures that the commandant of the center consults with concerned employee representatives at the center during the development of the regulations;

Allow the current employees at the DLI the option to transfer into the new personnel system or remain in the current system.

H.R. 1685, as amended, would also allow the commandant to confer upon any qualified graduate of the center an appropriate degree in a foreign language if the curriculum for that degree is accredited by an appropriate accrediting commission. The legislation also would amend section 5102 of title 5 to exempt the DLI from the general schedule classification system.

In subcommittee deliberation, the issues of classification, tenure, training, and compensation were closely examined. DLI's faculty are currently selected, appointed, classified, and administered under Federal personnel provisions, of Title 5, United States Code, and Office of Personnel Management requirements. Thus, the positions must be classified under the General Schedule, and faculty members recruited for and compensated on the GS salary range under administrative rules. Under these rules, it is difficult to establish a professional academic atmosphere and climate. According to the DLI, the civil service rank-in-position system provides little or no flexibility for rewarding or recognizing individual qualifications and contributions as is done in standard academic settings. The current system also places limits on the amount of professional training which can be given to correct identified deficiencies.

The purpose of H.R. 1685, as amended, is to lead to the greater professionalization of the faculty and to the institute's ability to recruit and retain highly qualified foreign language instructors. H.R. 1685 authorizes the Secretary of Defense to prescribe regulations that would establish a college style personnel structure at the DLI. The Secretary would be permitted to establish a faculty personnel system following academic models rather than the more administratively position-oriented structure for Federal employment. The Secretary could establish a flexible compensation structure comparable to a 2-year college systems and those of similar Federal institutions. The legislation provides for the ability to create a tenure system for the civilian faculty at the institute. The Secretary must take into consideration the due process rights and protections afforded all civil servants and provide flexibility to design a tenured system that will ensure a more professionalized work force. It is envisioned that the Secretary of Defense will also establish a system of providing training enabling the faculty to become fully proficient in the principles, theories, and techniques of second language acquisition.

In conclusion, H.R. 1685, as amended was passed by the Committee on Post Office and Civil Service, to provide the DLI with a more flexible, professionalized, college style personnel system and to put the DLI on equal footing with other similar DOD institutions.

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today in strong support of H.R. 5006, the Fiscal Year 1993 Defense Authorization Act. I would like to commend the hard work and expertise of Representative ASPIN, the chairman of the Armed Services Committee, and his fine staff. Their hard work has produced a bill which properly balances our need for a strong national defense with the fiscal constraints that our Nation faces. This legislation deserves strong bipartisan support.

Mr. Speaker, I would like to take this opportunity to discuss an important provision of the bill which many Members may have overlooked. I am referring to Section 1015, entitled, "Report on Compliance With Domestic Ship Repair Law." This provision states:

> (a) REPORT REQUIRED.—The Secretary of the Navy shall submit to Congress a report to Congress describing the practice of the Department of the Navy in complying with Section 7309 of title 10, United States Code, relating to restrictions on construction or repair of vessels in foreign shipyards. The Secretary shall include in such report sufficient data to demonstrate the degree of compliance or non-compliance of the Department of the Navy with that section.
>
> (b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of enactment of this Act.

Mr. Speaker, this provision originated as a floor amendment to H.R. 5006 which I offered when the House first considered the bill in June. The amendment passed the House as part of Chairman ASPIN's en bloc amendment, and has been included in the conference report because of the chairman's assistance. I would like to take this opportunity to explain to the House the circumstances which led to my offering this amendment.

In October 1990, it came to my attention that the Navy spends some $200 million per year in ship repairs at shipyards located outside of the United States. This came at a time when I was fighting the closure of the Philadelphia Naval Shipyard, a public shipyard which employs roughly 3,000 of my constituents in southern New Jersey. While I understand the obvious need for emergency repairs to be conducted at the nearest port when a ship is on deployment, it seemed as though $200 million per year represented a volume of work which exceeded such emergency repairs. For this reason, I made a request to Secretary Cheney to document repair contracts which have been awarded to public and private shipyards in the Pacific. Shortly thereafter, I joined with other members of the Philadelphia area delegation in requesting that the General Accounting Office conduct an investigaton of this practice.

At that time, I believed that these simple requests would expeditiously provide me with the information necessary to determine whether the Navy is properly balancing the strategic need for overseas repairs with the eonomic need to keep high-paying ship repair jobs in our country. Little did I know then that a year later I would still have more questions than answers. Despite the GAO's acceptance of our request for an investigation and despite dozens of letters from my office, the Navy still has not been forthcoming in my request to see this repair data. In that time, my independent investigation has uncovered some startling facts which hint of serious problems with the Navy's ship repair practices.

One of these revelations was my discovery that the Navy had never codified into written policy section 7309(c) of title 10 of the United States Code, the provision of law which currently governs foreign ship repairs. The statute states:

> (c)(1) A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside of the United States.
>
> (2) Paragraph (1) does not apply in the case of voyage repairs.

This provision of law was enacted as part of Public Law 100–456 on September 29, 1988. It was not until the day before the fourth anniversary of the enactment of this law that the Navy issued a memo which codified this provision into written policy—appendix A. This memo shows that even after 4 years, the law was being codified because "Congressional interest in Navy compliance has increased in past months." Were it not for the presence of this amendment in the Defense authorization bill, the Navy would likely have further delayed this codification.

In the past year, I have made various requests for foreign ship repair contracts and schedules. I have excluded all of the correspondence between my office and the Navy in appendix B in order to document my various requests. The Navy has been very courteous in our interactions. In fact, Admiral Lang took time out of his busy schedule to personally come to my office so that we could discuss my requests. However, despite this personal cordiality, the Navy has yet to provide me with data I have requested.

The Navy has maintained that despite the fact that section 7309(c) was not codified into policy, it has always complied with the law in principle. This was stated to me in Assistant Secretary Dan Howard's letter of July 6, 1992, as well as Admiral Lang's correspondence of August 7, 1992—appendix B. Beyond this basic assertion, the Navy has stated they are unable to give a complete accounting of individual contracts. For example, Admiral Lang's August 7, 1992, correspondence states that:

> Because of the level of detail you requested for FY 1989–1991 repairs; i.e., the cost of each job done by a foreign contractor, the Fleets anticipate that approximately 12 months would be required to gather the data, at a cost of at least $650,000.

Mr. Speaker, I am not calling into question the honesty or integrity of Assistant Secretary Howard or Admiral Lang. However, I know of no way in which to verify whether section 7309 has been complied with, other than by examining and documenting individual repair contracts. This is necessary because official Navy policy has not only ignored section 7309, but has been in direct conflict with it.

The primary Navy document governing overseas repairs is the "Ship Repair Contracting Manual"—NAVSEA 0900–LP–079–5010. On page 237, paragraph 2–3c it defines "voyage repair" as "emergency work necessary to enable the ship to continue on its mission which can be accomplished without requiring a change in the ship's operating schedule or the general steaming notice in effect." Keep in mind that according to section 7309 these are the only repairs that can be conducted overseas for ships home ported in the United States. However, the manual ignores this legal mandate in its definition of a "restricted availability"—page 237, paragraph 2–3a. It specifically states that during such availabilities, "the cognizant Type Commander *may authorize accomplishment of non-urgent work items concurrently with the emergency work*"—emphasis added. In other words, official Navy policy has allowed U.S. home ported ships to come into foreign ports for legitimate, legal, emergency voyage repairs, and then to have non-emergency repairs to be performed. This is in direct conflict with section 7309. Unless one assumes that type commanders have a comprehensive knowledge of the United States Code and section 7309, the only way to determine whether this padding the job has taken place is to examine individual contracts and determine the necessity of the repairs which were effected.

Moreover, I am astounded by the assertion that these individual contracts are not readily accessible. Through the House Information Services data base which my office has access to, I have been able to find more than 100 foreign ship repair contracts for fiscal year 1991, the only year which the data base covers. The contracts are for private contractors including the Bahrain Ship Repairing and Engineering Co., Sumitomo Heavy Industries, Sasebo Heavy Industries, and Airmech Eastern Engineering. Each listing includes the date and amount of the contract. Given that this information is accessible on the House of Representatives' computer system, I find it difficult to believe that the same records are not available on some Pentagon computer system. If such records simply included the nature of the repairs for which the contracts were awarded, my request could easily be fulfilled.

Mr. Speaker, section 1015 of the Defense Authorization Act specifies that the Navy report which the Navy is to submit must include "sufficient data to demonstrate the degree of compliance or noncompliance" with section 7309. As is obvious from the correspondence in appendix B, the Navy has yet to supply sufficient data to comply with this mandate. Once the President signs this legislation, it will be a matter of public law that the Navy supply this information.

Mr. Speaker, I look forward to reviewing the Navy's "Section 1015 Report." I hope that my remarks today have documented the legislative history of this provision of law so that there can be no question of what information the Navy must supply in order to comply with this provision. Again, I appreciate the assistance of Chairman ASPIN in addressing this issue, and look forward to working with him in the future to ensure that the Navy's ship repair policies fairly represent the needs of national security and America's workers.

APPENDIX A

ADMINISTRATIVE MESSAGE, SEPTEMBER 28, 1992

Fm: COMNAVSURFLANT Norfolk VA.
To: ALNAVSURFLANT.

NARR/Ref A solicits feedback actions on overseas ship maintenance, ref B is OPNAVINST 4700.7H policies and procedures for ship maintenance and ref C is COMNAVSURFLANTINST 9000.1C maintenance manual.

1. Ref A reiterated policy on overseas maintenance in support of Public Law (10 USC Section 7309 (C); Cum. Sup 1992) which prohibits planned repairs of U.S.-homeported ships at overseas shipyards. Public Law states "that a naval vessel, the homeport of which is in the United States, may not be overhauled, repaired or maintained in a shipyard outside the United States * * * This does not apply in the case of voyage repairs." Voyage repairs are defined in encl (5) of ref B as "emergency work necessary to enable a ship to continue on its mission and which can be accomplished without requiring a change in the ships operating schedule or the general steaming notice in effect." Congressional interest in navy compliance has increased in past months.

2. COMNAVSURFLANT will not schedule, nor conduct, any ship repair work in a shipyard outside the U.S. unless it meets mission essential voyage repair criteria. Procurement contracting office is responsible for compliance. This does not apply to work performed by U.S. shipyard personnel overseas, nor to intermediate level repairs conducted by deployed tenders.

3. Add new para 4700.1.4 on pg 4700-2 of ref C as follows:

"COMNAVSURFLANT will not schedule any ship homeported in the U.S. for overhaul, repair, or maintenance in a shipyard outside the U.S. unless repairs must be accomplished to permit the ship to continue the current mission, deployment or training cruise."

4. This is advance change 1/5 to ref C. Record entry of this ACN on pg III of ref C.

APPENDIX B

HOUSE OF REPRESENTATIVES,
Washington, DC, October 23, 1991.

Hon. RICHARD B. CHENEY,
Secretary of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: This week I discovered that the U.S. Navy contracts with private shipyards in Japan, Guam and the Phillipines for maintenance and other ship services to U.S. naval vessels. I must question the wisdom of this policy, given the Defense Department's decision to close over 30 military facilities across the United States.

I believe that any program which eliminates American jobs and sends U.S. tax dollars to our economic competitors is both misguided and counter-productive. Our nation's industrial base is deteriorating and the well-being of American workers is being compromised by Defense Department policies which subsidize our economic competitors. Ships homeported in Japan, Guam and the Phillipines should be returned to the United States so that repairs and overhauls can be completed by American workers at American ports, unless there is some compelling reason not to do so.

I request a complete accounting of any naval contract awards to public or private firms in Guam, the Phillipines and Japan, including the firm name; the amount of the contract award; and, a copy of the actual contractual relationship agreed to by the Navy.

Our nation's long term security depends upon a continued commitment to our own industrial workers and a continued investment in our own commercial and military facilities.

Sincerely yours,
ROBERT E. ANDREWS,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 6, 1991.

Hon. CHARLES BOWSHER,
Comptroller General, U.S. General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: We write to request the General Accounting Office ("GAO") to perform a study regarding the U.S. Navy's practice of awarding repair, overhaul, and modernization contracts on U.S. naval vessels to foreign governments.

We are seriously concerned regarding the amount of contracts awarded to foreign shipyards to repair, overhaul, or modernize Navy vessels. It makes no sense for the Navy to close American shipyards and then turn around and force the U.S. taxpayer to pay foreign workers at foreign shipyards to work on American ships. We request the GAO initiate an investigation into this practice.

We understand that Section 7309 of Title 10, U.S. Code says that a naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) homeported in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States.

However, there are dozens of naval vessels which are homeported overseas, including one aircraft carrier, which do not fall under this law. Repair work on these ships is performed by foreign workers at foreign shipyards. Navy documents show that $600 million of repair work is scheduled in Japan, the Philippines, and Guam over the next six years. This work translates into hundreds of thousands of man-days. While the amount of work in American shipyards has declined sharply, and the Navy has recommended closure of the Philadelphia Naval Shipyard, the Navy should not subsidize foreign shipyards. The work scheduled to be done overseas may be the life-line for American shipyard workers.

We request that the study will address the following issues:

1. Determine the number and value (in terms of dollars and man-days) of contracts awarded to foreign shipyards to repair, overhaul, and modernize U.S. navy vessels in the last 4 years? What are the projected contracts in the future?

2. What is the comparable cost of returning the vessels to United Sates shipyards for repair, overhaul, and modernization work?

3. If U.S. law required this work to be sent to the United States, to what shipyards would this work likely be assigned?

4. How much do the governments of Japan and the Philippines subsidize their shipyards, making it hard for U.S. shipyards to compete?

5. Is there any portion of foreign shipyard repair work on U.S. naval vessels paid for by foreign governments?

6. If U.S. law required this work to be sent to the United States, what effect would that have on the Navy's operational commitments overseas?

7. How many Navy dependents are stationed abroad?

These questions are clearly not all-inclusive. If you wish, we would be happy to meet with you or your staff to discuss these issues further.

Sincerely,

Thomas M. Foglietta,
Robert A. Borski,
Peter H. Kostmayer,
Curt Weldon,
Lawrence Coughlin,
Robert E. Andrews.

Department of the Navy, Office of the Chief of Naval Operations
Washington, DC, November 20, 1991.

Hon. Robert E. Andrews,
House of Representatives,
Washington, DC.

Dear Mr. Andrews: We have received your letter of October 23, 1991, to the Secretary of Defense regarding Navy ship repair contracts with private shipyards in Japan, Guam, and the Philippines.

In order to provide you with a complete response, we will need approximately 90 days to compile the data you requested. We anticipate you will receive a final response by February 15, 1992.

Sincerely,

J.R. Lang,
Rear Admiral, U.S. Navy, Director, Supportability, Maintenance and Modernization Division.

House of Representatives,
Washington, DC, February 19, 1992.

Rear Adm. J.R. Lang,
Director, Supportability, Maintenance and Modernization Division, Department of the Navy, Office of the Chief of Naval Operations, Washington, DC.

Dear Admiral Lang: Your letter of November 20, 1991 (4700-431C/1U596999) stated that I would receive a final response to my letter of October 23, 1991 by February 15.

February 15 has now passed, and I have yet to receive the information I requested regarding ship repair contracts with private shipyards in Japan, Guam, and the Philippines.

I request that I be immediately notified of the reason why this information has not yet arrived, and when I can expect to receive this information.

Sincerely,

Robert E. Andrews,
Member of Congress.

Department of the Navy, Office of the Chief of Naval Operations,
Washington, DC, February 28, 1992.

Hon. Robert E. Andrews,
House of Representatives,
Washington, DC.

Dear Mr. Andrews: I am responding to your letter of February 19, 1992, requesting status on our preparation of a listing of all Navy ship repair contracts with private shipyards in Japan, Guam, and the Philippines.

I assure you that a response has been prepared and it is currently being coordinated within the Navy and the office of the Secretary of Defense in preparation for signature by the Assistant Secretary of the Navy for Research, Development and Acquisition. I will continue to pursue getting the requested information. I apologize for the delay, and expect final release within 10 days.

Sincerely,

J.R. Lang,
Rear Admiral, U.S. Navy, Director, Supportability, Maintenance and Modernization Division.

House of Representatives,
Washington, DC, March 10, 1992.

Hon. Richard B. Cheney,
Secretary of Defense,
Department of Defense,
The Pentagon,
Washington, DC.

Dear Mr. Secretary: I am writing to request information under the Freedom of Information Act on behalf of myself and the residents of New Jersey's First Congressional District.

I would like the following information:

(1) I would like a listing of all Department of Defense contracts with foreign shipyards for the repair, maintenance, and overhaul of U.S. naval vessels in the last five years. As part of this listing, I would like the dates the work took place, the number of man-days worth of work performed, the total cost of the work, and the reason the work was necessary. I would also like a listing of any such work that is planned for the next five years.

(2) I would like all Department of Defense records regarding the explosion on the U.S.S. *Iwo Jima* which occurred on October 30, 1990. As part of this information, I would like all of the records from the Naval Court of Inquiry which studied the accident and determined that the accident was caused by the negligence of the Bahrain Shipbuilding and Engineering Company.

I expect that the Department will furnish me with information in a timely fashion, subject to the statutory deadlines that are provided for in Section 552, Paragraph (6) of the Freedom of Information Act.

Sincerely,

Robert E. Andrews.
Member of Congress.

Office of the Assistant Secretary of Defense,
Washington, DC, March 23, 1992.

Hon. Robert E. Andrews,
House of Representatives,
Washington, DC.

Dear Mr. Andrews: This responds to your March 10, 1992, Freedom of Information Act (FOIA) request filed with the Office of the Secretary of Defense and received in this Directorate on March 17, 1992.

Due to the size and complexity of the Department of Defense (DoD), there is no central repository for all DoD records. This office is responsible for responding to requests for records in Components of the Office of the Secretary of Defense/Joint Staff. The several components of the DoD, including the Military Departments and Defense Agencies, operate their own Freedom of Information offices to respond to requests for records for which they are responsible. These procedures are provided in DoD Regulation 5400.7-R, which may be found at 32 CFR 286, Federal Register Volume 55, No. 248, December, 1990, as amended by 32 CFR 286, Federal Register Vol. 56, No. 89, May 8, 1991.

The information you desire is under the cognizance of the Department of the Navy. Your request has been forwarded to them at the following address for action and direct reply to you: Department of the Navy, Director, OPNAV Services and Security Division, OP-09B30, Pentagon, Rm 5E521, Washington, DC 20350-2000.

Sincerely,

W.M. McDonald,
Director, Freedom of Information and Security Review.

House of Representatives,
Washington, DC, March 26, 1992.

Hon. Richard B. Cheney,
Secretary of Defense, The Pentagon, Washington, DC.

Dear Secretary Cheney: I am in receipt of your directed correspondence from the Assistant Secretary of the Navy for Research, Development and Acquisition dated March 4, 1992 with respect to U.S. Navy ship repair at shipyards in Guam, the Philippines, and Japan.

I now request the following information regarding the shipyards and ship repair providers for the Atlantic and Pacific Naval Surface Fleets: (1) a listing of foreign defense contractors by their specific ship work assignment and by the vessel's haul number; (2) the amount of work anticipated by the Navy over the next five years at said sites; (3) the number of man-days spent for each Navy ship repaired at said sites over the past three years including future assignments by hull number; (4) the total U.S. dollar value and total costs for each Navy ship overhaul or repair performed and anticipated at said sites by hull number; (5) and the total cost to maintain and operate the USS *Independence* Aircraft Carrier Task Force in the homeport waters around the Yokosuka Shipyards for the calendar years 1989, 1990 and 1991. Please indicate in your response the point to which you are responding.

It is unfortunate that the U.S. government is abandoning our American shipyards and the many hard-working men and women who are employed at those yards. I firmly believe that the American people deserve better.

Thank you in advance for your time and kind cooperation. I look forward to your prompt response. Should you have any questions pertaining to this or any other matter, please feel free to call on me.

Sincerely yours,

ROBERT E. ANDREWS,
Member of Congress.

DEPARTMENT OF THE NAVY, OFFICE OF THE CHIEF OF NAVAL OPERATIONS,
Washington, DC, April 1, 1992.

Hon. ROBERT E. ANDREWS,
House of Representatives, Washington, DC.

DEAR MR. ANDREWS: As previously advised by the Director, Freedom of Information and Security Review, OASD(PA), your Freedom of Information Act request of March 10, 1992, was referred to this Department for reply.

We have forwarded your request to the following officials for action and direct response to you:

For information concerning contracts with foreign shipyards for the repair, maintenance, and overall of U.S. naval vessels in the last five years: Commander, Naval Sea Systems Command (Code 09T5), Washington, DC 20362–5101.

For information regarding the explosion on the USS IWO JIMA on October 30, 1990: Judge Advocate General (Code 33), 200 Stovall Street, Alexandria, VA 22153–2400.

Sincerely,

G.R. AITKEN,
Head, PA/FOIA Branch, by director of the Chief of Naval Operations.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 13, 1992.

Hon. H. LAWRENCE GARRETT III,
Secretary of the Navy, The Pentagon, Washington, DC.

DEAR SECRETARY GARRETT: It is my understanding that on October 30, 1990, seven U.S. sailors were killed by an explosion on board the USS *Iwo Jima* as a result of negligent repairs that were conducted at the Bahrain Shipbuilding and Engineering Company (BASREC).

I would like the following information about this tragic accident:

(1) What was the nature of these repairs conducted by BASREC on the *Iwo Jima*? Were these repairs planned or emergent? What was the homeport of the USS *Iwo Jima* at the time of the accident?

(2) What was the cause of the accident? In particular, I would like a copy of the report of the Naval Court of Inquiry which blamed the accident on the negligence of BASREC.

(3) What naval repair work has been performed at BASREC since 1985? In each instance, were these planned or emergent repairs? Has the Navy reconsidered its use of BASREC as a repair station because of the negligence displayed in the *Iwo Jima* accident? What work has been performed at BASREC since the *Iwo Jima* accident? In each instance, were these planned or emergent repairs?

(4) What policies does the Navy follow in assigning work to foreign shipyards? What standards have been set for quality and safety of foreign ship repairs? How are these standards enforced?

(5) Has BASREC or the nation of Bahrain made any attempt to compensate the families of those sailors killed on the *Iwo Jima*? Has the United States Navy made any attempt to obtain compensation for the families?

Thank you for your time and consideration in this matter.

Sincerely,

ROBERT E. ANDREWS,
Member of Congress.

DEPARTMENT OF THE NAVY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Alexandria, VA, May 7, 1992.

Hon. ROBERT E. ANDREWS,
House of Representatives, Washington, DC.

DEAR MR. ANDREWS: This responds to your request for a copy of the "Manual of the Judge Advocate General" report of investigation concerning the October 30, 1990, major steam leak from 2–MS–7 turbo steam stop in the fireroom onboard USS *Iwo Jima* (LPH 2). Preparation of the report for release is underway.

You may expect further correspondence in the near future.

Sincerely,

W.C. HEWSON,
Commander JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Investigations).

HOUSE OF REPRESENTATIVES,
Washington, DC, May 12, 1992.

Hon. H. LAWRENCE GARRETT III,
Secretary of the Navy, The Pentagon, Washington, DC.

DEAR SECRETARY GARRETT: Recently my office received a copy of a internal Navy memo from the Naval Ship Repair Facility in Yokosuka, Japan dated April 22, 1992.

According to this document, NSRF Yokosuka will not be able to finish all of the work which is currently scheduled for FY93 and beyond. In particular, the document states that NSRF Yokosuka will have significant difficulties completing the USS *Mobile Bay* in FY93 and the USS *Independence* in FY94. Other work in these years will be "screened tightly" for problems that would justify a deferment of the work. The document further states that work in future years may be limited by an "abysmally short labor supply" caused by Japan's "booming" commercial marine market.

It is, of course, ironic that Yokosuka would be experiencing such problems handling their work load of naval vessels at a time when U.S. public and private shipyards are struggling for their survival. My constituents at the Philadelphia Naval Shipyard would be particularly disturbed by Yokosuka's flippant remark that "It's great to be popular."

I believe that this memo necessitates two immediate actions:

(1) The Navy should publicly agree that all excess work from NSRF Yokosuka will be performed in the United States. The Navy should revise the work schedules for all of the U.S. public shipyards in order to account for this increased work. Because of the obvious unreliability of the Japanese labor market, the Navy should plan for the use of NSRP Yokosuka only for emergent repairs. All planned maintenance should be performed in the United States where the work can be scheduled more reliably and is badly needed.

(2) The Navy should elaborate on the future of Yokosuka as a ship repair facility. This can be achieved in three ways. First, the House Armed Services Committee has asked the Navy for an "executive comment" on my legislation, H.R. 4222. I expect that when this executive comment is received it will fully address the future viability of Yokosuka in light of the analysis in this memo. Second, the General Accounting Office is preparing a report on overseas naval repairs. The Navy should make available to the GAO all data necessary for an independent evaluation of the future of Yokosuka. Finally, I renew my request that the Navy make available to my office all available information on work scheduled at foreign shipyards in the next five years.

Thank you for your prompt consideration in this matter.

Sincerely,

ROBERT E. ANDREWS,
Member of Congress.

[From the CONGRESSIONAL RECORD, May 6, 1992]

Mr. ANDREWS of New Jersey. Mr. Speaker, I would like to submit for the RECORD a document which was recently sent to my office by an anonymous source. The document is an unclassified, Internal Navy memorandum which reports that the shipyard in Yokosuka, Japan will not be able to complete the work which it is scheduled to perform in the coming years. This document is further evidence of why the House should pass my legislation, H.R. 4222, the American Shipyard Worker Protection Act.

YOKOSUKA, JAPAN,
April 1992.

To: CINCPACFLT Pearl Harbor, HI.
From: NAVSHIPREPFAC, YOKOSUKA, JAPAN.
Subject: Scheduled Workload.

1. This message is to alert alcon to our concerns regarding the projected overload of scheduled work at NSRF Yokosuka for FY-93 and beyond.

2. Historically, NSRF Yokosuka has not worked in excess of 250k mandays per year since '89 but has not worked in excess of 400K mandays a year since the USS *Midway*'s blister installation in 1908. With less than 1,000 production employees, NSRF Yokosuka relies on local MBRA contractors to absorb overloads. This was an entirely satisfactory arrangement thru 1988 when the international shipping and shipbuilding markets were depressed. The current commercial marine market in Japan is booming. This bull market coupled with the abysmally abort labor supply, means the ability to absorb overloads in 80th Yokosuka and Sasebo is critically limited.

3. Based upon the results of the recent cinoprofit scheduled maintenance conference, NSRF Yokosuka is current programmed for about 400K mandays of work in FY–93, 400K mandays of work in FY–94, and 400K mandays of work in FY–95. The primary drivers are major alt packages (principally on the USS *Independence*) and the stack-up scheduled OFRP SRA's & OSRA's.

4. Comments on FY–93:

A. Request USS *Mobile Box* (CG–53) SRA be delayed 3 weeks to a 6 Feb. start. Completion would also move 3 weeks to 9 April.

B. With the exception of cancelling availabilities, this requested change in CG–53's SRA is the only significant improvement we can identify. All other scheduled availabilities will have their work packages screened tightly and constantly for funding problems, drawing availability problems and material delays. These issues will force deferment of poorly staffed/supported work to allow our limited resources to be applied to jobs that can be accomplished within the ship's schedule and to avoid adverse aked impact.

C. Remaining work on the mobile ship repair facility not completed in FY–92 will require future workload adjustment.

D. There will be no capacity to take scheduled MSC work during the year. Emergent

RA/TA will be screened and accepted on an NOV basis and where current shop capacity exists.

8. Comments on FY-94:

A. USS *Independence* (CV-62) DSRA work package currently scheduled (start in May for 5 months) can not be accomplished. There are insufficient available ship repair personnel in Japan to accomplish the 200K mandays of work concurrently with the other 6 scheduled Yokosuka OFRP availabilities.

B. Possible Improvements include extending the 6 month OV-62 DSRA into first qtr '95 and rescheduling the four EFG SILA's. A DD SRA and an LCC SRA from third & fourth qtr into first & second quarter.

C. As noted for FY-93, all work packages will need to be slightly controlled to avoid wasting critical manpower in commonly experienced planning/execution "CHURN".

D. Do not expect any capacity to be available for MSC work.

6. Comments on FY-95 & beyond:

A. The FY-95 workload is marginally possible provided the carrier availabilities are not scheduled on top of existing workload peaks.

B. Schedules beyond FY-95 are considered to be too volatile for meaningful comment at this time.

7. The dialogue with our customers continues. We are striving to accomplish as much work on our ships as possible. Comments and suggestions are always welcome. It's great to be popular.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 15, 1992.

Hon. H. LAWRENCE GARRETT III,
Secretary of the Navy, the Pentagon, Washington, DC.

DEAR SECRETARY GARRETT: As you know, the General Accounting Office is currently conducting a study on the budgetary and economic impact of U.S. naval vessels which are repaired overseas. As a part of their study, the GAO has asked the Navy to document its compliance with Section 7309 of Title 10 of the U.S. Code. This provision prohibits the construction of any ship or major ship component at a foreign shipyard, as well as prohibiting U.S. naval vessels homeported in the United States from undergoing planned maintenance at a foreign yard. According to the GAO, the Navy has stated that Section 7309 has never been incorporated into official Navy policy, although the law is adhered to "in principle." Moreover, the Navy has yet to provide the GAO with any data that would show its compliance with this law.

Section 7309 was passed into law as part of Public Law 97-252 in September of 1982. As legislators, it is difficult for us to accept that after nearly a decade the Navy has been unable to codify this law into a written policy.

We would like to know why this law has not yet been codified into policy, and what plans are currently being made for its incorporation. Further, at the earliest possible date, the Navy should make available to ourselves and the GAO all data necessary to determine whether the Navy has complied with this law since its passage in 1982.

Thank you in advance for your cooperation in this matter.

Sincerely,

Rep. Robert E. Andrews, Rep. Frank J. Guarini, Rep. Randy "Duke" Cunningham, Rep. Frank D. Riggs, Rep. George Miller, Rep. Fortney Pete Stark, Rep. Joan Kelly Horn, Rep. Edolphus Towns, Rep. Robert A. Roe, Rep. Esteban E. Torres, Rep. Jolene Unsoeld, Rep. Ronald V. Dellums, Rep. William J. Hughes.

DEPARTMENT OF THE NAVY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Alexandria, VA, May 26, 1992.

Hon. ROBERT E. ANDREWS,
House of Representatives, Washington, DC.

DEAR MR. ANDREWS: As requested in your letter under the Freedom of Information Act (5 U.S.C. §552 (1982), you will find attached a copy of the "Manual of the Judge Advocate General" basic investigative report concerning the October 30, 1990, major steam leak from 2-MS-7 turbo steam stop in the fireroom onboard USS IWO JIMA (LPH 2).

The names of Naval Investigative Service agents have been withheld, because the unauthorized release of this information would result in a clearly unwarranted invasion of personal privacy (5 U.S.C. §552(b)(6) (1982)). In addition, portions of the first and second endorsements, findings of fact 323, 324 and 339 and all of finding of fact 320 and recommendations 6 through 10 have been withheld for the same reason.

Because your request has been denied in part, you are entitled under the Freedom of Information Act of appeal this determination in writing to the designee of the Secretary of the Navy. Such an appeal, if any, should be addressed to: Department of the Navy, Office of the Judge Advocate General (Code 34), 200 Stovall Street, Alexandria, Virginia 22332-2400.

To be considered, the appeal must be received within 60 days from the date of this letter. The enclosed copy of this letter should be attached. Both the letter of appeal and the envelope should bear the notation, "Freedom of Information Act Appeal."

I must inform you that the undersigned is the official responsible for the partial denial of your request.

I hope this material will assist you in addressing the concerns of your constituent.

Sincerely,

W.C. HEWSON,
Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Investigations).

DEPARTMENT OF THE NAVY, OFFICE OF THE CHIEF OF NAVAL OPERATIONS,
Washington, DC, June 3, 1992.

Hon. ROBERT E. ANDREWS,
House of Representatives,
Washington, DC.

DEAR MR. ANDREWS: Thank you for your recent letter requesting additional information on overseas shipyards and ship repair providers.

We are working through our Office of Legislative Affairs to schedule a meeting with you and your staff to discuss your concerns on this issue.

I look forward to meeting with you soon.

Sincerely,

J.R. LANG,
Rear Admiral, U.S. Navy, Director, Supportability, Maintenance and Modernization Division.

THE ASSISTANT SECRETARY OF THE NAVY, RESEARCH, DEVELOPMENT AND ACQUISITION,
Washington, DC, June 26, 1992.

Hon. ROBERT E. ANDREWS,
House of Representatives, Washington, DC.

DEAR MR. ANDREWS: Thank you for your recent letter concerning ship maintenance workload at the Naval Ship Repair Facility (NSRF) at Yokosuka, Japan. I am responding for Secretary Garrett.

Ship work accomplished overseas consists of CNO scheduled maintenance availabilities to the 20 ships homeported in the Western Pacific and voyage repairs to the Seventh Fleet deployed ships. In order to maintain a forward presence in the Pacific, the Navy needs the capability within that region to assure the continued material readiness of our ships. NSRF Yokosuka, as well as NSRF Guam, provide that essential capability. It is not feasible or economically practical to return Western Pacific-based ships to the U.S. for repairs because of family separation policies and lengthy transit times. In addition, we would also be required to increase the number of ships homeported in Japan or in our U.S. based inventory in order to continue to meet all of our operational commitments.

Planning for ship repairs at both U.S. and overseas shipyards is a complex process which requires careful balancing of unique facilities, workforce skills and operational requirements. The situation you referred to at NSRF Yokosuka is representative of this ongoing process which serves to ensure that only required maintenance is accomplished when and where necessary. The workloading process is volatile and often involves changes and compromises. The internal Navy memo you cited is one of the initial steps in the process.

Our policy is to cooperate fully with the GAO. Much of the data GAO has requested regarding overseas repairs is not available in a single data base. Therefore, I am sure you realize that considerable time will be required to gather the information from the various sources.

The specific information that you have requested will be provided via separate correspondence as discussed during your briefing with RADM Lang on June 22, 1992. As always, if I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

GERALD A. CANN.

THE ASSISTANT SECRETARY OF THE NAVY, RESEARCH, DEVELOPMENT AND ACQUISITION,
Washington, DC, July 1, 1992.

Hon. ROBERT E. ANDREWS,
House of Representatives, Washington, DC.

DEAR MR. ANDREWS: Thank you for your letter requesting information on the USS *Iwo Jima* (LPH-2) tragedy in which ten sailors were killed on October 30, 1990.

Iwo Jima is homeported in Norfolk, Virginia and was on deployment when a steam turbine valve in the fireroom sustained a catastrophic mechanical failure. This failure resulted in the release of superheated steam at a temperature of 850 degrees Fahrenheit into the fireroom.

Prior to the accident, *Iwo Jima* was assigned an upkeep repair availability in Bahrain from the 24th to the 29th of October 1990, to complete emergent repairs to the engineering plant. The repair contract was awarded to Bahrain Ship Repairing and Engineering Company (BASREC). The Naval Court of Inquiry determined that brass bolts were inadvertently used during the reassembly of the valve. Navy specifications require that steel bolts and nuts be used for high temperature steam systems. During reassembly process of the valve, the original nuts were considered unusable and required replacement. *Iwo Jima's* accident occurred after the ship departed Bahrain and superheated steam was applied to the valve.

Since 1985, BASREC has been performing approximately 60 to 80 contract actions per year. In all instances, the repairs are either voyage or emergent repairs, as BASREC does perform any scheduled maintenance. Since the Iwo Jima incident, the Navy has continued the use of BASREC, but the Ship Repair Unit in Naples, Italy has implemented a mandatory quality assurance program to guard against potential problems in the future. Since the *Iwo Jima* incident, BASREC continues to perform approximately the same number of contract actions per year, with all actions being voyage or emergent repairs.

In terms of policies that the Navy follows in assigning overseas repair work, the basic tool is the Master Ship Repair Agreement (MSRA). Following a pre-award survey conducted by both the Navy Regional Contracting Center and the Ship Repair Unit offices in the area, a qualified contractor will sign and agree to the terms of the MSRA. The conditions of the MSRA range from a requirement that a detailed safety program be represented prior to the start date of the contract, to requirements that all welders, for example, be certified under U.S. Coast Guard standards. The quality and safety standards of the MSRA are enforced by the on site ship Repair Unit surveyor, who can generate Quality Deficiency Reports to pass to the contracting officer. If the deficiencies are not resolved, the contracting officer can deem the contractor non-responsive and prohibit any future ship check invitations to the contractor.

The Office of the Judge Advocate General will provide you a copy of the investigation that provides details into this accident. You also asked about compensation for the families of the sailors. Since this is a very complex issue, we have contacted the Bureau of Naval Personnel (BUPERS) who will respond to you directly.

I trust this information will assist you. As always, if I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

GERALD A. CANN.

DEPARTMENT OF THE NAVY, OFFICE
OF THE SECRETARY,
Washington, DC, July 6, 1992.

Hon. ROBERT E. ANDREWS,
House of Representatives, Washington, DC.

DEAR MR. ANDREWS: Thank you for your recent letter concerning the Navy's compliance with Section 7309 of Title 10 of the U.S. Code.

Subsection (c) of Section 7309 concerning restrictions on ship repairs was enacted on September 29, 1988. The Navy has been in compliance with Section 7309(c) since its passage. While it has not previously been incorporated into written Navy policy, it is in the draft version of OPNAV Instruction 4700.7J, "Maintenance Policy for Naval Ships, Crafts, and Boats," Although this instruction will formalize Navy policy, it will not be a change in the way the Navy has been doing business.

Regarding the information requested by the GAO, the Navy continues to cooperate with their inquiries by preparing and submitting information relating to overseas repairs. I feel that these records have shown, and will continue to show the Navy's compliance with the provisions of Section 7309. I trust you will understand that much of the information requested is not kept in a single database and will require a significant amount of time to compile.

As always, if I can be any further assistance, please do not hesitate to contact me. I am sending a similar letter to your colleagues.

Sincerely,

DAN HOWARD,
Secretary of the Navy, Acting.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 5, 1992.

Rear Adm. J.R. LANG,
Director, Supportability, Maintenance and Modernization Division, U.S. Navy, Washington, DC.

DEAR ADMIRAL LANG: Thank you for meeting with me on June 22, 1992 to discuss the overseas ship repair information which I have been trying to obtain.

As I stated in that meeting, I want documentation of the Navy's overseas ship repair practices in three different areas: (1) a history of foreign shipyard repairs for the last five years at all foreign shipyards which the Navy utilizes, (2) a projection of all anticipated overseas repairs to take place in the coming five years, and (3) documentation of the Navy's compliance with Section 7309 of Title 10 of the United States Code.

As you remember, during that meeting you stated that your office would contact me within two weeks and inform me of when this information will be available. More than a month has passed since that meeting, and I have yet to hear from your office.

After nearly a year of constant inquiries, my fundamental questions remain unanswered. While I understand that there are technical difficulties with the gathering and release of this information, this should not stop you from making a valid estimate of when the compilation of this data will be complete. For this reason, I ask that you commit to a date when this information will be available.

Sincerely,

ROBERT E. ANDREWS,
Member of Congress.

DEPARTMENT OF THE NAVY, OFFICE
OF THE CHIEF OF NAVAL OPERATIONS,
Washington, DC, August 7, 1992.

Hon. ROBERT E. ANDREWS,
House of Representatives,
Washington, DC.

DEAR MR. ANDREWS: Thank you for your recent letters regarding overseas ship repairs and for meeting with me and other Navy representatives on June 22 to discuss your concerns.

Confirming discussions at the June meeting, you asked us to provide the following information:

(1) Assurance that we have been complying with Sec. 7309, Title 10 USC, since its passage in 1982.

(2) Cost projections for emergent work done by foreign contractors overseas.

(3) For FY 1989–1991, a list of all repairs accomplished by foreign contractors by date, hull, description of specific job, and cost of each job.

As stated in the Acting Secretary of the Navy's letter to you of July 6, 1992, the Navy has been in compliance with Section 7309(c) since that subsection was enacted on September 29, 1988.

Enclosure (1) is a chart showing budgeted projections for overseas ship repair. The figures shown for PACFLT non-scheduled (emergent) repairs include work done by foreign contractors, as well as U.S. Navy Ship Repair Facilities (SRFs) in the Pacific, since it is not possible to predict where emergent work will be accomplished. LANTFLT contracts out all emergent work since there are no SRFs in the Atlantic.

Enclosure (2) is a compilation of overseas repairs conducted during FY 1989–1991. In addition, we have provided GAO all the data they requested in connection with their in-depth review of overseas repairs. Their report is scheduled to be published within the next several months.

Because of the level of detail you requested for FY 1989–1991 repairs; i.e., the cost of each job done by a foreign contractor, the Fleets anticipate that approximately 12 months would be required to gather the data, at a cost of at least $650,000.

Additionally, some data may not be recoverable at all, particularly during the Desert Storm timeframe. Please understand that in the past there has never been a requirement to report this type of data. Therefore, the information must be compiled from a variety of sources, some of which are not automated, in a number of different locations around the world. However, if you still require this data, we will make every effort to provide it to you.

Again, I appreciate your concerns on this issue. Please let me know if we can be of further assistance.

Sincerely,

J.R. LANG,

Rear Admiral, U.S. Navy, Director, Supportability, Maintenance, and Modernization Division.

OVERSEAS WORKLOAD PROJECTION

[Dollars in millions]

	Fiscal year										
	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
PACFLT:											
Scheduled	101.5	98.5	101.6	102.2	76.2	53.8	47.3	52.1	56.9	34.6	41.8
Nonscheduled	119.6	104.0	110.0	55.0	42.9	42.9	42.9	42.9	42.9	42.9	42.9
Subtotal	221.1	202.5	211.6	157.2	119.1	96.6	90.1	95.0	99.8	77.4	84.7
LANTFLT:											
Scheduled	3.9	0.0	0.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Nonscheduled	14.5	13.1	23.0	11.0	11.0	11.0	11.0	11.0	11.0	11.0	11.0

OVERSEAS WORKLOAD PROJECTION—Continued

[Dollars in millions]

	Fiscal year										
	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Subtotal	18.4	13.1	23.9	11.0	11.0	11.0	11.0	11.0	11.0	11.0	11.0
Total	239.5	215.6	235.5	168.2	130.1	107.6	101.1	106.0	110.8	88.4	95.7
Ship maintenance	2,879.7	3,015.9	2,914.5	3,213.3	2,585.9	2,674.0	2,938.7	3,185.9	3,057.0	3,498.9	3,662.3
Overseas (percent)	8.3	7.0	8.1	5.2	5.0	4.0	3.4	3.3	3.6	2.5	2.6

OVERSEAS SHIP MAINTENANCE WORKLOAD

	Fiscal year—		
	1989	1990	1991
SUMMARY BY CUSTOMER AND ACTIVITY			
CINCPACFLT:			
SRF Subic Bay	$41,493,800	$36,464,000	$27,387,500
SRF Yokosuka	107,262,427	57,208,055	65,990,590
SRF Det Sasebo	16,768,990	47,785,220	32,794,752
SRF Guam	34,551,500	44,257,000	44,148,500
NRCC Naples	20,776,292	16,691,274	41,133,999
NRCC Singapore	182,231	147,362	103,468
Subtotal	221,035,240	202,552,911	211,558,809
CINCLANTFLT			
Other overseas	18,330,016	13,056,109	23,925,189
Total	239,365,256	215,609,020	235,483,998
MAINTENANCE WORKLOAD BY CUSTOMER, TYPE OF WORK, AND ACTIVITY			
CINCPACFLT:			
Scheduled	101,456,634	98,531.993	101,597,958
SRF Yokosuka	(61,306,232)	(27,633,486)	(40,390,067)
SRF Det Sasebo	(6,265,800)	(36,939,707)	(23,709,891)
SRF Subic	(3,209,602)	(1,782,800)	0
SRF Guam	(30,675,000)	(32,176,000)	(37,498,000)
Nonscheduled	119,578,606	104,020,918	109,960,851
SRF Yokosuka	(45,956,195)	(29,574,569)	(25,600,523)
SRF Det Sasebo	(10,503,190)	(10,845,513)	(9,084,861)
SRF Subic	(38,284,198)	(34,681,200)	(27,387,500)
SRF Guam	(3,876,500)	(12,081,000)	(6,650,500)
NRCC Naples	(20,776,292)	(16,691,274)	(41,133,999)
NRCC Singapore	(182,231)	(147,362)	(103,468)
Subtotal	221,035,240	202,552,911	211,558,809
CINCLANTFLT:			
Scheduled	3,869,808	0	881,351
Other overseas	(3,869,808)	(0)	(881,351)
Nonscheduled	14,460,208	13,056,109	23,043,838
Other overseas	(14,460,208)	(13,056,109)	(23,043,838)
Subtotal	18,330,016	13,056,109	23,925,189
Total	239,365,256	215,609,020	235,483,998
SCHEDULED MAINTENANCE BY CUSTOMER, ACTIVITY AND SHIP			
CINCPACFLT:			
Scheduled	101,456,634	98,531,993	101,597,958
SRF Yokosuka	(61,306,232)	(27,633,486)	(40,390,067)
BLUE RIDGE (LCC–19)	11,842,340	5,771,375	7,500,730
BUNKER HILL (CG–52)	1,948,397	194,205	8,440,428
CURTS (FFG–38)	3,236,411	148,086	872
MIDWAY (CV–41)	39,748,194	16,789,262	10,352,132
OLDENDORF (DD–972)	3,036,823	0	0
REEVES (CG–24)	37,445	0	0
TOWERS (DDG–9)	1,457,622	7,911	0
COCHRANE (DDG–21)	0	119,787	0
DAVIS (FFG–60)	0	2,266,783	1,692,392
FIFE (DD–991)	0	2,336,077	2,609,543
HEWITT (DD–966)	0	0	791
INDEPENDENCE (CV–62)	0	0	5,373,764
MOBILE BAY (CG–53)	0	0	4,419,415
SRF Det Sasebo	(6,265,800)	(36,939,707)	(23,709,891)
BEAUFORT (ATS–2)	711,831	8,808,298	2,143,144
DUBUQUE (LPD–8)	5,553,969	12,684,514	9,394,702
BRUNSWICK (ATS–3)	0	6,379,778	0
ST LOUIS (LKA–116)	0	9,067,117	7,776,164
SAN BERNARDINO (LST–1189)	0	0	4,395,881
SRF Subic	(3,209,602)	(1,782,800)	0
STERETT (CG–31)	3,209,602	1,782,800	0
SRF Guam	(30,675,000)	(32,176,000)	(37,498,000)
HALEAKALA (AE–25)	12,730,000	1,539,000	6,400,000
NIAGARA FALLS (AFS–3)	9,425,000	8,747,000	0
WHITE PLAINS (AFS–4)	1,598,000	8,159,000	14,506,000
SAN JOSE (AFS–7)	6,922,000	8,341,000	16,592,000
PROTEUS (AS–19)	0	5,390,000	0
CINCLANTFLT:			
Scheduled	3,869,808	0	881,351
Other overseas	(3,869,808)	0	(881,351)
BELKNAP (CG–26)	3,869,808	0	0
Service craft	0	0	881,351
NON-SCHEDULED MAINTENANCE BY CUSTOMER, ACTIVITY AND SHIP HOMEPORT STATUS			
CINCPACFLT:			
Nonscheduled	119,578,606	104,020,918	109,960,851
SRF Yokosuka	(45,956,195)	(29,574,569)	(25,600,523)
OFRP ships	39,361,587	23,850,003	20,967,602
Visiting ships	6,594,608	5,724,566	4,632,921
SRF Det Sasebo	(10,503,190)	(10,845,513)	(9,084,861)

OVERSEAS SHIP MAINTENANCE WORKLOAD—Continued

	Fiscal year—		
	1989	1990	1991
OFRP ships	10,355,702	9,832,449	8,957,285
Visiting ships	147,488	1,013,064	127,576
SRF Subic	(38,284,198)	(34,681,200)	(27,387,500)
OFRP ships	15,990,275	8,240,887	10,351,555
Visiting ships	22,293,923	26,440,323	17,035,945
SRF Guam	(3,876,500)	(12,081,000)	(6,650,500)
OFRP ships	3,288,000	10,860,000	6,100,000
Visiting ships	588,500	1,221,000	550,500
NRCC Naples	(20,776,292)	(16,691,274)	(41,133,999)
NRCC Singapore	(182,231)	(147,362)	(103,468)
CINCLANTFLT:			
Nonscheduled	14,460,208	13,056,109	23,043,838
Other overseas	(14,460,208)	(13,056,109)	(23,043,838)
Overseas HP ships	0	0	0
Visiting ships	14,460,208	13,056,109	23,043,838

Mr. ASPIN. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KYL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 100, not voting 28, as follows:

[Roll No. 461]

YEAS—304

Abercrombie
Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Aspin
Bacchus
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
de la Garza
DeLauro
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hunter
Hutto
Hyde
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (NC)
Nowak
Oakar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Panetta
Parker
Pastor
Patterson
Payne (VA)
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Quillen
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Sabo
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sharp
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Stallings
Stearns
Sundquist
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walsh
Weber
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff

NAYS—100

Applegate
Archer
Armey
Atkins
AuCoin
Beilenson
Blackwell
Bunning
Burton
Collins (IL)
Collins (MI)
Conyers
Cox (CA)
Crane
Dannemeyer
DeFazio
DeLay
Dellums
Doolittle
Dreier
Early
Edwards (CA)
Fawell
Feighan
Fields
Ford (TN)
Frank (MA)
Goss
Green
Hancock
Hastert
Hayes (IL)
Hefley
Henry
Herger
Hubbard
Hughes
Inhofe
Johnston
Klug
Kostmayer
Kyl
LaRocco
Leach
Lehman (FL)
Lewis (GA)
Luken
Markey
McDermott
Mfume
Miller (CA)
Miller (OH)
Moody
Morella
Nagle
Neal (MA)
Nichols
Nussle
Oberstar
Olver
Orton
Owens (NY)
Packard
Paxon
Payne (NJ)
Pease
Penny
Petri
Pursell
Rahall
Ramstad
Rangel
Roberts
Roth
Sanders
Sangmeister
Savage
Scheuer
Schumer
Sensenbrenner
Serrano
Shays
Shuster
Sikorski
Smith (FL)
Stark
Stokes
Studds
Stump
Synar
Towns
Vento
Walker
Washington
Waters
Waxman
Wheat
Wyden
Yates
Zimmer

NOT VOTING—28

Alexander
Annunzio
Baker
Barnard
Borski
Boxer
Chandler
Davis
Dwyer
Dymally
Eckart
Frost
Guarini
Hayes (LA)
Holloway
Huckaby
Jefferson
Lipinski
Livingston
McCrery
Pallone
Pelosi
Roukema
Russo
Staggers
Stenholm
Tallon
Thomas (GA)

☐ 1603

The Clerk announced the following pair:

On this vote:

Mr. Annunzio for, with Mrs. Roukema against.

Messrs. WAXMAN, DELAY, FIELDS, FEIGHAN, WHEAT, SMITH of Florida, MARKEY, TOWNS, and LEHMAN of Florida changed their vote from "yea" to "nay."

Mr. DURBIN changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PALLONE. Mr. Speaker, during rollcall vote No. 461 on H.R. 5006, the Defense authorization conference report, I was unavoidably detained.

Had I been present, I would have voted "yea."

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2532, FREEDOM FOR RUSSIA AND EMERGING EURASIAN DEMOCRACIES AND OPEN MARKETS SUPPORT ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 592 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 592

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act" All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. MFUME). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 592 waives all points of order against the conference report on S. 2532, the Freedom Support Act, and against its consideration. The rule also provides that the conference report will be considered as read.

Mr. Speaker, we have before us today perhaps the most important foreign policy matter to be considered in the past 40 years. This conference report authorizes a total of $505.8 million for democratic initiatives in the former Soviet Republics.

The agreement provides $410 million for bilateral development assistance, $70 million for exchange programs, and $25 million for the Department of State and USIA to establish new diplomatic posts. It lifts restrictions on agriculture and other export credits; authorizes various nonproliferation and disarmament activities; establishes a new Democracy Corps to assist in the development of new democratic institutions, and authorizes a $12 billion increase in the U.S. share of the International Monetary Fund.

Mr. Speaker, House Resolution 592 will allow us to move smoothly and expeditiously to final passage of the Freedom Support Act. This is an important opportunity to help consolidate democracy and aid in the transition to market economies in the former Soviet Union. I urge my colleagues to support the rule.

Mr. Speaker, I reserve the balance of my time.

□ 1610

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. And I urge Members to support this rule.

As my good friend, the chairman of the Rules Committee, Mr. MOAKLEY, has just indicated, this rule waives all points of order against the conference report for S. 2532, the Freedom Support Act; and it waives all points of order against consideration of that legislation.

Ordinarily, of course, I would raise an objection to this kind of blanket waiver. But time is of the essence, and the House should be permitted to work its will expeditiously.

Therefore, there is no opposition to bringing this conference report to the floor under these terms.

I would also point out, Mr. Speaker, that the House bill on which this conference report is based was considered and passed as recently as August—just before the district work period. I am sure that all Members are cognizant of the issues that are involved with this legislation, and there is no real need to have a lengthy debate.

Suffice it to say that the conference report for S. 2532 has three principal components: It authorizes $505.8 million in assistance for the independent States of the former Soviet Union during fiscal year 1993; it authorizes $940 million for the ongoing effort to control, dismantle, and destroy Soviet weapons; and it authorizes a quota increase of $12.3 billion in the U.S. contribution to the international monetary fund. This latter sum of money is an exchange of monetary assets and does not constitute an appropriation as such; nevertheless, it is a form of foreign aid.

Mr. Speaker, this is a very important piece of legislation. I myself have always had serious reservations about voting for foreign aid bills, and I have the same reservations about this one, but I trust that all members will vote their conscience, and that the result will serve our country's interests.

Therefore, Mr. Speaker, I will support the rule; however, I cannot vote for the conference report. I cannot vote for it because we have serious problems in this country. I believe that any kind of aid which we give should not be in the form of grants and gifts. It should always be in the form of loans and credit that are repayable to the U.S. Treasury. This legislation does not go that way, so reluctantly I have to oppose the conference report, but I do urge support of the rule. We should pass the rule, and we should pass it without a recorded vote.

Ms. SLAUGHTER. Mr. Speaker, the gentleman from Massachusetts [Mr. MOAKLEY] has asked that I may control his time, and I ask unanimous consent that I may do so.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I very much appreciate the gentleman yielding me this time.

We have this Russian aid bill, and look, as a member of the Armed Services Committee when we look at the tremendous changes in the world, we cannot help but be excited.

It is with reluctance—no, it is not with reluctance that I have to rise. I have to rise in disagreement with a couple of Members for whom I have great respect, the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from Florida [Mr. FASCELL], two gentleman who are retiring.

The gentleman from Michigan [Mr. BROOMFIELD] is fabulous.

The work of the gentleman from Florida [Mr. FASCELL] on the gulf war, I mean, I think we should build a statue to him for the bipartisan work he did during that event.

But in terms of this Russian aid bill, can you imagine that if we are going to permit the IMF to give $12 billion to the Russians with absolutely no conditions, and I read with incredible horror last week in my newspaper that the Russians are now selling to the Iranians diesel-powered submarines.

Now, has everybody heard what I just said? There are no conditions permitted on this bill, and we had a slipshod procedure that allowed this bill to go through without any consideration of amendments the last time.

It has been announced that the Government of Iran is buying diesel-powered submarines from the Soviet Union, or from Russia.

Now, what are the consequences of that? The consequences are very severe. They are severe because the diesel-powered submarines are the most quiet of all the submarines.

In addition to that, Iran becomes the first nation in the Middle East to acquire submarine capability.

Now, could you even begin to think about the consequences of Iranian submarines floating in the Persian Gulf, with the concept of the United States decided that we need to reflag Kuwaiti tankers in order to prevent worldwide terrorism, in order to provide for the smooth flow of oil to the vital archeries of the world's geography over there in the Straits of Hormuz, and we are going to have our sailors on our ships subject to a threat of diesel-powered submarines that have been sold to them by Russia, and we are not putting any conditions on this bill.

Now, this is a terrible, terrible mistake. We come out here and we talk about all these problems of nuclear proliferation, so we spend all our time on this test ban treaty. At the same time, we try to legislate on a test ban treaty. Here we have a situation where we are worried about the test ban treaty and proliferation, rightly so.

The gentleman from Arizona [Mr. KYL] and I are fighting, along with the gentleman from Connecticut, virtually every day on the Export Administration Act to prevent the proliferation of material.

I have a bill in this Congress with the gentleman from Wisconsin [Mr. OBEY] designed to set up a commission to create a rational process of arms sales to stop the spread of weapons of mass destruction and even conventional weapons that can create incredible tensions in very sensitive parts of the world, and at the time we are doing that we are pushing through a bill that puts no conditionality on it. The world puts no conditionality on IMF aid to a nation now that is arming the Iranians with diesel-powered submarines.

We cannot do this, Mr. Speaker. This does not make any sense.

I am going to say to my colleagues, it is critical that we do something to help Russia. It is critical that we do something to let democracy flourish; but I mean, my goodness, we cannot do it this way. The world cannot sit back and let the Russians today sell submarines. What happens if tomorrow they decide to sell ballistic missiles or ballistic missile technology or nuclear weapons technology?

You know, the Iranians now are acquiring nuclear technology being sold to them now that they claim are going to be used for peaceful purposes.

Mr. Speaker, we should defeat this bill. We should send this bill back to the committee and we should tell our State Department negotiators that they should work with the other members of the IMF to stop the flow of this technology.

Mr. Speaker, we are talking about the future of that Middle East, the future perhaps of our people. We could be talking about the future of mankind when it comes to the proliferation of these weapons.

If there is anything that should concern all of us now with the breakup of the Soviet Union and all these different nations that are looking for hard currency, if we do not stop these countries from selling this technology to these rogue regimes, oh, my goodness, we should be ashamed of ourselves.

I will say to the gentleman from Texas [Mr. GONZALEZ] that I expect him to be helping us on this as well, as a man who has been trying to fight against the proliferation of weapons.

Mr. Speaker, I ask that we defeat this bill.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN], one of the respected Members of this House.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman for yielding this time to me.

The aid to the Independent States of the former Soviet Union should be conditioned upon a total termination of all Soviet aid to Cuba, including all subsidized products and services and a prompt pullout of all Soviet technical assistance that goes to the intelligence facility, as well as the nuclear plant.

All that we have heard are promises from the Soviets, but the decision to halt the Cienfuegos project was made by Castro, not the Soviets. Castro simply does not have the cash to continue operating. If Castro finds the funds, what will happen then? Business as usual for Fidel.

This bill would have been the perfect vehicle to force the Soviets to live up to their promises about the withdrawal of personnel and goods.

Yes, the bill has language which urges the President to obtain commitments, but it is not firm enough, it is not strong enough and it will not stick.

☐ 1620

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Arizona [Mr. KYL], a member of the Committee on Armed Services.

Mr. KYL. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding this time to me.

My colleagues, some have said that this bill will make the world a safer, more stable place, but will it?

Today, as my colleague, the gentleman from Ohio [Mr. KASICH], has just discussed, Russia is transferring *Kilo* class submarines to Iran. As we sit here, two of them are steaming on their way to Iran. Today Russia's strategic missiles are aimed at the United States. Russia remains out of compliance with the biological weapons convention. Today Russia continues to produce weapons grade plutonium. And today Russia is developing a new ICBM which will be deployable by the end of the decade.

Why?

Let me just refer my colleagues to the evidence of the things which I have just asserted in brief.

From the Washington Post's Jeffrey Smith: "Russia Fails to Detail Germ Arms."

> For reasons that are not clear to U.S. officials, Russia has yet to meet repeated U.S. and British requests for evidence that the germ weapons program has been terminated and for a detailed declaration by Russia of the program's past scope.

We wanted to make a condition to the provision of this aid coming clean on this matter of biological warfare.

A story regarding again, from the New York Daily News: "Russian Nukes Still Aimed at Us":

> Russia still has its nuclear missiles aimed at the United States, the military head of the Commonwealth of Independent States said yesterday.
>
> Marshal Yevgeny Shaposhnikov said Russia is awaiting a U.S. response to President Boris Yeltsin's initiative before pointing the weapons elsewhere.

On the matter of the submarine, Mr. Speaker, the Washington Post story referring to comments by Acting Secretary of State Lawrence Eagleburger to sell as many as three of the 2,400-ton diesel-powered submarines to Iran, and I would note that one of our colleagues, the gentleman from Connecticut [Mr. GEJDENSON], is trying to bring before the body the Export Administration Act and has been very critical of the administration for the actions preceding the matter of the conflict in Iraq, for allowing Iraq to become armed, and yet I would urge my colleagues at this time to consider the possibility that we are doing the very same thing in adopting the rule and adopting legislation which permits precisely the same thing with regard to Iran.

My colleagues, we will look back on this day and wonder why, if we support this act, why we voted for an act that lets the Soviet Union sell these submarines to Iran when we have a carrier sitting out in the Straits of Hormuz, or someplace else in the Middle East, and yet that carrier cannot perform its duties because of these Iranian submarines supplied by who? Supplied by the Soviet Union that we are going to be providing aid to.

Mr. Speaker, these things simply do not make sense unless we can attach some kind of conditions to this aid, and some of our colleagues believe that this bill has conditions on it. Well, we need to make this very clear:

The only conditions in this bill are on the bilateral provisions, namely the support for the dismantlement of nuclear warheads, the direct assistance from the United States to Russia. There are no conditions on the IMF contributions, and it is the IMF contributions that are the heart and soul of this legislation. The authorization that the United States commit $12 billion to the International Monetary Fund, only about a third of it, by the way, that will ever get to Russia, but we make this $12 billion contribution, and there are no conditions whatsoever on that contribution.

Yes, Mr. Speaker, we all want to provide assistance to the Republics of the former Soviet Union, but we would also like to modify some of the behavior that is occurring there.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, let me make it clear that we do not want to misspeak this. It may be there are economic conditions on the loaning of the $12 billion, but there are no conditions when it comes to the arms control facets of this agreement. That is where we are driving our argument toward, is the fact that there is not anything beyond the economic side that makes this IMF $12 billion loan conditional to the Soviet Union.

Mr. KYL. Mr. Speaker, I thank my colleague, the gentleman from Ohio [Mr. KASICH], for making that point because it is precisely the point we are trying to make here.

I would like to conclude by quoting from the New Republic, an August edition that refers to former Secretary of State Henry Kissinger's comments in which he makes the point in which it is noted that he is opposed to providing substantial Western aid to Russia arguing that the Russian economy will be a bottomless pit and, therefore, the United States and other Western countries will be powerless to build either democracy or free markets there. His point is a point we are trying to make as well, Mr. Speaker, namely that good intentions here are not enough.

Of course, we want to do everything we can to modify Russian behavior to assist in the development of their free market economy and democracy, but, first of all, there is not enough money in the world to bail them out of their current economic conditions; and, second, in terms of doing something to help them feel good it is totally appropriate that we attach certain kinds of conditions which would help to modify the behavior of the hard-liners in Russia, not the people like Boris Yeltsin who are trying to do what is right in Russia, but the hard-liners who continue to do things that are antithetical to the United States and the Free World.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

My. KYL. I yield to the gentleman from Ohio.

Mr. KASICH. Let me make one other point.

As the gentleman knows, many people say we do not have the ability, and they may argue we do not have the ability, to attach conditions to the IMF funding side of this ledger, but let me say this: It took the free world voting to permit the Soviet Union to be eligible for IMF funding. It takes the world vote in order to make the former Soviet Union eligible for membership in some of these worldwide economic clubs. And that same Free World that had a march against Saddam in order to uphold the laws of mankind so we did not revert to the law of the jungle should be imposing these kinds of arms control agreements on the former Soviet Union so we do not complicate an already complicated world in the time of a lot of disintegration of the orderly processes of government.

Mr. KYL. Mr. Speaker, I think the gentleman from Ohio [Mr. KASICH] makes a good point. I would urge my colleagues to oppose the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Speaker, I rise in strong support of this conference report. The report is a well-crafted blend of the House and Senate bills. It places conditions on U.S. aid which are significant, but attainable. I am confident that this legislation will stimulate the drive to market-oriented democracy in the States of the former Soviet Union.

America is faced with a very rare chance to influence the fundamental nature of international affairs.

We now have the chance to integrate Russia and the other new States into the community of nations.

That would mean Russian cooperation in the United Nations, in arms control, and in the flight against drugs and terrorism.

We must seize this opportunity to build a more peaceful world; passing the Freedom Support Act will be a critical step in the right direction.

In addition, Russia's successful transformation to market-oriented democracy will yield bottom-line benefits for the American taxpayer.

The peace dividend, made possible largely by events in Russia, will allow untold billions of dollars in savings.

And vast opportunity awaits American business in the new markets of Russia and the other States.

The Freedom Support Act will help turn these potential gains into reality.

Yet time is of the essence; the situation in Russia grows more dire by the day.

Hyperinflation may set in this fall. The ruble last week traded at 309 to the dollar, up from 160 in mid-August. Many Russians are reaching the threshold of pain that they can tolerate.

If Yeltsin falls, all the opportunities, all the benefits for Americans fall with him.

We can wait no longer. We must pass this bill now.

Finally, after we do our job today, the administration has to quickly implement the Freedom Support Act. In the past, our technical and humanitarian assistance has been delivered very slowly. This time, we have to really swing into action.

Let us pass and implement this bill. Let us seize this very rare moment in history.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], a member of the Committee on Foreign Affairs.

□ 1630

Mr. HYDE. Mr. Speaker, I am a big supporter of this legislation. I have no problem with the rule, but the underlying legislation concerns me. I think we have a national interest in helping the transformation of the former Soviet Union from a Communist command economy to a free market capitalist economy, a democracy. But I am sorely troubled by the sale to Iran, one of the most irresponsible countries in the world, of three Russian submarines, engines of war.

One wonders what other sophisticated weapons of war are being peddled around the world because the present Government of Russia needs cash, hard cash. I think we ought to put this bill on hold until our State Department or the National Security Council clarifies the issue as to whether this sale is part of a pattern of the transference of weapons of war to the most irresponsible countries in the world. Khadafi comes to mind. I do not know that they have done anything there, but they have sold three submarines to Iran. If those submarines are in the Persian Gulf, this could threaten a conflagration.

So I urgently plead with the State Department to clarify this before we have to vote on this bill. In its present circumstances, I cannot vote for it.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, I just wanted to say that I was handed a note, it is a fact that there was a clear violation of the missile technology control regime. Russia has agreed to transfer pyrogenic rocket engines to India. Now, that is another additional violation.

Mr. HYDE. Mr. Speaker, reclaiming my time, the Soviet Union has about 30,000 nuclear weapons, intercontinental ballistic missiles. Are they going to have an auction?

Mr. KASICH. Mr. Speaker, if the gentleman will yield further, it is not unreasonable for the world to say to the Russians, look, you want the money, fine, we will give you the money. But we expect you not to do these kinds of things.

Mr. Speaker, to not put that on there is not responsible.

Mr. HYDE. Mr. Speaker, reclaiming my time, I think we need to assist in the transformation of this nation into a democratic free market ecomomy, but not if they are going to peddle these weapons of war to irresponsible regimes. I think that is self-defeating. I urge a delay in this bill if for only a day to get this clarified by the State Department. I do not see how one can support this in its present form.

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I rise today to strongly support the rule and to support the Freedom Support Act conference report. This bill in my opinion should have been passed months ago, but at least we are finally doing the right thing and sending it on to the President.

I do not believe that we can wait any more. If Boris Yeltsin collapses and the democratic forces collapse not only in

Russia but the Ukraine and all the other former Soviet republics, we will have missed the boat.

We are sending the money now, but it will save us billions upon billions of dollars in the long run.

For 40 years we spent trillions of dollars on the arms race. This has the ability to save us that much money and more in the future, because if democracy collapses in Russia and the former Republics of the Soviet Union, we will have another arms race for 40, 50, 60, maybe even 100 years. So to not pass this bill now in my opinion would be very, very shortsighted indeed.

There is one section of the bill in particular that I wish to highlight. Senator LIEBERMAN and I worked out language that was included in the final conference report. Our amendment gives American business a greater chance to break into the emerging markets of the countries of the former Soviet Union specifically it:

First, provides for agency for international development funding of capital projects in the former Soviet Union;

Second, establishes a private sector council to advise the President on trade policy with the States of the former Soviet Union;

Third, urges the Republics of the former Soviet Union to make good on debt owed to United States businesses by entities of the former Soviet Union; and

Fourth, calls for an annual report on American exports to the former Soviet Union including the efforts of our trade competitors.

Exports have been one of the few bright spots in our economy recently and I believe that we must do what we can to ensure that American firms are competitive in the former Soviet Union. We cannot afford to give another market away to our foreign competitors.

The Freedom Support Act, with the inclusion of the Lieberman-Engel amendment, is not a foreign affairs give-away. It supports American business as well as serving our long-term strategic interests and I urge my colleagues to support the conference report.

Mr. Speaker, as a member of the conference committee, I can tell Members that we worked very, very diligently with the Senate to come up with this bill. We cannot afford to wait any more. We must pass this rule today and pass the bill before democracy and freedom collapse in Eastern Europe.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, there are many good things about the so-called freedom of support bill, but we also need to make sure it does not turn into a dependency bill. Some of my colleagues have talked about the conditions and talked about some of the problems that are going on in the former Soviet Union insofar as the lack of conditions that have been placed on this over $12 billion being sent to the International Monetary Fund.

We have heard about the submarines going to Iran. We have heard about aid to Cuba which is unrestricted. We have heard about the lack of any sort of requirements to the International Monetary Fund if they pull their troops out of Lithuania, Latvia, and Estonia.

Another measure missing as a condition was something that the gentleman from Arizona [Mr. KYL] earlier this session tried to put in as far as conditions were concerned to make sure that we could insist, just insist, on information being given to the International Monetary Fund and to the United States that the Commonwealth of Independent States had the creditworthiness to pay back this money.

Mr. Speaker, when an American citizen goes into a bank to get a loan, they make them fill out all sorts of credit reports to make certain that they have a likelihood that they will be able to pay off that loan, that they have enough income to make a mortgage payment.

I do not think it is too much to insist that we have that sort of condition when we are giving $12 billion. We have a $350 billion deficit in this country. I do not think it sends the right message that with a $350 billion deficit in this country, that we can afford to go into future debt so that the Commonwealth of Independent States, with no conditions as to creditworthiness, no conditions as to what they may use the money for, whether other military ventures, there are just no restrictions. There ought to be restrictions if we are going to go into debt about it.

Fiscal caution is in order before we go headlong into approving this loan and this money. In fact, I think it is absolutely essential that we as protectors of America insist on conditions that they can pay back these loans, conditions that they do not give aid to the Cubans, they do not sell submarines to the Iranians, and also that they pull their troops out of the Baltics.

Mr. Speaker, that is the minimum if we are going to be giving our money, our taxpayers' money, to the International Monetary Fund.

The SPEAKER pro tempore (Mr. MFUME). The Chair will advise Members controlling debate time that the gentlewoman from New York [Ms. SLAUGHTER] has 22½ minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 11½ minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I find myself in an unusual position where I join with friends from the other side of the aisle and with the gentleman from Illinois [Mr. HYDE] in asking that we hold up on this legislation. I think perhaps that may require a formal recommit motion of some kind, which I would be willing to support, for any number of reasons.

Mr. Speaker, you have heard Members get up on this floor and talk about the lack of conditions. I serve on the Committee on Banking, Finance and Urban Affairs where we had conditions on the International Monetary Fund increase only to find that somehow this bill reaches the floor today without any of those conditions.

□ 1640

We have heard other reasons given why we should not proceed with this legislation. But let me tell my colleagues my bottom line, I am opposed to the rule and the bill at this point.

We started 6 months ago to fashion a response to the urban crisis. We started 6 months ago with a tax bill. We started 6 months ago to try and talk about how we were going to invest in our own country, how we were going to do something about the hopelessness and despair that we are confronted with not only in our cities but in our towns and our rural communities. Where is that legislation? What has happened from the time that it left this House to the time that it was supposed to have been debated in the other body? Where is it now? What have we done for these cities? What have we done in tax legislation? What am I to say to my constituents?

At a time when we are confronted with an awesome recession, joblessness remains very high in this country and people are turning to us to talk about why are we not doing something about economic development and job creation, I am not about to support anything for Russia or anybody else until we do something for our own in this country.

I am serious about the fact that we must challenge ourselves to do something about the hopelessness and despair that we know exists.

With that, Mr. Speaker, I am going to join my friends on the other side of the aisle in the motion to recommit, if, in fact, it is presented. I ask for a "no" vote on the rule.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska [Mr. BEREUTER], a member of the Committee on Foreign Affairs.

Mr. BEREUTER. Mr. Speaker, I had not planned to speak on the rule, but I am going to improvise because I think we need some balance here. I am, frankly, appalled and amazed at what I am hearing here. I have not heard so much misinformation and lack of information for a long time about any legislation.

Passage of this legislation is in the interest of the former Soviet Republics, but more importantly, it is in the interest of the United States of America. This is the most important peacemaking or peacekeeping legislation that we are going to ever vote on while we are Members of the Congress.

We have had a long adversarial relationship with the Soviet Union. It has affected every aspect of our life for 40-plus years.

We have talked about aid to the Republics of the former Soviet Union until we are blue in the face. We have dithered. We have dickered, and nothing has happened. And yet my colleagues wonder why we have no conditions on the aid we haven't provided.

It is because we have not given any aid. Of course, I am upset with the fact that submarines are being sent to Iran, if they are not turned around. And we have lodged a protest about it and, in fact, there is a lot of arms sale improvising going on there in Ukraine, Russia and perhaps other Republics because they are desperate for hard currency. And they see no help coming.

Let us look at what is really in the legislation here today. I will give my colleagues just a few key points.

No, Congress cannot condition IMF money. It cannot be conditioned for our funds to the IMF which might end up going to the Republics of the former Soviet Union or condition IMF aid for anyplace else. But we certainly can condition the $460 million authorized for the bilateral aid for fiscal year 1993 to the former Soviet Republics. That aid is a part of this bill, including the $50 million that is earmarked for various exchange programs. That condition on our bilateral aid is exactly what is in this legislation. But if we do not pass the legislation, we do not have the conditions.

Let us look at some of the criterion in preconditions the administration must take into account and certify with respect to the former Soviet Republics. There must be, for example, progress in the democratic process, progress in economic reform, respect for human rights, respect for international law and the CSE process and, over relevant to this debate, progress on implementation of responsible security policies. Also included within the areas to be judged by the President is demonstrated progress in refusal to support international terrorism and acceptance or responsibility for paying indebtedness to U.S. firms. Importantly, related to points made earlier in this debate, the United States must make a judgment on their progress in ending their military support for Cuba. And there has to be continued cooperation and the possibility of investigating MIA-POW's. Now, those are things the President must consider.

Next let us look specifically at the kinds of things that would require actual termination of the aid to the former Republics of the Soviet Union. Let us look at some of the conditions on which aid can be terminated.

There are five specific criteria that would cause termination of aid if we ever pass legislation to provide aid to the Republics of the former Soviet Union.

First, if they engage in a consistent pattern of gross human rights violations. Second, and perhaps most important to the debate here today, if they fail to honor their arms control obligations. Third, and very importantly, if they engage in trade in missile technology and weapons of mass destruction. Fourth, if the Government is in violation of the Chemical and Biological Weapons Control Act of 1991.

There is a fifth requirement that would cause termination, if the Government of Russia, specifically that Republic, fails to make significant progress in removing troops from Latvia, Estonia, and Lithuania.

However, these conditions which give us leverage do not go into effect unless we provide aid by enacting this legislation.

Mr. Speaker, in conclusion I can tell my colleagues, we are going to have a lot of incredible difficulties if we now fail to enact this legislation. We are going to go back to the nuclear precipice, unless we take some responsible action in concert with other Western democracies. These are reasons why we must support the rule and support the bill.

Ms. SLAUGHTER. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Let me just say, the gentleman stood up and he said that we were conditioning in our aid package the bilateral aid if we violate the Missile Control Act or arms control. The Russians have just done it. So I would hope the gentleman from Nebraska would be for knocking out the United States aid, because what the Russians have done is they have sold the submarines to Iran. And they have sold nuclear ballistic technology to India.

Now, aside from all of that, the gentleman is correct. We have not conditioned the $12 billion. It is not $12 billion. It is more like $4 billion to Russia. This is IMF money going to countries outside of Russia, but let me say this, it is proper for the world, in the new world order, for the world community to say, "We are not going to loan this money to Russia. We are not going to loan this money to the former Soviet Union until they agree not to sell ballistic missile submarines and weapons of destruction to anybody else." That is all we are asking for.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, the gentleman knows that those submarines, we do not want them to go, but they are not a ballistic missile submarine.

Second, there are no conditions that apply because we have no aid.

Mr. KASICH. Mr. Speaker, let me say to the gentleman from Nebraska, I did not say they sold ballistic missile submarines. I said they sold diesel submarines. So the gentleman should know that diesel submarines cannot sink American ships in the Persian Gulf.

What I am saying is what the Russians did, in addition to that, was to sell ballistic missile technology to India. They are systematically engaging in the export of weapons in their arsenal.

Mr. BEREUTER. Mr. Speaker, if the gentleman will continue to yield, I do not like it any more than he does, obviously. But we have no leverage at this moment. We are not providing aid.

What this bill says, we will condition the continued flow of aid, which we have not even started, we will stop it altogether if, in fact, they sell weapons of mass destruction or missile technology.

Mr. KASICH. Mr. Speaker, I would say to the gentleman, if he thinks that giving the former Soviet Union $4 billion is going to stop them from this sale, I have to disagree with him.

I will tell him why. This argument was raised on the floor the first time this bill came through. One would think that the Russians themselves would have been smart enough not to sell these submarines to Iran, since the consideration of our bill. One would think they would have been sensitive enough to do that. And they were not sensitive enough to do that.

What I am saying is, how can we stand here and say we do not have any leverage if the Russians want to sell submarines to Iran? I mean, think about this.

□ 1650

We all mourned when the U.S.S. *Stark* was hit and all those soldiers died. Now we are saying that in a part of the world with an enemy that we have consistently defied as our greatest enemy, that the Russians selling these submarines there are something we do not have any leverage over and we ought to just let this go.

I am not against giving aid to the Russians. I am for giving aid to the former Soviet Union, but I am for conditionality. I am for some rationality when we give this aid. We can do it with the IMF.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, there is one bit of information that has been brought to my attention. I think it is very specifically relevant to our discussion here. In the foreign operations appropriations conference report, which we have not seen on the House floor yet, but which is expected on the House floor on Sunday or Monday and there is a provision which indicates in effect that, "Unless the President can certify that the United States and Russia have entered into serious and substantive conditions for reducing the sale of conventional weapons—and parenthetically that it includes those diesel subs, supposedly being sold to Iran—within 120 days of enactment of this act, then no funds in this legislation may be appropriated."

So there is such a specific provision or prohibition in the foreign operations bill which was just brought to my attention.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I am happy to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding to me.

As one of the members of that conference which finished about midnight last night, I want to assure the gentleman that in fact we have put some severe restrictions on the use of funds or on anything that would flow directly or indirectly, in the event that any of this kind of weaponry should be sold by Russia to Iran.

Mr. BEREUTER. I thank the gentleman for his comments.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs, who is not going to be with us after this year. We are going to miss him.

Mr. WYLIE. Mr. Speaker, I rise in strong support of the conference report and of the Freedom Support Act. Never have I heard so much misinformation about a bill on the floor of this House.

My friend, the gentleman from Ohio [Mr. KASICH] is all wrong about $12 billion going to Russia, about $4 billion going to Russia. So far, Russia has received on its first tranche $1 billion from the IMF through a loan. Now the IMF will be the lead international institution in assisting the former Soviet Union in transforming their command economy to one based on market principles. We are not giving Russia any money without conditions in this bill.

This loan would mark the beginning of a three-phase strategy to stabilize the Russian economy and ready the country for more expansive lending programs. I know there is a lot of sand in the air, and we certainly do not want to help Russia when they are selling ships to Iran, but Russia has to do something to get some money. Right now the poor sons-of-guns are really hurting.

The IMF forms the centerpiece of the G–7 multinational assistance package. The additional resources provided under this bill will assist in that effort and encourage economic growth throughout the world.

The IMF quota increase which we are talking about here is the result of long international negotiations where the administration has effectively advanced U.S. interests.

Because of U.S. leadership, international financial institutions are becoming more attune to environmental protection, poverty alleviation, market promotion, and efficiency. Without an international organization like the IMF, global cooperation on financial crises would be cumbersome and ineffective.

I have a feeling that with all the sand in the air here today, that it is going to be tough to pass this, but I think we should pass it because every industrialized country in the world except the United States has approved the quota increase.

The U.S. contribution must be approved by the Congress before the entire quota increase can be implemented.

The Banking Committee's provisions are contained in title X of the conference report. Besides the IMF quota increase, the bill also enables the independent States of the former Soviet Union to join the International Finance Corporation [IFC], the private sector arm of the World Bank.

As the President has indicated, we have a "once-in-a-lifetime opportunity to help consolidate democracy and free markets in Russia, Ukraine, Armenia, and other States to turn former enemies into permanent friends and partners." The legislation being considered allows the United States to take advantage of that opportunity. I urge passage of the Freedom Support Act conference report.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only I yield 1 minute to the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, our quota amount, although the gentleman from Ohio [Mr. WYLIE] mentions our quota, of course, the United States puts more into the International Monetary Fund than any other country. Notwithstanding all the debate and all the haranguing that has been going on, the uncontroverted facts are they have sold subs to Iran. The conditions that the gentleman from Nebraska [Mr. BEREUTER] was talking about only apply to the $400-plus million of humanitarian aid. Those conditions do not apply to the $12.3 billion that we are giving to the International Monetry Fund.

I think it is incumbent upon these Members of this House to insist on conditions of creditworthiness, to make sure arms are not being sold. What are we going to do if we do not insist on creditworthiness? Are we going to foreclose on the Ukraine? Is that how we are going to get our money back? Obviously not.

I think it is important that we understand throughout the decades that we cannot buy friendship. What we need to do is give humanitarian aid with conditions, but if we are going to give any money, billions of dollars to the International Monetary Fund, it is not too much to insist on creditworthiness and conditions as to what they use that money for.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I thank the gentleman from yielding time to me.

This debate has gotten kind of confusing. I just want to clear up a couple points and make this very, very clear. First of all, with respect to the desire to help Russia, let us understand, according to our Treasury Department, the IMF quota for Russia out of this entire $12 billion contribution from the United States is $4.06 billion, similar to what the gentleman from Ohio [Mr. KASICH] said.

The IMF quota for the other former States of the Soviet Union is $2.046 billion. The entire $12 billion, in other words, is not going to help the Republics of the former Soviet Union. The other half of that money is going to help other countries throughout the world that are in arrears. We have an entire list of countries here, should anybody be interested.

Part of the problem here is that this IMF quota business is really for the purpose of raising the U.S. share of money to the IMF. It is not to help Russia.

Second, with respect to the conditionality, there are no conditions on the IMF money. The conditions are on the bilateral aid only. The primary thing we have been talking about here is the sale of submarines to Iran.

There was another very important condition which we ought to have on here. That is to remove Soviet troops from the Baltic States. We have not been talking about that, but we ought to remember that as well. The gentleman from New York [Mr. SOLOMON] will clear up for us at the end of this debate on the rule exactly how we can fix this bill up. We ought not to defeat the rule, as he will point out. We ought to defeat the bill and follow another procedure.

This bill can be cleaned up. We can apply a couple of key conditions to it so when we actually help our friends who really control the Soviet Union, they will have some support in following the kind of policies I suspect they want to follow with respect to removing troops from the Baltic States and stopping the sale of these submarines to Iran. This has to be fixed before we provide American tax dollars to the Soviet Union or the Republics of the former Soviet Union.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, unlike the gentleman from Ohio [Mr. KASICH] and others who have spoken today, I am not concerned about conditionality. I am against an aid package to the former Soviet Union or to other countries around the world.

I would say to the Members, we are broke. The United States is broke. How can we talk about spending $6 or $12 billion for other countries when we are broke? We cannot guarantee loans or business deals in other countries while our own people cannot find loans here for businesses in the middle of a recession. We cannot do it. We cannot do it. It is nuts. It is crazy.

The Soviets are a rich country. The former Soviet Union has a lot to offer people who want to invest things as collateral. How about oil? How about mineral resources as collateral for loans or business investments, rather than money from the taxpayers of the United States of America?

□ 1700

The option is open.

The Ukrainian activist who I talked to last year said we do not want your government to come in with a big loan program, just like the one we are talking about with the IMF, because it ends up putting money in the hands of people who maybe should not get it.

The fact is they have the possiblity right now of improving their own conditions. They have space technology to sell us. We should be getting back for every cent we put in, and we should not be putting the American taxpayers on the hook at a time when we are going broke as a people.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in support of the rule but in opposition to the Freedom Support Act. We have cut down our own defense, we have cut down our own programs, and we want to give money to who? The Soviet Union. And where does that really go?

The Soviet Union today still builds MiG 29's and SU-7's that have missiles like Long Burn Alamo that are superior to our own missiles. The United States Air Force and the U.S. Navy today train against Soviet tactics. It was mentioned that the Soviet Union, Russia today has nuclear weapons pointed at us. I think it is significant to find that we still have our missiles pointed at them.

The Soviet Union has been a welfare state for years. We have third and fourth-generation welfare recipients in our own country. I do not want to establish third and fourth-generation welfare recipients in the Soviet Union at the expense of the American taxpayers. They do not have any money, so they need our money to do that.

How do we do that? We do it with fair trade. This country desperately needs titanium as one example. The only place we can find that precious metal is in Russia or in South Africa. Let us put their miners to work, let them pay a little portion which is called taxes. That is the capitalist system, and then tax the rich, and that is anybody that has got a job.

Ms. SLAUGHTER. Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me clarify something for the membership. This has been a contentious debate. But we should let this rule go through on a voice vote so that those who have concerns about the conference report itself can have the opportunity to defeat the conference report. Should that take place, then the manager of the bill, the gentleman from Florida [Mr. FASCELL], would be able to offer a privileged motion to ask to reconvene the conference; that way these contentious issues can be settled.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding. I would certainly underscore what he says.

I think it would be tragic if we were to vote down this rule whether we are for or against the legislation, No. 1, because of the procedures which we are operating under here. The gentleman is correct, that if the conference report itself were voted down, then on a motion of the manager of the bill we could have a privileged motion to reconvene the conference and hopefully draft that kind of language.

But I want to make one other point. It is my understanding, and we can check it out before we conclude the general debate on the conference report, that the three submarines in question, which really distressed me when I read about it, for example, in the paper in the story this morning, and they consummated the sale before Yeltsin came to power. Now it is my understanding, and I think our Department of State is prepared to say that their understanding with Mr. Yeltsin is that that is a no-no from this point on. I do not know to what extent or how far-reaching, but I think the questions that have been raised by the gentleman from Ohio [Mr. KASICH], my good friend, the gentleman from Illinois [Mr. HYDE], and others are legitimate questions to be resolved here. Hopefully in our rush to adjourn here we could know the answers to those questions that are really yearning for an answer out here.

Mr. SOLOMON. I thank the minority leader. I think it makes good sense on both sides of the aisle if we let this rule be approved by a voice vote. If we get into the debate on the bill and we resolve these problems, fine. If we do not, then we can defeat the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FASCELL. Mr. Speaker, pursuant to House Resolution 592, I call up the conference report on the Senate bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 592, the conference report is considered as having been read.

(For conference report and statement, see Proceedings of the House of Thursday, October 1, 1992, at page 29617.)

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. COX of California. Mr. Speaker, I rise in opposition to the conference report, and would ask for 20 minutes of the debate time.

The SPEAKER pro tempore. Is the gentleman from Michigan [Mr. BROOMFIELD] in opposition to the conference report?

Mr. BROOMFIELD. No, I am not, Mr. Speaker.

The SPEAKER pro tempore. The time will be divided. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes, and the gentleman from California [Mr. COX] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge my colleagues to support the conference report to accompany S. 2532, the Freedom Support Act of 1992. As Members are no doubt aware, the other body passed the conference report on October 1 by voice vote. This conference report represents the efforts of numerous other committees of the House and Senate which have jurisdiction over various sections of the bill, including the Committees on Agriculture and Banking of both the House and the Senate, and the Committees on Science, Space, and Technology, Armed Services, and the Judiciary of the House. I would like to thank the chairmen and ranking members of these committees for their hard work and cooperation in helping to bring this important, vital legislation to fruition, as well as the critical cooperation of the House leadership.

As I emphasized on August 6, 1992, when the House overwhelmingly approved its version of the Freedom Support Act, the Congress must now adopt one of the most important pieces of foreign policy legislation it will consider. The Freedom Support Act, as both the President and the Secretary of State have proclaimed, is a once-in-a-lifetime opportunity for the Congress to show its firm and strong support for the historic transformation of the states of the former Soviet Union toward democracy, the rule of law, and free-market economies.

Mr. Speaker, there are several overriding reasons why it is vital that the Congress adopt the Freedom Support Act now:

The historic democratic and free-market reforms of Russian President Boris Yeltsin hang in the balance. President Yeltsin and reformers in Ukraine and the other independent States need the Freedom Support Act, both for the political symbolism and the technical assistance, to secure precious time for their reforms to work;

The Freedom Support Act will help sustain the commitment of President Yeltsin and his allies to continue to support reforms. Failure of the Congress to adopt this legislation would be a severe blow to President Yeltsin and his reform program as well as to President Bush who has put his prestige and influence behind this legislation;

A special focus of the Freedom Support Act is to help U.S. business interests as well as the growth of private enterprise in the independent States. This will result in tens of thousands of new jobs for Americans, huge new markets for U.S. goods, and access to petroleum and other strategic and natural resources;

The Freedom Support Act makes a security investment in disarmament which will enhance U.S. security by facilitating the destruction of many thousands of Soviet nuclear, chemical and conventional weapons.

With respect to certain other issues, I would note for my colleagues that the conference report contains a provision requiring the executive branch to notify the Congress prior to building a new radio transmitter in Israel for broadcasting to the former Soviet republics of Central Asia. In adopting this provision, the committee of conference did not in any way indicate either opposition to the Israel project or an intent to deauthorize funding for it. Rather, adoption of the provision was reflective of the committee of conference's interest simply in allowing the project to be reviewed by the authorizing committees of jurisdiction in both Houses during the next Congress.

Broadcasting to Central Asia remains vitally important. The rise of Islamic fundamentalist influences calls for more, not less, broadcasting to that region. At the same time, a number of new and popular broadcasting demands, such as that for Radio Free Asia, have emerged in the past year. Under these circumstances, it is not imaginable that the funding for this project could be repealed or rescinded. Therefore, it is my understanding that the committee of conference supports the expected efforts of the House and Senate authorizing committees to deal comprehensively with these and other broadcasting issues in next year's Foreign Relations Authorization Act.

With respect to nonproliferation issues, title V of the conference substitute authorizes the President to take advantage of several unique opportunities that now exist in the wake of collapse of imperial communism in the former Soviet Union. In my more than four decades of service to my country, I have participated in and witnessed the end of a colossal world war that defeated the forces of international fascism. I saw that hot war replaced by an even potentially more dangerous cold war during which time both we and the former Soviet Union competed for the ideological hearts and minds of peoples throughout the global community of nations, while at the same time relentlessly pursuing an ever more elusive nuclear edge over one another. Once, and thank God it was only once, I witnessed both ourselves and the Soviet Union standing at the edge of the nuclear precipice of global thermonuclear war when we confronted each other during the Cuban missile crisis. We stood down from the crisis but the nuclear stampede continued and the cold war simmered: missile after missile, bomb after bomb, warhead after warhead, ever onward.

Think about it; since the dawn of the nuclear age, the superpowers have produced and deployed more than 30,000 nuclear warheads and 70,000 tons of chemical munitions. Upon the dawning of that age, Einstein remarked that everything had changed except man's way of thinking. We proved Einstein to be correct as we spent more than $1 trillion in preparation for war which if ever was fought, would have been one complete and utter destruction. We were not alone in this effort. Great Britain and France deployed nuclear weapons, as did the People's Republic of China. And while the club of five became the acknowledged nuclear weapons states, we all know that other nations held and continue to hold longstanding nuclear ambitions. Einstein was right, everything changed except our way of thinking and that is precisely why the Freedom Support Act is so important.

The Freedom Support Act is the first international authorization act that starts to change our way of thinking. It is the first authorization act of the post-cold-war era that paves the way for real disarmament and nonproliferation efforts that will succeed, thereby truly making the world a safer, more stable and more prosperous place in which future generations of Americans will live. I can think of no greater contribution I can make to this republic as I leave public office than to secure passage of the legislation we now have before us. The cold war is over. We have to change our way of thinking so as to avoid repeating the mistakes of the past and that is precisely what the Freedom Support Act does.

By passing this legislation today, we are moving forward in supporting the demise of imperial communism once and for all. The Freedom Support Act replaces the arms race with a disarmament race. It stems the proliferation of weapons of mass destruction and solidifies nonproliferation regimes that will help prevent the advent of yet another Iraq. It contributes to an end of human repression in the independent states of the former Soviet Union, while at the same time strengthening fundamental respect for human rights and the rule of law. It supplants the centralized planning of a military demand based economy with that of a consumer based, free market economy. It closes the book on a closed political system and lays the foundation for building open and democratic forms of government for the peoples of the independent states of the former Soviet Union. In so doing, it makes the world a safer place. In plain English, it's good for America and it's good for the world.

Now some of you may be asking yourselves just how can one bill accomplish so much? Indeed, you may even be asking yourselves has DANTE B. FASCELL gone over the edge as he faces the end of his tenure in Congress as chairman of the House Foreign Affairs Committee? And here's the answer to those questions. To effectively end the cold war, we need to take what President Kennedy called a profile in courage. We need to make sure that the fruits of democracy's victory in the cold war become realities. We need to make sure that the vast arrays of weapons of mass destruction that remain active in the former Soviet Union are deactivated, dismantled and destroyed, and the Freedom Support Act does that by providing the authorization of $940 million in fiscal year 1993 for nonproliferation and disarmament activities not only in the Soviet Union but worldwide.

Specifically, the Freedom Support Act retains the core elements of the Fascell-Aspin amendment that passed the House by an overwhelming vote of 356 to 54 on June 4, in which we authorized the expenditure of $650 million for nonproliferation and disarmament activities in the former Soviet Union. In the course of the conference, this amount was increased to $800 million to conform to action taken in the other body with regard to the National Defense Authorization Act for fiscal year 1993. These monies are allocated for the purposes of promoting bilateral and multilateral nonproliferation activities by supporting the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, related technologies and other weapons of the independent states of the former Soviet Union including activities such as storage, transportation, safeguarding and destruction of such weapons. In this regard, the conference places the highest priority on the dismantlement and destruction of nuclear, biological, and chemical weapons of the independent states of the former Soviet Union such that we can get on with the task of real disarmament.

The Freedom Support Act goes further, however, as it retains the core elements of the Fascell-Broomfield initiative that was included in the original bill H.R. 4549, which was incorporated into the bill H.R. 4547 which passed the House on August 6, by a vote of 255 to 164. This modest initiative establishes a worldwide nonproliferation and disarmament fund and authorizes the President to use $100 million in security assistance funds to promote bilateral and multilateral nonproliferation activities on a worldwide basis: by supporting the dismantlement and destruction of nuclear, biological and chemical weapons, their delivery systems, and conventional weapons of the independent states of the former Soviet Union; and by supporting bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, and conventional weapons of the former Soviet Union and other countries, including such activities as storage, transportation, safeguarding, and destruction of such weapons.

Here again the conference substitute places the highest priority on the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons of the independent states of the former Soviet Union. Moreover, however, the conference established this new security assistance account in recognition of the urgent need to address the nonproliferation and disarmament problems that confront the United States in the post-cold-war era. The conference recognizes that this challenge is not confined to the independent states of the former Soviet Union alone. In this regard, the committee of conference wanted to get on with the real task of disarmament and firmly believes the establishment of a permanent worldwide nonproliferation and disarmament fund to be in the best national security interests of the United States. Further, we fully anticipate the executive branch to formerly establish and authorize such an account in its fiscal year 1994 budget submission and congressional presentation documents for security assistance in its fiscal year 1994 budget request.

The Freedom Support Act does not stop there. Included in its provisions is yet one more modest proposal that furthers the cause of nonproliferation and disarmament. The conference substitute also authorizes the Secretary of Defense and the Secretary of Energy under the guidance of the President and in coordination with the Secretary of State to provide $40 million in defense moneys in support of international nonproliferation activities. These activities may include but are not limited to support for the International Atomic Energy [IAEA] and the U.N. Special Commission on Iraq. Other illustrative examples include support for collaborative international nuclear security and safety projects and efforts to improve international cooperation in monitoring nuclear proliferation through joint technological projects and intelligence sharing. Here the conference is again stating its aim that we get on with strengthening nonproliferation efforts worldwide.

So there you have it. The authorization of $940 million in support of nonproliferation and disarmament efforts is a proof positive that we have begun to change our way of thinking in the post-cold-war era. These authorizations represent the first steps toward effectively ending the superpowers arms race once and for all. These moneys are the first moneys that will serve to reverse the spiral in which we have been engaged for the last 40 plus years. What we are doing today is making disarmament, and I mean real disarmament through verifiable dismantlement, a reality. We are putting out the nuclear arms race inferno through the expenditure of $800 million in nonproliferation and disarmament moneys in the independent states of the former Soviet Union. But we are going further by authorizing the expenditure of $140 million in worldwide activities to make sure that brush fire arms races elsewhere in the world, most notably in the Middle East, Persian Gulf, the Asian Subcontinent, and Northeast Asia, do not occur. Thus, the Freedom Support Act becomes the policy guide for the decade of the 1990's. It makes an investment in the future which offers political, economic, and security returns for American people that only a few years ago were completely unimaginable.

The economic investment of the Freedom Support Act is in free-market economies with considerable returns to the U.S. economy including: tens of thousands of new jobs for Americans in the export business; 12 new markets in which to sell U.S. goods and services; access to 250 million new consumers who are anxious to purchase American made products; access to greater petroleum reserves and other natural resources; and over 300 American companies seeking $12 billion in private investment opportunities.

Similarly, the Freedom Support Act pays an incredible security dividend to the United States including the destruction of: 40,000 tons of former Soviet chemical munitions; 8,000 former Soviet strategic nuclear weapons; 16,000 former Soviet tactical nuclear weapons; 15,000 former Soviet battle tanks; 13,000 former Soviet armored fighting vehicles; 8,000 former Soviet artillery pieces, and 1,000 former Soviet combat aircraft. This represents the destruction of over 100,000 former Soviet weapons systems that were aimed at the United States and our allies and includes weapons of mass destruction. And think about this; much, if not most, of this disarmament business will go to American defense firms which will serve to make their transition to civilian activities less disruptive in the years ahead. It should also be noted that the moneys we spend here today will make it possible for the United States to spend less on defense and more on our civilian infrastructure thereby strengthening our economy on down the road. The Freedom Support Act could result in U.S. defense spending at $200 billion a year as opposed to cold war budgets that were projected to top more than $400 billion a year by the end of this decade.

I would say that's a lot of bang for the buck. And while the world will remain a dangerous place, the expenditures of $800 million on former Soviet nonproliferation and disarmament activities and initiation of a new $100 million worldwide nonproliferation and disarmament security assistance account, as well as that of a $40 million worldwide nonproliferation initiative in defense spending should make the world a safer, more stable and more prosperous place for future generations of Americans.

Mr. Speaker, before I conclude my remarks, I would like to say a few words about my good friend from Michigan BILL BROOMFIELD, whose distinguished

36-year congressional career is coming to a close with the end of this Congress. Throughout it all, he has earned a well-deserved respect for his fairness and bipartisanship. BILL is a model of integrity and fairness in this Congress and he has always worked for the good of our Nation and the good of the world.

During our years in Congress and particularly during our time as chairman and ranking member of the Committee on Foreign Affairs, BILL and I have seen some amazing changes in the world. We both came to the House at the height of the cold war. Then, in 1986, we went to the Kremlin and met with Mikhail Gorbachev, a leader whose ideas would have been unthinkable just a few years earlier. And this year, BILL and I have been working together on something that was even more unthinkable: legislation to provide assistance to the former Soviet Union. Perhaps the best example of my strong bipartisan relationship with BILL came when we worked together to authorize the use of force in the Persian Gulf. It has been a distinct pleasure to serve side by side with BILL all these years through all of these events in the world.

We have been through quite a bit together, both as colleagues and friends. We have sat across the table from some of the world's most important leaders, and we have sat across the table from each other many times just to play cards. We have worked together on some of the crucial foreign policy matters facing our country, and despite the fact that we are on opposite sides of the aisle, we have always remained friends.

I congratulate BILL on his 36 years of service to this Congress, I thank him for his friendship, assistance, and support on the Committee on Foreign Affairs, and I wish him and Jane all the best for their retirement.

Mr. Speaker, this conference report represents a fair and balanced merger of the House and Senate versions of the Freedom Support Act, while retaining the structure, spirit, and general political thrust of the original House-passed bill. I would like to submit for the RECORD at this point a summary of the key provisions of the conference report and a detailed summary of the provisions of title V. I urge the adoption of the conference report.

SUMMARY OF CONFERENCE REPORT ON S. 2532—THE FREEDOM SUPPORT ACT

Bilateral Economic Assistance:

Authorizes $410 million for fiscal year 1993 for assistance to the independent states of the former Soviet Union

Establishes eleven criteria for the President to take into consideration in extending assistance to a country: (1) progress toward democratic governance; (2) progress toward market-based economics; (3) respect for human rights; (4) respect for international law; (5) cooperation in resolving ethnic and regional conflicts; (6) implementation of responsible security policies; (7) steps toward environmental protection; (8) denial of support for acts of international terrorism; (9) responsibility for repayment of debt to U.S. firms; (10) cooperation on uncovering evidence regarding American POW's; and (11) termination of support for Cuba.

Establishes five conditions under which assistance must be terminated: (1) failure to respect human rights; (2) failure to implement arms control obligations; (3) transferal of missile, or weapons or technologies of mass destruction; (4) transferal or receipt of nuclear weapons capabilities; and, (5) specifically with respect to Russia, failure to make progress on removal of troops from the Baltics.

Prohibits assistance to Azerbaijan until the President determines that Azerbaijan is taking steps to cease all economic blockades of Armenia and Nagorno-Karabakh.

Directs the President to appoint within the Department of State a coordinator for U.S. assistance and economic cooperation programs with the independent states; requires a report on proposed use of assistance funds.

Authorizes the creation of:

(1) Democracy Corps;

(2) Business and Agribusiness centers;

(3) Enhanced Commerce Department activities in support of U.S. firms; and

(4) Business and Agriculture Advisory Council.

Exchanges:

Authorizes $70.8 million for fiscal year 1993 for exchanges with the independent states.

Nonproliferation and Disarmament:

Authorizes approximately $1 billion (most from defense funds) for nonproliferation and disarmament activities to destroy and control weapons of mass destruction.

Science and Technology Foundation:

Authorizes the National Science Foundation to create a new foundation to create links between U.S. firms and scientists in the independent states

Space Trade and Cooperation:

Facilities trade and cooperation in space technologies.

International Monetary Fund:

Authorizes $12 billion for the U.S. contribution to the IMF quota increase.

Links IMF funding to a recipient country's level of military spending.

NONPROLIFERATION AND DISARMAMENT FUND AND RELATED ACTIVITIES

Title V of the Conference Report of the Freedom Support Act contains two major provisions:

(1) authorization of $940 million in FY 1993 for nonproliferation and disarmament activities to destroy and control proliferation of weapons of mass destruction; and

(2) retention of the original Fascell-Broomfield initiative (H.R. 4549) establishing a new worldwide security assistance account, the Nonproliferation and Disarmament Fund.

The $940 million FY 1993 authorization includes:

$100 million in FY 1993 foreign assistance funds for the Nonproliferation and Disarmament Fund for nonproliferation and disarmament activities worldwide;

$400 million FY 1993 defense monies for nonproliferation and disarmament activities with the newly independent republics of the former Soviet Union;

$40 million in FY 1993 defense monies for international nonproliferation activities such as assisting the International Atomic Energy Agency (IAEA) and the United Nations Special Commission on Iraq (UNSCOI); and

$400 million in already authorized FY 1992 defense monies (P.L. 102-228) for use in FY 1993 for nonproliferation and disarmament activities in the newly independent republics of the former Soviet Union.

The Nonproliferation and Disarmament Fund is created to meet the new national security, arms control and disarmament challenges and opportunities of the post-Cold War era.

The $100 million Fund gives the President discretionary authority to provide training, personnel, and equipment in support of bilateral and multilateral efforts to halt the proliferation of all types of weaponry. The following is a list of possible projects:

Site survey, technical, and engineering assistance to the Russian chemical weapons destruction program;

Storage, security, transportation, disablement and disarmament assistance to the Russian nuclear weapons disarmament program;

Technical assistance to countries like Argentina to dismantle their missile program.

Joint international technical and scientific center to employ Russian scientists and others to work on nonproliferation controls, conversion, and disarmament;

Joint projects with Russian defense industry and Russian scientists for peaceful commercial purposes including arms control verification and nonproliferation purposes, and environmental cleanup;

Development of MTCR data exchanges and computer network among member states, soliciting formal Russian membership in MTCR and funding of working group to support and bolster the MTCR;

Computer and communication link support to the multilateral conventional arms restraint regime, Permament Five and/or U.N.;

Assistance to countries in establishing international export controls;

Variety of assistance to the destruction of all Iraqi arms production and war-fighting capabilities;

Immediate payment of U.S. support to IAEA and consideration of special supplements to strengthen IAEA efforts in Iraq and elsewhere;

Assistance to countries to establish material control and accountability programs in their nuclear facilities;

Exchanges bringing Russian scientists, engineers, managers, and technicians to U.S. to learn aspects of the U.S. nuclear safeguards and nuclear and chemical dismantlement and disarmament processes;

Research and Development Projects to convert U.S. and Soviet military infrastructure to civilian purposes;

Funding for UN fact-finding work on CW/BW use and CW/BW destruction; and

Technical and equipment support to enhance the monitoring of demilitarized zones established pursuant to U.S. and/or U.N. peacekeeping efforts.

Mr. Speaker, I reserve the balance of my time.

□ 1720

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair wishes to announce that, pursuant to H.R. 591, that the list of suspension motions to be considered later today is both at the rostrum and in the Cloakroom.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join Chairman DANTE FASCELL in bringing this conference report to the floor. The Freedom Support Act has bipartisan Congressional support and the full backing of the administration.

It was 45 years ago that Secretary of State George C. Marshall delivered his famous commencement address at Harvard University. He outlined an ambitious idea to rebuild a Europe devastated by the ravages of World War II.

The Marshall plan would guarantee world peace, rebuild democratic government in Europe, and plant the seed of the movement which eventually toppled communism.

At the Harvard commencement, General Marshall said that:

> An essential part of any successful action on the part of the United States is an understanding on the part of the American people of the character of the problem and the remedies to be applied. Political passion and prejudices should have no part.

That call to bipartisan action rings just as clearly today—nearly half a century after it was spoken by General Marshall. What we are doing here is very much in the spirit of the Marshall plan, and it would have made General Marshall—and Harry Truman—very proud of the legacy they left us.

This is a bill that bears the imprint of many people here in Congress—Members on both sides of the aisle—as well as administration officials from many Government agencies.

And I would be remiss if I did not mention the important contributions made by our committee staff—particularly Steve Biegun and Walker Roberts from the Republican staff and George Ingram and Ivo Spalatin from the Democratic staff. And riding herd on the whole operation have been Jack Brady, the committee chief of staff, and his Republican counterpart, my long-time friend and aide, Jack Sinclair.

This bill has a special meaning for me. I was elected to Congress in 1956, the year of the Hungarian Revolution. That may have been the lowest point of the long cold war.

I'm just happy that in the last few hours of my congressional career I could have helped in some small way to enact this important legislation. With it we can do much to bring an end to the hostility between the two superpowers.

Mr. Speaker, this is a year of Presidential campaigns, partisan politics, and declining public approval of elected officials. It marks the most difficult period for the institution of Congress in recent memory. Yet it is reassuring to know that when the national interest is at stake, our leaders can indeed come together.

This bill would not have come this far were it not for the leadership of my good friend and distinguished chairman DANTE FASCELL. There are few Members of Congress who have been willing to do so much and sacrifice so much for the good of the Nation.

In my three decades on the Foreign Affairs Committee I have worked with quite a few chairmen. No one has given as much thought to the legislation we consider as DANTE.

This important legislation is fully within the Fascell tradition. It is truly bipartisan. It is a bill that can command the support and respect of every Member of this body. It is a tribute to the enlightened leadership of DANTE FASCELL.

This legislation reflects the national interest in world peace. Within the very recent past this committee has been given the grave responsibility of sending young men and women into war. And the committee has also been given the opportunity to help lay the foundation for world peace.

Today we can do much to ease the suffering of those who are truly victims of their own history. This bill is evidence that in its moment of triumph America continues to be a generous and decent world power.

I urge all of my colleagues to support this historic legislation.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Indiana.

Mr. HAMILTON. I thank the gentleman for yielding.

Mr. Speaker, I just want to make sure that the Members of this Chamber fully appreciate the contributions that have been made by the ranking member of the committee, the gentleman from Michigan [Mr. BROOMFIELD], and the chairman of the committee, the gentleman from Florida [Mr. FASCELL], not just on this piece of legislation, which I happen to think is a landmark piece of legislation, but time and time and time again these two gentlemen have worked together to support important initiatives in American foreign policy, not just for 1, 2 or 3 years, but for many, many years.

This country is greatly in the debt of Mr. FASCELL and Mr. BROOMFIELD for their very distinguished service to the Congress, to this Nation, and to American foreign policy.

It has been a great pleasure to work with you, Mr. BROOMFIELD, and with you, Mr. FASCELL. We wish you all the best, and we are deeply in your debt for the work that you have done.

Mr. COX of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, no one is more interested in the development of a democratic and free Russia than this Member, and indeed I think everyone in this body shares that fervent desire. I have met with Boris Yeltsin before he became President in Moscow, in Washington, thereafter, and with the people, the men and women who became the Presidents and leaders of many of the formerly captive nations that formerly comprised the Soviet empire.

I am very anxious to see them fully transitioned from communism to free enterprise. This is a dramatic moment in our history. We should seize the opportunity for world leadership.

But these beg the question of how. Specifically, is it best for us to engage in massive Government-to-Government lending at this point? The central problem with this aid program, as presently structured, is that because it will be given directly Government-to-Government, it promises to be far more effective in expanding the Government's bureaucracies than in advancing the free market.

Essentially, we are looking at a $12 billion increase for the IMF, which the IMF will then in its discretion divide up among recipient nations in the form of sovereign credit.

Russia, I have been told by the leadership of the IMF, who have been good enough to meet with me, will be the recipient of the lion's share of these funds. And yet what will the funds do? They will go first to Gosbank, almost certainly, that former socialist structure, that large bureaucracy which ought to be dismantled, in place of commercial banking which yet has to be established.

This misplaced emphasis on Government-to-Government given is destined to fail. Without authentic free-market reforms, the people of the formerly captive nations of the Soviet empire will never enjoy the fruits of the economic growth and prosperity.

How can the United States help complete the transformation of the Soviet system to one of peaceful, multinational free enterprise and democracy? The answer is certainly not through a multibillion-dollar program of direct United States aid to the governments of Russia and the other formerly captive nations of the Soviet empire. It is not by multilateral financial aid through organizations such as the International Monetary Fund and the World Bank. Measures such as this will do little to help establish free enterprise in place of communism.

Ironically, the current push for new financial aid comes only months after it was discovered that the West's $50 billion in aid to Gorbachev over the past 2 years had disappeared, disappeared.

The National Security Council's Ed Hewitt states flatly, "No one is quite sure where it went." Gorbachev even admitted last fall that he had no idea where his billions in cash from Germany ended up.

Not much has changed. Richard Pipes of Harvard notes that,

> There are no structures there ready to absorb large-scale aid. It's absolutely useless. Right now the money will just be stolen.

□ 1730

Mr. Speaker, if the United States is to exercise leadership and assist Russia in making the transition from communism to free enterprise, we have got to make sure that any aid encourages private investment in private enterprises.

We should condition any such assistance on a cleanup by the Russian Government of its military programs. We should cast a weather eye toward their nuclear and conventional weapons programs now currently under development. We should concern ourselves with the occupational troops in the neighboring countries of Latvia, Lithuania, and Estonia.

We should concern ourselves with the foreign aid that Russia is extending and the military cooperation it is extending to Cuba via Vietnam and North Korea, and we should encourage Russia to muster out the huge numbers of their massive and now redundant troops.

Yes, we should be working here in this United States Congress for a democratic and free Russia and for freedom and free enterprise as well as democracy throughout the nations of the former Soviet empire.

But I question seriously, Mr. Speaker, whether unconditional extensions of sovereign credit from the IMF to the Central Bank of Russia offers the right path to that result.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I appreciate the gentleman yielding me this time.

Let me say that I have in the 10 years I have been a Member of this House voted for foreign aid bills I think 9 out of 10 years. I voted for them because I recognize, obviously, the critical need for the United States to be involved in world operations.

My colleagues on the Foreign Affairs Committee know of my support for foreign aid on the Appropriations Committee.

I do not take issue with the fact that the former Soviet Union may need some money. As a member of the Armed Services Committee who has been trying to fight to eliminate unnecessary weapons systems, but who has always stood for a strong national defense, it is a wonderful thing in this world if we can get to a point where instead of spending $350 billion on defense, which is where we would have been in a few years, we can get down to $250 billion or less than that on defense. That happens with the disintegration of the Soviet Union and the democratization of the former Soviet Union.

So what is the problem? Well, you see, at the same time I understand the great opportunity that we have if the Soviet Union cannot transform itself into a full-fledged democracy at peace with the rest of the world, I also understand the incredible serious implications of a disintegrating Soviet Union that has designs on flooding the world with weapons that can lead to the destruction of many people.

What I am suggesting now is that we truly do have a window of opportunity. The President talked about a new world order, and I agree with that philosophy of trying to resolve things as a community of nations. What I believe we have an opportunity to do here is to change the way we look at things in the world.

The distinguished chairman of the Committee on Foreign Affairs said that we cannot point the finger at anybody else because we are guilty of being arms salesmen ourselves. That is not the kind of argument we want to make in terms of justifying what other countries around the world want to sell.

This gives us an opportunity, a real opportunity, to change the nature of how the world operates and how the world is going to sell its weapons. We have got to put limits on it.

So what I am suggesting today is not that we do not provide any aid to the former Soviet Union. I am suggesting that we send this bill back to the conference committee and we put some tough arms control provisions on this agreement, because when we stop and think, somebody out there listening to this debate may say, "Well, is it true that the Russians are selling submarines to Iran? How in the heck can we go forward with this sale?"

Or they may say, "Is it true that the Russians have sold ballistic missile technology to India? How can we go forward with this sale?"

Those are legitimate questions that really have no answer. The only answer is we have to send the money. Well, I am not against sending the money, but let us truly work as a community of nations to change the direction of this world so that our friends and our allies around the world come together with us, just like they did in the gulf to fight Saddam Hussein, to create a truly new world order so that we say to the Russians, "We will give you, we will loan to you the money you need to recover, but we are not going to loan it to you if you are going to engage in this kind of arms sales around the world." That is not an unreasonable provision. That is not an unreasonable request. It can be done literally in a matter of hours.

So what I would suggest is that we defeat this conference report, we get some work done and we bring it back. We get a commitment from the rest of the IMF ministers that we are not going to give this money, we are not going to lend this money until Yeltsin and his friends over there say, "We are not going to arm Iran or anybody else."

I think that creates a new world order. It is not unreasonable, and I will be the first one in this world to support aid to the former Soviet Union if we can get these modest commitments.

Mr. COX of California. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, I rise in opposition to this bill because of the aid that Fidel Castro may end up receiving as an indirect result of aid to the former Soviet Union.

The Soviets continue to have a strong presence in Cuba. The only reason why they have somewhat curtailed their military presence in Cuba is purely economic.

Some have said that the Soviets would pull out all their troops from Cuba; but gee, they have no housing and they have no jobs in the New Republic if the troops were to return from Cuba back to their homeland. Therefore, they reason, we must give further aid to the Soviets and then they will completely pull out of Cuba, but that is not in the correct order. Pull out of Cuba. Bring all the troops home. Take out all the advisors. Bring home all the scientists, all the technicians. Stop all work on the Intelligence facility. Dismantle the dangerous nuclear facility. All these things must happen now.

Some troops have been pulled out, but another 2,000 military personnel remain with no real true Russia commitment to remove them.

Not covered in this bill is the Cienfuegos nuclear plant which has been built with defective materials and inadequate safety features. This plant may very well prove to be a real threat to the American public.

Yes, there has been a decline in aid from the former Soviet Union for Cuba, but only because neither Castro nor the Soviets could afford it, and when the Soviets do get this financial help, then what will happen? Will the Soviets once again subsidize the actions of this harsh human rights violator?

We need more than a sense of Congress, more than an urging to the President. We need a strong and forceful directive, forcing the Soviets to stop subsidizing Castro's cruel dictatorship.

What an opportunity we had before us, an opportunity to further tighten the screws on Fidel.

Just a few months ago, we passed once again the Cuba Democracy Act which was part of the DOD bill. We are willing to tell United States companies that they cannot bypass the United States embargo on Cuba by setting up subsidiaries in other countries and continue doing business with Castro, yet we are unwilling to tell the Soviets that they must stop propping up Castro's decaying structures.

Mr. Speaker, this makes no sense.

Mr. COX of California. Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, $4 billion U.S. taxpayers' dollars to Russia, $2 billion U.S. taxpayers' dollars to the rest of the Independent Republics over there—and get this. Russia is still giving aid to Communist Cuba. They are selling submarines to Iran. They still have military troops in the Baltics and they are selling missile technology to India, and we cut off $24 million in developmental assistance to India earlier this year because of the human rights atrocities that are taking place in Punjab and Kashmir, and we are giving India an unfair military advantage in that part of the world through Russia.

Let me ask you a question. Why should we be giving aid to Russia when they have billions and billions of dollars in gold, billions of dollars in other minerals, they have trillions of dollars in natural gas reserves? They have billions of dollars in oil and coal reserves, and we are giving them $4 billion in American taxpayers' money.

□ 1740

I have said before on this floor, Mr. Speaker, "Why doesn't our government and companies in this country barter with the Soviets, the Russians, in order to get something for our money?"

I mean we can buy oil from them, we can buy coal from them, we can buy titanium from them, we can buy gas from them, trillions of dollars of gas from them. Why give them $4 billion in taxpayers' money when we have a $4 trillion national debt, $400 billion in the red this year, $320 billion in interest on the national debt, and we are heading toward fiscal calamity in this country. It makes no sense.

I talk about pork barrel spending all the time on this floor, my colleagues, and this is real pork, only it is not even going to the American people. It is not going to California, or New York or Chicago. I object to pork going there. This is pork going halfway around the world, and they have got their own money. They have got trillions of dollars in reserves, and we are giving them our taxpayers' dollars. It makes no sense.

Now those of my colleagues who complain about money for the urban areas and complain about the waste in government, here is their chance to cast a vote that will save the taxpayers of this country a lot of money: $12 billion, $6 billion going to these countries who have these reserves. I say to my colleagues that this is the time to stand up. We have messed around with $100 million there, $100,000 here. We are talking about $12 billion today.

Let us vote this thing down.

Mr. BROOMFIELD. Mr. Speaker, I yield 2½ minutes to the gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, Mr. Speaker, I rise in strong support of this conference report, the Freedom Support Act of 1993, S. 2532. I commend our conferees for crafting such a meaningful and critically important measure. Permit me to make special note of the exemplary bipartisan leadership of the distinguished chairman of our Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], and the distinguished ranking Republican member of the committee, the gentleman from Michigan [Mr. BROOMFIELD]. We will sorely miss their friendship, expertise and wisdom. They have served our Nation with distinction. I also wish to commend the gentleman from Indiana [Mr. HAMILTON] the distinguished chairman of our Subcommitte on Europe and the Middle East for his outstanding work on this conference report.

No longer do we live in a world where rhetoric pits communism against capitalism, no longer do we live in a destructive world of us-against-them.

I say to my colleagues this may be our last opportunity to help consolidate democracy and the free markets in the former Soviet Union.

As President Bush reminded us:

> We have the chance not only to help the peoples of Russia and the new Independent States escape the nightmare of communism, but also to secure for us and our children a future that is infinitely safer and more prosperous.

Let us be reminded that we failed to win the peace after World War I. We must learn from the mistakes of the past. We failed then because of our isolationist policies: We did not recognize that isolationism and security, and protectionism and prosperity cannot be reconciled.

This measure helps us promote several critical foreign policy objectives:

First, the promotion of democratic institutions in the former Soviet States;

Second, the destruction of the former Soviet nuclear capability;

Third, the movement toward a free market economy; and

Fourth, respect for human rights.

This conference report authorizes a total of $505.8 million in spending—$410 million for assistance programs, $70.8 million for exchange programs, and $25.3 million for operating expenses of the Department of State and the U.S. Information Agency.

The measure also contains the authorization and appropriation for an approximately $12 billion increase in the U.S. share of the International Monetary Fund. This increase combined with those agreed to by the other 160-plus members of the IMF, will maintain the U.S. share at 20 percent of the total fund.

The IMF is, in essence, a policing agency for sound economic policy. Member countries which seek assistance first agree to meet economic reform goals, usually painful, and then qualify for loans and technical assistance. Borrowers repay the IMF loans with interest, usually on a very short timetable.

Because it is a conservative lender, the IMF maintains a positive cash inflow on its loans, interest paid exceeds losses. Thus, while the United States has appropriated funds to back the IMF loans, the money has not actually been spent. Rather, it serves as reserve to be drawn upon and replenished as the IMF sees fit.

The most pressing reason for this IMF quota increase is to provide the Agency with sufficient resources to design and support economic reform programs in the newly democratizing States of Eastern and Central Europe. The needs of these countries far exceeds the current capabilities of the IMF or any single foreign assistance donor.

Mr. Speaker, this conference report addresses the issue of Azerbaijan's continued hostility to Armenia. There is a crystal clear, freestanding prohibition of assistance to Azerbaijan which is not subject to waiver. The additional conditions set forth in the conference report define appropriate criteria for all nations to meet before they are eligible for assistance.

Mr. Speaker, I commend the President, as well as the leadership on both sides of the aisle for crafting an appropriate response to the crisis in the former Soviet Union.

Permit me to read a paragraph from a joint letter to the Congress from former Presidents Reagan, Carter, Ford, and Nixon stating:

> The stakes could not be higher if we fail to seize this opportunity, so fervently pursued for generations, to guarantee a peaceful transition to democracy. America must respond to this challenge, as we have so many times before, through leadership, of an international coalition to secure the success of reform in Russia and the other States of the former Soviet Union.

Mr. Speaker, we all recognize that the Soviet Union, as an entity, exists, no more, those who oppose this measure, those who believe we must stay at home and only worry about ourselves fail to recognize that we live in an increasingly interdependent world, and that our Nation is its leader.

The House version was previously adopted by a substantial vote of 255 to 164. The Senate also passed its version by a substantial vote of 76–20.

We now have the opportunity to demonstrate to the world that we are prepared to be a responsible world leader by supporting this measure. It is a vote for hope and peace. It is a vote for an end to the cold war. It is a vote for the security of future generations. Accordingly, Mr. Speaker, I strongly urge adoption, of this conference report.

Mr. BROOMFIELD. Mr. Speaker, I yield 2½ minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member rises in the strongest possible support for H.R. 4571, the Freedom Support Act of 1992.

I would remind my colleagues again, without hyperbole, that the vote on H.R. 4571 is truly, quite probably, the most historic and important vote that you will ever cast as a Member of the House of Representatives. Supporters of the Freedom Support Act will be able to look back upon this vote with pride; those who vote against it will eventually have a lot to explain, and their excuses will ring hollow. For in the Freedom Support Act, we have the opportunity to move back from the precipice of nuclear war that has loomed over our heads since Joseph Stalin's Soviet Union exploded the first nuclear device.

Mr. Speaker, the Soviet Union is no more. In its place we find a loose confederation of newly independent States. It is too soon to tell whether Russia, Ukraine, and the rest will become benign or constructive forces in world politics, or whether they will revert into reactionary, antidemocratic forces. This body, by its action today, has the ability to have a significant impact upon that evolutionary process—for the better. We can have a big role today in assuring that the latter doesn't happen.

Over the years, this body has appropriated literally tens of trillions of dollars for defense expenditures to contain and combat the aggressive initiatives of the Soviet Union. Indeed, the Internal Revenue Service recently estimated that between 1947 and 1990, the direct price of defending U.S. interests in the cold war cost the average America family approximately $80,000 in tax revenue. Now we have an opportunity to reverse this continued massive defense spending, and bring home the ultimate peace dividend for domestic priorities. That is how the needs of our Nation's biggest and most troubled cities and their citizens can be then addressed. That is how the needs of rural and small communities can be met.

I would remind my colleagues that the former Soviet Union was the only nation that possessed the ability to put an end to the United States. And Boris Yeltsin has inherited that nuclear capability. Now, under Yeltsin's leadership, Russia is more than willing to cooperate in the collection and dismantling of these terrible weapons, but it is an effort that even under the best of circumstances will take years to accomplish.

This Member would urge his colleagues to think through what is being proposed. Boris Yeltsin and his associates seek to work within a system of democratic world order. They now seek to be a friend and good neighbor rather than an adversary. Russia and the other former Soviet Republics are working with the West on stemming international terrorism, which the Soviet Union had long sponsored with such lethal effect and political damage. They are working to deny rogue nations such as Iran, Iraq, and Libya access to black market weapons and to Soviet scientific expertise. They want to work with the West to clean up environmental disasters, some of which are so severe as to threaten all of mankind.

The former Soviet Republics are not looking for a bailout. Rather, they are looking for a helping hand. They understand, at least in part, that the path they have chosen to democracy, pluralism, and market-oriented economics will be difficult. They also know that they will surely fail if the West does not help.

This Member will repeat what others in this body have already said. The dollars are very, very modest, particularly in comparison to the unprecedented dividends. In real outlays the Freedom Support Act primarily provides technical assistance. It is not a bailout. And the United States is not carrying the entire load. Indeed, in comparison to the combined commitments of EC and other donor participants, our contribution is quite modest. The Freedom Support Act will make us part, an essential part, of a coordinated international freedom support and assistance effort.

Mr. Speaker, this is no time to play politics, for excuses, or for faint hearts. Occasionally, rarely, in our careers as legislators, we are asked to cast a vote that has truly momentous implications. This is such a vote.

I would say to my colleagues that if you care about world peace and stability, this is quite probably the most important vote you will ever cast. If you want to put a permanent end to the cold war and assure it does not end in a worldwide nuclear holocaust, then this is the first major step and you need to support the legislation. If you sincerely care about dismantling the tens of thousands of nuclear weapons—nuclear weapons that are targeted at your own constituency—then you must support the Freedom Support Act.

Mr. Speaker, I want to conclude my remarks by focusing for a few minutes on the economic benefit to the United States and our citizens. Let me begin by noting that as the former Soviet Republics struggle with the transition to a free-market economy, these new nations will face an immediate need to upgrade almost all sectors of their economy. In telecommunications, in energy production, in food production and distribution, and all across the economic spectrum, the new Republics face a desperate need for expertise and technology that American businessmen are uniquely qualified to provide. Since there is no such respect for American know-how, technology and products in these Republics, there clearly is great potential to develop markets that will continue to grow for generations to come. And, for the record, I would remind my colleagues that the development of new markets means the creation of tens of thousands of jobs in the United States.

Yet, in pursuing the business opportunities in the former Soviet Republics, we must be realistic. It will take time to develop these markets. They lack the hard currency and institutional infrastructure to be full-fledged trading partners immediately. And, in many of these new Republics, the United States has never before had a presence. Contacts will have to be developed, nurtured, and given the opportunity to grow.

Mr. Speaker, the Freedom Support Act provides precisely the sort of assistance that the American agricultural sector and businesses will need to be competitive in these new markets. The legislation establishes a series of business centers in key locations that are designed to promote U.S. economic interests and commercial ventures. It is important to note that these centers will be designed with the small- and medium-sized businesses in mind, and will provide necessary support for those firms who are not currently sufficiently large to open their own offices in the former Soviet Republics.

The Freedom Support Act helps the American businessman by extending OPIC guarantees to the former Soviet Republics, and by increasing the number of commercial service officers. The legislation also creates an advisory council of major business and agriculture leaders which will provide the President with general guidance on how best to proceed in our economic development in these new Republics.

Mr. Speaker, the American business community—large and small, service or manufacturing, or agribusiness—is unanimous in support of this legislation. Recently a coalition of some 30 major business and agribusiness organizations contacted me to voice their strong approval of the Freedom Support Act. It is a veritable who's who of American business. The letter is signed by the U.S. Chamber of Commerce, the National Foreign Trade Council, the American Farm Bureau Federation, the North American Export Grain Association, the National Corn Growers Association, and many others. They all agree that failure to enact this legislation would severely undermine U.S. business interests.

This coalition of business leaders noted that:

> The Freedom Support Act is not a handout. It is a long-term investment that will promote U.S. jobs and provide unprecedented investment and export opportunities and access to new and profitable markets. Moreover, it will solidify a relationship between the United States and these new nations that is based on agreement, cooperation, and respect for human rights.

As this body considers final passage of the Freedom Support Act, I would urge my colleagues to heed the urging of the American business community. The Freedom Support Act is good for American business, good for United States agriculture, good for peaceful coexistence, good for democracy, good for the people of all the Republics of the former Soviet Union, and good for America. I would urge my colleagues to approve the conference report on the Freedom Support Act.

Mr. Speaker, America's fundamental economic and national security interests demand that we pass the Freedom Support Act.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, I, too, like the gentleman from Nebraska [Mr. BEREUTER], had prepared some remarks pointing out the fact that we are going to create thousands of jobs in this country by supporting this bill today, especially in our agricultural processing capability and our sales, export, of our grains to the Soviet Union. While I want to make those statements and comments, I think what we see here today on the floor is an attempt to oppose the bill because it is not a perfect bill. There has never been a perfect bill come through the Congress. There is always something wrong with every piece of legislation.

□ 1750

There is nothing perfect about this piece of legislation. To a lot of people, the way they talk, this would appear to be another Marshall plan. This is not another Marshall plan. This would not be 2 days of the Marshall plan, and we are not taking the lead on this. We are bringing up the rear. The Europeans are spending hundreds of billions of dollars and already have and will, as I think it is appropriate for them to do.

The United States in this bill today is bringing up a very small caboose, and it would be embarrassing to our prestige, it would be embarrassing to what America stands for, if we do not pass this conference report. It is not perfect, but it is a heck of a lot better than sending this thing down in flames in the last hours of this session.

I rise in support of the conference report on S. 2532, the Freedom Support Act of 1992. By our action today we are not only helping people of the former Soviet Union but also ourselves through creation of jobs here at home.

I believe this conference report represents an investment in the future. Having Russia and the independent States of the former Soviet Union as trading partners and buyers of our agricultural products will help them and will provide additional markets for producers in the United States.

The security of the United States is improved when the former Soviet Union turns to a free enterprise, market-oriented system. The security of American farmers is improved by opening markets around the world.

It is in the American interest to provide this assistance; empty stomachs make for desperate people who may embrace any despot who can promise them food. Americans want to encourage the former Soviet people in their struggle toward a free and open society because they know that a peaceful country is key to a peaceful and stable world.

Our action here must be consistent with addressing the many needs we have here at home, none of which is greater than the need to create jobs. Increased trade opportunities, especially in processed and high-value agricultural products, can provide help to the people of the former Soviet Union while providing new markets for American farmers.

Incorporated in this conference report is an amendment that I offered in the Agriculture Committee that will require more aggressive use of export credits and the export enhancement program for processed and high value agricultural products. Other countries should be put on notice that we intend to seize the initiative in developing markets in the former Soviet Union for superior quality American products.

The key to prosperity in agriculture is to increase the United States share of the world market in value added farm goods. The economic research service of USDA says increasing our share of the entire world market for high value products to 15 percent could create a million and a half new jobs.

My value added provision is good for American farmers; good for American jobs, and good for the former Soviet Union. It is time that our policies promote what we can do better than anyone else in the world: Provide food and fiber that are processed, packaged, shipped, and marketed at reasonable prices throughout the globe. It is better for all Americans if we can increase our exports of valued added agricultural goods because these exports create not only a market for our products, but also create jobs in the processing, packaging, and livestock industries. In fact, every billion dollars in new exports means 20,000 new American jobs.

The Freedom Support Act demonstrates clearly that domestic and foreign affairs are not an either-or situation. Its purpose is to support freedom and open markets in the independent states of the former Soviet Union.

The Freedom Support Act will allow us to improve the standard living so that United States interests, including those of Agriculture and Trade, are emphasized. In the long term we can provide technical help and know-how that will improve the food distribution systems of the former Soviet Union to make them our trading partners.

Our strategy must take into account our budgetary constraints and must recognize that we do not have the resources for another Marshall plan. America will take a strong leadership role and do its share, but what we do must be in cooperation with other developed nations, many of whom created or modernized their post-war economies with our Marshall plan assistance. And the strategy must be consistent with addressing the many needs we have here at home.

I urge support for the conference report on S. 2532, the Freedom Support Act of 1992.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLARZ], and would ask the gentleman to yield to me.

Mr. SOLARZ. Mr. Speaker, I would consider it a high honor and personal privilege to yield to the gentleman.

Mr. HAMILTON. Mr. Speaker, I just want to say to my good friend, the gentleman from New York [Mr. SOLARZ], how deeply I have appreciated his many contributions to the work of this House. The gentleman has really had a remarkable career here. Time and again on foreign policy questions the gentleman has come up with creative and constructive suggestions. His knowledge of foreign policy is second to no one in this entire city and in this entire country. We are going to miss his contributions, and I salute the work that he has done.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman very much for his extraordinarily gracious tribute.

On the frontispiece of Winston Churchill's five-volume history of the Second World War is the admonition, "In defeat, defiance; in victory, magnanimity."

We would do well to take it into consideration as we decide how to vote on this bill, just as we would also do well to take into consideration the history of our own country in this troubled and even terrible century.

After World War I we joined in the imposition of a cruel peace and a crushing burden of reparations on Germany, as a result of which the German economy collapsed, and the Weimar Republic was replaced by a vile and virulent ultranationalist regime known as Nazi Germany which plunged us into the Second World War.

After the Second World War was over, we adopted a different approach. We attempted to rebuild the economies of our defeated adversaries in Germany and Japan, just as through the Marshall plan we helped rebuild the ravaged economies of our allies in Western Europe, as a result of which we contained the spread of communism, and prevented a third world war and the nuclear holocaust that would have gone with it.

We now confront a similar situation. Will the fledgling democracies in the former Soviet Union survive, or will they, if their economies collapse, be replaced not by a rebirth of communism, but by the emergence of new ultranationalist regimes not unlike the one that prevailed in Nazi Germany?

We clearly have a stake in preventing that from happening, and that is why I support this bill. If we could spend trillions of dollars over the last four decades to prevent another world war, surely we can spend a few hundred million dollars to preserve a global peace.

This bill, in conclusion, is an investment not only in the former Soviet Union, but in the future of the United States of America, and the preservation of peace around the world. I strongly urge its adoption.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, we have before us one of the most important votes any Member will cast during one's career in Congress. In the past several years, we have accomplished both historic and incredible changes in the state of the world.

The Soviet Union is now an acronym—the FSU—the former Soviet Union. For the first time in many a generation, we have reason to hope that our children and grandchildren can live in peace—in a world free of superpower confrontation.

I take no backseat to anyone in my criticism of the multilateral assistance programs. No one has called for conditionality with a louder or more frequent voice.

The need for conditionality in IMF lending has been at the forefront of that criticism. But, to use that as the reason to walk away from this effort to support democracy and freedom in the new Republics that involve Russia and those emerging democracies surrounding her could be disastrous.

Those who support a return to authoritarian government are standing in wait to send a signal that would undermine these new democracies and could lead to destruction of the Yeltsin administration. To walk away now might very well become the life's blood of that which Richard Nixon describes as "the New Despotism;" a path that could take us back to the stage of East-West confrontation. Such a play could cost trillions of dollars—but more tragically destroy our hope for lasting peace.

Mr. Speaker, a few of us have constituents who want to spend a dime for foreign aid. In this case, every dime spent is in our national interest and contributes directly toward a lasting peace.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there has been a lot of discussion today about the word "cost" and the word "conditionality." Let me just stress that reliance on the IMF, which is after all the centerpiece of this legislation, means cost sharing, a reduction in effect to the United States of the burden of cost for advancing western foreign policy goals throughout the world. It means loans, not grants; it means using an institution that makes a profit, with the United States' share of that profit averaging about $600 million per year over the last decade.

As for the word "conditionality," a synonym for the IMF is conditionality. Unlike individual nation states, the IMF can condition loans in ways that no nation state can, and in ways that provide a rationale for recipients of loans to advance unpopularly responsible fiscal and monetary policies as well as free markets instead of succumbing to domestic pressures to maintain the status quo.

Finally a note about the big picture. Should we fail to support the IMF assistance package, America risks a disastrous rending of the reform movement, and hence the social fabric in the former Soviet Union. A "no" vote blocks conditionality rather than advances reform. A "no" vote guarantees peace will be jeopardized and that U.S. taxpayers will be on the line for far greater expenditures in terms of military preparedness.

The lesson of the two great wars of this century is that armies can be defeated, but peace is not achieved until societies are integrated together in common respect for democracy and free markets. Let us not follow the punitive model of World War I which precipitated World War II, and instead seek a Russia which will walk with us in democracy and free trade as the defeated powers of World War II—Germany and Japan—do now in large part because of the generous American policies, symbolized by the Marshall plan.

Let us learn the lessons of the century and act from the warmer instincts of the heart, rather than cling to the darker fears of the night we called the cold war.

Support this bill. We have no credible alternative.

Mr. COX of California. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have got to send a message to the hardliners in Russia that they have got to start cooperating with Boris Yeltsin.

Mr. Speaker, this is from the AP:

> A Russian submarine with Iranians aboard is still heading toward the Persian Gulf region. The source said that the sub is one of two that Iran bought. There is some confusion about whether the sale was rescinded or not.
>
> Queried about the confusion, the Pentagon official, referred to in this story, said that the two nations may be quibbling over follow-on or subsequent sales. We just don't know. U.S. officials have said that the entry of an Iranian-run modern submarine with significant war fighting capability does not sit well with them. The new submarine, while not as sophisticated or quiet as U.S. or Soviet nuclear powered vessels, can be considered a threat to vessels in the heavily traveled Gulf, officials say.
>
> Acting Secretary of State Lawrence Eagleburger raised questions about the submarine's sale with Andrei Kozyrev. Eagleburger said Iran has a certain relationship to terrorism that we consider to be anathema.

Mr. Speaker, usually we have little leverage over other countries' arms sales. This is a case where we could slow down the arms race. It is especially important because of our interest in the Persian Gulf. We do not have to commit $12 billion to the IMF, much of it for Russia, unless we get some cooperation from the Russians. Some modest modifications on aid would be appropriate. Many of us wanted to suggest these conditions when the bill first came before the body. We were rebuffed. I grant that this is not the best time to do it. But there is still time, and I believe in my heart that we can assist Boris Yeltsin by sending the message to the hardliners there that they cannot continue to pressure him by going ahead with arms sales such as this without consequences, and that would be in the long range interest of the people, both in Russia and in the United States and around the rest of the free world. That is why I suggest that we vote "no."

☐ 1800

Mr. COX of California. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I listened to the statement of the gentleman from Arizona [Mr. KYL] and from my perspective, as somebody who has supported the bill initially, the sale of submarines to the Iranians, from my perspective, is fatal because in the least it shows that either the left hand does not know what the right hand is doing or that the forces for reform are not truly in command.

I think they would be well advised to recall that this Congress is going to do everything that it can to stop arms sales, especially to our adversaries in the Middle East. I think this is fatal to the agreement and to the money going to the Soviet Union.

Mr. COX of California. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, we have heard today some dire predictions of what happened after World War I, the economic collapse and the rise of totalitarianism. If there is any collapse that is going on in the world today, it is the fear that our economy might collapse. What is going to happen then?

The days when the United States could afford to be the sugar daddy of the world are over. We are being asked to provide billions of dollars to the IMF for loans to the former Soviet Union at a $1½ billion in direct aid. We cannot afford it. That does not mean that the people of the Soviet Union are condemned to economic decline or even chaos. The territory of the former Soviet Union is rich in minerals. It is rich in oil. And the people are not without assets.

Instead of American tax dollars for collateral to loans for economic advancement to the people of the Soviet Union, let them put up oil, titanium, chrome, gold, diamonds, et cetea.

If we are to transport our scarce dollars to help the people of the former Soviet Union, we should insist on getting something back.

Let us not talk about aid. Let us talk about trade. Let us not set in motion some type of a defensive relationship. Let us have a commercial relationship.

Our former adversaries have space technology they can sell us. Let us get something back for what we are putting out. Let us purchase flights on their Energia or heavy lift rocket system. They have many things that they can provide for our dollars.

Giving the IMF millions of dollars to help the Russians get deeply in debt is not good for them, and it certainly is not good for us, when we are going into debt $50 billion more this year.

Americans bore the weight of the cold war. Now we are suffering from a mighty recession.

We have done our bit. From now on we have got to insist on getting something back for what we are putting in.

Mr. Speaker, I say again, the United States should not be looked at as a benefactor to these emerging democracies or a sugar daddy. The days of when the United States could afford to be the sugar daddy are over forever.

Mr. COX of California. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I know the proponents of this bill mean well. They invoke another world, however. That is a world that has gone with the wind, as Rhett Butler would say. They invoke the Marshall plan, another era, ancient history.

We can give great speeches, and we can look back with nostalgia. But this is not Disney World. This is the real world.

This is $12 billion, money we do not have. I have got a question. Where is the money going to come from? Are we going to borrow it with our kids' credit cards? That is what we are doing.

We are thinking about the Russians today. I ask my colleagues to think about their kids and the future of this country.

Our children will have to pay for this so Members in this House today can say they have done well.

The gentleman from New York [Mr. SOLARZ], I am sorry to see the gentleman from New York [Mr. SOLARZ] go. The gentleman from New York [Mr. SOLARZ] certainly is a person that knows a great deal about foreign affairs. He talked about the Weimar Republic. I am concerned about the fall of this Republic.

We have a $4 trillion debt, which means that a family of four has a mortgage of $69,000 they have to pay. That is a phantom lot. It is a phantom foundation, a phantom shingles, a phantom house, but not a phantom mortgage, because they have to pay it.

This is an important vote, as Members have mentioned, but an important vote for our country.

I heard 5 years ago, when I stood up here and talked about Subic Bay, Members were guffawing. They said it will never happen. My friends, where is Subic Bay? It is not flying the American flag today and the reason is a different world.

If we do not watch out, we are going to be washed away by the incoming tide and the new world.

I ask my colleagues, where is the money coming from? It is $12 billion we are borrowing; our kids are going to pay for it.

I say to my colleagues, go out into their districts. In a few hours they are going to go out into the districts. Are they going to give the same speeches out there in their districts that they gave on the floor of Congress? Are they going to say, "I voted for $12 billion to the Soviet Union?"

They say in the House the people rule. Do they? Do they?

I want to hear the speeches they give when they go back home. Our country is in big trouble, and it is about time we start sweeping in front of our own step.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. MCCURDY], distinguished chairman of the Permanent Select Committee on Intelligence.

Mr. MCCURDY. Mr. Speaker, I might speak to some of my colleagues on this side who have raised some serious questions about proliferation, and I share many of those concerns. And with this 1 minute and some limitations on my ability, I just want to say, as best I can, it is in our national interest to support this bill.

The opponents in their zeal act as if components of our national security apparatus are asleep while on some of these critical issues. Granted, we do not have a perfect multinational arms control regime, but I would hope that there would be some confidence in our diligence and attention to many of the concerns that have been raised.

This is a historic opportunity. We cannot afford to watch the Yeltsin reforms perish.

I believe, although legitimate concerns have been raised, that there should not be the alarm, and it should not be the cause of voting down this important legislation.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Indiana [Mr. HAMILTON], chairman of the Subcommittee on Europe and the Middle East.

Mr. HAMILTON. Mr. Speaker, I rise in strong support of the conference report on S. 2532, the Freedom Support Act.

At the outset, I want to commend the chairman of the committee, DANTE FASCELL, for his superlative work in shepherding this bill successfully through committee, through floor consideration, and through the conference committee. He and BILL BROOMFIELD, the ranking Republican, have done a masterful job in bringing back a conference report that strongly reflects the language and policy in the original House-passed bill.

This landmark legislation is an appropriate capstone to the career of a remarkable chairman and ranking member. Both of them and this legislation will long be remembered. Their presence in this Chamber will be missed. I salute both of them for their work on this landmark legislation.

I. THE CONTENTS OF THE CONFERENCE REPORT

Mr. Speaker, let me at the outset summarize the contents of the conference report.

A. BILATERAL ECONOMIC ASSISTANCE

The conference report:

Authorizes $410 million for fiscal year 1993 for bilateral economic assistance to the independent States of the former Soviet Union;

Establishes eleven criteria for the President to take into consideration in extending assistance, including: First, progress toward democratic governance; second, progress toward market-based economics; third, respect for human rights; fourth, respect for international law; fifth, cooperation in resolving ethnic and regional conflicts; sixth, the implementation of responsible security policies; seventh, steps toward environmental protection; eighth, denial of support for acts of international terrorism; ninth, responsibility for repayment of debt to United States firms; tenth, cooperation on uncovering evidence regarding American POW's; and eleventh, termination of support for Cuba;

Establishes five conditions under which assistance must be terminated: First, failure to respect human rights; second, failure to implement arms control obligations; third, transferral of missile, chemical, or biological weapons or technologies of mass destruction; fourth, transferral or receipt of nuclear weapons capabilities; and fifth specifically with respect to Russia, failure to make progress on removal of troops from the Baltics;

Prohibits assistance to Azerbaijan until the President determines that Azerbaijan is taking steps to cease all economic blockades of Armenia and Nagorno-Karabakh; and

Authorizes the creation of a Democracy Corps, business and agribusiness centers, enhanced Commerce Department activities in support of U.S. firms, and a Business and Agriculture Advisory Council.

B. INTERNATIONAL MONETARY FUND

The conference report also:

Authorizes $12 billion for the U.S. contribution to the IMF quota increase; and

Links IMF funding to a recipient country's level of military spending.

C. ADDITIONAL PROVISIONS

Additional provisions in the conference report include:

Authorization of $70.8 million for fiscal year 1993 exchanges with the new independent States;

Authorization of $940 million, including $840 million in Defense Department funds, for nonproliferation and disarmament activities to destroy, dismantle and control weapons of mass destruction;

Authorization of the National Science Foundation to create a new foundation to create links between U.S. firms and scientists in the new independent States; and

Facilitation of trade and cooperation in space technologies.

II. WHY THIS CONFERENCE REPORT IS IN THE NATIONAL INTEREST

Mr. Speaker, this bill is in the national interest. There are several reasons to support this conference report.

First, it promotes United States national security by making a contribution to the success of reform in the former Soviet Union. The success of reform would mean:

Less United States defense spending than would be the case if the former Soviet republics remain our adversary;

A reduced nuclear threat and a more peaceful world;

Reduced arms exports and less proliferation;

Better nuclear power plant safety;

Less risk of environmental disaster; and

The conversion of defense industries to peaceful uses.

Second, the conference report before us will also benefit the U.S. economy. The success of reform in the former Soviet Union would:

Open new markets for American businessmen and farmers;

Open up the vast resources of the former Soviet Union to peaceful commerce;

Increase energy supplies and lower prices;

Redirect enormous human talent to peaceful pursuits; and

Boost world economic growth and American exports.

Third, this bill promotes American values. The success of reform would mean:

A society based on the rule of law;

Governments accountable to the governed;

The protection of minority and individual rights; and

Democracies committed to individual freedom, free markets, and the peaceful resolution of disputes.

Finally, passage of this bill will also ease the pain of reform and buy time for reform to work:

People are not starving in Russia or the other republics, but they are in dire need of medical supplies and humanitarian assistance. It is in the American tradition to give a helping hand.

Mr. Speaker, as you add up each of the reasons to vote for this conference report, the case for it is an overwhelming one. This conference report will protect and promote American interests.

III. WHAT HAPPENS IF REFORM FAILS

Mr. Speaker, let me also speak briefly about the consequences for the United States if reform fails.

We do not live in a safe little corner of the world. What happens in Europe, what happens in Russia and the other republics makes an enormous difference to us and our security. That was true in World War I, World War II, and the cold war, and it is still true today.

We cannot live safe, prosperous and free if there is turmoil and upheaval in a vast land that possesses some 30,000 nuclear weapons. When we work for democracy and economic reform in the former Soviet Union, we work to make all Americans more prosperous, safe and free.

Let me add one point of fact on an issue that was raised earlier in the debate.

Early in 1992, the Russian firm (private) Glavkosmos entered into a private transaction with the Indian Space Agency (a government agency) to transfer Cryogenic rocket motors to India. Such a transaction is prohibited under the missile technology control regime, as well as subject to sanctions as required in the Arms Export Control Act. As such, the United States sanctioned both entities, the law requires not less than 2 years.

IV. CONCLUSIONS

Mr. Speaker, I want to close with just a few observations.

First, we cannot guarantee the success of reform in the former Soviet Union. The tough work on democratic and economic reform in these new republics has to be done by the people and leaders themselves.

Our assistance can only help at the margins. But in a close race between reform and collapse, our help may make the difference. It is clearly in our national interest to make the effort.

Second, we are not alone. Every Western government is playing a role and providing support for reform. Some are doing more than we are. All that we are doing in this conference report is our fair share—no more, no less. American leadership is necessary if we are to get others to share the burden.

Third, the former Soviet Republics are moving in the direction we want them to go. They are not there yet Some have only started. But if their reforms fail or are derailed, we will be worse off. The costs and risks of going ahead with assistance are less than the risks of not trying.

Finally, this conference report will help lay the foundation for a new American foreign policy.

Turning Germany and Japan into democratic allies and prosperous trading partners was the challenge of a previous generation.

The future of the former Soviet republics is the challenge of our generation.

This opportunity will not last forever. The hour is already late. Yeltsin and other reformers now face a great test: They need our help.

Whether we seize this opportunity to help them—and help ourselves—is the great question before us.

I urge my colleagues to support the conference report on S. 2532, the Freedom Support Act.

Mr. BROOMFIELD. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. MICHEL], the distinguished minority leader.

The SPEAKER pro tempore (Mr. LANCASTER). The gentleman from Illinois [Mr. MICHEL] is recognized for 4 minutes.

Mr. MICHEL. Mr. Speaker, I would be remiss if I did not first pay my respects to my two good friends of so many years, DANTE FASCELL and BILL BROOMFIELD, the chairman and vice chairman of the Foreign Affairs Committee.

During their collective tenure they have both played unprecedented roles in the number and significance of foreign policy decisions that have been addressed during the past 36 years.

They have made outstanding and memorable contributions to our country's participation in international affairs over this same period that I have served in the Congress.

I felt for years that my own service was intertwined with theirs and during these years we've become the best of friends.

BILL BROOMFIELD was in the class elected when I was first elected and his departure now leaves me a lonely survivor of our 85th congressional class.

DANTE FASCELL, elected one term earlier, served as the chairman of my first congressional trip abroad when as members of the Government Operations Committee we investigated offshore procurement practices in the immediate post-war years in Europe.

Had it not been for our being elected to this body, I doubt our paths would ever have crossed, but I can certainly say that my life has been greatly enriched by the privilege of serving with them and now having them as two of my dearest friends.

I am sure I am joined by all Members of the House in expressing our profound thanks and appreciation to them both for the dedication they brought to their work and the high standard of public service they have bequeathed to all of us who will continue to serve after they take their leave.

In regard to the legislation we are now considering, let me say that I was one of those who strongly supported this measure initially here in the House. Having once been a combat soldier myself during World War II, I feel the billions and billions of dollars we spent during the cold war, and then having it all go for naught by failing to respond now when the chips are down would be just ridiculous and foolhardy.

□ 1810

That is why we took the position we did during initial consideration and are staying with that position today. I might say that those who opposed it at that time are generally the ones who are opposing it today, and I respect that. The Members have their reasons for taking the position they want.

Those who point to the submarine sale make a point, but the point has to be seen in the context of the present condition of the former Soviet Union. Mr. Yeltsin did not inherit a thriving bluechip company with all its books in order, with its workers happy, and all its plans secured. He inherited chaos and fear, despair and disillusionment, a tragic past and an uncertain future. He has said, "I inherited the remnants of 70 years of hell, if we really want to be honest and frank about it." He presides over a country that is split along many lines, with the old Communists waiting, as they always wait, for the first faint sign of disintegration. We can say all we want to. We want to put the pressure on the hardliners, but we do not have any leverage on the hardliners. The hardliners are the ones who want Yeltsin out so they can come in, and then to hell with the United States. That is what the real truth is. We are talking about them against us, and Yeltsin is with us.

That is the kind of situation Yeltsin faces. The State Department tells me the contract for sale of those submarines was drafted before Yeltsin came to power. He is trying to do 50 things at once. He is going to make mistakes. Probably one of them was in the delivery of those submarines, even though the contracts were signed earlier. But it is in our national interest now to look past those mistakes, to work with Yeltsin to see they are corrected and do not happen again.

If we falter, if we fail, if we as much as take a step back from Yeltsin, defeat of this bill would signal, then the howling of the Communist wolves on the Steppes of Russia will sound through the night.

This bill is supported, of course, by my dear friend, the gentleman from Florida [Mr. FASCELL], the chairman; by my friend, the gentleman from Michigan [Mr. BROOMFIELD], whose combined experience in foreign affairs is probably unexcelled in all this institution's history.

If I might just conclude by reaffirming again, and I will extend the remarks in the RECORD if we run out of time, that language in the foreign operations bill that we will be taking up Monday reads as follows:

> (a) REPORT.—Beginning 120 days after the date of enactment of this act and 180 days thereafter, the President shall report to the appropriate congressional committees that the United States has entered into serious and substantive discussions with Russia to reduce exports of sophisticated conventional weapons to Iran and to prevent sales to Iran of any destabilizing numbers and types of such weapons.
>
> (b) PROHIBITION.—Beginning 120 days after the date of enactment of this Act, none of the funds made available under this Act may be made available for United States assistance (other than humanitarian assistance) for Russia unless the report under subsection (a) has been made, or the provision of assistance is determined to be in the national interest.

I might tell my friends on my side of the aisle, that was the language agreed to by none other than Senator HELMS over in the other body. I think the Members all know of his reputation over a long period of years as a hardliner toward the adversary out there.

I would certainly urge my colleagues to seize this particular moment. Yes, it is not, as I guess my good friend, the gentleman from Missouri [Mr. COLEMAN], that we are not always perfect in what we do around here, but I will tell the Members, the right vote tonight is a vote to support this measure. It will pay off in years to come and generations to come.

Mr. HAMILTON. Mr. Speaker, I yield the balance of the time to close debate to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

The SPEAKER pro tempore (Mr. LANCASTER). The gentleman from Missouri will be recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, I want to commend the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Michigan [Mr. BROOMFIELD] for their work on this important legislation. I want to pay respects to the gentleman from Florida [Mr. FASCELL], who is leaving our midst in 1992, but who did so many important things for our country and our Congress in his service over 30 years, and as chairman of this committee.

I think it is fitting that a veteran of World War II like DANTE FASCELL, a colleague whose public service spans actually 50 years, served in campaigns in Africa, Sicily, Italy, in vigilance throughout the cold war, should be the architect of this very important piece of legislation, in my view as important as the Marshall plan was to America and to Europe and to the world in the late 1940's.

I simply want to urge Members to vote for this bill tonight. I first want to say that this bill and other bills that have been passed properly fence the money, so that if there are problems in the future, if there are violations of what we want with regard to progress in the former Soviet Union, the President will be sending reports on what is happening and the money can be stopped by the President and by us, so this is not a matter of turning money loose and never having a check on it again. It will be checked.

Second, I want to reiterate that I intend to go back to my district, and I hope the Members will go back to their districts, and argue to our constituents that this money is in the deep self-interest of our people and our country.

We should never appropriate money for anything unless we think it does our people good. This money to Russia will do our people good. If Russia keeps progressing as it is, and it may not, it will save our taxpayers billions and billions of dollars through the next 10, 20, and 30 years. If markets are created and private enterprise takes root in the former Soviet Union, it will be a market for our workers and our businesses for years ahead.

I argue to my constituents and have argued for over 2 years that this is in their deep self-interest, and many of my people believe that. It is not politically popular. I will never stand here and tell the Members that it is. The Members all know it is not.

We did not get sent here, however, to just vote for the things that are obviously popular. We were sent here to be responsible to our constituents, and what is in their deepest long-term self-interest, and this bill is that.

Mr. Speaker, I would close with reminding us all of the Marshall plan and the period after World War II when Harry Truman and George Marshall reached out to a Republican Congress and found an Arthur Vandenberg and put together a bipartisan coalition that passed the Marshall plan. The Marshall plan was $100 billion in today's dollars. This bill is a fraction of that.

The money from the Marshall plan in part went to people that we had just fought a war against over 5 long years. Our country was exhausted from a depression, and the worst war we were ever involved in. This bipartisan coalition went to the American people and said, "Yes; we have got to dig down in our pockets and sacrifice to help people in our long-term self-interest." Harry Truman and a lot of people who voted for it in the Congress were up for election. It was not wildly popular with the American people. The Gallup people took a poll and the Marshall plan got 14-percent approval from the American people.

☐ 1820

But in the face of that, Harry Truman and a Republican Congress went to the American people and argued for the Marshall plan and got the votes to pass it and put it on the books, and implemented that plan. And that is why Western Europe is as strong as it is today. And it was good for America, and it was good for the entire world, and this legislation today is as well.

I beg Members to vote for this legislation for the deep, long-term self-interests of their constituents and this great United States.

Ms. OAKAR. Mr. Speaker, I rise in support of the conference report to meet America's challenges in the Republics of the former Soviet Union.

Mr. Speaker, I voted against this bill when it was considered by the House because it did not contain a number of important policy provisions regarding the proper use of the U.S. contribution to the International Monetary Fund. These provisions were authorized by the Banking Committee when it considered H.R. 3428. During the debate on the Russian aid bill by the House, I argued that it made little sense to provide such a large authorization of money for the IMF without also providing guidance regarding how the money should be spent. It seemed to me that omitting this critical legislative language was shortsighted and wasteful.

However, the conference report before us today contains all of the most important language the International Development Subcommittee, which I chair, believes should be included as part of the authorization of funds for the IMF. Specifically, the conference report now provides a mechanism for the IMF to follow which requires the fund to consider the social and environmental effects future loans will have on the borrowing nation. In other words, in addition to its current practice of considering how a nation runs its economy, the IMF must also consider whether a nation is making progress toward removing social barriers to progress its people encounter and how the loan will affect the natural environment of the borrowing nation.

The new language is part of a larger movement to get the IMF to become more aware of the impact its decisions have on the citizens and the environment of borrowing nations. Again, this legislative language is important for ensuring the proper use of the U.S. contribution to the IMF.

The conference report also contains a provision which will assist the 52 million Ukrainians who are trying to create a truly independent economy and a secure future for themselves. Ukraine intends to introduce its own currency as part of an effort to revive its economy and gain a measure of economic independence from other nations in the region. I believe this is an important step for Ukraine to take to fulfill its destiny and that the United States should support Ukraine strongly. Consequently, the conference report contains a provision I sponsored to urge the IMF to conduct a study on the need for and feasibility of creating a currency stabilization fund for Ukraine. A currency stabilization fund can help Ukraine to create a stable, fully convertible currency that is the core of trade relations for any modern economy.

Finally, I am supporting today's conference report because it is ultimately good for American jobs and for jobs in Ohio. The IMF is the most important multilateral agency for ensuring a smoothly functioning world trade system by initiating programs which open markets to exports and investments. As the world's largest exporter, our Nation is the largest beneficiary of these programs. It has become clear that international trade is playing an important role in helping our economy grow and provide jobs. According to the Commerce Department, exports have climbed from $227.2 billion in 1986 to $421.6 billion in 1991—an increase of 85.6 percent. The Export-Import Bank estimates that since 1988, over 70 percent of U.S. economic growth has come from expanding exports, which has generated 1.8 million new jobs. As a general rule of thumb, for every $1 billion of U.S. exports, 19,000 jobs are created. This means jobs for Ohio since Ohio is the third largest exporting State in the Nation.

In closing, let me again state I support this bill because it takes steps to ensure proper use of the United States contribution to the IMF. The conference report also helps to create jobs in the United States in general and Ohio in particular by providing the funds the IMF needs to open markets to imports and investment from the United States. Finally, the conference report goes a long way toward helping Russia, Ukraine, and the other republics of the former Soviet Union in their struggle to develop stable democracies and free markets.

Mr. WALKER. Mr. Speaker, I rise in support of S. 2532, the Freedom Support Act conference report, and urge my colleagues to cast a strong vote for a democratic-capitalist future for the former Soviet Union.

Since the implosion of the Soviet empire, the Yeltsin government and 14 Republican governments have been picking up the pieces. Americans want to help. And Americans will help. But, Mr. Speaker, the Freedom Support Act is not just aid—it is trade and investment to make sure that when Russia picks up the pieces, it is not a threat to our national security.

There is a centuries-long and oft-repeated history of tyranny in Russia and the independent States. We cannot overcome that history for them, but neither can we fail to respond when the people choose democracy.

The Freedom Support Act will help build the institutions and the habits for self-governance we have developed over 200 years and take for granted.

The Freedom Support Act will not make them Jeffersonian democrats overnight, but it will give them the boost and the chance to answer freedom's calling.

The Science, Space, and Technology Committee is quite proud of two contributions to this conference report: Section 511—a new Research and Development Foundation; and title VI—space trade and cooperation.

I want my colleagues to understand that the Foundation created under section 511 will not be allowed to raid the defense budget to pay for joint research projects if the Foundation serves no broader purpose.

The conference agreement limits the defense budget's contributions to the Foundation to no more than 50 percent of all U.S. Government funds. After fiscal 1993, if no other Government agency, for example the National Science Foundation or U.S.-AID, contributes to the Foundation, the defense budget contribution will not be made.

Second, Mr. Speaker, I want to add my strong support for title VI of the conference report which encourages space trade and cooperation between the ex-Soviet space establishment, NASA and United States firms.

This is important because European and Japanese industries are freely shopping the Russian aerospace market. We do not know exactly what they are buying. But NASA and United States firms deserve a quick answer from our Government as they seek approvals to investigate or import ex-Soviet technology. The bill does that.

The bill also gives the Office of Space Commerce the authority to conduct aerospace trade missions to the independent Republics. This year, the Office conducted a very productive technical assessment of ex-Soviet technology with United States firms. I hope the Secretary of Commerce will reprogram $100,000 to the Office of Space Commerce for trade missions of this kind.

Finally, Mr. Speaker, inasmuch as we hope for productive space trade with the former Soviet Union, we do not forget who we are dealing with. The conference report also authorizes the Office of Space Commerce to monitor procurement talks and trade negotiations between United States Government buyers and ex-Soviet seller entities. Their job is to keep an eye out for anticompetitive practices and report on the effect of potential deals upon our domestic aerospace industry.

Mr. Speaker, I urge adoption of the conference report.

Mr. GOSS. Mr. Speaker, we are indeed at a crossroads. The world is changing rapidly and Americans have borne much of the burden for effecting that change. We fought hard during the cold war and we won.

I believe that there are benefits to be had for Americans in responsible and carefully controlled support for the emerging democracies in the former Soviet Republics, particularly in areas of investment and participation in free-market commerce. Jobs from increased investment and the long-term savings and peace of mind that will accrue from greater international stability are two very real consequences of such a policy.

But the American people remain skeptical and I can't blame them. We have not made the case to our constituents—the people we work for—that in such times of domestic economic turmoil we can afford to make this investment. My constituents, like many across the nation, urged me to be cautions as we proceed in foreign policy. I have been asked to measure affordability and to balance this expenditure against other priority needs.

There are still many loose ends that must be tied up. We tried, but failed, to win approval of an amendment to this bill that would put into place tough conditions on the republics regarding their ongoing assistance to the Castro dictatorship in Cuba. We remain very concerned about the existence of information regarding the fate and the whereabouts of American prisoners of war. And, of course, we want to be sure that these emerging States are truly committed to a path toward democracy and respect for basic human freedoms.

These are important issues that we will continue to debate in the coming days. This is truly a historic time and Americans should be proud of the progress their courage, commitment, and sacrifice has brought to the world. I recognize there is significant hesitation about any type of foreign aid at this time of domestic economic weakness and the views of my district constituents weighed heavily on my decision to withhold support for Russian aid at this time.

Mr. OWENS of Utah. Mr. Speaker, I rise in support of H.R. 4745 and, in particular, its provision which bars aid to Ajerbaijan until Azeri blockades, aggression, and human rights violations cease. I urge my colleagues to vote for the conference report in order to protect the innocent Armenians and other minorities in Nagorno-Karabagh and in the Republic of Armenia from the destruction and deprivation brought on by the Azeri siege.

Continuous ceasefire violations and the offensive use of force, along with increasingly frequent incidents of ethnic cleansing, should be more than enough reason to insist that the Azeri Sanctions Act be included in the Freedom Support Act. The amendment's current language is the bare minimum needed to address our concerns with regard to Azerbaijan, and the administration's attempts to weaken the language it had previously negotiated and agreed to were ill-advised.

The administration made an agreement with the House and the Senate, and then refused to honor it—just as it has refused to honor America's most fundamental foreign policy principals. The administration asserts that it will support democracy, human rights, and self-determination—and then condones or even rewards offenders while turning its back on people and nations that aspire to these ideals. The administration granted diplomatic recognition to Azerbaijan conditional upon these pledges from the Azeri Government: the Azeri siege would end, and Azerbaijan would comply with fundamental international law. Yet the Azeris have not honored a single promise—and the Bush administration continues to grant reprieve to the Government of Azerbaijan while Azeri shelling, bombardment, and missile fire relentlessly pummel Karabagh and Armenian towns and villages. This administration's foreign policy of inaction, uninvolvement, and vacillation when hundreds and thousands of lives are at stake is just plain wrong, and represents not only an abdication of world leadership but a moral abeyance which we must call attention to.

The victims in Nagorno-Karabagh and in Armenian are looking to the United States for help and protection, and at the very least for moral support in defending themselves against Azeri aggression. Three weeks ago, a member of the Armenian Parliament was gunned down in Nagorno-Karabagh, and the last rail link into Armenian was destroyed, severing transport of food, fuel, and medical supplies into the country. Every day civilians are killed and wounded in Karabagh and in Armenian villages under bombardment—and the figures tell us that Armenians receive no respite from Azeri attacks: Stepanakert, the capital of Nagorno-Karabagh, September 23, 10 wounded by shrapnel, including 5 women, an 8-month old baby, and 2 old men. Parukh and Karaglukh, two villages in Armenia, September 26, 7 killed and 38 wounded during artillery attacks.

Each day it is the same, or worse. Azeris boast that they will voluntarily resettle Armenians into Armenia, and the Azeri opposition leader declares that the Karabagh problem will be solved only by military means. There is a name for this kind of violence and territorial aggression, and it is not civil war. What we are witnessing in Nagorno-Karabagh is ethnic cleansing—and if the United States does not raise its voice to protest, the plains of Eurasia will soon look like the decimated hills and valleys of eastern Croatia and Bosnia. The international political crisis that confronts us is already becoming an international economic one. Is it not better to contain the violence now through forceful diplomatic measures or economic sanctions than to deal with the consequences of spreading violence and international inaction 1 year from today?

I must suggest again that the United States formally withdraw our Ambassador to Baku, and make it clear to the Government of Azerbaijan that we will enforce diplomatic sanctions if Azeri forces do not immediately cease their shelling, bombing, and missile attacks on Nagorno-Karabagh and Armenia. We should support the deployment of peacekeeping troops in the area, and should work with the international community to ensure that Azerbaijan accepts mediation and abides by all agreements, including ceasefires. And if these initial measures do not bring results, we must consider further action. The United States sought the defeat of communism for 45 years, and now we must act to ensure that democracy—and not aggression—prevails.

Mrs. LLOYD. Mr. Speaker, we all want to help Russia and the New Republics. We want to do all we can to encourage democratic transition. But the Freedom Support Act is not the way to do it. In addition, the timing of this bill, given the current U.S. fiscal climate, does not work to its advantage.

While I have a record of opposing foreign aid authorization bills, I do consider the evolving former Soviet Union to be a special case. But the flawed S. 2532 neglects to include important conditions on any assistance provided.

My colleagues, if we are serious about our pledge to control weapons proliferation worldwide, we must object to current Russian policies, exporting submarines to Iran and nuclear weapons technology to India. These actions could jeopardize the peaceful world order that we are working so hard to achieve. Until Russia and the Republics cease these dangerous export practices, we should not hand over assistance without stipulations. The conditions that could make this a better bill have been left out and make it unacceptable.

Another factor convincing me to vote against this bill is the question of Russia's ability to pay us something in return for the aid we provide them. Russia has amassed an impressive stockpile of valuable resources including oil and minerals. Current estimates indicate that the Russians have approximately 57 billion barrels of oil in reserve. This translates to approximately 1.3 billion American dollars. Russia also is holding $105.6 billion in gold. There are a host of other precious minerals also at their disposal.

I see no reason why the American taxpayer, who is expected to foot the bill for this legislation, should not get something in return for our assistance. Yet S. 2532 makes no mention of repayment or the vast resources available to the former Soviet Union.

My colleagues, I suggest a "no" vote on the Freedom Support Act.

Mr. STUDDS. Mr. Speaker, today the House is about to pass and send to the President historic legislation to provide financial and technical assistance from the United States to promote freedom in Russia and other emerging Eurasian democracies. I am pleased to support this legislation and to recognize that one of its purposes is to enhance and restore the environment of the former Soviet Union through the provision of United States environmental technology and training. This aspect of the legislation is very important to me and my constituents, and I thank Chairman DANTE FASCELL, in particular, for including this program in his legislation.

One of the specified components of the bilateral economic assistance program of title II is to provide assistance to Russia and other emerging Eurasian democracies on environmental matters. This will be carried out through the promotion of the provision of environmental technology, education, and training by U.S. businesses, not-for-profit organizations, and institutions of higher education. The objective of this program is closely linked to legislation I recently introduced, H.R. 5895, the National Environmental Business Foundation Act of 1992. The purpose of the bill and this part of the bilateral assistance program is twofold: Jobs at home and a cleaner, healthier environment abroad.

Mr. Speaker, the environmental technology area is one of enormous opportunity for American businesses and American know-how. The enviro-tech industry in the United States grew in response to the environmental laws and regulations that we passed in this body. According to EPA Administrator William Reilly, the domestic environmental business sector generates sales of more than $100 billion annually. The international market for environmental goods and services is enormous, already more than $200 billion per year, and it is expected to grow rapidly through the end of the century.

Here at home we've got national programs to protect our own environment that are second to none worldwide. President Bush and DAN QUAYLE notwithstanding. We've got 20 years of experience in solving the environmental problems that Eastern Europe, Asia, and Central and South America are now wrestling with. We've got a university system for education and training and a fully developed research and development sector that keeps us at the cutting edge of quickly evolving technologies.

My own State of Massachusetts is a perfect example. We have world class academic and research institutions like Woods Hole Oceanographic Institution and the Massachusetts Institute of Technology—to name a few. We have literally hundreds of firms producing remarkable technologies that are as we speak being marketed globally. We've got the work force, the capabilities and the willingness to compete that is unequaled.

In fact, Massachusetts has already taken the first steps in realizing these opportunities by forming the Environmental Business Council, an organization of business and universities in New England and beyond that is successfully negotiating trade and training agreements with Mexican businesses and the governments of eastern Europe. The bilateral assistance program authorized by S. 2532 will help provide needed funds to continue and expand these agreements, to conduct assessments of needed environmental technology, and to link United States businesses, not-for-profit organizations, and institutions for higher education with governments and the private sector now emerging in Eastern Europe.

As S. 2532 makes clear, assistance authorized by this legislation can provided to non-governmental organizations as well as governments and can be used to support cooperative development and research projects. The Massachusetts Environmental Business Council is a perfect example of a non-governmental organization that can act as a conduit for money from the United States to promote cooperative environmental projects with Russia and their emerging democracies.

Mr. Speaker, I also support the environmental priorities identified in the conference report. Priority attention should be given to controlling the discharge of harmful pollutants; monitoring environmental threats to the United States or the Arctic-subarctic ecosystem; cleaning up rivers, lakes, and Arctic waters; protecting endangered species; controlling the emissions of air pollutants; restoring areas contaminated by hazardous waste; conserving biological diversity; and preserving areas of special environmental significance. These are all longstanding goals of U.S. environmental laws and programs. These are also matters on which U.S. businesses and institutions, such as the Environmental Business Council have particular expertise. We should start now to promote the export of our environmental technology education, and technical assistance. S. 2532 provides the wherewithal to do so.

Mr. Speaker, the freedom for Russia bill is a welcome start to bringing economic prosperity, environmental protection, and democracy to Eastern Europe. It also provides a way to promote the U.S. economy. I heartily endorse both objectives and urge my colleagues' support for S. 2532.

Mr. DE LA GARZA. Mr. Speaker, I rise to express my support for the conference report for S. 2532, the Freedom Support Act.

Our Nation has an historic opportunity to help the citizens of Russia and the other independent States of the former Soviet Union solidify their fledgling democratic institutions and ease the painful transition to free-market economics. The cause of future world peace demands that we not let this chance pass us by without acting.

The Freedom Support Act is not simply foreign assistance. This legislation will promote our Nation's own future economic security. By helping these economically struggling countries now, we will have major trading partners and buyers of U.S. agricultural products for years to come.

Russia and the other former Soviet states are important and expanding markets for United States products and services, particularly in the food and agriculture sector. This legislation will help facilitate the sale of our agricultural products in these countries.

It is important to point out that in this legislation we give a particular emphasis on promoting the export of high-value agricultural products. High-value products are agricultural commodities that have been partially or totally processed here in the United States. By promoting high-value products, this legislation will encourage greater economic activity and jobs here at home.

Mr. Speaker, this legislation will help these countries improve their own food systems. It is vital that these nations have modern food production, distribution, and processing systems. The modernization of the food industry in these countries is in our best interests and will lay the foundation for long-term export markets for American agricultural and manufactured products.

Mr. Speaker, the conference report includes several provisions which were developed by the House Agriculture Committee. Basically, these provisions do three things:

First, it will provide the Secretary of Agriculture greater flexibility to use the Food for Progress Program to provide agricultural commodities to meet the food needs in these countries.

Second, it will provide the Secretary of Agriculture authority to pay for the cost for technical assistance to develop more efficient food and rural business systems in emerging democracies.

Third, it will increase the emphasis on the export of high-value agricultural commodities, that is, agricultural products that have been partially or fully processed here in the United States.

Mr. Speaker, the Freedom Support Act is a sound and wise investment in our future. I urge my colleagues to support the conference report.

Mr. MARKEY. Mr. Speaker, I rise today in support of the Freedom Support Act, to provide United States support for the transition to a free-market economy and a democratic system of government in the Republics of the former Soviet Union. In particularly, I am pleased that the final bill includes funding for management assistance that is based on legislation I introduced with my colleague AMO HOUGHTON of New York.

While the debate over aid to Russia has largely centered around funding for marcroeconomic reform through international monetary institutions, there is an equally important need for small scale, person-to-person business assistance. A free-market system in these Republics cannot function without entrepreneurs and business managers.

It's critical—to these economies and ours—that whatever aid proposal we offer also enables our people to share our considerable business skills and experiences directly with people in these new Republics. We must offer our hearts as well as a monetary hands-up. Happily, sharing knowledge doesn't cost much more than time and dedication. It can begin right now and can easily be integrated into whatever approach is approved.

It's not dependent on stabilized market conditions, nor does it require huge government subsidies. And, most importantly, it works. We know it does because we've seen the early results from a pilot business exchange project—a kind of Business Peace Corps—to the Baltics in June 1991.

Acting on the success of our model program, I introduced legislation with my colleague, Representative AMO HOUGHTON of New York—the Management Corps Act—that would provide an all volunteer army of business advisers to private enterprises in these countries.

The June 1991 Management Corps Pilot Program placed two dozen United States executives inside companies in Latvia. For 2 weeks, American advisers provided hands-on help on everything from competitive employment and compensation practices, to marketing planning, to product development, to package design and, even, advertising.

So far the results have been as diverse as they are promising. Some examples: With the assistance of its adviser, Ronald Scott, a marketing and advertising executive, a small Latvian software developer recently introduced an innovative spreadsheet software product in the West and formed a United States marketing organization—Baltic American Software Co. in Boston; a giant Latvian telecommunications organization established its first productivity-based personnel program—including performance and merit raises—developed by Gardner Yenawine, a human resources consultant who participated in the project; Tim Riley from BBN Advanced Computer Systems took managers from one of the government-controlled trading groups on their first-ever visit with customers in Riga, Latvia. To the surprise of the managers, their customers identified several new money-making opportunities; David Rich, another marketing executive, helped a Latvian retailer setup an importing business, focused on outdoors products, sporting goods, and compact discs.

Since returning home, most of the United States advisers have maintained regular contact with their associates in Latvia. By telephone, fax and mail they continue to share their knowledge and, in doing so, are establishing the kinds of lasting ties that will pay longlasting dividends to our country in the years ahead.

The Management Corps we proposed, which is included in the Russian aid bill, would provide funding to a private nonprofit organization to send American business professionals who donate their time inside enterprises in the Baltic States and the other Republics of the former Soviet Union. The organizations would seek additional funds from the private sector—from businesses, foundations and individuals.

Over time, the network created by the Management Corps could provide the infrastructure necessary to ensure that more of our government's financial aid actually reaches the people and businesses that need it most.

Moreover, we believe it could hasten the day when U.S. investment comes from individuals and corporations with significant economic ties and interests to the region, not just from overburdened taxpayers.

After the June 1991 pilot program, one participant wrote:

> "History has provided no greater opening for business to demonstrate how it can simultaneously improve the human condition and make money too."

That's a healthy blend of altruism and capitalism, which I think, is as uniquely American as the Management Corps.

Mr. HAMILTON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LANCASTER). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 164, not voting 36, as follows:

[Roll No. 462]

YEAS—232

Ackerman
Andrews (ME)
Andrews (TX)
Anthony
Atkins
Bacchus
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bliley
Boehlert
Boehner
Bonior
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Cardin
Carper
Clement
Clinger
Coleman (MO)
Cooper
Cox (IL)
Coyne
Cramer
de la Garza
Derrick
Dicks
Dingell
Downey
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Ford (MI)
Frank (MA)
Franks (CT)
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Hatcher
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lightfoot
Long
Lowery (CA)
Lowey (NY)
Luken
Manton
Markey
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (UT)
Oxley
Pallone
Panetta
Parker
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price
Ravenel
Regula
Rhodes
Richardson
Riggs
Roberts
Roe
Rose
Rostenkowski
Sawyer
Saxton
Schiff
Schroeder
Schulze
Schumer
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Solarz
Spratt
Stallings
Studds
Swett
Swift
Synar
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Unsoeld
Vento
Visclosky
Walker
Waxman
Weber
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Zeliff

NAYS—164

Abercrombie
Allard
Allen
Anderson
Andrews (NJ)
Applegate
Archer
Armey
AuCoin
Ballenger
Barton
Bevill
Bilirakis
Bunning
Burton
Callahan
Camp
Campbell (CO)
Carr
Chapman
Clay
Coble
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
DeFazio
DeLauro
DeLay
Dellums
Dickinson
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Early
English
Erdreich
Espy
Evans
Fields
Flake
Gallegly
Gaydos
Geren
Gillmor
Goodling
Goss
Hall (TX)
Hancock
Harris
Hastert
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jontz
Kanjorski
Kaptur
Kasich
Kleczka
Klug
Kyl
Lehman (CA)
Lewis (FL)
Lewis (GA)
Lloyd
Machtley
Marlenee
Martinez
McCandless
McEwen
Mfume
Miller (CA)
Moorhead
Murphy
Myers
Neal (MA)
Neal (NC)
Ortiz
Owens (NY)
Packard
Pastor
Patterson
Paxon
Payne (NJ)
Perkins
Petri
Poshard
Pursell
Quillen
Rahall
Ramstad
Rangel
Ray
Reed
Ridge
Ritter
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Schaefer
Sensenbrenner
Serrano
Shays
Shuster
Smith (OR)
Snowe
Solomon
Spence
Stark
Stearns
Stump
Sundquist
Tanner
Tauzin
Taylor (MS)
Towns
Traficant
Traxler
Upton
Valentine
Volkmer
Vucanovich
Walsh
Washington
Waters
Weldon
Wheat
Williams
Young (FL)
Zimmer

NOT VOTING—36

Alexander
Annunzio
Aspin
Baker
Barnard
Blackwell
Borski
Boxer
Chandler
Coleman (TX)
Coughlin
Davis
Dwyer
Dymally
Foglietta
Ford (TN)
Frost
Guarini
Hayes (LA)
Holloway
Huckaby
Ireland
Jefferson
Lipinski
Livingston
McCrery
Rinaldo
Roukema
Scheuer
Staggers
Stenholm
Stokes
Tallon
Thomas (GA)
Torricelli
Vander Jagt

□ 1841

Messrs. AUCOIN, WHEAT, DONNELLY, and ABERCROMBIE changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Indiana?

There was no objection.

DEPENDENCY AND INDEMNITY COMPENSATION REFORM ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5008) To amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI bill, and for other purposes, with Senate amendments thereto and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendments to the Senate amendments as follows:

Senate Amendments:

(1)Page 1, strike out all after line 2 over to and including line 18 on page 12 and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Survivors' Benefits Improvement Act of 1992".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. REVISION OF RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF VETERANS.

(a) DEATHS OF VETERANS BEFORE DECEMBER 1, 1992.—Subsection (a) of section 1311 is amended—

(1) by inserting "(1)" before "Dependency"; and

(2) by inserting at the end the following new paragraphs:

"(2) Subject to subsections (b) through (d) and except as provided in paragraph (3), dependency and indemnity compensation shall be paid to surviving spouses of veterans whose deaths occur before December 1, 1992, at the rates provided in paragraph (1).

"(3) Each surviving spouse referred to in paragraph (2) for whom the rate of dependency and indemnity compensation payable under subsection (e)(2) exceeds the rate of such compensation payable under paragraph (1) shall be paid dependency and indemnity compensation at the rate specified in subsection (e)(2).".

(b) Deaths On or After December 1, 1992.—Section 1311 is amended by adding at the end the following new subsections:

"(e)(1) Subject to subsections (b) through (d), the monthly rates of dependency and indemnity compensation payable for deaths occurring on or after December 1, 1992, shall be determined under this subsection.

"(2) Subject to paragraph (3), the monthly amount of dependency and indemnity compensation payable to the surviving spouse of a deceased veteran under this paragraph shall be the sum of $725 and the greater of—

"(A) an amount, if any, equal to—

"(i) in the case of a veteran having a disability rated as total (including a veteran so rated on the basis of the veteran's individual unemployability) for a total of ten or more years before the date of the veterans death, $200;

"(ii) in the case of a veteran having a disability so rated for a total of five years or more but less than ten years, $150;

"(iii) in the case of a veteran having a disability so rated for a total of one year or more but less than five years, $50; or

"(iv) in the case of a veteran having a disability so rated for less than one year, $0; or

"(B) an amount, if any, equal to—

"(i) in the case of a veteran who completed a period of active military, naval, or air service of thirty years or more, $100;

"(ii) in the case of a veteran who completed a period of such service of twenty years or more but less than thirty years, $70;

"(iii) in the case of a veteran who completed a period of such service of ten years or more but less than twenty years, $40; or

"(iv) in the case of a veteran who completed a period of such service of five years or more but less than ten years, $20.

"(3) In determining the period of a veteran's disability under subparagraph (A) of paragraph (2), only periods in which the veteran was married to the surviving spouse referred to in that paragraph shall be taken into account.

"(f) Dependency and indemnity compensation shall be paid to a surviving spouse for the first full calendar month following the death of a veteran in an amount that is the greater of—

"(1) 50 percent of the amount of compensation under chapter 11 of this title which the veteran received or was entitled to receive for the last full month prior to the date of the veteran's death; and

"(2) the amount payable in the case of such veteran pursuant to subsection (e)(2).".

(c) Additional DIC for Children.—(1) Section 1311(b) is amended by striking out "$71 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child during each fiscal year thereafter".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1992.

(d) Payment for Implementation of Revisions.—(1) Subject to paragraph (2), the costs of implementing, during fiscal year 1993, any revisions in the payment of dependency and indemnity compensation to surviving spouses under section 1311 of title 38, United States Code that result from the amendments made by subsections (a) and (b) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(2) The amount paid under paragraph (1) in fiscal year 1993 from amounts available to the Department of Veterans Affairs for the payment of compensation and pension may not exceed $5,000,000.

SEC. 3. STUDY AND REPORT RELATING TO THE PROVISION OF BENEFITS TO SURVIVORS OF VETERANS AND MEMBERS OF THE ARMED FORCES.

(a) In General.—In accordance with the provisions of this section, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the report on the study and recommendations of the Commission on the Study of Survivor Benefits with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors.

(b) Commission.—(1) There is established a commission to be known as the "Commission on the Study of Survivor Benefits" (in this section referred to as the "Commission").

(2) The Commission shall be composed of 7 members of whom—

(A) one shall be an appropriate representative of the Department of Veterans Affairs, determined and appointed by the Secretary of Veterans Affairs;

(B) one shall be appropriate representative of the Department of Defense, determined and appointed by the Secretary of Defense;

(C) one shall be a representative of a veterans service organization recognized by the Secretary of Veterans Affairs under section 5902 of title 38, United States Code;

(D) one shall be a representative of an organization that represents surviving spouses; and

(E) three shall be experts (as determined by the Secretary of Veterans Affairs) on matters relating to survivor benefits who are not affiliated with the departments or organizations referred to in subparagraphs (A) through (D).

(3) The chairperson of the Commission shall be chosen by the members of the Commission from among the three experts referred to in paragraph (2)(E).

(4) The Commission shall hold its first meeting not later than 60 days after the date of the enactment of this Act.

(c) Duties of Commission.—(1) The Commission shall—

(A) evaluate the data and studies assembled by the National Academy of Sciences (or other entity) under subparagraphs (A) and (B) of subsection (d)(1) in light of the methods of analysis proposed by the National Academy of Sciences (or other entity) under subparagraph (C) of that subsection;

(B) based upon that evaluation, determine the adequacy of current and anticipated survivor benefits to meet the financial, health-care, educational, and other needs of the survivors who are provided such benefits; and

(C) submit to the Secretary of Veterans Affairs a report containing the recommendations of the Commission on the most appropriate combination of financial, health-care, educational, and other benefits to meet the current and anticipated needs of survivors.

(2) The Commission shall submit the report required under paragraph (1)(C) not later than December 1, 1993.

(d) Study and Report of Provision of Benefits.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into an agreement with the National Academy of Sciences (or other entity determined by the Secretary to have an expertise and objectivity that is similar to that of the National Academy of Sciences) pursuant to which agreement the National Academy of Sciences (or other entity) shall carry out and submit to the Chairperson of the Commission the study described by paragraph (2).

(2) The study required under paragraph (1) shall include the following:

(A) A review and compilation of data on current and proposed survivor benefits programs that will permit an assessment of the adequacy of such benefits programs, including information on—

(i) in the case of each current and proposed alternative survivor benefits program—

(I) each benefit provided;

(II) the survivors entitled to the benefit;

(III) the extent to which survivors are entitled to similar benefits under the program; and

(IV) the costs of providing such benefits under the program;

(ii) the extent to which current and anticipated benefits under current survivor benefits programs meet the current and anticipated financial, health-care, educational, and other needs of survivors; and

(iii) the differences, if any, in the survivor benefits provided under current and proposed survivor benefits programs to survivors of various categories of veterans and members of the Armed Forces (including survivors of veterans having service-connected disabilities, veterans without such disabilities, members of the Armed Forces who die during service in the Armed Forces, retired career members of the Armed Forces, and retired non-career members of the Armed Forces).

(B) A review and compilation of existing studies on the adequacy of survivor benefits provided under current and proposed survivor benefits programs to meet the financial, health-care, educational, and other needs of survivors.

(C) Recommendations relating to the data required for, and the methods of analysis appropriate to carry out, a comprehensive assessment and evaluation of the adequacy of current and proposed survivor benefits programs, including data and methods for an assessment and evaluation of—

(i) the feasibility and desirability of limiting the period of entitlement of survivors to survivor benefits;

(ii) the feasibility and desirability of modifying the provision of monetary benefits to survivors by—

(I) revising the term of payment of any such benefits;

(II) replacing the periodic payment of such benefits with a lump sum payment;

(III) providing such benefits through insurance or other premium-based payment mechanisms; or

(IV) carrying out any other revision or modification proposed before the date of the enactment of this Act by the Secretary of Veterans Affairs, the Secretary of Defense, the Secretary of Health and Human Services, or organizations recognized by the Secretary of Veterans Affairs under section 5902(a)(1) of title 38, United States Code;

(iii) the feasibility and desirability of modifying the provision of health-care benefits to survivors;

(iv) the feasibility and desirability of modifying the provision of benefits to children survivors; and

(v) the feasibility and desirability of consolidating, expanding, or otherwise modifying any program relating to the provision of survivor benefits.

(3) Not later than October 1, 1993, the National Academy of Sciences (or other entity) shall submit to the Chairperson of the Commission a report on the study required under paragraph (2). The report shall contain the matters described in that paragraph and any other mat-

ters with respect to survivor benefits that the National Academy of Sciences determines appropriate.

(e) Report of the Secretary of Veterans Affairs.—(1) Not later than March 1, 1994, the Secretary of Veterans Affairs shall submit to the committees referred to in subsection (a) a report on the report submitted to the Secretary by the Commission under subsection (c). The report of the Secretary shall include the following:

(A) The report submitted to the Secretary by the Commission, together with the comments of the Secretary thereon.

(B) The recommendations of the Secretary (including a proposal for legislation) on the most appropriate combination of survivor benefits to meet the current and anticipated financial, health-care, educational, and other needs of survivors.

(C) The comments and recommendations of the Secretary on such other matters relating to survivor benefits as the Secretary determines appropriate.

(2) In preparing the report required under this subsection, the Secretary shall permit at least one opportunity for meaningful public comment on the matters covered by the report.

(f) Preservation of Confidentiality.—To the maximum extent practicable, the Secretary of Veterans Affairs shall ensure that the study carried out by the National Academy of Sciences (or other entity) under subsection (c), the report submitted by the Commission under subsection (d), and the report submitted by the Secretary under subsection (e) are carried out and submitted in a manner that is consistent with the privacy rights and interests of the survivors covered by such study and reports.

(g) Funding.—The cost of carrying out the study required under subsection (c) and the report required under subsection (d) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(h) Definitions.—In this section:

(1) The term "survivor", in the case of a veteran or member of the Armed Forces who dies, means the surviving spouse or surviving dependent child of the veteran or member.

(2) The term "survivor benefit" means any monetary, health-care, educational, or other benefit paid, payable, or otherwise provided to survivors of veterans and survivors of members of the Armed Forces under the following:

(A) Laws administered by the Secretary of Veterans Affairs.

(B) Laws administered by the Secretary of Defense.

(C) The Social Security Act (42 U.S.C. 301 et seq.).

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

SEC. 4. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) In General.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $20,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No wavier of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 5. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) Increase.—Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

(b) Technical Amendment.—The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 2106 and inserting in lieu thereof the following:

"2106. Veterans' Mortgage Life Insurance.".

SEC. 6. REDUCTION IN PENSION FOR VETERANS AND VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) Reduction in Pension.—Paragraph (2) of section 5503(f) is amended to read as follows:

"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.

"(B) A person referred to in subparagraph (A) is a person—

"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and

"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".

(b) Conforming Amendments.—Section 5503(f) is amended—

(1) in paragraph (3)—

(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and

(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph"; and

(2) in paragraph (4)—

(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";

(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and

(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1992, and apply with respect to months after June 1992.

(d) Deletion of Expiration Date.—Section 5503(f) is amended by striking out paragraph (6).

SEC. 7. PERMANENT AUTHORITY TO CARRY OUT INCOME VERIFICATION.

(a) Title 38.—Section 5317 is amended by striking out subsection (g).

(b) Internal Revenue Code of 1986.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking out the second sentence of the flush material.

(c) Technical Amendments.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (II), by striking out "415" and inserting in lieu thereof "1315"; and

(2) in subclause (III), by striking out "610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)" and inserting in lieu thereof "1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)".

(2) Page 12, line 19, strike out **[304]** and insert: **8**

Amend the title so as to read: "An Act to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service disabled veterans' insurance for totally disabled veterans, and for other purposes.".

House amendments to the Senate amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate numbered 1, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Veterans' Benefits Act of 1992".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—REFORM OF THE DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

Sec. 101. Short title.
Sec. 102. Reform in payment formula.
Sec. 103. Exception to operation of OBRA provision.
Sec. 104. GAO report relating to the provision of benefits to survivors of veterans and members of the Armed Forces.

TITLE II—LIFE INSURANCE PROGRAMS

Sec. 201. Servicemen's Group Life Insurance.
Sec. 202. Veterans' Group Life Insurance.
Sec. 203. Supplemental Service Disabled Veterans' insurance for totally disabled veterans.
Sec. 204. Increase in amount of veterans' mortgage life insurance.
Sec. 205. Effective date.

TITLE III—EDUCATIONAL ASSISTANCE PROGRAMS

Sec. 301. Increase in amount of Montgomery GI Bill basic educational assistance.
Sec. 302. Montgomery GI Bill entitlement dates.
Sec. 303. Extension of period for completing requirements for secondary school diploma.
Sec. 304. Treatment of certain active-duty service toward eligibility for educational assistance.
Sec. 305. Treatment of certain assignments of individuals for purposes of eligibility under Montgomery GI Bill program.
Sec. 306. Treatment of pursuit of education at service academies and certain educational institutions for purposes of eligibility under Montgomery GI Bill program.
Sec. 307. Educational assistance for certain persons whose initial period of obligated service was less than three years.

Sec. 308. Death benefit.

Sec. 309. Clarification of opportunity to withdraw election not to enroll in Montgomery GI Bill program.

Sec. 310. Use of educational assistance for solo flight training.

Sec. 311. Limitation on amount of advance payment of work-study allowance.

Sec. 312. Revision of requirements relating to approval of accredited courses.

Sec. 313. Disapproval of nonaccredited independent study.

Sec. 314. Treatment of advance payments of certain assistance to veterans who die.

Sec. 315. Bar of assistance for persons whose education is paid for as Federal employee training.

Sec. 316. Revision in measurement of courses.

Sec. 317. Clarification of permitted changes in programs of education.

Sec. 318. Authority of members of Selected Reserve to receive tutorial assistance.

Sec. 319. Requirement of attendance certification in apprenticeship program under the Montgomery GI Bill Selected Reserve program.

Sec. 320. Technical amendments.

TITLE IV—VOCATIONAL REHABILITATION AND PENSION PROGRAMS

Sec. 401. Permanent authority for program of vocational rehabilitation for certain service-disabled veterans.

Sec. 402. Extension of program of vocational training for certain pension recipients.

Sec. 403. Permanent authority for protection of health care eligibility for certain pension recipients.

Sec. 404. Vocational rehabilitation for certain service-disabled veterans with serious employment handicaps.

Sec. 405. Increase in subsistence allowance for veterans participating in a rehabilitation program.

TITLE V—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VETERANS

Sec. 501. Improvement of disabled veterans' outreach program.

Sec. 502. Repeal of delimiting date relating to treatment of veterans of the Vietnam Era for disabled veterans' outreach program purposes.

Sec. 503. Disabled veterans' outreach program priorities.

Sec. 504. Repeal of requirement that to be represented on advisory committee on veterans employment and training a veterans organization must have a Federal charter.

Sec. 505. Expansion and extension of veterans readjustment appointments with the Federal Government.

Sec. 506. Redesignation of sections of chapter 43.

TITLE VI—OTHER VETERANS' PROGRAMS

Sec. 601. Extension of limitation on pension for veterans receiving medicaid-covered nursing home care; applicability to surviving spouses; and facility expenses.

Sec. 602. Extension of authority to carry out income verification.

Sec. 603. Access to information necessary for the administration of certain veterans benefits laws.

Sec. 604. Extension of expiring cost-recovery authority.

Sec. 605. Exclusion for low-income veterans from medication copayment requirement.

Sec. 606. Extension of copayment programs.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REFORM OF THE DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the "Dependency and Indemnity Compensation Reform Act of 1992".

SEC. 102. REFORM IN PAYMENT FORMULA.

(a) SURVIVING SPOUSE BASIC RATE.—Subsection (a) of section 1311 is amended by striking out the matter preceding the table and inserting in lieu thereof the following:

"(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of $750.

"(2) The rate under paragraph (1) shall be increased by $165 in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran's disability for purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

"(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):".

(b) ADDITIONAL RATE FOR SURVIVING SPOUSE WITH MINOR CHILDREN.—Subsection (b) of such section is amended by striking out "$71 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child thereafter".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

(d) PAYMENT FOR IMPLEMENTATION OF REVISIONS.—The costs of implementing, during fiscal years 1993 and 1994, any revisions in the payment of dependency and indemnity compensation to surviving spouses under section 1311 of title 38, United States Code, that result from the amendments made by subsections (a) and (b) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

SEC. 103. EXCEPTION TO OPERATION OF OBRA PROVISION.

(a) EXCEPTION.—The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (105 Stat. 424) shall not apply to any case in which a legal proceeding to terminate an existing marital relationship was commenced before November 1, 1990, by an individual described in subsection (b) if that proceeding directly resulted in the termination of such marriage.

(b) COVERED INDIVIDUALS.—An individual referred to in subsection (a) is an individual who, but for the marital relationship referred to in subsection (a), would be considered to be the surviving spouse of a veteran.

SEC. 104. GAO REPORT RELATING TO THE PROVISION OF BENEFITS TO SURVIVORS OF VETERANS AND MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors of veterans.

(b) CONTENTS OF REPORT.—The report shall include the following:

(1) A review and compilation of data on current and proposed survivor benefits programs that will permit an assessment of the adequacy of such benefits programs, including information on—

(A) in the case of each current and proposed alternative survivor benefits program—

(i) each benefit provided;

(ii) the survivors entitled to the benefit;

(iii) the extent to which survivors are entitled to similar benefits under the program; and

(iv) the costs of providing such benefits under the program;

(B) the extent to which current and anticipated benefits under current survivor benefits programs meet the current and anticipated financial, health-care, educational, and other needs of survivors; and

(C) the differences, if any, in the survivor benefits provided under current and proposed survivor benefits programs to survivors of various categories of veterans and members of the Armed Forces (including survivors of veterans having service-connected disabilities, veterans without such disabilities, members of the Armed Forces who die during service in the Armed Forces, members of the Armed Forces retired under any provision of law other than chapter 61 of title 10, United States Code, and members of the Armed Forces retired under chapter 61 of title 10, United States Code (relating to retirement or separation for physical disability)).

(2) A review and compilation of existing studies on the adequacy of survivor benefits provided under current and proposed survivor benefits programs to meet the financial, health-care, educational, and other needs of survivors.

(3) A comprehensive assessment and evaluation of the adequacy of current and proposed survivor benefits programs, including data and methods for an assessment and evaluation of—

(A) the feasibility and desirability of limiting the period of entitlement of survivors to survivor benefits;

(B) the feasibility and desirability of modifying the provision of monetary benefits to survivors by—

(i) revising the term of payment of any such benefits;

(ii) replacing the periodic payment of such benefits with a lump sum payment;

(iii) providing such benefits through insurance or other premium-based payment mechanisms; or

(iv) carrying out any other revision or modification proposed before the date of the enactment of this Act by the Secretary of Veterans Affairs, the Secretary of Defense, the Secretary of Health and Human Services, or organizations recognized by the Secretary of Veterans Affairs under section 5902(a)(1) of title 38, United States Code;

(C) the feasibility and desirability of modifying the provision of health-care benefits to survivors;

(D) the feasibility and desirability of modifying the provision of benefits to children survivors; and

(E) the feasibility and desirability of consolidating, expanding, or otherwise modifying any program relating to the provision of survivor benefits.

(4) The recommendations of the Comptroller General (including a proposal for legislation) on the most appropriate combination of survivor benefits to meet the current and anticipated financial, health-care, educational, and other needs of survivors.

(c) SUBMISSION OF REPORT.—The Comptroller General shall submit the report not later than April 1, 1994.

(d) DEFINITIONS.—In this section:

(1) The term "survivor", in the case of a veteran or member of the Armed Forces who dies, means the surviving spouse or surviving dependent child of the veteran or member.

(2) The term "survivor benefit" means any monetary, health-care, educational, or other benefit paid, payable, or otherwise provided to survivors of veterans and survivors of members of the Armed Forces under the following:

(A) Laws administered by the Secretary of Veterans Affairs.

(B) Laws administered by the Secretary of Defense.

(C) The Social Security Act (42 U.S.C. 301 et seq.).

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

TITLE II—LIFE INSURANCE PROGRAMS

SEC. 201. SERVICEMEN'S GROUP LIFE INSURANCE.

Section 1967 is amended by adding at the end thereof the following:

"(e) In addition to the amounts of insurance otherwise provided under this section, an eligible member may, upon application, obtain increased coverage beyond that provided under this section in the amount of $100,000, or any lesser amount evenly divisible by $10,000.".

SEC. 202. VETERANS' GROUP LIFE INSURANCE.

Section 1977 is amended—

(1) in subsection (a)—

(A) by inserting "and (e)" after "1967(a) and after "1967(b)";

(B) by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(C) by striking out "sixty days" and inserting in lieu thereof "60 days";

(D) by striking out "sixty-day period" and inserting in lieu thereof "60-day period"; and

(E) by striking out "of this section" after "subsection (e)";

(2) in subsection (b)(2), by striking out "nonrenewable" and inserting in lieu thereof "renewable"; and

(3) in subsection (h)(2), by striking out "Notwithstanding subsection (b)(2) of this section" and inserting in lieu thereof "In accordance with subsection (b)".

SEC. 203. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $20,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title, whichever is later.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No waiver of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 204. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) INCREASE.—Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

(b) TECHNICAL AMENDMENT.—The item relating to section 2106 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"2106. Veterans' mortgage life insurance.".

SEC. 205. EFFECTIVE DATE.

The amendments made by this title shall take effect on December 1, 1992.

TITLE III—EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 301. INCREASE IN AMOUNT OF MONTGOMERY GI BILL BASIC EDUCATIONAL ASSISTANCE.

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 3015 is amended—

(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$400"; and

(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$325".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking out "$140" and inserting in lieu thereof "$190";

(2) in subparagraph (B), by striking out "$105" and inserting in lieu thereof "$143"; and

(3) in subparagraph (C), by striking out "$70" and inserting in lieu thereof "$95".

(c) CONFORMING AMENDMENTS TO CHAPTER 30.—Section 3015(f) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1) and in that paragraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section"; and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(d) CONFORMING AMENDMENTS TO SELECTED RESERVE PROGRAM.—Section 2131(b)(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)"; and

(3) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(e) EFFECTIVE DATE AND RULE OF CONSTRUCTION.—(1) The amendments made by this section shall take effect on April 1, 1993.

(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms "Montgomery GI bill rate increase" and "title III benefit" have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (105 Stat. 99).

SEC. 302. MONTGOMERY GI BILL ENTITLEMENT DATES.

(a) CHANGE IN DATES.—Chapter 30 is amended—

(1) in section 3011(a)(1)(B), by striking out "on October 19, 1984," and all that follows through "and—" and inserting in lieu thereof "at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—";

(2) in section 3012(a)(1)(B), by striking out "on October 19, 1984," and all that follows through "and—" and inserting in lieu thereof "at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—"; and

(3) in section 3031(e), by striking out "October 18, 1984" and inserting in lieu thereof "June 30, 1985".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 28, 1986.

SEC. 303. EXTENSION OF PERIOD FOR COMPLETING REQUIREMENTS FOR SECONDARY SCHOOL DIPLOMA.

(a) IN GENERAL.—(1) Section 3011 is amended—

(A) in subsection (a)(2), by inserting ", except as provided in subsection (e) of this section," after "who"; and

(B) by adding at the end thereof the following new subsection:

"(e) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 24-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.".

(2) Section 3012 is amended—

(A) in subsection (a)(2), by inserting "except as provided in subsection (f) of this section," after "who,"; and

(B) by adding at the end thereof the following new subsection:

"(f) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 24-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.".

(b) Notification Requirement.—Not later than 60 days after the date of enactment of this Act, the Secretary of each of the military departments shall notify each individual who was on active duty in the Armed Forces on August 2, 1990, and who has not met the requirements of a secondary school diploma (or equivalency certificate), of the extension of the period for the completion of such requirements afforded by the amendments made by this section.

SEC. 304. TREATMENT OF CERTAIN ACTIVE-DUTY SERVICE TOWARD ELIGIBILITY FOR EDUCATIONAL ASSISTANCE.

(a) Treatment of Service.—Section 3011 (as amended by section 303) is further amended by adding at the end the following new subsection:

"(f)(1) For the purposes of this chapter, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in that paragraph.

"(2) This subsection applies to a member who—

"(A) after a period of continuous active duty of not more than 12 months, is discharged or released from active duty under subclause (I) or (III) of subsection (a)(1)(A)(ii) of this section; and

"(B) after such discharge or release, reenlists or re-enters on a period of active duty.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

SEC. 305. TREATMENT OF CERTAIN ASSIGNMENTS OF INDIVIDUALS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.

(a) Treatment.—Section 3011 (as amended by sections 303 and 304) is further amended by adding at the end the following new subsection:

"(g) Notwithstanding section 3002(6)(A) of this title, a period during which an individual is assigned full time by the Armed Forces to a civilian institution for a course of education as described in such section 3002(6)(A) shall not be considered a break in service or a break in a continuous period of active duty of the individual for the purposes of this chapter.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if enacted on October 19, 1984.

SEC. 306. TREATMENT OF PURSUIT OF EDUCATION AT SERVICE ACADEMIES AND CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.

(a) Active Duty.—Section 3011 (as amended by sections 303, 304, and 305) is further amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding section 3002(6)(B) of this title, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in subparagraphs (A) and (C) of that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in such subparagraphs.

"(2) This subsection applies to a member who—

"(A) during an initial period of active duty, commences pursuit of a course of education—

"(i) at a service academy; or

"(ii) at a post-secondary school for the purpose of preparation for enrollment at a service academy;

"(B) fails to complete the course of education; and

"(C) re-enters on a period of active duty.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

SEC. 307. EDUCATIONAL ASSISTANCE FOR CERTAIN PERSONS WHOSE INITIAL PERIOD OF OBLIGATED SERVICE WAS LESS THAN THREE YEARS.

(a) Educational Assistance.—Section 3015 (as amended by section 301) is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) in subsection (d) (as so redesignated), by striking out "(a) and (b)" and inserting in lieu thereof "(a), (b), and (c)"; and

(3) by inserting after subsection (b) the following new subsection (c):

"(c)(1) The amount of basic educational allowance payable under this chapter to an individual referred to in paragraph (2) of this subsection is the amount determined under subsection (a) of this section.

"(2) Paragraph (1) of this subsection applies to an individual entitled to an educational assistance allowance under section 3011 of this title—

"(A) whose initial obligated period of active duty is less than three years;

"(B) who, beginning on the date of the commencement of the person's initial obligated period of such duty, serves a continuous period of active duty of not less than three years; and

"(C) who, after the completion of that continuous period of active duty, meets one of the conditions set forth in subsection (a)(3) of such section 3011.".

(b) Conforming Amendments.—Such section 3015 (as so amended) is further amended—

(1) in subsection (a), by striking out "and (f)" and inserting in lieu thereof "(f), and (g)"; and

(2) in subsection (b), by striking out "and (f)" and inserting in lieu thereof "(f), and (g)".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after September 1, 1993.

SEC. 308. DEATH BENEFIT.

Section 3017(a)(1)(B) is amended by inserting before the comma "or within one year after discharge or release from active duty".

SEC. 309. CLARIFICATION OF OPPORTUNITY TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL PROGRAM.

(a) Clarification.—Section 3018(b)(3)(B) is amended—

(1) by striking out "or (iii)" and inserting in lieu thereof "(iii)"; and

(2) by adding before the semicolon at the end the following: ", or (iv) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy)".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if enacted on December 1, 1988.

SEC. 310. USE OF EDUCATIONAL ASSISTANCE FOR SOLO FLIGHT TRAINING.

(a) Active-Duty Program.—Section 3032(f) is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training.".

(b) Selected Reserve Program.—Section 2131(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training.".

(c) Post-Vietnam Era Veterans' Educational Assistance Program.—Section 3231(f) is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training.".

(d) Effective Date.—The amendments made by this section shall apply to flight training received under chapters 30 and 32 of title 38, United States Code, and chapter 106 of title 10, United States Code, after September 30, 1992.

SEC. 311. LIMITATION ON AMOUNT OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.

Section 3485(a)(1) is amended in the third sentence—

(1) by striking out "40 per centum" and inserting in lieu thereof "40 percent"; and

(2) by inserting "(but not more than an amount equal to 50 times the applicable hourly minimum wage)" before the period at the end.

SEC. 312. REVISION OF REQUIREMENTS RELATING TO APPROVAL OF ACCREDITED COURSES.

(a) REVISION OF REQUIREMENTS.—Subsection (a) of section 3675 is amended—

(1) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by striking out the matter below subparagraph (C) (as so redesignated) and inserting in lieu thereof the following new paragraphs:

"(2)(A) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which that Secretary determines to be reliable authority as to the quality of training offered by an educational institution.

"(B) A State approving agency may utilize the accreditation of any accrediting association or agency listed pursuant to subparagraph (A) of this paragraph for approval of courses specifically accredited and approved by such accrediting association or agency.

"(3)(A) An educational institution shall submit an application for approval of courses to the appropriate State approving agency. In making application for approval, the institution (other than an elementary school or secondary school) shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the institution.

"(B) Each catalog or bulletin transmitted by an institution under subparagraph (A) of this paragraph shall—

"(i) state with specificity the requirements of the institution with respect to graduation;

"(ii) include the information required under paragraphs (6) and (7) of section 3676(b) of this title; and

"(iii) include any attendance standards of the institution, if the institution has and enforces such standards.".

(b) APPROVAL OF NURSES AIDE COURSES.—Subsection (a)(1) of such section (as amended by subsection (a)) is further amended—

(1) in subparagraph (B), by striking out "sections 11-28 of title 20; or" and inserting in lieu thereof "the Act of February 23, 1917 (20 U.S.C. 11 et seq);";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph (D):

"(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).".

SEC. 313. DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.

(a) DISAPPROVAL.—(1) Section 3676 is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study.".

(2) Subchapter I of chapter 36 is amended by inserting after section 3680 the following new section:

"§3680A. Disapproval of enrollment in certain courses

"(a) The Secretary shall not approve the enrollment of an eligible veteran in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

"(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

"(4) any independent study program except an accredited independent study program leading to a standard college degree.

"(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

"(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

"(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

"(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2) of this title;

"(B) in a farm cooperative training course; or

"(C) in a course described in section 3689(b)(6) of this title.".

(3)(A) Chapter 34 is amended by repealing section 3473.

(B) The table of sections at the beginning of chapter 34 is amended by striking out the item relating to section 3473.

(4) Section 3034 is amended—

(A) in subsection (a)(1), by striking out "3473,"; and

(B) in subsection (d)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(5) Section 3241 is amended—

(A) by striking out "3473," both places it appears; and

(B) in subsection (b)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(6) Section 2136(c)(1) of title 10, United States Code, is amended by striking out "1673(b)" and inserting in lieu thereof "3680A(b)".

(7) Section 3523(a)(4) is amended by striking out "one" and all that follows and inserting in lieu thereof "an accredited independent study program leading to a standard college degree.".

(8) The table of sections at the beginning of chapter 36 is amended by inserting after the item relating to section 3680 the following new item:

"3680A. Disapproval of enrollment in certain courses.".

(b) SAVINGS PROVISION.—The amendments made by paragraphs (2) through (6) of subsection (a) of this section shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under title 38, United States Code, or title 10, United States Code, in effect on that date.

SEC. 314. TREATMENT OF ADVANCE PAYMENTS OF CERTAIN ASSISTANCE TO VETERANS WHO DIE.

(a) TREATMENT.—Section 3680(e) is amended—

(1) by striking out "(e) If" and inserting in lieu thereof "(e)(1) Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to the recovery of an overpayment of an educational allowance or subsistence allowance advance payment to an eligible veteran or eligible person who fails to enroll in or pursue a course of education for which the payment is made if such failure is due to the death of the veteran or person.".

(b) TECHNICAL AMENDMENT.—Section 3680(e)(1) (as amended by subsection (a)) is further amended by striking out "eligible person," and inserting in lieu thereof "eligible person".

SEC. 315. BAR OF ASSISTANCE FOR PERSONS WHOSE EDUCATION IS PAID FOR AS FEDERAL EMPLOYEE TRAINING.

Section 3681(a) is amended by striking out "and whose full salary is being paid to such person while so training".

SEC. 316. REVISION IN MEASUREMENT OF COURSES.

(a) IN GENERAL.—Section 3688 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking out "thirty hours" and all that follows through "full time" and inserting in lieu thereof "22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours of rest periods per week allowed";

(B) in paragraph (2), by striking out "twenty-five hours" and all that follows through "full time" and inserting in lieu thereof "18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed 10 minutes between hours of instruction) is required";

(C) in paragraph (4)—

(i) by striking out "in residence"; and

(ii) by inserting ", other than a course pursued as part of a program of education beyond the baccalaureate level," after "semester-hour basis";

(D) in paragraph (6), by striking out "3491(a)(2)" and inserting in lieu thereof "3034(a)(3), 3241(a)(2) or 3533(a)"; and

(E) by striking out paragraph (7) and all that follows to the end of the subsection and inserting in lieu thereof the following:

"(7) an institutional course not leading to a standard college degree offered by an educational institution on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided in paragraph (4) of this subsection, but if the educational institution offering the course is not an institution of higher learning, then in no event shall such course be considered full time when it requires less than the minimum weekly hours of attendance required for full time by paragraph (1) or (2) of this subsection, as appropriate.";

(2) in subsection (b), by striking out "34" and inserting in lieu thereof "30, 32,"; and

(3) by striking out subsections (c), (d), and (e).

(b) INDEPENDENT STUDY.—Section 3532(c) is amended by striking out paragraphs (3) and (4).

(c) EFFECTIVE DATE.—The amendments made by this section apply to enrollments in courses beginning on or after July 1, 1993.

SEC. 317. CLARIFICATION OF PERMITTED CHANGES IN PROGRAMS OF EDUCATION.

Subsection (d) of section 3691 is amended to read as follows:

"(d) For the purposes of this section, the term 'change of program of education' shall not be deemed to include a change by a veteran or eligible person from the pursuit of one program to the pursuit of another program if—

"(1) the veteran or eligible person has successfully completed the former program;

"(2) the program leads to a vocational, educational, or professional objective in the same general field as the former program;

"(3) the former program is a prerequisite to, or generally required for, pursuit of the subsequent program; or

"(4) in the case of a change from the pursuit of a subsequent program to the pursuit of a former program, the veteran or eligible person resumes pursuit of the former program without loss of credit or standing in the former program.".

SEC. 318. AUTHORITY OF MEMBERS OF SELECTED RESERVE TO RECEIVE TUTORIAL ASSISTANCE.

Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h)(1)(A) Subject to subparagraph (B), the Secretary of Veterans Affairs shall approve individualized tutorial assistance for any person entitled to educational assistance under this chapter who—

"(i) is enrolled in and pursuing a post-secondary course of education on a half-time or more basis at an educational institution; and

"(ii) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, the program of education.

"(B) The Secretary of Veterans Affairs shall not approve individualized tutorial assistance for a person pursuing a program of education under this paragraph unless such assistance is necessary for the person to successfully complete the program of education.

"(2)(A) Subject to subparagraph (B), the Secretary concerned, through the Secretary of Veterans Affairs, shall pay to a person receiving individualized tutorial assistance pursuant to paragraph (1) a tutorial assistance allowance. The amount of the allowance payable under this paragraph may not exceed $100 for any month, nor aggregate more than $1,200. The amount of the allowance paid under this paragraph shall be in addition to the amount of educational assistance allowance payable to a person under this chapter.

"(B) A tutorial assistance allowance may not be paid to a person under this paragraph until the educational institution at which the person is enrolled certifies that—

"(i) the individualized tutorial assistance is essential to correct a deficiency of the person in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

"(ii) the tutor chosen to perform such assistance is qualified to provide such assistance and is not the person's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

"(iii) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

"(3)(A) A person's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the person under this subsection in excess of $600.

"(B) A person's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the person is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.".

SEC. 319. REQUIREMENT OF ATTENDANCE CERTIFICATION IN APPRENTICESHIP PROGRAM UNDER THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

Section 2136(b) of title 10, United States Code, is amended by striking out "1780(c),".

SEC. 320. TECHNICAL AMENDMENTS.

(a) TITLE 10.—Chapter 106 of title 10, United States Code, is amended—

(1) in section 2131(c)—

(A) by striking out "section 1795 of title 38" in paragraph (2) and inserting in lieu thereof "section 3695 of title 38";

(B)) by striking out "of this subparagraph, his or her" in paragraph (3)(B)(ii) and inserting in lieu thereof ", the individual's"; and

(C) by striking out "of this paragraph." in paragraph (3)(C) and inserting in lieu thereof a period;

(2) in section 2133(b)—

(A) by striking out "section 1431(f) of title 38" in paragraph (2) and inserting in lieu thereof "section 3031(f) of title 38"; and

(B) by striking out "section 1431(d) of title 38" in paragraph (3) and inserting in lieu thereof "section 3031(d) of title 38"; and

(3) in section 2136 (as amended by section 319 of this Act), by striking out "sections 1670" in subsection (b) and all that follows through "1792)" and inserting in lieu thereof "sections 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692)".

TITLE IV—VOCATIONAL REHABILITATION AND PENSION PROGRAMS

SEC. 401. PERMANENT AUTHORITY FOR PROGRAM OF VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS.

(a) PROGRAM MADE PERMANENT.—(1) Subsection (a)(1) of section 1163 is amended by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,".

(2) Subsection (a)(2) of such section is amended to read as follows:

"(2) For purposes of this section, the term 'qualified veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.".

(b) COUNSELING SERVICES.—Subsection (b) of such section is amended by striking out "During the program period, the Secretary" and inserting in lieu thereof "The Secretary".

(c) NOTICE.—Subsection (c)(1) of such section is amended by striking out "during the program period" and all that follows through "(a)(2)(A)" and inserting in lieu thereof "after January 31, 1985, of a rating of total disability described in subsection (a)(2)".

(d) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings".

(2) The item relating to such section in the table of sections at the beginning of chapter 11 is amended to read as follows:

"1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings.".

SEC. 402. EXTENSION OF PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.

(a) EXTENSION OF PROGRAM.—Subsection (a)(1) of section 1524 is amended to read as follows:

"(a)(1) In the case of a veteran under age 45 who is awarded a pension during the program period, the Secretary shall, based on information on file with the Department of Veterans Affairs, make a preliminary finding whether such veteran, with the assistance of a vocational training program under this section, has a good potential for achieving employment. If such potential is found to exist, the Secretary shall solicit from the veteran an application for vocational training under this section. If the veteran thereafter applies for such training, the Secretary shall provide the veteran with an evaluation, which may include a personal interview, to determine whether the achievement of a vocational goal is reasonably feasible.".

(b) PROGRAM EXTENSION.—Section 1524(a) is further amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3) and in that paragraph striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

(c) Conforming Amendments.—(1) Section 1524(b)(4) is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1995".

(2)(A) The heading of such section is amended to read as follows:

"§1524. Vocational training for certain pension recipients".

(B) The item relating to such section in the table of sections at the beginning of chapter 15 is amended to read as follows:

"1524. Vocational training for certain pension recipients.".

SEC. 403. PERMANENT AUTHORITY FOR PROTECTION OF HEALTH CARE ELIGIBILITY FOR CERTAIN PENSION RECIPIENTS.

(a) Permanent Protection.—Section 1525 is amended—

(1) in subsection (a), by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) For purposes of this section, the term 'terminated by reason of income from work or training' means terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or with gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.".

(b) Clerical Amendments.—(1) The heading of such section is amended to read as follows:

"§1525. Protection of health care eligibility".

(2) The item relating to such section in the table of sections at the beginning of chapter 15 is amended to read as follows:

"1525. Protection of health-care eligibility.".

SEC. 404. VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS WITH SERIOUS EMPLOYMENT HANDICAPS.

(a) Vocational Rehabilitation.—Section 3102 is amended to read as follows:

"§3102. Basic entitlement

"A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—

"(1) the person—

"(A) is—

"(i) a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 20 percent or more under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; or

"(ii) hospitalized or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that—

"(I) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment is doing so under contract or agreement with the Secretary concerned, or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned; and

"(II) the person is suffering from a disability which will likely be compensable at a rate of 20 percent or more under chapter 11 of this title; and

"(B) is determined by the Secretary to be in need of rehabilitation because of an employment handicap; or

"(2) the person is a veteran who—

"(A) has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 10 percent under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; and

"(B) has a serious employment handicap.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1993.

SEC. 405. INCREASE IN SUBSISTENCE ALLOWANCE FOR VETERANS PARTICIPATING IN A REHABILITATION PROGRAM.

(a) Increase.—Section 3108(b) is amended by striking out the table at the end and inserting in lieu thereof the following new table:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$366	$454	$535	$39
Three-quarter-time	275	341	400	30
Half-time	184	228	268	20
Farm cooperative, apprentice, or other on-job training:				
Full-time	320	387	446	29
Extended evaluation:				
Full-time	366	454	535	39
Independent living training:				
Full-time	366	454	535	39
Three-quarter-time	275	341	400	30
Half-time	184	228	268	20".

(b) Cost-of-Living Increase.—Such section is further amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) With respect to the fiscal year beginning on October 1, 1994, the Secretary shall provide a percentage increase in the monthly rates payable under paragraph (1) of this subsection equal to the percentage by which the Consumer Price Index (all items, United States city average published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1994, exceeds such Consumer Price Index for the 12-month period ending June 30, 1993.

"(3) With respect to any fiscal year beginning on or after October 1, 1995, the Secretary shall continue to pay, in lieu of the rates payable under paragraph (1) of this subsection, the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1993.

TITLE V—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VETERANS

SEC. 501. IMPROVEMENT OF DISABLED VETERANS' OUTREACH PROGRAM.

Section 4103A(a)(1) is amended in the first sentence by striking out "specialist for each 5,300 veterans" and all that follows through the end of the sentence and inserting in lieu thereof "specialist for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans.".

SEC. 502. REPEAL OF DELIMITING DATE RELATING TO TREATMENT OF VETERANS OF THE VIETNAM ERA FOR DISABLED VETERANS' OUTREACH PROGRAM PURPOSES.

Section 4211(2) is amended—

(1) in subparagraph (A), by striking out "(A) Subject to subparagraph (B) of this paragraph, the term" and inserting in lieu thereof "The term"; and

(2) by striking out subparagraph (B).

SEC. 503. DISABLED VETERANS' OUTREACH PROGRAM PRIORITIES.

Subparagraph (A) of section 4103A(b)(1) is amended to read as follows:

"(A) Services to special disabled veterans.".

SEC. 504. REPEAL OF REQUIREMENT THAT TO BE REPRESENTED ON ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING A VETERANS ORGANIZATION MUST HAVE A FEDERAL CHARTER.

Section 4110(c)(1)(A) is amended by striking out "are chartered by Federal law and".

SEC. 505. EXPANSION AND EXTENSION OF VETERANS READJUSTMENT APPOINTMENTS WITH THE FEDERAL GOVERNMENT.

(a) Expansion to Include All Vietnam Era Veterans.—Section 4214(b)(2)(A) is amended to read as follows:

"(A) a veteran of the Vietnam era; and".

(b) Extension With Federal Government.—Section 4214(b)(3) of title 38, United States Code, is amended—

(1) in subparagraph (A)(ii), by striking out "December 31, 1993" and inserting in lieu thereof "December 31, 1995"; and

(2) in subparagraph (B)(ii), by striking out "December 18" and inserting in lieu thereof "December 31".

SEC. 506. REDESIGNATION OF SECTIONS OF CHAPTER 43.

(a) Redesignation of Sections To Conform To Chapter Number.—Sections 2021, 2022, 2023, 2024, 2025, 2026, and 2027 are redesignated as sections 4301, 4302, 4303, 4304, 4305, 4306, and 4307, respectively.

(b) TABLES OF SECTIONS.—The table of sections at the beginning of chapter 43 is revised so as to conform the section reference in the table to the redesignations made by subsection (a).

(c) CROSS REFERENCES.—(1) Section 4322 (as redesignated by subsection (a)) is amended—

(A) by striking out "2021(a)" and inserting in lieu thereof "4321(a)"; and

(B) by striking out "2024" and inserting in lieu thereof "4324".

(2) Section 4323 (as redesignated by subsection (a)) is amended by striking out "2021(a)" each place it appears and inserting in lieu thereof "4321(a)".

(3) Section 4324 (as redesignated by subsection (a)) is amended by striking out "2021(a)" each place it appears and inserting in lieu thereof "4321(a)".

(4) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "2023" and inserting in lieu thereof "4323".

(5) Section 706(c) of title 10, United States Code, is amended by striking out "2021" and inserting in lieu thereof "4321".

(6) Any reference in a provision of law to a section redesignated by subsection (a), other than a provision specified in paragraphs (1) through (5) of this subsection, shall be deemed to refer to the section as so redesignated.

(d) COORDINATION WITH OTHER ACT.—If the Uniformed Services Employment and Reemployment Rights Act of 1992 is enacted before this Act, this section, including the amendments made by this section, shall not take effect. If the Uniformed Services Employment and Reemployment Rights Act of 1992 is enacted after this Act, this section, and the amendments made by this section, shall be treated for all purposes as not having been enacted, and the provisions of title 38, United States Code, shall read as if those amendments had not been made.

TITLE VI—OTHER VETERANS' PROGRAMS

SEC. 601. EXTENSION OF LIMITATION ON PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE; APPLICABILITY TO SURVIVING SPOUSES; AND FACILITY EXPENSES.

(a) REDUCTION IN PENSION.—Section 5503(f) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraph (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child.".

(b) EXTENSION.—Such section is further amended by striking out "September 30, 1992" in paragraph (7) (as redesignated by subsection (a)(1)) and inserting in lieu thereof "September 30, 1997".

(c) FACILITY EXPENSES.—Section 5503(a)(1)(B) is amended by adding at the end thereof the following: "Effective through September 30, 1997, any amount in excess of $90 per month to which the veteran would be entitled but for the application of the preceding sentence shall be deposited in a revolving fund at the Department medical facility which furnished the veteran nursing care, and such amount shall be available for obligation without fiscal year limitation to help defray operating expenses of that facility.".

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall take effect on October 1, 1992, and shall apply with respect to months after September 1992. The amendment made by subsection (c) shall take effect on November 1, 1992, and shall apply with respect to months after October 1992.

SEC. 602. EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.

(a) TITLE 38.—Section 5317(g) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1997".

(b) INTERNAL REVENUE CODE OF 1986.—(1) Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 is amended by striking out "September 30, 1992" in the last sentence and inserting in lieu thereof "September 30, 1997".

(2) Clause (viii) of such subparagraph is amended—

(A) in subclause (II), by striking out "section 415" and inserting in lieu thereof "section 1315"; and

(B) in subclause (III), by striking out "section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)" and inserting in lieu thereof "sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)".

SEC. 603. ACCESS TO INFORMATION NECESSARY FOR THE ADMINISTRATION OF CERTAIN VETERAN BENEFITS LAWS.

(a) ACCESS.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

"(p)(1) Nothing in this title shall apply to the disclosure by the financial institution of the name and address of any customer to the Department of Veterans Affairs where the disclosure of such information is necessary to, and such information is used solely for the purposes of, the proper administration of benefits programs under laws administered by the Secretary.

"(2) Notwithstanding any other provision of law, any request authorized by paragraph (1) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing the customer's name and address to the Department of Veterans Affairs and shall be barred from redisclosure by the financial institution or its agents.".

(b) PRIVACY SAFEGUARDS.—(1) Chapter 53 is amended by adding at the end the following new section:

"§5319. Limitations on access to financial records

"(a) The Secretary may make a request referred to in section 1113(p) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(p)) only if the Secretary determines that the requested information—

"(1) is necessary in order for the Secretary to administer the provisions of law referred to in that section; and

"(2) cannot be secured by a reasonable search of records and information of the Department.

"(b) The Secretary shall include a certification of the determinations referred to in subsection (a) in each request presented to a financial institution.

"(c) Information disclosed pursuant to a request referred to in subsection (a) may be used solely for the purpose of the administration of benefits programs under laws administered by the Secretary if, except for the exemption in subsection (a), the disclosure of that information would otherwise be prohibited by any provision of the Right to Financial Privacy Act of 1978.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5319. Limitations on access to financial records.".

SEC. 604. EXTENSION OF EXPIRING COST-RECOVERY AUTHORITY.

Section 1729(a)(2)(E) is amended by striking out "October 1, 1993" and inserting in lieu thereof "August 1, 1994".

SEC. 605. EXCLUSION FOR LOW-INCOME VETERANS FROM MEDICATION COPAYMENT REQUIREMENT.

(a) EXCLUSION.—Section 1722A(a) is amended—

(1) by striking out "(other than" and all that follows through "or more"; and

(2) by adding at the the end the following:

"(3) Paragraph (1) does not apply—

"(A) to a veteran with a service-connected disability rated 50 percent or more; or

"(B) to a veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to medication furnished after the date of the enactment of this Act.

SEC. 606. EXTENSION OF COPAYMENT PROGRAMS.

(a) MEDICATION COPAYMENT REQUIREMENT.—Section 1722A(c) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the provisions of subsection (a) shall be in effect through September 30, 1997.".

(b) HEALTH-CARE CATEGORIES AND COPAYMENTS.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the amendments made by this section shall be in effect through September 30, 1997.".

In lieu of the matter in the amendment of the Senate numbered 2, insert: "Page 12, strike out line 19 and all that follows over to and including line 5 on page 13.".

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI Bill and make other improvements in veterans education programs, and to make other improvements in veterans life insurance, job training, and vocational rehabilitation programs, and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

Mr. STUMP. Mr. Speaker, reserving the right to object, I yield to the chairman of the committee for an explanation.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. STUMP. I yield to the chairman, the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, the amendments I am proposing represent a compromise on numerous provisions affecting a variety of veterans programs. It is a comprehensive package that has been worked out with our Veterans' Affairs colleagues in the other body.

There are several major items contained in this compromise, but there are two major pieces that I want to mention specifically. First, the compromise includes the long-awaited reform of the Dependency and Indemnity Compensation Program which seeks to restore equity among surviving spouses of veterans who die of service-connected causes. It would revise the payment of this benefit by instituting a basic rate of $750 as opposed to the current rank-based system which results in some 23 different rates.

The basis rate would be increased by an additional $165 per month in the case of a veteran who suffered from a service-connected total disability for a continuous period of at least 8 years.

In addition, the compromise would provide for increases in the additional amounts that are paid to surviving spouses with children from the current amount of $71 to $200 per month by fiscal year 1995.

Second, Mr. Speaker, the compromise would provide for a badly needed increase in the GI Bill Educational Assistance Program. It would raise the monthly education benefit for 3-year enlistees from its present rate of $350 to $400 per month. The proposed amendments would raise the maximum monthly benefit under the Reserve Program from its present rate of $170 to $190.

Also included is an increase in subsistence payments under the Vocational Rehabilitation Program. The monthly subsistence allowance for a disabled veteran with no dependents would increase to $336 from the current level of $333.

In addition, Mr. speaker, the compromise would make several improvements in the VA's insurance programs, including the Servicemen's Group Life Insurance Program, and numerous improvements in veterans employment programs.

Finally, I want to again assure my colleagues that the compromise package is budget neutral. It contains several cost-savings provisions that would more than offset the 5-year costs for all direct spending in the bill. There are many other important provisions contained in the proposed amendments. But in order to save time, I will not discuss them now.

I am certain the proposed amendments will be accepted by the other body.

Mr. Speaker, there follows a joint explanatory statement on the provisions of H.R. 5008, as amended.

I urge my colleagues to support H.R. 5008.

The joint explanatory statement follows:

JOINT EXPLANATORY STATEMENT ON H.R. 5008, THE PROPOSED "VETERANS' BENEFITS ACT OF 1992"

H.R. 5008, the proposed "Veterans Benefits' Act of 1992" reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House during the 102nd Congress. These are H.R. 5008 as passed by the House on August 10, 1992 (hereinafter referred to in connection with titles I, II, and VI referred to as the "House bill", and in connection with title III as "H.R. 5008"); H.R. 4342 as passed by the House on June 9, 1992 (hereinafter referred to as "H.R. 4342"); H.R. 5087 as passed by the House on August 10, 1992 (hereinafter referred to as "H.R. 5087"); S. 775 as passed by the Senate on November 20, 1991 (hereinafter referred to as "S. 775"); S. 2323 as passed on September 22, 1992, by the Senate as a substitute amendment for all of the text of H.R. 5008 except section 304, which was included in the Senate-passed bill (hereinafter referred to in connection with titles I, II, and VI as the "Senate amendment"); and S. 2647 as passed by the Senate as a substitute amendment to H.R. 5087 on September 25, 1992 (hereinafter referred to in connection with titles III, IV, and V as the "Senate amendment").

The Committees on Veterans' Affairs have prepared the following explanation of H.R. 5008 (hereinafter referred to as "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the bills noted above are noted in this document, except for clerical corrections and conforming changes made necessary by the compromise agreement and minor drafting, technical, and clarifying changes.

TITLE I—REFORM OF DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

REFORM IN PAYMENT FORMULA

Current law: Under section 1310 of title 38, United States Code, VA pays dependency and indemnity compensation (DIC) to surviving spouses of servicemembers or veterans who died from a disease or injury incurred or aggravated during military service.

Under section 1311(a) of title 38, the surviving spouse's basic compensation rate is determined by the deceased veteran's military pay grade (service rank). Under section 1311(b), compensation for surviving spouses with dependent children under 18 year of age is increased by $71 a month for each child.

House bill: Section 101(a) would, effective January 1, 1993, provide surviving spouses eligible for DIC with basic monthly compensation of $750. The basic rate would be increased by $50 for survivors of servicemembers who die on active duty and for survivors of a veteran who had a disability rated totally disabling for a continuous period of at least five years or continuously from the date of the veteran's discharge until the veteran's death.

Surviving spouses of veterans who died before January 1, 1993, would receive compensation under the current system or the new formula, whichever would provide the greater benefits.

Section 101(b) would increase the additional amount payable to a surviving spouse with dependent children of the deceased veteran from the current level of $71 a month for each child to $100 a month, beginning on December 1, 1993; to $150 a month, during FY 1994; and to $200 a month after FY 1994.

Senate amendment: Section 2(a) and (b) would, effective December 1, 1992, establish a basic monthly DIC rate of $725. Surviving spouses would be eligible for additional amounts of compensation based on either the length and severity of the veteran's disability or the length of the veteran's service, whichever factor would provide greater benefits.

Survivors of veterans rated 100-percent for at least one, but less than 5, years while married to the veteran would qualify for an additional $50 a month. The add-on would increase to $150 a month for a period of at least 5, but less than 10, years and to $200 for a period of 10 years or more. A rating of total disability based on "individual unemployability" under section 4.16 of title 38, Code of Federal Regulations, would qualify the survivor for benefits on the same basis as a 100-percent schedular rating.

The additional monthly DIC based on the length of the deceased veteran's military service would be $100 a month for 30 or more years of service; $70 for at least 20, but less than 30, years of service; $40 for at least 10, but less than 20, years; and $20 for at least 5, but less than 10, years.

Surviving spouses of veterans who died before December 1, 1993, would receive compensation under the current system or the new formula, whichever would provide greater benefits.

Section 2(b) also would, effective December 1, 1992, provide a special transitional rate of DIC for the month after the veteran's death equal to either 50 percent of the disability compensation paid to the deceased veteran for the last full month before the veteran's death or the amount of DIC calculated under the new DIC provisions, whichever is greater.

Section 2(c) would increase the additional amount payable to a surviving spouse with dependent children of the deceased veteran from the current level of $71 a month for each child to $100 a month, beginning on October 1, 1993; to $150 a month, during FY 1994; and to $200 a month after FY 1994.

Section 2(d) would provide for up to $5 million of the costs of implementing the DIC reform provisions of the Senate bill during FY 1993 to be paid from VA's Compensation and Pension account.

Compromise agreement: Section 102(a) would provide, effective January 1, 1993, a basic monthly DIC rate of $750, plus an additional amount of compensation for survivors of veterans rated totally disabled while married to the surviving spouse, including a rating based on individual unemployability. The add-on would be $165 a month for veterans so rated for a continuous period of at least 8 years immediately preceding the veteran's death.

Surviving spouses of veterans who die before January 1, 1993, would receive compensation under the current system or the new formula, whichever would provide greater benefits.

Section 102(b) would increase the additional amount payable to a surviving spouse with dependent children of the deceased veteran from the current level of $71 a month for each child to $100 a month, beginning on January 1, 1993; to $150 a month, during FY 1994; and to $200 a month thereafter.

Section 102(d) would provide for the costs of implementing the DIC reforms in FYs 1993 and 1994 to be paid from VA's Compensation and Pension account.

The Committees intend and expect that Congress will continue to provide annual cost-of-living adjustments, through separate annual legislation, in the DIC rates under the current system, and the basic-rate and the disability-based add-on contained in the compromise agreement. The Committees also intend and expect that Congress will provide annual COLAs in the additional compensation for surviving spouses with dependent children after the phased-in increases take full effect in FY 1995.

EXCEPTION TO OPERATION OF OBRA PROVISION

Current law: Under section 101(3) of title 38, the term "surviving spouse" is defined in such a way that an individual is no longer considered a surviving spouse upon remarriage and thus looses eligibility for veteran's survivors' benefits when he or she remarries. Prior to the enactment of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) (OBRA), remarried surviving spouses' VA benefits eligibility could be restored when the disqualifying remarriage ended, through divorce or the death of the subsequent spouse. Section 8004 of OBRA, the application of which was modified by section 502 of the Veteran's Benefits Programs Improvements Act of 1991 (Public Law 102-86), eliminated the restored eligibility for a survivor whose disqualifying remarriage terminated after October 31, 1990.

House bill: Section 102(a) would provide that amendments made by section 8004 of OBRA shall not apply to survivors' benefits to formerly remarried surviving spouses who, before November 1, 1990, had initiated legal proceedings to terminate their remarriage.

Senate amendment: No provision.

Compromise agreement: Section 103 follows the House provision.

GAO REPORT RELATING TO THE PROVISION OF BENEFITS TO SURVIVORS OF VETERANS AND MEMBERS OF THE ARMED FORCES

House bill: Section 102(b) would require VA to conduct a study, beginning within 90 days of enactment, in consultation with the Secretaries of Defense and Health and Human Services, to evaluate the effect of section 8004 of OBRA (described above) on formerly remarried surviving spouses denied survivors' benefits because of that provision. The Secretary would be required to survey a representative sample of those affected by the OBRA provision and report the results of the study to Committees on Veterans' Affairs by September 1, 1993.

Senate amendment: Section 3 would require the Secretary of Veterans Affairs to establish a "Commission on the Study of Survivor Benefits," comprised of three independent experts, and representatives of VA, the Department of Defense, a veterans service organization, and an organization representing surviving spouses. The Commission would be required to determine the most appropriate combination of survivors' benefits and report to the Secretary on its recommendations. The Commission would be required to base its findings on data to be provided by the National Academy of Sciences (or another entity) in a study conducted under contract with VA. NAS (or another entity) would be required to submit its report to the Commission by October 1, 1993. The Commission would be required to report to the Secretary by December 1, 1993, and the Secretary would be required to report to the Committees by March 1, 1994.

Compromise agreement: Section 104 follows the Senate provision, except that the Comptroller General of the United States (as head of the General Accounting Office) would perform the functions of the National Academy of Sciences and the independent commission. The Comptroller General would be required to conduct the study and make the recommendations for legislation, if appropriate, that would have been required by the Senate amendment. The Comptroller General would be required to submit a report on the study to the Committees by April 1, 1994.

TITLE II—LIFE INSURANCE PROGRAMS

SERVICEMEN'S GROUP LIFE INSURANCE

Current law: Subchapter III of chapter 19 of title 38, United States Code, provides for the Servicemen's Group Life Insurance (SGLI) program. Under subchapter III, the Secretary of Veterans Affairs is authorized to purchase from commercial life insurance companies a policy or policies of group life insurance to insure against death any active duty servicemember and certain members of the Ready Reserve and Retired Reserve. Eligible servicemembers and reservists who do not decline coverage automatically are provided $100,000 of SGLI coverage and the monthly premiums are deducted from their basic pay. Servicemembers may elect coverage of less than $100,000 or not to participate in the program.

SGLI coverage is provided free of charge for 120 days following separation from active duty.

House bill: Section 202 would permit servicemembers and Reservists to purchase additional amounts of SGLI up to an additional $100,000, thereby increasing from $100,000 to $200,000 the maximum amount of SGLI, which eligible servicemembers and Reservists could purchase in $10,000 increments.

Senate amendment: No provision.

Compromise agreement: Section 201 follows the House provision, except that, under section 205, it would be effective December 1, 1992.

VETERANS' GROUP LIFE INSURANCE

Current law: Subchapter III of chapter 19 of title provides for the Veterans' Group Life Insurance (VGLI) program. Under subchapter III, veterans who participated in the SGLI program (described above) may participate in the VGLI program after separation from active duty.

VGLI provides five-year term group life insurance of up to $100,000. A veteran may not obtain more insurance under VGLI than the veteran had under the SGLI program. At the end of the five-year term, the veteran has the right to obtain an individual life insurance policy at a standard rate from any company participating in the VGLI program.

House bill: Section 202 would (a) increase from $100,000 to $200,000 the maximum amount of VGLI available to eligible veterans, and (b) provide that coverage under VGLI shall be on a renewable, five-year term basis.

Senate amendment: No provision.

Compromise agreement: Section 202 follows the House provision, except that, under section 205, it would be effective December 1, 1992.

SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS

Current law: Section 1922(a) of title 38 requires VA to provide $10,000 in life insurance at standard rates to any veteran released from active duty after April 24, 1951, who is suffering from a service-connected disability rated at least 10-percent disabling that renders the veteran uninsurable according to the standards of good health established by the Secretary. The veterans must apply for the policy within two years after VA determines the service-connection of such disability.

Section 1912(a) of title 38 provides that, upon application by the veteran, and under regulations promulgated by the Secretary, the Secretary may waive premiums payments on the insurance if the insured continuously is rated totally disabled for six or more consecutive months and that disability began (1) after the date of the insured's application for insurance, (2) while the insurance was in force under premium-paying conditions, and (3) before the insured's sixty-fifth birthday.

House bill: Section 201 would provide supplemental SDVI coverage, at standard premiums, of up to $10,000, to veterans eligible for a waiver of premiums due to total disability.

Senate amendment: Section 4 is substantively identical to the House provision, except it would provide supplemental coverage of $20,000 and would specify that a veteran not currently eligible for waiver of premiums of SDVI must apply for the additional coverage within one year after either the end of the first full month following enactment or the date VA notifies the veteran that the veteran is eligible for a waiver of premiums, whichever is later.

Compromise agreement: Section 203 follows the Senate provision, except that, under section 205, it would be effective December 1, 1992.

INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE

Current law: Under section 2106 of title 38, VA automatically provides $40,000 of Veterans' Mortgage Life Insurance (VMLI) to veterans who qualify for a specially adapted housing grant under chapter 21 of title 38.

House bill: Section 202 would increase the maximum amount of VMLI available under section 2106 of title 38 from $40,000 to $90,000.

Senate amendment: Section 5 is substantively identical to the House provision, except that it includes a technical correction to the table of sections at the beginning of chapter 21.

Compromise agreement: Section 204 follows the Senate provision, except that, under section 205, it would be effective December 1, 1992.

TITLE III—EDUCATIONAL ASSISTANCE PROGRAMS

INCREASE IN AMOUNT OF MONTGOMERY GI BILL BASIC EDUCATIONAL ASSISTANCE

Current law: Section 3015(f) of title 38, United States Code, temporarily establishes the current amounts of educational assistance under the Montgomery GI Bill (MGIB) program for full-time study at $350 per month for active-duty participants whose initial obligated period is three years or more and at $275 per month for those whose initial obligated period of active duty is two years. Section 2131(b)(2) of title 10 establishes the full-time-study benefit at $170 per month for participants in the Selected Reserve program. In all cases, proportionally reduced amounts are provided for part-time study. For FY 1994, the Secretary of Veterans Affairs is authorized to (a) continue these rates, (b) continue these rates and provide for a cost-of-living adjustment (COLA) increase, or (c) allow the monthly rates to revert to the original payment rates of $300 per month for full-time active-duty participants, $250 per month for those who are obligated for two years, and $140 per month for full-time participants in the Selected Reserve program. With respect to any fiscal year after FY 1994, the Secretary is authorized to (a) continue to pay the monthly rates that are paid during the previous fiscal year, (b) provide a COLA in those rates, or (c) allow the monthly rates to revert to the original payment rates.

House bill: Section 301 of H.R. 5008 would, effective April 1, 1993, increase the monthly full-time-study benefits to (1) $400 for those serving on active duty for three years or more, and (2) $325 for those serving two years on active duty, and (3) to $190 for reservists. Part-time-study rates would be increased proportionately. Beginning in fiscal year 1994, future increases would be indexed to changes in the Consumer Price Index. This section would repeal the Secretary of Veterans Affairs' authority, under section 3015(f), to modify the educational assistance rates and index future increases to changes in the Consumer Price Index.

Senate amendment: Section 101 is substantively identical to the House bill, but effective September 1, 1993.

Compromise agreement: Section 301 follows the House bill.

MONTGOMERY GI BILL ENTITLEMENT DATES

Current law: Sections 3011 and 3012 of title 38 provide that an individual who on December 31, 1989, was eligible for benefits under the Vietnam-era GI Bill is eligible to convert to the MGIB if the individual was on active duty October 19, 1984, had no break in service after that date, and served three years of continuous active duty after June 30, 1985.

House bill: Section 8 of H.R. 5087 would, effective October 28, 1986, restore MGIB eligibility for an individual who, due to interrupted service, was not on active duty on October 19, 1984, but who had active-duty service sometime during the period beginning on October 19, 1984, and ending on July 1, 1985, and continued on active duty without a break for the period required to establish entitlement under MGIB.

Senate amendment: No provision.

Compromise agreement: Section 302 follows the House bill.

EXTENSION OF PERIOD FOR COMPLETING REQUIREMENTS FOR SECONDARY SCHOOL DIPLOMA

Current law: Sections 3011(a)(2) and 3012(a)(2) of title 38 require, as a condition of eligibility under the MGIB active-duty program, that the individual complete the requirements of a secondary school diploma (or equivalency certificate) before leaving active duty.

House bill: Section 1 of H.R. 5087 would allow an individual who was on active duty on August 2, 1990, and who does not complete the requirements of a secondary school diploma (or equivalency certificate) before leaving active duty to do so within 12 months after the date of enactment of this measure.

Senate amendment: No provision.

Compromise agreement: Section 303 follows the House bill with an amendment extending to 24 months after leaving active duty the time within which the individual must complete the requirements of a secondary school diploma (or equivalent certificate).

TREATMENT OF CERTAIN ACTIVE-DUTY SERVICE TOWARD ELIGIBILITY FOR EDUCATIONAL ASSISTANCE

Current law: Under chapter 30 of title 38, eligible servicemembers generally can earn 36 months of MGIB benefits if they undergo prescribed basic pay reductions of $100 per month for 12 months at the outset of their initial obligated period of active duty. Servicemembers who are discharged or released due to hardship, disability, or reduction-in-force prior to the completion of 12 months of payroll deductions are eligible to receive only one month of educational assistance for each month of continuous service following their initial entry into active duty. If such an individual re-enters active duty, he or she is not eligible to re-enter the MGIB program in order to obtain full benefits by resuming his or her payroll deductions.

House bill: Section 2 of H.R. 5087 would provide that any initial period of active duty beginning after June 30, 1985, would not be considered as an individual's obligated period of active duty for purposes of the MGIB if (a) that period is one year or less in length, (b) the individual is discharged or released by reason of disability, hardship, or reduction-in-force, and (c) the individual subsequently completes a period of active duty that is at least one month longer in duration than the previous active-duty period and would have established MGIB entitlement if he or she had not served the earlier period. Upon reentry on active duty, the individual would establish entitlement to the MGIB by undergoing the 12 months of basic pay reductions, but would be credited with basic-pay reductions made during the previous period of active duty.

Senate amendment: Section 103 would provide that, for MGIB purposes, a servicemember who, after a period of continuous active duty of not more than 12 months, is discharged or released from active duty by reason of disability, hardship, or reduction-in-force, and then reenlists or re-enters on active duty, would be deemed to have served a continuous period of active duty equal in length to the total of those two periods of active duty. The provision would take effect as if enacted on June 30, 1985, and apply to payment of assistance for education and training pursued on or after October 1, 1993.

Compromise agreement: Section 304 follows the Senate amendment.

TREATMENT OF CERTAIN ASSIGNMENTS OF INDIVIDUALS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM

Current law: Section 3011 of title 38 requires as a condition of MGIB eligibility that a servicemember serve an initial obligated period of active duty of at least three years of continuous active duty or, in the case of an individual whose initial period of obligated active duty is less than three years, at least two years of continuous active duty. A break in the initial period of service disqualifies a participant from receiving the full amount of educational assistance. The term "active duty," as defined in section 3002(6)(A) of title 38, excludes any period during which a servicemember was assigned full time by the Armed Forces to a civilian institution for a course of education. Therefore, if a servicemember, whose pay has been reduced for MGIB purposes but who has served less than the required period of initial active-duty service accepts full-time civilian-study assignment as part of his or her active-duty service, he or she incurs a break in active-duty service for MGIB purposes and thus becomes ineligible for MGIB benefits.

House bill: No provision.

Senate amendment: Section 104 would repeal the provision that requires an assignment to a civilian educational institution to be considered a break in active-duty service.

Compromise agreement: Section 305 follows the Senate amendment.

TREATMENT OF PURSUIT OF EDUCATION AT SERVICE ACADEMIES AND CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM

Current law: Under section 3011(a)(1)(A) of title 38, MGIB eligibility criteria include a requirement that (a) the individual serve as his or her initial obligated period of active duty at least three years of continuous active duty—or, in the case of an individual whose initial period of active duty is less than three years, that the period of continuous active duty be at least two years—or (b) the individual be discharged or released for a disability, hardship, or reduction-in-force. Section 3002(6)(B) of title 38 defines "active duty" as not including any period during which an individual served as a cadet or midshipman at one of the service academies.

Currently, a servicemember participating in the MGIB can lose MGIB eligibility if he or she leaves active duty during his or her initial period of service to pursue a course of education at a service academy or a service-academy preparatory school before completing the period of continuous service mandated for MGIB eligibility, fails to complete the course of education at the academy or preparatory school, and is required to re-enter active duty. Such an individual would be (1) not entitled to MGIB educational assistance because the statutory period of continuous service was interrupted before being satisfactorily completed, and (2) not eligible to re-enter the MGIB program because the period of active duty marked by the re-entry was not the individual's initial period.

House bill: No provision.

Senate amendment: Section 105 would amend section 3011 to provide that MGIB participants who enroll in a service academy or a service-academy preparatory school during their initial period of active-duty service, drop out of the academy or school, and re-enter active duty would be able to merge their second active-duty period with their initial period so that the aggregate length of the two periods would be considered one continuous period of service. This provision would take effect as if enacted on June 30, 1985, and would apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

Compromise agreement: Section 306 follows the Senate amendment.

EDUCATIONAL ASSISTANCE FOR CERTAIN PERSONS WHOSE INITIAL PERIOD OF OBLIGATED SERVICE WAS LESS THAN THREE YEARS

Current law: Section 3015 of title 38 provides that MGIB participants who serve at least three years of continuous active duty as their initial obligated period of active duty are entitled to educational assistance at a rate higher than is paid to those whose initial obligated period of active duty is two years. If a servicemember whose initial obligated period of active duty is two years reenlists without a break in service for an additional year or more, he or she is currently denied the full educational benefits offered to servicemembers whose initial obligated period of active duty is for three or more continuous years.

House bill: No provision.

Senate amendment: Section 105 would amend section 3015 to grant full MGIB benefits to participants who serve their initial obligated period of two years and continue on active duty for an additional year or more without a break in service. The amendment to section 3015 would take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after September 1, 1993.

Compromise agreement: Section 307 follows the Senate amendment.

DEATH BENEFIT

Current law: Section 3017 of title 38 provides for the payment of a death benefit to the survivors of an MGIB participant who dies of a service-connected cause on active duty. The death benefit is equal to the amount by which the participant's pay was reduced for purposes of MGIB participation minus the total of the amount of educational assistance that was paid to the individual.

House bill: Section 7 of H.R. 5087 would extend eligibility for the death benefit to the survivors of those who die of service-connected causes within one year of discharge from active duty.

Senate amendment: No provision.

Compromise agreement: Section 308 follows the House bill.

CLARIFICATION OF OPPORTUNITY TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL PROGRAM

Current law: Section 3011(c)(1) of title 38 provides that a servicemember who, at the time he or she initially enters on active duty, makes an election not to receive educational assistance under the MGIB is not entitled to MGIB benefits. As an exception to that rule, section 3018 of title 38 established the period between December 1, 1988, and June 30, 1989, as an "open period" during which certain servicemembers had the opportunity to withdraw an election not to receive educational assistance under the MGIB program and thereby become participants in the program. However, the general exception to MGIB length-of-service requirements for those who are separated early from service due to a physical or mental condition that is not characterized as a disability and did not result from the person's own willful misconduct but did interfere with the person's performance of duty does not currently apply to section 3018.

House bill: No provision.

Senate amendment: Section 107 would apply to individuals who enrolled in the MGIB during the "open period" the exception of length-of-service requirements for those who are separated early from the service for physical or mental conditions not characterized as disabilities.

Compromise agreement: Section 309 follows the Senate amendment.

USE OF EDUCATIONAL ASSISTANCE FOR SOLO FLIGHT TRAINING

Current law: Sections 3034(d) and 3241(b) of title 38 and section 2136(c) of title 10 provide that veterans participating in the MGIB or Post-Vietnam Era Veterans Educational Assistance programs may use VA benefits for flight training during fiscal year 1991 through 1994 if (1) the training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation; (2) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial license; and (3) the flight school courses meet Federal Aviation Administration (FAA) standards and are approved by the State approving agency.

Sections 3032(f) and 3231(f) of title 38 and section 2131(g) of title 10 provide that the educational assistance allowance is to be paid in an amount equal to 60 percent of the established charges for tuition and fees. Tuition and fees for solo flying hours are specifically excluded.

House bill: No provision.

Senate amendment: Section 109 would, for the remainder of the current temporary program under which veterans may use VA educational assistance for flight training, authorize the use of benefits for solo flying hours. The number of solo hours for which benefits could be used would be limited to the minimum required by the Federal Aviation Administration for the rating or certification being sought.

Compromise agreement: Section 310 follows the Senate amendment, but with an effective date of October 1, 1992.

LIMITATION ON AMOUNT OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE

Current law: Section 3485(a)(1) of title 38 requires that 40 percent of the total amount agreed to be paid to a work-study participant under a work-study contract must be paid in advance of the performance of any service. The remaining allowance is paid after services are performed.

House bill: No provision.

Senate amendment: Section 110 would limit advance payments by VA to work-study participants to payments for the first 50 hours of each work-study contract.

Compromise agreement: Section 311 follows the Senate amendment.

REVISION OF REQUIREMENTS RELATING TO APPROVAL OF ACCREDITED COURSES

Current law: Section 3675 of title 38 requires an educational institution that desires its courses to be approved for VA benefits purposes to submit an application for approval of the courses to the appropriate State approving agency (SAA). In making application for approval, the institution must transmit to the SAA copies of its catalog or bulletin. Elementary and secondary schools frequently do not publish catalogs and, as a result, their courses are denied SAA approval. Additionally, sections 3474 and 3524 of title 38 require that educational benefits be terminated for any recipient who fails to comply with any attendance standards that his or her school applies. However, section 3675 of title 38 does not require schools that have and enforce standards of attendance to include these standards in their applications for course approval.

No provisions of current law deal specifically with the use of MGIB benefits for nurses' aide training. VA Regulations for Vocational Rehabilitation and Education state, "[E]nrollment in an institutional course for the objective of nurse's aide . . . will not be authorized" (38 CFR 21.4265(b)(3)).

House bill: No provision.

Senate amendment: Section 111(a) would modify the requirements for the approval of an accredited school by an SAA by (a) repealing the requirement that an elementary or secondary school furnish a copy of a catalog in applying for approval of an accredited course, and (b) adding a requirement that other institutions that have and enforce standards of attendance include these standards in each catalog or bulletin that they submit to the SAA.

Section 111(b) would amend section 3675(a)(1) of title 38 to allow a State approving agency to approve a nurses' aide course for MGIB purposes when it is approved by the State as meeting the requirements of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (title 42, United States Code, sections 1395i-3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).

Compromise agreement: Section 312 follows the Senate amendment.

DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY

Current law: Section 3676 of title 38 provides that educational assistance may be granted to a veteran for enrollment in nonaccredited courses, including independent study, if certain conditions specified in that section are met.

House bill: Section 5 of H.R. 5087 would limit approval of independent study to courses that are part of an accredited degree program.

Senate amendment: Section 112 is substantively identical to the House bill.

Compromise agreement: Section 313 contains this provision.

TREATMENT OF ADVANCE PAYMENTS OF CERTAIN ASSISTANCE TO VETERANS WHO DIE

Current law: Section 3680(e) of title 38 provides that, when a veteran or eligible person entitled to educational benefits dies, benefits are discontinued effective the last day of attendance. Thus, any advance payment made toward a student's education covering a time period after the death of the student is considered an overpayment by VA and constitutes a liability to the student's estate.

House bill: No provision.

Senate amendment: Section 113 would make inapplicable the requirement in section 3680(e) for the recovery of advance payments for a course of education where the failure to enroll in or pursue a course is due to the individual's death.

Compromise agreement: Section 314 follows the Senate amendment.

BAR OF ASSISTANCE FOR PERSONS WHOSE EDUCATION IS PAID FOR AS FEDERAL EMPLOYEE TRAINING

Current law: Section 3681(a)(2) of title 38 generally prohibits payment of VA educational benefits to an individual for a course of education or training paid for under the Government Employees Training Act (GETA) and whose full salary is being paid while so training. A November 26, 1991, VA General Counsel opinion (O.G.C. Precedent 72-91) construed section 3681(a)(2) as permitting payment of VA educational assistance to a veteran or other eligible person training under the GETA if the training were received during periods of the day other than those for which the person's salary is paid.

House bill: Section 4 of H.R. 5087 would clarify that payment of VA education benefits may not be made to an individual for pursuit of a course of education that is paid for by the Government under the GETA.

Senate amendment: Section 114 is substantively identical to the House bill.

Compromise agreement: Section 315 contains this provision.

REVISION IN MEASUREMENT OF COURSES

Current law: Section 3688 of title 38 establishes a complex system of measuring and valuing courses of education for the purpose of benefit payments. Some programs provide for five different payment levels. For nondegree training at a vocational school, there is a distinction between accredited and nonaccredited facilities and between shop practice and classroom training. Maximum rest periods and supervised study periods are defined. Nondegree training at colleges is measured in three different ways—credit-hour measurement, clock-hour measurement, and a combination of credit hours and clock hours, known as "mixed" measurement. There is a distinction between courses taken in residence and courses taken by independent study or open circuit television. Some courses are considered to be a combination of resident training and independent study. Payment for independent study and open circuit television courses are reduced in some instances. For some participants, the rate of payment can change each week because of changes in the student's scheduled classroom training.

House bill: Section 6 of H.R. 5087 would (a) eliminate the benefit differential for accredited and non-accredited noncollege-degree courses; (b) base benefit payments for concurrent pursuit of graduate and undergraduate training on the training time certified by the school rather than on the conversion computations in current law; (c) make uniform the measurement of refresher courses and part-time training under the MGIB, Post-Vietnam Era Educational Assistance program, and the survivors' and dependents' educational assistance program; and (d) delete statutory measurement requirements in section 3688 of title 38 so as to (1) eliminate the benefit differential for independent study and other nontraditional types of training in accredited undergraduate degree programs that have been approved by SAAs, and (2) eliminate the standard class-session criterion.

Senate amendment: Section 114 is substantively identical to the House bill, but contains an effective date of September 1, 1993.

Compromise agreement: Section 316 follows the House bill, but with an effective date of July 1, 1993.

CLARIFICATION OF PERMITTED CHANGES IN PROGRAMS OF EDUCATION

Current law: Section 3691 of title 38 generally allows a veteran or other eligible person receiving VA-administered educational assistance one change of program of education without seeking the Secretary's approval. The Secretary generally may approve additional changes if the Secretary finds that the proposed program is suitable to the person's aptitudes, interests, and abilities. However, if the student's interruption or failure to make progress in an education program was due to the person's own misconduct or neglect, or lack of application, a change is not permitted unless the Secretary finds that a reasonable likelihood exists that there will not be a recurrence of such an interruption or failure of progress. The Secretary may also approve additional changes if the Secretary finds that they are necessitated by circumstances beyond the person's control.

House bill: No provision.

Senate amendment: Section 116 would provide that the limitations on changes of program by students using VA educational assistance do not apply to (a) a student beginning a new program of education after successfully completing another program, (b) a student not changing his or her vocational objective, and (c) a student transferring back to a former program without loss of credit for that program.

Compromise agreement: Section 317 follows the Senate amendment.

AUTHORITY OF MEMBERS OF SELECTED RESERVE TO RECEIVE TUTORIAL ASSISTANCE

Current law: Currently, members of the Selected Reserve who are eligible for MGIB educational assistance under chapter 106 of title 10 are not entitled to receive individualized tutorial assistance as are participants in the MGIB who serve on active duty (under chapter 30 of title 38) and survivors and dependents who receive educational assistance under chapter 35 of title 38.

House bill: No provision.

Senate amendment: Section 117 would provide that members of the Selected Reserve participating in the MGIB could receive—as do other MGIB participants and eligible survivors and dependents—a tutorial assistance allowance of up to $100 per month for a maximum of 12 months, or until a maximum of $1,200 is utilized. The criteria and restrictions relating to this benefit would be the same as those applied to the tutorial benefits now available to other MGIB participants and to survivors and dependents.

Compromise agreement: Section 318 follows the Senate amendment.

REQUIREMENT OF ATTENDANCE CERTIFICATION IN APPRENTICESHIP PROGRAM UNDER THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM

Current law: Section 2131(d)(2) of title 10, United States Code, requires a reduction in a reservist's payments under the MGIB Selected Reserve program in any month in which he or she, while pursuing a program of apprenticeship or other on-the-job training, fails to complete 120 hours of training. Section 2136(b) of title 10, in listing title 38 provisions that do not apply to the administration of the MGIB Selected Reserve program, specifically precludes VA from exercising its authority under section 3680(c) of title 38 to require a certification of attendance of a program of apprenticeship or other on-job training from either the student or training establishment.

House bill: Section 4 of H.R. 5087 would amend section 2136(b) to delete the exception of section 3680(c) and thereby provide VA with administrative authority to withhold the training assistance allowance of an individual pursuing a program of apprenticeship or other on-job training until VA has received a certification of attendance from the person and the training establishment.

Senate amendment: No provision.

Compromise agreement: Section 319 follows the House bill.

TECHNICAL AMENDMENTS

Current law: Chapter 106 of title 10, United States Code, authorizes the use of the MGIB program by members of the Selected Reserve and makes numerous references to the program as set forth in title 38. Public Law 102–40, enacted May 7, 1991, and Public Law 102–83, enacted August 6, 1991, changed section numbers in title 38, and thus made the title 38 references in title 10 inaccurate.

House bill: No provision.

Senate amendment: Section 118 would update title 10 references to title 38 to match the current section numbers.

Compromise agreement: Section 320 follows the Senate amendment.

TITLE IV—VOCATIONAL REHABILITATION AND PENSION PROGRAMS

PERMANENT AUTHORITY FOR PROGRAM OF VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS

Current law: Section 1163 of title 38, United States Code, provides a temporary program for trial-work periods and vocational rehabilitation services to service-disabled veterans. Under section 1163, a veteran who has a service-connected disability not rated as total but who has been awarded a rating of total disability by reason of an individual determination that he or she is unable to secure or follow a substantially gainful occupation as a result of that disability—an individual unemployability (IU) rating—and who starts a substantially gainful occupation before December 31, 1992, may not have his or her disability rating reduced on the basis of having obtained and continued the employment unless he or she maintains that employment for 12 consecutive months.

House bill: No provision.

Senate amendment: Section 201 would make permanent the program of 12-month trial-work periods and vocational rehabilitation services for veterans who have total service-connected disability ratings based on an IU rating.

Compromise agreement: Section 401 follows the Senate amendment.

EXTENSION OF PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS

Current law: Section 1524 provides for a temporary vocational training program—until December 31, 1992—for not — more than 3,500 veterans during any 12-month period who are pension recipients.

A veteran under the age of 45 who is awarded a pension during the program period must be evaluated with respect to his or her potential for rehabilitation. The evaluation must include a personal interview by a VA employee trained in vocational counseling. If the veteran refuses to participate in the evaluation, the veteran's pension is suspended until the veteran participates in an evaluation. Participation in the vocational training itself is voluntary.

For a veteran pension recipient who is 45 years of age or older, the program of vocational training is totally voluntary. If such a veteran-pensioner applies to participate and VA makes a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program, the veteran has a good potential for achieving employment, VA may, upon the veteran's request, evaluate the veteran to further determine whether the achievement of a vocational goal is reasonably feasible.

House bill: No provision.

Senate amendment: Section 202 would amend section 1524(a) to (1) make the program permanent; (2) make the program totally voluntary for all pension recipients, regardless of age; (3) eliminate the limitation on the number of program participants who may be evaluated annually; (4) expressly provide that the Secretary may determine what training is necessary for a VA employee to be able to conduct personal interviews of veterans under this program; and (5) authorize VA not to conduct an evaluation if the Secretary determines that it is not feasible or is not necessary in order to determine whether the achievement of a vocational goal is reasonably feasible.

Compromise agreement: Section 402 would (1) extend the temporary vocational training program through December 31, 1995; (2) eliminate the limitation on the number of program participants who may be evaluated annually; and (3) amend the program for veterans under age 45 who are awarded pension during the program period so as to (A) require the Secretary, based on information on file with VA, to make a preliminary finding whether the veteran, with the assistance of a VA vocational training program, has a good potential for achieving employment, (B) if that potential is found to exist, require the Secretary to solicit from the veteran an application for VA vocational training, and (C) if the veteran applies for training, require the Secretary to provide an evaluation to determine whether the achievement of a vocational goal is reasonably feasible.

PERMANENT AUTHORITY FOR PROTECTION OF HEALTH-CARE ELIGIBILITY FOR CERTAIN PENSION RECIPIENTS

Current law: Section 1525 of title 38 provides a veteran with protection of his or her VA health-care eligibility for a period of three years following the termination of pension benefits due to "income from work or training"—that is, as a result of the veteran's receipt of earnings from activity performed for renumeration or with gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension. Under current law, these provisions are scheduled to expire on December 31, 1992.

House bill: No provision.

Senate amendment: Section 203 would make this health-care eligibility protection permanent.

Compromise agreement: Section 403 follows the Senate amendment.

VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS WITH SERIOUS EMPLOYMENT HANDICAPS

Current law: Section 3102 of title 38 provides vocational-rehabilitation entitlement under chapter 31 of title 38 to a veteran who has a service-connected disability that is compensable at a rate of 20 percent or more and is determined by the Secretary to be in need of rehabilitation because of an employment handicap. The current eligibility requirement of a rating of 20 percent or more was established by the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), enacted November 1, 1990. Prior to OBRA 90, the requirement was for at least a 10-percent rating.

House bill: No provision.

Senate amendment: Section 204 would restore entitlement to vocational rehabilitation, effective October 1, 1993, to a veteran who has a service-connected disability that is compensable at a rate of 10 percent if he or she also has a serious employment handicap.

Compromise agreement: Section 404 follows the Senate amendment.

INCREASE IN SUBSISTENCE ALLOWANCE FOR VETERANS PARTICIPATING IN A REHABILITATION PROGRAM

Current law: Section 3108 of title 38 provides for a subsistence allowance for veterans pursuing rehabilitation under the chapter 31 program of rehabilitation for veterans with service-connected disabilities.

House bill: No provision.

Senate amendment: Section 205 would, effective October 1, 1993, increase the subsistence-allowance rates by 10 percent and index future increases to changes in the Consumer Price Index.

Compromise agreement: Section 405 follows the Senate amendment.

TITLE V—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VETERANS

IMPROVEMENT OF DISABLED VETERANS' OUTREACH PROGRAM

Current law: Section 4103A(a)(1) of title 38, United States Code, provides for the appointment in each State of one disabled veterans' outreach program (DVOP) specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in the State. According to the Department of Labor (DoL), application of the current formula results in 1,885 DVOP-specialist positions. Although Vietnam-era and disabled veterans are the population cohorts for the present DVOP staffing formula, DVOP employment assistance is available to all eligible veterans.

House bill: No provision.

Senate amendment: Section 301 would expand the statutory formula for the appointment of DVOP specialists to provide for one specialist for each 6,900 veterans residing in a State who are either Vietnam-era veterans, veterans with service-connected disabilities, or veterans who first entered on active duty after the end of the Vietnam era (May 7, 1975).

Compromise agreement: Section 501 follows the Senate amendment.

The Committees note that in FY 1993 the change in the formula would add 21 additional DVOP-specialist positions to the 1,885 positions now determined by DoL to be derived from the current statutory formula. The Committees believe the additional staffing is necessary for implementation of the transition assistance program under section 1144 of title 10.

REPEAL OF DELIMITING DATE RELATING TO TREATMENT OF VETERANS OF THE VIETNAM ERA FOR DISABLED VETERANS' OUTREACH PROGRAM PURPOSES

Current law: Section 4211(2)(B) of title 38 provides that, after December 31, 1994, no veteran may be considered to be a "veteran of the Vietnam era" for purposes of various employment and training programs in chapter 41 and 42 of title 38 except for the veterans readjustment appointment authority in section 4214. Veterans of the Vietnam era are the major population cohort used in the calculation of disabled veterans' outreach program (DVOP) positions under section 4103A(a)(1). Under the current formula, the elimination of this cohort after December 31, 1994, would cause the number of mandatory DVOP positions to drop from 1,885 to 433.

House bill: Section 5 of H.R. 4342 would extend the definition of Vietnam-era veterans for one year to December 31, 1995, for purposes of various veterans' employment and training programs under chapters 41 and 42 of title 38.

Senate amendment: Section 302 would make permanent the consideration of a veteran of the Vietnam era under chapters 41 and 42 of title 38 by repealing the expiration date of December 31, 1994, for that consideration.

Compromise agreement: Section 502 follows the Senate amendment.

DISABLED VETERANS' OUTREACH PROGRAM PRIORITIES

Current law: Section 4103A(b)(1) of title 38 specifies that DVOP specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with first priority being the provision of services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31, followed by services to other disabled veterans and then services to other eligible veterans.

House bill: Section 2 of H.R. 4342 would amend section 4103A(b)(1)(A) by expanding the first item in the priority listing of DVOP responsibilities to include veterans who served during the Persian Gulf War.

Senate amendment: No provision.

Compromise agreement: Section 503 amends section 4103A(b)(1)(A) to establish as the first priority for DVOP specialists services to "special disabled veterans" as defined in section 4211(1) of title 38 to include those who (a) have service-connected disabilities that are rated at either 30 percent or more or, in the case of those who have been determined to have a service-employment handicap for purposes of chapter 31, at 10 or 20 percent, or (b) were discharged or released from active duty because of a service-connected disability.

The Committees recognize the importance of a close relationship between DVOP specialists and local VA staff administering the training and rehabilitation program for veterans with service-connected disabilities under chapter 31 of title 38. By this amendment, the Committees do not in any way intend to dilute this relationship so important to the furnishing of effective employment services to those service-disabled veterans who have participated in a VA vocational rehabilitation program.

REPEAL OF REQUIREMENT THAT TO BE REPRESENTED ON ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING

A veterans organization must have a federal charter

Current law: Section 4110(c)(a)(A) of title 38 requires that to be represented on the Advisory Committee on Veterans Employment and Training a veterans organization must have a Federal charter. However, the House of Representatives Judiciary Committee has adopted a policy of not reporting legislation granting such charters.

House bill: Section 6 of H.R. 4342 would modify section 4110(c)(a)(A) of title 38 by striking the requirement that veterans organizations represented on the Advisory Committee on Veterans Employment and Training be chartered.

Senate amendment: No provision.

Compromise agreement: Section 504 follows the House bill.

EXPANSION AND EXTENSION OF VETERANS' READJUSTMENT APPOINTMENTS WITH THE FEDERAL GOVERNMENT

Current law: Section 4214 of title 38 establishes a program of veterans' readjustment appointment (VRA) under which certain veterans are eligible for limited non-competitive appointments that can lead to career civil service status in the Federal government.

Section 4214(b)(2) provides VRA eligibility to (a) Vietnam-era veterans who (1) are entitled to VA disability compensation or who were discharged or released from active duty for a disability incurred or aggravated in line of duty, or (2) received a campaign badge for service in a combat theater of operations; and (b) post-Vietnam-era veterans, that is, those who entered active duty after May 7, 1975. A Vietnam-era veteran with eligibility based on a service-connected disability rated at less than 30 percent or receipt of a campaign badge has VRA eligibility for 10 years after the date of his or her last discharge or release from active duty, or December 31, 1993, whichever is later. A post-Vietnam-era veteran generally has VRA eligibility within the 10-year period following the later of the date of his or her last discharge or release from active duty, or December 18, 1989 (the effective date of Public Law 101-237, the law that initially gave post-Vietnam-era veterans VRA eligibility). There is no time limitation on the VRA eligibility for a veteran who has a service-connected disability rated at 30 percent or more.

Under Public Law 101-237, since January 1, 1990, Vietnam-era veterans who are not service disabled nor authorized a campaign badge have not been eligible for a VRA appointment.

House bill: Section 1 of H.R. 4342 would amend section 4214(b)(2)(A) to restore VRA eligibility for all veterans of the Vietnam era.

Section 3 of H.R. 4342 would provide that all Vietnam-era veterans qualifying for the VRA program would be eligible for appointments through December 31, 1999, or 10 years after the veteran's date of last discharge or release from active duty, whichever is later.

Senate amendment: Section 303 would restore VRA eligibility for veterans of the Vietnam era who are not otherwise eligible and who were discharged or released from active duty after December 31, 1979 (the date being 10 years prior to the December 31, 1989, expiration of previous eligibility), under conditions other than dishonorable. Such veterans would be eligible to receive such a VRA appointment during the period ending 10 years after the date of their last discharge or release from active duty, or December 31, 1993, whichever is later.

Compromise agreement: Section 505 follows the House bill, except that Vietnam-era veterans would be eligible for appointments through December 31, 1995 (rather than 1990), or 10 years after the veteran's date of discharge, whichever is later.

REDESIGNATION OF SECTIONS OF CHAPTER 43

Current law: Public Law 102-40, enacted May 7, 1991, and Public Law 102-83 enacted August 6, 1991, renumbered the sections of title 38, United States Code, in order to reflect the chapters in which the sections appear. Prior to the enactment of these laws, Congress was in the process of rewriting chapter 43 of title 38 which provides veterans' reemployment rights; consequently, the sections of chapter 43 were not renumbered in Public Laws 102-40 and 102-83.

House bill: No provision.

Senate amendment: S. 1095 as reported by the Senate Committee on Veterans' Affairs would revise chapter 43 of title 38, including changing the section numbers to conform with the change made by Public Laws 102-40 and 102-83.

Compromise agreement: Section 506 would renumber the sections of chapter 43 to conform with the renumbering scheme required in Public Laws 102-40 and 102-83.

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE

Current law: Section 1144 of title 10 requires the Department of Labor, in conjunction with VA and the Department of Defense, to establish and maintain a transition assistance program (TAP) to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining employment and training, and other related information and services to members of the Armed Forces who are being separated from active duty and their spouses. The services are to be provided to a member during the 180-day period before separating from active duty. Subsection (e) of section 1144 authorizes DoL appropriations of $9 million for each of fiscal years 1992 and 1993, and VA appropriations of $4 million for each of those years.

House bill: No provision.

Senate amendment: Section 303 would authorize an increase in the FY 1993 appropriation for TAP and would extend the authorization for the TAP appropriation by two years—through FY 1995—at the following levels: $11 million for FY 1993 and $8 million for each of FYs 1994 and 1995 for the DoL, and $6.5 million for each of FYs 1993-1995 for VA.

Compromise agreement: No provision.

The Committee note that similar provisions are included in section 4470 of the conference report (H. Rept. No. 102-966) on H.R. 5006, the National Defense Authorization Act for FY 1993.

TITLE VI—OTHER VETERANS' PROGRAMS

EXTENSION OF LIMITATION ON PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE; APPLICABILITY TO SURVIVING SPOUSES; AND FACILITY EXPENSES

Current law: Section 5503(f) of title 38, United States Code, which expires on September 30, 1992, limits to $90 a month the maximum amount of VA needs-based pension payable to Medicaid-eligible veterans who are in nursing homes that participate in Medicaid and who have no dependents. Section 5502(f)(3) of title 38 protects this $90 monthly VA pension payment from State Medicaid rules limiting the medicaid-nursing-home beneficiary's personal allowance to less than $90 per month.

Section 5503(a)(1)(B) of title 38 reduces to $90 the maximum monthly pension payable to certain veterans being furnished nursing home care by VA. The reduction takes effect after the end of the third full calendar month following the month of admission.

House bill: Section 302 would extend the expiration date of section 5503(f) by five years, from September 30, 1992, to September 30, 1997, and, effective October 1, 1992, would expand that provision to cover veterans' Medicaid-eligible survivors receiving VA pension who are in nursing homes that participate in Medicaid and who have no dependents.

Senate amendment: Section 6 is substantively identical to the House provision, except it would take effect on July 1, 1992, and would repeal the expiration date of section 5503(f).

Compromise agreement: Section 601 follows the House provision and would require, during the period from November 1, 1992, through September 30, 1997, that the amount of the reduction, under section 5503(a)(1)(B) of title 38, in pension paid to a veteran receiving nursing home care from VA be deposited in a revolving fund at the VA medical facility that furnished nursing care to the veteran. The fund would be available, without fiscal-year limitation, to help defray the operating expenses of that facility.

EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION

Current law: Section 5317 of title 38 requires the Secretary to verify the eligibility of recipients of, or applicants for, VA needs-based benefits using income data from the Internal Revenue Service and Social Security Administration, and section 6103(1)(7) of the Internal Revenue Code of 1986 provides the Secretary with access to that information.

These provisions expire on September 30, 1992.

House bill: Section 303 would extend the provisions to September 30, 1997.

Senate amendment: Section 7 would make the provisions permanent.

Compromise agreement: Section 602 follows the House provision.

ACCESS TO INFORMATION NECESSARY FOR THE ADMINISTRATION OF CERTAIN VETERANS BENEFITS LAWS

Current law: The Right to Financial Privacy Act of 1978 (RFPA) (Public Law 98-21) generally prohibits federal agencies from gaining access to or obtaining copies of information contained in the financial records of a financial institution's customer unless the records are reasonably described and the customer has authorized disclosure or the records are sought pursuant to an administrative subpoena or summons, a search warrant, a judicial subpoena, or, in certain circumstances, a formal written request by a government authority. There are 11 types of disclosures to federal agencies that are excluded from the general prohibition, including disclosure authorized under the Internal Revenue Code and disclosure necessary for the proper administration of programs of withholding taxes on nonresident aliens, Federal Old-Age, survivors and Disability Insurance Benefits, and Railroad Retirement Benefits.

Senate bill: Section 4 of S. 775 would amend the RFPA to authorize VA to obtain from financial institutions the current mailing addresses of certain VA beneficiaries whose benefits are deposited by direct deposit. The Secretary would be authorized to request and obtain this information only if the Secretary determines and certifies that the information is necessary to administer veterans' benefits programs and that the information cannot be obtained by a reasonable search of VAS records. Information disclosed by the financial institution under this provision could be used solely for the purpose of administering veterans' benefits programs.

House bill: Section 403 of H.R. 2280 is substantively identical to the Senate provision, except it would amend title 38, United States Code, to require the Secretary to make the required determinations and certifications.

Compromise agreement: Section 603 contains the House provision.

EXTENSION OF EXPIRING COST-RECOVERY AUTHORITY

Current law: Section 1729(a)(2)(E) authorizes VA to recover from third parties, under a veteran's health-plan contract, the cost of medical care provided by VA for the treatment of a non-service-connected disability of a service-disabled veteran. This authority expires on October 1, 1993.

Senate bill: Section 401 of S. 2647 as passed by the Senate in H.R. 5087 on September 25, 1992, would make this authority permanent.

House bill: No provision.

Compromise agreement: Section 604 would extend this authority through July 31, 1994.

EXCLUSION FOR LOW-INCOME VETERANS FROM MEDICATION COPAYMENT REQUIREMENT

Current law: Section 1722A of title 38 requires the Secretary to charge veterans (other than those with a service-connected disability rate 50 percent or more) $2 (or the actual cost, if less) for each 30-day supply of a medication furnished by VA on an outpatient basis for the treatment of a non-service-connected disability or condition. This provisions expires on September 30, 1992.

Compromise agreement: Section 605 would exclude from the copayment requirement veterans whose income is at a level which, if taken alone, would qualify them for VA non-service-connected disability pension.

EXTENSION OF COPAYMENT PROGRAMS

Current law: Under sections 1710 and 1712 of title 38, VA health-care eligibility consists of two categories of veterans for purposes of copayments—those whom VA is required to charge and those who do not have to pay.

Those who are not required to pay are those to whom VA is required to provide needed hospital care, known as the "mandatory" category, which includes, among others, veterans with a service-connected disability and veterans without a service-connected disability whose annual income does not exceed certain levels (currently $18,844 for a single veteran without dependents).

Those whom VA is required to charge are those to whom VA may furnish hospital care, known as the "discretionary" category, which includes non-service-disabled veterans whose income exceeds those levels. The charges are (1) for hospital care, an amount equal to the Medicare deductible (currently $652) for the first 90 days of care during any 365-day period, and half the Medicare deductible for each 90-day period of care thereafter; (2) for nursing-home care, the same deductible for any 90-day period as under the Medicare program; (3) an additional $10 a day for hospital care and $5 a day for nursing-home care; and (4) for outpatient care, 20 percent of the estimated cost of a VA outpatient visit for each visit.

The current health-care categories and copayments and deductibles reflect amendments made by section 8013 of the Omnibus Budget Reconciliation Act of 1990, Public

Law 101–508. Section 518 of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for FY 1992, Public Law 102–139, extended these provisions through September 30, 1992.

Section 1722A of title 38 requires the Secretary to charge veterans (other than those with a service-connected disability rated 50 percent or more) $2 (or the actual cost, if less) for each 30-day supply of a medication furnished by VA on an outpatient basis for the treatment of a non-service-connected disability or condition. This provision expires on September 30, 1992.

House bill: Section 304 would extend the expiration date of these provisions from September 30, 1992, to September 30, 1996.

Senate amendment: Section 8 is identical to the House provisions.

Compromise agreement: Section 606 follows this provisions, except that it would extend the provisions through September 30, 1997. (The medication copayment requirement would be modified by section 605 of the compromise agreement.)

Mr. STUMP. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. I thank the gentleman, my friend, Mr. STUMP, for yielding.

First of all, I would like to thank the gentleman from Mississippi, Chairman MONTGOMERY, and the ranking member, the gentleman from Arizona, Mr. STUMP, and also I would like to pay tribute to the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT, who is the senior member on the minority side, for the work that he has done on this committee. I have served with JOHN PAUL HAMMERSCHMIDT for 16 years on this committee and the Committee on Public Works and Transportation, and he is certainly one of the outstanding members with whom I have had the opportunity to serve, and I wish him well in whatever it is he decides to do after he leaves this body.

Mr. Speaker, this is the first major reform in DIC since 1959.

Mr. Speaker, As Chairman MONTGOMERY has indicated, this bill makes major changes and improvements to the Dependency and Indemnity Compensation [DIC] Program. The compromise on H.R. 5008 would provide for the reform the rate structure of the program, effective January 1, 1993, to provide a monthly base rate of $750 to surviving spouses of veterans whose deaths are service connected.

Virtually everyone agrees that the current payment structure, containing some 23 different rates based on rank, is inequitable. The flat-rate approach in this bill seeks to establish parity among surviving spouses at a more reasonable level of income than is currently received by a great majority of beneficiaries.

For all future deaths there would be no reliance on the veteran's rank while on active duty. However, current DIC recipients would be grandfathered if their benefits under the current rate structure are higher.

The $750 base rate would be increased by an additional $165 per month if the veteran was totally disabled due to service-connected disabilities continuously for at least 8 years prior to death.

As Chairman MONTGOMERY has indicated we would have preferred that this kicker also be given in cases where the servicemember died on active duty. However, we had to drop this provision at the insistence of the other body in order to reach this compromise. I am not happy about this, but I do believe we still have a good reform package here. I want to assure those who supported that provision that we will reopen this debate next year and work toward getting it into the law.

The compromise would also increase, over a 3-year period, the additional amounts payable monthly for dependents, from $71 per month per child, to $200 per month per child.

Also, in order to address the concerns of virtually all of the veterans organizations and widows organizations, H.R. 5008 would provide a limited exception to the reinstatement bar raised by the Omnibus Budget Reconciliation Act of 1990 [OBRA] for certain surviving spouses who had commenced divorce proceedings prior to its effective date, November 1, 1990.

Finally, H.R. 5008 would make improvements to the Servicemen's Group Life and Veterans' Group Life Insurance Programs by allowing people to enhance their coverage. In the case of Veterans Group life Insurance, veterans would be able to maintain their present levels of term-life coverage through 5-year renewable terms. The maximum coverage under both the SGLI and VGLI Programs would be increased from $100,000 to $200,000. Coverage beyond the $100,000 provided automatically under SGLI would be at the option of the servicemember.

Finally, the bill also provides needed improvements to the Veterans Mortgage Life Insurance Program, by raising its maximum coverage from $40,000 to $90,000, and to the Service Disabled Veterans Life Insurance Program by allowing certain totally disabled veterans to purchase an additional $20,000 in coverage.

In closing, I simply want to thank all the members of the committee for their hard work on this bill and I urge my colleagues to give favorable consideration to this measure.

I thank the gentleman for yielding.

Mr. STUMP. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

I rise in support of this important legislation.

Mr. STUMP. Mr. Speaker, I support the House amendments to the Senate amendments to H.R. 5008, the Veterans' Benefits Act of 1992.

The current rank-based DIC formula is generally considered inequitable. After many meetings with the other body, we have finally reached a compromise which, I believe, addresses these inequities.

I want to commend the chairman of our committee, my good friend, SONNY MONTGOMERY, and my colleague from Ohio, the chairman of the Subcommittee on Compensation, Pension, and Insurance, DOUG APPLEGATE, for their unfailing efforts and leadership in achieving DIC reform.

Mr. Speaker, this measure also contains an important increase in the basic benefit for the Montgomery GI bill.

Chairman MONTGOMERY has worked tirelessly for this permanently authorized increase, and I am delighted to see it included in the compromise bill. There is simply no better investment than one that furthers the education of the men and women who have served in our Armed Forces.

I wish to commend my colleague from Minnesota, the chairman of the Subcommittee on Education, Training and Employment, TIM PENNY; as well as my colleague from New Jersey, the ranking minority member, CHRIS SMITH, for their diligent work in securing an increase in GI bill benefits.

Mr. Speaker, this measure contains savings provisions to pay for higher priority programs. These savings were achieved through the efforts and diligence of our chairman. His leadership of our committee is based on fiscal responsibility. If other committee chairmen were willing to set priorities within their respective areas of jurisdiction, the deficit could be brought under control.

I want to take this opportunity to congratulate him, to commend him for his efforts, and to applaud him for his continued commitment to our Nation's veterans.

I urge my colleagues to support H.R. 5008, and I withdraw my reservation of objection.

Mr. STAGGERS. Mr. Speaker, I want to commend the gentleman from Mississippi [Mr. MONTGOMERY] the chairman of the full committee for his leadership in moving the compromise measure through so expeditiously, and, in addition, I want to thank the gentleman from Arizona [Mr. STUMP] and the ranking minority member of the subcommittee, the gentleman from Indiana [Mr. BURTON] and all of the committee members for their favorable support. I especially want to acknowledge the work and contributions of the gentleman from Illinois [Mr. EVANS] and the gentleman from Massachusetts [Mr. KENNEDY] without whom this bill would not have been possible. Last, I wish to commend the efforts of Mr. JONES, Mr. HARRIS, and Mr. NICHOLS. All of these subcommittee members demonstrated a strong commitment to helping this Nation's veterans. You could count on them to come to the subcommittee meetings on time and to contribute greatly to the shaping of legislation to benefit veterans. They will be missed, but I wish them and their families all the best in their future endeavors.

Mr. Speaker, the compromise agreement contains most of the provisions originally passed by the House in H.R. 5400. The agreement we have reached with the other body is a reasonable compromise. Let me explain what we have agree to do.

Subject to the availability of appropriations, the compromise would authorize the Secretary of Veterans Affairs to establish and operate, through September 30, 1995, a pilot program to expand and improve the provision of VA benefits and services to homeless veterans by: First, including the establishment of no more than four additional comprehensive homeless centers; and second, authorizing the placement veterans benefits administration employees at no more than 45 VA sites where the Secretary provides services to homeless chronically mentally ill veterans, at not more than 26 sites at which the VA furnishes domiciliary care to homeless veterans, and at no more than 12 centers which provide readjustment counseling services and at the four new comprehensive homeless centers. I am pleased that the Senate accepted this provision as this will create closer working relationships in the arena of homeless veterans services between those arms of the VA targeted at rehabilitative programming and those focused on monetary benefits delivery.

The Senate also accepted the House provision to augment the interplay between VA and community programming for the homeless by authorizing a 3-year program of grant support to assist public or nonprofit private entities to establish new programs to serve homeless veterans. Grant support would be available to aid in establishing new programs to provide one or more of the following services: Outreach, rehabilitative services, vocational counseling and training and transitional housing assistance. The purpose of these grants is to develop services not previously available and to target those services primarily to veterans. Grants are to be targeted particularly to areas which, on the basis of VA-conducted needs assessments, are shown to have the greatest need for such services.

This grant program incorporates elements of VA's successful State Home Construction Grant Program authorized in subchapter 3 of chapter 81 of title 38, United States Code. As in the State Home Program, grants under the bill would be available to support up to 65 percent of capital startup costs, although such grants could not be used to pay for operational costs such as staffing. Like the State Home Program, grantees are not required to use the grant to provide services to veterans exclusively. A grantee may, for example, offer services to veterans and their family members, but must design and operate any program established with the grant in such a way that it provides at least 75 percent it its assistance to veterans. Under this measure, grants could be used to expand, remodel, alter, or acquire existing buildings for use as transitional housing or other facilities to serve homeless veterans.

Per diem payments—which may not exceed half the cost to the applicable provider of furnishing the pertinent service or services—would be applicable under VA prescribed criteria.

The compromise would allow VA additional flexibility at the West Los Angeles VA Medical Center in leasing properties made available under title V of the McKinney Act if the leasing organization agrees to use the property to provide services for homeless veterans. In accordance with title V, Public Law 100–77 (42 U.S.C. 11411) section 501, VA is obliged to lease its unutilized suitable and available to an approved homeless provider for a term of not less than 1 year, unless the applicant requests a shorter term. Authority would be granted for the Secretary of Veterans Affairs to lease real property at the West Los Angeles VA Medical Center for a term in excess of 3 years to a representative of the homeless. The lease would be based on an application from the representative of the homeless, approved by the Secretary of Health and Human Services, under provisions of the Stewart B. McKinney Homeless Assistance Act.

The compromise would also make properties available for homeless purposes through leasing, leasing with option to buy and donations. The lessee would be responsible for payment of taxes, utilities and maintenance costs associated with the property. The compromise would also authorize the VA to make loans directly to nonprofit organizations for the purchase of acquired properties to assist homeless veterans. Public Law 100–198 enabled the VA to sell acquired properties at discounted prices to State and local agencies, as well as nonprofit organizations, to provide shelter to the homeless. Under VA regulations, to be eligible for sale under this program, the property must first, have been on hand for 6 months or more and be available for an as is cash sale. The sales price for such property is 50 percent of the latest listing price for cash. Only eight properties have been sold to date. Therefore, leasing authority in conjunction with direct financing authority would encourage the development of new housing opportunities for homeless veterans.

Mr. KENNEDY. Mr. Speaker, I rise today in strong support of the House and Senate agreement to the Homeless Veterans Comprehensive Service Programs Act of 1992. This legislation represents months of hard work by Mr. MONTGOMERY, myself Mr. EVANS, and Mr. STAGGERS to create legislation that will help get our 225,000 homeless veterans off the streets of this country.

This bill creates the ideal vehicle to guide the VA and the many different community based organizations, toward creating the most successful homeless veterans programs possible. This bill has several key components. First, it will increase the VA's capacity to deliver services to homeless veterans, through established VA programs. Second, it will establish a unique grant program that will enable community based organizations to provide a wide array of necessary services in both rural and urban areas. The community based organizations are the true experts in designing tremendously successful programs that will give our homeless soldiers the tools they need to help themselves get off the streets, and most importantly—stay off the streets. Finally, this bill will create more housing for homeless veterans and their families by allowing the VA to lease or donate properties to homeless veteran programs.

Mr. Speaker, it is no coincidence that 30 percent of homeless men are veterans. They have become easy prey to this long-lasting recession, rising health care and housing costs, and the traumatic after-effects of fighting in combat. We need this legislation to help them get the helping hand they need in their own communities. I urge my colleagues to support this important legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in strong support of H.R. 5008, a bill to create a more equitable approach to providing compensation to the widows and children of service-connected disabled veterans.

As my colleagues have explained, H.R. 5008, replaces the current rank-based system with a uniform flat rate. It is only fair that the survivors of those service members and veterans who served at lower pay grades in the military be justly compensated.

I am pleased with the compromise before us and I want to commend Chairman MONTGOMERY, the ranking member, Representative STUMP, and Represenatative APPLEGATE, the chairman of the Subcommittee on Compensation, Pension and Insurance, for their hard work over the past year in resolving the many issues associated with this undertaking.

I urge my colleagues to pass H.R. 5008 in an expeditious manner.

Mr. GILMAN. Mr. Speaker, I rise in strong support of the compromise version of H.R. 5008, the Dependency and Indemnity Compensation [DIC] Reform Act of 1992. I wish to thank the gentleman from Ohio, Mr. APPLEGATE, for his diligent work and outstanding efforts on behalf of our Nation's veterans. In addition, I wish to thank the distinguished chairman of the committee, Mr. MONTGOMERY, and the committee's ranking member, Representative STUMP, for their support of this measure.

This measure provides an increase in base DIC rate from $616 to $750. In addition, it abolishes the rank-based DIC system. However, those receiving greater DIC benefits under the current system will be grandfathered under this legislation. An increase in the rate paid to spouses of veterans who were totally disabled for 8 years is also authorized, as is restoration of DIC benefits to certain widows who remarried but had filed for divorce.

Finally, Mr. Speaker, this bill provides permanent increases in the rates of educational assistance under the Montgomery GI bill for active duty and reserve programs.

Mr. Speaker, once again I commend the gentleman from Ohio for his efforts, and applaud the efforts of the chairman, Mr. MONTGOMERY, to secure funding for this important measure. I urge my colleagues to join me in supporting this important legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased to rise in support of the House amendments to the Senate amendments to H.R. 5008, the Veterans Benefits Act of 1992.

American veterans, their survivors and dependents all will benefit as a result of the long awaited legislation to reform the Dependency and Indemnity Compensation [DIC] Program. Not only are significant benefit increases provided in this measure for widows and orphans, but H.R. 5008 also furnishes a needed increase in the Montgomery GI bill education benefit and makes numerous other technical changes in the education and employment provisions of title 38, United States Code. As the ranking minority member of the Education, Training and Employment Subcommittee, I am very pleased that H.R. 5008 further increases Montgomery GI bill benefits and is the legislative vehicle for several other measures reported by our subcommittee.

Mr. Speaker, I know Chairman MONTGOMERY has worked a very long time to increase these educational benefits and his efforts deserve hearty congratulations. The GI bill continues to help veterans achieve their education goals and is a model of efficiency and reliability. The gentleman from Minnesota also deserves to be recognized for his role in bringing this monthly benefit increase—from $350 to $450—to fruition.

Mr. Speaker, this final version of H.R. 5008 also includes several provisions which were originally passed by the House in H.R. 4342. During our full Veterans' Affairs Committee markup of H.R. 4342, I offered an amendment which added a section to the bill which concerns the Disabled Veterans Outreach Program [DVOP]. This program helps disabled veterans seek employment and job training and is staffed based upon the number of Vietnam-era veterans living in a given State. The amendment I offered was included to extend DVOP authority for 1 additional year and that extension was expanded to a permanent authorization in S. 2647 and is now reflected by title 5, section 502 in H.R. 5008.

I also offered an amendment to H.R. 4342 making a technical change concerning the Advisory Committee on Veterans Employment and Training. This change was mandated by a policy decision in the House Judiciary Committee. Under current law, veterans organizations which serve on the Advisory Committee on Veterans Employment and Training must have a Federal charter. However, the Judiciary Committee will no longer be granting charters to organizations. Therefore, in order to ensure that the Advisory Committee will continue to represent the views of all worthy veterans service organizations—with or without Federal charters—the amendment will conform the eligibility requirements to this new reality. Section 504 in H.R. 5008 is now the location of this provision.

Mr. Speaker, H.R. 5008 also expands the eligibility for DVOP assistance to include Persian Gulf war veterans. Persian Gulf veterans are among those who will be hit hard as a result of the current DOD drawdown. Any job placement assistance or counseling which DVOP's can provide to these new veterans will certainly be useful in this tight job market.

H.R. 5008 has additionally collected provisions of H.R. 5087, a bill which was also approved by the Education, Training and Employment Subcommittee. Among these provisions were protections for the GI bill benefits of service members who served on active duty, had short separations, and then returned to active duty; reform of the death benefit; and a clarification of the clock-hour measurement of classes.

An agreement was finally reached with the Senate to authorize veteran readjustment appointments [VRA] for all Vietnam-era veterans. This will enable eligible Vietnam veterans to secure noncompetitive appointments for competitive positions with the Federal Government. I am extremely pleased that we have finally reached this compromise.

Perhaps the most important aspect of H.R. 5008, Mr. Speaker, is that the Veterans' Committee is again demonstrating its responsibility by financing the benefits which we report in legislation. Mr. Speaker, Chairman MONTGOMERY and Mr. STUMP have crafted a bipartisan package of savings and revenue raisers which pay for all the benefits provided under this bill.

Mr. Speaker, I support this package and urge my House colleagues to approve the Veterans Benefits Act of 1992 without delay.

Mr. PENNY. Mr. Speaker, I want to express my support for the compromise agreement contained in H.R. 5008, as amended. I am particularly pleased with the provisions of titles III, IV, and V which relate to veterans' education, training and employment issues. These compromise provisions are derived from H.R. 4342, approved by the House on June 9, 1992, H.R. 5008 and H.R. 5087, approved by the House on August 10, 1992, and S. 2647, approved by the Senate on September 25, 1992.

Because the joint explanatory statement describes in detail the provisions of the compromise agreement, I will not discuss the bill at length. I would, however, like to point out some of the major provisions of titles III, IV, and V.

Section 303 of H.R. 5008, as amended, which is nearly identical to section 1 of H.R. 5087 as passed by the House, would extend the period for completing the requirement for a GED or secondary school diploma for Persian Gulf war veterans.

Under current law, individuals must complete the requirements for a GED before leaving active duty in order to be eligible for the Montgomery GI bill. Some servicemembers were nearing completion of their GED when they were sent to Southwest Asia during the gulf war and, as a result, were unable to finish the GED requirements before their discharge from active duty—thus losing their GI bill eligibility. Section 303 of H.R. 5008 would correct this situation and enable those individuals who complete the GED within 24 months of the date of enactment of this bill, whether or not these individuals are still on active duty, to establish eligibility for their education assistance benefits.

Section 304 would provide that, for Montgomery GI bill purposes, servicemembers who are enrolled in the GI bill, are discharged or released from service by reason of disability, hardship, or reduction in force after less than 12 months on active duty, and who later reenter on active duty, would be deemed to have served a continuous period of active duty equal in length to the total of those two periods of active duty. Under current law, servicemembers who initially enter active duty, subsequently separate from service for a short time, and later reenter on active duty may not earn education entitlement based on the second enlistment. This section is similar to section 2 of H.R. 5087.

Under existing law, the system for measuring and valuing courses of education for the purpose of benefit payments is extraordinarily complex and confusing and restrictions on widely accepted approaches to education are antiquated. The enactment of sections 314 and 317 of H.R. 5008 would simplify and streamline the current measurement system and recognize the changes in teaching modes which have occurred during the past 20 years. These sections of the compromise measure are derived from sections 5 and 6 of H.R. 5087.

Section 501 of H.R. 5008 would revise the statutory formula for the appointment of Disabled Veterans Outreach Program specialists [DVOP's] to provide for one specialist for each 6,900 veterans residing in a State who are Vietnam era veterans, veterans with service-connected disabilities, or veterans who first entered on active duty after the end of the Vietnam era—May 7, 1975. Under current law, one DVOP is appointed for each 5,300 veterans of the Vietnam era and disabled veterans residing in the State.

This section, which is identical to section 301 of S. 2647, would better reflect today's veteran population and provide for an increase of 21 DVOP-specialist positions above the 1,885 positions mandated by current law.

Finally, section 505 of H.R. 5008 would restore eligibility for all veterans of the Vietnam era under the Veterans Readjustment Appointment [VRA] program. This provision is identical to sections 1 and 3 of H.R. 4342 except that Vietnam-era veterans would be eligible for VRA appointments through December 31, 1995, rather than 1999, as provided under H.R. 4342, or 10 years after the veteran's last date of discharge, whichever is later. I am disappointed the Senate would not accept the House provision in total, but this provision will nonetheless improve employment opportunities with the Federal Government for Vietnam-era veterans.

H.R. 5008, as amended, is a good bill and an effective compromise that will enhance veterans' education, training and employment programs, and I encourage my colleagues to support this measure.

Mr. STUMP. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

□ 1850

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of yielding to the distinguished majority leader so that we might know how we will proceed for the balance of the evening and tomorrow.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the distinguished gentleman for yielding to me.

Mr. Speaker, I thought it would be good to give Members a sense of what will happen today and tomorrow and into Monday.

For today we will not have further votes. We will go to a rule on a mining bill. We will not have a vote on that rule. We will roll that vote until tomorrow.

We will also have debate on some suspension bills, but again, no votes today.

Tomorrow we will go in at 2 o'clock. We now have information that the energy conference will be ready for consideration at that time. That will be an hour on a rule and then a vote, so Members can anticipate the first vote at around 3 o'clock.

There will then be one, or more likely 2 hours, of debate on the conference report and then, of course, a vote on the conference report.

We will then go from that to the legislative branch appropriations. That will be an hour on the rule and the possibility of an hour on debate and then a vote on that.

We will then go to the mining reform bill, take up the rule vote which was put off from tonight, vote on the rule and then there will be a number of amendments involved, as I understand it, in that bill.

We also have Suspensions that will not be voted on tomorrow, and further conference reports that may come up.

I cannot give Members a solid concrete idea of how long we would go. We do not desire to go late tomorrow night. We could go into the evening, but not very late, because Monday is the long day, the longest day to try to finish what is left and to get all our business finished and be able to adjourn sine die.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, would the majority leader consider going in at 1:30 and having 30 minutes of 1-minute speeches so some of us could say goodbye to some of our friends?

Mr. GEPHARDT. We have a baseball game going on at 11. Members may not be able to get back. I do not know that we could assure Members there would not be a vote. Maybe the gentleman could figure out how to do that this evening or tomorrow evening.

Mr. DORNAN of California. Our leader could certainly assure that there will be no calls for a frivolous Journal vote on this side.

May I ask that of the distinguished majority leader? Is that correct?

Mr. MICHEL. I do not know if everybody here could agree. Sometimes those requests are made.

Mr. GEPHARDT. We will consult with the minority and see if another time can be found to do these tributes.

COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992 FOR HOMELESS VETERANS ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5400) to establish in the Department of Veterans Affairs a program of comprehensive services for homeless veterans with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The Clerk read Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. FINANCING OF PROPERTIES TO ASSIST HOMELESS VETERANS.

(a) FINANCING.—Section 3735 of title 38, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Subject to paragraphs (2) and (3), the Secretary may make loans to organizations described in paragraph (1)(A) of subsection (a) to finance the purchase of property by such organizations under such subsection.

"(2)(A) In making a loan under this subsection, the Secretary—

"(i) may modify or waive one or more of the credit underwriting standards that would otherwise apply to the loan under section 3710(g)(2)(A) of this title;

"(ii) shall, in underwriting the loan, take into account the amount of equity in the property that a purchasing organization will have as a result of the purchase;

"(iii) may provide that the loan will bear interest at a rate below the rate that prevails for similar loans in the market in which the loan is made;

"(iv) may not collect a loan fee for the loan under section 3729 of this title; and

"(v) shall include such other terms and conditions with respect to the loan as the Secretary determines are necessary to facilitate the making of loans under this subsection and to protect the interests of homeless veterans and the Federal Government.

"(B) The Secretary shall, to the maximum extent practicable, ensure that the terms and conditions that the Secretary applies to loans under subparagraph (A)(v) are similar to the terms and conditions that the Secretary applies to loans made under section 3733 of this title.

"(3) The Secretary, in order to protect the interests of the Federal Government, may limit the number of loans or the amount any loan that the Secretary makes to an organization under this subsection.".

(b) CONFORMING AMENDMENT.—Section 3729(a)(1) of title 38, United States Code, is amended by striking out "section," and inserting in lieu thereof "section or section 3735(b)(2)(A)(iv) of this title,".

SEC. 2. PROGRAM OF LEASING OF REPOSSESSED PROPERTIES FOR USE BY HOMELESS VETERANS.

(a) PROGRAM.—Subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

"§3736. Availability of properties for homeless veterans

"(a) The Secretary shall carry out a program to make the properties referred to in subsection (b) available to approved entities under subsection (c) for the purpose of permitting such entities to provide transitional housing for homeless veterans and their families.

"(b) The Secretary shall make available for use as transitional housing for homeless veterans and their families during each fiscal year a number of properties that is not less than 10 percent of the total number of eligible properties that are in the possession of the Secretary at the commencement of that fiscal year as a result of a default on a loan made, insured, or guaranteed under this chapter.

"(c)(1) The Secretary shall lease properties under this section to eligible entities—

"(A) that submit to the Secretary (under regulations prescribed by the Secretary) applications for the lease of such properties; and

"(B) whose applications are approved by the Secretary in accordance with such regulations.

"(2) For the purposes of this subsection, an eligible entity is any of the following entities that provide housing for homeless veterans and their families:

"(A) Non-profit organizations, with preference given to organizations named in or approved by the Secretary under section 5902(a)(1) of this title.

"(B) State or local governments.

"(d)(1) The Secretary shall make available properties to entities approved under subsection (c)(1) as follows:

"(A) By lease.

"(B) By lease, with an option to purchase under section 3735 of this title.

"(2) The term of any lease under this subsection may not exceed three years.

"(3) The Secretary shall collect from each approved entity that leases a property from the Secretary under this section a nominal rental charge for the property.

"(e)(1) An approved entity that leases a property from the Secretary under this section shall use that property solely to provide transitional housing for homeless veterans and their families.

"(2) An approved entity that leases a property from the Secretary under this section shall collect rent from veteran occupants of the property. The amount of rent that an approved entity may collect with respect to a property may not exceed the lesser of—

"(A) an amount equal to the costs of operating and maintaining the property, including the cost of any liability insurance premiums for the property; or

"(B) an amount equal to 30 percent of the occupants' income.

"(3) An approved entity that leases a property from the Secretary under this section shall be responsible for the payment of any taxes, utilities, liability insurance, and other maintenance charges or similar charges that apply to the property.

"(f) An approved entity that leases a property from the Secretary under this section shall, to the maximum extent practicable—

"(1) utilize the services of homeless veterans in maintaining, operating, and renovating the property; and

"(2) provide to the homeless veterans who occupy the property—

"(i) appropriate information about the services and assistance available to the veterans and the homeless in the area of the property; and

"(ii) appropriate referrals to the entities that provide such services and assistance.

"(g) In this section, the term 'eligible property' means a property that—

"(1) is acquired by the Secretary as a result of a default on a loan made, insured, or guaranteed under this chapter;

"(2) is vacant;

"(3) has been listed for sale by the Secretary for not less than 60 days (or for such shorter pe-

riod as the Secretary determines to be appropriate to carry out the purposes of this section); and

"(4) is not subject to a sale contract.

"(h) The Secretary may not make any properties available for acquisition under this section after September 30, 1997.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 37 of title 38, United States Code, is amended by adding after the item relating to section 3735 the following new item:

"3736. Availability of properties for homeless veterans.".

SEC. 3. AUTHORITY TO LEASE CERTAIN PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS FOR EXTENDED LEASE TERMS.

(a) AUTHORITY.—Notwithstanding section 8122(a)(1) of title 38, United States Code, and subject to subsection (b), the Secretary of Veterans Affairs may lease to a representative of the homeless for a term in excess of three years any real property for which an application of the representative for the use of the property has been approved by the Secretary of Health and Human Services under section 501(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(e)). Any such lease shall be subject to the provisions of section 501(f) of such Act (42 U.S.C. 11411(f)).

(b) LIMITATION.—The Secretary may not lease real property under subsection (a) for a term in excess of three years to a representative of the homeless unless the representative agrees to use the property as a location for the provision of services to homeless veterans and the families of such veterans.

(c) DEFINITION.—In this section, the term "representative of the homeless" has the meaning given such term in section 501(g)(4) of such Act (42 U.S.C. 11411(g)(4)).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR HOMELESS VETERANS' REINTEGRATION PROJECTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 738 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11448) is amended by adding at the end the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section the following amounts:

"(A) $10,000,000 for fiscal year 1993.

"(B) $12,000,000 for fiscal year 1994.

"(C) $14,000,000 for fiscal year 1995.

"(2) Funds obligated for any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.".

(b) CONFORMING AMENDMENTS.—(1) Section 739 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449) is amended—

(A) in subsection (a)—

(i) by inserting "(1)" before "There are";

(ii) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(iii) by amending subparagraph (C), as so redesignated, to read as follows:

"(C) $14,800,000 for fiscal year 1993, to carry out programs under this subtitle other than the programs described in section 738(a)."; and

(iv) by adding at the end the following new paragraph:

"(2) Amounts appropriated in fiscal year 1993 pursuant to the authorization of appropriations described in paragraph (1)(C) shall be in addition to amounts appropriated in that fiscal year pursuant to the authorization of appropriations described subsection (e) of section 738 for the purposes carrying out the programs described in subsection (a) of such section 738."; and

(B) in subsection (b), by striking out "other than section 738 and for the program under section 738".

(2) Section 741 of such Act (42 U.S.C. 11451) is amended by inserting "738 and" before "740".

Amend the title so as to read: "An Act to amend title 38, United States Code, to establish a program to provide certain housing assistance to homeless veterans, to improve certain other programs that provide such assistance, and for other purposes.".

House Amendment to Senate Amendments: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeless Veterans Comprehensive Service Programs Act of 1992".

SEC. 2. PILOT PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations provided for under section 12, the Secretary of Veterans Affairs shall establish and operate, through September 30, 1995, a pilot program under this Act to expand and improve the provision of benefits and services by the Department of Veterans Affairs to homeless veterans.

(b) COMPREHENSIVE CENTERS.—The pilot program shall include the establishment of no more than four demonstration programs (in addition to any existing programs providing similar services) at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of those specialized services which may be provided under existing law.

(c) PLACEMENT OF VBA EMPLOYEES.—The pilot program shall also include the services of such employees of the Veterans Benefits Administration as the Secretary determines appropriate at—

(1) no more than 45 sites at which the Secretary provides services to homeless chronically mentally ill veterans pursuant to section 115 of Public Law 100–322 (38 U.S.C. 1712 note);

(2) no more than 26 sites at which the Secretary furnishes domiciliary care to homeless veterans pursuant to section 801(b) of Public Law 100–628 (102 Stat. 3257);

(3) no more than 12 centers which provide readjustment counseling services under section 1712A of title 38, United States Code; and

(4) each of the demonstration sites established under subsection (b).

SEC. 3. GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subject to the availability of appropriations provided for under section 12, the Secretary of Veterans Affairs, during fiscal years 1993, 1994, and 1995, shall make grants to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans.

(b) CRITERIA FOR AWARD OF GRANTS.—The Secretary shall establish criteria and requirements for the award of a grant under this section, including criteria for entities eligible to receive such grants. The Secretary shall publish such criteria and requirements in the Federal Register not later than 90 days after the date of the enactment of this Act. In developing such criteria and requirements, the Secretary shall consult with organizations with experience in the area of providing service to homeless veterans and to the maximum extent possible shall take into account the findings of the assessment of the Secretary under section 107 of the Veterans' Medical Programs Amendments of 1992. The criteria established under this section shall include the following:

(1) Specification as to the kinds of projects for which such grant support is available, which shall include (A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans, and (B) procurement of vans for use in outreach to, and transportation for, homeless veterans to carry out the purposes set forth in subsection (a).

(2) Specification as to the number of projects for which grant support is available, which shall include provision for no more than 25 service centers and no more than 20 programs which incorporate the procurement of vans as described in paragraph (1).

(3) Appropriate criteria for the staffing for the provision of the services for which a grant under this section is furnished.

(4) Provisions to ensure that the award of grants under this section (A) shall not result in duplication of ongoing services, and (B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and nonurban locations.

(5) Provisions to ensure that an entity receiving a grant shall meet fire and safety requirements established by the Secretary, which shall include such State and community requirements that may apply, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to real property to be used by a grantee in carrying out the grant.

(6) Specifications as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of any project for which support is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

(c) FUNDING LIMITATIONS.—A grant under this section may not be used to support operational costs. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the expansion, remodeling, alteration, acquisition, or procurement provided for under this section.

(d) ELIGIBLE ENTITIES.—The Secretary may not make a grant under this section unless the applicant for the grant—

(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section;

(2) has demonstrated that adequate financial support will be available to carry out the project for which the grant has been sought consistent with the plans, specifications, and schedule submitted by the applicant; and

(3) has agreed to meet the applicable criteria and requirements established under subsection (b) (and the Secretary has determined that the applicant has demonstrated the capacity to meet those criteria and requirements).

(e) APPLICATION REQUIREMENT.—An entity described in subsection (d) desiring to receive assistance under this section shall submit to the Secretary an application. The application shall set forth—

(1) the amount of the grant requested with respect to a project;

(2) a description of the site for such project;

(3) plans, specifications, and the schedule for implementation of such project in accordance with requirements prescribed by the Secretary under subsection (b); and

(4) reasonable assurance that upon completion of the work for which assistance is sought, the program will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided will serve clients who are not receiving such services as veterans.

(f) PROGRAM REQUIREMENTS.—The Secretary may not make a grant to an applicant under this section unless the applicant, in the application for the grant, agrees to each of the following requirements:

(1) To provide the services for which the grant is furnished at locations accessible to homeless veterans.

(2) To maintain referral networks for, and aid homeless veterans in, establishing eligibility for assistance, and obtaining services, under available entitlement and assistance programs.

(3) To ensure the confidentiality of records maintained on homeless veterans receiving services under the grant.

(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 4.

(5) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

(g) SERVICE CENTER REQUIREMENTS.—In addition to criteria established under subsection (b), the Secretary shall, in the case of an application for a grant for a service center for homeless veterans, require that—

(1) such center shall provide services to homeless veterans during such hours as the Secretary may specify and shall be open to such veterans on an as-needed, unscheduled basis;

(2) space at such center will be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center;

(3) such center shall be equipped and staffed to provide, or to assist in providing, health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary; and

(4) such center may be equipped and staffed to provide, or to assist in providing, job training and job placement services (including job readiness, job counseling, and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this paragraph.

SEC. 4. PER DIEM PAYMENTS.

(a) PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.—Subject to the availability of appropriations provided for under section 12, the Secretary of Veterans Affairs, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 3 (or an entity eligible to receive a grant under section 3 which after the date of enactment of this Act establishes a program which the Secretary determines carries out the purposes described in section 3) per diem payments at such rates as the Secretary shall prescribe by regulation for services furnished to any homeless veteran—

(1) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

(2) for whom the Secretary has authorized the provision of services.

In a case in which the Secretary has authorized the provision of services, per diem payments may be paid retroactively for services provided not more than 3 days before the authorization was provided.

(b) LIMITATION.—The amount of per diem payments made with respect to a veteran under this section may not exceed one-half of the cost to the grant recipient (or other eligible entity) of providing such service.

(c) IN-KIND ASSISTANCE.—In lieu of per diem payments under this section, the Secretary may, with the approval of the grant recipient, provide in-kind assistance (through the services of Department employees and the use of other Department resources) to a grant recipient (or entity eligible for such a grant) under section 3.

(d) INSPECTIONS.—The Secretary may inspect any facility of an entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be made to an entity under this section unless the facilities of that entity meet such standards as the Secretary shall prescribe.

SEC. 5. OUTREACH SERVICES.

Section 7722 of title 38, United States Code, is amended by adding at the end thereof the following:

"(e) In carrying out this section, the Secretary shall assign such employees of the Veterans Benefits Administration as the Secretary considers appropriate to conduct outreach programs and provide outreach services for homeless veterans. Such outreach services may include site visits through which homeless veterans can be identified and provided assistance in obtaining benefits and services that may be available to them.".

SEC. 6. EXPANSION OF PROGRAMS FOR HOMELESS VETERANS.

Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628; 102 Stat. 3257) is amended in subsection (c), by striking out "to homeless" and inserting in lieu thereof "with a primary emphasis on those homeless".

SEC. 7. AUTHORITY TO LEASE CERTAIN PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS FOR EXTENDED LEASE TERMS.

(a) AUTHORITY.—Notwithstanding section 8122(a)(1) of title 38, United States Code, and subject to subsection (b), the Secretary of Veterans Affairs may lease to a representative of the homeless for a term in excess of three years any real property at the West Los Angeles Veterans Affairs Medical Center for which an application of the representative for the use of the property has been approved by the Secretary of Health and Human Services under section 501(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(e)). Any such lease shall be subject to the provisions of section 501(f) of such Act (42 U.S.C. 11411(f)).

(b) LIMITATION.—The Secretary may not lease real property under subsection (a) for a term in excess of three years to a representative of the homeless unless the representative agrees to use the property only as a location for the provision of services to homeless veterans and the families of such veterans.

(c) DEFINITION.—In this section, the term "representative of the homeless" has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4)).

SEC. 8. AUTHORITY TO MAKE PROPERTIES AVAILABLE FOR HOMELESS PURPOSES.

(a) LEASE OR DONATION.—Section 3735(a) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting ", lease, lease with an option to purchase, or donate" after "sell"; and

(B) by inserting "or lease or donation" after "sale";

(2) in paragraph (3)(B), by inserting ", leased, or donated" after "sold";

(3) by redesignating paragraph (4) as paragraph (6); and

(4) by inserting after paragraph (3) the following new paragraphs:

"(4) The term of any lease under this subsection may not exceed three years.

"(5) An approved entity that leases a property from the Secretary under this section shall be responsible for the payment of any taxes, utilities, liability insurance, and other maintenance charges or similar charges that apply to the property.".

(b) EXTENSION OF AUTHORITY.—Section 3735(b) of such title is amended by striking out "September 30, 1993" and inserting in lieu thereof "December 31, 1995".

SEC. 9. FINANCING OF PROPERTIES TO ASSIST HOMELESS VETERANS.

(a) FINANCING.—Section 3735 of title 38, United States Code (as amended by section 8), is further amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Subject to paragraphs (2) and (3), the Secretary may make loans to organizations described in paragraph (1)(A) of subsection (a) to finance the purchase of property by such organizations under such subsection.

"(2) In making a loan under this subsection, the Secretary—

"(A) shall establish credit standards to be used for this purpose;

"(B) may, pursuant to section 3733(a)(6) of this title, provide that the loan will bear interest at a rate below the rate that prevails for similar loans in the market in which the loan is made; and

"(C) may waive the collection of a fee under section 3729 of this title in any case in which the Secretary determines that such a waiver would be appropriate.".

SEC. 10. ANNUAL REPORTS.

Not later than May 1 of each of 1994, 1995, and 1996, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this Act. Each such report shall, to the extent feasible, include information on (1) the number of veterans assisted, (2) the services provided, and (3) the Secretary's analysis of the operational and clinical effectiveness and cost-effectiveness of the programs established under, or with assistance provided by, this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS FOR HOMELESS VETERANS' REINTEGRATION PROJECTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 738 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11448) is amended by adding at the end the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section the following amounts:

"(A) $10,000,000 for fiscal year 1993.

"(B) $12,000,000 for fiscal year 1994.

"(C) $14,000,000 for fiscal year 1995.

"(2) Funds obligated for any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.".

(b) CONFORMING AMENDMENTS.—(1) Section 739 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449) is amended—

(A) in subsection (a)(3)—

(i) by striking out "$17,000,000" and inserting in lieu thereof "$14,800,000"; and

(ii) by striking out "1993," and all that follows through "this subtitle" and inserting in lieu thereof "1993"; and

(B) in subsection (b), by striking out "other than section 738 of this subtitle and for the program under section 738 of this subtitle".

(2) Section 741 of such Act (42 U.S.C. 11451) is amended by inserting "738 and" before "740".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act (other than section 8) $48,000,000 for each of the fiscal years 1993, 1994, and 1995. No funds may be used to carry out the provisions of sections 2, 3, and 4 of this Act unless expressly provided for in an appropriation law. Nothing in this Act shall be construed to diminish funds for, continuation of, or expansion of existing programs administered by the Secretary of Veterans Affairs to serve veterans.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Mississippi?

Mr. STUMP. Reserving the right to object, Mr. Speaker, I will not object, and I yield to the gentleman from Mississippi for a brief explanation.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the proposed House amendment contains an agreement we have reached with the leadership of the Senate Committee on Veterans' Affairs for additional benefits for homeless veterans and their families. The agreement contains almost all the provisions of H.R. 5400 when it passed on July 27.

It would authorize a 3-year pilot program that would allow not more than four VA comprehensive service centers to be established for homeless veterans.

It would give benefit counseling at these centers and it would authorize the Secretary of Veterans' Affairs to provide grants of not more than 65 percent to supplement the cost of new programs to furnish Outreach, vocational counseling and training and transitional housing assistance to homeless veterans.

Mr. Speaker, we are doing everything possible that we can to get these homeless veterans off the streets, get them recommitted to a better life, and this bill will do it.

Mr. Speaker, the compromise measure we have agreed to with the Senate would, subject to the availability of appropriations, establish and operate through fiscal year 1995 a pilot program under which there would be established not more than four VA comprehensive service centers for homeless veterans. In addition, benefits counseling would be provided at vet centers and at other sites where the VA carries out certain programs for the homeless. These veteran benefits specialists will be able to expand the range of services now provided.

The compromise measure will also coordinate the responsibilities of Federal, State, and local governments by authorizing the Secretary to provide up to 65 percent grant support to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans. The bill would also authorize certain per diem payments and make more of VA's foreclosed properties available for the homeless.

There have been reports that 30 percent of those who are homeless are veterans. America's veterans have always answered the call to duty when freedom of this great Nation is threatened. This compromise measure gives the Congress the opportunity to answer the call of need of America's homeless veterans by expanding the scope of VA's existing programs for the homeless and starting new ones.

I want to thank my friend, the very able ranking minority member of the full committee, BOB STUMP, for his leadership in helping to reach a compromise with the other body on this homeless veterans comprehensive bill. The gentleman from Arizona has played a major role in getting this agreement worked out and I appreciate his good work.

I would like to commend the gentleman from West Virginia, HARLEY "BUCKY" STAGGERS, for his dedicated efforts in working out differences with the other body on this legislation. It is an excellent compromise and he and the ranking minority member of the subcommittee, the distinguished gentleman from Indiana, DAN BURTON, have both devoted a lot of time on this matter in hearings.

Mr. Speaker, I submit for the RECORD a joint explanatory statement which outlines in further detail the differences between the House and Senate-passed measures and the compromise agreement reached between the two bodies.

Mr. Speaker, I urge my colleagues to support H.R. 5400.

The joint explanatory statement follows:

JOINT EXPLANATORY STATEMENT ON H.R. 5400, THE "HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992"

This document explains the provisions of two measures relating to programs for homeless veterans that have been passed by the Senate and House of Representatives, upon which the Committees on Veterans' Affairs of the Senate and House have reached agreement, and which are offered as a proposed House amendment to the Senate amendments to H.R. 5400.

The measures referred to above are H.R. 5400, the proposed "Comprehensive Service Programs For Homeless Veterans Act of 1992", as passed by the House on July 27, 1992, (hereinafter referred to as the "House bill") and the text of S. 2512 as reported in the Senate, which was passed by the Senate on September 8, 1992, as a substitute amendment for H.R. 5400 (hereinafter referred to as the "Senate amendment").

The difference between the provisions of the House bill and the Senate amendment are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

COMPREHENSIVE CENTERS PILOT PROGRAM

Current law: Nothing in current law requires the establishment of comprehensive service centers for homeless veterans or the assignment of veterans benefits counselors at any particular sites in order to serve homeless veterans.

House bill: Section 2 would require VA, subject to the availability of appropriations expressly provided for in an appropriation law, to establish and operate through FY 1995 a pilot program under which (a) there would be established not more than 4 VA comprehensive service centers for homeless veterans, and (b) veterans benefits counselors would provide services at not more than 45 sites at which VA carries out the homeless chronically mentally ill veterans program, 26 sites at which VA carries out the domiciliary care for homeless veterans program, 12 centers which provide readjustment counseling, and each of the comprehensive service centers established under the program.

Senate amendment: No provision.

Compromise agreement: Section 2 follows the House bill with amendments to (a) clarify that any comprehensive service centers established under the demonstration program would be in addition to any existing programs providing similar services, (b) omit specific reference to the services that may be provided at the comprehensive centers created under this program and instead authorize the Secretary to provide any services which are authorized to be provided under current law, and (c) clarify that benefits counseling provided at the specified sites is to be furnished by employees of the Veterans Benefits Administration.

Grant program for the establishment of programs to assist homeless veterans

Current law: Current law does not authorize VA to make grants for the establishment of programs to assist homeless veterans.

House bill: Section 3(a) would require VA, subject to the availability of appropriations, to make grants during FYs 1993 through 1995 to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans.

Senate amendment: No provision.

Compromise agreement: Section 3(a) follows the House bill.

The Committees note that the intent of the grant program is to assist in the establishment of new programs, or new components of existing programs, that will provide needed services to homeless veterans. In this regard, both newly established organizations and existing organizations would be eligible for grant support for the furnishing of specified assistance that is needed in an area or community so long as, in the case of existing organizations, they are not already providing that kind of assistance in such area or community.

Development of Criteria for Award of Grants

House bill: Section 3(b) would require VA to (a) establish and publish in the Federal Register, within 90 days after the date of enactment, criteria and requirements for the awarding of grants under the program, and (b) in developing such criteria, consult with the National Coalition for Homeless Veterans and to the maximum extent possible take into account homeless veterans' needs as indicated by the findings of the assessment required under section 5 of the bill (described below).

Senate amendment: No provision.

Compromise agreement: Section 3(b) follows the House bill with an amendment that would require the Secretary, in developing criteria for the award of grants under this program, to consult with organizations with experience in the area of serving homeless veterans.

The Committees note that this modification is intended to broaden the consultation requirement so as to facilitate broader participation by organizations with experience in providing services to homeless veterans. The Committees fully expect, however, that the National Coalition of Homeless Veterans would be among the entities consulted in view of the organization's Omembers' extensive experience in providing services to homeless veterans.

The Committees also note that the assessment referred to in the House bill is not included in the compromise agreement because a similar assessment requirement was included in section 107 of the conference report on S. 2344, which passed the House of Representatives on September 23, 1992, and the Senate on September 25, 1992. However, the Committees intend that the assessments required under that legislation be taken into account by the Secretary in the development of grant criteria in the same manner that the House bill would have required.

Specific Criteria for Award of Grants

House bill: Section 3(b) would also require that criteria established for the award of grants include: (a) specification as to the kind of projects eligible for grant support, which would be required to include renovation of acquisition of existing facilities for use as service centers, transitional housing or other facilities to serve homeless veterans and procurement of vans for use in outreach to and transportation for homeless veterans; (b) specification as to the number of projects for which grants are available, which would be limited to no more than 25 service centers and 20 programs that incorporate the procurement of vans; (c) appropriate criteria for staffing; (d) provisions to ensure that the award of grants does not result in a duplication of ongoing services in excess of identified needs and reflects appropriate geographic dispersion and appropriate balance between urban and nonurban locations; (e) provisions to ensure that grantees meet applicable State and community—not federal—fire and safety requirements; and (f) specifications as to how a grantee may contribute in-kind services to the start-up costs of any project for which grant support is sought and the methodology for assigning a cost to that contribution.

Senate amendment: No provision.

Compromise agreement: Section 3(b) follows the House bill with an amendment that requires VA to establish fire and safety standards, which, at a minimum, shall include a requirement of compliance with applicable State and community fire and safety standards.

The Committees note that this requirement is consistent with that applicable to VA's approval of a residential-care facility under section 1730(b)(2)(A) of title 38, United States Code.

Funding Limitations

House bill: Section 3(c) would prohibit the use of a grant to support operational costs of a grantee, except as provided in section 4 of this bill, relating to per diem payments to eligible entities for services provided to homeless veterans, and would prohibit the award of a grant in excess of 65% of the estimated cost of the expansion, remodeling, alteration, acquisition, or procurement authorized under the program.

Senate amendment: No provision.

Compromise agreement: Section 3(c) follows the House bill with an amendment clarifying the different nature of grants—which may only be used for acquiring, expanding, or renovating facilities or for procuring vans—and per diem payments, which are intended to cover a portion of an organization's operational costs.

Eligible Entities

House bill: Section 3(d) would require that, to be eligible for a grant under the program, an applicant (a) must be a public or nonprofit private entity with the capacity (as determined by the Secretary) to administer a grant effectively; (b) must have demonstrated that adequate financial support will be available to carry out the project for which the grant is sought consistent with the plans, specifications, and schedule submitted by the applicant; and (c) must have agreed to meet applicable criteria and regulations (and the Secretary determines that the applicant is capable of compliance). A nonprofit entity established by VA employees under section 1718(b)(2) of title 38 would be prohibited from receiving a grant.

Senate amendment: No provision.

Compromise agreement: Section 3(d) follows the House bill with an amendment deleting language that would make nonprofit entities established under section 1718(b)(2) of title 38 ineligible for grants.

The Committees intend that nonprofit organizations which contract with VA to furnish rehabilitative services under section 1718 be eligible to apply for grant support. However, while the Committees intend that such organizations be eligible, the Committees also intend that the grant program be available to the broadest possible range of eligible entities In this regard, the Committees are concerned that organizations with ongoing contractual relations with VA may be perceived as having an advantage in the awarding of grants, and thus direct VA to ensure that such organizations do not receive an inappropriate advantage in the award of grants.

Application Requirements

House bill: Section 3(e) would require that a grant applicant submit an application which sets forth (a) the amount of the grant requested with respect to a project; (b) a description of the site of the proposed project; (c) plans, specifications, and the schedule for implementation of the project in accordance with the requirements prescribed by the Secretary; and (d) reasonable assurance that upon completion of the project for which a grant is sought, the program will become operational and the facilities will be used to provide to the veterans the services for which the project was designed and that not more than 25 percent of the services will be provided to clients not receiving services as veterans.

Senate amendment: No provision.

Compromise agreement: Section 3(e) follows House bill.

Program Requirements for Programs Awarded Grants

House bill: Section 3(f) would require that an applicant, in order to receive a grant, agree to (a) provide the services for which the grant is furnished at locations accessible to homeless veterans; (b) maintain referral networks for, and aid homeless veterans in, establishing eligibility for assistance and obtaining services under available entitlement and assistance programs; (c) ensure the confidentiality of records maintained on homeless veterans receiving services under the grant; (d) establish procedures for fiscal control and fund accounting necessary to ensure proper disbursement and accounting with respect to the grant and to receipt of per diem payments; and (e) seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

Senate provision: No provision.

Compromise amendment: Section 3(f) follows the House bill.

Requirements for the Award of Grants to Establish Homeless Veterans Service Centers

House bill: Section 3(f)(5) would require, in addition to the general program requirements, that an applicant for a grant to establish a homeless veterans service center agree that the center would (a) provide services during hours specified by the Secretary and shall be open to homeless veterans on an as-needed, unscheduled basis; (b) make space at the center available, as mutually agreeable, for use by staff of VA, Department of Labor, and other appropriate agencies and organizations to assist homeless veterans in the center; (c) be equipped and staffed to provide, or to assist in providing, health care, mental health services, hygiene facilities, benefits and employment counseling, transportation assistance, and other services the Secretary determines are necessary; and (d) be equipped and staffed to provide, or to assist in providing, job training and job placement services (including job readiness, job counseling, and literacy and skills training) and any outreach and case management services that may be necessary to carry out such services.

Senate amendment: No provision.

Compromise agreement: Section 3(g) generally follows the House bill.

Per diem payments

Current law: Current law does not authorize VA to make per diem payments to organizations for providing services specifically to homeless veterans.

House bill: Section 4(a) would require VA, subject to the availability of appropriations expressly provided for in an appropriation law, to provide to a grantee (or to an entity eligible to receive a grant which establishes a program consistent with the purposes of the grant program) per diem payments at rates prescribed by the Secretary for services furnished to any homeless veteran (a) referred by the Secretary to the grantee (or eligible entity) or (b) for whom the Secretary, within three working days, has authorized the provision of services if the veteran is eligible for such services from VA.

Senate amendment: No provision.

Compromise agreement: Section 4(a) follows the House bill with an amendment omitting the limitation that per diem payments may only be made for services which VA itself is authorized to provide.

Limitation on Per Diem Payments

House bill: Section 4(b) would limit the amount of per diem paid with respect to a veteran to 50 percent of the grantee's (or eligible entity's) cost of providing the services furnished.

Senate bill: No provision.

Compromise agreement: Section 4(b) follows the House bill.

The Committees note that payments may be made for services such as benefits and employment counseling and job training that would involve periodic visits of relatively brief duration and not necessarily overnight shelter or day-long visits. The Committees expect that the Secretary will develop appropriate criteria for the payment of per diem for various kinds of services under the compromise agreement.

Authority To Provide In-Kind Assistance in Lieu of Per Diem Payments

House bill: Section 4(c) would authorize VA to provide with the approval of the grantee, in-kind assistance in lieu of per diem.

Senate amendment: No provision.

Compromise agreement: Section 4(c) follows the House bill.

VA Inspections of Facilities of Entities Eligible for Per Diem Payments

House bill: Section 4(d) would authorize VA to inspect any facility of an entity eligible to receive per diem payments and prohibits the payment of per diem if an entity's facilities do not meet VA standards.

Senate amendment: No provision.

Compromise agreement: Section 4(d) follows the House bill.

Assessment of needs of homeless veterans

Current law: Under section 107 of the conference report on S. 2344, the Veterans' Medical Programs Amendments of 1922, which the House passed on September 23, 1992, and the Senate passed on September 25, 1992, the director of each VA regional benefits offices or the director of each medical center would be required to conduct assessments of the needs of homeless veterans in their respective catchment areas. The assessments would include the needs of homeless veterans with respect to (a) health care, (b) education and training, (c) employment, (d) shelter, (e) counseling, and (f) outreach services and the extent to those needs are being met adequately by VA and other federal programs, State and local government programs, and programs of nongovernmental organizations.

House bill: Section 5 is substantively similar to the provisions included in section 107 of the conference report on S. 2344, the Veterans' Medical Programs Amendments of 1992.

Senate bill: No provision.

Compromise agreement: No provision.

Outreach services

Current law: Section 7722 of title 38 requires VA to conduct outreach services to ensure that all veterans are informed of the benefits for which they may be eligible or to which they may be entitled.

House bill: Section 6 would require VA to assign such employees of the Veterans Benefits Administration as the Secretary considers appropriate to conduct outreach services for homeless veterans, including site visits to identify homeless veterans and provide such veterans assistance in obtaining benefits.

Senate amendment: No provision.

Compromise agreement: Section 5 would amend section 7722 of title 38 so as to require the Secretary to conduct appropriate outreach services for homeless veterans, including assigning Veterans Benefits Administration employees to conduct site visits to identify homeless veterans and provide such veterans assistance in obtaining benefits.

Extension and expansions of programs for homeless veterans

Current Law: Under section 115(d) of the Veteran' Benefits and Services Act of 1988 (Public Law 100-322) (as amended by section 201(c) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) and as would be amended by section 107(h) of the Veterans' Medical Programs Amendments of 1992, which the House passed on September 23, 1992, and the Senate passed on September 25, 1992), VA is authorized to conduct a program to provide care and treatment and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless veterans suffering from chronic mental illness disabilities. Public Law 100-628, the Stewart B. Mckinney Homeless Assistance Amendments Act of 1988, authorized appropriations of $30 million for each of FYs 1989 and 1990 and required that 50 percent of the funds so appropriated in those years be available for that program and for VA's domiciliary care for homeless veterans program, which was authorized in Public Law 100-71, the Supplemental Appropriations Act of 1987. Public Law 101-237 extended the authority for the homeless chronically mentally ill veterans program through September 30, 1992, and Public Law 100-645 authorized appropriations of $31.5 million for FY 1991 and $33.075 million for FY 1992 to be divided equally between the programs. Section 107 of the conference report on S. 2344 would extend the authority for the homeless chronically mentally ill veterans program through September 30, 1995 and authorize FY 1993 appropriations of $50 million, with funds appropriated in that year to be allocated between those two programs at the Secretary's discretion.

House bill: Section 7 would (a) extend through FY 1995 VA's authority under section 115(d) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322) to conduct a program of rehabilitative services for homeless chronically mentally ill veterans; and (b) authorize funds appropriated for that program, if available, to be expended to assist homeless veterans who are not currently eligible for the HCMI program, but require that chronically mentally ill homeless veterans be given a priority for assistance.

Senate bill: No provision.

Compromise agreement: Section 6 of the compromise agreement would amend section 115(d) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322) so as to expand the scope of the homeless chronically mentally ill veterans program to include all homeless veterans, with primary emphasis being given to homeless veterans who have a chronic mental illness.

The Committees note that the underlying program authority for the existing program would be extended through September 30, 1995, as proposed in the House bill, in section 107(g) of the Veterans' Medical Programs Amendments of 1992, which passed the House on September 23, 1992, and the Senate on September 25, 1992.

Authority to lease properties to assist homeless veterans

Current law: Section 3735 of title 38 authorizes VA, through September 30, 1993, to sell VA-acquired properties at a discount of nonprofit organizations and State agencies and agree to use the properties as a shelter for homeless veterans and their families.

House bill: Section 8 would amend section 3735 to authorize VA to lease, lease with an option to purchase, or donate, to nonprofit or State agencies VA-acquired properties for use as shelter for homeless veterans and their families.

Senate amendment: Section 2 would add to title 38 a proposed new section 3736, that would require VA to carry out through September 30, 1997 a program under which VA would be required annually to make available to nonprofit organizations and State agencies not more than 10 percent of eligible VA-aquired properties for use solely as transitional housing for homeless veterans and their families. Properties would be made available for a nominal fee by lease or by lease with an option to purchase. An approved entity leasing a property would be required (a) to collect rent from veteran occupants in an amount that does not exceed the lesser of (i) the costs of operating and maintaining the property or (ii) 30% of the occupants' income; and (b) to the maximum extent practicable, to (i) utilize the services of homeless veterans in maintaining, operating, and renovating the property, and (ii) provide veteran occupants appropriate information and referrals regarding available services. Properties eligible for lease would be those acquired by default on a loan made, insured, or guaranteed by VA, which are vacant, have been listed for sale for at least 60 days, and are not subject to a sales contract.

Compromise agreement: Section 8 would amend section 3735 of title 38 to authorize VA, through FY September 30, 1997, to lease, lease with an option to purchase, or donate, to nonprofit or State agencies VA-acquired properties for use as shelter for homeless veterans and their families. Any lease would be limited to three years, although the Secretary could include provisions for leases to be renewed; an approved entity leasing a property would be required to collect rent from veteran occupants; and an approved entity that leases a property would be responsible for the payment of any taxes, utilities, liability insurance, and other maintenance charges that apply to the property.

Authority to lease certain VA property for extended lease terms

Current Law: Title V of the Stewart B. Mckinney Homeless Assistance Act (Public Law 100-77; 41 U.S.C. 11411 et seq.) authorizes federal properties, including VA properties, that are surplus, excess, unutilized, or underutilized to be made available by lease for the purpose of assisting homeless persons. Section 8122 of title 38 prohibits VA from entering into a lease of any of its properties for a term in excess of three years.

House bill: Section 9 would authorize VA, with respect to any property at the West Los Angeles VA Medical Center made available under title V of the McKinney Act, to enter into a lease for a term in excess of 3 years with an approved applicant if the applicant agrees to use the property as a location for the provision of services to homeless veterans and their families.

Senate bill: Section 3 is similar to the House provision, except the authority to enter into a lease for a term in excess of three years would apply generally to all VA facilities and not be limited to the West Los Angeles VAMC.

Compromise agreement: Section 7 follows the House bill.

VA financing of properties to assist homeless veterans

Current law: Section 3735(a) of title 38 authorizes VA to sell at a discount VA-acquired properties to nonprofit organizations and State organizations for the purpose of providing shelter for homeless veterans and their families. Under section 3710(g)(2)(a) of title 38, the Secretary is required to establish credit underwriting standards to be used in evaluating VA guaranteed loans.

House bill: No provision.

Senate amendment: Section 1 would amend section 3735 of title 38 to authorize VA to (a) finance directly sales of VA-acquired properties which VA may sell at a discount under section 3735(a) of title 38; (b) waive one or more of the credit underwriting standards that would otherwise apply to direct VA financing under section 3710(g)(2)(A); (c) charge lower-than-market-rate interest; and (d) limit the number of loans in order to protect the interest of the Federal Government. VA would be prohibited from collecting a loan fee for a loan made pursuant to this authority.

Compromise agreement: Section 9 follows the Senate amendment, with amendments that would (a) require the Secretary to establish credit standards to be used to carry out the purposes of this program, and (b) authorize the Secretary to waive a loan fee for loans made under this authority.

Homeless veterans reintegration projects

Current law: Section 738 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77) authorizes the Secretary of Labor to conduct, directly or through grant or contract, programs to expedite the reintegration of homeless veterans into the labor force. Under this authority, the Secretary of Labor has established the Homeless Veterans Reintegration Projects (HVRP) program, a grant program under which grantees hire formerly homeless veterans to conduct outreach to homeless veterans and provide supportive services, job training, job readiness skills, and job placement. The HVRP program's authority expires at the on October 1, 1993.

House bill: No provision.

Senate amendment: Section 4 would extend until October 1, 1995, the HVRP program's authority and increase the authorized levels of appropriations from the currently authorized FY 1993 level of $2.2 million to $10 million for FY 1993, $12 million for FY 1994, and $14 million for FY 1995.

Compromise agreement: Section 11 follows the Senate amendment.

Annual reports

House bill: Section 11 would require VA to submit, by May 1 in each of 1994, 1995, and 1996, a report on the implementation of the bill containing, to the extent practicable, information on the number of veterans assisted, the services provided, and the Secretary's analysis of the operational and clinical effectiveness and cost-effectiveness of programs carried out under the bill.

Senate amendment: No provision.

Compromise agreement: Section 10 follows the House bill.

Authorization of appropriations

House bill: Section 10 would (a) authorize appropriations of $48 million for each of FYs 1993 through 1995; (b) prohibit the use of funds to carry out the House bill (except for section 8, regarding VA's authority to lease or donate VA-acquired properties to nonprofit and State organizations) unless expressly provided for in an appropriation law; and (c) provide that nothing in the House bill be construed to diminish funds for, or continuation of, existing programs administered by VA.

Senate amendment: No provision.

Compromise agreement: Section 12 follows the House bill with amendments to (a) clarify that nothing in the compromise agreement shall be construed to limit expansion of existing programs administered by VA, and (b) prohibit the expenditure of funds to carry out sections 2, 3, and 4 of the bill unless expressly provided for in an appropriation law.

Mr. STUMP. Further reserving the right to object, Mr. Speaker, I support H.R. 5400, as amended, the Comprehensive Service Programs for Homeless Veterans Act of 1992.

This measure authorizes a pilot program to expand and improve the provision of veterans benefits and services to homeless veterans. It also establishes a grant program to assist in establishing new programs to furnish outreach, rehabilitative services, vocational counseling, training, and transitional housing assistance to veterans.

Mr. Speaker, there are many truly innovative and positive approaches to the problems of homeless veterans. The programs already administered by the VA emphasize a combination of medical care, rehabilitation, and job training. We have discovered that where there is a comprehensive approach, more veterans return to society.

In my home State of Arizona, the Homeless Veterans Program at the Prescott VA Medical Center documented that 60 percent of the people who have completed the program have successfully returned to society. Mr. Speaker, this is double the national average for similar programs.

H.R. 5400 provides the support to establish and continue such comprehensive programs to help homeless veterans. But, what this body seriously needs to do is to equitably distribute available McKinney Act funds. One-third of the homeless are veterans, yet the VA receives only 5 percent of McKinney Act funds.

I commend my good friend, SONNY MONTGOMERY, chairman of the Veterans Affairs Committee, for his leadership in moving this legislation, and I commend HARLEY STAGGERS, chairman of the Subcommittee on Housing and Memorial Affairs, and DAN BURTON, ranking member of that subcommittee.

Mr. Speaker, I urge my colleagues to support H.R. 5400.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, I rise in support of H.R. 5400, the Homeless Veterans Comprehensive Service Programs Act.

Before discussing the bill, I would like to thank JOE KENNEDY and HARLEY STAGGERS for working with me to develop this unique legislation that will undoubtedly benefit homeless veterans and their families—people who have simply fallen victim to the continuing recession, high housing and medical costs, and job skills that are not transferable to the general work force.

I am very excited about the opportunities that will be created by this legislation. Once enacted, it will establish a grant program to support community-based organizations, several new VA comprehensive service centers, allows the VA to lease or donate property to homeless veteran service providers, and mandates needs assessments by each VA medical center and regional office.

Community-based organizations such as the National Coalition for Homeless Veterans play a critical role in the battle against homelessness, and the grant program established by this legislation will enable them to continue their valuable work. Accordingly, I would like to personally thank the homeless veteran service providers across the Nation. And I especially want to thank the board of the NCHV, Bill Elmore, Ralph Cooper, Jerry Washington, Robert Van Keuren, Michael Blecker, and Stephen Peck, as well as Joan Alker of the National Coalition for the Homeless.

While the battleground has changed, homeless veterans are still fighting a war. Instead of fighting live ammunition in the jungles of Southeast Asia or the deserts of Iraq, the homeless veteran tries to avoid the brutality of our city streets—a fight that they are not trained for and that America has failed to support.

In order for them to win and re-enter the work force, they need our assistance. Show them that you haven't forgotten their service and sacrifices. Vote for H.R. 5400.

Mr. STUMP. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Mississippi [Mr. MONTGOMERY]?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the House amendments to the Senate amendments to H.R. 5008, previously considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS, 1993

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, October 3, 1992, to file a conference report on the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the Report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5677) "An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes," and that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 4, 12, 18, 24, 45, 52, 55, 60, 62, 65, 68, 69, 70, 73, 75, 77, 78, 79, 80, 87, 88, 95, 103, 112, 125, 135, 137, 138, 154, 163, 170, 171, 184, 191, 213, 214, 217, 236, 237, 238, and 239, to the above-entitled bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 523. An act to authorize the establishment of the National African American Museum within the Smithsonian Institution.

LITTLE RIVER CANYON NATIONAL PRESERVE ACT OF 1992

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3665) to establish the Little River Canyon National Preserve in the State of Alabama, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Little River Canyon National Preserve Act of 1992".

SEC. 2. ESTABLISHMENT.

(a) IN GENERAL.—In order to protect and preserve the natural, scenic, recreational, and cultural resources of the Little River Canyon area in DeKalb and Cherokee Counties, Alabama, and to provide for the protection and public enjoyment of the resources, there is established the Little River Canyon National Preserve (referred to in this Act as the "Preserve").

(b) AREA INCLUDED.—The Preserve shall consist of the lands, waters, and interests in lands and waters generally depicted on the boundary map entitled "Little River Canyon National Preserve", numbered NA-LRNP-80,001C, and dated March 1992.

(c) MAP.—The map referred to in subsection (b) shall—

(1) be on file and available for public inspection in the offices of the National Park Service of the Department of the Interior in Washington, District of Columbia; and

(2) be filed with the appropriate offices of DeKalb and Cherokee Counties in the State of Alabama.

(d) PUBLICATION OF DESCRIPTION.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior (referred to in this Act as the "Secretary") shall publish in the Federal Register a detailed description of the boundaries of the Preserve.

SEC. 3. ADMINISTRATION.

(a) IN GENERAL.—The Preserve shall be administered by the Secretary in accordance with this Act and in accordance with the laws generally applicable to units of the National Park System, including—

(1) the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.); and

(2) the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) HUNTING AND FISHING.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary shall permit hunting, trapping, and fishing on lands and waters under the jurisdiction of the Secretary within the Preserve in accordance with applicable Federal and State laws.

(2) TIME AND PLACE RESTRICTIONS.—Subject to such terms and conditions as the Secretary considers necessary in furtherance of this Act, and after consultation with the Department of Conservation and Natural Resources of the State of Alabama and owners of lands adjacent to the Preserve, the Secretary may designate zones where, and establish periods when, the activities described in paragraph (1) will not be permitted within the Preserve for reasons of public safety, administration, fish and wildlife habitat, or public use and enjoyment.

(3) RESTRICTIONS IN BOUNDARY AREAS.—After consultation with the Department of Conservation and Natural Resources of the State of Alabama and with the owners of lands adjacent to the Preserve, the Secretary may restrict hunting in areas within the Preserve that are adjacent to the boundaries of the Preserve where the restriction is necessary or appropriate to protect public safety.

(4) CONGRESSIONAL INTENT.—Nothing in this Act is intended to affect the jurisdiction or responsibilities of the State of Alabama with respect to fish and wildlife.

(c) WATER RESOURCES PROJECTS.—Subsection (a) of section 7 of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)) shall apply to that portion of the Little River that flows through the Preserve in the same manner and to the same extent as such subsection applies to the rivers referred to in such subsection. The application of such subsection to the Preserve shall not affect any determination of the value of the lands, waters, or interests in lands and waters within the boundaries of the Preserve.

(d) COOPERATIVE AGREEMENTS WITH STATE.—

(1) LAW ENFORCEMENT AND FIRE PREVENTION.—In administering the Preserve, the Secretary may enter into cooperative agreements with the State of Alabama, or any political subdivision of the State, for the rendering of—

(A) rescue, fire fighting, and law enforcement services; and

(B) cooperative assistance by law enforcement and fire preventive agencies located in the vicinity of the Preserve.

(2) PREPARATION OF MANAGEMENT PLAN.—To facilitate the purposes of this section, the Secretary may enter into cooperative agreements with the State of Alabama and directly affected political subdivisions of the State to provide professional assistance in the preparation of the management plan for the Preserve.

(e) DESOTO STATE PARK.—If lands within DeSoto State Park are acquired by the Secretary, at the request of the Department of Conservation and Natural Resources of the State of Alabama, the Secretary shall enter into a cooperative agreement with the Department for the continued management by the Department of the lodge and other facilities that, as of the date of enactment of this Act, are part of DeSoto State Park. The cooperative agreement shall provide for the management and operation of the lodge and facilities in a manner that, to the maximum extent practicable, is consistent with similar operations elsewhere in the National Park System.

(f) PUBLIC INVOLVEMENT.—

(1) PUBLIC AWARENESS AND PARTICIPATION PROGRAM.—The Secretary shall develop and conduct a program to promote and encourage awareness of and participation in the development of the general management plan for the Preserve by persons owning property in the vicinity of the Preserve, other interested groups and individuals, State, county, and municipal agencies, and the general public. Prior to final approval of the plan, the Secretary shall hold public meetings in DeKalb and Cherokee Counties.

(2) CONSIDERATION OF PUBLIC COMMENT.—In preparing and implementing the plan described in paragraph (1), the Secretary shall give full consideration to the views and comments of the individuals, groups, and agencies described in paragraph (1).

(g) GREEN PITCHER PLANT.—Upon the transfer by Alabama Power Company to the United States of any lands within the boundaries of the Preserve that contain the Green Pitcher Plant (Sarracenia oreophila), all rights and obligations of Alabama Power Company under the agreement entered into between the company and the Department of the Interior (including the United States Fish and Wildlife Service) on May 12, 1983, in settlement of the action brought on September 24, 1980, against the Secretary and the Director of the Fish and Wildlife Service in the United States District Court for the Northern District of Alabama (Civil Action No. CV 80-C-1242-M), shall be extinguished.

SEC. 4. ACQUISITION.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary is authorized to acquire lands, waters, and interests in lands and waters within the boundaries of the Preserve by donation, purchase with donated or appropriated funds, or exchange.

(2) CONSENT OF THE OWNER.—The Secretary may not acquire lands, waters, or interests in lands and waters for the Preserve without the consent of the owner.

(3) STATE LANDS.—Lands, waters, and interests in lands and waters within the boundaries of the Preserve that are owned by the State of Alabama, or any political subdivision of the State, may be acquired only by donation or exchange.

(b) NEGOTIATIONS FOR ACQUISITION.—

(1) COMMENCEMENT OF NEGOTIATIONS.—Immediately after publication of a description of the boundaries of the Preserve in accordance with section 2(d), the Secretary shall commence negotiations for the acquisition of the lands, waters, and interests in lands and waters within the boundaries of the Preserve.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit, in writing, a detailed schedule of actions and a progress report regarding the acquisition to—

(A) the Committee on Energy and Natural Resources of the Senate;

(B) the Committee on Interior and Insular Affairs of the House of Representatives; and

(C) the Committees on Appropriations of Congress.

(3) ACQUISITION DEADLINE.—The Secretary shall substantially complete the acquisition of the lands, waters, and interests in lands and waters within the Preserve, in accordance with the purposes of this Act, not later than 2 years after the date of enactment of this Act, subject to the availability of funds.

(c) ENVIRONMENTAL AUDITS.—

(1) AVAILABILITY TO OWNER.—Promptly following completion of any environmental audit performed by or on behalf of the Secretary with respect to any property proposed to be acquired for the purposes of this Act, the Secretary shall make available to the owner of the property a copy of the audit.

(2) INCLUSION IN DOCUMENTS TRANSFERRING TITLE.—Any audit described in paragraph (1), and any environmental audit performed by the owner of the property and submitted to the Secretary prior to the date of the acquisition, shall be included as part of the documents transferring title to the property to the United States.

(d) FUTURE ADDITIONS.—No lands or interest in lands may be added to the Preserve after the date of enactment of this Act without specific authorization by Congress and the consent of the owner of the lands or interest.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Reserving the right to object, Mr. Speaker, I will not object, and I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, H.R. 3665 is legislation introduced by Representative TOM BEVILL to establish the Little River Canyon National Preserve in the State of Alabama. The Little River Canyon has long been recognized for its unique natural and cultural resources. With an average depth of 400 feet, it is the second deepest gorge East of the Mississippi River. The canyon has several rare plants and animals including the endangered green pitcher plant and it provides numerous recreation opportunities including camping, kayaking, rock climbing, and hunting.

H.R. 3665 would establish a 14,000-acre Little River Canyon National Preserve to protect and provide public enjoyment of the natural and cultural resources of the Little River Canyon. The area meets the National Park Service criteria of national significance, suitability and feasibility and the bill is supported by the National Park Service.

The House passed the bill on April 7, 1992 and the Senate passed the bill on October 1, 1992 with an amendment in the nature of a substitute. Most of the changes in the Senate substitute are minor in nature and the Senate substitute is acceptable. I would point out that the language concerning the future additions to the park is not binding on future Congresses.

Mr. Speaker, H.R. 3665 as amended is a well crafted bill which will protect and preserve a natural area of outstanding quality in a region of the country with very few nationally recognized areas. It meets the National Park Service standards of significance, suitability, and feasibility. The bill has been scaled back substantially in terms of cost and acreage from the bill as introduced, and all concerns of private landowners have been addressed by the substitute bill. I commend the hard work of the gentleman from Alabama on this bill and urge Members to support the bill.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the Senate amendment to H.R. 3665, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

EXPANDING BOUNDARIES OF FREDERICKSBURG AND SPOTSYLVANIA COUNTY BATTLEFIELDS MEMORIAL NATIONAL MILITARY PARK, VIRGINIA

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 225) to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

□ 1900

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentleman from Minnesota [Mr. VENTO] to explain the legislation.

Mr. VENTO. Mr. Speaker, S. 225 is a bill that adds 560 acres at Fredericksburg-Spotsylvania County Battlefields Memorial National Military Park and 377 acres at Appomattox Court House National Historical Park. In both cases, the Secretary of the Interior is authorized to accept the donation of lands. The lands at Fredericksburg-Spotsylvania Park are in the Wilderness battlefield, scene of ferocious fighting as part of General Longstreet's flank attack in May, 1864. Previously scheduled for development, they are now available for donation to the park, thus protecting this part of the battlefield. Secretary Lujan has declared acquisition of these lands a priority for him. S. 225 now only allows acquisition by donation, rather than by purchase so that Federal expenditure will be minimal to protect these acres.

S. 225 was amended by the Senate to allow several tracts of land to be donated to Appomattox Court House National Historical Park. These lands saw major military movements the morning of April 9, 1865. Later that day Gen. Robert E. Lee of the Army of Northern Virginia surrendered to Gen. Ulysses S. Grant of the Army of the Potomac. Less than a year after they had fought at Fredericksburg-Spotsylvania, Lee and Grant met again, this time in the living room of Wilmer McLean. With Lee's surrender, the Civil War was essentially over.

The lands at both parks face immediate development pressures. Acquisition at Appomattox Court House would also protect the park from development along Route 24. By including these lands in the park boundaries, we will further protect our heritage. I endorse S. 225 and look forward to its passage.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDING.

Congress finds that the land area near Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia, located south and west of the intersection of the Orange Plank Road and Brock Road in Spotsylvania County was strategically significant ground associated with the battle of the Civil War known as the Battle of the Wilderness, and that the tract of land adjacent to such area known as "Longstreet's Flank Attack" was also strategically significant to that battle.

SEC. 2. ADDITION TO WILDERNESS BATTLEFIELD.

(a) Section (2) of Public Law 101-214 (16 U.S.C. 425k(a)) is amended—

(1) by striking "326-40072E/89,"; and

(2) by striking "1989." and inserting in lieu thereof "1989, and the map entitled 'Fredericksburg and Spotsylvania National Military Park,' numbered 326-40072E/89/A and dated September 1990.": *Provided*, That this subsection shall not be effective until the lands included within the proposed new boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this section may be acquired only by donation.

SEC. 3. ADDITION TO APPOMATTOX COURT HOUSE NATIONAL HISTORICAL PARK.

(a) Section 308(a) of Public Law 94-578 (16 U.S.C. 450e-1(a)) is amended by striking "numbered 340-20,000A, and dated September 1976," and inserting in lieu thereof, "numbered 340/80,015 and dated June 1992,": *Provided*, That this subsection shall not be effective until the lands included within the proposed new boundaries of the Appomattox Court House National Historical Park pursuant to this Act have been donated to the Secretary of the Interior.

(b) Lands included within the boundaries of the Appomattox Court House National Historical Park pursuant to this section may be acquired only by donation.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 225, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2321, ESTABLISHING THE DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK

Ms. SLAUGHTER, from the Committee on Rules, submitted a privileged report (Rept. No. 102-988) on the resolution (H. Res. 596) providing for the consideration of the bill (H.R. 2321) to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF RULE XI, AGAINST CONSIDERATION OF A CERTAIN RESOLUTION REPORTED FROM THE COMMITTEE ON RULES

Ms. SLAUGHTER, from the Committee on Rules, submitted a privileged report (Rept. No. 102-989) on the resolution (H. Res. 597) waiving the requirement of clause 4(b), rule XI, against consideration of a certain resolution reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

SCIENTIFIC AND ADVANCED-TECHNOLOGY ACT OF 1992

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1146) to establish a national advanced technician training program, utilizing the resources of the Nation's 2-year associate degree granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. PACKARD. Mr. Speaker, reserving the right to object, I yield to the gentleman from Virginia [Mr. BOUCHER] to explain the bill.

Mr. BOUCHER. Mr. Speaker, the measure that is under consideration is S. 1146, the Scientific and Advanced-Technology Act of 1992. It will strengthen the scientific and technical education capabilities of the Nation's community colleges. The bill is an amended version of H.R. 2936, which passed the House on August 10, 1992, and it contains the principal provisions of H.R. 2936.

Two-year colleges provide a major pathway to postsecondary education in the United States and are an important source of training for students preparing for careers in advanced-technology fields. However, these institutions face serious problems in delivering the quality education essential to produce an effective technical work force. Faculty members have heavy teaching loads which make it difficult for them to keep up to date with the latest developments in their fields. Laboratory facilities and equipment are often obsolete and difficult to upgrade at a time of stringent State local budgets. And the curricular materials available are often ineffective and unengaging to students.

The legislation authorizes the National Science Foundation to make competitive grants to community colleges for a range of programs to improve science and technical education. The programs include development of model curricula and instructional programs; professional development opportunities for faculty; and support for purchase or lease of state-of-the-art instrumentation.

I would like to acknowledge the able assistance of Mr. PACKARD, the ranking Republican member of the Science Subcommittee, in moving the legislation forward. I also want to thank Mr. PRICE, who introduced H.R. 2936 last year, for his contributions toward development of the final form of the bill and to commend him for his effective advocacy of the important role of community colleges in technical education. Also, I want to express my gratitude to Chairman BROWN and to the ranking Republican member of the Science, Space, and Technology Committee, Mr. WALKER, for their assistance and support, as well as to Senators MIKULSKI and KENNEDY for their efforts to secure this bipartisan agreement.

National competitiveness is closely tied to the competence of the technical work force. Enactment of S. 1146 will be a significant step toward preparing our technical work force for the challenges of the 21st century. Mr. Speaker, I strongly urge the passage of this needed measure.

Mr. PACKARD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from North Carolina [Mr. PRICE] who offered a similar piece of legislation in the House.

Mr. PRICE. Mr. Speaker, I rise today to voice my support for S. 1146, the Scientific and Advanced-Technology Act of 1992. S. 1146 is almost exactly the same bill as H.R. 2936, the Scientific and Technical Education Act, a bill I introduced on July 17, 1991, which passed the House by voice vote on August 10, 1992. S. 1146. is a practical, constructive bill which will help prepare our work force for the challenges of the 21st century. It goes beyond mere sloganeering about jobs and actually tries to improve the prospects for those unemployed and those fearing loss of their jobs. It makes the kind of investment we must make to enhance our Nation's economic future.

I want to thank all those who have worked on this measure. Chairman GEORGE BROWN, RICK BOUCHER, TIM VALENTINE, RON PACKARD, TOM LEWIS, SHERRY BOEHLERT, BOB WALKER of the Science, Space, and Technology Committee, and Chairman BILL FORD and ranking Republican member BILL GOODLING of the House Education and Labor Committee, have all contributed to the perfection of this legislation. Their staffs have also made critical contributions and I want to take special note of the contribution of Shana Dale, David Goldston, Grace Ostenso, Brad Penny, Jo-Marie St. Martin, Diane Stark, Jim Wilson, Tom Wolanin, and Paul Feldman of my own staff.

I also want to salute Senator BARBARA MIKULSKI of Maryland. She introduced S. 1146, companion legislation to H.R. 2936, and it was her work in the Senate which has given us the chance to send this important bill to the President. She was ably assisted in this effort by Anita Harewood of her staff.

S. 1146, the Scientific and Advanced-Technology Act of 1992, would extend to new areas the approach which the National Science Foundation has already successfully utilized in science, mathematics, and engineering education: developing model programs and disseminating results across the country. The competitive grants program in H.R. 2936 would enable associate-degree-granting colleges to develop model curricula and instructional programs, provide faculty enrichment, obtain state-of-the-art instrumentation, and develop exemplary private sector partnerships in advanced-technology fields.

The NSF, with its admirable track record in fostering educational improvements in scientific and advanced-technology fields, is well-positioned to participate in these efforts. Unfortunately, the Agency's commitment has been minimal: out of a 1992 budget of $3.03 billion, NSF spent only $3.35 million on this type of support for associate-degree-granting colleges. Our bill proposes to increase this effort to $35 million.

Using some of these funds, S. 1146 would also create up to 10 National Centers of Scientific and Technical Education. These would be associate-degree-granting colleges with exceptional programs in advanced technical training and science and math education. The idea would be not only to take these 10 institutions to new levels of excellence, but to use them as clearinghouses for community colleges across the country that are trying to upgrade their programs.

H.R. 2936 would also promote partnerships between associate-degree colleges and 4-year academic institutions to increase the number of students achieving bachelor degrees in mathematics, science, engineering, and technology. And it would utilize the resources of associate-degree-granting colleges to improve the teaching of math and science at secondary schools by supporting outreach efforts.

The bill focuses on associate-degree-granting colleges because of their critical role in educating and training workers to meet the demands of the every-challenging world economy. These colleges already serve as the main educational resource for persons already in the work force desiring to upgrade their technical skills. And it is now projected that 70 percent of American jobs by the year 2000 will require more than a high school diploma but will not require the traditional 4 years of higher education, thus increasing the demand on these colleges and their importance to our Nation's educational system.

Community colleges have found creative ways to stretch resources and to join with private businesses to educate and train workers. But as impressive as these efforts are, they fall alarmingly short of what it will take to equip our young people, and mid-career workers as well, for the workplace of tomorrow. Meaningful Federal participation in these efforts, as outlined in the Scientific and Advanced-Technology Act of 1992, would build on current efforts and expand their efficiency and scope. This is a bill which will make a difference in people's lives, and I thank my colleagues for their support.

Mr. PACKARD. Mr. Speaker, further reserving the right to object, I am pleased to rise in support of S. 1146, the Scientific and Advanced Technology Act of 1992. This bill contains essentially the same text as H.R. 2936 which I consponsored. S. 1146 recognizes the fact that 2-year colleges play an intricate role in the education of this Nation's undergraduates.

Two-year colleges are usually closely tied to the community which they serve. By taking advantage of this close relationship, these institutions are especially effective at promoting scientific literacy, transitioning students on to 4-year institutions, and forming cooperative ventures with State and community agencies.

Community colleges serve as a critical link in the education chain since they represent the place that nearly one-half of all college students take their introductory college math and science classes. This is why it is so vital that we focus on curriculum development and faculty enhancement at these colleges.

By combining resources from the private sector and all levels of government, 2-year colleges will be better able to meet the challenge of preparing the scientists and engineers of tomorrow which will ultimately improve productivity in the workplace and enhance our economic competitive position.

I am also pleased with the bill because the funding for the various programs does not come at the expense of other undergraduate efforts. Furthermore, the bill is fiscally responsible since no new money is being authorized.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Scientific and Advanced-Technology Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the workforce (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this paragraph shall, at a minimum—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distibution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (c)(2) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATIVE AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Sunday, October 4, 1992.

PROVIDING FOR CONSIDERATION OF H.R. 918, MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1992

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 574 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 574

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 918) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 7 of rule XIII, or clause 8 of Rule XXI are waived. General debate shall be confined to the bill and shall not exceed one hour, with forty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed four hours. In lieu of the committee amendments now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute consisting of the text of H.R. 5962. The amendment in the nature of a substitute shall be considered as read. Points of order against the amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

□ 1910

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from Tennessee [Mr. QUILLEN] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Ms. SLAUGHTER. Mr. Speaker, House Resolution 574 is an open rule providing for the consideration of H.R. 918, the Mineral Exploration and Development Act of 1992.

The rule waives points of order against consideration of the bill for failure to comply with clause 7 of rule XIII or clause 8 of rule XXI. Clause 7 of rule XIII requires the report accompanying the bill to include an estimate of the costs which would be incurred in carrying out the bill. Clause 8 of rule XXI requires a Congressional Budget Office pay-as-you-go cost estimate to be included in any legislation providing for or changing receipts or direct spending.

The rule provides for 1 hour of general debate; 40 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and 20 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

Further, the rule makes in order as an original bill for the purposes of amendment, an amendment in the nature of a substitute consisting of the text of H.R. 5962. The substitute shall be considered as read. Points of order are waived against the substitute for failure to comply with rule XXI, clause 5(a), which prohibits appropriations in a legislative bill.

Consideration of the bill for amendment under the 5-minute rule is limited to 4 hours.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 918, the bill for which the Rules Committee has recommended this rule, is an overdue comprehensive reform of the 1872 law governing mining on federally owned public lands. The bill would abolish the outdated patent claim procedure and ensure a reasonable return for the taxpayer by establishing a royalty for minerals extracted from public land. H.R. 918 would also protect the environment by limiting mining activities in sensitive areas and requiring reclamation of lands damaged by exploration or extraction.

Mr. Speaker, I ask my colleagues to support this open rule so that we may proceed with consideration of the merits of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding. She has explained the provisions of the rule.

Mr. Speaker, as has been described, this is a modified open rule providing for a 4-hour time limitation for the offering of any appropriate amendments. I offered an amendment in the Rules Committee to strike the time limitation on the amending process, but it was defeated on a party-line vote. However, due to the short amount of time we have left to complete a great deal of work prior to adjournment, I will support this rule so we can proceed with the consideration of this bill.

The mining law of 1872 was enacted to promote exploration and development of domestic mineral resources and to encourage settlement of the Western United States. Some changes have been made to the original law over the years, but the central provisions remain the same after 120 years.

Much has changed in the areas of public land use policy and techniques for mineral exploration and development over those 120 years. H.R. 918 seeks to make the mining laws more compatible with today's modern business practices and land use philosophies.

Mr. Speaker, this is a comprehensive piece of legislation, and many Members have significant concerns over some of the provisions. Additionally, the Secretary of the Interior would recommend a veto of the bill if presented in its current form.

This rule will hopefully provide sufficient time for Members to address all of their concerns, as well as those of the administration, and I urge its adoption.

Mr. Speaker, I yield 6 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Speaker, I, too, rise in strong opposition to this rule. I agree with my colleagues from the Interior Committee that there is simply no reason to be bringing up H.R. 918.

First, it cannot become law. The other body will not touch it. In fact they recessed over there across the Capitol until Monday. I guess they are not interested in radically changing the way we do business on the public lands; Neither am I.

The other body offered this Chamber the opportunity to make reasonable reforms of the mining law, but our Interior conferees would not take it. It would destroy the rhetoric we have already heard fast-food hamburger prices, condos on patented mining claims, and no reclamation required of patented claims.

So, instead, here we are debating the real sham reform to borrow a phrase from the radicals on this issue. Let's defeat this rule and go home colleagues. You won't want to watch the debate on this bill anyway. It's a killer bill that needed a discharge petition to get it out of the subcommittee on which my good friend BARBARA VUCANOVICH is the ranking member. At the full Interior Committee it incurred the wrath of most Western Members from both sides of the aisle, but it passed with help of votes by Members not directly affected by the mining law.

However, now we find out, upon closer inspection of the substitute bill—which was only distributed 2 weeks in advance of the markup—that parts of H.R. 918 may indeed apply to some hardrock mineral estates not within the public domain. I suggest we send a clear signal to the radical mining law reform advocates to go back and carefully craft your bill next Congress. Perhaps then we will have something closer to a consensus with the other body and perhaps have something President Bush will sign.

Vote "no" on this rule.

Mr. MARLENEE. Mr. Speaker, reclaiming my time, I rise in strong opposition to this rule on several points, and the underlying legislation.

There is absolutely no valid known reason why we should be debating H.R. 918 as we all know that the Senate is not going to take up this bill this session, and the Secretary of the Interior has already indicated that he would ask the President to veto this bill. The position of the Senate was sent to this body in the Interior spending bill in the Reid-Domenici amendment, and the Reid-Bumpers amendment that would have made changes in the mining law, however, our conferees on that bill were not able to agree to the reforms that those amendments would have provided. The Mining Subcommittee chairman himself ask that these amendments not be accepted in conference. Those changes would have required payment of fair market value for surface estates when patenting claims, and provided for the reversion of land not used in mining back to the United States, and would have statutorily required full bonding on all mining operations. These were all reforms the President would have signed into law. If this rule is not defeated we are in for a real sham show as the rest of the debate on this issue is played out for 5 hours, as the opponents of mining in America seek to destroy the confidence of the public in the professional land managers in Government service, and the laws covering mining. I ask my colleagues to question for themselves the motives of those that would force this vicious bill upon this body at this late date fully knowing that this bill is going nowhere, as there is simply not enough time left to even conference this bill if there was a companion bill available in the Senate. Talk about a real sham, consideration of this rule is a sham forced upon this body to proceed to debate this bill. This bill cannot become law this session of Congress. We are only going through these paces as the ranking minority member on the Mining Subcommittee Congresswoman VUCANOVICH stated "to establish a high-water mark for the next Congress to look back upon."

Mr. Speaker, I join with others in naming this bill the Overseas Investment Incentive Act. What we ought to be doing here is figuring out ways to create jobs here in America, not pushing them out the door to other regions of the world.

You know I have heard over and over how the 1872 mining law is old, antiquated, and outdated, and should be replaced. I would remind us here today that the 1872 mining law has been amended 36 times, has years of important case law to draw upon, has served this country well, and employs at attractive wages thousands of Americans so they can provide a good standard of living for their families. These thousands of employed Americans I would remind all of us here today, pay taxes at a rate of 28 to 32 percent of theie income. Last time I heard, we had a deficit here in America, and we are talking about doing this to ourselves. The extremist environmentalists and some in this house want the miners out of the mines, out of the mountains, and out of work.

I ask my colleagues to vote "no" on this rule and go home knowing that you defeated a real sham by not passing this onerous legislation.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

□ 1920

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the rule and to the bill. We are, of course, obviously coming down to the very closing minutes and hours of this session, and we need to be using this time in our best view of the things that have the highest priority, rather than spending 5 hours talking about a bill that has no chance to pass the Congress.

We ought to be talking about jobs bills, taking up a tax bill that provides some incentives to produce jobs. We ought to be talking about health coverage to cover the folks in this country who do not have health insurance. But instead we are going to spend 5 hours talking about a mining bill, a mining bill which we had an opportunity to deal with in the appropriations; the sponsors of this bill rejected it.

We are going to talk about a mining bill that has been changed, a mining bill whose purpose is, and I think it is important to remember, several purposes of the mining law.

One was to encourage entry and exploration. Another was to ensure security of ownership so that expenditures could be made to develop those minerals and, finally, of course, to have security of entry to be able to develop those mines.

That is what it is all about, and those are still the basic needs that we need to have.

I notice one of the gentlemen has a "not 1872" pin. I certainly hope that that does not extend to the 1872 bill that created Yellowstone Park in Wyoming. We would be very sad if that bill was changed, as this one is.

There is no reason to consider this in the late hours. The Senate will not take up the bill. The Secretary has indicated that he will veto it.

We need to make changes, all of us agree to that. We do not need this kind of an overhaul, and we do not need to do it at this time.

I oppose the rule, and I oppose the bill.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong opposition to this rule for several reasons.

First, there is simply no valid reason to debate H.R. 918 today when the Congress should be busy attending to bills that the other body will take up and the President will sign. The position of the Senate on mining law reform was clearly signaled on August 5 when a bipartisan amendment to the Interior spending bill was agreed to by a comfortable margin. Unfortunately, our conferees on that bill were unable to accept the reforms it would have made. Later tomorrow, if the rule is not defeated, we will surely hear more rhetoric about patenting land at fast-food hamburger prices and the fact that condos may be built upon patented claims, that sufficient reclamation bonds are not required, and so forth.

Mr. Speaker, the Mining Subcommittee chairman himself asked that the Reid-Domenici amendment and Reid-Bumpers amendments not be accepted on the appropriations bill because it was sham reform. I beg to differ. Those changes to require payment of fair market value of the surface estate when patenting claims, to provide that nonmining use of the land reverts the interest to the United States, and to statutorily require full bonds, were reforms the President was ready to sign into law.

The sham foisted on this body is that H.R. 918 should proceed to debate. It cannot become law. We are here for no other reason than to establish a high water mark for the next Congress to look back upon. The high water mark if H.R. 918 were passed is that a mining law that serves our Nation's needs for mineral development of the public lands would be repealed. In lieu thereof the House would have voted for a new law that creates enormous disincentives to investment in exploration and development.

Jobs, jobs, jobs. Mr. Speaker, H.R. 918 creates jobs in Latin America and other regions interested in attracting mining investment because it makes the prospects of ever being able to mine one's discoveries very slim. The current law guarantees a right to mine qualified only by the fact that it must be done in an environmentally acceptable manner, subject to all the environmental laws, Federal and State, that apply to everyone. There is no valid reason to scrap that system in favor of one that never guarantees any approvals will be granted, even after millions of dollars of capital may have been expended. It's a perfect recipe for chasing our miners offshore.

Second, Mr. Speaker, the rule is not an open rule because consideration of amendments is limited to 4 hours. Mr. Speaker, it will take 5 more hours of floor time if this rule is agreed to. Five hours.

I urge my colleagues to vote "no" on this rule and go home sooner than you would have otherwise, secure in the knowledge that an extremely onerous piece of legislation was not passed by this body.

Mr. LEWIS of California. Mr. Speaker, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I did not intend to speak on this issue, but the remarks that the gentlewoman has made, and those of my colleagues who preceded her, caused this Member, who represents perhaps more open mining territory than any in the country, to want to associate myself with those remarks and give support in opposition to the bill and the rule as well.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, we have listened to the Members on this side of the aisle that are speaking against this bill. Now we are going to hear from the other side of the aisle, the gentleman from West Virginia, NICK JOE RAHALL, the gentleman from Indiana, Mr. JONTZ, Members that have nothing to do with the mining law, talk about how bad it is. And we will hear about what has happened over the years, how there has been free land.

The mining law of 1872 built this Nation. There has been over 120-some amendments to this law over the years. What they are coming in here with now is, in fact, a law that is supported by the Sierra Club, the Friends of the Earth, Trustees of Alaska, 57 different environmental organizations because of the innocent attempt to take away the remaining lands that are available and are not in parks already, not made into refuges already, not made into preserves already, not made into monuments. That is what is left.

They are going to pass a law, in fact, that will make it impossible for an American mining company or the prospector to ever have a find and have it as his or her own, because in this bill, in fact, if there is a find, if a person is a prospector, they find it, they have to go back to the Government and say, "I found some gold or I found some magnesium."

Now, they will tell us, they will have to bid on it. Against whom? Anaconda? Against the big companies? Yes, that is what will happen.

May I suggest to my colleagues that this bill, if it was to be passed, which it will not be, as the Members said, this is an exercise in futility. This is a way to get back at certain Members that oppose this bill, have been, in fact, involved in Members' States, we all know it. If this bill happens to become law, today we would have investments in Mexico, in Russia, in Canada, not the United States, because just yesterday Mexico repealed its mining laws, took away the royalty necessities, said, "Come on down, bring your miners down, because you are going to pass an American law that is going to ruin the opportunity for American miners and we need your expertise down here."

I hear from this side about employing Americans all the time. All I ever see from that side is passing laws that take away jobs from Americans: Timber jobs, cowboy jobs, mining jobs, we can name it.

They have not touched one piece of legislation that created any new job since they have been in that chair, not one piece of legislation. What they do is pass laws that take away from the ability to mine, to harvest, to farm, to plant, and to manufacture. That side passes laws to take away American jobs.

I want to tell my colleagues, I am tired of listening to the side over there, that liberal side, talking about American jobs. Jobs doing what?

If it cannot be mined, if it cannot be drilled, if it cannot be cut, if it cannot be planted, if it cannot be harvested and manufactured, we do not have any jobs.

They pass laws that create jobs that are government jobs, service jobs, jobs that are not real at all. That is their side of the aisle. They talk about working for the American people. Nonsense.

Ms. SLAUGHTER. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from West Virginia [Mr. RAHALL].

☐ 1930

Mr. RAHALL. Mr. Speaker, I thank the gentlewoman from New York for yielding time to me, and commend she and the Committee on Rules for bringing this rule to the House.

Mr. Speaker, I rise in support of the rule.

This is a fair rule. An open rule.

It is a rule that will allow this House to consider a bill that will stop the ripoff of the American people under the guise of what is known as the mining law of 1872.

Some have called it the Great Terrain Robbery.

Valuable Federal lands, rich in minerals, are being sold off for $2.50 an acre in the Western States.

Billions of dollars' worth of gold and silver is being mined from these Federal lands with not one cent in royalty returned to the American public.

This rule will allow us to proceed to the consideration of a bill that will put a stop to all of this.

But at this point, I would simply say that this rule represents the result of a very deliberative process.

Few bills have been subjected to a more extensive review than H.R. 918, and the pending rule recognizes this.

The process that has brought us to the House floor on this day began more than 5 years ago with a June 1997 oversight hearing on the mining law of 1872.

Subsequently, the subcommittee held seven hearings on specific issue areas related to hardrock mining on public lands.

Then, during September 1990, the subcommittee conducted a legislative hearing on H.R. 3866, the predecessor bill to H.R. 918.

These hearings were augmented by five reports produced by the U.S. General Accounting Office on hardrock mining issues.

Last year, the introduction of H.R. 918 was followed by six legislative hearings, four of which were held in the Western States.

During these 6 hearings alone, I listened to testimony from 222 witnesses. Let me repeat that figure: 222 witnesses.

That brings us to a sum total of 15 hearings.

Be that as it may, the opponents of H.R. 918 have asserted that somehow the process used by the Interior Committee to consider this legislation was not fair.

In fact, Mr. Speaker, they even assert that the committee should have held a separate hearing on my substitute amendment.

This is the biggest red herring that I have ever heard.

Since when do committees in either body, after conducting legislative hearings on a bill then proceed to conduct additional hearings on amendments a given Member may or may not offer.

Furthermore, this bill is not even the product of one committee, but three.

Both the Agriculture and Merchant Marine Committees received a sequential referral.

We have accommodated the concerns of these two committees in the version of H.R. 918 that would be made in order under the pending rule.

This talk about procedural concerns and proper legislative process is nonsense. Plain and simple nonsense.

The fact of the matter is that the opponents of this legislation have refused to participate in the crafting of this legislation, and they have refused to negotiate on any type of measure to reform the mining law of 1872.

So I would say to my colleagues, let's stop the ripoff of the American taxpayer. Let's stop the wholesale giveaway of valuable Federal minerals and land.

I urge the adoption of this rule.

Mr. JONTZ. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I am glad to yield to my colleague, the gentleman from Indiana, the ranking geologist on the subcommittee.

Mr. JONTZ. Mr. Speaker, I want to thank the chairman of our subcommittee and take just a moment to commend him on the work which has gone into this bill. I do not know a subcommittee chairman in this body who has been as diligent and as patient as the gentleman from West Virginia, Chairman RAHALL, has been in crafting this bill. I sat with him in just a portion of the hearings where a parade of witnesses came before us, and no Member of this House can say that the people of this country were not given a chance to speak up about this issue.

Incredibly, the mining industry chose not to come forward with a list of constructive improvements to make in this bill. They chose not to offer suggestions about how it could be improved.

We had all sorts of demonstrations and other activities, but very little in terms of constructive contributions from the industry. That is the choice they made, but it was not because the chairman of the committee did not give them the opportunity to participate.

The chairman, the gentleman from West Virginia [Mr. RAHALL], is a promining Member of this body. He comes from a mining district. He has seen what has happened with the coal industry when they have met reclamation standards and continued to meet those standards and provide jobs and also protect the environment.

I want to commend the chairman for bringing us this excellent bill.

Mr. RAHALL. Mr. Speaker, I include for the RECORD letters urging support of this legislation:

NATIONAL TAXPAYERS UNION,
Washington, DC, September 24, 1992.

DEAR REPRESENTATIVE: When the House takes up H.R. 918, the Mineral Exploration and Development Act of 1992, the National Taxpayers Union urges you to support this important legislation.

H.R. 918 will comprehensively reform the 1872 Mining Law. By establishing an 8% royalty payment for extracted public lands minerals, this bill will halt the irresponsible practice of giving away the nation's public lands minerals for free. H.R. 918 will also put a halt to another public giveaway by ending the practice of claims "patenting" by which public lands are sold to mining companies for the absurd price of $5.00 per acre or less. In both cases, billions of dollars in revenues are lost to the federal treasury each year because taxpayers do not receive a dime from the mining companies for extracted federal minerals (over $4 billion per year), and only a pittance of the real value of the land itself.

Under existing law, the hardrock mining industry is the only major extractive industry on federal lands that does not pay a royalty to the federal government for the privilege of mining on our public lands. The oil and gas industry and the coal industry all pay a royalty of 12.5% of the value of minerals extracted on federal lands. The National Taxpayers Union believes that a fair return to the federal government for the private profit gained from the public's mineral resources is warranted. At a minimum, we support H.R. 918's 8% royalty for hardrock minerals. However, we also support Rep. DeFazio's (D-OR) expected floor amendment that will raise the royalty rate H.R. 918 to the standardized and justifiable level of 12.5%.

We urge you to support H.R. 918 and the DeFazio 12.5% royalty amendment. We also ask you to reject any other weakening financial amendments to H.R. 918. Thank you.

Sincerely,

JILL LANCELOT,
Director, Congressional Affairs.

OPPOSE WEAKENING AMENDMENTS TO H.R. 918, REFORM THE 1872 MINING LAW

FRIENDS OF THE EARTH, IZAAK WALTON LEAGUE, MINERAL POLICY CENTER, NATIONAL AUDUBON SOCIETY, NATIONAL PARKS AND CONSERVATION ASSOCIATION, NATIONAL WILDLIFE FEDERATION, NATURAL RESOURCES DEFENSE COUNCIL, THE WILDERNESS SOCIETY, WESTERN ORGANIZATION OF RESOURCE COUNCILS,
September 28, 1992.

DEAR REPRESENTATIVE: We urge you to support H.R. 918, the Mineral Exploration and Development Act of 1992, when it comes to the House floor. This bill will enact much-needed reforms to the Mining Law passed in 1872.

The reform provisions of H.R. 918 are comprehensive in that they establish national environmental performance and reclamation standards; sweeping fiscal reforms; land management discretion authority; inspection and enforcement provisions; public participation and citizen suit provisions; and a funded program to clean-up abandoned hardrock mine lands.

The hardrock mining industry is fighting any comprehensive reform of the Mining Law and thus opposes H.R. 918. As a result, the industry has endorsed a package of legislative language aimed at giving the illusion of reform without changing anything of substance in the 1872 Mining Law. We anticipate that this "Sham Reform" package will be offered as amendments to H.R. 918 by opponents of comprehensive reform, such as Congresswoman Barbara Vucanovich (R-NV).

The Sham Reform package is likely to contain a provision to allow miners to continue to "patent", or purchase, Federal lands containing valuable minerals at will. In place of the 1872 Mining Law's charge of $5.00 or less, the Sham Reform would charge "fair market value for the surface" of patented lands. This is a meaningless and misleading provision. The market value of the Western lands which are being patented is typically a few hundred dollars. The mineral beneath those lands are worth millions of dollars. To sell them for the value of the surface is an unjustified giveaway.

The Sham Reform package probably also will contain token language about "reclamation" of mine sites. Reclamation is an important goal, when mining is completed, the mined lands should be restored to useful and non-polluting condition, as H.R. 918 requires. However, the Sham Reform relies on "federal reclamation laws" which do not exist, and contains no enforceable standards for reclamation.

The mining industry's American Mining Congress created much of the Sham Reform package; in her August newsletter, Congresswoman Vucanovich herself has described it as a "parliamentary tactic:" to block comprehensive reform to "leave the rest of the Mining Law intact".

We urge you to support sound comprehensive reform of the 1872 Mining Law to address the environmental and fiscal problems of mining for gold, silver, copper, and other metals mining on federal lands. Reject "Sham Reform." Other weakening amendments may be proposed; none should be adopted.

Amendments to strengthen the royalty provisions of H.R. 918 are expected by Mr. DeFazio and Mr. Jontz; we recommend that these be adopted. Miners are now taking billions of dollars worth of gold, silver, and other metals away from public lands without making any payment for their value. A royalty is charged on coal, oil, and gas produced from federal lands; metals miners should be treated the same.

If you need further information, please call Jim Lyon at 202-737-1872. Thank you for you attention.

Sincerely,

Sharon L. Newsome, Vice President, National Wildlife Federation; Ralph DeGennaro, Director, Appropriations Project, Friends of the Earth; James S. Lyon, Director of Programs and Government Affairs, Mineral Policy Center; David Simon, Natural Resources Program Manager, National Parks and Conservation Association; Marchant Wentworth, Legislative Director, Izaak Walton League; Patrick Sweeney, Regional Director, Western Organization of Resource Councils; Johanna Wald, Senior Attorney, Natural Resources Defense Council; Nancy Green, Director, BLM Program, the Wilderness Society; Brock Evans, Vice President for National Issues, National Audubon Society.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker I rise in support of H.R. 918.

Mr. Speaker, H.R. 918 represents one of the most important items of unfinished business in reforming the way in which this Nation manages its natural resources.

Members have time and time again voted on the Interior appropriations bill to place a moratorium on issuing patents to public lands which contain valuable minerals, only to be frustrated by opposition from the other body.

But this is truly an historic day as we have before us a comprehensive bill to reform the mining law of 1872. This represents the first action by the Interior Committee and the first congressional effort to fundamentally overhaul hard rock mining laws in 120 years.

The mining law of 1872 was signed by President Grant during an era when it was accepted policy to encourage settlement of the West by freely disposing of public lands and natural resources. As we near the 21st century, the mining law of 1872 stands out as an embarrassing, costly, and environmentally damaging relic of frontier days.

It is no wonder that the few who benefit from the status quo have fought so long against any reform. The mining law of 1872 allows gold, silver, and other valuable public minerals to be freely explored and sold to private parties for as little as $2.50 per acre. There are no royalties on the minerals produced. There are no Federal reclamation standards.

Mr. Speaker, no private business would manage private assets like the Interior Department does as it hands out federally owned minerals under the mining law. The public has a right to be outraged when—at a time of ever increasing budget deficits—we essentially give away billions of dollars' worth of gold and other minerals from the public lands.

To assure a fair return to the taxpayers for the development of public resources, this bill provides for rental fees and a royalty on production. To assure protection for the environment, this bill establishes strict reclamation standards. And to assure that past environmental damage from mining is cleaned up, the bill establishes an abandoned mine fund which will create jobs and benefit all the Western States.

Mining Subcommittee Chairman RAHALL has worked hard to craft this landmark reform bill. In this Congress, he had chaired six hearings on mining reform, including four hearings in Western States. He has been a true champion of reform on this issue and I commend him for his leadership.

In addition, I wish to thank Chairman DE LA GARZA of the Committee on Agriculture and Chairman STUDDS of the Merchant Marine Committee. Both committees received sequential referrals on portions of H.R. 918 and offered constructive amendments. I am pleased that we could accommodate their concerns.

I urge my colleagues to support this landmark legislation.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. VUCANOVICH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this resolution will be postponed.

EXCLUDING CERTAIN INTERESTS IN LIQUID AND GASEOUS HYDROCARBONS FROM DEBTOR'S ESTATE

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 4363) to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons, as amended.

The Clerk read as follows:

H.R. 4363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (21) the following:

"(21A) 'farmout agreement' means written agreement in which—

"(A) the owner of a right to drill, produce, or operate liquid or gaseous hydrocarbons on property agrees or has agreed to transfer or assign all or a part of such right to another entity; and

"(B) such other entity (either directly or through its agents or its assigns), as consideration, agrees to perform drilling, reworking, recompleting, testing, or similar or related operations, to develop or produce liquid or gaseous hydrocarbons on the property;"

(b) PROPERTY OF THE ESTATE.—Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end,

(2) in paragraph (3) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

"(A) the debtor has transferred or is obligated to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

"(B) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a)(3) of this title.

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.".

SEC. 2. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by section 1 shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by section 1 shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4363 is legislation I introduced to harmonize the bankruptcy laws with actual oil and gas industry practices. It was favorably reported by the Committee on the Judiciary on September 30, 1992.

H.R. 4363 would amend the Bankruptcy Code Explicitly to deal with the treatment of oil and gas farmout agreements. A farmout agreement is essentially an agreement by an owner of a lease to make a future assignment of oil and gas rights for the leased land to a third party. Before the assignment is perfected, however, the third party must earn it through actual performance—namely, by drilling a producing well on the lease owner's land, or by contributing to the drilling operation in some capacity.

These farmout agreements have historically provided the financial means and incentives for wells to be drilled in search of new oil and gas resources. Without the use of farmouts, independent oil and gas operators, who have been responsible for the discovery of so much of our domestic energy supply, would simply not have the wherewithal to explore and drill new wells.

The difficulty presented is that, under current bankruptcy law, there is a chance that if the lease owner files for bankruptcy, the third party could lose the interest conveyed by the farmout despite his performance. The effect could be that an unrecorded farmout would be canceled in bankruptcy. Such treatment would take away the third party's right to drill or explore, even though he may have already started these costly operations.

The ripple effect of such an unfair and unintended result would dislocate new drilling activity precisely at a time when the United States is again becoming dangerously dependent on foreign oil.

H.R. 4363 would clarify the treatment of farmout agreements to conform with longstanding industry practices. By protecting the use of farmout agreements, H.R. 4363 fosters the continued development of our Nation's rich oil and gas resources without doing harm to our basic bankruptcy principles—a good result all around.

Mr. Speaker, I urge my colleagues to support H.R. 4363.

Mr. Speaker, I reserve the balance of my time.

☐ 1940

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, legislation on the treatment in bankruptcy of oil and gas farmout agreements is a subject of recurring consideration by this body. H.R. 4363, the bill before us, is similar to bankruptcy provisions on farmout agreements already incorporated in H.R. 776, the Comprehensive National Energy Policy Act, legislation currently in conference. H.R. 4363 also is similar to section 304 of H.R. 6020, the Bankruptcy Amendments of 1992, a bill we will be taking up shortly. In the last Congress, H.R. 3152, an earlier bill on farmout agreements introduced by the gentleman from Texas [Mr. BROOKS], passed the House on the suspension calendar.

The bankruptcy process works best when it facilitates creditor recoveries without discouraging entrepreneurial activity. Entities that perform oil and gas operations—such as drilling—pursuant to farmout agreements engage in a risky business that is important to our country's economic future. This legislation, crafted in response to concerns that current bankruptcy law provides disincentives to oil and gas production, seeks to accommodate the informality that often characterizes arrangements in the oil and gas industry by protecting certain unrecorded interests.

In view of our chairman's long involvement in this legislative effort, I certainly understand his desire to find alternative vehicles for enacting his proposal into law. Members of the Committee on the Judiciary are very sensitive to the concerns that underlie H.R. 4363 and hope that this legislation will prove helpful to domestic oil and gas production.

Mr. BROOKS. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4363, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BANKRUPTCY AMENDMENTS OF 1992

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6020) to amend titles 11 and 28 of the United States Code, relating to bankruptcy, as amended.

The Clerk read as follows:

H.R. 6020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bankruptcy Amendments of 1992".

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.

The last sentence of section 362(e) of title 11, United States Code, is amended—

(1) by striking "commenced" and inserting "concluded", and

(2) by inserting before the period at the end the following:

", unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances".

SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on", and

(2) by adding at the end the following:

"(2) Under paragraph (1)—

"(A) such 120-day period may not be increased beyond the 1-year period beginning on the date of the order for relief under this chapter; and

"(B) such 180-day period may not be increased beyond the 425-day period beginning on the date of the order for relief under this chapter;

unless the need for such an increase is attributable to circumstances for which the debtor should not justly be held accountable.".

SEC. 103. EXPEDITED FILING OF PLANS UNDER CHAPTER 12.

(a) Filing of Plan.—Section 1221 of title 11, United States Code, is amended by striking "an extension is substantially justified" and inserting "the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable".

(b) Delay of Repeal.—Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554; 100 Stat. 3124; 11 U.S.C. 1201 note) is amended by striking "October 1, 1993" and inserting "October 1, 1995".

SEC. 104. EXPEDITED PROCEDURE FOR REAFFIRMATION OF DEBTS.

(a) Reaffirmation.—Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)",

(B) by adding "and" at the end, and

(C) by inserting after subparagraph (A), as so designated, the following:

"(B) such agreement contains a clear and conspicuous statement which advises the debtor that such agreement is not required under this title, under nonbankruptcy law, or under any agreement not in accordance with the provisions of this subsection;", and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A) by striking "such agreement" the last place it appears,

(B) in subparagraph (A)—

(i) by inserting "such agreement" after "(A)", and

(ii) by striking "and" at the end,

(C) in subparagraph (B) by inserting "such agreement" after "(B)", and

(3) by adding at the end the following:

"(C) the attorney fully advised the debtor of the legal effect and consequences of—

"(i) an agreement of the kind specified in this subsection; and

"(ii) any default under such an agreement;".

(b) Effect of Discharge.—The third sentence of section 524(d) of title 11, United States Code, is amended in the matter preceding paragraph (1) by inserting "and was not represented by an attorney during the course of negotiating such agreement" after "this section".

SEC. 105. POWERS OF BANKRUPTCY COURTS.

(a) Status Conferences.—Section 105 of title 11, United States Code, is amended by adding at the end the following:

"(d) The court, on its own motion or on the motion of any party in interest, may—

"(1) hold a status conference regarding any case under this title after notice to the parties in interest; and

"(2) unless inconsistent with another provision of this title, issue an order at any such conference prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically.".

(b) Abstention.—The second sentence of section 1334(c)(2) of title 28, United States Code, is amended by striking "or not to abstain".

(c) Establishment, Operation, and Termination of Bankruptcy Appellate Service.—Section 158(b) of title 28, United States Code, is amended—

(1) by striking paragraphs (3) and (4),

(2) by redesignating paragraph (2) as paragraph (4),

(3) by striking paragraph (1) and inserting the following:

"(1) The judicial council of a circuit shall establish a bankruptcy appellate service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all the parties, appeals under subsection (a) unless the judicial council finds that—

"(A) there are insufficient judicial resources available in the circuit; or

"(B) it is not likely that creation of such service would improve the administration of justice.

Not later than 90 days after making the finding, the judicial council shall submit to the Judicial Conference a report containing the factual basis of such finding.

"(2)(A) A judicial council may reconsider, at any time, the finding described in paragraph (1).

"(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date such service is established, the judicial council of the circuit shall determine whether a circumstance specified in subparagraph (A) or (B) of such paragraphs exists.

"(C) On its own motion, after the expiration of the 3-year period beginning on the date a bankruptcy appellate service is established under paragraph (1), the judicial council of the circuit may determine whether a circumstance specified in subparagraph (A) or (B) of such paragraphs exists.

"(D) If the judicial council finds that either of such circumstances exists, the judicial council may provide for the completion of the appeals then pending before such service and the orderly termination of such service.

"(3) Bankruptcy judges appointed under paragraph (1) shall be appointed for a term of 2 years and may be reappointed under such paragraph.", and

(4) by inserting after paragraph (4), as so redesignated, the following:

"(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate service, except that a member of such service may not hear an appeal originating in the district for which such member is appointed or designated under section 152 of this title.

"(6) An appeal may not be heard under this subsection by a panel of the bankruptcy appellate service unless the district judges for the district in which the appeal occurs, by majority vote, have authorized such service to hear and determine appeals originating in such district.".

(d) Appeals To Be Heard by Bankruptcy Appellate Service.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "(c)" and inserting "(2)", and

(2) by inserting after subsection (b) the following:

"(c)(1) Subject to subsection (b), each appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate service established under subsection (b)(1) unless—

"(A) the appellant elects at the time of filing the appeal; or

"(B) any other party elects, not later than 30 days after service of notice of the appeal;

to have such appeal heard by the district court.".

(e) Rules of Procedure and Evidence; Method of Prescribing.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2) by striking "section 2072" and inserting "sections 2072 and 2075", and

(2) in subsections (d) and (e) by inserting "or 2075" after "2072" each place it appears.

(f) Effective Date of Bankruptcy Rules.—Section 2075 of title 28, United States Code, is amended by striking "ninety days" and inserting "180 days".

SEC. 106. PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

(a) Presiding Officer.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554; 100 Stat. 3123), as amended by section 317(a) of the Federal Courts Study Committee Implementation Act of 1990 (Public Law 101–650; 104 Stat. 5115), or the bankruptcy administrator's designee may preside at the meeting of creditors convened under section 341(a) of title 11, United States Code. The bankruptcy administrator or the bankruptcy administrator's designee may preside at any meeting of equity security holders convened under section 341(b) of title 11, United States Code.

(b) Examination of the Debtor.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

SEC. 107. DEFINITION RELATING TO ELIGIBILITY TO SERVE ON CHAPTER 11 COMMITTEES.

Section 101(41) of title 11, United States Code, is amended to read as follows:

"(41) 'person' includes individual, partnership, and corporation, but does not include governmental unit, except that a governmental unit that—

"(A) acquires an asset from a person—

"(i) as a result of the operation of a loan guarantee agreement; or

"(ii) as receiver or liquidating agent of a person;

"(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

"(C) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986;

shall be considered, for purposes of section 1102 of this title, to be a person with respect to such asset or such benefit;".

SEC. 108. INCREASED INCENTIVE COMPENSATION FOR TRUSTEES.

Section 326(a) of title 11, United States Code, is amended by striking "fifteen" and all that follows through "\$3,000" the last place it appears, and inserting the following:

"25 percent on the first \$5,000 or less, 10 percent on any amount in excess of \$5,000 but not in excess of \$50,000, 5 percent on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of \$1,000,000".

SEC. 109. DOLLAR ADJUSTMENTS.

(a) Who May Be a Debtor Under Chapter 13.—Section 109(e) of title 11, United States Code, is amended—

(1) by striking "unsecured debts of less than \$100,000 and noncontingent, liquidated, secured debts of less than \$350,000" and inserting "debts of less than \$1,000,000", and

(2) by striking "unsecured debts that aggregate less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000" and inserting "debts in the aggregate of less than $1,000,000".

(b) Involuntary Cases.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000", and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

(c) Priorities.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B) by striking "$2,000" and inserting "$4,000",

(2) in paragraph (4)(B)(i) by striking "$2,000" and inserting "$4,000",

(3) in paragraph (5) by striking "$2,000" and inserting "$4,000", and

(4) in paragraph (6) by striking "$900" and inserting "$1,800".

(d) Exemptions.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000",

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400",

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400", and

(B) by striking "$4,000" and inserting "$8,000",

(4) in paragraph (4) by striking "$500" and inserting "$1,000",

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800", and

(B) by striking "$3,750" and inserting "$7,500",

(6) in paragraph (6) by striking "$750" and inserting "$1,500",

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000", and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

(e) Appointment of Examiner in Certain Circumstances.—Section 1104(b)(2) of title 11, United States Code, is amended by striking "$5,000,000" and inserting "$10,000,000".

SEC. 110. BANKRUPTCY FEES.

(a) Effective Date of Bankruptcy Fees Prescribed by the Judicial Conference.—Section 1930(b) of title 28, United States Code, is amended by adding at the end the following:

"Such fees shall not take effect until they have been reported to the Congress by the Judicial Conference at or after the beginning of a regular session thereof, but not later than the first day of February, and until the expiration of 180 days after they have been thus reported.".

(b) Report Regarding enactment of In Forma Pauperis Procedure.—Not later than 1 year after the date of the enactment of this Act, the Judicial Conference shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate—

(1) estimating the loss of receipts to the United States and to trustees that would result from enacting a procedure authorizing the court to waive the payment of fees and costs in effect under section 1930 of title 28, United States Code, by an individual debtor who files a voluntary case under title 11 and makes affidavit that the debtor is unable to pay such fees and costs, and

(2) suggesting alternatives for offsetting such loss.

SEC. 111. EXTENDED PERIOD FOR TRUSTEE AVOIDANCE OF FRAUDULENT TRANSFERS.

Section 548(a) of title 11, United States Code, is amended in the matter preceding paragraph (1) by striking "one year" and inserting "2 years".

SEC. 112. PREMERGER NOTIFICATION.

Subparagraphs (A) and (B) of section 363(b)(2) of title 11, United States Code, are amended to read as follows:

"(A) notwithstanding subsection (a) of such section, the notification required to be given by the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the tenth day after the date of receipt of the notification, unless the waiting period is extended—

"(i) pursuant to subsection (e)(2) or (g)(2) of such section; or

"(ii) by the court, after notice and a hearing.".

SEC. 113. ALLOWANCE OF CREDITOR COMMITTEE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5),

(2) by striking the period at the end of paragraph (6) and inserting "; and", and

(3) by adding at the end the following new paragraph:

"(7) the actual, necessary expenses incurred by a member of a committee appointed under section 1102 in the performance of the duties of such committee, other than claims for compensation for services rendered as a member of such committee.".

TITLE II—CONSUMER BANKRUPTCY ISSUES

SEC. 201. PERIOD FOR CURING DEFAULT RELATING TO PRINCIPAL RESIDENCE.

Section 1322 of title 11, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting after subsection (b) the following:

"(c) A default with respect to, or that gave rise to, a lien on the debtor's principal residence may be cured under paragraph (3) or (5) of subsection (b), notwithstanding applicable nonbankruptcy law, until such residence is sold under such lien and in accordance with applicable nonbankruptcy law.".

SEC. 202. PRESERVATION OF HOME MORTGAGE LIENS.

Section 1322(b)(2) of title 11, United States Code, is amended—

(1) by striking ", other than a claim secured only by a security interest in real property that is the debtor's principal residence,", and

(2) by inserting before the semicolon at the end the following:

", except that the rights of the holder of a claim secured only by the most senior security interest in real property that is the debtor's principal residence may not be modified to reduce the secured claim to a value that is less than the value, as of the date the security interest arose, of the creditor's interest in the estate's interest in such property".

SEC. 203. NONDISCHARGEABILITY OF FINE UNDER CHAPTER 13.

Section 1328(a)(3) of title 11, United States Code, is amended by inserting ", or a fine, " after "restitution".

SEC. 204. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) Relief From Automatic Stay.—Section 362(b)(2) of title 11, United States Code, is amended to read as follows:

"(2) under subsection (a) of this section—

"(A) of the commencement or continuation of an action or proceeding for—

"(i) the establishment of paternity; or

"(ii) the establishment or modification of an order for alimony, maintenance, or support; or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;".

(b) Priority of Claims.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth",

(2) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth", and

(3) by inserting after paragraph (6) the following:

"(7) Seventh, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

(c) Protection of Liens.—Section 522(f)(1) of title 11, United States Code, is amended by inserting after "lien" the following:

", other than a judicial a lien that secures a debt—

"(A) to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement; and

"(B) to the extent that such debt—

"(i) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(ii) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

(d) Protection Against Trustee Avoidance.—Section 547(c) of title 11, United States Code, is amended—

(1) in paragraph (6) by striking "or" at the end,

(2) by redesignating paragraph (7) as paragraph (8), and

(3) by inserting after paragraph (6) the following:

"(7) to the extent such transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

(e) Appearance Before Court.—Child support creditors or their representatives shall be permitted to appear and intervene without charge, and without meeting any special local court rule requirement for attorney appearances, in any bankruptcy proceeding in any bankruptcy court or district court of the United States if such representatives file a form in such court that contains information detailing the child support debt, its status, and other characteristics.

(f) Conforming Amendments—Title 11 of the United States Code is amended—

(1) in section 502(i) by striking "507(a)(7)" and inserting "507(a)(8)",

(2) in section 503(b)(1)(B)(i) by striking "507(a)(7)" and inserting "507(a)(8)",

(3) in section 523(a)(1)(A) by striking "507(a)(7)" and inserting "507(a)(8)",

(4) in section 724(b)(2) by striking "or 507(a)(6)" and inserting "507(a)(6), or 507(a)(7)",

(5) in section 726(b) by striking "or (7)" and inserting ", (7), or (8)",

(6) in section 1123(a)(1) by striking "507(a)(7)" and inserting "507(a)(8)",

(7) in section 1129(a)(9)—

(i) in subparagraph (B) by striking "or 507(a)(6)" and inserting ", 507(a)(6), or 507(a)(7)", and

(ii) in subparagraph (C) by striking "507(a)(7)" and inserting "507(a)(8)".

TITLE III—COMMERCIAL BANKRUPTCY ISSUES

SEC. 301. LIMITATION ON LIABILITY OF NON-INSIDER TRANSFEREE FOR AVOIDED TRANSFER.

Section 550 of title 11, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and

(2) by inserting after subsection (b) the following:

"(c) If a transfer made between ninety days and one year before the filing of the petition—

"(1) is avoided under section 547(b) of this title; and

"(2) was made for the benefit of a creditor that at the time of such transfer was an insider; the trustee may not recover under subsection (a) from a transferee that is not an insider.".

SEC. 302. PERFECTION OF PURCHASE-MONEY SECURITY INTEREST.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "10" and inserting "20".

SEC. 303. PROTECTION OF SECURITY INTEREST IN POST-PETITION RENTS.

Section 552(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)",

(2) by striking "rents," each place it appears, and

(2) by adding at the end the following:

"(2) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548 of this title, if the debtor and an entity entered into a security agreement before the commencement of the case and if the security interest created by such security agreement extends to property of the debtor acquired before the commencement of the case and to rents of such property, then such security interest extends to such rents acquired by the estate after the commencement of the case to the extent provided in such security agreement, except to any extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.".

SEC. 304. TREATMENT OF FARMOUT AGREEMENTS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (21) the following:

"(21A) 'farmout agreement' means written agreement in which—

"(A) the owner of a right to drill, produce, or operate liquid or gaseous hydrocarbons on property agrees or has agreed to transfer or assign all or a part of such right to another entity; and

"(B) such other entity (either directly or through its agents or its assigns), as consideration, agrees to perform drilling, reworking, recompleting, testing, or similar or related operations, to develop or produce liquid or gaseous hydrocarbons on the property;".

(b) PROPERTY OF THE ESTATE.—Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end,

(2) in paragraph (3) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

"(A) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

"(B) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a)(3) of this title. Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.".

SEC. 305. SELLER'S RIGHT TO RECLAIM GOODS.

Section 546(c)(1) of title 11, United States Code, is amended by striking "ten" and inserting "30".

SEC. 306. EXCEPTION TO DISCHARGE.

Section 523(a)(2) of title 11, United States Code, is amended is amended by striking "forty" and inserting "60".

SEC. 307. AIRCRAFT EQUIPMENT AND VESSELS.

Section 1110(a) of title 11, United States Code, is amended by striking "an air carrier operating under a certificate of convenience and necessity issued by the Civil Aeronautics Board" and inserting the following:

"a citizen of the United States, as defined in section 101 of the Federal Aviation Act of 1958, holding an operating certificate issued by the Secretary of Transportation pursuant to section 604 the Federal Aviation Act for aircraft capable of carrying 10 or more individuals".

TITLE IV—GOVERNMENTAL BANKRUPTCY ISSUES

SEC. 401. EXCEPTION FROM AUTOMATIC STAY FOR POST-PETITION PROPERTY TAXES.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (16) the following:

"(18) under subsection (a) of this section, of the creation, perfection, or enforcement of a statutory lien for an ad valorem property tax imposed by the District of Columbia, or a political subdivision of a State, if such tax comes due after the filing of the petition.".

SEC. 402. MUNICIPAL BANKRUPTCY.

Section 109(c)(2) of title 11, United States Code, is amended by striking "generally authorized" and inserting "specifically authorized, in its capacity as a municipality or by name,".

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. AMENDMENTS TO BANKRUPTCY DEFINITIONS, NECESSITATED BY ENACTMENT OF PUBLIC LAW 101–647.

(a) ALPHABETIZING AND REDESIGNATING DEFINITIONS.—Section 101 of title 11 of the United States Code, as amended by section 304(a), is amended—

(1) by redesignating paragraph (3) as paragraph (21),

(2) by redesignating paragraph (4) and subsequent paragraphs through paragraph (21A) as such paragraph (21A) is added by section 304(a) of this Act, as paragraphs (3) through (20A), respectively,

(3) by transferring paragraph (21), as so redesignated by paragraph (1), so as to insert such paragraph after paragraph (20A),

(4) by redesignating paragraphs (54) through (57), as in effect immediately before the enactment of Public Law 101–647, as paragraphs (60), (61), (36), and (40), respectively,

(5) in paragraph (60), as so redesignated by paragraph (4), by inserting "and" after the semicolon at the end,

(6) in paragraph (61), as so redesignated by paragraph (4), by striking the semicolon at the end and inserting a period,

(7) in paragraph (36), as so redesignated by paragraph (4), by striking "and" at the end,

(8) in paragraph (40), as so redesignated by paragraph (4), by striking the period at the end and inserting a semicolon,

(9) by redesignating paragraphs (52) through (57), as so redesignated by section 2522(e) of Public Law 101–647, as paragraphs (54) through (59), respectively,

(10) by transferring paragraph (39) so as to insert such paragraph before paragraph (54), as so redesignated by paragraph (9) of this subsection,

(11) by redesignating paragraph (39) as paragraph (53),

(12) by redesignating successively numbered paragraphs (40) through (51) as paragraphs (41) through (52), respectively,

(13) by transferring paragraph (40), as so redesignated by paragraph (4) of this subsection, so as to insert such paragraph before paragraph (41), as so redesignated by paragraph (12) this subsection,

(14) by redesignating paragraph (36) and subsequent paragraphs through paragraph (38) as paragraphs (37) through (39), respectively, and

(15) by transferring paragraph (36), as so redesignated by paragraph (4) of this subsection, so as to insert such paragraph after paragraph (35).

(b) CONFORMING AND RELATED AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE, BASED ON REDESIGNATED DEFINITIONS.—(1) Section 101 of title 11 of the United States Code is amended—

(A) in paragraph (5), as so redesignated by subsection (a), by striking "section 761(9)" and inserting "section 761",

(B) in paragraph (22) by striking "section 741(7)" and inserting "section 741",

(C) in paragraph (35)(B) by striking "paragraphs (3)" and inserting "paragraphs (21)",

(D) in paragraph (50)(B)(ii), as so redesignated by subsection (a), by striking "section 761(13)" and inserting "section 761", and

(E) in paragraph (56)(A), as so redesignated by subsection (a), by striking "section 741(2)" and inserting "section 741".

(2) Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (6)—

(i) by striking "section 761(4)" and inserting "section 761",

(ii) by striking "section 741(7)" and inserting "section 741",

(iii) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761", and

(iv) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in paragraph (7)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(3) Section 507(a)(5) of title 11, United States Code, is amended—

(A) by striking "section 557(b)(1)" and inserting "section 557(b)", and

(B) by striking "section 557(b)(2)" and inserting "section 557(b)".

(4) Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761", and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in subsection (f)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(5) Section 548(d)(2) of title 11, United States Code, is amended—

(A) in subparagraph (B)—

(i) by striking "section 101(34), 741(5) or 761(15)" and inserting "section 101, 741, or 761", and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in subparagraph (C)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(6) Section 555 of title 11, United States Code, is amended by striking "section 741(7)" and inserting "section 741 of this title".

(7) Section 556 of title 11, United States Code, is amended by striking "section 761(4)" and inserting "section 761 of this title".

(c) Conforming Amendments to Other Laws Based on Redesignated Definitions.—(1) Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741",

(B) in clause (iii) by striking "section 101(24)" and inserting "section 101",

(C) in clause (iv)(I) by striking "section 101(41)" and inserting "section 101", and

(D) in clause (v) by striking "section 101(50)" and inserting "section 101".

(2) Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741",

(B) in clause (iii) by striking "section 761(4)" and inserting "section 761",

(C) in clause (iv) by striking "section 101(24)" and inserting "section 101",

(D) in clause (v)(I) by striking "section 101(41)" and inserting "section 101", and

(E) in clause (viii) by striking "section 101(50)" and inserting "section 101".

(d) Other Technical Amendments.—Title 11 of the United States Code is amended—

(1) in section 101—

(A) in paragraph (33)—

(i) in subparagraph (A) by striking "(12 U.S.C. 1813(u))", and

(ii) in subparagraph (B) by striking "(12 U.S.C. 1786(r))",

(B) in paragraph (34) by striking "(12 U.S.C. 1752(7))",

(C) in paragraph (35)(A) by striking "(12 U.S.C. 1813(c)(2))",

(D) in paragraph (49), as so redesignated by subsection (a)—

(i) by striking "(15 U.S.C. 78q-1)", and

(ii) by striking "(15 U.S.C. 78c(12))",

(E) in paragraph (50), as so redesignated by subsection (a)—

(i) in subparagraph (A)(xii)—

(I) by striking "(15 U.S.C. 77a et seq.)", and

(II) by striking "(15 U.S.C. 77c(b))", and

(ii) in subparagraph (B)(vi) by striking "(15 U.S.C. 77c(b))", and

(F) in paragraph (59), as so redesignated by subsection (a), by striking the period at the end and inserting a semicolon,

(2) in section 109(b)(2) by striking "(12 U.S.C. 1813(h))",

(3) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302",

(4) in section 346—

(A) in subsection (a) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986", and

(B) in subsection (g)(1)(C) by striking "Internal Revenue Code of 1954 (26 U.S.C. 371)" and inserting "Internal Revenue Code of 1986",

(5) in section 348—

(A) in subsection (b) by striking "1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "1201(a), 1221, 1228(a), 1301(a), and 1305(a)", and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307",

(6) in section 349(a) by striking "109(f)" and inserting "109(g)",

(7) in section 362—

(A) in subsection (a) by striking "(15 U.S.C. 78eee(a)(3))", and

(B) in subsection (b)—

(i) by striking "(15 U.S.C. 78eee(a)(3))",

(ii) in paragraph (10) by striking "or" at the end,

(iii) in paragraph (12)—

(I) by striking "(46 App. U.S.C. 911 et seq.)", and

(II) by striking "(46 App. U.S.C. 1117 and 1271 et seq., respectively)",

(iv) in paragraph (13)—

(I) by striking "(46 App. U.S.C. 911 et seq.)",

(II) by striking "(46 App. U.S.C. 1117 and 1271 et seq., respectively)",

(III) by striking "or" at the end,

(v) in paragraph (15), as added by Public Law 101–508, by striking "or" at the end,

(vi) in paragraph (16), as added by Public Law 101–508, by striking the period at the end and inserting a semicolon, and

(vii) in paragraph (14), as added by Public Law 101–311—

(I) by striking the period at the end and inserting "; or",

(II) by redesignating such paragraph as paragraph (17), and

(III) by transferring such paragraph so as to insert such paragraph after paragraph (16),

(8) in section 363—

(A) in subsection (b)(2) by striking "(15 U.S.C. 18a)", and

(B) in subsection (c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304",

(9) in section 364—

(A) in subsection (a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304", and

(B) in subsection (f)—

(i) by striking "(15 U.S.C. 77e)", and

(ii) by striking "(15 U.S.C. 77aaa et seq.)",

(10) in section 365—

(A) in subsection (d)(6)(C) by striking "(49 App. U.S.C. 1301)",

(B) in subparagraphs (A) and (B) of subsection (g)(2) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307",

(C) in subsection (n)(1)(B) by striking "to to" and inserting "to", and

(D) in subsection (o) by striking "the Federal" the first place it appears and all that follows through "successors,", and inserting "a Federal depository institutions regulatory agency (or predecessor to such agency)",

(11) in section 507—

(A) in subsection (a)(8) by striking "the Federal" the first place it appears and all that follows through "successors,", and inserting "a Federal depository institutions regulatory agency (or predecessor to such agency)", and

(B) in subsection (d) by striking "or (a)(6)" and inserting "(a)(6), (a)(7), (a)(8), or (a)(9)",

(12) in section 522(d)(10)(E)(iii)—

(A) by striking "408, or 409" the first place it appears and inserting "or 408", and

(B) by striking "Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409)" and inserting "Internal Revenue Code of 1986",

(13) in section 523—

(A) in subsection (a)—

(i) by striking "1141,," and inserting "1141,",

(ii) in paragraph (2)(C) by striking "(15 U.S.C. 1601 et seq.)", and

(iii) in paragraph (12) by striking the semicolon at the end and inserting a period,

(B) in subsection (b)—

(i) by striking "(20 U.S.C. 1087-3)", and

(ii) by striking "(42 U.S.C. 294f)", and

(C) in subsection (e) by striking "depository institution or insured credit union" and inserting "insured depository institution",

(14) in section 524—

(A) in subsection (a)(3) by striking "or 1328(c)(1)" and inserting ", 1228(a)(1), or 1328(a)(1)",

(B) in subsection (c)(4) by striking "recission" and inserting "rescission", and

(C) in subsection (d)(1)(B)(ii) by adding "and" at the end,

(15) in section 525(a)—

(A) by striking "(7 U.S.C. 499a-499s)",

(B) by striking "(7 U.S.C. 181-229)", and

(C) by striking "(57 Stat. 422; 7 U.S.C. 204)",

(16) in section 542(e) by striking "to to" and inserting "to",

(17) in section 546(a)(1) by striking "1302, or 1202" and inserting "1202, or 1302",

(18) in section 549(b) inserting "the trustee may not avoid under subsection (a) of this section" after "involuntary case,",

(19) in section 553—

(A) in subsection (a)(1) by striking "other than under section 502(b)(3) of this title", and

(B) in subsection (b)(1) by striking "362(b)(14),," and inserting "362(b)(14),",

(20) in section 555 by striking "(15 U.S.C. 78aaa et seq.)",

(21) in section 559 by striking "(15 U.S.C. 78aaa et seq.)",

(22) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307",

(23) in section 724(d) by striking "Internal Revenue Code of 1954 (26 U.S.C. 6323)" and inserting "Internal Revenue Code of 1986",

(24) in section 726(b) inserting a comma after "section 1112",

(25) in section 741(4)(A)(iii) by striking "(15 U.S.C. 78a et seq.)",

(26) in section 742 by striking "(15 U.S.C. 78aaa et seq.)",

(27) in section 743 by striking "342(a)" and inserting "342",

(28) in section 745(c) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986",

(29) in section 761—

(A) in paragraph (1) by striking "(7 U.S.C. 1 et seq.)",

(B) in paragraph (5) by striking "(7 U.S.C. 6c(b))", and

(C) in paragraph (13) by striking "(7 U.S.C. 23)",

(30) in section 1104(c) inserting a comma after "interest",

(31) in section 1110(a)—

(A) by striking "(49 U.S.C. 1301)", and

(B) by striking "(46 U.S.C. 911(4))",

(32) in section 1123(a)(1) inserting a comma after "title" the last place it appears,

(33) in section 1129—

(A) in subsection (a)—

(i) in paragraph (4) by striking the semicolon at the end and inserting a period, and

(ii) in paragraph (12) inserting "of title 28" after "section 1930", and

(B) in subsection (d) by striking "(15 U.S.C. 77e)",

(34) in section 1145—

(A) in subsection (a)—

(i) by striking "does" and inserting "do",

(ii) by striking "(15 U.S.C. 77e)", and

(iii) in paragraph (3)(B)(i) by striking "(15 U.S.C. 78m or 78o(d))",

(B) in subsection (b)(1) by striking "(15 U.S.C. 77b(11))", and

(C) in subsection (d) by striking "(15 U.S.C. 77aaa et seq.)",

(35) in section 1166(2) by striking "(45 U.S.C. 791(b))",

(36) in section 1167—

(A) by striking "(45 U.S.C. 151 et seq.)", and

(B) by striking "(45 U.S.C. 156)",

(37) in section 1226(b)(2)—

(A) by striking "1202(d)" and inserting "1202(c)", and

(B) by striking "1202(e)" and inserting "1202(d)",

(38) in section 1302(b)(3) by striking "and" at the end, and

(39) in section 1328(a)—

(A) in paragraph (2) by striking "(5) or (8)" and inserting "(5), (8), or (9)", and

(B) by striking the last paragraph (3).

TITLE VI—EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

SEC. 601. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, H.R. 6020, the bankruptcy amendments of 1992, makes a limited number of changes in the Bankruptcy Code while improving the administration of bankruptcy cases and providing greater fairness and certainty for individuals, corporations, and Governmental entities.

The bankruptcy system was substantially overhauled by Congress in 1978. Since that time, despite the shocks of persistent recessionary forces, it has held up reasonably well. But, the runaway debt and rampant financial speculation in the 1980's that resulted in a massive increase in bankruptcy filings in the 1990's have severely strained the system and exacerbated problems of slow and inefficient case administration. In addition, there have been a number of problematic court opinions construing the Bankruptcy Code. H.R. 6020 addresses the most pressing of these problems in a moderate and carefully balanced fashion.

The bankruptcy system is designed to achieve two equally important objectives—first, to provide honest debtors who have fallen on hard times the opportunity for a fresh start in life; and second, to protect creditors in general by preventing an insolvent debtor from selectively paying off the claims of certain favored creditors at the expense of others.

We in Congress are perennially beseeched by various types of creditors to amend the Bankruptcy Code and give priority status to their own claims. We are also beseeched by others to expand the list of nondischargeable claims. These requests must all be carefully scrutinized to preserve the careful balance between debtors and creditors in the bankruptcy system.

The carefully considered changes found in H.R. 6020 improve the administration of bankruptcy cases by, among other things, requiring expedited hearings on the automatic stay, requiring expedited filing of chapters 11 and 12 reorganization plans, and clarifying the powers of bankruptcy courts.

The bill also makes changes pertaining to consumer bankruptcies, including strengthening a debtor's right to cure a home mortgage default and keep the family home; strengthening the protection for home mortgage lenders to be paid for the full value of their mortgage in chapter 13 cases; and protecting spouses, parents, and children by ensuring that the bankruptcy process cannot be utilized to avoid marital settlement agreements and child support obligations.

In addition, the bill resolves a number of more complex commercial bankruptcy issues, as well as clarifies the rights of municipalities in bankruptcy.

I want to praise my cosponsor, the ranking minority member, HAMILTON FISH; Congressmen DON EDWARDS, the father of the modern Bankruptcy Code; and MIKE SYNAR, and others in the committee who made such a significant contribution to shaping the final work product.

H.R. 6020 is fully consistent with the Congress' laudatory goals in the landmark 1978 Bankruptcy Code. In this time of continuing economic difficulties, it is a most important legislative effort, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak in support of H.R. 6020, the Bankruptcy Amendments of 1992, legislation I have joined with the gentleman from Texas [Mr. BROOKS]—the chairman of the Committee on the Judiciary—in sponsoring. The introduction of this bill came in the aftermath of hearings in the Subcommittee on Economic and Commercial Law on consumer and commercial issues in bankruptcy. That hearing record helped to document the need for Congress to address a range of problems that participants in the bankruptcy process are confronting.

The surge in bankruptcy filings underscores the urgency of bankruptcy law reform. With new bankruptcy cases approximating 1 million a year, the economic consequences of bankruptcy are profound. In this environment we need to expedite the bankruptcy process, stimulate greater recoveries, and mitigate adverse impacts of financial distress.

The legislation before us includes a number of improvements in existing law.

We obviate the necessity of bankruptcy judges holding unnecessary hearings when debtors, with the benefit of representation by counsel, seek to reaffirm obligations.

We seek to facilitate more expeditious resolutions of requests for relief from the automatic stay—and we seek to discourage long postponements for filing proposed reorganization plans—in recognition of the potential harm that can result from delay.

We encourage greater reliance on chapter 13 of the Bankruptcy Code—an alternative to liquidation—by making a broader range of debtors eligible to file under that chapter and contribute income under a repayment plan.

We help to protect the availability of housing loans at reasonable rates by preserving home mortgage liens against unfair cramdowns.

We recognize the inappropriateness of penalizing lenders for obtaining loan guarantees—penalties that eventually can constrict credit and increase interest rates—and for that reason overrule the DePrizio case.

We no longer will disregard certain security interests in rents—another significant improvement in current law.

We, as a consequence of this bill, will not unreasonably cut short a seller's important right to reclaim goods.

We remove the unjustifiable bar to the Pension Benefit Guarantee Corporation and State pension funds serving on creditors' committees.

Our objective of discouraging delay in the bankruptcy process is underscored by the fact that we address the need for expedition in the first four substantive sections of this legislation—beginning with section 101. The purpose of section 101 is to provide the parties with as much certainty as possible that final hearings on requests for relief from the automatic stay will be concluded expeditiously. Thus, section 101 is designed to prevent unjustified or unwarranted postponements of final action on such requests. Compelling circumstances that would justify an extension under section 101 would include, for example, the illness of any party or of the judge. It would also include a situation where necessary witnesses are unavailable through no fault of the party or the occurrence of an overriding event such as an act of God—that is a hurricane or tornado, which could not have been avoided by the diligence of the requesting party. It would not include a crowded court docket, nor would it include an offer to purchase real or personal property that is not reduced to writing.

I welcomed the opportunity, during the process of consideration by the Committee on the Judiciary, to seek an important modification in the language of section 107 on eligibility to serve on creditors' and equity security holders' committees in reorganization cases. Although the bill as introduced improved current law by making the Pension Benefit Guaranty Corporation eligible to serve, we needed to go further and remove the bar to participation by State pension funds.

Public pension plans are often the largest stockholders and creditors of chapter 11 companies. They, therefore, have the greatest interest in seeing these companies back to health. They typically hold both stocks and bonds, and therefore are not biased in favor of either group. Also, they typically hold their stock longer than any other type of investor: over 7.5 years. For example, in one pending chapter 11 case virtually all of the largest shareholders of the company, each of whom owns shares in million- or near-million-share blocks, are public funds. Yet, they currently may not sit on the committee.

I am delighted that H.R. 6020 as reported is responsive to the concerns I expressed about facilitating the appropriate involvement of State pension plans in the reorganization process. This provision is very important to my own State of New York, as well as all the other States. Included among the affected entities would be the New York Common Retirement Fund and the New York State Teachers' Retirement Fund.

Although H.R. 6020 has a number of provisions to commend it, I would have liked to have seen us address other issues that merit remedial legislation. Bankruptcy abuses involving "single asset real estate" justify automatic stay modifications that address situations where entities file under chapter 11 solely for purposes of delay—without any expectation of reorganizing successfully. We need to define "household goods" in the Bankruptcy Code to discourage unnecessary litigation and remove ambiguities concerning the protection of security interests—ambiguities that the consumer can end up paying for in higher interest rates. The financing and leasing of transportation equipment often is unnecessarily cumbersome as a result of Bankruptcy Code uncertainties—uncertainties we could resolve with clarifying language.

A number of provisions I find lacking in H.R. 6020 are contained in the Senate-passed omnibus bankruptcy reform bill, S. 1985. My hope is that we will have a genuine conference, because a conference with the other body offers the prospect of further improving this legislation.

Although H.R. 6020 does not address all of the problems that merit legislative attention, its helpful provisions fully justify favorable consideration in this body today.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma, Mr. SYNAR.

Mr. SYNAR. Mr. Speaker, I rise today to express my strong support for H.R. 6020, the Bankruptcy Amendments of 1992. It is critical that Congress adopt H.R. 6020 before adjournment because it is needed to significantly streamline the often lengthy and costly bankruptcy process by resolving several problem areas in the administration of the Bankruptcy Code. The bill also strengthens and clarifies the bankruptcy rights of individual debtors, including homeowners and family farmers, businesses, and local and municipal governments.

H.R. 6020 is a good bill because it continues the Bankruptcy Code's essential balancing of the equities between debtors and creditors. Individual debtors are helped by the bill's provisions which raise the chapter 13 debt limits to $1 million, double the Federal exemption amounts under section 522(d) of the code and allow chapter 13 debtors to cure foreclosure judgments prior to sale of the property. Creditors will benefit from the bill's provisions designed to curtail bankruptcy fraud and abuse and reduce the unnecessary costs and delays of the bankruptcy process.

Significantly, this legislation will also greatly assist my family farm constituents because it extends the sunset date for chapter 12 of the code by 2 years. Since its inception in 1986, chapter 12 has been used with much success by bankrupt farmers to allow them adequate time to repay creditors and avoid a forced liquidation of the family farm.

I urge my colleagues to support H.R. 6020. It is a timely, well-crafted bill that balances the equities of the Bankruptcy Code between debtors and creditors while improving its administration to the benefit of both.

At this point I yield to the gentleman from Iowa.

Mr. GRANDY. I appreciate the gentleman for yielding and appreciate him giving me this opportunity to ask about unintended consequences that will adversely effect those same family farmers that seek chapter 12 protection.

Would section 202 of the bill pertaining to the bifurcation and avoidance of liens in chapter 13 cases, have any effect on any other chapter of the Bankruptcy Code?

Mr. SYNAR. The answer to the gentleman's question is "no." Section 202 of the bill is an extremely narrow exception to the general bankruptcy rule allowing the bifurcation and avoidance of liens under section 506 of the Bankruptcy Code. This exception, pertaining to senior residential real property mortgages, would apply to chapter 13 only and in no way applies to chapter 12 or chapter 11 of the code.

I would also like to note that the Supreme Court's recent decision in Dewsnup versus Timm applies only to the lien avoidance in chapter 7 cases and does not specifically address the debtor's right to bifurcate and avoid a lien under section 506 of the Bankruptcy Code in chapters 11, 12, or 13.

Let me close by urging my colleagues to support H.R. 6020. It is a timely and well-crafted bill that balances, as I said, the equities of the Bankruptcy Code between debtors and creditors while improving the administration to the benefit of both.

Mr. FISH. Mr. Speaker, I am glad to yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM I thank the gentleman for yielding, and I rise in support H.R. 6020.

It is a very valuable contribution to reforming our bankruptcy laws, expediting the procedures and making changes which have been long overdue in terms of both debtors and creditors.

I happen to come from an area of the country where we have the largest bankruptcy case load of anywhere. That was evidenced recently by a bill that was passed by this Congress, originated by this committee to add bankruptcy judges to the system. And we in the middle district of Florida got the largest number of new judges, recognizing this case load fact that the area from Tampa to Orlando to Jacksonville has this kind of a load.

While I do support this bill, I have to make the comment that I am disappointed this legislation or some companion piece in this Congress did not contain a measure which I have supported and urged for some time on our committee and this Congress, and that is a measure to put a priority into the Bankruptcy Code for the protection of retiree health benefits in those cases where we have retirees, of health benefits of companies under liquidation in bankruptcy.

We do not have current protection for those plans, and many individuals around this country today in many situations of bankruptcy are not protected. They fall in a gap before they reach the age where Medicare is applicable to them and they do not have health care plans.

There is no reason why, after the wage priorities that are in the law and after the pension priorities that are in the law, we cannot put a priority for health care benefits, particularly health care benefits of those who have retired and are not out there working and have no other job and are probably in that age gap to be missed.

This bill didn't do it. I offered an amendment in committee. I understood the rationale why it was not adopted by some who opposed it but the fact remains we should do that.

There are a lot of other priorities that certainly don't meet that standard of concern and human compassion in the current Bankruptcy Code. I just hope that even though we are not obviously going to get it in this Congress that it won't be long before with we address that, that in the new Congress the gentleman from Texas and the gentleman from New York, who I know supports this concept, work to get us this change and put the retiree health benefits into a priority scheme at a very high level so our workers and people who no longer have the opportunity to get these benefits are protected instead of having them fall in the general pool of all the other people who have to try to fight for the crumbs when you have a bankruptcy liquidation.

I thank the gentleman for yielding for those comments, and again, I urge support and passage of this bill. It is a fine product. It just doesn't go as far as I would like.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], a distinguished member of the Committee on the Judiciary and chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Speaker, the working people of America owe the chairman of Judiciary a huge debt because of one particular item in the bankruptcy crisis has been dealt with.

Let's talk about it tonight for a minute. That is the 200,000 victims of asbestos exposure who have recovered so little in the course of the years that they have been trying to seek indemnification from a corporation that has admitted its wrongdoing in the causing of sickness and emotional devastation of thousands of families and, yes, deaths, too.

So far only 8 percent of those claims have been paid. Somehow the Senate inadvertently, I hope, the other body slipped in a provision that would be devastating to the resolution of this problem, and I am hoping that the conference will open up a way for us to honorably deal with this very, very important question.

And again, I think it is on the House to make sure that this bill doesn't get cut up by special interest groups.

□ 2000

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI], the distinguished chairman of the subcommittee.

Mr. MAZZOLI. Mr. Speaker, I thank the chairman for yielding me the time and salute him, and my friend, the gentleman from New York, on producing an excellent bill.

During the course of deliberations I was in touch with Judge Joe Lee at home, who is the Federal bankruptcy judge, and Jeff Apperson who is a bankruptcy clerk, and they have given me to believe that this is one of the really find work products that our committee has turned out.

It does a number of things that our chairman has talked about. It increases, among other things, those people qualified and eligible to take chapter 13 bankruptcy, which eventually is a payback of your debt, rather than chapter 7, which, of course, is liquidation.

It provides a 1-year study on deciding how people who are poor can get into the bankruptcy courts, perhaps without the filing fee to be paid.

Last, but not least, it does make the debts that people have for child support, maintenance, and alimony preferable and superior to the debts for the commercial creditors. So those debts have to be paid before the commercial creditors.

This is an excellent piece of legislation, and I urge its passage without reservation.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, this bill does a lot of important things. I would like to just mention one thing that has perhaps been occasioned by the number of leveraged buyouts and fraudulent conveyances that took place in many of the large major corporations in this country. The bill extends from 1 year to 2 years the time period within trustees may reach back to void a fraudulent transfer made by the debtor. The Federal Fraudulent Conveyances Act provided for just 1 year reachback. Most States have somewhere between 4 and 6 years.

There was an awful lot of people involved in these financial shenanigans over the last 5 or 10 years, who engaged in fraudulent transfers. This bill would provide a greater period of time for trustees to look at those fraudulent conveyances, and that is very constructive, given the amount of financial fraud that has taken place in the United States.

I would also like to refer to the fact that the Senate bill, the bill from the other body, does contain extensive provisions regarding leases of aircraft and railroad rolling stocks that are in every confusing legal situations. The situations where airlines have airplanes that are leased from let us say manufacturers like Boeing or McDonnell Douglas, when a bankruptcy occurs there is great confusion as to who owns the property and how quickly the manufacturer can get back property that is on lease. The House bill and the chairman's provisions contain a provision which clarifies the law to make sure that commuter airlines and intrastate carriers were covered under the provisions of existing law.

In my judgment, the issue needs to be clarified further by the adoption of similar language, but more expansive language on the Senate side offered by Judge HEFLIN. Hopefully, that can be resolved as matters wind down toward the end of the session.

But I complement the chairman from the bill, and those many constructive things involving improvements of the administration of our bankruptcy laws.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I rise in support of H.R. 6020. We need these badly, these bankruptcy amendments, and I congratulate our chairman of the Judiciary Committee for bringing this forward.

Mr. DREIER of California. Mr. Speaker, I rise in support of H.R. 6020, the Bankruptcy Amendments of 1992. This bill is a carefully thought-out, comprehensive reform of our Federal Bankruptcy Code, and deserves the full support of this Chamber.

Over the past several years, I have been receiving an increasing number of letters from the people in my district complaining about flagrant abuses of the Federal Bankruptcy Code. Good businessmen and women are losing out to a wave of economic criminals who have been using the bankruptcy system to delay and defraud their creditors. Well, Mr. Speaker, I believe that it is time for a change. It is our responsibility to find a way to pierce through the endless morass of litigation and bureaucracy that we call bankruptcy court—to find a way to continue to protect those facing severe economic hardship, while preventing the abuse of creditors and small businesses who provide goods and services on account. H.R. 6020 is a big step in meeting this responsibility.

H.R. 6020 makes a number of very important procedural changes which will significantly streamline the Bankruptcy Code. For example, it places strict time limits on initial court hearing dates, requests for automatic stays, and on debtor reorganization plans. Bankruptcy judges will only be allowed to grant extensions in certain compelling circumstances for which the debtor is not responsible. These changes are absolutely necessary, both to prevent the abusers of the Bankruptcy Code from drawing out litigation until all their assets are spent or hidden away, and to assist small business creditors in planning their long term finances.

H.R. 6020 also creates several meaningful substantive changes in the Bankruptcy Code. Bankruptcy judges will be given greater flexibility in scheduling status conferences and creditor meetings, and greater powers in prescribing legal orders to induce the parties to settle their disputes in a more expeditious and economic manner. Debtor individuals are given extra protection under the new homeowner security and reduced fee rules, while creditors will be given added safety through extended periods for revoking fraudulent transfers and enhanced security protection.

Mr. Speaker, businesses and banks around the Nation, small and large, support H.R. 6020. It is a bipartisan bill which will once again protect the rights under bankruptcy of honest men and women. H.R. 6020 is a good and necessary reform bill, and I urge my colleagues to support its quick passage.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 6020, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1985) to establish a commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) there was a record number of Federal bankruptcy filings for the calendar year of 1991;

(2) the smooth and efficient operation of the bankruptcy system is vital to the continued growth and vitality of our Nation's economy;

(3) debtors that file for bankruptcy are entitled and deserve full and complete information regarding the effects and consequences of filing for bankruptcy;

(4) creditors of a debtor that files for bankruptcy deserve and need full and timely information regarding the circumstances of a debtor's bankruptcy filing; and

(5) individual debtors, creditors, the bankruptcy system, and the national economy may be generally better served by the successful completion of a reorganization of debts under chapter 13 or a liquidation of debts under chapter 7 of the Bankruptcy Code, depending upon the circumstances of each particular case; however, it is vital to the efficient operation of the bankruptcy system that each debtor consider and understand the consequences of both options.

TITLE I—BANKRUPTCY REVIEW COMMISSION

SEC. 101. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 102. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 103. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 108; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 104. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.

(2) Two members of the Senate, 1 from each of the 2 major political parties, appointed by the President pro tempore of the Senate.

(3) Two members of the House of Representatives, 1 from each of the 2 major political parties, appointed by the Speaker of the House of Representatives.

(4) Two members appointed by the Chief Justice.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 105. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 106. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 107. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 108. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 109. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 108.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE II—COMMERCIAL AND CREDIT MATTERS

SEC. 201. DEFINITION OF PERSON FOR PURPOSES OF SECTION 1102.

Section 101(42) of title 11, United States Code, as redesignated by section 501(7), is amended to read as follows:

"(42) 'person' includes an individual, a partnership, and a corporation, but does not include a governmental unit, except that a governmental unit is a person for purposes of section 1102 to the extent that it—

"(A) acquires an asset from a person as a result of operation of a loan guarantee agreement;

"(B) is a receiver or liquidating agent of a person;

"(C) is a guarantor of pension benefits of the debtor or an affiliate of the debtor; or

"(D) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan as defined in section 457(b) of the Internal Revenue Code of 1986.

SEC. 202. ANTI-ALIENATION.

(a) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 501(7), is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by adding "or" at the end of paragraph (17); and

(3) by adding at the end the following new paragraph:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing such withholding and collection for the benefit of a pension, profit sharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or 457 or a governmental plan under 414(d) of the Internal Revenue Code of 1986, which is sponsored by the employer of the debtor, or an affiliate, successor or predecessor of such employer, to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan that satisfies the requirements of section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or, in the case of a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(b) EXCEPTIONS TO DISCHARGE.—Subsection 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) owed to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), 408(k) or a governmental plan under 414(d) or 457 of the Internal Revenue Code of 1986 pursuant to a loan permitted under section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or pursuant to a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(c) PROPERTY OF THE ESTATE.—Subsection 541(c) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), assets and benefits accumulated for the benefits of a debtor pursuant to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or a governmental plan under 414(d), or 457 of the Internal Revenue Code of 1986 and any rights of debtor to such assets or benefits shall be excluded from the property of the estate.

"(B) Subparagraph (A) does not apply to plan assets or benefits attributable to contributions of the debtor to the extent that such contributions were in excess of the applicable limits on such contributions under section 401(k), 401(m), or 415 of the Internal Revenue Code of 1986.".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The plan may not materially alter the terms of a loan described in section 362(b)(18).".

(e) PLAN CONFIRMATION.—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2) by striking "debtor and" and inserting "debtor (not including income that is withheld from the debtor's wages for the purposes stated in section 362(b)(18)) and"; and

(2) in subsection (c) by striking "income to" and inserting "income (except income that is withheld from a debtor's wages for the purposes stated in section 362(b)(18) after confirmation of a plan) to".

SEC. 203. CASH COLLATERAL.

Section 363(a) of title 11, United States Code, is amended by adding at the end the following new sentence: "If the cash collateral includes an interest in rents or leases, in real property, held by a creditor and duly recorded in the public records, such interest shall be deemed perfected for purposes of this title upon the filing of a petition under section 301 or 302, or upon the entry of an order for relief under section 303.".

SEC. 204. PREFERENCES.

Section 550 of title 11, United States Code, is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e) and (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The trustee may recover under subsection (a) a transfer avoided under section 547(b) from a first transferee or an immediate or mediate transferee of a first transferee only to the extent that—

"(1) all the elements of section 547(b) are satisfied as to the first transferee; and

"(2) the exceptions in section 547(c) do not protect the first transferee.".

SEC. 205. SMALL BUSINESS CHAPTER.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 501, is amended—

(1) by redesignating paragraphs (54), (55), (56), (57), (58), (59), (60), (61), and (62) as paragraphs (55), (56), (57), (58), (59), (60), (61), (62), and (63); and

(2) by inserting after paragraph (53) the following new paragraph:

"(54) 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $2,500,000.".

(b) WHO MAY BE A DEBTOR UNDER CHAPTER 10.—Section 109 is amended by adding at the end the following new subsection:

"(h) Only a small business may be a debtor under chapter 10.".

(c) TEMPORARY CHAPTER APPLICABLE TO SMALL BUSINESSES.—Title 11, United States Code, is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10—SMALL BUSINESSES

"SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

"Sec.
"1001. Definitions for this chapter.
"1002. Commencement of action.
"1003. Trustee.
"1004. Rights and powers of debtor.
"1005. Removal of debtor as debtor-in-possession.
"1006. Property of the estate.
"1007. Conversion or dismissal.

"SUBCHAPTER II—THE PLAN

"1021. Filing of plan.
"1022. Contents of plan.
"1023. Postpetition disclosure and solicitation.
"1024. Modification of plan before confirmation.
"1025. Confirmation hearing.
"1026. Confirmation of plan.
"1027. Payments.
"1028. Effect of confirmation.
"1029. Modification of plan after confirmation.
"1030. Revocation of order of confirmation.

"Subchapter I—Officers, Administration, and the Estate

"§ 1001. Definitions for this chapter

"In this chapter, 'disposable income' means income that is received by a debtor and that is not reasonably necessary to be expended for the payment of expenditures necessary for the continuation, preservation, and operation of the debtor's business.

"§ 1002. Commencement of case

"(a) ELECTION BY DEBTOR.—A person that is eligible to be a small business debtor may commence a case under this chapter by filing a voluntary petition electing to be treated as a small business.

"(b) CONVERSION.—

"(1) THIS CHAPTER TO CHAPTER 11.—Upon the motion of a party in interest, and after notice and a hearing, the court may determine that a person subject to an order for relief electing treatment under this chapter does not qualify as a small business, and that the case shall be converted to a case under chapter 11, 12, or 13.

"(2) COMPENSATION OF TRUSTEE.—Prior to the court's conversion of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"§ 1003. Trustee

"(a) PERSON TO SERVE.—If the United States trustee has appointed a person under section 586(b) of title 28 to serve as a standing trustee in cases under this chapter and if that person qualifies as a trustee under section 322, that person shall serve as a trustee in any case filed under this chapter. If such a person has not been appointed, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case.

"(b) DUTIES.—The trustee shall—

"(1) perform the duties described in section 704 (2), (3), (5), (6), (7), and (9);

"(2) perform the duties described in section 1106(a) (3) and (4) if the court, for cause and on a request of a party in interest, the trustee, or the United States trustee, so orders;

"(3) appear and be heard at any hearing that concerns—

"(A) the value of property subject to a lien;

"(B) the operation of the business activity of the person by the debtor;

"(C) the filing of a plan and the approval of a disclosure statement;

"(D) confirmation of a plan;

"(E) modification of a plan after confirmation; or

"(F) the sale of property of the estate;

"(4) ensure that the debtor timely files a plan and disclosure statement;

"(5) ensure that the debtor commences making timely payments required by a confirmed plan;

"(6) if the debtor ceases to be a debtor-in-possession, perform the duties described in sections 704(8) and 1106(a) (1), (2), (6), and (7);

"(7) investigate the financial affairs of the debtor including, but not limited to, the proper use of disposable income;

"(8) file and serve the report required by section 1029(d); and

"(9) file such motions as are appropriate under section 1029.

"§ 1004. Rights and powers of debtor

"Subject to such limitations as the court may prescribe, a debtor-in-possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties described in section 1106(a) (3) and (4), of a trustee serving in a case under chapter 11, including operating the debtor's business activities.

"§ 1005. Removal of debtor as debtor-in-possession

"(a) ORDER FOR CAUSE.—On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor-in-possession if cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case, is shown.

"(b) REINSTATEMENT.—On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor-in-possession.

"§ 1006. Property of the estate

"(a) PROPERTY INCLUDED.—Property of the estate includes, in addition to property described in section 541, all property of the kind specified in that section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, whichever comes first.

"(b) POSSESSION.—Except as provided in section 1005 or in a confirmed plan or order confirming a plan, a debtor shall remain in possession of all property of the estate.

"§ 1007. Conversion or dismissal

"(a) CONVERSION BY DEBTOR.—A debtor may convert a case under this chapter to a case under chapter 7 at any time if the debtor may be a debtor under that chapter. Any waiver of the right to convert under this subsection is unenforceable.

"(b) DISMISSAL BY DEBTOR.—On request of the debtor at any time, if the case has not been converted under section 706 or 1112, the court may dismiss a case under this chapter.

"(c) CONVERSION OR DISMISSAL AT REQUEST OF PARTY IN INTEREST.—

"(1) IN GENERAL.—On request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 (if the debtor may be a debtor under this chapter) or may dismiss the case for cause.

"(2) CAUSE.—For purposes of paragraph (1), cause includes—

"(A) unreasonable delay or gross mismanagement by the debtor that is prejudicial to creditors;

"(B) nonpayment of any fees and charges required under chapter 123 of title 28;

"(C) failure to file a plan timely under section 1021;

"(D) failure to file a disclosure statement timely under section 1023;

"(E) failure to commence making timely payments required by a confirmed plan;

"(F) denial of confirmation of a plan under section 1026 or denial of a request made for additional time to filing another plan or a modification of a plan;

"(G) material default by a debtor with respect to a term of a confirmed plan;

"(H) revocation of an order of confirmation under section 1030 or denial of confirmation of a modified plan under section 1029;

"(I) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(J) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.

"(d) COMPENSATION OF TRUSTEE.—Prior to the court's conversion or dismissal of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"Subchapter II—The Plan

"§ 1021. Filing of plan

"The debtor shall file a plan not later than 90 days after the date of entry of the order for relief under this chapter, except that the court may, for cause shown, and after notice and hearing, shorten or extend that period if such shortening or extension is substantially justified.

"§ 1022. Contents of plan

"(a) REQUIRED CONTENTS.—The plan shall—

"(1) provide for the submission of all or such portion future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan; and

"(2) if the plan classifies claims and interests, provide the same treatment for each claim or interest within a particular class unless the holder of a particular claim or interest agrees to less favorable treatment.

"(b) ADDITIONAL CONTENTS.—Subject to subsections (a) and (c), the plan may—

"(1) designate a class or classes of unsecured claims, as provided in section 1122, but may not discriminate unfairly against any class so designated; however, the plan may treat claims for a consumer debt differently from other unsecured claims if another individual is liable on the consumer debt with the debtor;

"(2) modify the rights of holders of secured claims or holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;

"(3) provide for the curing or waiving of any default;

"(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;

"(5) notwithstanding paragraph (2), provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

"(6) subject to section 365, provide for the assumption, rejection, or assignment of any executory contract or expired lease of the debtor not previously rejected under that section;

"(7) provide for the payment of all or part of a claim against the debtor from the property of the estate or property of the debtor;

"(8) provide for the sale of all or any part of the property of the estate among those having an interest in such property;

"(9) provide for payment of allowed secured claims, consistent with section 1026(a)(5), over a period exceeding the period permitted under section 1022(c);

"(10) provide for the vesting of property of the estate on confirmation of the plan or at a later time, in the debtor of any other entity ;and

"(11) include any other appropriate provision not inconsistent with this title.

"(c) LIMITATION.—Except as provided in subsection (b)(5) and (9), the plan may not provide for payments over a period that is longer than 3 years unless the court for cause approves a longer period, but the court may not approve a period that is longer than 5 years.

"§ 1023. Postpetition disclosure and solicitation

"(a) PLAN AND DISCLOSURE STATEMENT.—In a case under this chapter, an acceptance or rejection of a plan may not be solicited after the commencement of the case from a holder of a claim or interest with respect to the claim or interest unless, at the time or before such solicitation, there is transmitted to the holder the plan or a summary of the plan and a written disclosure statement that includes information sufficient to show whether or not the plan meets the requirements of section 1026.

"(b) FORM.—The court may require that the summary of the plan and the disclosure statement employ a standard form approved by the court.

"§ 1024. Modification of plan before confirmation

"(a) IN GENERAL.—A debtor may modify a plan at any time before confirmation but may not modify the plan so that the plan as modified fails to meet the requirements of section 1022.

"(b) EFFECT.—After a debtor files a modification under this section, the plan as modified becomes the plan.

"(c) ACCEPTANCE.—A holder of a secured claim that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless—

"(1) the modification provides for a change in the rights of the holder under the plan before modification; and

"(2) the holder changes the holder's previous acceptance or rejection.

"§ 1025. Confirmation hearing

"(a) HEARING.—After expedited notice, the court shall hold a hearing on confirmation of the plan.

"(b) OBJECTION TO CONFIRMATION.—A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan.

"(c) OBJECTION TO DISCLOSURE OF INFORMATION.—A party in interest, the trustee, or the United States trustee may object to the disclosure of information that is required to be disclosed under section 1023.

"(d) CONCLUSION OF HEARING.—Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.

"§ 1026. Confirmation of plan

"(a) CRITERIA.—Except as provided in subsection (b), the court shall confirm a plan if—

"(1) the plan complies with all applicable provisions of this title;

"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

"(3) the plan has been proposed in good faith and not by any means forbidden by law;

"(4) the value of property to be distributed under the plan on account of each unsecured claim, as of the effective date of the plan, is not less than the amount that would be paid on the claim if the estate of the debtor were to be liquidated under chapter 7 on that date;

"(5) with respect to each allowed secured claim provided for by the plan—

"(A) the holder of the claim has accepted the plan;

"(B)(i) the plan provides that the holder of the claim will retain the lien securing the claim; and

"(ii) the value of property to be distributed by the trustee or the debtor under the plan on account of the claim, as of the effective date of the plan, is not less than the allowed amount of the claim; or

"(C) the debtor surrenders the property securing the claim to the holder;

"(6) the debtor will be able to make all payments under the plan and to comply with the plan;

"(7) except to the extent that the holder of a claim has agreed to a different treatment of the claim, the plan provides that—

"(A) with respect to a claim of a kind described in section 507(a) (1) or (2), on the effective date of the plan, the holder of the claim will receive on account of the claim cash equal to the allowed amount of the claim;

"(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive cash or deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; and

"(C) with respect to a claim of a kind described in section 507(a)(7), the holder of the claim will receive on account of the claim deferred cash payments, over a period ending on the later of—

"(i) the date of termination of the plan; or

"(ii) the date that is 6 years after the date of assessment of the claim,

of a value, as of the effective date of the plan, equal to the allowed amount of the claim; and

"(8) confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless liquidation or reorganization is proposed in the plan.

"(b) CONFIRMATION NOTWITHSTANDING NONCONFORMANCE OR OBJECTION.—If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, the court may not approve the plan unless, as of the effective date of the plan—

"(1) the value of the property to be distributed under the plan on account of the claim is not less than the amount of the claim; or

"(2) the plan provides that all of the debtor's projected disposable income to be received in the 3-year period, or such longer period as the court may approve under section 1022(c), beginning on the date on which the first payment is due under the plan, will be applied to make payments under the plan.

"§ 1027. Payments

"(a) RETENTION BY TRUSTEE.—Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.

"(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If a plan is confirmed, the trustee shall distribute in accordance with the plan payments and funds retained pursuant to subsection (a).

"(c) RETURN FOLLOWING NONCONFIRMATION.—If a plan is not confirmed, the trustee shall return any payments and funds retained pursuant to subsection (a), after deducting—

"(1) any unpaid claim allowed under section 503(b); and

"(2) if a standing trustee is serving in the case, the percentage fixed for the standing trustee under section 1003.

"(d) PAYMENTS PRECEDING PAYMENTS TO CREDITORS.—Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of a kind described in section 507(a)(1); and

"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee under section 1003.

"(e) PAYMENTS TO CREDITORS.—Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

"§ 1028. Effect of confirmation

"(a) PERSONS BOUND.—Except as provided in subsection (d) (2) and (3), a confirmed plan binds the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner of the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

"(b) VESTING OF PROPERTY.—Except as otherwise provided in the plan or order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

"(c) FREEDOM OF PROPERTY FROM CLAIMS AND INTERESTS.—Except as provided in subsection (d) (2) and (3), and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and general partners of the debtor.

"(d) DISCHARGE OF DEBTOR.—

"(1) ON COMPLETION OF PAYMENTS.—As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1022(b) (5) or (9), unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b) (5) or (9); or

"(B) of the kind specified in section 523(a).

"(2) WHEN PAYMENTS ARE NOT COMPLETED.—At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan if—

"(A) the debtor's failure to complete such payments is due to circumstances for which the debtor should not be justly held accountable;

"(B) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed secured claim is not less than the amount that would have been paid on the claim if the estate of the debtor had been liquidated under chapter 7 on that date; and

"(C) modification of the plan under section 1029 is not practicable.

"(3) EFFECT.—A discharge granted under paragraph (2) discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b)(5) or (9); or

"(B) of a kind specified in section 523(a).

"(4) REVOCATION.—On request of a party in interest made before the date that is 1 year after the date on which a discharge under this section is granted, and after notice and hearing, the court may revoke the discharge if—

"(A) the discharge was obtained by the debtor through fraud; and

"(B) the requesting party did not know of the fraud until after the discharge was granted.

"(e) TERMINATION OF SERVICES OF TRUSTEE.—After the debtor is granted a discharge, the court shall terminate the services of any trustee serving in the case.

"§ 1029. Modification of plan after confirmation

"(a) IN GENERAL.—At any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified, on request of the debtor, the trustee, or the holder of any allowed unsecured claim, to—

"(1) increase or reduce the amount of payments of claims of a particular class provided for by the plan;

"(2) extend or reduce the time for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of the claim other than under the plan.

"(b) APPLICABILITY OF REQUIREMENTS.—Sections 1022 (a) and (b) and 1024 and the requirements of section 1025(a) apply to a modification under subsection (a).

"(c) LIMITATION.—A plan modified under subsection (a) may not provide for payments over a period that expires after 3 years after the date on which the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after 5 years after that date.

"(d) REPORT.—Not later than 60 days after each anniversary of the confirmation of the plan, the trustee shall file a report with the court, and serve a copy on all creditors requesting service of a copy of the report, setting forth—

"(1) the amount of distributions made to creditors during the preceding year;

"(2) a description of the debtor's compliance with the provisions of the plan during the preceding year;

"(3) a description of the debtor's disposable income in relation to the continued ability to comply with the terms of the confirmed plan; and

"(4) any modifications to the plan that are necessary to ensure the reorganization of the debtor and the payment to creditors of all disposal income.

"§ 1030. Revocation of order of confirmation

"(a) REVOCATION FOR FRAUD.—On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1028, and after notice and a hearing, the court may revoke the order if the order was procured by fraud.

"(b) DISPOSITION OF CASE AFTER REVOCATION.—If the court revokes an order of confirmation under subsection (a), the court shall dispose of the case under section 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.".

(d) TECHNICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

"10. Small Businesses .... 1001".

(2) CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting "10," after "7," each place it appears;

(B) in section 322(a) by inserting "1005" after "703,";

(C) in section 326(b)—

(i) by striking "12 or 13" and inserting "10, 12, or 13"; and

(ii) by striking "1202(a) or 1302(a)" and inserting "1005, 1202(a), or 1302(a)";

(D) in section 327—

(i) in subsection (b) by inserting "1005," after "721,"; and

(ii) in subsection (c) by inserting "10," after "7,";

(E) in section 329(b)(1)(B) by inserting "10," after "chapter";

(F) in section 330(c) by striking "12 or 13" and inserting "10, 12, or 13";

(G) in section 346—

(i) in subsection (b) by inserting "10," after "7,";

(ii) in subsection (g)(1)(C) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (i)(1) by inserting "10," after "7,";

(H) in section 347—

(i) in subsection (a)—

(I) by inserting "1027," after "726,"; and

(II) by inserting "10," after "7,"; and

(ii) in subsection (b)—

(I) by inserting "10," after "9,"; and

(II) by inserting "1026," after "943(b),";

(I) in section 348—

(i) in subsections (b), (c), and (e) by inserting "1009," after "706," each place it appears; and

(ii) in subsection (d) by inserting "1009," after "section";

(J) in section 362(c)(2)(C) by inserting "10" after "9,";

(K) in section 363—

(i) in subsection (c)(1) by inserting "1006," after "721,"; and

(ii) in subsection (l) by inserting "10," after "chapter";

(L) in section 364(a) by inserting "1006, 1007," after "721,";

(M) in section 365—

(i) in subsections (d)(2) and (g) (1) and (2) by inserting "10," after "9," each place it appears; and

(ii) in subsection (g)(2) (A) and (B) by inserting "1009," after "section" each place it appears;

(N) in section 502(g) by inserting "10," after "9,";

(O) in section 523(a) by inserting "1028(d)," after "727,";

(P) in section 524—

(i) in subsections (a)(1), (c)(1), and (d) by inserting "1028(d)," after "727," each place it appears; and

(ii) in subsection (a)(3) by inserting "1028(d)," after "523,";

(Q) in section 546(a)(1) by inserting "1005," after "702,";

(R) in section 557(d)(3) by inserting "1005," after "703,";

(S) in section 706—

(i) in subsection (a)—

(I) by inserting "10," before "11,"; and

(II) by inserting "1009," after "section"; and

(ii) in subsection (c) by striking "12 or 13" and inserting "10, 12, or 13";

(T) in section 726(b) by inserting "1009," after "chapter under section";

(U) in section 1106(a)(5) by inserting "10," after "7,";

(V) in section 1306(a) (1) and (2) by inserting "10," after "7," each place it appears; and

(W) in section 1307—

(i) in subsection (b) by inserting "1009," after "706,";

(ii) in subsection (d) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (e) by inserting "10," after "7,".

(3) BANKRUPTCY RULES.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases filed under chapter 10 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by this Act.

(4) AMENDMENT OF TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended—

(A) in section 157(b)(2)(B) by inserting "10," after "chapter";

(B) in section 586—

(i) in subsection (a)—

(I) in paragraph (1)(C)—

(aa) by striking "12 and 13" and inserting "10, 12, and 13"; and

(bb) by inserting "1025, 1029," after "sections"; and

(II) in paragraph (3) in the matter preceding subparagraph (A), by inserting "10," after "7,"; and

(C) in subsections (b), (d), and (e) by striking "12 or 13" each place it appears and inserting "10, 12, or 13"; and

(D) in section 1930(a)—

(i) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

"(3) For a case commenced under chapter 10 of title 11, $600.".

(5) AMENDMENT OF THE BANKRUPTCY, JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986.—Section 301 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (100 Stat. 3118) is amended in subsections (d) and (e) by inserting "10," after "7," each place it appears.

(e) APPLICATION OF CHAPTER 10 OF TITLE 11.—

(1) SELECTION OF DEMONSTRATION DISTRICTS.—Not later than 90 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall—

(A) select 8 judicial districts in which chapter 10 of title 11, United States Code, shall be effective for a period of 3 years; and

(B) identify those districts by notice in the Federal Register.

(2) EFFECTIVE PERIOD.—Chapter 10 of title 11, United States Code, shall become effective only in the 8 judicial districts selected under paragraph (1), beginning on the date that is 90 days after the date of enactment of this Act and ending on the date that is 3 years after that date.

(3) REPEAL.—(A) Chapter 10 of title 11, United States Code, is repealed on the date that is 3 years after the date that is 90 days after the date of enactment of this Act. All cases commenced or pending under that chapter and all matters and proceedings in or relating to those cases shall be conducted and determined under that chapter as if the chapter had not been repealed. The substantive rights of parties in connection with those cases, matters, and proceedings as if the chapter had not been repealed.

(B) The Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall prepare and report to the Senate and the House of Representatives, respectively, not later than 90 days before the repeal date described in subparagraph (A), legislation proposing such technical amendments as may be necessary or appropriate at that time in view of the repeal made by subparagraph (A).

SEC. 206. SUPPLEMENTAL PERMANENT INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal action as is expressly allowed by the injunction or plan of reorganization.

"(2)(A) If the requirements of subparagraph (B) are met, after entry of an injunction under paragraph (1) any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection with respect to the injunction may be commenced only in the district court in which the injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to be funded in whole or in part by the securities of one or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments;

"(II) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidiary of each such debtor that is also a debtor; and

"(III) is to use its assets or income to pay claims and demands; and

"(ii) the court finds that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands; and

"(IV) as part of the process of seeking approval of the plan of reorganization, a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order approving the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, then after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that is a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making such loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) is not intended to—

"(i) imply that such an entity would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance; or

"(iii) relieve any debtor of its obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A) Subject to subparagraph (B), an injunction issued under paragraph (1) shall be valid and enforceable against all persons and governmental units that it addresses.

"(B) With respect to a demand that is made subsequent to the confirmation of a plan against any debtor or trust that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that gave rise to the claims addressed by an injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection governs any injunction of the nature described in paragraph (1)(B) entered before or after the date of enactment of this subsection.

"(8) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

"(9) Nothing in subsection (g) shall affect the court's existing authority to issue an injunction pursuant to an order approving a plan of reorganization.".

SEC. 207. EXEMPTION.

Section 109(b)(2) of title 11, United States Code, is amended by inserting after "homestead association" the following: "a small business investment company licensed by the Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958 (15 U.S.C. 681 (c) and (d)),".

SEC. 208. PRE-MERGER NOTIFICATION.

Section 363(b)(2) of title 11, United States Code, is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) notwithstanding subsection (a) of that section, the notification on behalf of the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b)(1) of that section, the required waiting period shall end on the tenth day after the date of receipt of the notification, unless the waiting period is extended—

"(i) pursuant to subsection (e)(2) or (g)(2) of that section; or

"(ii) by the court, after notice and hearing.".

SEC. 209. STATUS CONFERENCE.

Section 1121 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this section, the court, on its own motion or on the motion of any party in interest, may hold a status conference regarding any case under this chapter, after notice to creditors and other parties in interest. At such a conference or any subsequent status conference set by the court, the court may issue an order, consistent with this title, prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically, including orders that—

"(1) set a date by which the debtor, or trustee if one has been appointed, shall file a disclosure statement and plan;

"(2) set a date by which the debtor, or trustee if one has been appointed, shall confirm a plan;

"(3) set the date by which a party in interest other than a debtor may file a plan;

"(4) fix the notice to be provided regarding the hearing on approval of the disclosure statement;

"(5) provide that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan;

"(6) direct the use of standard-form disclosure statements, plans, or other forms that have been adopted by the court; and

"(7) set the date by which the debtor must accept or reject an executory contract.".

SEC. 210. AIRPORT LEASES.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding paragraphs (1), (2), and (4), and subject to subparagraphs (B) and (C) of this paragraph, if the trustee in a case under any chapter of this title does not assume or reject an unexpired lease or executory contract with an airport operator under which the debtor has a right to the use or possession of an airport terminal, aircraft gate, or related facility within 180 days after the date of the order for relief, or within such additional time as the court sets under subparagraph (B) during such 180-day period, such lease or executory contract is deemed rejected, and the trustee shall immediately surrender the airport terminal, gate, or related facility to the airport operator.

"(B)(i) The court may enter an order extending beyond 180 days after the date of the order for relief the time for assumption or rejection of an unexpired lease or executory contract described in subparagraph (A) only after finding that such an extension of time does not cause substantial harm to the airport operator or to airline passengers.

"(ii) In making the determination of substantial harm, the court shall consider, among other relevant factors—

"(I) the level of use of airport terminals, gates, or related facilities subject to the unexpired lease or executory contract;

"(II) the existence of competing demands for the use of the airport terminals, gates, or related facilities;

"(III) the size and complexity of the case; and

"(IV) air carrier competition at the airport.

"(iii) The burden of proof for establishing cause for an extension of time under this subparagraph shall be on the trustee.

"(iv) An order entered under this subparagraph shall be without prejudice to the right of a party in interest to request, at any time, a shortening or termination of the extension of time granted under this subparagraph.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply in all proceedings commenced on or after January 1, 1992. In a proceeding commenced on or after January 1, 1992, that is pending on the date of enactment of this Act, the 180-day period provided in section 365(d)(5)(A) of title 11, United States Code, as added by subsection (a), shall commence on the date of enactment of this Act.

SEC. 211. SINGLE ASSET REAL ESTATE.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 205(a), is amended—

(1) by redesignating paragraphs (54), (55), (56), (57), (58), (59), (60), (61), (62), and (63) as paragraphs (55), (56), (57), (58), (59), (60), (61), (62), (63), and (64); and

(2) by inserting after paragraph (53) the following new paragraph:

"(54) 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto;".

(b) Automatic Stay.—Section 362 of title 11, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1) by striking "or" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period)—

"(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

"(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate, which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate."; and

(2) by adding at the end the following new subsection:

"(i)(1) Upon request of a creditor whose claim is secured by an interest in single asset real estate, if the interest has more than de minimis value, the court shall issue an order granting limited relief from the stay provided under subsection (a) to permit the creditor to continue a foreclosure proceeding commenced before the commencement of the case up to, but not including, the point of sale.

"(2) An order under paragraph (1) shall not issue before the date that is 30 days after the date of entry of the order for relief, but thereafter shall issue promptly after such a request.

"(3) A hearing shall not be required for the granting of relief under paragraph (1) unless the debtor files an objection to the request and shows the court extraordinary circumstances requiring such a hearing.".

SEC. 212. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114(e) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title, if there are not sufficient unencumbered assets available to make a timely payment required by paragraph (1), an order approving the use, sale, or lease of cash collateral or the obtaining of credit or incurring of debt shall require the debtor to use such cash collateral, credit, or incurring of debt to make the payment.".

SEC. 213. AIRCRAFT EQUIPMENT, VESSELS AND ROLLING STOCK EQUIPMENT.

(a) Amendment of Section 1110.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§1110. Aircraft equipment and vessels

"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession unless—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is an air carrier (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)); or

"(B) a documented vessel (as defined in section 30101(1) of title 46, United States Code) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(b) Amendment of Section 1168.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession, unless—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(c) Application of Amendments.—(1) The amendment of section 1110(a) and section 1168(a) of title 11, United States Code, made by subsections (a) and (b) shall not apply to bankruptcy proceedings commenced prior to the date of enactment of this Act.

(2) The amendment of section 1168(a) of title 11, United States Code, made by subsection (b) shall take effect with respect to equipment that is first placed in service

after the date of enactment of this Act, including rolling stock equipment that is substantially rebuilt after that date and accessories used on such equipment.

SEC. 214. UNEXPIRED LEASES OF PERSONAL PROPERTY IN CHAPTER 11 CASES.

Section 365(d)(3) of title 11, United States Code, is amended in the first sentence by inserting after "real property" the following: "and, in a case under chapter 11, under an unexpired lease of personal property".

SEC. 215. PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.

Section 365(d)(3) of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) The reversal or modification on appeal of an authorization under this section of an assignment of an executory contract or unexpired lease does not affect the validity of the assignment to an entity that obtained the assignment in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and the assignment were stayed pending appeal.".

SEC. 216. RETURN OF GOODS.

(a) LIMITATION ON AVOIDING POWERS.—Section 546 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines, after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the value of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.".

(b) SETOFF.—Section 553(b)(1) is amended by inserting "546(h)," after "365(h)(2),".

SEC. 217. INDENTURE TRUSTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting after subparagraph (C) the following new subparagraph;

"(D) an indenture trustee;"; and

(C) in subparagraph (E), as redesignated by subparagraph (A), by striking "an indenture trustee,"; and

(2) in paragraph (5) by striking "for services rendered by an indenture trustee in making a substantial contribution in a case under chapter 9 or 11 of this title" and inserting "for necessary services".

SEC. 218. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) any interest in cash or cash equivalents (within the meaning of section 363(a)) that constitute proceeds of a sale by the debtor of a money order that is made—

"(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor).".

TITLE III—INDIVIDUAL DEBTORS

SEC. 301. BANKRUPTCY PETITION PREPARERS.

(a) AMENDMENT OF CHAPTER 1.—(1) Chapter 1 of title 11, United States Code, is amended by adding at the end the following new section:

"SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

"(a) DEFINITION.—In this section—

"(1) the term 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) the term 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies the individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(d) FURNISHING OF COPY TO THE DEBTOR.—(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(e) AUTHORIZATION TO EXECUTE DOCUMENTS.—(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor unless—

"(A) the debtor has first given the preparer written authorization to execute the document; and

"(B) the preparer is otherwise authorized by law to execute the document.

"(2) A bankruptcy petition preparer may be fined not more than $500 for each document executed in violation of paragraph (1).

"(f) DAMAGES.—If a bankruptcy case or related proceeding is dismissed because of the negligence or intentional disregard of this title or the bankruptcy rules by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

"(1) the debtor's actual damages;

"(2) the greater of—

"(A) $2,000; or

"(B) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(3) reasonable attorneys' fees and costs in moving for damages under this subsection.

"(g) INJUNCTIVE RELIEF.—

"(1) IN GENERAL.—A debtor for whom a bankruptcy petition preparer has prepared as document for filing, the United States trustee in the district in which the bankruptcy petition preparer resides or has a principal place of business, or the United States trustee in the district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2) CONDUCT.—(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) ATTORNEY'S FEE.—The court shall award to a debtor who brings a successful action under this subsection reasonable attorney's fees and costs of the action.

"(i) UNAUTHORIZED PRACTICE OF LAW.—Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.".

(2) The chapter analysis for chapter 1 of title 11, United states Code, is amended by adding at the end the following new item:

"110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.".

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—(1) Chapter 9 of title 18, United States Code, is amended by adding at the end the following new section:

"§156. Willful disregard of bankruptcy law or rule.

"(a) DEFINITIONS.—In this section—

"(1) the term 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) the term 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a willful attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined $5,000.".

(2) The chapter analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following new item:

"156. Willful disregard of bankruptcy law or rule.".

(c) AMENDMENT TO SECTION 152.—Section 152 of title 18, United States Code, is amended by—

(1) designating each of the presently unnumbered paragraphs as "(a)" through "(j)" respectively;

(2) inserting in the newly designated paragraph (a) "or the United States Trustee" after the words "or from creditors"; and

(3) inserting in the newly designated paragraph (i) "or the United States Trustee" after the words "or other officer of the court".

(d) AMENDMENT TO SECTION 153.—Section 153 of title 18, United States Code, is amended by deleting the words "which came into his charge as trustee, custodian, marshal, or other officer of the court,", and by amending the catchline and the item in the table of sections to read:

"§153. Embezzlement against estate".

(e) AMENDMENT TO SECTION 154.—Section 154 of title 18, United States Code, is amended by—

(1) designating each of the presently unnumbered paragraphs as "(a)" through "(c)" respectively;

(2) deleting the hyphen at the end of newly designated paragraph (b) and inserting in lieu thereof "; or";

(3) inserting a new paragraph (c) and redesignating paragraph (c) as paragraph (d):

"(c) Whoever being such officer, knowingly refuses to permit a reasonable opportunity for the inspection of the documents and accounts relating to the affairs of estates in his charge by the United States trustee—"; and

(4) deleting in subsection (d) "$500" and inserting in lieu thereof "$5,000".

SEC. 302. WHO MAY BE A DEBTOR.

Section 109(e) of title 11, United States Code, is amended to read as follows:

"(e)(1) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of less than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13.

"(2) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of more than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13 if there is no objection raised on the record by any creditor prior to the date that is 10 days after the date on which the meeting of creditors pursuant to section 341 is concluded, and no order of confirmation shall be entered prior to the date by which such an objection is required to be made.".

SEC. 303. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor under oath and make recommendations on a preserved record regarding the debtor's knowledge of—

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title;

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);

"(5) the debtor's duties under section 521;

"(6) the potential penalties and fines for committing fraud or other abuses of this title; and

"(7) the consequences of substantial abuse under section 707(b).".

SEC. 304. AUTOMATIC STAY.

Section 362(e) of title 11, United States Code, is amended by adding at the end the following new sentence: "In no event shall the final hearing on a request under subsection (d) be concluded later than 60 days after the filing of the request, except upon a finding of good cause by the court.".

SEC. 305. EXEMPTIONS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) 'antique', for purposes of subsection (d), means an item that was more than 100 years old at the time it was acquired by the debtor, including such an item that has been repaired or renovated without changing its original form or character;";

(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and

(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(3) 'household goods', for purposes of subsection (d), means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—

"(A) works of art;

"(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);

"(C) antiques; and

"(D) jewelry other than wedding rings.".

SEC. 306. EFFECT OF DISCHARGE.

Section 524(d) of title 11, United States Code, is amended—

(1) by striking "(d) In" and inserting "(d)(1) In";

(2) by striking "(1) inform" and inserting "(A) inform";

(3) by striking "(A) that" and inserting "(i) that";

(4) by striking "(B) of" and inserting "(ii) of";

(5) by striking "(i) an" and inserting "(I) an";

(6) by striking "(ii) a" and inserting "(II) a";

(7) by striking "(2) determine" and inserting "(B) determine";

(8) in the third sentence of paragraph (1), as designated by paragraph (1) of this section, by striking "If a discharge has been granted and if the debtor desires to make an agreement of the kind specified in subsection (c) of this section, then" and inserting "Prior to granting a discharge, if the debtor desires to make an agreement of the kind specified in subsection (c)(6),"; and

(9) by adding at the end the following new paragraph:

"(2) If a debtor fails to attend a hearing under paragraph (1) concerning a reaffirmation agreement—

"(A) the hearing shall be rescheduled;

"(B) the court shall cause the debtor to be given written notice that failure to attend the rescheduled hearing will cause the reaffirmation agreement to be deemed void; and

"(C) if the debtor fails to attend the rescheduled hearing, a discharge shall be granted without further delay.".

SEC. 307. PREFERENCES.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "property" and inserting "property, or with respect to which the creditor has taken all necessary steps to perfect under State law and the failure to perfect within 20 days is due solely to the operations of a governmental unit;".

SEC. 308. SUBSTANTIAL ABUSE.

Section 707 of title 11, United States Code, is amended—

(1) by adding at the end the following new subsection:

"(c)(1) Nothing in this section prohibits a party in interest from providing information concerning the debtor's assets, liabilities, or financial affairs to the United States Trustee.

"(2) The United States trustee shall provide the debtor with—

"(A) notice that a party in interest has provided the United States trustee with information pursuant to subsection (c)(1), including the identities of all sources of information provided;

"(B) a copy of all documents presented to the United States trustee pursuant to subsection (c)(1); and

"(C) an opportunity to respond to the issues raised by a party in interest pursuant to subsection (c)(1)."; and

(2) in subsection (b) by inserting after the first sentence the following new sentence: "The court shall find that a petition constitutes a substantial abuse of this chapter if the petition was filed in bad faith or if the debtor, without substantial hardship, has the ability to pay the debtor's debts as they become due.".

SEC. 309. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g) The clerk of the court shall give notice to all creditors not later than 30 days after the entry of an order of conversion or dismissal.".

SEC. 310. CONTENTS OF PLAN.

Section 1322(b)(2) of title 11, United States Code, is amended by striking "claims;" and inserting "claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;".

SEC. 311. PAYMENTS.

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting "as soon as practicable.".

SEC. 312. STAY OF ACTION AGAINST CODEBTOR.

Section 1301 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(4) the claim is for an amount valued at not greater than $25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has demonstrated an inability to pay such claim or a substantial portion of such claim."; and

(2) by adding at the end the following new subsection:

"(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by subrogation have the same rights as the creditor, under this title, against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor.".

SEC. 313. PLAN CONTENTS.

Section 1322 of title 11, United States Code, as amended by section 202(d), is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—

"(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or

"(B) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5).".

TITLE IV—MISCELLANEOUS

SEC. 401. DELAY OF REPEAL OF CHAPTER 12 (FAMILY FARMERS).

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note; 100 Stat. 3124) is amended by striking "October 1, 1993" and inserting "October 1, 1995".

SEC. 402. DOLLAR ADJUSTMENTS.

(a) INVOLUNTARY CASES.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000"; and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

(b) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B) by striking "$2,000" and inserting "$4,000";

(2) in paragraph (4)(B)(i) by striking "$2,000" and inserting "$4,000"; and

(3) in paragraph (6) by striking "$900" and inserting "$1,800".

(c) EXEMPTIONS.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000";

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400";

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400"; and

(B) by striking "$4,000" and inserting "$8,000";

(4) in paragraph (4) by striking "$500" and inserting "$1,000";

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800"; and

(B) by striking "$3,750" and inserting "$7,500";

(6) in paragraph (6) by striking "$750" and inserting "$1,500";

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000"; and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

(d) APPOINTMENT OF EXAMINER IN CERTAIN CIRCUMSTANCES.—Section 1104(b)(2) of title 11, United States Code, is amended by striking "$5,000,000" and inserting "$10,000,000".

SEC. 403. TRUSTEE COMPENSATION.

Section 326(a) of title 11, United States Code, is amended to read as follows:

"(a) In a case under chapter 7 or chapter 11, the court may allow reasonable compensation under section 330 for the trustee's services, payable after the trustee renders such services, computed as a percentage of all monies disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor for the debtor's exemptions, but including holders of secured claims, as follows:

"(1) In a case in which such moneys do not exceed $1,000,000, reasonable compensation may be 25 percent of the first $5,000 or less, 10 percent on any amount in excess of $5,000 but not in excess of $50,000, and 5 percent of any amount in excess of $50,000.

"(2) In a case in which such moneys exceed $1,000,000, reasonable compensation, in addition to that prescribed in paragraph (1), may be 3 percent of the excess of those moneys over $1,000,000, but the court may allow additional compensation to the trustee for exceptional services not to exceed 25 percent of the compensation otherwise due.".

SEC. 404. TAX PROVISIONS.

(a) SPECIAL TAX PROVISIONS.—Section 346 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(k) A trustee or debtor in possession shall establish and maintain a separate bank account for post-petition taxes that are required to be withheld or collected from third parties, and shall also make deposit of such taxes therein when withheld or collected and remit such taxes to a governmental unit at the time and in the manner required under Federal, State, or local government law, unless ordered by the court to do otherwise.".

(b) AUTOMATIC STAY.—Section 362(b)(9) of title 11, United States Code, is amended to read as follows:

"(9) under subsection (a), of an audit by a governmental unit to determine tax liability, of the issuance to the debtor by a governmental unit of a notice of tax deficiency, of a demand for tax returns, or of an assessment of an uncontested or agreed upon tax liability;".

(c) CONVERSION OR DISMISSAL OF CHAPTER 11 CASE.—Section 1112(b) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of the order for relief under this chapter.".

(d) CONFIRMATION OF PLAN.—Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking "such claim, of a value" and inserting "such claim, or, if a claim has not been assessed, after the date of confirmation of the claim, of a value".

(e) CONVERSION OR DISMISSAL OF CHAPTER 12 CASE.—(1) Section 1208(c) of title 11, United States Code, is amended—

(A) by striking "or" at the end of paragraph (8);

(B) by striking a period at the end of paragraph (9) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(10) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by the laws applicable to such taxes subsequent to the date of the order for relief under this chapter.".

(2) Section 1307(c) of title 11, United States Code, is amended—

(A) by striking "or" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of order for relief under this chapter.".

SEC. 405. CREDITOR COMMITTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the actual, necessary expenses incurred by a committee representing creditors or equity security holders appointed under section 1102 in the performance of its powers and duties under that section.".

SEC. 406. JUDICIAL CONFERENCE REPORT.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall produce and submit to the appropriate committees of Congress a report containing a description of—

(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;

(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;

(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and

(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.

SEC. 407. SERVICE OF PROCESS.

Rule 7004(b)(3) of the Bankruptcy Rules is amended—

(1) by inserting ", by certified or registered mail," after "complaint"; and

(2) by inserting ", by certified or registered mail," after "copy".

SEC. 408. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103, or the debtor's attorney in conformance with guidelines adopted by the Executive Office for United States Trustees pursuant to section 586(a)(3)(A) of title 28—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2)(A) In determining an amount of reasonable compensation to be awarded under paragraph (1)(A), the court—

"(i) may, on its motion or on the motion of the United States trustee or any party in interest, award compensation that is less than the amount of compensation that is requested; and

"(ii) shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(I) the time spent on such services;

"(II) the rates charged for such services;

"(III) whether the services were necessary in the administration of or beneficial toward the completion of a case under this title; and

"(IV) the total value of the estate and the amount of funds or other property available for distribution to all creditors both secured and unsecured.

"(B) In calculating compensation for services for the purpose of subparagraph (A)(ii), the court shall consider—

"(i) whether tasks were performed within a reasonable amount of time commensurate with the complexity, importance and nature of the problem, issue or task addressed; and

"(ii) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in nonbankruptcy cases.

"(3) The court shall not allow compensation for duplication of services or for services that are not either reasonably likely to benefit the debtor's estate or necessary in the administration of the case.

"(4)(A) The court shall take into account the amount and timing of interim compensation, if any awarded and paid, in awarding final compensation.

"(B) If interim compensation was awarded and paid in an amount that exceeds the amount the court awards as final compensation the court may order the return of the excess to the trustee or other entity that paid it.

"(5) In determining the amount to be awarded for the preparation of fee applications, the court shall recognize the difference between the cost of professional services and services for the preparation of fee applications. The costs awarded for the preparation of fee applications shall be reasonable and based on the level of skill required.

SEC. 409. TRUSTEE DUTIES.

Section 586(a)(3)(A) of title 28, United States Code, is amended to read as follows:

"(A)(i) reviewing, in accordance with procedural and substantive guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly except when circumstances warrant different treatment), applications for compensation and reimbursement filed under section 330 of title 11; and

"(ii) filing with the court comments with respect to such an application and, when the United States Trustee deems it to be appropriate, objections to any such application.

SEC. 410. PENSION PLAN CONTRIBUTIONS.

(a) TREATMENT AS ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by section 405, is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) minimum funding contributions to an employee pension benefit plan for which the debtor is liable, which accrue on or after the date of commencement of the case (regardless of the time such contribution comes due), under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).".

(b) PAYMENT OR POSTPONEMENT OF MINIMUM FUNDING CONTRIBUTIONS DUE PENSION PLANS.—(1) Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following new section:

"§1115. Contributions to certain employee pension benefit plans

"(a) TIMELY PAYMENT OF CONTRIBUTIONS.—Except as provided in subsection (b), the debtor in possession, or the trustee if one has been appointed, shall make any minimum funding contributions for which the debtor is liable, which accrue on or after the date of commencement of the case (regardless of the time such contribution comes due), under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).

"(b) POSTPONEMENT OF CONTRIBUTIONS.—(1)(A) Subject to paragraph (2), the court may, on motion of any party and after notice and hearing, determine that the making of all or part of a minimum funding contribution required to be made by a debtor to a pension plan may be postponed until a date that is not later than—

"(i) the effective date of a plan of reorganization confirmed under section 1129; or

"(ii) if the case is converted to a case under chapter 7, the date on which a distribution of property is made under section 726.

"(B) In making a determination under subparagraph (A), the court shall take into account the requirements of the estate.

"(C) Interest shall accrue on the amount of a contribution that is postponed from the date on which the contribution became due to the date of payment at the rate specified in section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(e)).

"(2)(A) Before permitting payment of all or part of a contribution to be postponed, the court shall grant security to the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, for the amount of a contribution that is postponed, affording adequate protection in accordance with section 364(d)(1)(B).

"(B) If the debtor in possession or trustee fails to make a postponed contribution on the date on which it is to be made under an order issued under paragraph (1), the pension plan shall be permitted to foreclose on the security provided under subparagraph (A).

"(c) NOTICE.—The administrator of the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, shall be given notice of and may participate in any hearing seeking postponement of a contribution or foreclosure under this section.".

(2) The chapter analysis for chapter 11 of title 11, United States Code, is amended by inserting after the item for section 1114 the following new item:

"1115. Contributions to certain employee pension benefit plans.".

(c) CLARIFICATION OF EXISTING LAW.—(1) The amendment of section 550 of title 11, United States Code, made by section 204 shall apply with respect to a transfer to a pension plan that is subject to the minimum funding requirements of section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082) only if the transfer is the subject of a motion or proceeding seeking avoidance of the transfer that is filed on or after the date of passage of this Act in the Senate.

(2)(A) In making the amendments made by subsections (a) and (b), it is the purpose of Congress to clarify the meaning of the provisions that are amended as they existed prior to the date of enactment of this Act.

(B) The amendments made by subsections (a) and (b) shall not be applied so as to supersede or alter any agreement or understanding (or modifications thereto before or after enactment) regarding a debtor's minimum funding contributions entered into among a debtor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation prior to the date of enactment of this Act. If any agreement or understanding referenced in the preceding sentence is set aside or not implemented because of the act or omission of the Pension Benefit Guaranty Corporation, the law applicable to all matters in that proceeding shall be determined without regard to subsections (a) or (b).

SEC. 411. DEFICIT REDUCTION: A CALL FOR DEBATE.

(a) The Senate finds that—

(1) the growing national debt is a legacy of bankruptcy which will make America's economy steadily weaker and more vulnerable than it is today;

(2) to amass a national debt of $4,000,000,000,000 and an annual deficit of $400,000,000,000 is to breach trust with present and future Americans;

(3) the national interest in controlling the deficit takes precedence over partisan advantage;

(4) it is the responsibility of candidates for President and for Congress to discuss the deficit, if the priority issues facing our country (such as investing in human capital and physical infrastructure to promote economic growth) are to be effectively and honestly addressed;

(5) the American people will provide a mandate for governmental action, if given information and serious choices for deficit reduction that calls for shared sacrifice;

(6) the frequency and level of public comment on this issue by too many public officers and House and Senate candidates, including those who hold and seek the office of the President, have been insignificant and inadequate;

(7) by and large, too many candidates, Members of Congress, and members of the media have ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse;

(8) entitlement and interest spending are the fastest growing components of the Fed-

eral budget and are at an all-time high, largely due to the explosion of health costs;

(9) other than taxes devoted to Social Security pensions, the level of taxation relative to the United States economy has been lower in the last decade than it was in any year between 1962 and 1982;

(10) the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending; and

(11) to suggest that meaningful deficit reduction can be accomplished without shared sacrifice constitutes deception of the American people.

(b) It is the sense of the Senate that—

(1) public officials and candidates for public office should make proposals and engage in extensive and substantive discussion on reducing the deficit;

(2) the candidates for President should agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications and solutions; and

(3) all candidates for office should affirm their support for this statement of principles and should resolve, in the course of their campaigns, to seek a mandate from the electorate with which they can effectively address the Federal budget deficit if elected.

SEC. 412. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

SEC. 413. EFFECTIVE DATE.

Except as provided in sections 205(e)(2) and 210(b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. TITLE 11, UNITED STATES CODE.

Title 11, United States Code, is amended—

(1) in the table of chapters by striking the item relating to chapter 15;

(2) in section 101—

(A) by striking paragraph (39);

(B) by redesignating paragraphs (40) through (51) as paragraphs (41) through (52), respectively;

(C) by redesignating paragraphs (36) through (38) as paragraphs (37) through (39), respectively;

(D) by inserting after paragraph (35) the following paragraph:

"(36) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant protected under title 35;

"(C) patent application;

"(D) plant variety;

"(E) work of authorship protected under title 17; and

"(F) mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law;";

(E) in paragraph (39) (as redesignated by subparagraph (C)) by striking "and" after the semicolon;

(F) by inserting after paragraph (39) (as redesignated by subparagraph (C)) the following paragraph:

"(40) 'mask work' has the meaning given it in section 901(a)(2) of title 17;";

(G) by redesignating paragraphs (52) and (53) (as designated before the date of enactment of this Act) as paragraphs (54) and (55), respectively;

(H) by inserting after paragraph (52) (as redesignated by subparagraph (B)) the following paragraph:

"(53) 'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, a final settlement payment, a net settlement payment, or any other similar payment commonly used in the forward contract trade;"; and

(I) by striking both paragraphs (54), both paragraphs (55), both paragraphs (56), and both paragraphs (57) (as designated before the date of enactment of this Act) and inserting the following:

"(56) 'stockbroker' means a person—

"(A) with respect to which there is a customer, as defined in section 741(2) of this title; and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account;

"(57) 'swap agreement' means—

"(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any other similar agreement (including any option to enter into any of the foregoing);

"(B) any combination of the foregoing; or

"(C) a master agreement for any of the foregoing together with all supplements;

"(58) 'swap participant' means an entity that, at any time before the filing of the petition, has an outstanding swap agreement with the debtor;

"(59) 'timeshare interest' means that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan;

"(60) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years;

"(61) 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary of involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption; and

"(62) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.";

(3) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302";

(4) in section 346 (a) and (g)(1)(C) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(5) in section 348—

(A) in subsection (b) by striking "728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "728 (a) and (b), 1021, 1028, 1102(a), 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146 (a) and (b), 1201(a), 1221, 1228(a), 1301(a), and 1305(a)"; and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(6) in section 349(a) by striking "109(f)" and inserting "109(g)";

(7) in section 362(b)—

(A) by striking "or" at the end of paragraph (10);

(B) in paragraphs (12) and (13) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" each place it appears and inserting "section 31325 of title 46, United States Code";

(C) in paragraph (14), as added by section 102 of Public Law 101-311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after paragraph (13), and striking the period at the end and inserting a semicolon; and

(D) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388-28), as paragraphs (15), (16), and (17), striking "or" at the end of paragraph (16), as redesignated by this subparagraph, and adding "or" at the end of paragraph (17), as redesignated by this subparagraph;

(8) in section 363(c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(9) in section 364(a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(10) in section 365—

(A) in subsection (g)(2) (A) and (B) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307"; and

(B) in subsection (n)(1)(B) by striking "to to" and inserting "to";

(11) in section 507(d) by striking "(a)(3), (a)(4), (a)(5), or (a)(6)" and inserting "(a) (3), (4), (6), or (7)";

(12) in section 522(d)(10)(E)(iii) by striking "408, or 409 Internal Revenue Code of 1954" and inserting "section 401(b), 403(b), 408, or 409" of the Internal Revenue Code of 1986";

(13) in section 523(a) by striking "1141., 1228(a), 1228(b)," and inserting "1141, 1228 (a) or (b),";

(14) in section 524—

(A) in subsection (a)(3) by striking "or 1328(c)(1)" and inserting "1328(a)(1)";

(B) in subsection (c)(4) by striking "recission" and inserting "rescission"; and

(C) by inserting "and" at the end of subsection (d)(1)(B)(ii);

(15) in section 542(e) by striking "to to" and inserting "to";

(16) in section 543(d)(1) by striking "of equity" and inserting "if equity";

(17) in section 546(a)(1) by striking "1302, or 1202" and inserting "1202, or 1302";

(18) in section 553—

(A) in subsection (a)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(B) in subsection (b)(1) by striking "362(b)(14),," and inserting "362(b)(14),";

(19) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307";

(20) in section 724(d) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(21) in section 726(b) by striking "section 1112 1208" and inserting "section 1112, 1208,";

(22) in section 743 by striking "clerk" and all that follows through "Commission" and inserting "clerk shall give the notice required by section 342 to SIPC and to the Commission";

(23) in section 745(c) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(24) in section 1104(c) by striking "then the United States trustee, after consultation with parties in interest shall" and inserting "the United States trustee, after consultation with parties in interest, shall";

(25) in section 1129(a)—

(A) by striking the semicolon at the end of paragraph (4) and inserting a period; and

(B) in paragraph (12) by striking "section 1930," and inserting "section 1930 of title 28,";

(26) in section 1226(b)(2)—

(A) by striking "section 1202(d) of this title" and inserting "section 586(b) of title 28"; and

(B) by striking "section 1202(e) of this title" and inserting "section 586(e) of title 28";

(27) in section 1302(b) by striking "and" at the end of paragraph (3); and

(28) in section 1328(a)(2) by striking "of" and all that follows through the semicolon and inserting "of the kind described in section 523(a) (5), (8), or (9);".

SEC. 502. TITLE 28, UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike all after the enacting clause of the Senate bill, S. 1985 and insert in lieu thereof the provisions of H.R. 6020 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend titles 11 and 28 of the United States Code, relating to bankruptcy."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 6020, was laid on the table.

CHILD SUPPORT RECOVERY ACT OF 1992

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1002) to impose a criminal penalty for flight to avoid payment of arrearages in child support, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I wish to ask the gentleman from Texas [Mr. BROOKS] if he could explain what we are doing to this very meritorious bill. I yield to the gentleman from Texas for that purpose.

Mr. BROOKS. Mr. Speaker, on August 4, 1992, the House passed H.R. 1241, the Child Support Recovery Act of 1992. As passed by the House, H.R. 1241: First, created a new Federal criminal offense with regard to violations of civil child support orders; second, granted Federal courts the authority to make compliance with child support obligations a condition of probation in any Federal criminal matter; and third, authorized $10 million for each of fiscal years 1994, 1995, and 1996 for grants to State and local entities for development, implementation, and enforcement of criminal interstate child support legislation and coordination of criminal interstate child support enforcement efforts.

S. 1002 is largely similar to that bill, except it did not contain a bureau of justice assistance grant program to assist the States in criminal child support enforcement which was contained in H.R. 1241. S. 1002 also creates a commission to study child and family welfare.

This amendment would, essentially, make S. 1002 identical to H.R. 1241 as passed by the House, retaining the addition of the commission added by the Senate.

This amendment has bipartisan support, including that of the principal sponsor of H.R. 1241, the distinguished gentleman from Illinois [Mr. HYDE]. I urge my colleagues to support the amendment.

Mr. SENSENBRENNER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I thank the gentleman very much for yielding. I just want to congratulate Chairman BROOKS, the gentleman from New York [Mr. SCHUMER], as well as the gentleman from Wisconsin [Mr. SENSENBRENNER], the gentleman from New Jersey [Mr. HUGHES], and everyone on the subcommittee. I think this is an excellent bill.

What it does is it makes a Federal crime out of anyone who crosses a State line willfully to avoid paying child support. There is a jurisdictional amount of $5,000. But what it does is it puts some teeth into child support enforcement. There are too many children and the statistics are really startling. There is some $5 billion a year that does not get paid in court ordered child support.

To visit these children who are vulnerable and defenseless the difficulties that may exist between spouses is really a disgraceful thing. So to strike a blow for the children who are abandoned, this puts some teeth into child enforcement awards. The States have tried to cope with this, but when a parent, usually it is the father, crosses a State line for the purpose of avoiding child support, the two States have great difficulty in tracking a very mobile, evasive father down to enforce child support.

Now that the Federal Government will be in, it will have great therapeutic effect I am sure and result in enforcement of child support. I think we have won one for the children, and that is no small achievement. I congratulate Mr. BROOKS, Mr. SENSENBRENNER, Mr. SCHUMER, Mr. HUGHES, and any and all associated with this good effort.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I wish to associate myself with the remarks of both the gentleman from Texas [Mr. BROOKS] and the gentleman from Illinois [Mr. HYDE].

I have been told that if support orders were completely paid, the welfare burden in Milwaukee County would be cut in half. The gentleman from Illinois [Mr. HYDE] has said that there is $5 billion in outstanding child support orders.

I think that this is a step in the right direction to get some of that collected. That means the deadbeat dads will end up paying the support rather than the taxpayers.

□ 2010

I think that this is a tremendous step in the right direction, and I support the bill thoroughly.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. Further reserving the right to object, I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman. I had not expected to be here and did not, frankly, know this bill was on the floor. But I am a cosponsor of this bill, and I want to congratulate the gentleman from Illinois for his leadership on this issue and congratulate the chairman of the committee, the gentleman from Texas [Mr. BROOKS], on his role.

As someone who has handled, I suppose, hundreds, maybe thousands, of support cases over the 25 years of my practice, one of the most outrageous things that I think we have in our society is the growing number of parents who irresponsibly abandon and fail to support their progeny and expect the rest of us to do so, and even more egregious, expect, in most instances, the single mother to do so; not in every instance, and this will apply, of course, to a parent of either sex who abandons the child.

But it is, I think, excellent policy, long overdue, that the Nation addresses those who abandon and cross State lines to avoid the support of their children.

One of the great issues of this country today is personal responsibility. The Government cannot do it all, nor should it. The private sector, business, cannot do it all, nor should it. It is obvious that if our Nation is going to succeed it will succeed because of the collective doing of things by individuals that they know they should do.

I am pleased to rise in the strongest possible support for this legislation and, again, say to my friend, the gentleman from Illinois, I congratulate him for his leadership and say I was pleased to cosponsor this piece of legislation.

Mr. SENSENBRENNER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman very much for yielding, and I salute him, and the gentleman from Illinois [Mr. HYDE] and the gentleman from Texas [Mr. BROOKS] and my seatmate for many years, the gentleman from New Jersey [Mr. HUGHES] on the bill.

I would just, as a little anecdote here, I guess, some anecdotal evidence, that the combined evidence that what we are doing now, federalizing the, to me, heinous crime of skipping on a debt that you owe not just to society but to your own progeny, I have had occasion this summer to be back home often and walking along the streets and have a man come up to me saying that they think they are being given a very hard ride from the local authorities on child support payments and that sort of thing, and that is something new for me which does reflect, I believe, a growing awareness at the State and local level of the need to enforce these orders and the fact that those orders are being enforced.

I think this criminalizing the very outrageous tactic that is used to avoid debt is going to further add to the arsenal the local prosecutors have to make sure these debts are collected.

So I want to thank my friend for the excellent work that he has done.

Mr. HYDE. Mr. Speaker, will the gentleman yield further?

Mr. SENSENBRENNER. Further reserving the right to object, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I just want to mention an organization that has been a driving force behind this legislation. It is called ACES, Association for Children's Enforcement of Support. These are a wonderful group of women, most of whom, or all of whom, have been abandoned and have abandoned children, and they have been tireless in driving for this legislation. This is their victory today when this legislation passes.

I thank the gentleman.

Mr. SENSENBRENNER. Mr. Speaker, finally reserving the right to object for the last time, I hope we can speedily send this bill to the President's desk so the ACES will not get trumped by the deadbeats.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Recovery Act of 1992".

SEC. 2. FAILURE TO PAY LEGAL CHILD SUPPORT OBLIGATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 11 the following new chapter:

"CHAPTER 11A—CHILD SUPPORT

"Sec.

"228. Failure to pay legal child support obligations.

"§228. Failure to pay legal child support obligations

"(a) OFFENSE.—Whoever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—The punishment for an offense under this section is—

"(1) in the case of a first offense under this section, a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in any other case, a fine under this title, imprisonment for not more than 2 years, or both.

"(c) RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663 in an amount equal to the past due support obligation as it exists at the time of sentencing.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'past due support obligation' means any amount—

"(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(B) that has remained unpaid for a period longer than 180 days, or is greater than $2,500; and

"(2) the term 'State' includes the District of Columbia, and any other possession or territory of the United States.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

"11A. Child support .... 228".

SEC. 3. DISCRETIONARY CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by the defendant for the support and maintenance of a child or of a child and the parent with whom the child is living; or".

SEC. 4. COMMISSION ON CHILD AND FAMILY WELFARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Child and Family Welfare (referred to in this section as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members of whom—

(A) 5 shall be appointed by the President, in consultation with the Attorney General and the Secretary of Health and Human Services;

(B) 3 shall be appointed by the President pro tempore of the Senate;

(C) 2 shall be appointed by the minority leader of the Senate;

(D) 3 shall be appointed by the Speaker of the House of Representatives; and

(E) 2 shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall be—

(A) persons who have expertise in family law, children's issues, mental health, and related policies;

(B) persons who have expertise, through research and practice, in laws and policies related to child and family welfare;

(C) persons who represent organizations that seek to protect the civil rights of children;

(D) persons who represent advocacy groups that work for the interests of children;

(E) persons who represent advocacy groups that work for the interests of both custodial and noncustodial parents; and

(F) persons who have conducted extensive research on, or delivered services to, children adversely affected by divorce.

(3) DATE.—The appointments of the members of the Commission shall be made no later than June 1, 1993.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) DUTIES.—The Commission shall—

(1) compile information and data on the issues that affect the best interests of children, including domestic issues such as abuse, family relations, services and agencies for children and families, family courts and juvenile courts;

(2) compile a report that lists the strengths and weaknesses of the child welfare system as it relates to placement (including child custody and visitation), summarizes State laws and regulations relating to visitation, and makes recommendations for changing the system or developing a Federal role in strengthening the system;

(3) study the strengths and weaknesses of the juvenile and family courts as they relate to visitation, custody, and child support enforcement and suggest any recommendations for changing these systems; and

(4) study domestic issues that relate to the treatment and placement of children (such as child and spousal abuse) and suggest recommendations for any needed changes, including models for mediation and other programs.

(i) REPORT.—Not later than January 1, 1994, the Commission shall submit to the President and the Congress an interim report, and not later than January 1, 1995, a final report, which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers to be appropriate.

(j) HEARINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) BROAD PUBLIC PARTICIPATION.—The Commission shall conduct hearings in various areas of the country, from the inner cities to the suburbs to rural areas, to gather a broad spectrum of information on the issues to be addressed. Parents, children, experts, religious leaders, and public and private agency officials shall be afforded the opportunity to give testimony at such hearings.

(k) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(l) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(m) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(n) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(o) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(p) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(q) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(r) TERMINATION OF THE COMMISSION.—(1) The Commission shall terminate 90 days after the date on which the Commission submits its final report under subsection (i).

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on that date shall be disposed of as excess or surplus property.

(s) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission for fiscal years 1993 and 1994 such sums as are necessary to carry out this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BROOKS:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Recovery Act of 1992".

SEC. 2. FAILURE TO PAY LEGAL CHILD SUPPORT OBLIGATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 11 the following new chapter:

"CHAPTER 11A—CHILD SUPPORT

"Sec.

"228. Failure to pay legal child support obligations.

"§228. Failure to pay legal child support obligations

"(a) OFFENSE.—Whoever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—The punishment for an offense under this section is—

"(1) in the case of a first offense under this section, a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in any other case, a fine under this title, imprisonment for not more than 2 years, or both.

"(c) RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663 in an amount equal to the past due support obligation as it exists at the time of sentencing.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'past due support obligation' means any amount—

"(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(B) that has remained unpaid for a period longer than one year, or is greater than $5,000; and

"(2) the term 'State' includes the District of Columbia, and any other possession or territory of the United States.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

"11A. Child support .... 228".

SEC. 3. DISCRETIONARY CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by the defendant for the support and maintenance of a child or of a child and the parent with whom the child is living; or".

SEC. 4. CRIMINAL CHILD SUPPORT ENFORCEMENT.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

"SEC. 1601. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance may make grants under this part to States, for the use by States, and local entities in the States to develop, implement, and enforce criminal interstate child support legislation and coordinate criminal interstate child support enforcement efforts.

"(b) USES OF FUNDS.—Funds distributed under this part shall be used to—

"(1) develop a comprehensive assessment of existing criminal interstate child support enforcement efforts, including the identification of gaps in, and barriers to, the enforcement of such efforts;

"(2) plan and implement comprehensive long-range strategies for criminal interstate child support enforcement;

"(3) reach an agreement within the State regarding the priorities of such State in the enforcement of criminal interstate child support legislation;

"(4) develop a plan to implement such priorities; and

"(5) coordinate criminal interstate child support enforcement efforts.

"SEC. 1602. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) *shall* include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1603. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1604. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a local entity shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the local entity is eligible to receive funds under this part.

"(b) DISTRIBUTION TO LOCAL ENTITIES.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to a local entity with an approved application within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

"SEC. 1605. DISTRIBUTION OF FUNDS.

"The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the project described in the application submitted under section 1602(a) for the fiscal year for which the project receives assistance under this part.

"SEC. 1606. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local entity that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the Director of the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or local entity involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State or local entity may use not more than 5 percent of the funds it receives under this part to develop an evaluation program under this section.

"SEC. 1607. DEFINITIONS.

"For purposes of this part, the term 'local entity' means a child support enforcement agency, law enforcement agency, prosecuting attorney, or unit of local government.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Distribution of funds.
"Sec. 1606. Evaluation.
"Sec. 1607. Definitions.

"PART Q—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating the last three paragraphs sequentially as paragraphs (7), (8), and (9); and

(2) by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out projects under part P.".

SEC. 5. COMMISSION ON CHILD AND FAMILY WELFARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Child and Family Welfare (referred to in this section as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members of whom—

(A) 3 shall be appointed by the President, in consultation with the Attorney General and the Secretary of Health and Human Services;

(B) 4 shall be appointed by the President pro tempore of the Senate;

(C) 2 shall be appointed by the minority leader of the Senate;

(D) 4 shall be appointed by the Speaker of the House of Representatives; and

(E) 2 shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall be—

(A) persons who have expertise in family law, children's issues, mental health, and related policies;

(B) persons who have expertise, through research and practice, in laws and policies related to child and family welfare;

(C) persons who represent organizations that seek to protect the civil rights of children;

(D) persons who represent advocacy groups that work for the interests of children;

(E) persons who represent advocacy groups that work for the interests of both custodial and noncustodial parents; and

(F) persons who have conducted extensive research on, or delivered services to, children adversely affected by divorce.

(3) DATE.—The appointments of the members of the Commission shall be made no later than June 1, 1993.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) DUTIES.—The Commission shall—

(1) compile information and data on the issues that affect the best interests of children, including domestic issues such as abuse, family relations, services and agencies for children and families, family courts and juvenile courts;

(2) compile a report that lists the strengths and weaknesses of the child welfare system as it relates to placement (including child custody and visitation), summarizes State laws and regulations relating to visitation, and makes recommendations for changing the system or developing a Federal role in strengthening the system;

(3) study the strengths and weaknesses of the juvenile and family courts as they relate to visitation, custody, and child support enforcement and suggest any recommendations for changing these systems; and

(4) study domestic issues that relate to the treatment and placement of children (such as child and spousal abuse) and suggest recommendations for any needed changes, including models for mediation and other programs.

(i) REPORT.—Not later than January 1, 1994, the Commission shall submit to the President and the Congress an interim report, and not later than January 1, 1995, a final report, which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers to be appropriate.

(j) HEARINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) BROAD PUBLIC PARTICIPATION.—The Commission shall conduct hearings in various areas of the country, including inner cities, suburbs, and rural areas, to gather a broad spectrum of information on the issues to be addressed. Parents, children, experts, religious leaders, and public and private agency officials shall be afforded the opportunity to give testimony at such hearings.

(k) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission to the extent permitted by law.

(l) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(m) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(n) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(o) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(p) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(q) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(r) TERMINATION OF THE COMMISSION.—(1) The Commission shall terminate 90 days after the date on which the Commission submits its final report under subsection (i).

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on that date shall be disposed of as excess or surplus property.

(s) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission $2,000,000 for fiscal years 1993 and 1994 to carry out this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. BROOKS].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks on the three bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT OF 1992

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6050) to facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators, and for other purposes.

The Clerk read as follows:

H.R. 6050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institutions Disaster Relief Act of 1992".

SEC. 2. APPRAISAL REQUIREMENTS.

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) is amended by adding at the end the following new section:

"SEC. 1123. EMERGENCY EXCEPTIONS FOR DISASTER AREAS.

"(a) IN GENERAL.—Each Federal financial institutions regulatory agency may, by regulation or order, make exceptions to this title, and to standards prescribed pursuant to this title, for transactions involving institutions for which the agency is the primary Federal regulator with respect to real property located within a disaster area if the agency—

"(1) makes the exception not later than 30 months after the date on which the President determines, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that a major disaster exists in the area; and

"(2) determines that the exception—

"(A) would facilitate recovery from the major disaster; and

"(B) is consistent with safety and soundness.

"(b) 3-YEAR LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than 3 years after the date of the determination referred to in subsection (a)(1).

"(c) PUBLICATION REQUIRED.—Any Federal financial institutions regulatory agency shall publish in the Federal Register a statement that—

"(1) describes any exception made under this section; and

"(2) explains how the exception—

"(A) would facilitate recovery from the major disaster; and

"(B) is consistent with safety and soundness.

"(d) DISASTER AREA DEFINED.—For purposes of this section, the term 'disaster area' means an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists.".

SEC. 3. TRUTH IN LENDING ACT; EXPEDITED FUNDS AVAILABILITY ACT.

(a) TRUTH IN LENDING ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, if the Board determines that the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act for depository institution offices located within an area referred to in subsection (a) of this section if the Board determines that the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than the earlier of—

(1) 1 year after the date of enactment of this Act; or

(2) 1 year after the date of the Presidential determination referred to in subsection (a).

(d) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(1) describes any exception made under this section; and

(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

SEC. 4. DEPOSIT OF INSURANCE PROCEEDS.

(a) IN GENERAL.—The appropriate Federal banking agency may, by order, permit an insured depository institution, during the 18-month period beginning on the date of enactment of this Act, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(1) the institution—

(A) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, on the day before the date of that determination;

(B) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster (such as that portion of Dade County, Florida, south of Kendall Drive and east of Everglades National Park, as damaged by Hurricane Andrew);

(C) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the major disaster; and

(D) has an acceptable plan for managing the increase in its total assets and total deposits; and

(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(b) Definitions.—For purposes of this section:

(1) Appropriate Federal banking agency.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(2) Insured depository institution.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(3) Leverage limit.—The term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(4) Qualifying amount attributable to insurance proceeds.—The term "qualifying amount attributable to insurance proceeds" means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of the Presidential determination referred to in subsection (a)(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

SEC. 5. BANKING AGENCY PUBLICATION REQUIREMENTS.

(a) In General.—During the 180-day period beginning on the date of enactment of this Act, a qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, if the agency determines that the action would facilitate recovery from the major disaster:

(1) Procedure.—Exercising the agency's authority under provisions of law other than this section without complying with—

(A) any requirement of section 553 of title 5, United States Code; or

(B) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action .

(2) Publication requirements.—Making exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(A) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(B) any similar publication requirement.

(b) Publication Required.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(1) describes any action taken under this section; and

(2) explains the need for the action.

(c) Qualifying Regulatory Agency Defined.—For purposes of this section, the term "qualifying regulatory agency" means—

(1) the Board of Governors of the Federal Reserve System;

(2) the Comptroller of the Currency;

(3) the Director of the Office of Thrift Supervision;

(4) the Federal Deposit Insurance Corporation;

(5) the Financial Institutions Examination Council;

(6) the National Credit Union Administration; and

(7) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

SEC. 6. COMMUNITY DEVELOPMENT AUTHORITY OF BANKS.

(a) National Banks.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end the following new paragraph:

"Eleventh. To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association's capital stock actually paid in and unimpaired and 10 percent of the association's unimpaired surplus fund.".

(b) State Member Banks.—Section 9 of the Federal Reserve Act (12 U.S.C. 321–338) is amended by adding at the end the following new paragraph:

"State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not make any such investment if the investment would expose the bank to unlimited liability. The Board shall limit a bank's investments in any 1 project and bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the bank is adequately capitalized. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.".

SEC. 7. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions in areas affected by such major disasters as Hurricane Andrew, Hurricane Iniki, and the Los Angeles civil unrest to meet the financial services needs of their communities.

SEC. 8. OTHER AUTHORITY NOT AFFECTED.

Nothing in this Act limits the authority of any department or agency under any other provision of law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. Gonzalez] will be recognized for 20 minutes and the gentleman from Iowa [Mr. Leach] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Gonzalez].

Mr. GONZALEZ. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, during the past few months, America watched as hurricanes demolished parts of Florida, Louisiana, and Hawaii. The American people have responded most generously to this crisis, by sending tons of food, clothing, money, and other supplies into flattened neighborhoods. Here in Washington, for instance, children held car washes and restaurants collected donations to send to the hurricane victims. Now that most of the military troops have gone home, havever, the people of these states must start to rebuild their cities and towns.

Congress already provided $9 billion to help, but the private sector and the banking community must also get involved. The bill before us today would allow bank regulators to make a few exceptions when a community is hit by major disaster. When an automatic teller machine has no electricity, for example, it cannot accept customer's deposits. When an insured homeowner will receive an insurance payment for rebuilding his home, a bank needs to be able to also make a short term loan for this purpose. This legislation, H.R. 6050, would help banks continue following sound banking practices, but ensure that they do not inadvertently hinder the rebuilding efforts.

I join my colleagues from the districts hit by hurricanes Andrew and Iniki in supporting this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida [Mr. McCOLLUM], who has worked so hard, quite frankly, on this particular disaster that struck Florida recently.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is a major bill of concern to my State, and it certainly is a concern to all of us in the disaster area where the hurricane has struck.

You know, on August 24 of this year when Hurricane Andrew struck south Florida, it became one of the most devastating hurricanes to hit America in the entire history of our country, and as has been told, it went on to hit Louisiana, and 5 days later, I think, or something like that, Hurricane Iniki hit Hawaii.

Five-and-a-half weeks after Andrew had struck, the cleanup continues down in south Florida. I happen to have flown over that area a week ago Saturday, and I know an awful lot of cleanup has gone on, but the devastation with the roofs and the tremendous destruction in the mobile home communities and so on is still there. Damage estimates for Andrew run twice as much as Hurricane Hugo's impact on South Carolina in 1989

Florida bankers, and that is what this bill is about, bankers, and our concern in the banking community, Florida bankers contacted South Carolina bankers right after this to get a better understanding of the recovery process. And already south Florida banks have experienced a tremendous surge in deposits mainly of insurance checks. There are a lot of people going in there and putting their money in there.

Our bankers have known and have telegraphed to us the fact that they need some changes that this bill gives them, some relief in order to be able to handle this increased load of deposits in particular, not to mention the tellers and the special deposit concerns that the chairman mentioned a moment ago.

This large increase in deposits can make the capital position of a strong bank appear to be weak, because capital is measured as a percentage of assets which are increased by the deposit flow, and under this particular legislation we have today, and I think this is the single most important, though not the only part of this bill by any means; an insured depository institution that was adequately capitalized before the disaster and has an acceptable plan for managing the increase in its assets and deposits will be able to get permission from the regulators to ignore the influx from insurance proceeds in counting capital for the period of time under the bill that is allowed.

□ 2020

There are other provisions in this bill involving emergency exceptions to the required use of appraisals by State-licensed or certified appraisals to facilitate in the recovery aspects of this whole process in our three States.

Federal banking regulators are allowed to make exceptions to the Truth in Lending Act, the Expedited Funds Availability Act, if it will produce benefits to the public that outweigh possible adverse effects.

State and national banks may make investments designed primarily to promote public welfare, including welfare of low- and moderate-income communities or families. I know this is especially true in my area because in the Homestead area, around south Florida, you would have to really go there personally. Television does not do an adequate job to show just how annihilated the mobile home communities are where many of these low-income Americans were housed. They just do not have a home anymore.

So this bill is terribly important. It is a good bill, it is necessary to let the banking community work in order to provide the relief that is necessary. It goes in a different direction from the money that is being provided in grant and aid, but it is a very, very vital thing.

If we do not pass this bill tonight, we would not be able to have that banking community in south Florida and Louisiana and Hawaii be able to handle the increased responsibilities they have.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Florida [Mr. McCOLLUM] have compellingly described this particular piece of legislation.

Mr. Speaker, I rise today in strong support of H.R. 6050, the Depository Institutions Disaster Relief Act of 1992. This bill would further assist those who have been devastated by the recent hurricanes, and would establish certain permanent relief authority for future disasters and emergencies, such as the Los Angeles riots.

Americans can be proud of the way our country pulled together after the recent hurricanes—volunteer groups, State and local governments, the U.S. Military, and the U.S. Congress each used their unique ability to assist thousands of victims. As you know, Congress responded to the disasters by passing a supplemental appropriations bill for disaster relief on September 18. However, we have the chance today to offer further assistance not by appropriating more money, but simply by granting bank regulatory agencies the flexibility they need to adequately respond to the recent and future disasters.

H.R. 6050 would allow Federal regulations to grant temporary waivers of certain regulations to financial institutions located in disaster areas if the waiver would facilitate recovery from the disaster and is consistent with safety and soundness concerns.

For example, this bill would grant permanent authority to Federal Bank regulators to make exceptions to certain appraisal requirements in disaster areas. The waivers would expire within 3 years after the date of the disaster declaration. As you know, appraisals are required before most loans on properties can be made. In a devastated area, however, appraising becomes an uncertain science, at best, and appraisals become both costly and time consuming. Therefore, at a time when loans for the restoration of property would be at an all-time high, a temporary waiver of such appraisal requirements in a disaster area would be essential.

Section 3 of the bill grants Federal regulators temporary authority to make certain exceptions to the Truth in Lending Act and the Expedited Funds Availability Act. Exceptions could be granted in a disaster area if impediments such as power outages and computer damages made it extremely difficult for financial institutions to process checks and post deposits in a timely manner. Such exceptions could be granted only if the Federal Reserve determined that the exceptions could reasonably be expected to produce benefits to the public that outweigh possible adverse effects. The exceptions would expire within 1 year after the date of enactment of this bill, or within 1 year after the date of a disaster declaration, whichever comes first.

Section 4 of the bill allows regulators to accommodate extraordinary asset growth at financial institutions resulting from the deposit of governmental assistance and insurance proceeds after a disaster. The allowances would last for up to 18 months after the date of enactment of this bill. Specifically, regulators could permit certain qualified institutions to subtract governmental assistance and insurance proceeds from their asset base when calculating their leverage ratio. This would temporarily free up capital and enhance the flow of critical banking and credit services to disaster victims.

Section 5 would give regulators relief from the notice provisions of the Administrative Procedures Act regarding action taken in a disaster area. This section would also permit regulators to grant exceptions from publication requirements to allow damaged institutions to open branches without needless delays, and to allow other such actions in a disaster area. This flexibility would last for 180 days after enactment of this bill.

Section 6 clarifies and strengthens the Community Development Authority of National Banks and State member banks. This section would allow the banks to make additional investments designed to promote the welfare of low and moderate income communities, such as by providing housing, services or jobs.

Finally, section 7 expresses the sense of Congress that regulators should encourage depository institutions in disaster areas to meet community credit needs. Section 8 specifies that the bill does not limit regulator's existing authority.

Financial institutions play an important role in their communities when a disaster strikes. H.R. 6050 gives us the opportunity to allow these institutions to offer credit and assistance to disaster victims in their time of greatest need. I urge my colleagues to suspend the rules and pass this legislation.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MFUME). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 6050.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

HOUR OF MEETING TOMORROW

Mr. HOYER. Mr. Speaker, I ask unanimous consent that when the HOUSE adjourns today it adjourn to meet tomorrow at 2 p.m.

The SPEAKER pro tempore. It there objection to the request of the gentleman from Maryland?

There was no objection.

FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992

Mr. GONZALEZ. Mr. Speaker, I move the House suspend the rules and pass the bill (H.R. 6094) to improve supervision and regulation with respect to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Bank System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Congressional findings.
Sec. 3. Definitions.
Sec. 4. Protection of taxpayers against liability.

TITLE I—SUPERVISION AND REGULATION OF ENTERPRISES

Subtitle A—Financial Safety and Soundness Regulator

Sec. 101. Establishment of Office of Federal Housing Enterprise Oversight.
Sec. 102. Director.
Sec. 103. Duty and authority of Director.
Sec. 104. Authority to require reports by enterprises.
Sec. 105. Personnel.
Sec. 106. Funding.
Sec. 107. Examinations.
Sec. 108. Prohibition of excessive compensation.
Sec. 109. Authority to provide for review of enterprises by rating organization.
Sec. 110. Equal opportunity in solicitation of contracts.
Sec. 111. Annual reports by Director.
Sec. 112. Public disclosure of final orders and agreements.
Sec. 113. Limitation on subsequent employment.
Sec. 114. Audits by GAO.
Sec. 115. Information, records, and meetings.
Sec. 116. Regulations and orders.

Subtitle B—Authority of Secretary

PART 1—GENERAL AUTHORITY

Sec. 131. Regulatory authority.
Sec. 132. Prior approval authority for new programs.
Sec. 133. Public access to mortgage information.
Sec. 134. Annual housing report.
Sec. 135. Fair housing.
Sec. 136. Prohibition of public disclosure of proprietary information.
Sec. 137. Authority to require reports by enterprises.
Sec. 138. Reports by Secretary.

PART 2—HOUSING GOALS

Sec. 151. Establishment.
Sec. 152. Low- and moderate-income housing goal.
Sec. 153. Special affordable housing goal.
Sec. 154. Central cities, rural areas, and other underserved areas housing goal.
Sec. 155. Other requirements.
Sec. 156. Monitoring and enforcing compliance with housing goals.
Sec. 157. Reports during transition.
Sec. 158. Effective date of transition goals.

PART 3—ENFORCEMENT OF HOUSING GOALS

Sec. 161. Cease-and-desist proceedings.
Sec. 162. Hearings.
Sec. 163. Judicial review.
Sec. 164. Enforcement and jurisdiction.
Sec. 165. Civil money penalties.
Sec. 166. Public disclosure of final orders and agreements.
Sec. 167. Notice of service.
Sec. 168. Subpoena authority.

PART 4—REGULATIONS

Sec. 171. Regulations.

Subtitle C—Miscellaneous Provisions

Sec. 181. Amendments to title 5, United States Code.
Sec. 182. Prohibition of merger of Office.
Sec. 183. Protection of confidential information.
Sec. 184. Review of underwriting guidelines.
Sec. 185. Studies of effects of privatization of FNMA and FHLMC.
Sec. 186. Transition.

TITLE II—REQUIRED CAPITAL LEVELS FOR ENTERPRISES AND SPECIAL ENFORCEMENT POWERS

Sec. 201. Risk-based capital levels.
Sec. 202. Minimum capital levels.
Sec. 203. Critical capital levels.
Sec. 204. Capital classifications.
Sec. 205. Supervisory actions applicable to undercapitalized enterprises.
Sec. 206. Supervisory actions applicable to significantly undercapitalized enterprises.
Sec. 207. Appointment of conservators for critically undercapitalized enterprises.
Sec. 208. Notice of classification and enforcement action.
Sec. 209. Appointment of conservators.
Sec. 210. Powers of conservators.
Sec. 211. Liability protection for conservators.
Sec. 212. Capital restoration plans.
Sec. 213. Judicial review of Director action.

TITLE III—ENFORCEMENT PROVISIONS

Sec. 301. Cease-and-desist proceedings.
Sec. 302. Temporary cease-and-desist orders.
Sec. 303. Hearings.
Sec. 304. Judicial review.
Sec. 305. Enforcement and jurisdiction.
Sec. 306. Civil money penalties.
Sec. 307. Notice after separation from service.
Sec. 308. Private rights of action.
Sec. 309. Public disclosure of final orders and agreements.
Sec. 310. Notice of service.
Sec. 311. Subpoena authority.

TITLE IV—AMENDMENTS TO CHARTER ACTS OF ENTERPRISES

Sec. 401. Amendments to Federal National Mortgage Association Charter Act.
Sec. 402. Amendments to Federal Home Loan Mortgage Corporation Act.
Sec. 403. Implementation.

TITLE V—REGULATION OF FEDERAL HOME LOAN BANK SYSTEM

Sec. 501. Primacy of financial safety and soundness for Federal Housing Finance Board.
Sec. 502. Full-time status of Federal Housing Finance Board members.
Sec. 503. Advances under Federal Home Loan Bank Act.
Sec. 504. Studies regarding Federal Home Loan Bank System.
Sec. 505. Report of Federal Home Loan Bank members.
Sec. 506. Reports regarding consolidation of Federal Home Loan Bank system.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (referred to in this section collectively as the "enterprises"), and the Federal Home Loan Banks (referred to in this section as the "Banks"), have important public missions that are reflected in the statutes and charter Acts establishing the Banks and the enterprises;

(2) because the continued ability of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to accomplish their public missions is important to providing housing in the United States and the health of the Nation's economy, more effective Federal regulation is needed to reduce the risk of failure of the enterprises;

(3) considering the current operating procedures of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, the enterprises and the Banks currently pose low financial risk of insolvency;

(4) neither the enterprises nor the Banks, nor any securities or obligations issued by the enterprises or the Banks, are backed by the full faith and credit of the United States;

(5) an entity regulating the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should have sufficient autonomy from the enterprises and special interest groups;

(6) an entity regulating such enterprises should have the authority to establish capital standards, require financial disclosure, prescribe adequate standards for books and records and other internal controls, conduct examinations when necessary, and enforce compliance with the standards and rules that it establishes;

(7) the Federal National Mortgage Association and the Federal Home Loan Mortgage

Corporation have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return; and

(8) the Federal Home Loan Bank Act should be amended to emphasize that providing for financial safety and soundness of the Federal Home Loan Banks is the primary mission of the Federal Housing Finance Board.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) AFFILIATE.—Except as provided by the Director, the term "affiliate" means any entity that controls, is controlled by, or is under common control with, an enterprise.

(2) CAPITAL DISTRIBUTION.—

(A) IN GENERAL.—The term "capital distribution" means—

(i) any dividend or other distribution in cash or in kind made with respect to any shares of, or other ownership interest in, an enterprise, except a dividend consisting only of shares of the enterprise;

(ii) any payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition by the enterprise of such shares; and

(iii) any transaction that the Director determines by regulation to be, in substance, the distribution of capital.

(B) EXCEPTION.—Any payment made by an enterprise to repurchase its shares for the purpose of fulfilling an obligation of the enterprise under an employee stock ownership plan that is qualified under section 401 of the Internal Revenue Code of 1986 or any substantially equivalent plan, as determined by the Director, shall not be considered a capital distribution.

(3) COMPENSATION.—The term "compensation" means any payment of money or the provision of any other thing of current or potential value in connection with employment.

(4) CORE CAPITAL.—The term "core capital" means, with respect to an enterprise, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par or stated value of outstanding common stock.

(B) The par or stated value of outstanding perpetual, noncumulative preferred stock.

(C) Paid-in capital.

(D) Retained earnings.

The core capital of an enterprise shall not include any amounts that the enterprise could be required to pay, at the option of investors, to retire capital instruments.

(5) DIRECTOR.—The term "Director" means the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(6) ENTERPRISE.—The term "enterprise" means—

(A) the Federal National Mortgage Association and any affiliate thereof; and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(7) EXECUTIVE OFFICER.—The term "executive officer" means, with respect to an enterprise, the chairman of the board of directors, chief executive officer, chief financial officer, president, vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

(8) LOW-INCOME.—The term "low-income" means—

(A) in the case of owner-occupied units, income not in excess of 80 percent of area median income; and

(B) in the case of rental units, income not in excess of 80 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(9) MEDIAN INCOME.—The term "median income" means, with respect to an area, the unadjusted median family income for the area, as determined and published annually by the Secretary.

(10) MODERATE-INCOME.—The term "moderate-income" means—

(A) in the case of owner-occupied units, income not in excess of area median income; and

(B) in the case of rental units, income not in excess of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(11) MORTGAGE PURCHASES.—The term "mortgage purchases" includes mortgages purchased for portfolio or securitization.

(12) MULTIFAMILY HOUSING.—The term "multifamily housing" means a residence consisting of more than 4 dwelling units.

(13) NEW PROGRAM.—The term "new program" means any program for the purchasing, servicing, selling, lending on the security of, or otherwise dealing in, conventional mortgages that—

(A) is significantly different from programs that have been approved under this Act or that were approved or engaged in by an enterprise before the date of the enactment of this Act; or

(B) represents an expansion, in terms of the dollar volume or number of mortgages or securities involved, of programs above limits expressly contained in any prior approval.

(14) OFFICE.—The term "Office" means the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(15) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(16) SINGLE FAMILY HOUSING.—The term "single family housing" means a residence consisting of 1 to 4 dwelling units.

(17) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(18) TOTAL CAPITAL.—The term "total capital" means, with respect to an enterprise, the sum of the following:

(A) The core capital of the enterprise;

(B) A general allowance for foreclosure losses, which—

(i) shall include an allowance for portfolio mortgage losses, an allowance for nonreimbursable foreclosure costs on government claims, and an allowance for liabilities reflected on the balance sheet for the enterprise for estimated foreclosure losses on mortgage-backed securities; and

(ii) shall not include any reserves of the enterprise made or held against specific assets.

(C) Any other amounts from sources of funds available to absorb losses incurred by the enterprise, that the Director by regulation determines are appropriate to include in determining total capital.

(19) VERY LOW-INCOME.—The term "very low-income" means—

(A) in the case of owner-occupied units, income not in excess of 60 percent of area median income; and

(B) in the case of rental units, income not in excess of 60 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

SEC. 4. PROTECTION OF TAXPAYERS AGAINST LIABILITY.

This Act and the amendments made by this Act may not be construed as obligating the Federal Government, either directly or indirectly, to provide any funds to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks, or to honor, reimburse, or otherwise guarantee any obligation or liability of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks. This Act and the amendments made by this Act may not be construed as implying that any such enterprise or Bank, or any obligations or securities of such an enterprise or Bank, are backed by the full faith and credit of the United States.

TITLE I—SUPERVISION AND REGULATION OF ENTERPRISES

Subtitle A—Financial Safety and Soundness Regulator

SEC. 101. ESTABLISHMENT OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.

There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Federal Housing Enterprise Oversight.

SEC. 102. DIRECTOR.

(a) APPOINTMENT.—The Office shall be under the management of a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the nomination of such individual for appointment as Director.

(b) TERM.—The Director shall be appointed for a term of 5 years.

(c) VACANCY.—A vacancy in the position of Director shall be filled in the manner in which the original appointment was made under subsection (a).

(d) SERVICE AFTER END OF TERM.—A Director may serve after the expiration of the term for which the Director was appointed until a successor Director has been appointed.

(e) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Deputy Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the appointment of such individual as Deputy Director.

(2) FUNCTIONS.—The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (c).

SEC. 103. DUTY AND AUTHORITY OF DIRECTOR.

(a) DUTY.—The duty of the Director shall be to ensure that the enterprises are adequately capitalized and operating safely, in accordance with this Act.

(b) AUTHORITY EXCLUSIVE OF SECRETARY.—The Director is authorized, without the review or approval of the Secretary, to make such determinations, take such actions, and perform such functions as the Director determines necessary regarding—

(1) the issuance of regulations to carry out this subtitle, title II, and title III (including the establishment of capital standards pursuant to title II);

(2) examinations of the enterprises under section 107;

(3) determining the capital levels of the enterprises and classification of the enterprises within capital classifications established under title II;

(4) decisions to appoint conservators for the enterprises;

(5) administrative and enforcement actions under title II, actions taken under title III with respect to enforcement of title II, and other matters relating to safety and soundness;

(6) approval of payments of capital distributions by the enterprises under section 303(c)(2) of the Federal National Mortgage Association Charter Act and section 303(b)(2) of the Federal Home Loan Mortgage Corporation Act;

(7) requiring the enterprises to submit reports under section 104 of this Act, section 309(k) of the Federal National Mortgage Association Charter Act, and section 307(c) of the Federal Home Loan Mortgage Corporation Act;

(8) prohibiting the payment of excessive compensation by the enterprises to any executive officer of the enterprises under section 108;

(9) the management of the Office, including the establishment and implementation of annual budgets, the hiring of, and compensation levels for, personnel of the Office, and annual assessments for the costs of the Office;

(10) conducting research and financial analysis; and

(11) the submission of reports required by the Director under this Act.

(c) AUTHORITY SUBJECT TO APPROVAL OF SECRETARY.—Any determinations, actions, and functions of the Director not referred to in subsection (b) shall be subject to the review and approval of the Secretary.

(d) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(e) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—The Director shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

SEC. 104. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.

(a) SPECIAL REPORTS AND REPORTS OF FINANCIAL CONDITION.—

(1) FINANCIAL CONDITION.—The Director may require an enterprise to submit reports of financial condition and operations (in addition to the annual and quarterly reports required under section 309(k) of the Federal National Mortgage Association Charter Act and section 307(c) of the Federal Home Loan Mortgage Corporation Act).

(2) SPECIAL REPORTS.—The Director may also require an enterprise to submit special reports whenever, in the judgment of the Director, such reports are necessary to carry out the purposes of this Act.

(3) LIMITATION.—The Director may not require the inclusion, in any report pursuant to paragraph (1) or (2), of any information that is not reasonably obtainable by the enterprise.

(4) NOTICE AND DECLARATION.—The Director shall notify the enterprise, a reasonable period in advance of the date for submission of any report under this subsection, of any specific information to be contained in the report and the date for the submission of the report. Each report under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the enterprise to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

(b) CAPITAL DISTRIBUTIONS.—The Director may require an enterprise to submit a report to the Director after the declaration of any capital distribution by the enterprise and before making the capital distribution. The report shall be made in such form and under such circumstances and shall contain such information as the Director shall require.

SEC. 105. PERSONNEL.

(a) OFFICE PERSONNEL.—The Director shall appoint and fix the compensation of such officers and employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(b) COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.—In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability with compensation of officers and employees of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision.

(c) PERSONNEL OF OTHER FEDERAL AGENCIES.—In carrying out the duties of the Office, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

(d) REIMBURSEMENT OF HUD.—The Director shall reimburse the Department of Housing and Urban Development for reasonable costs incurred by the Department that are directly related to the operations of the Office.

(e) OUTSIDE EXPERTS AND CONSULTANTS.—Notwithstanding any provision of law limiting pay or compensation, the Director may appoint and compensate such outside experts and consultants as the Director determines necessary to assist the work of the Office.

(f) EQUAL OPPORTUNITY REPORT.—Not later than the expiration of the 180-day period beginning upon the appointment of the Director under section 102, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing—

(1) a complete description of the equal opportunity, affirmative action, and minority business enterprise utilization programs of the Office; and

(2) such recommendations for administrative and legislative action as the Director determines appropriate to carry out such programs.

SEC. 106. FUNDING.

(a) ANNUAL ASSESSMENTS.—The Director may, to the extent provided in appropriation Acts, establish and collect from the enterprises annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs and expenses of the Office, including the expenses of any examinations under section 107. The initial annual assessment shall include any startup costs of the Office and any anticipated costs and expenses of the Office for the following fiscal year.

(b) ALLOCATION OF ANNUAL ASSESSMENT TO ENTERPRISES.—

(1) AMOUNT OF PAYMENT.—Each enterprise shall pay to the Director a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the total assets of each enterprise bears to the total assets of both enterprises.

(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually on September 1 and March 1 of the year for which the assessment is made.

(3) DEFINITION.—For the purpose of this section, the term "total assets" means, with respect to an enterprise, the sum of—

(A) on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(B) the unpaid principal balance of outstanding mortgage-backed securities issued or guaranteed by the enterprise that are not included in subparagraph (A); and

(C) other off-balance-sheet obligations as determined by the Director.

(c) DEFICIENCIES DUE TO INCREASED COSTS OF REGULATION.—The semiannual payments made pursuant to subsection (b) by any enterprise that is not classified (for purposes of title II) as adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation of the enterprise.

(d) SURPLUS.—If any amount from any annual assessment collected from an enterprise remains unobligated at the end of the year for which the assessment was collected, such amount shall be credited to the assessment to be collected from the enterprise for the following year.

(e) INITIAL SPECIAL ASSESSMENT.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the enterprises shall each pay into the Federal Housing Enterprises Oversight Fund established under subsection (f) an initial assessment of $1,500,000 to cover the startup costs of the Office, including space and modifications thereof, capital equipment, supplies, recruitment, and activities of the Office during the period preceding the first annual assessment under subsection (a). Any amounts collected from an enterprise under this subsection shall be credited against the first annual assessment collected pursuant to subsection (a), and are hereby appropriated, and shall be available and used, without fiscal year limitation, as provided in this section.

(f) FUND.—There is established in the Treasury of the United States a fund to be known as the Federal Housing Enterprises Oversight Fund. Any assessments collected pursuant to this section shall be deposited in the Fund. Amounts in the Fund shall be available, to the extent provided in appropriation Acts and subsection (e), for—

(1) carrying out the responsibilities of the Director relating to the enterprises; and

(2) necessary administrative and nonadmin- istrative expenses of the Office to carry out the purposes of this Act.

(g) BUDGET AND FINANCIAL REPORTS.—

(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Director shall submit a copy of the financial operating plans and forecasts for the Office to the Secretary and the Director of the Office of Management and Budget.

(2) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Director shall submit a copy of the report of the results of the operations of the Office during such period to the Secretary and the Director of the Office of Management and Budget.

(3) INCLUSION IN PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this subsection shall be included (A) in the Budget of the United States in the appropriate form, and (B) in the congressional justifications of the Department of Housing and Urban Development for each fiscal year in a form determined by the Secretary.

SEC. 107. EXAMINATIONS.

(a) ANNUAL EXAMINATION.—The Director shall annually conduct an on-site examination under this section of each enterprise to determine the condition of the enterprise for the purpose of ensuring its financial safety and soundness.

(b) OTHER EXAMINATIONS.—In addition to annual examinations under subsection (a), the Director may conduct an examination under this section whenever the Director determines that an examination is necessary to determine the condition of an enterprise for the purpose of ensuring its financial safety and soundness.

(c) EXAMINERS.—The Director shall appoint examiners to conduct examinations under this section. The Director may contract with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision for the services of examiners. The Director shall reimburse such agencies for any costs of providing examiners from amounts available in the Federal Housing Enterprises Oversight Fund.

(d) LAW APPLICABLE TO EXAMINERS.—The Director and each examiner shall have the same authority and each examiner shall be subject to the same disclosures, prohibitions, obligations, and penalties as are applicable to examiners employed by the Federal Reserve banks.

(e) TECHNICAL EXPERTS.—The Director may obtain the services of any technical experts the Director considers appropriate to provide temporary technical assistance relating to examinations to the Director, officers, and employees of the Office. The Director shall describe, in the record of each examination, the nature and extent of any such temporary technical assistance.

(f) OATHS, EVIDENCE, AND SUBPOENA POWERS.—In connection with examinations under this section, the Director shall have the authority provided under section 311.

SEC. 108. PROHIBITION OF EXCESSIVE COMPENSATION.

(a) IN GENERAL.—The Director shall prohibit the enterprises from providing compensation to any executive officer of the enterprise that is not reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities.

(b) PROHIBITION OF SETTING COMPENSATION.—In carrying out subsection (a), the Director may not prescribe or set a specific level or range of compensation.

SEC. 109. AUTHORITY TO PROVIDE FOR REVIEW OF ENTERPRISES BY RATING ORGANIZATION.

The Director may, on such terms and conditions as the Director deems appropriate, contract with any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers, to conduct a review of the enterprises.

SEC. 110. EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS.

(a) IN GENERAL.—Each enterprise shall establish a minority outreach program to ensure the inclusion (to the maximum extent possible) in contracts entered into by the enterprises of minorities and women and businesses owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, brokers, and providers of legal services.

(b) REPORT.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each enterprise shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the actions taken by the enterprise pursuant to subsection (a).

SEC. 111. ANNUAL REPORTS BY DIRECTOR.

(a) GENERAL REPORT.—The Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than June 15 of each year, a written report, which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this Act;

(2) a description of the financial safety and soundness of each enterprise, including the results and conclusions of the annual examinations of the enterprises conducted under section 107(a); and

(3) any recommendations for legislation to enhance the financial safety and soundness of the enterprises.

(b) REPORT ON ENFORCEMENT ACTIONS.—Not later than March 15 of each year, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report describing, for the preceding calendar year, the requests by the Director to the Attorney General for enforcement actions under title III and describing the disposition of each request, which shall include statements of—

(1) the total number of requests made by the Director;

(2) the number of requests that resulted in the commencement of litigation by the Department of Justice;

(3) the number of requests that did not result in the commencement of litigation by the Department of Justice;

(4) with respect to requests that resulted in the commencement of litigation—

(A) the number of days between the date of the request and the commencement of the litigation; and

(B) the number of days between the date of the commencement and termination of the litigation; and

(5) the number of litigation requests pending at the beginning of the calendar year, the number of requests made during the calendar year, the number of requests for which action was completed during the calendar year, and the number of requests pending at the end of the calendar year.

SEC. 112. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under title III and that has become final; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings on the record with respect to any action of the Director or notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any hearing under title III if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under title III.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding of any information from, or to prohibit the disclosure of any information to, the Congress or any committee or subcommittee thereof.

SEC. 113. LIMITATION ON SUBSEQUENT EMPLOYMENT.

Neither the Director nor any former officer or employee of the Office who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS-15 of the General Schedule under section 5107 of title 5, United States Code, may accept compensation from an enterprise during the 2-year period beginning on the date of separation from employment by the Office.

SEC. 114. AUDITS BY GAO.

The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to, or used by, the Office shall be made available to the Comptroller General. Audits under this section shall be conducted annually for the first 2 fiscal years following the date of the enactment of this Act and as appropriate thereafter.

SEC. 115. INFORMATION, RECORDS, AND MEETINGS.

For purposes of subchapter II of chapter 5 of title 5, United States Code—

(1) the Office, and

(2) the Department of Housing and Urban Development, with respect to activities under this Act,

shall be considered agencies responsible for the regulation or supervision of financial institutions.

SEC. 116. REGULATIONS AND ORDERS.

(a) AUTHORITY.—The Director shall issue any regulations and orders necessary to carry out the duties of the Director and to carry out this Act before the expiration of the 18-month period beginning on the appointment of the Director under section 102. Such regulations and orders shall be subject to the approval of the Secretary only to the extent provided in subsections (b) and (c) of section 103.

(b) NOTICE AND COMMENT.—Any regulations issued by the Director under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

(c) CONGRESSIONAL REVIEW.—The Director may not publish any regulation for comment under subsection (b) unless, not less than 15 days before it is published for comment, the Director has submitted a copy of the regulation, in the form it is intended to be proposed, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

Subtitle B—Authority of Secretary

PART 1—GENERAL AUTHORITY

SEC. 131. REGULATORY AUTHORITY.

Except for the authority of the Director of the Office of Federal Housing Enterprise Oversight described in section 103(b) and all other matters relating to the safety and soundness of the enterprises, the Secretary of Housing and Urban Development shall have general regulatory power over each enterprise and shall make such rules and regulations as shall be necessary and proper to ensure that this subtitle and the purposes of the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act are accomplished.

SEC. 132. PRIOR APPROVAL AUTHORITY FOR NEW PROGRAMS.

(a) AUTHORITY.—The Secretary shall require each enterprise to obtain the approval of the Secretary for any new program of the enterprise before implementing the program.

(b) STANDARD FOR APPROVAL.—

(1) PERMANENT STANDARD.—Except as provided in paragraph (2), the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) for a new program of the Federal National Mortgage Association, the Secretary determines that the program is not authorized under paragraph (2), (3), (4), or (5) of section 302(b) of the Federal National Mortgage Association Charter Act, or under section 304 of such Act;

(B) for a new program of the Federal Home Loan Mortgage Corporation, the Secretary determines that the program is not authorized under section 305(a)(1), (4), or (5) of the Federal Home Loan Mortgage Corporation Act; or

(C) the Secretary determines that the new program is not in the public interest.

(2) TRANSITION STANDARD.—Before the date occurring 12 months after the date of the effectiveness of the regulations under section 201(e) establishing the risk-based capital test, the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) The Secretary makes a determination as described in paragraph (1)(A), (B), or (C); or

(B) the Director determines that the new program would risk significant deterioration of the financial condition of the enterprise.

(c) PROCEDURE FOR APPROVAL.—

(1) SUBMISSION OF REQUEST.—To obtain the approval of the Secretary for purposes of subsection (a), an enterprise shall submit to the Secretary a written request for approval of the new program that describes the program.

(2) RESPONSE.—The Secretary shall, not later than the expiration of the 45-day period beginning upon the submission of a request for approval, approve the request or submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report explaining the reasons for not approving the request. The Secretary may extend such period for a single additional 15-day period only if the Secretary requests additional information from the enterprise.

(3) FAILURE TO RESPOND.—If the Secretary fails to approve the request or fails to submit a report under paragraph (2) during the period under such paragraph, the request shall be considered to have been approved.

(4) REVIEW OF DISAPPROVAL.—

(A) UNAUTHORIZED NEW PROGRAMS.—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subparagraph (A) or (B) of subsection (b)(1), the Secretary shall provide the enterprise submitting the request with a timely opportunity to review and supplement the administrative record.

(B) NEW PROGRAMS NOT IN PUBLIC INTEREST.—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subsection (b)(1)(C) or (b)(2)(B), the Secretary shall provide the enterprise submitting the request notice of, and opportunity for, a hearing on the record regarding such disapproval.

SEC. 133. PUBLIC ACCESS TO MORTGAGE INFORMATION.

(a) IN GENERAL.—The Secretary shall make available to the public, in forms useful to the public (including forms accessible by computers), the data submitted by the enterprises in the reports required under section 309(m) of the Federal National Mortgage Association Charter Act or section 307(e) of the Federal Home Loan Mortgage Corporation Act.

(b) ACCESS.—

(1) PROPRIETARY DATA.—Except as provided in paragraph (2), the Secretary may not make available to the public data that the Secretary determines pursuant to section 136 are proprietary information.

(2) EXCEPTION.—The Secretary shall not restrict access to the data provided in accordance with section 309(m)(1)(A) of the Federal National Mortgage Association Charter Act or section 307(e)(1)(A) of the Federal Home Loan Mortgage Corporation Act.

(c) FEES.—The Secretary may charge reasonable fees to cover the cost of making data available under this section to the public.

SEC. 134. ANNUAL HOUSING REPORT.

(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act and section 307(f) of the Federal Home Loan Mortgage Corporation Act, the Secretary shall submit a report, as part of the annual report under section 138(a) of this Act, on the extent to which each enterprise is achieving the annual housing goals established under part 2 of this subtitle and the purposes of the enterprise established by law.

(b) CONTENTS.—The report shall—

(1) aggregate and analyze census tract data to assess the compliance of each enterprise with the central cities, rural areas, and other underserved areas housing goal and to determine levels of business in central cities, rural areas, underserved areas, low- and moderate-income census tracts, minority census tracts, and other geographical areas deemed appropriate by the Secretary;

(2) aggregate and analyze data on income to assess the compliance of each enterprise with the low- and moderate-income and special affordable housing goals;

(3) aggregate and analyze data on income, race, and gender by census tract and compare such data with larger demographic, housing, and economic trends;

(4) examine actions that each enterprise has undertaken or could undertake to promote and expand the annual goals established under sections 152, 153, and 154, and the purposes of the enterprise established by law;

(5) examine the primary and secondary multifamily housing mortgage markets and describe—

(A) the availability and liquidity of mortgage credit;

(B) the status of efforts to provide standard credit terms and underwriting guidelines for multifamily housing and to securitize such mortgage products; and

(C) any factors inhibiting such standardization and securitization;

(6) examine actions each enterprise has undertaken and could undertake to promote and expand opportunities for first-time homebuyers; and

(7) describe any actions taken under section 135(5) with respect to originators found to violate fair lending procedures.

SEC. 135. FAIR HOUSING.

The Secretary shall—

(1) by regulation, prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) by regulation, require each enterprise to submit data to the Secretary to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act;

(3) by regulation, require each enterprise to submit data to the Secretary to assist in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Equal Credit Opportunity Act, and shall submit any such information received to the appropriate Federal agencies, as provided in section 704 of the Equal Credit Opportunity Act, for appropriate action;

(4) obtain information from other regulatory and enforcement agencies of the Fed-

eral Government and State and local governments regarding violations by lenders of the Fair Housing Act and the Equal Credit Opportunity Act and make such information available to the enterprises;

(5) direct the enterprises to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against lenders that have been found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or the Equal Credit Opportunity Act, pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5, United States Code; and

(6) periodically review and comment on the underwriting and appraisal guidelines of each enterprise to ensure that such guidelines are consistent with the Fair Housing Act and this section.

SEC. 136. PROHIBITION OF PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION.

(a) In General.—The Secretary may, by regulation or order, provide that certain information shall be treated as proprietary information and not subject to disclosure under section 133 of this Act, section 309(n)(3) of the Federal National Mortgage Association Charter Act, or section 307(f)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) Protection of Information on Housing Activities.—The Secretary shall not provide public access to, or disclose to the public, any information required to be submitted by an enterprise under section 309(n) of the Federal National Mortgage Association Charter Act or section 307(f) of the Federal Home Loan Mortgage Corporation Act that the Secretary determines is proprietary.

(c) Nondisclosure Pending Consideration.—This section may not be construed to authorize the disclosure of information to, or examination of data by, the public or a representative of any person or agency pending the issuance of a final decision under this section.

SEC. 137. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.

The Secretary shall require each enterprise to submit reports on its activities to the Secretary as the Secretary considers appropriate.

SEC. 138. REPORTS BY SECRETARY.

(a) Annual Report.—The Secretary shall, not later than June 30 of each year, submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the activities of each enterprise.

(b) Views on Budget and Financial Plans of Enterprises.—On an annual basis, the Secretary shall provide the Committees referred to in subsection (a) with comments on the plans, forecasts, and reports required under section 106(g).

PART 2—HOUSING GOALS

SEC. 151. ESTABLISHMENT.

(a) In General.—The Secretary shall establish, by regulation, housing goals under this part for each enterprise. The housing goals shall include a low- and moderate-income housing goal pursuant to section 152, a special affordable housing goal pursuant to section 153, and a central cities, rural areas, and other underserved areas housing goal pursuant to section 154. The Secretary shall implement this part in a manner consistent with section 301(3) of the Federal National Mortgage Association Charter Act and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) Consideration of Units in Multifamily Housing.—In establishing any goal under this part, the Secretary may take into consideration the number of housing units financed by any mortgage on multifamily housing purchased by an enterprise.

(c) Adjustment of Housing Goals.—Except as otherwise provided in this Act, from year to year the Secretary may, by regulation, adjust any housing goal established under this part.

SEC. 152. LOW- AND MODERATE-INCOME HOUSING GOAL.

(a) In General.—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing for low- and moderate-income families. The Secretary may establish separate specific subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 156, any other provision of this Act, or any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) Factors to be Applied.—In establishing the goal under this section, the Secretary shall consider—

(1) national housing needs;

(2) economic, housing, and demographic conditions;

(3) the performance and effort of the enterprises toward achieving the low- and moderate-income housing goal in previous years;

(4) the size of the conventional mortgage market serving low- and moderate-income families relative to the size of the overall conventional mortgage market;

(5) the ability of the enterprises to lead the industry in making mortgage credit available for low- and moderate-income families; and

(6) the need to maintain the sound financial condition of the enterprises.

(c) Use of Borrower and Tenant Income.—

(1) In general.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 156) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low- and moderate-income families, where the data referred to in clause (i) are not available.

(2) Affordability.—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) Transition.—

(1) Interim target.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the annual target under this section for low- and moderate-income mortgage purchases for each enterprise shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) Interim goal.—During such 2-year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2-year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) Implementation.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

SEC. 153. SPECIAL AFFORDABLE HOUSING GOAL.

(a) Establishment.—

(1) In general.—The Secretary shall establish a special annual goal designed to adjust the purchase by each enterprise of mortgages on rental and owner-occupied housing to meet the then-existing unaddressed needs of, and affordable to, low-income families in low-income areas and very low-income families. The special affordable housing goal established under this section for an enterprise shall not be less than 1 percent of the dollar amount of the mortgage purchases by the enterprise for the previous year.

(2) Standards.—In establishing the special affordable housing goal for an enterprise, the Secretary shall consider—

(A) data submitted to the Secretary in connection with the special affordable housing goal for previous years;

(B) the performance and efforts of the enterprise toward achieving the special affordable housing goal in previous years;

(C) national housing needs within the categories set forth in this section;

(D) the ability of the enterprise to lead the industry in making mortgage credit available for low-income and very low-income families; and

(E) the need to maintain the sound financial condition of the enterprise.

(b) Full Credit Activities.—

(1) In general.—The Secretary shall give full credit toward achievement of the special affordable housing goal under this section (for purposes of section 156) to the following activities:

(A) Federally related mortgages.—The purchase or securitization of federally insured or guaranteed mortgages, if—

(i) such mortgages cannot be readily securitized through the Government National Mortgage Association or any other Federal agency;

(ii) participation of the enterprise substantially enhances the affordability of the housing subject to such mortgages; and

(iii) the mortgages involved are on housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(B) Portfolios.—The purchase or refinancing of existing, seasoned portfolios of loans, if—

(i) the seller is engaged in a specific program to use the proceeds of such sales to originate additional loans that meet such goal; and

(ii) such purchases or refinancings support additional lending for housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(C) RTC and FDIC loans.—The purchase of direct loans made by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, if such loans—

(i) are not guaranteed by such agencies themselves or other Federal agencies;

(ii) are made with recourse provisions similar to those offered through private mortgage insurance or other conventional sellers; and

(iii) are made for the purchase of housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(2) Exclusion.—No credit toward the achievement of the special affordable housing goal may be given to the purchase or securitization of mortgages associated with the refinancing of the existing enterprise portfolios.

(c) Use of Borrower and Tenant Income.—

(1) In general.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 156) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low-income and very low-income families, where the data referred to in clause (i) are not available.

(2) Affordability.—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) Transition.—

(1) FNMA mortgage purchases.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the special affordable housing goal for the Federal National Mortgage Association shall include mortgage purchases of not less than $2,000,000,000 (for such 2-year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(2) FHLMC mortgage purchases.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the special affordable housing goal for the Federal Home Loan Mortgage Corporation shall include mortgage purchases of not less than $1,500,000,000 (for such 2-year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(3) Income characteristics for mortgage purchases.—

(A) Multifamily mortgages.—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on multifamily housing that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages on multifamily housing affordable to low-income families; and

(ii) 55 percent shall be mortgages on multifamily housing in which—

(I) at least 20 percent of the units are affordable to families whose incomes do not exceed 50 percent of the median income for the area; or

(II) at least 40 percent of the units are affordable to very low-income families.

(B) Single family mortgages.—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on single family housing that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages of low-income families who live in census tracts in which the median income does not exceed 80 percent of the area median income; and

(ii) 55 percent shall be mortgages of very low-income families.

(C) Compliance with special affordable housing goals.—Only the portion of mortgages on multifamily housing purchased by an enterprise that are attributable to units affordable to low-income families shall contribute to the achievement of the special affordable housing goals under subparagraph (A)(ii).

(4) Implementation.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

SEC. 154. CENTRAL CITIES, RURAL AREAS, AND OTHER UNDERSERVED AREAS HOUSING GOAL.

(a) In General.—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing located in central cities, rural areas, and other underserved areas. The Secretary may establish separate subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 156, any other provision of this Act, or any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) Factors To Be Applied.—In establishing the housing goal under this section, the Secretary shall consider—

(1) urban and rural housing needs and the housing needs of underserved areas;

(2) economic, housing, and demographic conditions;

(3) the performance and efforts of the enterprises toward achieving the central cities, rural areas, and other underserved areas housing goal in previous years;

(4) the size of the conventional mortgage market for central cities, rural areas, and other underserved areas relative to the size of the overall conventional mortgage market;

(5) the ability of the enterprises to lead the industry in making mortgage credit available throughout the United States, including central cities, rural areas, and other underserved areas; and

(6) the need to maintain the sound financial condition of the enterprises.

(c) Location of Properties.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 156) based on the location of the properties subject to mortgages purchased by each enterprise.

(d) Transition.—

(1) Interim target.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the annual target under this section for purchases by each enterprise of mortgages on housing located in central cities shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) Interim goal.—During such 2-year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2-year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) Definition of central city.—For purposes of this subsection, the term "central city" means any political subdivision designated as a central city by the Office of Management and Budget.

(4) Implementation.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

SEC. 155. OTHER REQUIREMENTS.

To meet the low- and moderate-income housing goal under section 152, the special affordable housing goal under section 153, and the central cities, rural areas, and other underserved areas housing goal under section 154, each enterprise shall—

(1) design programs and products that facilitate the use of assistance provided by the Federal Government and State and local governments;

(2) develop relationships with nonprofit and for-profit organizations that develop and finance housing and with State and local governments, including housing finance agencies;

(3) take affirmative steps to—

(A) assist primary lenders to make housing credit available in areas with concentrations of low-income and minority families, and

(B) assist insured depository institutions to meet their obligations under the Community Reinvestment Act of 1977,

which shall include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures; and

(4) develop the institutional capacity to help finance low- and moderate-income housing, including housing for first-time homebuyers.

SEC. 156. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

(a) In General.—

(1) Authority.—The Secretary shall monitor and enforce compliance with the housing goals established under sections 152, 153, and 154, as provided in this section.

(2) Guidelines.—The Secretary shall establish guidelines to measure the extent of compliance with the housing goals, which may assign full credit, partial credit, or no credit toward achievement of the housing goals to different categories of mortgage purchase activities of the enterprises, based on such criteria as the Secretary deems appropriate.

(3) Extent of compliance.—In determining compliance with the housing goals established under this part, the Secretary—

(A) shall consider any single mortgage purchased by an enterprise as contributing to the achievement of each housing goal for which such mortgage purchase qualifies; and

(B) may take into consideration the number of housing units financed by any mortgage on housing purchased by an enterprise.

(b) Notice and Determination of Failure to Meet Goals.—

(1) Notice.—If the Secretary determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 152, 153, or 154, the Secretary shall provide written notice to the enterprise of such a determination, the reasons for such determination, the requirement to submit a housing plan under subsection (c) of this section, and the information on which the Secretary based the determination or imposed such requirement.

(2) Response period.—

(A) In general.—During the 30-day period beginning on the date that an enterprise is provided notice under paragraph (1), the enterprise may submit to the Secretary any written information that the enterprise considers appropriate for consideration by the Secretary in determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

(B) Extended period.—The Secretary may extend the period under subparagraph (A) for good cause for not more than 30 additional days.

(C) Shortened period.—The Secretary may shorten the period under subparagraph (A) for good cause.

(D) Failure to respond.—The failure of an enterprise to provide information during the 30-day period under this paragraph (as extended or shortened) shall waive any right of the enterprise to comment on the proposed determination or action of the Secretary.

(3) Consideration of information and determination.—

(A) In general.—After the expiration of the response period under paragraph (2) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Secretary shall determine (i) whether the enterprise has failed, or there is a substantial probability that the enterprise will fail, to meet the housing goal, and (ii) whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible.

(B) Considerations.—In making such determinations, the Secretary shall take into consideration any relevant information submitted by the enterprise during the response period.

(C) Notice.—The Secretary shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, of—

(i) each determination that an enterprise has failed, or that there is a substantial probability that the enterprise will fail, to meet a housing goal;

(ii) each determination that the achievement of a housing goal was or is feasible; and

(iii) the reasons for each such determination.

Such notice shall respond to any information submitted during the response period.

(c) Housing Plans.—

(1) Requirement.—If the Secretary finds pursuant to subsection (b), that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 152, 153, or 154, and that the achievement of the housing goal was or is feasible, the Secretary shall require the enterprise to submit a housing plan under this subsection for approval by the Secretary.

(2) Contents.—Each housing plan shall be a feasible plan describing the specific actions the enterprise will take—

(A) to achieve the goal for the next calendar year; or

(B) if the Secretary determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements as are reasonable in the remainder of such year.

The plan shall be sufficiently specific to enable the Secretary to monitor compliance periodically.

(3) Deadline for submission.—The Secretary shall, by regulation, establish a deadline for an enterprise to submit a housing plan to the Secretary, which may not be more than 45 days after the enterprise is provided notice under subsection (b)(3) that a housing plan is required. The regulations shall provide that the Secretary may extend the deadline to the extent that the Secretary determines necessary. Any extension of the deadline shall be in writing and for a time certain.

(4) Approval.—The Secretary shall review each housing plan submitted under this subsection and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Secretary may extend the period for approval or disapproval for a single additional 30-day period if the Secretary determines it necessary. The Secretary shall approve any plan that the Secretary determines is likely to succeed, and conforms with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act (as applicable), this Act, and any other applicable laws and regulations.

(5) Notice of approval and disapproval.—The Secretary shall provide written notice to any enterprise submitting a housing plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(6) Resubmission.—If the initial housing plan submitted by an enterprise is disapproved, the enterprise shall submit an amended plan acceptable to the Secretary within 30 days or such longer period that the Secretary determines is in the public interest.

SEC. 157. REPORTS DURING TRANSITION.

Each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report for each transitional housing goal for the enterprise under section 152(d), 153(d), or 154(d), describing the actions the enterprise plans to take to meet such goal. Each such report shall be submitted within 45 days after the establishment of the goal for which the report is submitted.

SEC. 158. EFFECTIVE DATE OF TRANSITION GOALS.

The housing goals established under sections 152(d), 153(d), and 154(d) shall not become effective until January 1, 1993.

PART 3—ENFORCEMENT OF HOUSING GOALS

SEC. 161. CEASE-AND-DESIST PROCEEDINGS.

(a) Grounds for Issuance.—The Secretary may issue and serve a notice of charges under this section upon an enterprise if, in the determination of the Secretary—

(1) the enterprise has failed to submit a housing plan that substantially complies with section 156(c) within the applicable period;

(2) the enterprise is engaging or has engaged, or the Secretary has reasonable cause to believe that the enterprise is about to engage, in any failure to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 156(c); or

(3) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 157 of this Act.

(b) Procedure.—

(1) Notice of charges.—Each notice of charges shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

(2) Issuance of order.—If the Secretary finds on the record made at such hearing that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 162(a)(4)), the Secretary may issue and serve upon the enterprise an order requiring the enterprise to (A) submit a housing plan in compliance with section 156(c), (B) comply with the housing plan, or (C) provide the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 157 of this Act.

(c) Effective Date.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Secretary or otherwise, as provided in this part.

(d) Transition Period Limitation.—The Secretary may not impose any cease-and-desist order under this section for any failure by an enterprise, during the 2-year period beginning on the January 1, 1993, to comply with an approved housing plan, unless the Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with the approved plan.

SEC. 162. HEARINGS.

(a) Requirements.—

(1) Venue and record.—Any hearing under section 161 or 165 shall be held on the record and in the District of Columbia.

(2) Timing.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 161(b)(1) or determination to impose a penalty under section 165(c)(1), unless an earlier or a later date is set by the hearing officer at the request of the enterprise served.

(3) Procedure.—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) Failure to appear.—If the enterprise served fails to appear at the hearing through a duly authorized representative, such enterprise shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) Issuance of Order.—

(1) In general.—After any such hearing, and within 90 days after the enterprise has

been notified that the case has been submitted to the Secretary for final decision, the Secretary shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon the enterprise an order or orders consistent with the provisions of this part.

(2) Modification.—Judicial review of any such order shall be exclusively as provided in section 163. Unless such a petition for review is timely filed as provided in section 163, and thereafter until the record in the proceeding has been filed as so provided, the Secretary may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Secretary considers proper. Upon such filing of the record, the Secretary may modify, terminate, or set aside any such order with permission of the court.

SEC. 163. JUDICIAL REVIEW.

(a) Commencement.—An enterprise that is a party to a proceeding under section 161 or 165 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Secretary.

(b) Filing of Record.—Upon receiving a copy of a petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) Jurisdiction.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Secretary shall (except as provided in the last sentence of section 162(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Secretary.

(d) Review.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) Order to Pay Penalty.—Such court shall have the authority in any such review to order payment of any penalty imposed by the Secretary under this part.

(f) No Automatic Stay.—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

SEC. 164. ENFORCEMENT AND JURISDICTION.

(a) Enforcement.—The Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under section 161 or 165. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) Limitation on Jurisdiction.—Except as otherwise provided in this part, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 161 or 165, or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 165. CIVIL MONEY PENALTIES.

(a) Authority.—The Secretary may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed—

(1) to submit a housing plan that substantially complies with section 156(c) within the applicable period;

(2) to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 156(c); or

(3) to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 157 of this Act.

(b) Amount of Penalty.—The amount of the penalty, as determined by the Secretary, may not exceed—

(1) for any failure described in subsection (a)(1), $25,000 for each day that the failure occurs; and

(2) for any failure described in subsection (a)(2) or (3), $10,000 for each day that the failure occurs.

(c) Procedures.—

(1) Establishment.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this section. Such standards and procedures—

(A) shall provide for the Secretary to notify the enterprise in writing of the Secretary's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 162; and

(C) may provide for review by the Director for any determination or order, or interlocutory ruling, arising from a hearing.

(2) Factors in determining amount of penalty.—In determining the amount of a penalty under this section, the Secretary shall give consideration to such factors as the gravity of the offense, any history of prior offenses, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine, by regulation, to be appropriate.

(d) Action To Collect Penalty.—If an enterprise fails to comply with an order by the Secretary imposing a civil money penalty under this section, after the order is no longer subject to review as provided by sections 162 and 163, the Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

(e) Settlement by Secretary.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) Transition Period Limitation.—The Secretary may not impose any civil money penalty under this section for any failure by an enterprise, during the 2-year period beginning on January 1, 1993, to comply with an approved housing plan, unless the Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with an approved plan.

(g) Deposit of Penalties.—The Secretary shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

SEC. 166. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) In General.—The Secretary shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Secretary or any modification to or termination thereof, unless the Secretary, in the Secretary's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Secretary under this part and that has become final in accordance with sections 162 and 163; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) Hearings.—All hearings with respect to any notice of charges issued by the Secretary shall be open to the public, unless the Secretary, in the Secretary's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) Delay of Public Disclosure Under Exceptional Circumstances.—If the Secretary makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial soundness of the enterprise, the Secretary may delay the public disclosure of such order for a reasonable time.

(d) Documents Filed Under Seal in Public Enforcement Hearings.—The Secretary may file any document or part thereof under seal in any hearing under this part if the Secretary determines in writing that disclosure thereof would be contrary to the public interest.

(e) Retention of Documents.—The Secretary shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Secretary under this part.

(f) Disclosures to Congress.—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

SEC. 167. NOTICE OF SERVICE.

Any service required or authorized to be made by the Secretary under this part may be made by registered mail or in such other manner reasonably calculated to give actual notice, as the Secretary may by regulation or otherwise provide.

SEC. 168. SUBPOENA AUTHORITY.

(a) In General.—In the course of or in connection with any administrative proceeding under this part, the Secretary shall have the authority—

(1) to administer oaths and affirmations;

(2) to take and preserve testimony under oath;

(3) to issue subpoenas and subpoenas duces tecum; and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Secretary.

(b) Witnesses and Documents.—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) Enforcement.—The Secretary may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

PART 4—REGULATIONS

SEC. 171. REGULATIONS.

The Secretary shall issue any final regulations necessary to implement the provisions of this subtitle (not including the provisions of sections 152(d), 153(d), and 154(d), relating to transition housing goals) not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

Subtitle C—Miscellaneous Provisions

SEC. 181. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) DIRECTOR AT LEVEL II OF EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting at the end the following new item:

"Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development.".

(b) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(D) of title 5, United States Code, is amended by inserting "the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development," after "Farm Credit Administration,".

SEC. 182. PROHIBITION OF MERGER OF OFFICE.

Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions or responsibilities of such Office, with any function or program administered by the Secretary.".

SEC. 183. PROTECTION OF CONFIDENTIAL INFORMATION.

Section 1905 of title 18, United States Code, is amended by inserting "any person acting on behalf of the Office of Federal Housing Enterprise Oversight," after "or agency thereof,".

SEC. 184. REVIEW OF UNDERWRITING GUIDELINES.

(a) STUDY.—Each of the enterprises shall conduct a study to review the underwriting guidelines of the enterprise. The studies shall examine—

(1) the extent to which the underwriting guidelines prevent or inhibit the purchase or securitization of mortgages for housing located in mixed-use, urban center, and predominantly minority neighborhoods and for housing for low- and moderate-income families;

(2) the standards employed by private mortgage insurers and the extent to which such standards inhibit the purchase and securitization by the enterprises of mortgages described in paragraph (1); and

(3) the implications of implementing underwriting standards that—

(A) establish a downpayment requirement for mortgagors of 5 percent or less;

(B) allow the use of cash on hand as a source for downpayments; and

(C) approve borrowers who have a credit history of delinquencies if the borrower can demonstrate a satisfactory credit history for at least the 12-month period ending on the date of the application for the mortgage.

(b) REPORT.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate a report regarding the study conducted by the enterprise under subsection (a). Each report shall include any recommendations of the enterprise for better meeting the housing needs of low- and moderate-income families.

SEC. 185. STUDIES OF EFFECTS OF PRIVATIZATION OF FNMA AND FHLMC.

(a) IN GENERAL.—The Comptroller General of the United States, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each conduct and submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, a study regarding the desirability and feasibility of repealing the Federal charters of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, eliminating any Federal sponsorship of the enterprises, and allowing the enterprises to continue to operate as fully private entities.

(b) REQUIREMENTS.—Each study shall particularly examine the effects of such privatization on—

(1) the requirements applicable to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under Federal law and the costs to the enterprises;

(2) the cost of capital to the enterprises;

(3) housing affordability and availability and the cost of homeownership;

(4) the level of secondary mortgage market competition subsequently available in the private sector;

(5) whether increased amounts of capital would be necessary for the enterprises to continue operation;

(6) the secondary market for residential loans and the liquidity of such loans; and

(7) any other factors that the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, or the Director of the Congressional Budget Office deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the enterprises.

(c) INFORMATION.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall provide full and prompt access to the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office to any books, records, and other information requested for the purposes of conducting the studies under this section.

(d) VIEWS OF THE FNMA AND FHLMC.—

(1) CONSIDERATION IN STUDIES.—In conducting the studies under this section, the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) DIRECT REPORT.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation may each report directly to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its own analysis of the desirability and feasibility of repealing the Federal charters of the enterprises, eliminating any Federal sponsorship, and allowing the enterprises to continue to operate as fully private entities.

SEC. 186. TRANSITION.

Before the expiration of the period ending 18 months after the appointment of the Director under section 102, any rules and regulations promulgated before the date of the enactment of this Act by the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act shall remain in effect unless modified, terminated, superseded, or revoked by operation of law or in accordance with law. Such rules and regulations shall terminate, effective upon the expiration of such period.

TITLE II—REQUIRED CAPITAL LEVELS FOR ENTERPRISES AND SPECIAL ENFORCEMENT POWERS

SEC. 201. RISK-BASED CAPITAL LEVELS.

(a) RISK-BASED CAPITAL TEST.—The Director shall, by regulation, establish a risk-based capital test under this section for the enterprises. When applied to an enterprise, the risk-based capital test shall determine the amount of total capital for the enterprise that is sufficient for the enterprise to maintain positive capital during a 10-year period in which the following circumstances occur (in this section referred to as the "stress period"):

(1) CREDIT RISK.—With respect to mortgages owned or guaranteed by the enterprise and other obligations of the enterprise, losses occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing practice for that industry in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years, experienced the highest rates of default and severity of mortgage losses, in comparison with such rates of default and severity of mortgage losses in other such areas for any period of such duration.

(2) INTEREST RATE RISK.—

(A) IN GENERAL.—Interest rates decrease as described in subparagraph (B) or increase as described in subparagraph (C), whichever would require more capital for the enterprise.

(B) DECREASES.—The 10-year constant maturity Treasury yield decreases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield decreases to the lesser of—

(i) 600 basis points below the average yield during the preceding 9 months, or

(ii) 60 percent of the average yield during the preceding 3 years, but in no case to a yield less than 50 percent of the average yield during the preceding 9 months.

(C) INCREASES.—The 10-year constant maturity Treasury yield increases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield increases to the greater of—

(i) 600 basis points above the average yield during the preceding 9 months, or

(ii) 160 percent of the average yield during the preceding 3 years,

but in no case to a yield greater than 175 percent of the average yield during the preceding 9 months.

(D) DIFFERENT TERMS TO MATURITY.—Yields of Treasury instruments with other terms to maturity will change relative to the 10-year constant maturity Treasury yield in patterns and for durations that are reasonably related to historical experience and are judged reasonable by the Director.

(E) LARGE INCREASES IN YIELDS.—If the 10-year constant maturity Treasury yield is assumed to increase by more than 50 percent over the average yield during the preceding 9 months, the Director shall adjust the losses in paragraphs (1) and (3) to reflect a correspondingly higher rate of general price inflation.

(3) NEW BUSINESS.—

(A) IN GENERAL.—Any contractual commitments of the enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgage purchases, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period. No other purchases of mortgages shall be assumed, except as provided in subparagraph (B).

(B) ADDITIONAL NEW BUSINESS.—The Director may, after consideration of each of the studies required by subparagraph (C), assume that the enterprise conducts additional new business during the stress period consistent with the following—

(i) AMOUNT AND PRODUCT TYPES.—The amount and types of mortgages purchased and their financing will be reasonably related to recent experience and the economic characteristics of the stress period.

(ii) LOSSES.—Default and loss severity characteristics of mortgages purchased will be reasonably related to historical experience.

(iii) PRICING.—Prices charged by the enterprise in purchasing new mortgages will be reasonably related to recent experience and the economic characteristics of the stress period. The Director may assume that a reasonable period of time would lapse before the enterprise would recognize and react to the characteristics of the stress period.

(iv) INTEREST RATE RISK.—Interest rate risk on new mortgages purchased will occur to an extent reasonably related to historical experience.

(v) RESERVES.—The enterprise must maintain reserves during and at the end of the stress period on new business conducted during the first 5 years of the stress period reasonably related to the expected future losses on such business, consistent with generally accepted accounting principles and industry accounting practice.

(C) STUDIES.—Within 1 year after regulations are first issued under subsection (e), the Director of the Congressional Budget Office, and the Comptroller General of the United States shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study of the advisability and appropriate form of any new business assumptions under subparagraph (B).

(D) EFFECTIVE DATE.—The provisions of subparagraph (B) shall become effective 4 years after regulations are first issued under section 201(e).

(4) OTHER ACTIVITIES.—Losses or gains on other activities, including interest rate and foreign exchange hedging activities, shall be determined by the Director, on the basis of available information, to be consistent with the stress period.

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In establishing the risk-based capital test under subsection (a), the Director shall take into account appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and any other factors the Director considers appropriate.

(2) CONSISTENCY.—Characteristics of the stress period other than those specifically set forth in subsection (a), such as prepayment experience and dividend policies, will be those determined by the Director, on the basis of available information, to be most consistent with the stress period.

(c) RISK-BASED CAPITAL LEVEL.—For purposes of this title, the risk-based capital level for an enterprise shall be equal to the sum of the following amounts:

(1) CREDIT AND INTEREST RATE RISK.—The amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(2) MANAGEMENT AND OPERATIONS RISK.—To provide for management and operations risk, 30 percent of the amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(d) DEFINITIONS.—For purposes of this section:

(1) SEASONING.—The term "seasoning" means the change over time in the ratio of the unpaid principal balance of a mortgage to the value of the property by which such mortgage loan is secured, determined on an annual basis by region, in accordance with the Constant Quality Home Price Index published by the Secretary of Commerce (or any index of similar quality, authority, and public availability that is regularly used by the Federal Government).

(2) TYPE OF MORTGAGE PRODUCT.—The term "type of mortgage product" means a classification of one or more mortgage products, as established by the Director, which have similar characteristics from each set of characteristics under the following subparagraphs:

(A) The property securing the mortgage is—

(i) a residential property consisting of 1 to 4 dwelling units; or

(ii) a residential property consisting of more than 4 dwelling units.

(B) The interest rate on the mortgage is—

(i) fixed; or

(ii) adjustable.

(C) The priority of the lien securing the mortgage is—

(i) first; or

(ii) second or other.

(D) The term of the mortgage is—

(i) 1 to 15 years;

(ii) 16 to 30 years; or

(iii) more than 30 years.

(E) The owner of the property is—

(i) an owner-occupant; or

(ii) an investor.

(F) The unpaid principal balance of the mortgage—

(i) will amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage;

(ii) will not amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage; or

(iii) may increase significantly at some time during the term of the mortgage.

(G) Any other characteristics of the mortgage, as the Director may determine.

(e) REGULATIONS.—

(1) ISSUANCE.—The Director shall issue final regulations establishing the risk-based capital test under this section not later than the expiration of the 18-month period beginning on the date of the appointment of the Director. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code, and shall take effect upon issuance.

(2) CONTENTS.—The regulations under this subsection shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, and prepayment rates). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

(3) CONFIDENTIALITY OF INFORMATION.—Any person that receives any book, record, or information from the Director or an enterprise to enable the risk-based capital test to be applied shall—

(A) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the enterprise; and

(B) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

(f) AVAILABILITY OF MODEL.—The Director shall provide copies of the statistical model or models used to implement the risk-based capital test under this section to the Secretary, the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Comptroller General of the United States, and the Director of the Congressional Budget Office. The Director shall make copies of such model or models available for public acquisition and may charge a reasonable fee for such copies.

SEC. 202. MINIMUM CAPITAL LEVELS.

(a) IN GENERAL.—For purposes of this title, the minimum capital level for each enterprise shall be the sum of—

(1) 2.50 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.45 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.45 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit

risk of such obligations in relation to the instruments included in paragraph (2).

(b) TRANSITION.—Notwithstanding subsection (a), during the 18-month period beginning upon the date of the enactment of this Act, the minimum capital level for each enterprise shall be the sum of—

(1) 2.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.40 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.40 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

SEC. 203. CRITICAL CAPITAL LEVELS.

For purposes of this title, the critical capital level for each enterprise shall be the sum of—

(1) 1.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.25 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.25 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

SEC. 204. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—For purposes of this title, the Director shall classify the enterprises according to the following capital classifications:

(1) ADEQUATELY CAPITALIZED.—An enterprise shall be classified as adequately capitalized if the enterprise—

(A) maintains an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise under section 201; and

(B) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise under section 202.

(2) UNDERCAPITALIZED.—An enterprise shall be classified as undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; or

(B) the enterprise is otherwise classified as undercapitalized under subsection (b)(1) of this section.

(3) SIGNIFICANTLY UNDERCAPITALIZED.—An enterprise shall be classified as significantly undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise;

(ii) does not maintain an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; and

(iii) maintains an amount of core capital that is equal to or exceeds the critical capital level established for the enterprise under section 203; or

(B) the enterprise is otherwise classified as significantly undercapitalized under subsection (b)(2) of this section or section 205(b).

(4) CRITICALLY UNDERCAPITALIZED.—An enterprise shall be classified as critically undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) does not maintain an amount of core capital that is equal to or exceeds the critical capital level for the enterprise; or

(B) is otherwise classified as critically undercapitalized under subsection (b)(3) of this section or section 206(b)(5).

(b) DISCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing that an enterprise is engaging in conduct not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly, the Director may classify the enterprise—

(1) as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

(2) as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; and

(3) as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized.

(c) QUARTERLY DETERMINATION.—The Director shall determine the capital classification of the enterprises for purposes of this title on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made during the 3-month period beginning on the appointment of the Director.

(d) IMPLEMENTATION.—Notwithstanding any other provision of this section, during the period beginning on the date of the enactment of this Act and ending upon the effective date of section 205 (as provided in section 205(c)), an enterprise shall be classified as adequately capitalized if the enterprise maintains an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise under section 202.

SEC. 205. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.

(a) MANDATORY ACTIONS.—

(1) CAPITAL RESTORATION PLAN.—An enterprise that is classified as undercapitalized shall, within the time period provided in section 212 (b) and (d), submit to the Director a capital restoration plan that complies with section 212 and carry out the plan after approval.

(2) RESTRICTION ON CAPITAL DISTRIBUTIONS.—An enterprise that is classified as undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as significantly undercapitalized or critically undercapitalized.

(b) DISCRETIONARY RECLASSIFICATION FROM UNDERCAPITALIZED TO SIGNIFICANTLY UNDERCAPITALIZED.—The Director may reclassify as significantly undercapitalized an enterprise that is classified as undercapitalized (and the enterprise shall be subject to the provisions of section 206) if—

(1) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 212 within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(2) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(c) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 1-year period beginning on the date of the effectiveness of the regulations issued under section 201(e) establishing the risk-based capital test.

SEC. 206. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDER-CAPITALIZED ENTERPRISES.

(a) MANDATORY SUPERVISORY ACTIONS.—

(1) CAPITAL RESTORATION PLAN.—An enterprise that is classified as significantly undercapitalized shall, within the time period under section 212 (b) and (d), submit to the Director a capital restoration plan that complies with section 212 and carry out the plan after approval.

(2) RESTRICTIONS ON CAPITAL DISTRIBUTIONS.—

(A) PRIOR APPROVAL.—An enterprise that is classified as significantly undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as critically undercapitalized. An enterprise that is classified as significantly undercapitalized enterprise may not make any other capital distribution unless the Director approves the distribution.

(B) STANDARD FOR APPROVAL.—The Director may approve a capital distribution by an enterprise classified as significantly undercapitalized only if the Director determines that the distribution (i) will enhance the ability of the enterprise to meet the risk-based capital level and the minimum capital level for the enterprise promptly, (ii) will contribute to the long-term financial safety and soundness of the enterprise, or (iii) is otherwise in the public interest.

(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions with respect to an enterprise that is classified as significantly undercapitalized:

(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the enterprise, including off-balance sheet obligations.

(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the enterprise or require contraction of the assets of the enterprise.

(3) ACQUISITION OF NEW CAPITAL.—Require the enterprise to acquire new capital in a form and amount determined by the Director.

(4) RESTRICTION OF ACTIVITIES.—Require the enterprise to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the enterprise.

(5) RECLASSIFICATION FROM SIGNIFICANTLY TO CRITICALLY UNDERCAPITALIZED.—The Director may reclassify as critically undercapitalized an enterprise that is classified as significantly undercapitalized (and the enterprise shall be subject to the provisions of section 207) if—

(A) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 212 within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(B) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(6) CONSERVATORSHIP.—Appoint a conservator for the enterprise in accordance with the provisions of section 209 (excluding subsection (a)(1) and (2)), but only if the Director determines—

(A) that the amount of core capital of the enterprise is less than the minimum capital level established for the enterprise under section 202; and

(B) that alternative remedies available to the Director under this Act are not satisfactory.

(c) EFFECTIVE DATE.—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 204.

SEC. 207. APPOINTMENT OF CONSERVATORS FOR CRITICALLY UNDERCAPITALIZED ENTERPRISES.

(a) APPOINTMENT.—

(1) IN GENERAL.—Upon a determination and notice under section 208(d) that an enterprise is critically undercapitalized and not later than 30 days after providing notice under section 209(a)(3), the Director shall appoint a conservator for the enterprise in accordance with the provisions of section 209 (excluding subsections (a)(1) and (2)).

(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may determine not to appoint a conservator for an enterprise classified as critically undercapitalized, but only pursuant to a written finding by the Director, with the written concurrence of the Secretary of the Treasury, that—

(A) the appointment of a conservator would have serious adverse effects on economic conditions of national financial markets or on the financial stability of the housing finance market; and

(B) the public interest would be better served by taking some other enforcement action authorized under this Act.

(b) AUTHORITY.—The Director shall have the authority to take any actions under sections 205 and 206 with respect to an enterprise under conservatorship.

(c) APPROVAL OF ACTIVITIES.—

(1) CONSERVATOR.—The conservator of any enterprise classified as critically undercapitalized may undertake an activity subject to the approval of the Secretary under section 132 of this Act only with the additional approval of the Director.

(2) NO CONSERVATOR.—If the Director determines under subsection (a)(2) not to appoint a conservator for an enterprise classified as critically undercapitalized, the provisions of section 206 shall apply with respect to the enterprise.

(d) EFFECTIVE DATE.—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 204.

SEC. 208. NOTICE OF CLASSIFICATION AND ENFORCEMENT ACTION.

(a) NOTICE.—Before taking any action referred to in subsection (b), the Director shall provide to the enterprise written notice of the proposed action, which states the reasons for the proposed action and the information on which the proposed action is based.

(b) APPLICABILITY.—The requirements of subsection (a) shall apply to the following actions:

(1) Classification or reclassification of an enterprise within a particular capital classification under section 204.

(2) Any discretionary supervisory action pursuant to section 205.

(3) Any discretionary supervisory action pursuant to section 206 except a decision to appoint a conservator under section 206(b)(6). Notice of classification under paragraph (1) and notice of supervisory actions under paragraph (2) or (3) may be provided together in a single notice under subsection (a).

(c) RESPONSE PERIOD.—

(1) IN GENERAL.—During the 30-day period beginning on the date that an enterprise is provided notice under subsection (a) of a proposed action, the enterprise may submit to the Director any information relevant to the action that the enterprise considers appropriate for consideration by the Director in determining whether to take such action. The Director may, at the discretion of the Director, hold an informal administrative hearing to receive and discuss such information and the proposed determination.

(2) EXTENDED PERIOD.—The Director may extend the period under paragraph (1) for good cause for not more than 30 additional days.

(3) SHORTENED PERIOD.—The Director may shorten the period under paragraph (1) if the Director determines that the condition of the enterprise so requires or the enterprise consents.

(4) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the response period under this subsection (as extended or shortened) shall waive any right of the enterprise to comment on the proposed action of the Director.

(d) CONSIDERATION OF INFORMATION AND DETERMINATION.—After the expiration of the response period under subsection (c) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Director shall determine whether to take the action proposed, taking into consideration any relevant information submitted by the enterprise during the response period. The Director shall provide written notice of a determination to take action and the reasons for such determination to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such notice shall respond to any information submitted during the response period.

(e) EFFECTIVE DATE OF ACTIONS.—An action referred to in subsection (b) shall take effect upon receipt by the enterprise of notice of the determination of the Director under subsection (d), unless otherwise provided in such notice.

SEC. 209. APPOINTMENT OF CONSERVATORS.

(a) APPOINTMENT.—

(1) DISCRETIONARY AUTHORITY.—The Director may, after providing notice under paragraph (3), appoint a conservator for an enterprise upon a determination in writing—

(A) that alternative remedies available to the Director under this Act are not satisfactory; and

(B) that—

(i) the enterprise is not likely to pay its obligations in the normal course of business;

(ii) the enterprise has incurred or is reasonably likely to incur losses that would deplete substantially all of its core capital and it is unlikely that the enterprise will replenish its core capital within a reasonable period;

(iii) the enterprise has concealed or is concealing books, papers, records, or assets of the enterprise that are material to the discharge of the Director's responsibilities under this title, or has refused or is refusing to submit such books, papers, records, or information regarding the affairs of the enterprise for inspection to the Director upon request; or

(iv) the enterprise has willfully violated, or is willfully violating, a final cease-and-desist order under section 301.

(2) CONSENT OF ENTERPRISE.—Notwithstanding paragraph (1), the Director may appoint a conservator for an enterprise if the enterprise, by an affirmative vote of a majority of the members of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(3) NOTICE.—Upon making a determination under paragraph (1) of this subsection or under section 206 or 207 to appoint a conservator for an enterprise, or upon consent of the enterprise under paragraph (2) to such an appointment, the Director shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(A) that a conservator will be appointed for the enterprise;

(B) stating the reasons for the appointment of the conservator; and

(C) identifying the person or governmental agency that the Director intends to appoint as conservator.

(4) QUALIFICATIONS.—The conservator shall be—

(A) the Director or any other governmental agency; or

(B) any person that—

(i) has no claim against, or financial interest in, the enterprise or other basis for a conflict of interest; and

(ii) has the financial and management expertise necessary to direct the operations and affairs of the enterprise.

(b) JUDICIAL REVIEW.—

(1) TIMING AND JURISDICTION.—Except as provided in paragraph (2), an enterprise for which a conservator is appointed (pursuant to this section or section 206 or 207) may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the appointment of the conservator. The court, upon the merits, shall dismiss such action or shall direct the Director to terminate the appointment of the conservator. Such an action may be commenced only during the 20-day period beginning upon the appointment of the conservator.

(2) CONSENSUAL APPOINTMENTS.—Appointment of a conservator pursuant to consent of the enterprise under subsection (a)(2) shall not be subject to judicial review under this subsection.

(3) STANDARD OF REVIEW.—A decision of the Director to appoint a conservator may be set aside under this subsection only if the court finds that the decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(4) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator or otherwise restrain or affect the exercise of powers or functions of a conservator.

(c) REPLACEMENT.—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the right of the enterprise under subsection (b) to obtain judicial review of the decision of the Director to appoint a conservator.

(d) EXAMINATIONS.—The Director may examine and supervise any enterprise in conservatorship during the period in which the enterprise continues to operate as a going concern.

(e) TERMINATION.—

(1) DISCRETIONARY.—At any time the Director determines that termination of a conservatorship pursuant to an appointment under subsection (a) is in the public interest and may safely be accomplished, the Director may terminate the conservatorship and permit the enterprise to resume the transaction of its business subject to such terms, conditions, and limitations as the Director may prescribe.

(2) MANDATORY.—The Director shall terminate a conservatorship initiated pursuant to section 206 or 207 upon a determination by the Director that the enterprise has maintained an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise established under section 202, and may by written order prescribe such terms, conditions, and limitations on the enterprise as the Director considers appropriate.

(3) TERMS.—Any terms, conditions, and limitations imposed by the Director upon termination of a conservatorship shall be enforceable and reviewable under the provisions of sections 304 and 305, to the same extent as any cease-and-desist order issued pursuant to title III.

SEC. 210. POWERS OF CONSERVATORS.

(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the enterprise under conservatorship and may operate the enterprise in the name of the enterprise, unless the Director provides otherwise.

(b) ADDITIONAL POWER.—A conservator may avoid any security interest taken by a creditor with the intent to hinder, delay, or defraud the enterprise or the creditors of the enterprise.

(c) LIMITATIONS BY DIRECTOR.—A conservator shall be subject to any rules, regulations, and orders issued from time to time by the Director and, except as otherwise specifically provided in such rules, regulations, or orders or in section 211, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations applicable to directors, officers, or employees of the enterprise.

(d) ENFORCEMENT OF CONTRACTS.—

(1) IN GENERAL.—A conservator may enforce any contract described in paragraph (2), notwithstanding any provision of the contract providing for the termination, default, acceleration, or other exercise of rights upon, or solely by reason of, the insolvency of the enterprise or the appointment of a conservator.

(2) ENFORCEABLE CONTRACTS.—Any contract that is within a class of contracts shall be enforceable under paragraph (1) if the Director—

(A) determines that the continued enforceability of such class of contracts is necessary to achieve the purpose of the conservatorship; and

(B) specifically provides for the enforceability of such class of contracts in a regulation or order, issued for the purpose of this subsection, which describes such class.

(3) APPLICABILITY.—This subsection and any regulation or order issued under this subsection shall apply only to contracts entered into, modified, extended, or renewed after the effective date of the regulation or order.

(d) STAYS.—

(1) IN GENERAL.—Not later than 45 days after appointment pursuant to section 206, 207, or 209, or 45 days after receipt of actual notice of an action or proceeding that is pending at the time of appointment, a conservator may request that any judicial action or proceeding to which the conservator or the enterprise is or may become a party be stayed for a period not exceeding 45 days after the request. Upon petition, the court shall grant such stay as to all parties.

(2) FEDERAL AGENCY AS CONSERVATOR.—In any case in which the conservator appointed for an enterprise is a Federal agency or an officer or employee of the Federal Government, the conservator may make a request for a stay under paragraph (1) only with the prior consent of the Attorney General and subject to the direction and control of the Attorney General.

(e) PAYMENT OF CREDITORS.—The Director may require a conservator to set aside and make available for payment to creditors any amounts that the Director determines may safely be used for such purpose. All creditors who are similarly situated shall be treated in a similar manner.

(f) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—A conservator and professional employees (other than Federal employees) appointed to represent or assist the conservator may be compensated for activities conducted as conservator. Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Director may provide for compensation at higher rates (but not in excess of rates prevailing in the private sector), if the Director determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(g) EXPENSES.—All expenses of a conservatorship pursuant to this section (including compensation pursuant to subsection (f)) shall be paid by the enterprise under conservatorship and shall be secured by a lien on the enterprise, which shall have priority over any other lien.

(h) CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE.—A conservator shall be subject to any laws and regulations relating to conflicts of interest and financial disclosure that apply to employees of the Office.

SEC. 211. LIABILITY PROTECTION FOR CONSERVATORS.

(a) FEDERAL AGENCIES AND EMPLOYEES.—In any case in which a conservator appointed under this title is a Federal agency or an officer or employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the conservator for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be personally liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence or any form of intentional tortious conduct or criminal conduct.

(c) INDEMNIFICATION.—The Director, with the approval of the Attorney General, may indemnify the conservator on such terms as the Director considers appropriate.

SEC. 212. CAPITAL RESTORATION PLANS.

(a) CONTENTS.—Each capital restoration plan submitted under this title shall set forth a feasible plan for restoring the core capital of the enterprise subject to the plan to an amount not less than the minimum capital level for the enterprise and for restoring the total capital of the enterprise to an amount not less than the risk-based capital level for the enterprise. Each capital restoration plan shall—

(1) specify the level of capital the enterprise will achieve and maintain;

(2) describe the actions that the enterprise will take to become classified as adequately capitalized;

(3) establish a schedule for completing the actions set forth in the plan;

(4) specify the types and levels of activities (including existing and new programs) in which the enterprise will engage during the term of the plan; and

(5) describe the actions that the enterprise will take to comply with any mandatory and discretionary requirements imposed under this title.

(b) DEADLINES FOR SUBMISSION.—The Director shall, by regulation, establish a deadline for submission of a capital restoration plan, which may not be more than 45 days after the enterprise is notified in writing that a plan is required. The regulations shall provide that the Director may extend the deadline to the extent that the Director determines it necessary. Any extension of the deadline shall be in writing and for a time certain.

(c) APPROVAL.—The Director shall review each capital restoration plan submitted under this section and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Director may extend the period for approval or disapproval for any plan for a single additional 30-day period if the Director determines it necessary. The Director shall provide written notice to any enterprise submitting a plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(d) RESUBMISSION.—If the Director disapproves the initial capital restoration plan submitted by the enterprise, the enterprise shall submit an amended plan acceptable to the Director within 30 days or such longer period that the Director determines is in the public interest.

SEC. 213. JUDICIAL REVIEW OF DIRECTOR ACTION.

(a) JURISDICTION.—

(1) FILING OF PETITION.—An enterprise that is not classified as critically undercapitalized and is the subject of a classification under section 204 or a discretionary supervisory action taken under this title by the Director (other than action to appoint a conservator under section 206 or 207 or action under section 209) may obtain review of the classification or action by filing, within 10 days after receiving written notice of the Director's action, a written petition requesting that the classification or action of the Director be modified, terminated, or set aside.

(2) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(b) SCOPE OF REVIEW.—The Court may modify, terminate, or set aside an action taken by the Director and reviewed by the Court pursuant to this section only if the court finds, on the record on which the Director acted, that the action of the Director was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(c) UNAVAILABILITY OF STAY.—The commencement of proceedings for judicial review pursuant to this section shall not operate as a stay of any action taken by the Director. Pending judicial review of the action, the court shall not have jurisdiction to stay, enjoin, or otherwise delay any supervisory action taken by the Director with respect to an enterprise that is classified as significantly or critically undercapitalized or any action of the Director that results in the classification of an enterprise as significantly or critically undercapitalized.

(d) LIMITATION ON JURISDICTION.—Except as provided in this section, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any classification or action of the Director under this title (other than appointment of a conservator under section 206 or 207 or action under section 209) or to review, modify, suspend, terminate, or set aside such classification or action.

TITLE III—ENFORCEMENT PROVISIONS

SEC. 301. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE AGAINST ADEQUATELY CAPITALIZED ENTERPRISES.—The Director may issue and serve a notice of charges under this section upon an enterprise that is classified (for purposes of title II) as adequately capitalized or upon any executive officer or director of such an enterprise, if in the determination of the Director, the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct that threatens to cause a significant depletion of the core capital of the enterprise;

(2) any conduct or violation that may result in the issuance of an order described in subsection (d)(1); or

(3) any conduct that violates—

(A) any provision of this Act, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation under any such Act, except that the Director may not enforce compliance with any housing goal established under part 2 of subtitle B of title I of this Act, with section 156 or 157 of this Act, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act; or

(B) any written agreement entered into by the enterprise with the Director.

(b) GROUNDS FOR ISSUANCE AGAINST UNDERCAPITALIZED, SIGNIFICANTLY UNDERCAPITALIZED, AND CRITICALLY UNDERCAPITALIZED ENTERPRISES.—The Director may issue and serve a notice of charges under this section upon an enterprise classified (for purposes of title II) as undercapitalized, significantly undercapitalized, or critically undercapitalized, or any executive officer or director of any such enterprise, if in the determination of the Director the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct likely to result in a material depletion of the core capital of the enterprise, or

(2) any conduct or violation described in paragraph (2) or (3) of subsection (a), except that the Director may not enforce compliance with any housing goal established under part 2 of subtitle B of title I of this Act, with section 156 or 157 of this Act, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act.

(c) PROCEDURE.—

(1) NOTICE OF CHARGES.—Each notice of charges under this section shall contain a statement of the facts constituting the alleged conduct or violation and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct or violation should issue.

(2) ISSUANCE OF ORDER.—If the Director finds on the record made at such hearing that any conduct or violation specified in the notice of charges has been established (or the enterprise consents pursuant to section 303(a)(4)), the Director may issue and serve upon the enterprise, executive officer, or director an order requiring such party to cease and desist from any such conduct or violation and to take affirmative action to correct or remedy the conditions resulting from any such conduct or violation.

(d) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR ACTIVITIES.—The authority under this section and section 302 to issue any order requiring an enterprise, executive officer, or director to take affirmative action to correct or remedy any condition resulting from any conduct or violation with respect to which such order is issued includes the authority—

(1) to require an executive officer or a director to make restitution to, or provide reimbursement, indemnification, or guarantee against loss to the enterprise to the extent that such person—

(A) was unjustly enriched in connection with such conduct or violation; or

(B) engaged in conduct or a violation that would subject such person to a civil penalty pursuant to section 306(b)(3);

(2) to require an enterprise to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(3) to restrict the growth of the enterprise;

(4) to require the enterprise to dispose of any asset involved;

(5) to require the enterprise to rescind agreements or contracts;

(6) to require the enterprise to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(7) to require the enterprise to take such other action as the Director determines appropriate.

(e) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this section or section 302 includes the authority to place limitations on the activities or functions of the enterprise or any executive officer or director of the enterprise.

(f) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the enterprise, executive officer, or director concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this title.

SEC. 302. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) GROUNDS FOR ISSUANCE AND SCOPE.—Whenever the Director determines that any conduct or violation, or threatened conduct or violation, specified in the notice of charges served upon the enterprise, executive officer, or director pursuant to section 301(a) or (b), or the continuation thereof, is likely—

(1) to cause insolvency,

(2) to cause a significant depletion of the core capital of the enterprise, or

(3) otherwise to cause irreparable harm to the enterprise,

prior to the completion of the proceedings conducted pursuant to section 301(c), the Director may issue a temporary order requiring the enterprise, executive officer, or director to cease and desist from any such conduct or violation and to take affirmative action to prevent or remedy such insolvency, depletion, or harm pending completion of such proceedings. Such order may include any requirement authorized under section 301(d).

(b) EFFECTIVE DATE.—An order issued pursuant to subsection (a) shall become effective upon service upon the enterprise, executive officer, or director and, unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until the Director dismisses the charges specified in the notice or until superseded by a cease-and-desist order issued pursuant to section 301.

(c) INCOMPLETE OR INACCURATE RECORDS.—

(1) TEMPORARY ORDER.—If a notice of charges served under section 301(a) or (b) specifies on the basis of particular facts and circumstances that the books and records of the enterprise served are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of the enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore the books or records to a complete and accurate state.

(2) EFFECTIVE PERIOD.—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 301 in connection with the notice of charges; or

(ii) the date the Director determines, by examination or otherwise, that the books and records of the enterprise are accurate and reflect the financial condition of the enterprise.

(d) JUDICIAL REVIEW.—An enterprise, executive officer, or director that has been served with a temporary order pursuant to this section may apply to the United States District Court for the District of Columbia within 10 days after such service for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the enterprise, executive officer, or director under section 301(a) or (b). Such court shall have jurisdiction to issue such injunction.

(e) Enforcement by Attorney General.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for an injunction to enforce such order or may, under the direction and control of the Attorney General, bring such an action. If the court finds any such violation, threatened violation, or failure to obey, the court shall issue such injunction.

SEC. 303. HEARINGS.

(a) Requirements.—

(1) Venue and record.—Any hearing under section 301 or 306(c) shall be held on the record and in the District of Columbia.

(2) Timing.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 301 or determination to impose a penalty under section 306, unless an earlier or a later date is set by the hearing officer at the request of the party served.

(3) Procedure.—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) Failure to appear.—If the party served fails to appear at the hearing through a duly authorized representative, such party shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) Issuance of Order.—

(1) In general.—After any such hearing, and within 90 days after the parties have been notified that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this title.

(2) Modification.—Judicial review of any such order shall be exclusively as provided in section 304. Unless such a petition for review is timely filed as provided in section 304, and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

SEC. 304. JUDICIAL REVIEW.

(a) Commencement.—Any party to a proceeding under section 301 or 306 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Director.

(b) Filing of Record.—Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) Jurisdiction.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of section 303(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(d) Review.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) Order To Pay Penalty.—Such court shall have the authority in any such review to order payment of any penalty imposed by the Director under this title.

(f) No Automatic Stay.—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

SEC. 305. ENFORCEMENT AND JURISDICTION.

(a) Enforcement.—The Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under this title or title II or may, under the direction and control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) Limitation on Jurisdiction.—Except as otherwise provided in this title and sections 209 and 213, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 301, 302, or 306, or title II, or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 306. CIVIL MONEY PENALTIES.

(a) In General.—The Director may impose a civil money penalty in accordance with this section on any enterprise, or any executive officer or director of any enterprise, that—

(1) violates any provision of this Act, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation under any such Act, except that the Director may not enforce compliance with any housing goal established under part 2 of subtitle B of title I of this Act, with section 156 or 157 of this Act, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

(2) violates any final or temporary order issued pursuant to section 205, 206, 301, or 302;

(3) violates any written agreement between the enterprise and the Director; or

(4) engages in any conduct that causes or is likely to cause a loss to the enterprise.

(b) Amount of Penalty.—

(1) First tier.—The Director may impose a penalty on an enterprise for any violation described in paragraphs (1) through (3) of subsection (a). The amount of a penalty under this paragraph shall not exceed $5,000 for each day that a violation continues.

(2) Second tier.—The Director may impose a penalty on an executive officer or director in an amount not to exceed $10,000, or on an enterprise in an amount not to exceed $25,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct—

(A) is part of a pattern of misconduct; or

(B) involved recklessness and caused or would be likely to cause a material loss to the enterprise.

(3) Third tier.—The Director may impose a penalty on an executive officer or director in an amount not to exceed $100,000, or on an enterprise in an amount not to exceed $1,000,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct was knowing and caused or would be likely to cause a substantial loss to the enterprise.

(c) Procedures.—

(1) Establishment.—The Director shall establish standards and procedures governing the imposition of civil money penalties under subsections (a) and (b). Such standards and procedures—

(A) shall provide for the Director to notify the enterprise in writing of the Director's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise, executive officer, or director has been given an opportunity for a hearing on the record pursuant to section 303; and

(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(2) Factors in determining amount of penalty.—In determining the amount of a penalty under this section, the Director shall give consideration to such factors as the gravity of the violation, any history of prior violations, the effect of the penalty on the safety and soundness of the enterprise, any injury to the public, any benefits received, and deterrence of future violations, and any other factors the Director may determine by regulation to be appropriate.

(3) Review of imposition of penalty.—The order of the Director imposing a penalty under this section shall not be subject to review, except as provided in section 304.

(d) Action To Collect Penalty.—If an enterprise, executive officer, or director fails to comply with an order of the Director imposing a civil money penalty under this section, after the order is no longer subject to review as provided under subsection (c)(1) and section 304, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise, executive officer, or director and such other relief as may be available, or may, under the direction and control of the Attorney General, bring such an action. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order of the Director imposing the penalty shall not be subject to review.

(e) Settlement by Director.—The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) Availability of Other Remedies.—Any civil money penalty under this section shall be in addition to any other available civil remedy and may be imposed whether or not the Director imposes other administrative sanctions.

(g) Prohibition of Reimbursement or Indemnification.—An enterprise may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3).

(h) Deposit of Penalties.—The Director shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

(i) Applicability.—A penalty under this section may be imposed only for conduct or violations under subsection (a) occurring after the date of the enactment of this Act.

SEC. 307. NOTICE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this title against any such director or executive officer, if such notice is served before the end of the 2-year period beginning on the date such director or executive officer ceases to be associated with the enterprise.

SEC. 308. PRIVATE RIGHTS OF ACTION.

This Act and the amendments made by this Act shall not create any private right of action on behalf of any person against an enterprise, or any director or executive officer of an enterprise, or impair any existing private right of action under other applicable law.

SEC. 309. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this title and that has become final in accordance with sections 303 and 304; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under this title or any other law.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

SEC. 310. NOTICE OF SERVICE.

Any service required or authorized to be made by the Director under this title may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

SEC. 311. SUBPOENA AUTHORITY.

(a) IN GENERAL.—In the course of or in connection with any administrative proceeding under this title, the Director shall have the authority—

(1) to administer oaths and affirmations;

(2) to take and preserve testimony under oath;

(3) to issue subpoenas and subpoenas duces tecum; and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Director.

(b) WITNESSES AND DOCUMENTS.—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) ENFORCEMENT.—The Director may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section or may, under the direction and control of the Attorney General, bring such an action. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

TITLE IV—AMENDMENTS TO CHARTER ACTS OF ENTERPRISES

SEC. 401. AMENDMENTS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

(a) PURPOSES.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(1) by striking "home" each place it appears and inserting "residential";

(2) in paragraph (3)—

(A) by striking the parentheses and all the matter contained therein and inserting the following: "(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)"; and

(B) by striking "and" at the end;

(3) by redesignating paragraph (4) as paragraph (5);

(4) by inserting after paragraph (3) the following new paragraph:

"(4) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and".

(b) HIGH COST AREAS.—The last sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by striking "and Hawaii" and inserting "Hawaii, and the Virgin Islands".

(c) SECRETARY'S APPROVAL AUTHORITY.—Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(1) in the first sentence of paragraph (2), by striking "and with the approval of the Secretary of Housing and Urban Development,";

(2) in the first sentence of paragraph (3), by striking ", with the approval of the Secretary of Housing and Urban Development,";

(3) in the first sentence of paragraph (4), by striking ", with the approval of the Secretary of Housing and Urban Development,"; and

(4) by adding at the end the following new paragraph:

"(6) The corporation may not implement any new program (as such term is defined in section 3 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 132 of such Act.".

(d) CAPITALIZATION.—Section 303 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718) is amended—

(1) in subsection (a), by inserting after the period at the end the following new sentence: "The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.";

(2) by striking subsections (b) and (c) and inserting the following new subsections:

"(b)(1) The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

"(2) All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.

"(c)(1) Except as provided in paragraph (2), the corporation may make such capital distributions (as such term is defined in section 3 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

"(2) The corporation may not make any capital distribution that would decrease the total capital of the corporation (as such term is defined in section 3 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the corporation established under section 201 of such Act or that would decrease the core capital of the corporation (as such term is defined in section 3 of such Act) to an amount less than the minimum capital level for the corporation established under section 202 of such Act, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.";

(3) in subsection (f)—

(A) by striking "to make payments" and all that follows through "such capital contributions,"; and

(B) by striking "additional shares of such stock," and inserting "shares of common stock of the corporation"; and

(4) by redesignating subsection (f) (as so amended) as subsection (d).

(e) RATIO OF OBLIGATIONS.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended—

(1) in subsection (b), by striking the semicolon in the first sentence and all that follows through the end of the second sentence and inserting a period; and

(2) in subsection (e), by striking the fourth sentence.

(f) STATEMENT IN SECURITIES.—Section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d)) is amended by inserting after the period at the end the following new sentence: "The corporation shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the corporation.".

(g) ASSESSMENTS FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.—The first sentence of section 304(f) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(f)) is amended by inserting before the first comma the following: "of this Act and assessments pursuant to section 106 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

(h) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The second sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) by striking "and" after the second comma; and

(B) by inserting before the period at the end the following: ", and at least one person from an organization that has represented consumer or community interests for not less than 2 years or one person who has demonstrated a career commitment to the provision of housing for low-income households".

(2) IMPLEMENTATION.—The amendments made by paragraph (1) shall apply to the first annual appointment by the President of members to the board of directors of the Federal National Mortgage Association that occurs after the date of the enactment of this Act.

(i) REMOVAL AUTHORITY OF PRESIDENT.—The third sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by inserting "appointed" after "any such".

(j) COMPENSATION.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended—

(1) in the first sentence of paragraph (2) by striking "as it may determine" and inserting the following: "as the board of directors determines reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C)) of the corporation shall be based on the performance of the corporation"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Not later than June 30, 1993, and annually thereafter, the corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (i) the comparability of the compensation policies of the corporation with the compensation policies of other similar businesses, (ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the corporation during the preceding year that was based on the corporation's performance, and (iii) the comparability of the corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(B) Notwithstanding the first sentence of paragraph (2), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning given the term in section 3 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(k) GENERAL REGULATORY AUTHORITY.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by striking subsections (h) and (i).

(l) GAO AUDITS.—Section 309(j) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(j)) is amended—

(1) by inserting "(1)" after "(j)";

(2) by striking the first sentence and inserting the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."; and

(3) by adding at the end the following new paragraph:

"(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the corporation or any auditor for an audit of the corporation under subsection (l), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.".

(m) FINANCIAL REPORTS TO DIRECTOR.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding at the end the following new subsection:

"(k)(1) The corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

"(2) Each such annual report shall include—

"(A) financial statements prepared in accordance with generally accepted accounting principles;

"(B) any supplemental information or alternative presentation that the Director may require; and

"(C) an assessment (as of the end of the corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the corporation, of—

"(i) the effectiveness of the internal control structure and procedures of the corporation; and

"(ii) the compliance of the corporation with designated safety and soundness laws.

"(3) The corporation shall also submit to the Director any other reports required by the Director pursuant to section 104 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.".

(n) AUDITS OF FINANCIAL STATEMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (k) (as added by subsection (m) of this section) the following new subsection:

"(l)(1) The corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (k)(2)(B).".

(o) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (l) (as added by subsection (n) of this section) the following new subsection:

"(m)(1) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the corporation.".

(p) REPORT ON HOUSING ACTIVITIES.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (m) (as added by subsection (o) of this section) the following new subsection:

"(n)(1) The corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under part 2 of subtitle B of title I of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such part;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (m)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

"(3)(A) The corporation shall make each report under this subsection available to the public at the principal and regional offices of the corporation.

"(B) Before making a report under this subsection available to the public, the corporation may exclude from the report information that the Secretary has determined is proprietary information under section 136 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(q) HOUSING ADVISORY COUNCIL.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (n) (as added by subsection (p) of this section) the following new subsection:

"(o)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation shall appoint an Affordable Housing Advisory Council to advise the corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.".

(r) STOCK ISSUANCES.—The second sentence of section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking all that follows "Commission" and inserting a period.

(s) TECHNICAL AMENDMENTS.—

(1) Section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)) is amended—

(A) in paragraph (2)—

(i) in the first sentence following subparagraph (F), by striking "him" and inserting "the trustor"; and

(ii) in the last sentence, by striking "his" each place it appears and inserting "the trustor's"; and

(B) in paragraph (3), by striking "he" each place it appears and inserting "the trustor".

(2) Section 304(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(c)) is amended—

(A) by striking "his" each place it appears and inserting "the Secretary's"; and

(B) in the fourth sentence—

(i) by striking "he" and inserting "the Secretary"; and

(ii) by striking "him" and inserting "the Secretary".

(3) Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended—

(A) in subsection (d)(2)—

(i) in the third sentence, by striking "his employment" each place it appears and inserting "the employment of such officer or employee"; and

(ii) in the last sentence, by striking "his basic pay" and inserting "the basic pay of such person"; and

(B) in subsection (e), by striking "he or it" and inserting "the individual, association, partnership, or corporation".

SEC. 402. AMENDMENTS TO FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

(a) PURPOSES.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(1) by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential";

(2) by striking "and" at the end of paragraph (2);

(3) in paragraph (3)—

(A) by striking the parentheses and all the matter contained therein and inserting the following: "(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)"; and

(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.".

(b) DEFINITIONS.—The third sentence of section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by striking "made" and all that follows through "305(a)(1)" and inserting "purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate".

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The second sentence of section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended—

(A) by striking "and" after the second comma; and

(B) by inserting before the period at the end the following: ", and at least 1 person from an organization that has represented consumer or community interests for not less than 2 years or 1 person who has demonstrated a career commitment to the provision of housing for low-income households".

(2) IMPLEMENTATION.—The amendments made by paragraph (1) shall apply to the first

annual appointment by the President of members to the Board of Directors of the Federal Home Loan Mortgage Corporation that occurs after the date of the enactment of this Act.

(d) REMOVAL AUTHORITY OF PRESIDENT.—Section 303(a)(2)(B) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(B)) is amended by inserting before the period at the end the following: ", except that any appointed member may be removed from office by the President for good cause".

(e) GENERAL REGULATORY AUTHORITY.—Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the Corporation may make such capital distributions (as such term is defined in section 3 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the Board of Directors.

"(2) The Corporation may not make any capital distribution that would decrease the total capital of the Corporation (as such term is defined in section 3 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the Corporation established under section 201 of such Act or that would decrease the core capital of the Corporation (as such term is defined in section 3 of such Act) to an amount less than the minimum capital level for the Corporation established under section 202 of such Act, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.".

(f) COMPENSATION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) in clause (9) of the first sentence of subsection (c), by inserting after "agents" the following: "as the Board of Directors determines reasonable and comparable with compensation for employment in other similar businesses (including publicly held financial institutions or other major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (h)(3)) of the Corporation shall be based on the performance of the Corporation"; and

(2) by adding at the end the following new subsection:

"(h)(1) Not later than June 30, 1993, and annually thereafter, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (A) the comparability of the compensation policies of the Corporation with the compensation policies of other similar businesses, (B) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Corporation during the preceding year that was based on the Corporation's performance, and (C) the comparability of the Corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the Corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(2) Notwithstanding the first sentence of subsection (c), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the Corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this paragraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(3) For purposes of this subsection, the term 'executive officer' has the meaning given the term in section 3 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(g) POWERS OF CORPORATION.—Section 303(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(c)) is amended by striking the second sentence.

(h) REPEAL OF PROHIBITION ON PREJUDGMENT ATTACHMENT.—Section 303(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(f)) is amended by striking the last sentence.

(i) CAPITAL STOCK.—Section 304 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453) is amended—

(1) by striking subsections (b), (c), and (d);

(2) in subsection (a)(1), by striking "(1) The common stock" and all that follows and inserting the following: "The common stock of the Corporation shall consist of voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation."; and

(3) in subsection (a)(2)—

(A) in the first sentence, by striking "nonvoting common stock and the";

(B) by striking the last sentence; and

(C) by striking the paragraph designation and inserting "(b)".

(j) MORTGAGE SELLERS.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended—

(1) in the first sentence, by striking "from any Federal home loan bank" and all that follows through the end of the sentence and inserting a period; and

(2) in the second sentence, by striking ", and the servicing" and all that follows through the end of the sentence and inserting a period.

(k) HIGH COST AREAS.—The last sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by striking "and Hawaii" and inserting "Hawaii, and the Virgin Islands".

(l) REPEAL OF PROHIBITION ON MORTGAGE LIMITATIONS.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by striking subsection (c).

(m) PRIOR APPROVAL OF SECRETARY FOR NEW PROGRAMS.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by inserting after subsection (b) the following new subsection:

"(c) The Corporation may not implement any new program (as such term is defined in section 3 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 132 of such Act.".

(n) OBLIGATIONS AND SECURITIES AND ASSESSMENTS FOR OFFICE.—Section 306 of the Federal Home Loan Mortgage Corporation (12 U.S.C. 1455) is amended—

(1) in subsection (h)—

(A) by inserting "(1)" after "(h)"; and

(B) by adding at the end the following new paragraph:

"(2) The Corporation shall insert appropriate language in all of the obligations and securities of the Corporation issued under this section and section 305 clearly indicating that such obligations and securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Corporation."; and

(2) in the first sentence of subsection (i), by striking "section 303(c) or 306(c)" and inserting the following: "sections 303(c) and 306(c) of this Act and assessments pursuant to section 106 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

(o) GAO AUDITS.—Section 307(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the first sentence and inserting the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."; and

(3) by adding at the end the following new paragraph:

"(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the Corporation or any auditor for an audit of the Corporation under subsection (d), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.".

(p) FINANCIAL REPORTS TO DIRECTOR.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding at the end the following new subsection:

"(c)(1) The Corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the Corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

"(2) Each such annual report shall include—

"(A) financial statements prepared in accordance with generally accepted accounting principles;

"(B) any supplemental information or alternative presentation that the Director may require; and

"(C) an assessment (as of the end of the Corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the Corporation, of—

"(i) the effectiveness of the internal control structure and procedures of the Corporation; and

"(ii) the compliance of the Corporation with designated safety and soundness laws.

"(3) The Corporation shall also submit to the Director any other reports required by the Director pursuant to section 104 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.".

(q) AUDITS OF FINANCIAL STATEMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (c) (as added by subsection (p) of this section) the following new subsection:

"(d)(1) The Corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (c)(2)(B).".

(r) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (d) (as added by subsection (q) of this section) the following new subsection:

"(e)(1) The Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the Corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the Corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the Corporation.".

(s) REPORT ON HOUSING ACTIVITIES.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (e) (as added by subsection (r) of this section) the following new subsection:

"(f)(1) The Corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under part 2 of subtitle B of title I of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such part;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the Corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the Corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the Corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (e)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the Corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the Corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the Corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the Corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the Corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

"(3)(A) The Corporation shall make each report under this subsection available to the public at the principal and regional offices of the Corporation.

"(B) Before making a report under this subsection available to the public, the Corporation may exclude from the report information that the Secretary has determined is proprietary information under section 136 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. ".

(t) HOUSING ADVISORY COUNCIL.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (f) (as added by subsection (s) of this section) the following new subsection:

"(g)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation shall appoint an Affordable Housing Advisory Council to advise the Corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.".

SEC. 403. IMPLEMENTATION.

(a) IN GENERAL.—The Secretary of Housing and Urban Development and the Director, as appropriate, shall issue any final regulations necessary to implement the amendments made by this title not later than the expiration of the 18-month period beginning on the date of the enactment of this Act.

(b) NOTICE AND COMMENT.—The regulations under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

TITLE V—REGULATION OF FEDERAL HOME LOAN BANK SYSTEM

SEC. 501. PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR FEDERAL HOUSING FINANCE BOARD.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

"(3) DUTIES.—

"(A) SAFETY AND SOUNDNESS.—The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

"(B) OTHER DUTIES.—To the extent consistent with subparagraph (A), the duties of the Board shall also be—

"(i) to supervise the Federal Home Loan Banks;

"(ii) to ensure that the Federal Home Loan Banks carry out their housing finance mission; and

"(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.".

SEC. 502. FULL-TIME STATUS OF FEDERAL HOUSING FINANCE BOARD MEMBERS.

Section 2A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) BOARD STATUS.—All directors appointed pursuant to paragraph (1)(B) shall serve on a full-time basis beginning on January 1, 1994.".

SEC. 503. ADVANCES UNDER FEDERAL HOME LOAN BANK ACT.

(a) ADVANCES TO NONQUALIFIED THRIFT LENDER MEMBERS.—Section 10(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(2)) is amended by striking the second sentence and inserting the following new sentence: "The aggregate amount of the advances by the Federal Home Loan Bank System to members that are not qualified thrift lenders shall not exceed 30 percent of the total advances of the Federal Home Loan Bank System.".

(b) EXCEPTION TO REQUIREMENTS FOR ADVANCES.—Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in the first sentence, by inserting before "Each" the following new subsection designation and heading: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION.—An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, need not be collateralized by a mortgage insured under title II of the National Housing Act or otherwise, if—

"(1) such advance otherwise meets the requirements of this subsection; and

"(2) such advance meets the requirements of section 10(a) of this Act, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.".

SEC. 504. STUDIES REGARDING FEDERAL HOME LOAN BANK SYSTEM.

(a) IN GENERAL.—The Federal Housing Finance Board, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each conduct a study analyzing and making appropriate recommendations with respect to the following topics:

(1) The appropriate capital standards for the Federal Home Loan Bank System.

(2) The relationship between the capital standards for the Federal Home Loan Bank System and the capital standards under this Act for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(3) The relationship between the capital standards for federally insured depository institutions and the capital standards under this Act for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(4) The advantages and disadvantages of expanding credit products and services for member institutions of the Federal Home Loan Bank System, including a determination of the feasibility of Federal Home Loan Banks (A) purchasing housing-related assets from member institutions, (B) providing credit enhancements and other products to members in addition to making advances, and (C) making direct loans for housing construction.

(5) The advantages and disadvantages of expanding eligible collateral for advances to member institutions of the Federal Home Loan Bank System by removing the limits on the amount of housing-related assets that member institutions can use to collateralize advances.

(6) The advantages and disadvantages of further measures to expand the role of the Federal Home Loan Bank System as a support mechanism for community-based lenders and to reinforce the overall role of the System in housing finance.

(7) The advantages and disadvantages of measures to increase membership in, and increase the profitability of, the System by modifying—

(A) restrictions on membership and stock purchases of nonqualified thrift lenders;

(B) the overall advance limit imposed on the Federal Home Loan Bank System to nonqualified thrift lenders; and

(C) the membership requirement for qualified thrift lenders.

(8) The competitive effect of the mortgage activities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation on the home mortgage activities of federally insured depository institutions and the cost of such activities to such institutions, the Savings Association Insurance Fund, and the Resolution Trust Corporation.

(9) The likelihood that the Federal Home Loan Banks will be able to continue to pay the amounts required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(10) The extent to which a reduction in the number of Federal Home Loan Banks would reduce noninterest costs of the System.

(11) The impact that a reduction in the number of Federal Home Loan Banks would have on the effectiveness of affordable housing programs and community support programs under the Federal Home Loan Bank System.

(12) The impact that a reduction in the number of Federal Home Loan Banks would have on the availability of affordable housing in rural areas and the ability of small rural financial institutions to provide housing financing.

(13) The current and prospective impact of the Federal Home Loan Bank System on—

(A) the availability and affordability of housing for low- and moderate-income households; and

(B) the relative availability of housing credit across geographic areas, with particular regard to differences depending on whether properties are inside or outside of central cities.

(14) The appropriateness of extending to the Federal Home Loan Bank System the public purposes and housing goals established for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under this Act, the Federal National Mortgage Association Charter Act, and the Federal Home Loan Mortgage Corporation Act.

(b) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Federal Housing Finance Board, the Comptroller General, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the studies required under subsection (a) containing any recommendations for legislative action based on the results of the studies.

(c) COMMENTS.—The Secretary of the Treasury, the Director of the Office of Federal Housing Enterprise Oversight, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any recommendations and opinions regarding the studies under subsection (a), to the extent that the recommendations and views of such officers and entities differ from the recommendations and opinions of the Federal Housing Finance Board, the Comptroller General, the Director of Congressional Budget Office, and the Secretary of Housing and Urban Development.

(d) DEFINITION.—For purposes of this section, the term "housing-related assets" means residential mortgages, residential mortgage-related securities, loans or loan participations secured by residential real estate, housing production loans, and warehouse lines of credit for residential mortgage banking activities.

SEC. 505. REPORT OF FEDERAL HOME LOAN BANK MEMBERS.

(a) IN GENERAL.—The Federal Home Loan Banks shall establish a committee to be known as the Study Committee. The Study Committee shall be comprised of 24 members, of whom 2 shall be elected by the Board of Directors of each Federal Home Loan Bank from among officers or directors of stockholder institutions of the Federal Home Loan Bank. Each Federal Home Loan Bank shall elect members to the Study Committee not later than 45 days after the date of the enactment of this Act.

(b) STUDY AND REPORT.—The Study Committee referred to in subsection (a) shall conduct a study on the topics referred to in section 504(a) and on the costs and benefits of consolidation of the Federal Home Loan Bank System. Not later than 6 months after the date of the enactment of this Act, the Study Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Federal Housing Finance Board, and the presidents of the Federal Home Loan Banks on its findings, including any recommendations for legislative or administrative action, together with any minority views or recommendations.

SEC. 506. REPORTS REGARDING CONSOLIDATION OF FEDERAL HOME LOAN BANK SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report of the directors' evaluation of the costs and benefits of consolidating the Federal Home Loan Bank System.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here today to consider H.R. 6094, the Federal Housing Enterprise Financial Safety and Soundness Act of 1992. As you will recall, the directive for requiring improvements in the regulatory and safety and soundness provisions of the GSE's was imposed on us by the Omnibus Reconciliation Act of 1990. The bill contains an amendment of a technical nature to correct a date which was incorrectly cited in H.R. 6094.

I would like to acknowledge the contribution that my colleagues, CHALMERS WYLIE, the ranking minority member on the full committee, and MARGE ROUKEMA, the ranking minority member on the subcommittee, made to our original bill and to crafting the compromise bill before us.

This is a compromise bill based on the House and Senate passed GSE bills, H.R. 2900 and S. 2733. H.R. 2900 was passed by the House in September 25, 1991 by a vote of 412–8. The bill strengthened the regulatory structure for the housing related Government Sponsored Enterprise [GSE's], more commonly known as the Federal National Mortgage Association [Fannie Mae], the Federal Home Loan Mortgage Corporation [Freddie Mac], collectively, the enterprises, and the Federal Home Loan Banks, the banks. These GSE's are entities which have been established and chartered by the Federal Government to perform specific credit functions, but are now entirely privately owned. These enterprises serve as financial intermediaries to facilitate the flow of credit to private borrowers.

The Senate passed a similar bill, S. 2733, by a vote of 77–19 on July 1, 1992. This bill contained provisions relating to the GSE's and other controversial provisions unrelated to the regulations of Fannie Mae, Freddie Mac, and the banks. Because of some technical problems in manner in which the Senate bill was considered and passed, we were unable to undertake the normal conference process. However, in lieu of a formal conference, the House and Senate have worked together informally to reach a compromise between the House bill and these portions of the Senate bill relating to GSE's. I want to note here that we worked closely with the Department of Treasury which as you know from Secretary Brady's letter supports this bill. H.R. 6094 is the result of those discussions. This bill contains none of the extraneous provisions from S. 2733.

The most significant differences between the two bills were in the structure of the regulator for Fannie Mae and Freddie Mac, the interest rate component of the risk-based capital test and affordable housing requirements.

The compromise bill adopts the House provisions on the regulatory structure by placing safety and soundness regulation in the Office of Federal Housing Enterprise Oversight, which will be created within the Department of Housing and Urban Affairs. This Office will be responsible for the establishment and enforcement of capital standards for the enterprises and other matters relating to safety and soundness as well as the enforcement of prohibitions against excessive compensation. The Office will be headed by a Direction that will be appointed by the President and confirmed by the Senate. The Office and the Director will not be subject to the control and director of the Secretary with respect to the operations of the Office and any decisions regarding capital standards, compliance, and enforcement. The Director has exclusive authority in these areas.

The Secretary of the Department of Housing and Urban Development will continue to be responsible for general regulatory oversight of the enterprises, including the enforcement of the enterprises low and moderate income housing responsibilities. The Senate bill had placed all responsibility for the enterprises in the Office.

Both bills had provided for three capital standards for Fannie Mae and Freddie Mac; they are risk-based capital, minimum capital and critical capital. The major difference between the bills was in the parameters and assumptions for the interest rate component of the risk based capital test. The compromise bill adopts the Senate parameters for the interest risk test which in turn had built on and strengthened the original House test. The interest rate test in the compromise bill will require that the enterprises be capitalized against the most extreme interest rate movements experienced to date.

Both bills also contained provisions requiring the enterprises to expand their commitment to moderate and low income housing. The compromise bill adopts the more expansive Senate provision which requires the Secretary of HUD to set specific goals for the enterprises in three areas: moderate and low income housing, central cities, rural areas and underserved areas and a special affordable housing goal to address the needs of low- and very low-income persons.

I am especially pleased with these provisions. For the first time, the obligations of Fannie Mae and Freddie Mac with respect to low and moderate housing and underserved areas are defined in law. These entities have an obligation to serve all aspects of the housing market and to use their considerable expertise to develop new approaches to assuring that mortgage credit is available to all geographic areas and to persons at all levels of income. In this bill the Secretary is required to set three housing goals for the enterprises—a moderate- and low-income goal, a special affordable housing goal, and a central cities, rural areas and underserved areas goal. The Secretary is expected to develop subgoals within the moderate and low income goals and the central cities goal to ensure that the mortgage purchases of the enterprises address the housing needs of all persons, both owners and renters, and all areas, including rural areas.

In establishing the definition of a central city and in determining compliance with such a goal, the Secretary should to the extent possible exclude purchases made in non-low-income census tracks that happen to otherwise be within the central cities area. Further, in determining the amount of multifamily purchases for purposes of establishing and determining compliance with the goals, the Secretary should take into consideration the number of units in such projects. However, under both the low and moderate goal and the special affordable housing goal, the Secretary such consideration should be limited to those units that actually meet the requirements of the goal.

These goals can be enforced through cease and desist orders and civil money penalties. While I have every reason to believe that the enterprises are prepared to comply fully with the affordable housing provisions, the Secretary should not hesitate to use the enforcement powers should the enterprises willfully fail to comply with these goals and with the reporting requirements.

The bill also defines the prior approval authority of the Secretary. This authority is confined to the approval of new programs. A new program is a broad and general plan or course of action for purchasing or dealing in mortgages that is significantly different from activities previously approved or engaged in prior to enactment of this bill. Once a program is approved, Fannie Mae and Freddie Mac are expected and encouraged to develop a range of specific products under the umbrella of the new program. The Secretary's prior approval authority does not extend to the introduction of new products under an approved program. I am concerned that any attempt to impose prior approval authority on individual mortgage products will interfere with the efforts of Fannie Mae and Freddie Mac to be innovative in developing new products.

The Secretary must approve a new program unless such program is not one in which the enterprise is authorized to engage under its charter or unless the new program is not in the public interest. The public interest test should not be used routinely to deny the new programs. The test should be used only in extreme circumstances where there is an immediate threat to the cost or availability of mortgages to the consumer by the action of the enterprises or because the new program would have extremely adverse effects on another GSE. It should not be used to deny a new program because there are others doing business in the area covered by the program. With the delegation of safety and soundness regulation to the Director, consideration of the financial aspects and effects of a proposed new program are similarly outside the scope of the Secretary's authority.

The compromise bill also contains all provisions from both bills regarding the banks. Further, H.R. 6094 contains none of the extraneous Senate matters.

This bill is supported by the administration and at the outset I would like to acknowledge the contribution that my colleagues MARGE ROUKEMA, the ranking minority member on the subcommittee, and CHALMERS WYLIE, the ranking minority member on the full committee, made to this bill.

I urge adoption of this legislation.

□ 2030

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just begin by complimenting the distinguished chairman who has led this great effort and other Members who are present who played such a critical role, particularly the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Kentucky [Mr. HUBBARD], and also say that the distinguished chairman has outlined this bill quite validly and has pointed out that the administration strongly supports this legislation.

Indeed, I am in a little bit of an awkward position as one of the few skeptics on my side of the aisle to be the only Member here to discuss it, so I think the membership ought to understand that the vast majority of Republicans on the committee of jurisdiction support the legislation, as does the administration.

Having said that, I do remain a dissenter, mostly because in effect we are doing something we have never done before in a congressional kind of way. We are legislating ceilings on prudential standards, rather than floors.

We are also placing in the statute certain things that I consider to be a bit hamstringing as far as prudent regulation is concerned.

I am pleased, as the chairman has noted, that the affordable housing section of this bill implies a stronger requirement on Fannie Mae and Freddie Mac, but I would stress to this body that the community reinvestment standards that apply to commercial banks and savings and loans are sterner than the standards that will apply to the GSE's, and that implies as the GSE's take a large and larger market share that those areas of finance that rely on community reinvestment will have a smaller and smaller chunk of investment resources apply to them.

Finally, and let me just stress this, that this bill represents a very decent effort. It is a very strong improvement over what the House passed earlier. It is reform legislation in some respects, but I think this body must understand that while the GSE's have a very special mission, they are not the only institutions in America that have this mission. Savings and loans, community banks, have a mission of serving housing needs. In fulfilling that mission, they have to pay certain private sector rates for money. They have to pay certain insurance rates. They have to pay State and local taxes.

The GSE's get a governmental subsidy which Treasury estimates at $2 to $4 billion a year. They are exempt from State and local taxation.

It is not as if no other entities can do what they are doing. Investment banks, larger money center banks can and could do the same thing, but they are at a competitive disadvantage from doing so.

So we are making a taxpayer choice about subsidizing two institutions.

What is remarkable that has occurred in the last decade is that these institutions have become privatized so that even though they have the word Federal in their name and the implication of government, they are stockholding institutions in which the benefits accrue to the few.

In addition, I think this body should be made aware of the fact that these institutions have done a rather remarkable job in providing liquidity to the housing market, particularly in the last 3 or 4 years. But in contrast with their history are in the process of transformation, Fannie Mae in particular. Increasingly they are going to be competing directly with institutions that heretofore they have largely serviced.

So as we look at this legislation, it is my view that in the years ahead it is ripe for review, not only on safety and soundness grounds, but on the question whether this body wants to sanction what in fact is a duopoly of effort in institutions that are specifically subsidized for a specific mission that others also could serve.

Now, having said that, I would like to stress in the strongest way I can that I think that the committees of jurisdiction have really done a very remarkable job in improving legislation that was originally brought to the Congress, and I respect very much those on the other side of this question.

Mr. Speaker, I rise in reluctant opposition to this bill. There is no doubt the bill is a vast improvement over what passed the House earlier this Congress. There is also no doubt that reform legislation is needed. My dissent is therefore not based on the assumption Congress is moving in the wrong direction, but on the belief that we are not moving forward fast enough and on the apprehension that we will be placing with this statute road blocks in the path of future more comprehensive reform.

The need for reform legislation is self-evident. Fannie and Freddie have almost $1 trillion in obligations and guarantees outstanding. Because of their statutory charters, their Federal lines of credits, their exemptions from State and local taxation and the fact that their securities are treated like U.S. treasury bonds, investors assume that these two institutions are backed by the U.S. taxpayer. This market perception has helped them to become the most leveraged institutions on the financial landscape with a capitalization ratio in the 1 percent range.

As history has shown us with the Farm Credit System, if Fannie or Freddie were to fail, it would not simply be the creditors of or investors in these entities who would lose, but the U.S. taxpayer. Hence, a responsible regulatory framework is needed to ensure that these entities, which are in existence only by legislative fiat, do not become wards of the taxpayer.

This bill provides certain taxpayer protections. But they are not as impressive as descriptions provided heretofore might imply. Proponents of this legislation tout that an arms-length regulator is created to ensure safety and soundness. However, Fannie and Freddie ensured that statutory language was included to tie the hands of the regulator. Instead of giving the regulator discretion to decide the appropriate capital levels, they instead are codified: 2.5 percent for mortgages held in portfolio and .45 percent for guarantees of mortgage-backed securities. The regulator cannot increase them.

For the first time I know of Congress is establishing a ceiling rather than a floor for financial institution standards. This is not only imprudential but it allows two institutions, and only two, to have lower capital standards for comparable assets held by their competitors.

Differential regulation has the effect of propelling growth in institutions subject to weaker standards. Hence, GSE's skew the financial landscape, for the benefit of their shareholders, to the detriment of competitors who lack similar advantages and the taxpayer who is liable for potential losses, not only of the GSE's but of community institutions with which they unfairly compete.

The risk-based capital standard included in this legislation, while touted as toughening, is virtually identical to the stress test these entities are currently using to maximize their return to their shareholders. The regulator has little, if any, discretion, to change this formula to address new risks or changing economic situations. As a Fannie Mae spokesman admitted in Friday's Wall Street Journal, "In a nutshell, it [the bill] has language that prevents the regulator from having open-ended regulation of Fannie Mae's risk-based capital standards."

Codifying maximum capital standards and tying the hands of the regulator is bad precedent and bad legislation.

In addition, it is noteworthy—if one's into gall—that at the insistence of these two enterprises, this bill prescribes rigidly narrow tests for the regulator to apply in calculating risk-based capital requirements. The formula for calculating these risks is explicitly detailed, thus prohibiting a regulator from looking at broader risks that might exist in current activities or greater risks in new activities.

The financial markets are rapidly changing, bringing new risks and challenges for financial institutions. While it is appropriate for Congress to set minimum capital standards and to point to risks regulators should take into consideration, it is a naively inappropriate precedent for Congress to mandate caps on capital ratios which may be fitting for one time period and not another and to limit regulatory discretion in such a way as to bind statutorily the hands of the regulators who after all in this instance are taxpayer defenders.

In addition, as a barometer of its influence, Fannie Mae was successful in adding a provision to the bill which would require that the cost of regulating GSE's would be subject to yearly appropriations, thereby allowing Fannie and Freddie a chance to hamstring the regulator by influencing future appropriations processes.

Fannie argues that the imposition of higher capital standards increases the cost of home ownership. This is a company which made over $1 billion the last 2 years and is expected to make substantially higher profits this year. Its shareholders earn 25–30 percent return on their investments. The retiring CEO was gifted approximately $30 million last year out of profits earned as the dominant partner of a governmentally licensed duopoly. Let's be frank, a requirement of higher capital standards does not necessarily mean higher mortgage interest rates; in fact, lower reliance on deposits (i.e. purchased money) means the total cost of funds is lower with the prospect that interest rates could in some circumstances actually be lower.

There is little doubt that in the past decade, particularly the last few years, Fannie Mae and Freddie Mac have played a useful role in making the home lending market more liquid. Given, however, the fast changing nature of the financial market, the future may not mirror the past. In fact, the very success of Fannie and Freddie put their competitors and thus the taxpayers at risk. As traditional thrifts lose market share because of the legislated ability of Fannie and Freddie to take advantage of higher leveraging ratios, lower taxes, and lower costs of funds due to implicit Federal guarantees, S&L liabilities increase. The multibillion dollar cost of the S&L bail-out could precipitously increase if thrifts aren't allowed to compete equitably in the one market they were created to serve.

And, as a footnote, it might be noted that if Fannie and Freddie weren't exempt from payment of State taxes, the District of Columbia would not be forced to turn to the national taxpayer to bring its budget into balance. It is one thing to exempt U.S. Government buildings from State property taxes and quite another to legislate that Fannie's and Freddie's stockholders have a free ride on State income taxes.

The privatization of profit coupled with the socialization of cost and risk of Fannie and Freddie underscore that what is at issue in the legislation before Congress is not only the safety and soundness of GSE's but competitive fairness and the safety and soundness of depository institutions which become financially jeopardized because of the legal privileges provided GSE's.

The judgmental question Congress must therefore face in the 1990's is whether to maintain the legal status quo and competitive advantages of Fannie and Freddie or spin off the agencies to the private sector as was the explicit intent of the Government agents who created Freddie.

Unfortunately, it is clear that this legislation will accelerate the nationalization of the home mortgage and related markets. The Treasury has estimated that statutorily provided perks amount to $2 to $4 billion in annual subsidies to Fannie and Freddie. It is a myth that Fannie and Freddie have a special mission that others can't or don't perform. Traditional savings and loans and community banks, for example, also are dedicated to home financing, but are obligated, unlike the GSE's, to pay State income taxes, pay premiums for Federal deposit insurance, and in addition are subject to more stringent capital and community reinvestment standards. Larger money center banks and investment banks can securitize mortgages just as the two GSEs: They simply lack access to governmentally assured lower cost funds.

If considered final Congressional consideration of GSE regulation for the coming decade, the danger is real that the duopoly of power Fannie and Freddie have developed in the secondary financing market at the beginning of this decade will become a duopoly of direct mortgage holding by the beginning of the next. These two institutions are in the process of role change, from primarily servicing local institutions to competing against them, from being agencies of the public at large to money machines for the stockholding few.

In short, under the legislative approach being proffered here home lending decisions will increasingly be made by inside-the-beltway executives in Washington, DC instead of Main street bankers. New undefined markets will be broached by two publicly subsidized institutions with no defined public needs test applied.

The market system is being turned topsy-turvy by legislators.

At the least, the Government ought no longer subsidize GSE efforts. At the least, Fannie Mae and Freddie Mac ought to be subject to comparable regulation and capital standards of the institutions with which they compete.

This bill doesn't meet the tests of common sense or fair play.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from Iowa, and let me assure the gentleman that I share his concern.

Of course, we have an area here that probably always will be in controversy about the imputed subsidy and privatization.

I will remind the gentleman that in 1981, the first year-and-a-half of President Reagan's regime, there was a definite strong movement to completely privatize in that season. That was another story, but I think I could not be strong enough in stating that I agree with the gentleman, that I look forward to continuing our oversight in which he has been most diligent in order to fully describe and define these imputed subsidy ranges, and also above all, the safety and soundness in protecting any possibility of exposure to the taxpayer in case of future disequilibriums in our economy.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK] for the purpose of a colloquy.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding this time to me.

If I could just preliminarily point out, there is in this bill a set of requirements regarding affordable housing that will apply to Fannie Mae and Freddie Mac that will apply to none of these competing institutions, so we do have some recognition of the need for public purpose.

With that, I would like to ask the chairman about the authority the Director of the GSE Oversight Office has to take actions that are outside the scope of the specific responsibilities set forth in titles II and III concerning capital enforcement.

It is my understanding that the bill contains all the Director's authorities and those that are not specified are not meant to be implied.

For example, the test of title I, particularly section 103(a) regarding the Director's duty to ensure that the enterprises are operating safely and with adequate capital "in accordance with this Act."

I understand that to grant the Director the authority to set and enforce maximum capital levels within the designated risk-base formula, pursuant to section 201 and to implement and to enforce 202 and 203, the minimum critical capital sections only.

□ 2040

Mr. GONZALEZ. The gentleman from Massachusetts is correct. Let me say with respect to his question about section 103(a) and 103(b), that 103(a) in general terms, specifies or rather sets forth the specific authorities in section 103; but these are not be construed, as you well point out, as additional grants of authority even indirectly.

In particular, although the statute does not expressly prohibit the Director from establishing higher or different formulas for critical, minimum and risk-based capital, the intent is that the statutory formula define the outer boundaries of regulatory authority.

Unlike the situation in banking law, in this bill the Congress crafted a very complex and sophisticated measure of appropriate capital after almost 3 years of debate. We are not, in section 102, delegating the power to revisit the decisions we made to the Director. We built into the framework a requirement that the enterprises must at all times meet all the standards, including a very tough stress test.

The Director also has substantial authority under titles II and III to make capital reclassifications and take enforcement actions if the enterprises are not operating in a financially sound manner.

If the Director at any future time believes there should be an increase in the minimum or critical ratios, or in any respect in the statutory formula for risk-based capital, that recommendation must be brought to the Congress for our decision.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the chairman.

Mr. LEACH. Mr. Speaker, will the gentleman yield on that point?

Mr. GONZALEZ. Mr. Speaker, I am happy to yield to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. I think the intent of the colloquy was to put the Director's powers in as narrow a way as possible. It strikes me that there may be sections of the bill that do not exactly apply to the Director that may have implications for safety and soundness and that it would be my thought that the Director would have certain discretion if indirectly or directly safety and soundness issues are raised.

Now, I know this is a bit controversial; but it is my understanding that the draft of the bill as presented to the Congress has a bit of an anomaly on this precept. It would be my personal opinion that the Director of the office should have as much discretion as possible if safety and soundness is at stake.

I think here the gentleman from Massachusetts [Mr. FRANK] and I probably would have a bit of a difference of opinion; but I would just like the record to be clear that there is not unanimity on restricting the Director of the office and that it would be the view of this Member that, to the degree there is any anomaly in the statute, the Director shall be governed by any concerns for safety and soundness.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I will be glad to yield to the gentleman.

Mr. FRANK of Massachusetts. Mr. Speaker, the point I would make, the gentleman from Iowa [Mr. LEACH] said before that we were acting differently here because we were mandating ceilings. I don't know quite what the gentleman meant by that. Certainly nothing in here is meant to be a maximum binding on any of these institutions.

Mr. Speaker, what we are mandating—if by ceiling he means that is a high as we will require by Government activity—that is also true with the banking area. That is we say we insist that you have this much at least. Institutions can have more. Some banks have more. The GSE's could have more. I understand in cases they have said they will.

Mr. LEACH. Mr. Speaker, will the gentleman yield on that point?

Mr. FRANK of Massachusetts. I will yield to the gentleman.

Mr. LEACH. Mr. Speaker, I certainly appreciate what the gentleman is saying. Is it the gentleman's interpretation of the statute that when the reference to 2.5 percent capital, for example, on held assets is made, that that is a minimum requirement that regulators may request be raised with the authority of this statute? Is that the gentleman's understanding?

Mr. FRANK of Massachusetts. No. What I said was, as in the banking area, we tell them from the Government's standpoint, "You have to have this much." If they want to have more, they can have more.

Mr. Speaker, I would like to respond. When the gentleman suggests it is a ceiling on capital, normally people listening think they cannot have any more than that. It is not a ceiling of what they can have if they find that to be prudent.

Mr. LEACH. Mr. Speaker, will the gentleman yield on that point?

I think the gentleman from Massachusetts [Mr. FRANK] has revealed a difference that is very profound here. Of course, the gentleman is suggesting the institutions at their discretion could have more. I am suggesting that this statute, as I read it, proscribes the right of regulators to insist that they have more.

Now if the gentleman is suggesting that regulators may insist that that is an interpretation I would like to see in this statute, I would fully concur.

Mr. FRANK of Massachusetts. I understand the gentleman would like to see a number of things in the statute that are not in the statute. I appreciate the statement of the gentleman that he dissented from the bill. When we are interpreting the bill, I think we ought to be clear, generally it is the case when somebody votes against it, it is not surprising he does not like some of the things in it.

Mr. Speaker, what I am saying is we have in this bill the authority in the Director to give standards that we think will be adequate. This is an important separation-of-powers point here. The Director has considerable discretion under the bill. But at some point if the Director thinks the scheme is not enough, he comes back and asks for changes just as other regulators do.

Mr. GONZALEZ. Mr. Speaker, I will reclaim time here.

Mr. Speaker, I think it is important to point out, going to section 103, Ms. Fisher, the counsel, has just pointed out the proper thing which I think in answer to the gentleman's question—contrary to the impression the gentleman may have—does authorize and grant this authority.

I will quote from the section. On page 14, section 103, "Duty and Authority of the Director."

On page 15, subsection 5, "The duty of the Director shall be to ensure that the enterprises are adequately capitalized and operating safely in accordance with the act."

On subsection 5, "Administrative and enforcement actions," under title II, "Actions taken under title III with respect to the enforcement of title II and other matters relating to safety and soundness."

Mr. LEACH. Mr. Speaker, will the gentleman yield?

I appreciate the gentleman raising this point. I fully share with you the interpretation that would imply that the Director could go above the 2.5-percent requirement that is currently in statute; and for me, if that is the case, then that dramatically improves this bill.

Mr. Speaker, I appreciate the interpretation.

Mr. GONZALEZ. Mr. Speaker, I think the difference here is that what the gentleman from Iowa [Mr. LEACH] is really talking about is a floor, not a ceiling.

Mr. FRANK of Massachusetts. Mr. Speaker, may I say this is nothing unique. This is the point I want to stress again. In every statute we have we give the regulators certain authority and certain discretion. But after a certain point, if a regulator does not like the situation, he may come back and ask for more.

I would stress again it is clear the gentleman from Iowa does not like the statute. I understand that. The gentleman has been very explicit about that. It does not include everything the gentleman wants. That is very clear.

It is, I think, as drafted, a statute that gives the Director ample authority to protect against a situation which does not yet come close to arising, and it is only saying that at some point the Director may feel this is not enough; but he does not or she does not then, on his or her own, simply go forward. They can come back and say the statute needs amending.

Mr. GONZALEZ. Mr. Speaker, I yield to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, as we know in this debate, Fannie Mae and Freddie Mac have a lot of power. They have $900 billion, $900 billion in securities issued and outstanding. That amount has doubled in the past 4 years.

These carry an implicit Federal guarantee, although there is no legal obligation of the Federal Government attached to these securities. Thus, we must assure both GSE's are operating on a safe and prudent basis.

I would like to ask our distinguished chairman who has worked so hard on this legislation—which I supported when it passed the House 412 to 8—does in fact this legislation treat Fannie Mae and Freddie Mac the same?

Mr. GONZALEZ. Mr. Speaker, it does. I want to assure the gentleman that both entities are treated the same.

Mr. HUBBARD. Mr. Speaker, there are those who are concerned about this legislation, as it is now coming to us from the compromise, a conference report from the Senate and the House.

Does the Senate version of the GSE legislation impose more stringent requirements than those adopted by the House?

Mr. GONZALEZ. Mr. Speaker, the version we have now which is a compromise is a standard that is slightly higher than that which we approved in the House, but considerably lower from that which the Senate passed out in its GSE bill.

Mr. HUBBARD. Mr. Speaker, unlike the private sector, as we know Fannie Mae and Freddie Mac are already exempt from State and local taxation. They are exempt from Securities and Exchange Commission registration requirements. They have a line of credit from the Treasury of $2.25 billion.

Now, with these advantages already that Freddie Mac and Fannie Mae have over the private sector, my question is, if we passed this legislation now, are we providing Fannie Mae and Freddie Mac with still more advantages over the private sector?

Mr. GONZALEZ. Mr. Speaker, I would say that the answer is negative, not any more than what, perhaps, the case is now; but what it does do is provide additional responsibilities to Fannie Mae and Freddie Mac in the case of affordable housing, et cetera, thanks to Mr. FRANK's amendment.

Mr. FRANK is the one who devised and labored very long; and that does set aside a considerable amount of their assets for that purpose.

Mr. HUBBARD. Mr. Speaker, does the compromise between the Senate and the House have the Senate's risk-based capital test?

Mr. GONZALEZ. Mr. Speaker, I think there may be a modicum of difference; but what we have here is essentially the same as the Senate.

Mr. HUBBARD. Mr. Speaker, my last question would be, what would the distinguished chairman say to the argument that GSE regulation is too important and this matter of appropriate capital level too critical for us to take this up at this time without further study?

Mr. GONZALEZ. Mr. Speaker, the gentleman will recall that we passed this bill, which is essentially what we have here now, over a year ago; and it was not until recently that the Senate finally acted and passed out theirs; but it had such an involved and such a difficult method that involved intricacies that prohibited the Senate from doing a parliamentary procedure that would have led to an early formulation of a conference.

This is our effort to break through that; but actually, we had considerable hearings. This is really the distilled net result of what we deliberated in the full committee and in the full House which passed it overwhelmingly. So it is not any late-night consideration of anything that would be in any manner, shape, or form in substance any different.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas [Mr. PICKLE], one of the most distinguished Members of this body, one the minority holds in the highest possible regard.

Mr. PICKLE. Mr. Speaker, I wish to join in this colloquy first by thanking Chairman GONZALEZ for the work he has done on this. I wish to present to this body some of the viewpoints from the Committee on Ways and Means because we are concerned about the indebtedness of the Federal Government.

Mr. Speaker, 3 years ago, in the wake of the savings and loan disaster, Mr. GRADISON and I began to critically examine the risk that Government-sponsored enterprises represent to the taxpayer. We quickly realized that Fannie Mae and Freddie Mac and GSE's, with outstanding obligations in excess of $1 trillion, are almost completely unregulated. Further, they are not subject to any meaningful minimum capital standard.

Mr. GRADISON and I were appalled at this lack of Federal supervision. Pursuant to our committee's efforts, the Treasury, GAO, CBO, OMB, and others carried out a series of GSE studies. Every one of these studies detailed the need to better ensure the safety and soundness of GSE's. Based on the concerns described in these studies, Congress, in the Omnibus Budget Reconciliation Act of 1990, called upon the committees of jurisdiction to report legislation to improve the regulation of GSE's. And so here we are today.

As we all know, Fannie Mae and Freddie Mac have fought tooth and nail against nearly every study and every meaningful reform. They do not wish to be held accountable for anything beyond their bottom line. As a result, the bill before us is extremely modest. The risk-based capital standards are so low that Fannie and Freddie already meet them with just 1.06- and 0.8-percent capital levels respectively. They will be allowed to continue to be among the most thinly capitalized major financial institutions in the world.

In addition, the regulator created in this bill is still too weak. The bill does not give this regulator either the independence or the authority to control unduly risky GSE activities. Left exposed to pressure from the GSE's, the administration, and the appropriations process, this regulator will, I am afraid, inevitably become a captive of the GSE's themselves.

Mr. Speaker, we should have done better. We have, once again, left the public purse exposed to the risks of private greed and corporate misjudgment. But, as little progress as this is, it is something. It is a step forward. And for that I compliment Chairman GONZALEZ, Mr. WYLIE, Mr. LEACH, and other Members; I know the pressures that have been brought to bear on the members and staff of the Banking Committees. I have watched strong voices in the administration turn silent. I deeply wish we could go further. But, in the face of this enormous pressure by the GSE's, I am not at all sure that we can do better at this time, in this House.

So, today, the GSE's will celebrate their victory. Private fortunes will continue to be made by trading on the implicit Federal guarantee these GSE's enjoy. But, the struggle to hold GSE's accountable does not end here. In the fullness of time there will come a better day. I urge my colleagues to view this as a beginning, not an end, in the struggle to protect the taxpayer.

Mrs. KENNELLY. Mr. Speaker, I rise to express serious reservations about H.R. 6094.

The 1990 Treasury report made four basic recommendations to assure the safety and soundness of GSE's: First, adequate capitalization; second, a rating equivalent to triple A from at least two nationally recognized private credit rating agencies; third, a regulator different from the implementer of financial safety and soundness standards; and fourth, disclosure of the value of the Government's financial support.

My concern is that we appear to be virtually ignoring these recommendations. The bill before us today creates a regulator with little power and requires Fannie Mae and Freddie Mac to add little or nothing to their current capital levels. These entities represent a contingent liability to the taxpayers of the United States of almost $1 trillion and yet this bill would set the capitalization ratio at only 1.06 percent while well-run banks must have triple this amount.

The National Taxpayers Union tells us that the bill "will not adequately protect taxpayers from the possibilities of a financial meltdown." I agree.

Mr. Speaker, I oppose the bill. We ought to start over next year.

Mr. WYLIE. Mr. Speaker, I rise today in support of H.R. 6094, the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. As my colleagues know, the Federal National Mortgage Association [Fannie Mae] and the Federal Home Loan Mortgage Corporation [Freddie Mac] are two housing-related Government-sponsored enterprises [GSE's] that provide liquidity to the housing finance market by buying and securitizing residential mortgages. Although their obligations, which cumulatively total nearly $1 trillion, are not explicitly backed by the Federal Government, they are perceived in the marketplace as benefiting from an implicit guarantee.

To assure that no taxpayer bailout of Fannie Mae and Freddie Mac will ever be necessary, the Omnibus Budget Reconciliation Act of 1990 required the Banking Committee to report out legislation by September 15, 1991, to reform the regulatory structure and establish capital requirements for the two GSE's.

The Banking Committee not only fulfilled its obligation by reporting out H.R. 2900, the Government Sponsored Enterprises Financial Safety and Soundness Act of 1991, but the House on September 25, 1991, overwhelmingly passed the legislation 412 to 8.

The Senate's GSE bill, S. 2733, which was based on the House bill, passed on July 1, 1992. Unfortunately, certain procedural barriers were created in the Senate which prevented the appointment of conferees to reconcile the House and Senate bills. To obviate the need for a conference, House and Senate staff have worked since July to draft a compromise bill acceptable to both Houses.

In structure, H.R. 6094 is very similar to H.R. 2900. Like the original House bill, H.R. 6094: First, establishes the Office of Federal Housing Enterprise Oversight within the Department of Housing and Urban Development and defines the authority of its Director in relation to the HUD Secretary; second, establishes capital requirements and capital classifications; third, provides for enforcement procedures, including cease-and-desist orders and civil money penalties; fourth, makes changes to Fannie Mae's and Freddie Mac's charter acts, and fifth, amends the Federal Home Loan Bank Act. I want to assure my colleagues that H.R. 6094 is a clean GSE bill—it contains provisions relating only to Fannie Mae, Freddie Mac, and another housing-related GSE, the Federal Home Loan Bank System.

Without repeating all of the arguments I made last year in support of H.R. 2900, there are several important improvements in H.R. 6094 on which I would like to comment. First, the capital requirements in this bill are as stringent, if not more stringent, than the capital requirements originally included in H.R. 2900. Like H.R. 2900, H.R. 6094 includes critical and minimum capital tests to take into account the on- and off-balance sheet activities of the housing-related GSE's. Unlike H.R. 2900, however, H.R. 6094 requires Fannie Mae and Freddie Mac to hold capital against their commitments to purchase pools of mortgages or sell mortgage-backed securities. To take account of the credit and interest rate risks posed by fluctuating interest rates, H.R. 6094 includes a risk-based capital test like the one we included in H.R. 2900, but does not include the provision in H.R. 2900 which exempted from risk-based capital requirements mortgages purchased to satisfy low- and moderate-income housing requirements. The combination of the bill's three capital tests with its four enforcement levels; that is, adequately capitalized, undercapitalized, significantly undercapitalized, and critically undercapitalized, produces a stair step progression of regulatory powers that increases as a housing-related GSE's capital decreases.

Second, H.R. 6094 keeps the regulatory structure we included in H.R. 2900. The Director of the Office of Federal Housing Enterprise Oversight will have exclusive authority over matters relating to the GSE's safety and soundness. The Secretary of the Department of Housing and Urban Development, on the other hand, will have exclusive authority over matters relating to housing policy.

In addition, H.R. 6094 clarifies the Secretary's new program approval authority to provide that the Secretary shall approve a new program unless it is not authorized by the relevant charter act or not in the public interest. This is an important clarification since it ensures that the public interest will be protected should the GSE's want to introduce a new product or program significantly different from products or programs which they currently offer or are engaged. The bill's regulatory structure should provide adequate oversight and allow the housing-related GSE's to carry out their vital housing missions without being micromanaged.

Finally, H.R. 6094 provides for the establishment of affordable housing goals and interim subgoals for: First, low- and moderate income housing; second, special affordable housing; and third, central cities, rural areas, and other underserved areas. To enforce the housing plans of the housing-related GSE's, the Secretary is authorized to issue cease-and-desist orders and levy civil money penalties.

Because of H.R. 6094's strong capital requirements, regulatory structure, and affordable housing provisions, the administration strongly supports this bill and has stated:

> In short, this legislation is balanced, responsible, and prudent. It establishes a sound framework for safety and soundness oversight, yet prevents the Federal Government from micromanaging GSE business. It establishes meaningful goals for affordable housing for low- and moderate-income families. And it would greatly enhance the stability, affordability, and availability of housing finance well into the 21st century.

Before I close, I want to make special mention of several of my colleagues whose hard work has culminated in H.R. 6094. First, Banking Committee Chairman GONZALEZ deserves special mention for his tireless efforts in helping craft the original House bill and this compromise bill. Congressman LEACH, also on the Banking Committee, should be commended as well for his work on the original House bill's capital requirements and his continued interest in the capital requirements of the compromise bill.

Ways and Means Subcommittee Chairman J.J. PICKLE and Budget Committee ranking member BILL GRADISON also deserve special mention. Both were instrumental in authorizing the studies which led to the drafting of the original GSE bill, H.R. 2900. In addition, both played an important role in recent negotiations with the Appropriations Committee to regarding the initial assessment required to fund the Office of Federal Housing Enterprise Oversight within HUD. Their continued interest and assistance in ensuring the safety and soundness of the housing-related GSE's has been invaluable and I sincerely thank them for the efforts.

H.R. 6094 is needed legislation that has broad bipartisan support and I urge its passage.

Mr. VENTO. Mr. Speaker, over a year ago, the House overwhelmingly passed H.R. 2900, the Government-sponsoring Housing Enterprises Financial Safety and Soundness Act of 1991, by a vote of 412–8. The House-passed bill was a sound bill that I strongly supported.

The bill before us this evening is a compromise between H.R. 2900 and S. 2733, which passed the Senate by a wide margin in early July of this year. The bill establishes a permanent structure for arms-length regulator for the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation to ensure financial safety and soundness of this Government-chartered private corporation. It establishes strong capital standards reflecting minimum leverage ratios and a risk-based evaluation reflecting credit risk, interest rate risk, and management and operations risk of the enterprise during a 10-year stress test period.

H.R. 6094 creates this tough, dynamic risk-based capital standard that cover the corporations' risk explicitly. The bill sets specific limits of required capitalization so as to protect the public and the two corporations ability to constructively interface with the private marketplace. This is sophisticated risk-based capital standard could be considered an improvement on standards in banking laws and regulation in measuring risk and requiring capitalization for it. Some have argued this may result in an overzealous regulator who will require undue and inappropriate amounts of capital. Ironically, the flip side is a lax regulator who would do the opposite. The bill before us should eliminate these safety and soundness concerns for Congress while it assures us and the country that we will not jeopardize the vital flow of funds for housing that the GSE's provide.

In addition to modernizing the capitalization requirements and regulation of Fannie Mae and Freddie Mac, H.R. 6094 significantly enhances the corporations' statutory dedication to housing, particularly for those of low or moderate incomes and those who live in areas not particularly well served by the housing finance system. You might say that this is as important an urban aid package as the tax bill is, and it seems to be more likely to pass.

Current law is clear as to the responsibility of the corporations to serve the housing community at large through increased availability and affordability of housing finance and by enabling banks and others to provide consumers with kinds of loans, such as fixed-rate loans, they desire. However, the corporations' responsibility more particularly to serve families of very low, low, or moderate-income and those who live in traditionally underserved areas such as the central cities is not stated as comprehensively as is this bill.

Building on both what the corporations have been doing in recent years in this area and what was in the House bill, H.R. 6094 would establish annual goals for serving low- and moderate-income persons, central cities, and distressed areas. Part of the overall goal will be met by a specified dollar goal of $3.5 billion for the two corporations. The bill provides enforceable targets and goals for providing more innovative products for single and multifamily housing.

The bill also provides for obligations to collect data and make reports such that the extent of such service can be known and improved. Both Fannie Mae and Freddie Mac receive Government benefits in return for their obligation to housing; these provisions ensure that, as the corporations continue to serve the vast bulk of American home buyers who they have served so well in the past, they also continue to increase their efforts to serve others.

Mr. Speaker, these corporations are, in fact, the residential real estate secondary market in our Nation. They have been tremendously successful each day processing billions of dollars of paper, providing essential liquidity for financial institutions and a market instrument and standard for the specific residential real estate market that provides investor assurance and understanding. It would be difficult to overstate the importance of the residential secondary market and the necessity for the success of these two corporations in providing affordable options for home ownership throughout the country.

Mr. Speaker, this bill provides strong, defined capital standards and new housing goals for Fannie Mae and Freddie Mac. H.R. 6094 should enable the secondary mortgage markets to continue in their work for housing and should assure that the American taxpayer will not bear undue risk in the future.

Ms. OAKAR. Mr. Speaker, I rise in support of H.R. 6094, the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. This legislation represents a compromise between H.R. 2900, passed by the House in 1991 by a vote of 412–8 and S. 2733, which passed the Senate by a vote of 77–19 in July 1992. The bill would modernize the capitalization requirements and regulation of the Federal National Mortgage Association [Fannie Mae] and the Federal Home Loan Mortgage Corporation [Freddie Mac]. The bill would also significantly enhance these corporations' statutory dedication to housing, particularly for those of low- or moderate-incomes and those who live in areas not well served by the housing finance system.

In the wake of the S&L crisis, Congress became concerned that, while Fannie Mae and Freddie Mac were serving housing well, they might become a risk to the taxpayers. Following eight reports of five seperate Government agencies, it appears that Fannie Mae and Freddie Mac are in good condition. Each of the Government agencies reached the same conclusion: Fannie Mae and Freddie Mac are strong and pose no risk to the taxpayers.

Since the companies are safe and performing well, the situation calls for fine-turning, not complete revisions of the companies' charters. This bill achieves that balance. It creates a tough risk-based capital standard that covers all the corporations' risks, including credit risk, interest rate risk, and management and operations risk. The bill also creates a self-executing enforcement system with respect to capital.

Perhaps most importantly, the bill explicitly requires Fannie Mae and Freddie Mac to do 30 percent of their business for low- and moderate-income families and 30 percent of their business in central cities, rural, and other underserved areas. The bill establishes obligations to collect data and make reports such that the extent of this service can be known and improved. Both Fannie Mae and Freddie Mac receive Government benefits in return for their obligation to housing; these provisions ensure that, as the corporations continue to serve the bulk of American home buyers who they have served well in the past, they also continue to increase their efforts to serve others.

Mr. Speaker, I would also like to indicate that in the House report on the GSE bill passed last year, there is language that I drafted encouraging Fannie Mae and Freddie Mac to reflect the diversity of the population in their hiring practices. I also encourage both corporations to continue to be attentive to their policies on employment opportunities and affirmative action in hiring, promoting, and compensating minorities and women.

This bill is good for housing and good for the taxpayers.

Mr. GRADISON. Mr. Speaker, I oppose passage of this bill. I do so with regret and want to use this opportunity to reflect on the process that has brought us to this point.

When my friend JAKE PICKLE and I began to focus attention on the growing contingent liabilities posed to the Federal taxpayer by the GSE's, we knew these private interests would oppose us every step of the way. They did. The GSE's, and Fannie Mae in particular, benefit from a situation in which they enjoy all the benefits of a Government-granted monopoly and a free guarantee of all debt, but leave the taxpayer with most of the risk. They view any serious attempt to examine this risk as a threat to their privileged existence.

I think this is fundamentally unfair. It is unfair to every taxpayer in this country who might someday have to pick up the tab for mismanagement of one of these enterprises. It is unfair to every homeowner, every underwriter of a student loan, and every farmer who is prevented from receiving the benefit of competition for the purchase of his loan because the Government has in effect chosen one privileged supplier of credit and given it an overwhelming competitive advantage. Finally, it is unfair to every shareholder and employee of one of the many private financial firms who could and would compete aggressively with these GSE's if the Government allowed them to.

The bill before us is the product of 4 years worth of effort. Yet looking at it, and looking at the other GSE bills that preceded it, one would never know that this Government had lost $200 billion from backing the savings and loan industry and is in danger of losing billions more on the banks. There is no question in my mind that these GSE's are seriously undercapitalized. At best, this bill represents the bare minimum in adequate capitalization and oversight. It does not contain the enormous respect for capital and prudent business practices that Congress should have acquired from recent financial history.

Instead, this bill serves as a prime example of a private interest's ability to manipulate the political process in ways which ensure that its needs are placed above those of the general public. The bill bears the firm imprint of massive lobbying by both Fannie Mae and Freddie Mac. The most recent dispute is over funding for the regulator. The decision to make the regulator's funding subject to appropriation guarantees the GSE's yet another forum from which to argue positions which would increase their profit margin at the expense of the public good.

Mr. Speaker, my constituents are not concerned that Congress is not taking enough of their money. They wish Congress would take less and leave them alone. But they do expect that, whatever money Congress takes, it spends it wisely. They expect Congress to realize that whenever it takes action which might increase taxes, there is a large opportunity cost. This cost is borne by millions of taxpayers who suddenly have less money to spend on food, clothing, shelter, and health care for their families. In too many cases Congress treats this cost with disrespect. This cost does not bother the GSE's, but it does bother me.

The National Taxpayers Union has come out firmly against this bill. I wish to insert its letter opposing the bill in the RECORD at this point.

I do not view this process as completed. The committees of jurisdiction tell us this is the best they can do. They say there is no use coming back to them, because the GSE's will not accept anything tougher. Yet, I fully intend to pursue measures adequately to assure the safety and soundness of all GSE's or to privatize them so that the Government guarantee no longer exists, so that other firms, which may be willing to offer a better service for a lower price, are allowed to compete.

NATIONAL TAXPAYERS UNION,
Washington, DC, October 2, 1992.

DEAR REPRESENTATIVE: The 200,000-member National Taxpayers Union is greatly disappointed by the legislation negotiated between the Congressional Banking Committees and Fannie Mae concerning supervision of the safety and soundness of government sponsored enterprises (GSE) such as Fannie Mae and Freddie Mac. While legislation on this topic is long overdue, this bill will not adequately protect taxpayers from the possibility of a financial meltdown. After the Savings and Loan disaster, we would hope that Congress had learned its lesson. Apparently not. We urge you to oppose this bill in its current form.

The process of writing this bill has been dominated by special interests from beginning to end. As the *New York Times* documented in an article about the House-passed bill, much of it was written by the GSEs themselves ("Power of the Mortgage Twins," November 12, 1991, pp. D1, D8). Last week, Fannie Mae threatened to torpedo the bill and has been rewarded by further weakening of the regulatory provisions.

The final bill before Congress creates a regulator with little power, and requires the companies to add little or nothing to their current thin levels of capital. Such capital is essential protection for taxpayers against financial disaster. Fannie Mae today has slightly more than one percent of capital (as a percent of assets and off-balance sheet obligations), while Freddie Mac will meet the capital standards of the bill with *less* than one percent of capital. Well-run banks, by comparison, must have more than triple these amounts.

Even though the final legislation is a meager product, we do wish to acknowledge the efforts of some on Capitol Hill to increase the quality of taxpayer protection. We especially appreciate the efforts of the House Ways and Means Committee, which first placed this issue on the national agenda and has worked to move reform forward.

The unpleasant prospect remains that the troubled financial environment that has taken a toll on so many thrifts and banks will also affect GSEs. If so, taxpayers will find themselves poorly protected by the weak and hamstrung regulator and negligible capital requirements of this bill.

Members of Congress who support this legislation should remember that if a financial disaster should occur, their vote on this bill will be reviewed to judge where they stood on this inadequate reform. Rejection of this bill now would force this issue back to the drawing board in the next Congress, where a better and more complete job can and should be done to protect taxpayers. Even if the Congress votes to enact this bill this year, much work remains for next year, especially with respect to stronger capital requirements and other protections for taxpayers.

Sincerely,

JAMES D. DAVIDSON,
Chairman.

Mr. DREIER of California. Mr. Speaker, given the heavy-handed arm twisting of Fannie Mae, I find it extremely difficult to describe H.R. 6094 as anything but special interest legislation. At a time when Congress as an institution is held in low esteem by the general public, I am dismayed by this contemptuous exercise of business as usual.

With this legislation, Mr. Speaker, the American taxpayer is being set up to take another multibillion dollar hit. H.R. 6094 requires Fannie Mae and Freddie Mac to meet a capital requirement of 2.5 percent of assets. This is about one-fourth of what private mortgage securitization firms must hold to maintain a AAA rating, and 40 percent of what other federally insured insured institutions are required to hold.

As long as these so-called Government sponsored enterprises or GSE's insist on saddling the taxpayers with $1 trillion in contingent liabilities as a result of their Government protected monopoly status, we must insist on adequate regulation. The regulatory framework contained in H.R. 6094 is clearly inadequate. The bill gives regulatory responsibility to the Department of Housing and Urban Development, and the regulatory office would be funded by assessments on the GSE's. But the bill subjects the expenditure of those assessments to the appropriations process. Given Fannie Mae's obvious political clout, this will give the GSE's de facto veto power over regulatory decisions because Congress will control the agency's pursestrings.

Congress used this control to weaken the ability of the Federal Home Loan Bank System to supervise risky thrift investments, which led to a $150 billion taxpayer bailout of the FSLIC. This is exactly how Congress weakened the FDIC, which led to a $15 billion taxpayer loan by Congress last year. This also is what Congress did to the Farm Credit System, which led to a $4 billion bailout in 1987.

In short, Mr. Speaker, with a $1 trillion contingent liability that could come due if the housing finance market goes into the tank, there is nothing in this bill that offers at least a minimal line of defense against an all-out assault on the Treasury.

In addition, H.R. 6094 leads to, as the Wall Street Journal said, "creeping federalization of the credit markets." There is nothing in the bill to require Fannie Mae and Freddie Mac to compete on a level paying field with other secondary market players. These two institutions maintain a virtual duopoly over the secondary mortgage market, aided by nearly $4 billion in taxpayer subsidies. These subsidies include: A Federal guarantee against losses, which allows a GSE to raise funds below market rates; a line of credit with the U.S. Treasury; exemptions from Federal securities laws; and exemptions from State taxes.

Just as Congress did with the savings and loan industry, this bill will continue to give the GSE's a blank check. It's as if you were to give your college-age son or daughter a credit card with no spending cap. It is a "you lose, we pay" proposition. Private investors and top executives reap all of the rewards, which came to about $1.3 billion in profits last year, while taxpayers assume all of the risk. Last year, former Fannie Mae chairman, David Maxwell, earned $27 million when the top pay of virtually every other Government executive is below $139,000. Compensation for many top executives at both companies is near $1.5 million a year.

Certainly, Mr. Speaker, these GSE's have served, and continue to serve, a useful purpose in our efforts to provide affordable housing to working families. but it is time that we stop letting financial institutions undertake risky ventures with unrestricted access to the vault of the U.S. Treasury. It is also time to require some semblance of market discipline and competition in our secondary mortgage markets. H.R. 6094 achieves neither of these objectives, and I urge my colleagues to vote down this legislation.

Mr. BEREUTER. Mr. Speaker, this Member commends those who have helped craft H.R. 6094, which is important legislation to modernize the regulatory structure which oversees Fannie Mae and Freddie Mac. These secondary market agencies play an important role in our housing finance system and this bill helps ensure their safety and soundness in the years ahead.

However, there is another housing GSE—the Federal Home Loan Bank System—that also plays a very significant role in helping to meet America's housing needs. Particularly since 1989, when Congress created the affordable housing program and directed the Federal Home Loan Bank System to implement it.

Unfortunately, the bill before us merely provides for a series of studies of the Bank System. It fails to provide the much needed changes that would ensure that the Bank System remains strong and a fiscally responsible component of our Nation's housing finance structure.

Our distinguished colleagues from the House Banking Committee, the gentleman from Louisiana [Mr. BAKER] and the gentleman from North Carolina [Mr. NEAL] have devoted considerable time in drafting legislation to improve the existing Bank System. The Banking Committee has held hearings and the record shows that the provisions contained in the Baker-Neal bill, which this Member also sponsored, were necessary reforms for the Bank System.

The bill resolves a number of important issues, such as: Voluntary membership for all eligible System members; stock purchase requirements; and financial obligations to REFCorp.

Mr. Speaker, this Member supports passage of H.R. 6094, but takes this opportunity to urge the Committee on Banking, Finance and Urban Affairs and the House to resume consideration of a bill to modernize the Federal Home Loan Bank System, in the next Congress.

Mr. WYLIE. Mr. Speaker, I would like to respond to the concerns raised by Subcommittee Chairman PICKLE of the Ways and Means Committee and Mr. GRADISON, the ranking member of the Budget Committee. As I said in my opening statement, the genesis of H.R. 6094, the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, is in large part attributable to the efforts of Mr. PICKLE and Mr. GRADISON who in the Omnibus Budget Reconciliation Act of 1990 required studies of the GSE's by the Banking Committee, the Ways and Means Committee, and the Budget Committee.

My colleagues from the Ways and Means Committee and the Budget Committee, and my colleague from the Banking Committee, Mr. LEACH, have expressed concern that the safety and soundness regulator have the authority and independence to act quickly should a GSE engage in unduly risky activity. I share their concern, but am confident that the safety and soundness regulator, although an office within HUD, is sufficiently structured to ensure the independence of the regulator in carrying out its duties under the act.

My colleagues have also expressed their concern that unless the regulator is independently funded, it will be unable to exert strong, unbiased authority over the GSE's. Unfortunately, section 106 of the bill provides that the annual assessments on the GSE's will be subject to the appropriations process. While I fully agree with Mr. PICKLE and Mr. GRADISON that the regulator should be independently funded, we were unable to get the necessary waivers from the Appropriations Committee on this issue. The provision in the Senate bill which exempted the annual assessments from the appropriations process was, in my opinion, a better approach.

My colleagues are correct in pointing out that the recent problems of the Farm Credit Administration and the Federal Aviation Administration might have been avoided had their regulators been independently funded or adequately funded through the appropriations process. Mr. LEACH and I know full well that the cost of resolving the savings and loan situation may have been lessened substantially had the Federal Home Loan Bank Board been adequately funded in the mid-1980's.

With our concerns in mind, I am confident that our colleagues on the Appropriations Committee will exercise their authority wisely and ensure that the regulator remains adequately funded.

Mr. LEACH. Mr. Speaker, the minority has no further requests for time and yields back the balance of its time.

Mr. GONZALEZ. Mr. Speaker, we have no further requests for time, and we yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 6094, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 6094, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 2100

BENJAMIN FRANKLIN NATIONAL MEMORIAL COMMEMORATIVE MEDAL AND FIRE SERVICE BILL OF RIGHTS ACT

Mr. TORRES. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2448, to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights, as amended.

The Clerk read as follows:

H.R. 2448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Benjamin Franklin National Memorial Commemorative Medal and Fire Service Bill of Rights Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) America's fire services should be acknowledged as our first responder to domestic emergencies.

(2) Members of America's fire services deserve every protection from the dangers associated with emergency response.

(3) Family members of those in the fire services should be provided for in the event of the service-connected loss or disability of any member of a fire service.

(4) Members of fire services should be educated in the latest fire and life safety sciences, and should have access to ongoing training programs to be able to take full advantage of the latest information.

(5) Fire services should be provided with state-of-the-art equipment and apparatus to handle all emergency situations.

(6) America's fire services deserve to have access to up-to-date fire and life safety programs to enable them to protect the public with minimal risk to the safety of their members.

(7) Responding fire services have a right to know the kind of danger presented by hazardous materials they face in all emergency responses.

(8) Fire services should be fully informed of the threat of infectious diseases their members face during the course of life safety activities.

(9) America's fire services have the right to expect that the American people will be full partners in the struggle to preserve life and property from the ravages of fire and other disasters.

(10) The history of American fire services and the sacrifices their members have made to protect lives and property in communities across the Nation deserve to be commemorated and honored.

(11) A commemorative medal would help recognize the achievements and needs of America's fire services.

SEC. 3. AUTHORIZATION.

(a) ISSUANCE.—The Secretary of the Treasury (in this title referred to as the "Secretary") shall issue not more than 1,500,000 medals each of which shall contain 1 ounce of silver.

(b) DESIGN.—The design of the medals shall contain suitable emblems, devices, and inscriptions in commemoration of Benjamin Franklin's contributions to the American Fire Service. Such design shall be selected by the Secretary after consultation with the Chairman of the Benjamin Franklin National Memorial at the Franklin Institute, the Chairman of the Congressional Fire Services Institute, and the Chairman of the Commission of Fine Arts.

(c) NATIONAL MEDALS.—The medals issued under subsection (a) are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for the medals authorized under section 3 from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 5. SALE OF MEDALS.

(a) IN GENERAL.—The medals authorized under section 3 shall be sold by the Secretary at a price equal to the cost of production, plus the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses), and the surcharge provided for in subsection (d).

(b) BULK SALES.—The Secretary shall make bulk sales of the medals authorized under section 3 at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the medals authorized under section 3 prior to the issuance of such medals. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—All sales of the medals authorized under section 3 shall include a surcharge of $15 per medal.

SEC. 6. MARKETING.

The Secretary shall develop a domestic marketing program to promote and sell the medals authorized under section 3 in the United States.

SEC. 7. ISSUANCE OF MEDALS.

(a) IN GENERAL.—The medals authorized under section 3 may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike any particular quality.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the medals authorized under section 3 beginning on July 1, 1993.

(c) TERMINATION OF AUTHORITY.—No medals authorized under section 3 may be minted after June 30, 1994.

SEC. 8. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for issuing the medals authorized under section 3.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 9. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Except as provided in section 11, all surcharges described in section 5(d) which are received by the Secretary shall be promptly paid by the Secretary as follows:

(1) AMOUNTS PAID FOR THE BENJAMIN FRANKLIN NATIONAL MEMORIAL.—Subject to section 10, the Secretary shall pay to the Franklin Institute (custodian of the Benjamin Franklin National Memorial) 12.5 percent of the amount of such surcharges received. Such amounts shall be used—

(A) to restore and renovate the Benjamin Franklin National Memorial (in this section referred to as the "Memorial");

(B) for exhibits and programs in the Memorial or in the adjoining areas of the Franklin Institute relating to the Memorial, Benjamin Franklin, or to science and education;

(C) for funds for the acquisition and preservation of artifacts relating to Benjamin Franklin; and

(D) to establish, in consultation with the Secretary of the Interior, an endowment in an amount determined sufficient for the Memorial, to ensure the continued upkeep and maintenance of the Memorial.

(2) AMOUNTS PAID FOR OTHER PURPOSES.—Subject to section 10, the Secretary shall pay, of the amount of the surcharges received—

(A) 12.5 percent to the Institute of Life Safety Technology and Emergency Management Education to provide grants to colleges and universities for fire training courses at no cost to participants (such Institute shall not require the use of specific course materials as a condition for the receipt of a grant by a college or university);

(B) 12.5 percent to the International Association of Fire Chiefs Foundation to award scholarships for college level courses in fire science, engineering, and related fields;

(C) 12.5 percent to the International Association of Fire Fighters Burn Foundation for burn injury research at hospital burn centers and other qualified medical research organizations;

(D) 12.5 percent to the National Fire Protection Associations' Learn Not To Burn Foundation to deliver public education programs and resources to low income residents in rural and urban communities which have high fire injury and death rates;

(E) 12.5 percent to the National Volunteer Fire Council Foundation to establish and maintain programs to promote the health and safety of all firefighters;

(F) 12.5 percent to the National Association of State Fire Marshals to establish and maintain the "John Heinz Memorial Scholarship Fund" to provide educational scholarships to the surviving children and spouses of fallen firefighters and emergency medical personnel as qualified under the Public Safety Officers Benefit Program; and

(G) 12.5 percent to the International Association of Arson Investigators Educational Foundation to design and maintain arson prevention programs.

(b) AVAILABILITY OF LIST OF SURVIVING CHILDREN AND SPOUSES TO NATIONAL ASSOCIATION OF STATE FIRE MARSHALS.—For purposes of providing educational scholarships described in subsection (a)(2)(F), the Attorney General shall make a list of surviving children and spouses referred to in such subsection available to the National Association of State Fire Marshals on a timely basis.

SEC. 10. AUDITS.

(a) FRANKLIN INSTITUTE.—As a condition for receiving the proceeds of the surcharges pursuant to section 9(a)(1), the Franklin Institute shall allow the Comptroller General to examine such books, records, documents, and other data of the Institute as may be related to the expenditure of amounts paid, and the management and expenditures of the endowment established under subparagraph (F) of such section.

(b) INSTITUTE OF LIFE SAFETY TECHNOLOGY AND EMERGENCY MANAGEMENT EDUCATION, NATIONAL ASSOCIATION OF STATE FIRE MARSHALS, AND THE FIVE FIRE SERVICE FOUNDATIONS.—As a condition for receiving the proceeds of the surcharges pursuant to section 9(a)(2), the Institute of Life Safety Technology and Emergency Management Education, the National Association of State Fire Marshals, and the 5 fire service foundations described in subparagraphs (B), (C), (D), (E), and (G) of section 9(a)(2), shall allow the Comptroller General to examine such books, records, documents, and other data as may be related to the expenditure of amounts paid.

(c) ADMINISTRATIVE, OVERHEAD, OR OTHER EXPENSES PROHIBITED.—No funds received under section 9, and no interest accruing on any such funds, may be used for administrative purposes, overhead expenses, or for any other purpose not described in such section.

SEC. 11. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the medals authorized under section 3 shall result in no net cost to the Federal Government.

(b) RECOVERY OF COSTS TO FEDERAL GOVERNMENT.—

(1) RELEASE OF SURCHARGES UPON RECEIPT OF FUNDS.—The Secretary shall not distribute the amount of any surcharge under section 9 until the Secretary has received funds, either from the sale of coins authorized under this title or from private donations, sufficient to ensure that the issuance of medals under this title shall result in no net cost to the Federal Government.

(2) RECOVERY OF EXPENSES FROM SURCHARGES.—If all costs to the Federal Government in connection with the issuance of coins under this title are not recovered from the sale of such coins or from private donations as of the termination of the program in accordance with section 7, the Secretary shall reduce the amount of the surcharges retained pursuant to paragraph (1) by the amount of such shortfall and apply such amount to the cost of issuing such coins.

(3) DISTRIBUTION OF BALANCE OF SURCHARGES.—Any surcharges remaining after any reduction in the amount of such surcharges pursuant to paragraph (2) shall be distributed in accordance with section 9.

(c) PAYMENT FOR MEDALS.—No medal authorized under section 3 shall be issued unless the Secretary has received—

(1) full payment, as determined under section 5;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from California [Mr. TORRES] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in support of the Benjamin Franklin National Memorial Commemorative Medal and fire-service bill of rights.

This medal is a fine tribute to our Nation's firefighters and Benjamin Franklin, who is credited with founding our Nation's volunteer fire service.

The bill authorizes the U.S. Mint to strike up to 1.5 million 1-ounce silver medals to pay tribute to the daily sacrifices of the many men and women who serve to protect the public from fire and other disasters.

The surcharges from the sale of the medals will be used to restore the Benjamin Franklin National Memorial and provide grants to colleges and universities for fire training courses. The surcharges will also provide for a number of fire service-related education programs, research and scholarships, including the John Heinz Memorial Scholarship for surviving children of fallen firefighters.

All of this will be done at no net cost to the Government.

At this time, I would like to acknowledge the diligent work of my Banking Committee colleague, Mr. CARPER, of Delaware and the gentleman from Pennsylvania [Mr. WELDON], chairman of the Congressional fire-service caucus, and the cochair, Mr. STENY HOYER of Maryland. Their tenacity should be acknowledged by thousands of firefighters and emergency management personnel nationwide.

I ask my colleagues to support our Nation's fire service by supporting this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my colleague from California, the chairman of the subcommittee has explained the provisions of this bill, so I won't repeat them.

However, there are a couple of additional points which I would like to make.

As one who has 12 years of experience in local government, I thoroughly understand the workings of a fire department, and fully appreciate the men and women who risk their lives to protect others.

Nevertheless, we are breaking new ground with this medal program.

I must admit that when I was first approached with this proposal, I was extremely skeptical about it.

That skepticism was based on two points.

First, experience has shown us that the most successful commemorative programs are those which are centered around an event of national historic significance.

In the case of the Franklin medal, the event is the 203d anniversary of the death of Benjamin Franklin, or, if you prefer, the 255th anniversary of the first fire department.

It would seem to me that we are stretching things a bit.

My second reservation was the size of the program. The legislation authorizes the minting of 1½ million medals.

To date, our most successful medal program has sold only 600,000 medals.

However, I could be wrong. Quite frankly, I hope I am. I hope that this program is a huge success.

If it is, it will raise money for several worthwhile organizations.

In the event that the program is not successful, the Subcommittee on Coinage adopted an amendment which I offered, to ensure that the Government—the taxpayers—are fully reimbursed for the cost of the program before the proceeds are disbursed.

With that taxpayer protection included in this bill, I am willing to support it as a test program.

If the medal is a success, then we should consider doing more medals.

If it is a failure, then we should eliminate this type of program.

Mr. Speaker, there are rumors that the other body may be inclined to add completely unrelated and extraneous matters to this legislation.

I would hope that those rumors are not true. Such actions would greatly reduce the possibility of having this legislation enacted during this session. That would be unfortunate.

Having said that, I support this bill in its current form, and reserve the balance of my time.

Mr. Speaker, I yield 8 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I rise in strong support of this legislation, and I want to start off by thanking this body for what I think is the culmination of its very successful week for the fire service in America. This is the third major piece of legislation that we have passed this week that has been on the priority list for the Nation's fire service. When we complete this task tonight, we will have accomplished all the major objectives laid out by the fire service for this body, including major sprinkler legislation, legislation to update the sprinkler bill passed in the last session, establishing a foundation for the fallen firefighters memorial, establishing national firefighters day and fire prevention weekend, the Workers Family Protection Act. But this has been their top priority for 4 years because this piece of legislation was the first recognition by this body of the Nation's 1.5 million emergency responders: the people who we have seen on television respond to the wildlands fires in Yellowstone, the Loma Prieta earthquake, the hurricanes, Andrew and Hugo, that we just went through, and every other incident that this Nation has faced for the last 25 years, and it is only fitting and proper that we do so in the form of a medal.

Mr. Speaker, I want to, first of all, thank the chairman of the subcommittee, the gentleman from California [Mr. TORRES], and the ranking member, the gentleman from California [Mr. MCCANDLESS] for their cooperation; the full committee chairman, the gentleman from Texas [Mr. GONZALEZ], and the ranking member, the gentleman from Ohio [Mr. WYLIE]. I also want to pay special recognition to two of our Members who are no longer with us: Congressman Walgren and Congressman Bill Gray who were early and active supporters of this initiative, as well as the gentleman from Delaware [Mr. CARPER] who has worked tirelessly to get the bill to this point in time, as well as our new, incoming Chair of the caucus, the gentleman from Maryland [Mr. HOYER]. Without their cooperation, Mr. Speaker, we would not be here today.

I want to acknowledge that, of all the coinage and commemorative legislation that this body has passed since I have been here in 6 years, this bill has the most cosponsors. Two hundred ninety Members of this body have cosponsored this piece of legislation, and they have done it, not because of what I have done or what the supporters have done, but because the Nation's firefighters have gotten active because they want this recognition, and they feel they deserve it.

The important part of this legislation is obviously the medal. But it also establishes in a finding section a bill of rights for the fire service. For the first time in the history of firefighters in this country, Mr. Speaker, we in fact are recognizing them in this bill as America's domestic defenders. We are also giving them the understanding that they deserve and the protection from the dangers associated with emergency response. We are also saying that we understand their family members deserve to be protected if they are injured or killed in the line of duty. Another one of those rights is to let them know that we believe they should be fully educated in the life safety sciences, as well as to have state-of-the-art equipment to do their job. We have also analyzed in the finding section the need for them to have up-to-date, state-of-the-art programs to protect the public, as well as to be prepared in dealing with hazardous materials, as well as infectious diseases, and we have also in the finding section recognized the fact that the American fire service service has the right to understand that the American public will work with the fire service in reducing the threat from fire and loss of life. Finally, Mr. Speaker, we recognize in the finding section that we will recognize the history and tradition of the fire service of this country, a tradition rich with America that dates back 250 years.

Mr. Speaker, the minting of the medal could generate $22 million approximately—$22 to $23 million. I predict it will be a sellout unlike any other medal or coin we have had. This will sell out because we have a ready captive audience of 4 million people, 1.5 million firefighters, their families, the manufacturers, the equipment companies and all the other groups that are ready to buy this particular medal, and they understand the proceeds that will be generated from this medal will go right back into benefiting them and helping them improve their ability to serve their neighbors and their friends.

In fact, one-eighth of the funding from this medal will go to the International Association of Fire Chiefs Foundation to establish scholarships for firefighters to attend college-level courses to better prepare them. One-eighth of the proceeds will go to the firefighters union to provide more money for burn research and burn education for our burn centers around the country. One-eighth will go to the National Fire Protection Association to establish educational programs for low-income people in our cities and our urban areas to better prepare them in terms of what to do to protect their lives and their families. One-eighth of the funds will go the National Association of the State Fire Marshals that will establish a John Heinz scholarship fund to provide scholarships for the widows, and the spouses and the children of firefighters who qualify for our health benefit program. One-eighth of the funds will go to the International Association of Arson Investigators to be used to establish grants programs to better understand and deal with the problem of arson in America. And one-eighth of the fund in this program will go to the National Volunteer Fire Council. Eighty-five percent of the 1.5 million members of the fire service in this country are volunteers, and one-eighth of the funds from this medal will go to the National Volunteer Fire Council to fund programs to improve efforts in protecting the health and safety of firefighters across this country.

□ 2110

Finally, one-eighth will go to the Institute for Life Safety Training and Emergency Management Training for special training grants to provide free training programs across this country for emergency response professionals.

Mr. Speaker, this is important legislation. This is the first time the fire service of this country has been recognized by this body. I would hope that there will be no attempt in the other body to amend this bill, because I can guarantee there will be swift, effective, and overwhelming response by the Nation's firefighters. We have fought for this piece of legislation for 4 years. The fire service is anxiously awaiting us to pass it this evening. We are actually awaiting the other body to also pass it and move it on to the President's desk for his signature.

Mr. Speaker, I want to thank everyone who was involved with this effort. You do not know how much this means to the rank and file member of those 30,000 fire departments across this country who see this as their top priority. I thank all of you for your support.

Mr. TORRES. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Maryland [Mr. HOYER], the co-chairman of the congressional fire service caucus.

Mr. HOYER. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, at the outset let me congratulate the gentleman from Pennsylvania [Mr. WELDON], the chairman of the fire service caucus, for his leadership in establishing a caucus that has responded to the needs of firefighters in our country and who has represented them and the interests of their families. The gentleman and the caucus have worked diligently to further the ability of our fire service in this country to do their job better and more safely. The gentleman has done an outstanding job, and I have found it a privilege to work with him.

Mr. Speaker, I rise in support of this legislation. I started today at a prayer breakfast at the headquarters of the Prince Georges County Fire Service. It was a memorial service to be held at 10 o'clock. I could not stay because we went in session. But I presented a certificate to Chief and Mrs. Hedrick for Kenneth Hedrick, a young man of 18 who some months ago lost his life as he entered into a home in Morningside to save the life of a child who he thought was still in the home. He was the most recent firefighter who has lost his life in our country. His father is chief of the Morningside Fire Department.

Mr. Speaker, very frankly, we cannot remember enough, the work that these brave men and women whom the gentleman from Pennsylvania [Mr. WELDON] refers to as the emergency responders in our communities, along with our police personnel, we cannot remember them enough for the courage and commitment that they extend to our communities.

This Benjamin Franklin Fire Fighter Medal will, as the gentleman from Pennsylvania [Mr. WELDON], the gentleman from California [Mr. TORRES], and the gentleman from California [Mr. MCCANDLESS] have pointed out, raise significant sums to enhance safety and training, the welfare of surviving families, for research, for scholarships, to make their job better and more effective.

This has been some time in coming. I join with the gentleman from California [Mr. TORRES], the gentleman from California [Mr. MCCANDLESS], and the gentleman from Pennsylvania [Mr. WELDON] in hoping and urging that this legislation passes as it is.

Mr. Speaker, I agree, this will be a sellout. This legislation has been awaited with great anticipation, enthusiasm, and thanks, by the fire-fighting personnel of our Nation. Let us hope that by the close of business of this session it is passed into law and that this very worthwhile program will be enacted.

Mr. MCCANDLESS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I want to thank the gentleman for yielding this time.

I simply rise to associate myself with the comments of those who have spoken before on behalf of this legislation. I am pleased to have been one of the first members of the fire service caucus. I thank the gentleman from Pennsylvania [Mr. WELDON] for founding that. It certainly has made a great difference in this august body. I want to thank the gentleman for the comments he made, speaking for all of us in this House Chamber.

Mr. Speaker, I certainly want to extend my commendation to the gentleman from Maryland [Mr. HOYER], who is involved with leadership in the fire service caucus.

Indeed, this is a win-win bill. Not only will the medal be struck, but the proceeds from it, after the costs are absorbed, are going to go, as has been mentioned, to so many wonderful causes, to the causes of scholarships to those who need them, for fire safety research and education, for burn injury information, for scholarships in memory of John Heinz, and for the spouses and children of fallen firefighters. There are so many wonderful consequences, positive consequences of this particular piece of legislation which I support.

In addition to that, there is the bill of rights, something we certainly do accord to all our firefighters. Our firefighters deserve our support, for they have supported us.

Mr. CARPER Mr. Speaker, I rise in support of H.R. 2448, the Benjamin Franklin National Memorial Commemorative Medal and Fire Service Bill of Rights Act. I believe that the legislation before us, as reported from the Bank Committee, is a fair compromise to the original Weldon proposal. This bill, as originally introduced by Mr. WELDON, called for a commemorative coin program authorizing the minting of 250,000 gold coins, and 4,000,000 silver coins. However, because of concerns regarding a proliferation of coinage programs the Committee chose to amend the bill to require a congressional medal and to authorize the sale of duplicate silver medals. The bill was also amended in committee to ensure that the program operates at no net cost to the taxpayer before any surcharges are paid out.

The silver medal authorized by this bill will be emblematic of Benjamin Franklin, commemorating his many contributions to the American Fire Service. As an early pioneer of efforts to protect the public from the devastating effects of fire, Benjamin Franklin is held in very high esteem by the members of the emergency and life safety community.

The proceeds from the sale of the silver medal will be evenly divided between the Franklin Institute, custodian of the Benjamin Franklin National Memorial, and seven national fire service organizations. In addition to helping restore and renovate the memorial, most of the funds will be used to provide scholarships for those pursuing degrees in the fire sciences, training for fire service professionals and grants for burn research and firefighter health and safety. Furthermore, the funds will be used to endow and maintain the John Heinz Memorial Scholarship Fund to provide educational scholarships for the surviving children and spouses of fallen fire fighters and emergency medical personnel.

I believe that this medal will be a great tribute to Benjamin Franklin, as well as to the 3 million men and women, over half of whom are volunteers, in the American fire and emergency services community who risk their lives every day.

I want to thank Chairman TORRES for his help in bringing this legislation to the floor. I greatly respect the impartiality and thoughtful consideration he has brought to all the legislation that has come before his subcommittee, and have greatly appreciated his help in coming up with a fair compromise on this bill. I would also like to thank Mr. TORRES' subcommittee staff, particularly Roddy Young, for all of their assistance.

Finally, I would like to commend Mr. WELDON for the fine work he has done in putting together this bill and shepherding it through the Congress. The fire service community should consider itself fortunate to have an advocate with the dedication and tenacity of CURT WELDON in Congress.

Mr. Speaker, this is a noncontroversial bill that has bipartisan support and 290 cosponsors. I urge its passage.

Mr. MCCANDLESS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TORRES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. TORRES] that the House suspend the rules and pass the bill, H.R. 2448, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended as to read: "A bill to provide for the minting of medals in commemoration of Benjamin Franklin and to enact a fire service bill of rights."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TORRES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2448, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

STRIKING OF MEDAL COMMEMORATING ANNIVERSARY OF AMERICAN PHILOSOPHICAL SOCIETY AND BIRTH OF THOMAS JEFFERSON

Mr. TORRES. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2661) to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

The Clerk read as follows:

S. 2661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the American Philosophical Society was founded in 1743 as the American Philosophical Society held at Philadelphia for Promoting Useful Knowledge;

(2) the American Philosophical Society was founded by Benjamin Franklin and today it is the oldest learned society in the

United States and one of the principal scholarly and scientific bodies in the world;

(3) the American Philosophical Society plans to celebrate its 250th anniversary and the 250th anniversary of the birth of Thomas Jefferson with programs and activities to be held in Philadelphia, Pennsylvania, in April 1993;

(4) Thomas Jefferson served as the third president of the American Philosophical Society at the same time as he served as President of the United States; and

(5) it is proper and desirable to pay tribute to the American Philosophical Society and to Thomas Jefferson's devotion to learning as exemplified in the principles and programs of the American Philosophical Society.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—In commemoration of the 250th anniversary of the founding of the American Philosophical Society and the 250th anniversary of the birth of Thomas Jefferson, the President is authorized to present, on behalf of the Congress, to a duly authorized representative of the American Philosophical Society, a gold medal of appropriate design which shall be known as the "Thomas Jefferson Medal".

(b) DESIGN AND STRIKING.—The Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") is authorized and directed to strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary in consultation with representatives of the American Philosophical Society.

SEC. 3. DUPLICATE MEDALS.

(a) AUTHORIZATION AND DIRECTION TO THE SECRETARY OF THE TREASURY.—The Secretary is authorized and directed to strike 50 bronze duplicates of the gold medal struck pursuant to section 2 and deliver the bronze duplicates to the American Philosophical Society.

(b) PRESENTATION OF DUPLICATE MEDALS.—The American Philosophical Society shall present the bronze duplicates to persons of scholarly achievement in connection with annual ceremonies.

SEC. 4. PAYMENT FOR MEDALS.

The Secretary shall take such actions as may be necessary to ensure that striking the gold medal and the bronze medals under this Act will not result in any net cost to the United States Government. Medals shall not be struck pursuant to this Act unless the Secretary has received full payment for the medals from the American Philosophical Society.

SEC. 5. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 6. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EXCEPTION.—Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

The SPEAKER pro tempore. Pursuant to the rule the gentleman from California [Mr. TORRES] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Thomas Jefferson Medal, to commemorate the 250th anniversary of the American Philosophical Society.

The American Philosophical Society was founded in 1743 in Philadelphia by Benjamin Franklin. It is the oldest learned [LER-NED] society in the United States and one of the principal scholarly and scientific bodies in the world.

Thomas Jefferson served as the third president of the American Philosophical Society at the same time he served as President of the United States.

The U.S. Mint is authorized to strike 1 gold medal and 50 bronze duplicates at no net cost to the Government.

I ask my colleagues to join me in support of the Thomas Jefferson Medal and recognize the contributions of the American Philosophical Society to our Nation.

Mr. Speaker, I reserve the balance of my time.

□ 2120

Mr. MCCANDLESS. I yield myself such time as I may consume.

Mr. Speaker, I have reservations about this legislation. It does not have the requisite 218 cosponsors in the House, nor has it been the subject of hearings. Consequently, I have taken a very close look at the provisions of this bill.

As my colleague from California has outlined, this legislation will allow the American Philosophical Society to purchase from the United States Mint, a specially designed gold medal and 50 bronze duplicates. The medal will commemorate the 250th anniversary of the society, as well as the 250th anniversary of the birth of Thomas Jefferson.

The society was founded by Benjamin Franklin, and its early membership list reads like a Who's Who of our Founding Fathers. On the list, you will find the names of George Washington, John Adams, Alexander Hamilton, Thomas Paine, and Thomas Jefferson. In fact, Jefferson served as president of the society at the same time that he served as President of the United States.

Because of the society's historic roots and its continuing dedication to the "promotion of useful knowledge," and that the legislation requires the society to fully reimburse the Mint for the cost of producing the medals, I will support the passage of the bill. However, as we head into the final hours of this Congress, it seems that a number of commemorative coin and medal bills are popping up at the last minute.

I would like to take this opportunity to give notice to Members that this Member is strongly inclined to object to unanimous consent requests to consider additional coin or medal bills.

If any additional coin or medal bills are placed on the suspension calendar, I will look for two things: First, to see if the bill has been the subject of a hearing, and second, whether the program is guaranteed to operate at no cost to the Federal Government.

If the legislation fails that test, I will oppose it and may ask for recorded votes.

Having said that, I would again note that the bill currently before us requires the American Philosophical Society to fully reimburse the Treasury for the cost of the medals.

Consequently, I have no objection to it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TORRES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. TORRES] that the House suspend the rules and pass the Senate bill, S. 2661.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TORRES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BATTERED WOMEN'S TESTIMONY ACT OF 1992

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1252) to authorize the State Justice Institute to analyze and disseminate information regarding the admissibility and quality of testimony of witnesses with expertise relating to battered women, and to develop and disseminate training materials to increase the use of such experts to provide testimony in criminal trials of battered women, particularly in cases involving indigent women, as amended.

The Clerk read as follows:

H.R. 1252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Battered Women's Testimony Act of 1992".

SEC. 2. AUTHORITY OF STATE JUSTICE INSTITUTE.

The State Justice Institute shall—

(1) collect nationwide and analyze information regarding—

(A) the admissibility and quality of expert testimony on the experiences of battered women offered as part of the defense in criminal cases under State law, and

(B) sources of, and methods to obtain, funds to pay costs incurred to provide such testimony, particularly in cases involving indigent women defendants,

(2) develop training materials to assist—

(A) battered women, operators of domestic violence shelters, battered women's advocates, and attorneys to use such expert testimony in appropriate cases, particularly appropriate cases involving indigent women defendants, and

(B) individuals with expertise in the experiences of battered women to develop skills appropriate to providing such expert testimony, and

(3) disseminate such information and such training materials, and provide related technical assistance, to battered women, such operators, such advocates, such attorneys, and such individuals.

SEC. 3. ADMINISTRATIVE PROVISIONS.

For purposes of this Act—

(1) subsections (d) and (e) of section 206 of the State Justice Institute Act of 1984, and

(2) subsections (a) and (b) of section 207 of such Act,

shall apply in the same manner as such subsections apply with respect to grants and contracts made under such Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $600,000 to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 1252, H.R. 1253, and House Concurrent Resolution 89, the three pieces of legislation next to be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1252. In the interest of saving this body some time I will include in my comments references to its companion bills, H.R. 1253 and House Concurrent Resolution 89 which are coming up next. All of these bills concern the issue of domestic violence and seek to help protect the rights of battered women and their children in various ways. I want to salute our colleague Representative CONNIE MORELLA for her efforts in focusing national attention on these important issues.

Each year 3 to 4 million women suffer physical, sexual, and mental attacks—and 3,000 to 4,000 women will be murdered—by a spouse or partner. While these attacks occur, more than 3 million children will watch the violence. Most of this violence, but not all, is committed by men against women. Subsequent to these repeated attacks some of these battered women are driven to retaliate. A few even kill their abusive partners. It is critical that judges and juries understand the plight of these battered women. Judges also need to consider the implications of histories of domestic violence before making custody decisions.

The central phenomenon behind these bills is the battered woman syndrome and our society's response to it. This syndrome describes the psychological condition of one who is repeatedly attacked—physically, sexually, or mentally—by an intimate partner and explains why her perceptions and reactions may be different from those of the average person. It also helps to explain why victims of domestic violence remain in these abusive relationships and why, under certain circumstances, these women have even resorted to killing their battering partners.

For instance, the average juror often has little understanding of the nature and effect of domestic violence on a defendant's behavior, beliefs, or perceptions. Also, a Juror is often unaware that victims of domestic violence frequently are in greater danger after they have separated, or attempted to separate, from their abusive partner. Despite these misunderstandings, some State criminal courts do not allow into evidence the Defendant's history as a victim of domestic violence, or expert testimony on the battered woman syndrome. This is so because many of these killings—committed during a lull in the abuse, such as when their partner is sleeping—do not fall under the traditional models of self-defense. Therefore, for example, a jury may never get to hear why a defendant acted with lethal force. These judicial procedures, combined with jury misconceptions, often result in misplaced blame, a failure to even consider these extremely extenuating circumstances.

The bills before the house today are based on the premise that there is a specialized knowledge of the nature and effect of domestic violence which is sufficiently established to be admitted as expert testimony. The Committee on the Judiciary believes that expert testimony on battered woman syndrome is crucial to explain to the factfinder why a defendant used deadly force against someone who, to all outward appearances, did not appear to pose an imminent danger of death or serious bodily harm.

The committee has reported three bills on this issue. The first of these three bills, H.R. 1252, would authorize the state justice institute $600,000 to collect and analyze information regarding the admissibility and quality of expert testimony relating to battered women and develop and disseminate training materials as well as identify the sources of funding for these programs.

I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 1252, the Battered Women's Testimony Act of 1992, and would like to especially commend our distinguished colleague, the gentlewoman from Maryland [Mrs. MORELLA] for introducing the measure and the two accompanying measures that go with it; certainly, for her excellent work that she has done in bringing these matters to the attention of the American people and to the Congress. I would also like to congratulate our chairman, the gentleman from New Jersey [Mr. HUGHES] for so rapidly processing this legislation and bringing it to the floor of the House of Representatives.

As I said, this is one of three measures dealing with the issue of domestic violence and child custody that was the subject of a hearing held by the Subcommittee on Intellectual Property and Judicial Administration on August 6, 1992. During the hearing we learned just how serious the problem of domestic violence is. Statistics indicate that each year 6 million American women are beaten by their husbands or boyfriends; 4,000 of whom die. Over 3.3 million children witness these attacks. Currently, only six States allow battered women by law to present evidence of past abuse in criminal trials.

In other States, which are now permitting such testimony in some instances, discretion still rests in the trial court judge, often leading to inconsistent and inequitable results. H.R. 1252 would improve the current situation by authorizing the State Justice Institute to allocate $600,000 in grant awards to appropriate organizations to collect information about the admissibility of expert testimony about the battered woman's syndrome, to promote the use of such expert testimony, and to research sources for funding to enable women, particularly indigent women, to find expert witnesses for their defense. I urge my colleagues' support for the bill.

□ 2130

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI], chairman of the Subcommittee on International Law, Immigration, and Refugees of the Committee on the Judiciary.

Mr. MAZZOLI. Mr. Speaker, I want to thank my good friend, the gentleman from New Jersey, and as I said earlier this evening, my seat-mate for many years on the Committee on the Judiciary, and the gentleman from California [Mr. MOORHEAD], my friend, and the gentlewoman from Maryland [Mrs. MORELLA], for her work also on this very important package of three bills.

The first bill, as the gentleman from New Jersey [Mr. HUGHES] has explained, would authorize $600,000 through the State Justice Institute to inform local prosecutors and encourage them in trying to handle these very difficult cases of battered women and battered spouses.

Just this past Monday, Mr. Speaker, I had an opportunity of going through the Jefferson County Center for Women and Families in Louisville. It was a very interesting tour, and I talked to the staff. I would say that, to a person, that staff is very much devoted to the adoption of these three pieces of legislation. They feel they will assist them dramatically in handling their work.

In my community, we have the Jefferson County Commission for Women under the leadership of Marcia Roth; at the State level, the Kentucky Commission for Women, under Marsha Weinstein. We have even, at the local level, people like Reba Cobb and others who have devoted their lives to working with abused women and children.

I want to again thank the chairman for bringing this package forward. I certainly hope our House will support it enthusiastically.

Mr. MOORHEAD. Mr. Speaker, I yield the balance of my time to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is a real pleasure for me to be here tonight, first of all to compliment the Subcommittee on Intellectual Property and Judicial Administration of the Committee on the Judiciary, headed by my good friend, Chairman BILL HUGHES.

I want to also compliment our ranking member, my good friend, the gentleman from California, CARLOS MOORHEAD, for the work that that subcommittee has done, along with the full Committee on the Judiciary, in bringing to this House in a very expeditious manner three very important bills that are going to help all Americans.

We did have a hearing, as has been mentioned, and Chairman HUGHES allowed comments coming from people who deal with domestic violence, from an expert who has written books about it, a judge who deals with domestic violence cases, as well as representatives from his State of New Jersey, my State of Maryland, and my Governor from Maryland also came. I must say that the questions that were asked, the attention, the compassion that came from that subcommittee is one that I will never forget and to which I am very indebted.

Mr. Speaker, In most State courts—Ohio, Maryland, Missouri, Louisiana, Texas, California, Arizona, Kentucky, and Oklahoma are the exceptions—battered women who assault or kill their abusers are not allowed to present past evidence of that abuse or to have expert witnesses testify as to the effects of that abuse at their trials. Some judges, using their judicial discretion, will allow expert witnesses to testify about battered women's syndrome. But given the level of understanding about domestic violence in general among the judiciary, this is simply not enough to guarantee a fair trial for a battered woman on trial for assault or murder.

Without early intervention, domestic violence can escalate and lead to death. When battered women are killed, it is usually after they have left their abusers or have tried to leave their abusers. When battered women kill, it is as a last resort. They have usually already tried to leave several times, have tried to get protection from their abusers, have been to the police and, in many cases, to the courts for protection. Battered women kill in self-defense after frequent and severe abuse; brutal sexual abuse; death threats if they try to leave; being beaten in front of others; their children are threatened; being isolated in the home.

Dr. Angela Browne in her book, "When Battered Women Kill," maintains that there is nothing different or pathological about battered women who kill. "The batterers who were killed," by these women, "had inflicted more serious injuries and had increased their levels of rape, sexual assault, child abuse, death threats and substance abuse."

Battered women who kill believe that they are in imminent danger of death, even when their batterers are incapacitated, asleep, or otherwise not involved in combative behavior. The battered woman believes that tonight he really means to kill me and the children. He's making the same threats he always makes, but tonight he is cold sober.

Battered woman's syndrome refers to the pattern of abuse and responses to that abuse that can immobilize victims through fear, denial, and hopelessness. When the syndrome is allowed to be introduced in court, the jury can be informed about a battered woman's pattern of behavior and her reasonable fear of serious injury or death.

The battered woman syndrome allows a defense attorney to expand the scope of the self-defense argument. The syndrome is not in and of itself a defense; it is only another piece of the evidence. An expert witness can further explain to the jury the dynamics of domestic violence and present an analysis of a particular defendant's situation. As a result, juries will have a fuller picture of what went before, assisting them in their analysis. And, as always, in the end, the jury will determine guilt or innocence.

H.R. 1252, The Battered Woman's Testimony Act, is the companion bill to H. Con. Res. 89, will be considered later this evening.

H.R. 1252 would authorize the State Justice Institute to allocate $600,000 in grant awards to eligible organizations to collect information about the admissibility of expert testimony about the battered woman's syndrome, to promote the use of such testimony, and to research sources for funding to enable women, particularly indigent women, to find expert witnesses for their defense.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 1252, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

STATE JUSTICE INSTITUTE ACT OF 1984 AMENDMENTS

Mr. HUGHES of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1253) to amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation.

The Clerk read as follows:

H.R. 1253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION.

Section 202 of the State Justice Institute Act of 1984 (42 U.S.C. 10701) is amended—

(1) in paragraph (6) by striking "and" at the end,

(2) in paragraph (7) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(8) 'domestic violence' means—

"(A) any action that constitutes—

"(i) attempting to cause or intentionally, knowingly, or recklessly causing bodily injury or physical illness;

"(ii) rape, sexual assault, or causing involuntary deviate sexual intercourse;

"(iii) placing by physical menace another in fear of imminent serious bodily injury; or

"(iv) the infliction of false imprisonment;

if such action is taken by one of 2 spouses, former spouses, or sexual or intimate partners against the other spouse, former spouse, or partner and the 2 of whom share biological parenthood of, have adopted, are legal custodians of, or are stepparents of a minor child; or

"(B) physically or sexually abusing such minor child if such abuse is inflicted by either of such spouses, former spouses, or partners.".

SEC. 2. AUTHORITY TO PROVIDE FUNDS FOR RESEARCH AND CURRICULUM DEVELOPMENT RELATING TO CHILD CUSTODY LITIGATION.

Section 206(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)) is amended—

(1) in paragraph (12) by striking "and" at the end,

(2) by redesignating paragraph (13) as paragraph (14), and

(3) by inserting after paragraph (12) the following:

"(13) conduct not more than 5 projects at an aggregate cost of not to exceed $600,000—

"(A) to investigate, and carry out research regarding State judicial decisions relating to child custody litigation involving domestic violence;

"(B) to develop training curricula to assist State courts to develop an understanding of, and appropriate responses to child custody litigation involving domestic violence; and

"(C) to disseminate the results of the investigation and research carried out under subparagraph (A), and the curricula developed under subparagraph (B), to State courts; and".

SEC. 3. TECHNICAL AMENDMENTS.

The State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) is amended—

(1) in section 203(f) by striking the last sentence,

(2) in section 206(c), as amended by section 2—

(A) in paragraph (3) by striking "judicial and" the second place it appears,

(B) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively, and

(C) by inserting after paragraph (3) the following:

"(4) to support studies of the appropriateness of efficacy of court organization and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the next bill we are dealing with deals with the issue of battered women. That is H.R. 1253. It authorizes a sum not to exceed $600,000 for the State Justice Institute to carry out research on State and judicial decisions and develop judicial training curricula relating to child custody litigation involving domestic violence.

Mr. Speaker, I laid out, I think, in the previous bill the rationale for the bill. It is a good bill, and I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 1253 which would amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation. I would also like to commend the gentlewoman from Maryland, CONNIE MORELLA for her initiative on this issue. During the Subcommittee on Intellectual Property and Judicial Administration's hearing on H.R. 1253, a leading psychologist in the area of domestic violence testified that over 50 percent of the men who beat their wives also physically abuse their children. Even if they are not themselves beaten, children who witness their fathers assault their mothers suffer permanent and grave emotional and psychological harm. State courts are ill-prepared to deal with custody battles that involve these children who have witnessed abuse. H.R. 1253 will provide some needed research to identify models to find ways to help the courts identify high-risk homes where children have already witnessed abuse and take some appropriate precautions to attempt to prevent further violence. It is a worthwhile proposal and I urge my colleagues' support for it.

□ 2140

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank my distinguished chairman and friend for yielding the time, and once again want to mention that I spent Monday morning in Louisville at the Center for Women and Families and in the roundtable discussion that we had, led by Ms. Reba Cobb and joined in by her staff people, many issues were talked about Mr. Chairman, which you and the gentleman from California, and the gentlewoman from Maryland have already discussed tonight. But it is really very disquieting, and quite depressing to hear these people from my hometown talk about some of the most grave and difficult human conditions one could imagine where people are abused, spouses are abused, families, children are abused. And they have to have the tools to deal with the tragedies. Obviously, what the gentleman, Mr. HUGHES, is trying to do here is provide the techniques as well as the money to provide training and to provide an opportunity to address the issue of abuse.

So I very strongly commend him for his outstanding leadership in this area and certainly offer him whatever help I can give in Congress to come to see this to fruition.

Mr. MOORHEAD. Mr. Speaker, I yield 10 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, again I thank the gentleman for yielding me the time. and again I want to extend my thanks to the wonderful Subcommittee of Judiciary who passed these bills out so quickly because they knew of their importance, and certainly I thank the full Judiciary Committee for doing the same. I ask that this body follow that wonderful lead.

Mr. Speaker, for many American women, real terror is not walking alone down a dark city street late at night. Real terror is being home alone with their loved ones.

Every year in our country 6 million women are beaten by their husbands or boyfriends; 4 thousand of them die. Experts tell us that over 3.3 million children witness these attacks.

Battering is the single major cause of injury to women—more than auto accidents, muggings, and rape combined. Medical researchers tell us that 25 percent of woman who commit suicide are victims of family violence. United States Surgeon General Antonia Novello has described domestic violence as an epidemic and a national emergency.

There are no typical victims or typical perpetrators. Domestic violence affects all of us regardless of our age, race, income, neighborhood, religion, education, or profession. There is no doubt that domestic violence contributes to epidemic of violence that ravages our streets and schools.

What have we done about domestic violence?

For the most part, society has looked the other way—family and friends who chose not to intrude and police and judges who simply failed to protect.

Indeed, for many victims of domestic violence, the courts have been their adversaries, not their allies. The Maryland gender bias in the courts survey, released in 1989, is typical of studies being done across the country. The Maryland study documented, in case after case, the problems women faced when they went to court to seek relief from batterers or to arrange for child custody.

One judge remarked that because he would never put up with the beatings one woman endured, he believed she was lying. "If I was you and someone threatened me with a gun, there is no way I would continue to stay with them. * * * Therefore, I can't believe that happened to you."

Another judge maintained that he believed women sought protection orders in order to get the family home. Another judge refused to believe one woman's story because her husband was a physician and a pillar of the community. Another judge refused to believe a woman because she had no visible bruises by the time she appeared in court, and he suggested she come back after her next beating.

When a woman is poor or non-English speaking, all of these problems are compounded.

The one area where the courts have been particularly negligent has been in the area of child custody when there has been evidence of spouse abuse.

Fifty percent of the men who beat their wives also physically abuse their children. Even if they are not beaten, children who witness their fathers assaulting their mothers suffer permanent and grave emotional and psychological harm.

Children who grow up in violent homes learn two basic types of behavior: Passive indifference for girls—this can lead to drug and alcohol abuse, teenage pregnancy, and suicide—and aggressive behavior for boys—school and street violence, truancy, and crime.

Spousal abuse does not end with divorce. In fact, the abuse can increase. Custody litigation or the threat of it becomes yet another tool for the batterer. Shared or joint custody, when there has been a history of abuse, often sets the stage for continued access to the victim and the children.

H.R. 1253, the Judicial Training Act, would amend the State Justice Institute Act of 1984 to provide $600,000 for five projects to carry out research on State judicial decisions relating to child custody litigation involving domestic violence and to develop training programs for judges and other court personnel about domestic violence and children.

Mr. Speaker, we who work and live in this great city know only too well the terrible toll violence takes every day on all of us, young and old alike. Violence is epidemic in this country, and domestic violence is without a doubt a contributing factor.

October is Domestic Violence Month, a time to remember those who have died and a time to pledge ourselves to ending the scourge of family violence.

A great deal has been said about the meaning of the term family values, a term that can mean many things to many people. But surely a fundamental on which all can agree is this: Our homes which should be places of love and comfort, places of refuge, and sources of strength, our homes should not be places of terror and death.

I urge my colleagues to support this legislation.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Illinois). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 1253.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS CONCERNING ADMISSIBILITY OF TESTIMONY ON DOMESTIC VIOLENCE

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 89) expressing the sense of Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible when offered in a State court by a defendant in a criminal case.

The Clerk read as follows:

H. CON. RES. 89

Whereas State criminal courts often fail to admit expert testimony offered by a defendant concerning the nature and effect of physical, sexual, and mental abuse to assist the trier of fact in assessing the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

Whereas the average juror often has little understanding of the nature and effect of domestic violence on such a defendant's behavior, beliefs, or perceptions, and the lack of understanding can result in the juror blaming the woman for her victimization;

Whereas the average juror is often unaware that victims of domestic violence are frequently in greater danger of violence after they terminate or attempt to terminate domestic relationship with their abuser;

Whereas myths, misconceptions, and victim-blaming attitudes are often held not only by the average layperson but also many in the criminal justice system, insofar as the criminal justice system traditionally has failed to protect women from violence at the hands of men;

Whereas specialized knowledge of the nature and effect of domestic violence is sufficiently established to have gained the general acceptance which is required for the admissibility of expert testimony;

Whereas although both men and women can be victims of physical, sexual, and mental abuse by their partners in domestic relationship, the most frequent victims are women; and

Whereas a women is more likely to be assaulted and injured, raped, or killed by her current or former male partner than by any other type of assailant, and over one-half of all women murdered are killed by their current or former male partners: Now, therefore, be it

Revolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible when offered in a State court by a defendant in a criminal case to assist the trier of fact in understanding the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) a witness should be qualified to testify as an expert witness based upon her or his knowledge, skill, experience, training, or education, and should be permitted to testify in the form of an opinion or otherwise and

(3) a domestic relationship about which such expert testimony should be admissible includes relationships between spouses, former spouses, cohabitants, former cohabitants, partners or former partners, and between persons who are in, or have been in, a dating, courtship, or intimate relationship.

□ 2150

The SPEAKER pro tempore (Mr. HAYES of Illinois). Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our final bill in this most important area is House Concurrent Resolution 89. This resolution expresses the sense of Congress that expert testimony concerning the nature and effect of domestic violence including descriptions and experiences of battered women should be admissible when offered in a State court by a defendant in a criminal case.

It is a good bill. It is a good package, Mr. Speaker, and I urge my colleagues to vote in favor of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 89 which expresses the sense of Congress that the nature and effect of domestic violence should be admissible when offered in a State court by a defendant in a criminal case. Currently only six States by statute allow evidence of past abuse or the testimony of expert witnesses about the battered woman's syndrome. This resolution would encourage other States to follow the lead of the six States that now permit such testimony by statute. This would result in a more uniform and consistent approach to the handling of domestic violence cases in State courts.

I would like to commend the gentlewoman from Maryland, CONNIE MORELLA, for her work in this area and for introducing this resolution which I urge my colleagues' support for it.

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to my friend and colleague, the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman, my friend, for once again yielding me this time, and to congratulate him on this being the third of the three-way package that the gentleman introduced and worked with and pushed through the committee.

Once again, this bill will make it more feasible for cases to be brought in the State courts, in cases of battered women and abused families, and so I think this is an excellent bill. I believe it is a step forward. It modernizes the whole procedure and makes these prosecutions more feasible.

I thank the gentleman for working on this, and I rise in strong support of the bill.

Mr. MOORHEAD. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I again thank the gentleman for yielding me this time.

Again, I thank the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], the gentleman from New York [Mr. FISH], and our subcommittee, the gentleman from New Jersey [Mr. HUGHES], the gentleman from California [Mr. MOORHEAD]. I want to also comment about other members of the subcommittee that I thought were terrific at the hearing and who have offered their support, too: the gentlewoman from Colorado [Mrs. SCHROEDER], the gentleman from Florida [Mr. JAMES], the gentleman from North Carolina [Mr. COBLE], and the gentleman from Oklahoma [Mr. SYNAR]. I want to comment also on a committee staff member, of the subcommittee, Mr. Ed O'Connell, who is also very helpful, and others who have assisted, as well as the gentleman from Kentucky [Mr. MAZZOLI], for the comments that he made on behalf of this, as it was called, trilogy.

Mr. Speaker, what have we done about domestic violence?

For the most, society has looked the other way—family and friends who chose not to intrude and police and judges who simply failed to protect. Indeed, for many women, the courts have become their adversaries not their allies. In so many cases, we find that battered women are victimized twice—once by their abusers and then by our judicial system.

Without appropriate and timely intervention, domestic violence often escalates and leads to death.

Some battered women, ignored by the police, mistreated in court, and isolated by family and friends, their lives and their children's threatened, in desperation finally strike back and kill their abusers.

Today, when battered women kill, only nine States—Maryland, Ohio, Missouri, California, Texas, Kentucky, Louisiana, Arizona, Oklahoma—by statute allow them to introduce evidence of their past abuse at their trials or allow juries to hear about the long-term effects of years of battering.

My work on House Concurrent Resolution 89 grew out of my meetings with a support group for women incarcerated at Maryland's Jessup prison for killing their abusers. These women never had fair trials, had never been able to present their stories in court, and many were serving life terms.

Two years ago, Maryland did not allow evidence of past abuse in criminal trials, and I felt very strongly that our Gov. William Donald Schaefer should come to the prison to meet with these women himself. He did and he took action. After a full investigation, he commuted the sentence of 12 of the women at Jessup and moved quickly to change Maryland law. Indeed, because of his leadership on this issue and on several other domestic violence initiatives, Maryland has become a national leader in the fight against domestic violence.

House Concurrent Resolution 89, the fair trial bill, would urge other States to follow Maryland's example. The resolution expresses the sense of Congress that the nature and effect of domestic violence should be admissible when offered in a State court by a defendant in a criminal case.

When the battered woman's syndrome is presented in court, the jury can be better informed about a battered woman's pattern of behavior and her reasonable fear of serious injury or death. The battered women's syndrome allows a defense attorney to expand the scope of the self-defense argument.

It should be pointed out that the battered woman's syndrome is not in and of itself a defense but only another piece of evidence for the jury to consider. And, as always, in the end the jury will determine guilt or innocence.

Mr. Speaker, House Concurrent Resolution 89 will urge our States to guarantee a battered woman a right we Americans hold dear: The right to a fair trial.

I urge my colleagues to support this legislation.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 89).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS RELATING TO LATE PAYMENT OF MAINTENANCE FEES ON PATENTS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5328) to amend title 35, United States Code, with respect to the late payment of maintenance fees, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCEPTANCE OF LATE PAYMENT OF MAINTENANCE FEES.

Section 41(c)(1) of title 35, United States Code, is amended in the first sentence by inserting after "section" the following: "which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unintentional, or at any time".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5328, a bill to create a less stringent standard for considering the acceptance of late maintenance fees on patents by the Patent and Trademark Office.

Under present law, patentees have a 6-month grace period after the payment due date to pay the maintenance fee, and any additional surcharge, before the patent expires.

After the 6-month grace period, the patentee must convince the Commissioner of the Patent and Trademark Office that the failure to pay was unavoidable in order to have the patent remain in force.

The unavoidable standard has proved to be too stringent in many cases. Many patentees have been derived of their patent rights for failure to pay the maintenance fees for reasons that may have been unintentional yet not unavoidable.

H.R. 5328 will provide patent owners with a new unintentional standard which would be applicable for a 24-month period after the 6-month grace period. The Commissioner of the Patent and Trademark Office will be able to accept late payments if the delay in payment was either unintentional or unavoidable.

I urge the adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5328 and ask unanimous consent to revise and extend my remarks. I yield myself as much time as I may consume. I am particularly grateful to the gentleman from New Jersey, [Mr. HUGHES] for his attention to this matter. I also would like to congratulate the gentleman from Florida [Mr. MCCOLLUM] for his insight and leadership in drafting this legislation.

The bill as introduced by the gentleman from Florida had two parts; the first part related to the Board of Patent Appeals and Interferences and the second part related to the late payment of maintenance fees. The subcommittee deleted the part of H.R. 5328 relating to the Board of Patent Appeals and changed slightly the late payment of maintenance fee.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM], the author of this legislation.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding me this time. I want to thank both the gentleman from California and my good friend and colleague, the gentleman from New Jersey, the chairman of the subcommittee, for bringing this bill out today. You have been very kind in your compliments to me for the bill.

I have had the privilege of serving with both of you now for a number of years, and I know the efficient work that you put in. It is really a pleasure, and I greatly appreciate your words and your bringing this legislation out tonight and out of our committee.

□ 2200

Several months ago I happened to have had a telephone conversation with one of my constituents in Florida about a matter totally unrelated to the subject of the maintenance fees, but she worked for a patent attorney and she just happened to say to me, "Mr. McCollum, are you aware of all the problems that small patent holders have with regard to these maintenance fees? If they are inventors and don't really fall in the category of those who work for large corporations, many times we see in our offices those who do not make the payment of these maintenance fees required periodically under the law: 3½, 7½, 11½ years. They don't get the notices, either move or whatever, and really didn't intend to not make those fees, but the standards are so high they cannot overcome it when they come in here."

It is an unavoidable standard; of course they could have technically avoided it and therefore they have lost their patent. I think that is a tragedy.

I looked into this and consequently that is the origin of where this bill came from. I think it is a tribute to that particular person individually that she raised that issue with me. I think it is typical of how many of the key issues of our time come before us. They are not just something that we think of on our own because we happen to be studying the code in the middle of the night somewhere.

But it is a very true fact that there are remedies to problems like this, and this bill is a good example of it, of how efficient this Congress can be with gentleman like those, the gentleman from New Jersey and the gentleman from California, who have brought forward this legislation tonight.

I do agree with the comments made by the gentleman from New Jersey [Mr. HUGHES] that the standard of "unavoidable" was just too high, "unintentional" is much better.

The bill, as it has been amended, I think has been a good improvement. Petitions to accept payments under the standard can only be filed within a period up to 24 months after the expiration of the normal grace period when the maintenance fee has not been paid. The Patent and Trademark Office has no objections to this legislation. In fact, the administration supports it.

I urge my colleagues to go ahead and pass it and see if we cannot get it through the other body in the waning hours of this session.

It is a good bill, and again I thank both gentlemen for their cooperation.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5328, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: A bill to amend title 35, United States Code, with respect to the late payment of maintenance fees.". A motion to reconsider was laid on the table.

FEDERAL COURTS ADMINISTRATION ACT OF 1992

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5933) to implement the recommendations of the Federal Courts Study Committee, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5933

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Courts Administration Act of 1992".

TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 101. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF INTERLOCUTORY DECISIONS.

Section 1292 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(e) The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the court of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d).".

SEC. 102. ABOLITION OF TEMPORARY EMERGENCY COURT OF APPEALS.

(a) APPEALS UNDER ECONOMIC STABILIZATION ACT.—Section 211 of the Economic Stabilization Act of 1970 (Public Law 91-379; 84 Stat. 799) is amended by striking subsections (b) through (h) and inserting the following:

"(b) Appeals from orders or judgments entered by a district court of the United States in cases and controversies arising under this title shall be brought in the United States Court of Appeals for the Federal Circuit if the appeal is from a final decision of the district court or is an interlocutory appeal permitted under section 1292(c) of title 28, United States Code.".

(b) JUDICIAL REVIEW OF EMERGENCY ORDERS UNDER THE NATURAL GAS POLICY ACT.—Section 506(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(c)) is amended—

(1) in the first sentence, by striking "the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended," and inserting "the United States Court of Appeals for the Federal Circuit"; and

(2) by striking "Temporary Emergency Court of Appeals" each place it appears and inserting "United States Court of Appeals for the Federal Circuit".

(c) CONFORMING AMENDMENTS.—Section 1295(a) of title 28, United States Code, is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(11) of an appeal under section 211 of the Economic Stabilization Act of 1970;

"(12) of an appeal under section 5 of the Emergency Petroleum Allocation Act of 1973;

"(13) of an appeal under section 506(c) of the Natural Gas Policy Act of 1978; and

"(14) of an appeal under section 523 of the Energy Policy and Conservation Act.".

(d) ABOLITION OF COURT.—The Temporary Emergency Court of Appeals created by section 211(b) of the Economic Stabilization Act of 1970 is abolished, effective 6 months after the date of the enactment of this Act.

(e) PENDING CASES.—(1) Any appeal which, before the effective date of abolition described in subsection (d), is pending in the Temporary Emergency Court of Appeals but has not been submitted to a panel of such court as of that date shall be assigned to the United States Court of Appeals for the Federal Circuit as though the appeal had originally been filed in that court.

(2) Any case which, before the effective date of abolition described in subsection (d), has been submitted to a panel of the Temporary Emergency Court of Appeals and as to which the mandate has not been issued as of that date shall remain with that panel for all purposes and, notwithstanding the provisions of sections 291 and 292 of title 28, United States Code, that panel shall be assigned to the United States Court of Appeals for the Federal Circuit for the purpose of deciding such case.

SEC. 103. JURISDICTION OF MAGISTRATE JUDGES TO MODIFY OR REVOKE PROBATION OR SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "and to revoke or reinstate the probation of any person granted probation by him." and inserting "and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge."; and

(2) by adding at the end the following new subsections:

"(h) The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of supervised release by a magistrate judge.

"(i) A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended disposition under section 3583(e) of this title. The magistrate judge shall file his or her proposed findings and recommendations.".

SEC. 104. INTERCIRCUIT TRANSFERS.

Section 291(a) of title 28, United States Code, is amended to read as follows:

"(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.".

TITLE II—JUDICIAL SURVIVORS' ANNUITIES IMPROVEMENTS

SEC. 201. JUDICIAL SURVIVORS' ANNUITIES AMENDMENTS.

(a) ELECTION.—Section 376(a)(1) of title 28, United States Code, is amended in the matter following subparagraph (G)—

(1) by striking "or" at the end of clause (v); and

(2) by inserting before the semicolon at the end of clause (vi) ", or (vii) the date of the enactment of the Federal Courts Administration Act of 1992".

(b) CONTRIBUTIONS.—Section 376(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in the first sentence by striking "including any 'retirement salary', a sum equal to 5 percent of that salary." and inserting "a sum equal to 2.2 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary—

"(A) of a justice or judge of the United States retired from regular active service who is described in section 371(b)(1) of this title,

"(B) of a justice or judge of the United States retired under section 372(a) of this title who is willing and able to perform judicial duties in accordance with section 294 of this title,

"(C) of a judge of the United States Court of Federal Claims retired under section 178(a) or (b) of this title who meets the requirements of section 178(d) of this title, or

"(D) of a judicial official on recall under section 155(b), 797, 373(c)(4), 375, or 636(h) of this title,

shall be an amount equal to 2.2 percent of retirement salary.";

(3) by redesignating all that follows the first sentence (as amended by paragraph (2) of this subsection) as paragraph (3) and inserting before such paragraph (3) the following new paragraph:

"(2) A judicial official who is not entitled to receive an immediate retirement salary upon leaving office but who is eligible to receive a deferred retirement salary on a later date shall file, within 90 days before leaving office, a written notification of his or her intention to remain within the purview of this section under such conditions and procedures as may be determined by the Director of the Administrative Office of the United States Courts. Every judicial official who files a written notification in accordance with this paragraph shall be deemed to consent to contribute, during the period before such a judicial official begins to receive his or her retirement salary, a sum equal to 3.5 percent of the deferred retirement salary which that judicial official is entitled to receive. Any judicial official who fails to file a written notification under this paragraph shall be deemed to have revoked his or her election under subsection (a) of this section."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "so deducted and withheld from the salary of each such judicial official" and inserting "deducted and withheld from the salary of each judicial official under paragraphs (1) and (2) of this subsection".

(c) DEPOSITS.—Section 376(d) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "5 percent" and inserting "3.5 percent"; and

(2) in paragraph (2) by striking "5 percent" and inserting "3.5 percent".

(d) REFUND OF DEPOSITS.—Section 376(g) of title 28, United States Code, is amended to read as follows:

"(g) If any judicial official leaves office and is ineligible to receive a retirement salary or leaves office and is entitled to a deferred retirement salary but fails to make an election under subsection (b)(2) of this section, all amounts credited to his or her account established under subsection (e), together with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, minus a sum equal to 2.2 percent of salary for service while deductions were withheld under subsection (b) or for which a deposit was made by the judicial official under subsection (d), shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this section, a 'reasonable period of time' shall be presumed to be no longer than 1 year following the date upon which such judicial official relinquishes his or her office.".

(e) PAYMENT OF ANNUITIES.—Section 376(h)(1) of title 28, United States Code, is amended by striking "or while receiving 'retirement salary,' " and inserting "while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section".

(f) CREDITABLE SERVICE.—Section 376(k) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking "and" at the end;

(2) in paragraph (4) by striking the period and inserting ", and"; and

(3) by adding at the end the following new paragraph:

"(5) those years during which such judicial official had deductions withheld from his or her retirement salary in accordance with subsection (b)(1) or (2) of this section.".

(g) COMPUTATION OF ANNUITY.—Section 376(l) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "(i) during those three years of such service in which his or her annual salary" and inserting "(i) during those three years of such service, or during those three years while receiving a retirement salary, in which his or her annual salary or retirement salary"; and

(2) in paragraph (1) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) the number of years during which the judicial official had deductions withheld from his or her retirement salary under subsection (b)(1) or (2) of this section; plus".

(h) TERMINATION.—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

"(v) Subject to the terms of a decree, court order, or agreement described in subsection (t)(1), if any judicial official ceases to be married after making the election under subsection (a), he or she may revoke such election in writing by notifying the Director of the Administrative Office of the United States Courts. The judicial official shall also notify any spouse or former spouse of the application for revocation in accordance with such requirements as the Director of the Administrative Office of the United States Courts shall by regulation prescribe. The Director may provide under such regulations that the notification requirement may be waived with respect to a spouse or former spouse if the judicial official establishes to the satisfaction of the Director that the whereabouts of such spouse or former spouse cannot be determined.".

(i) ADJUSTMENT OF CONTRIBUTION RATE.—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

"(w) The Comptroller General of the United States shall, at the end of each 3-fiscal year period, determine whether the contributions by judicial officials under subsection (b) during that 3-year period accounted for 50 percent of the costs of the Judicial Survivors' Annuities Fund and if not, then what adjustments in the contribution rates under subsection (b) should be made to achieve that 50 percent figure. The Comptroller General shall report the results of each determination under this subsection to the Congress.".

(j) CREDIT FOR PRIOR CONTRIBUTIONS AT HIGHER RATE.—Notwithstanding any other provision of law, the contribution under section 376(b) (1) or (2) of title 28, United States Code (as amended by this section), of any judicial official who is within the purview of such section 376 on the effective date of this title shall be reduced by 0.5 percent for a period of time equal to the number of years of service for which the judicial official has made contributions or deposits before the enactment of this Act to the credit of the Judicial Survivors' Annuities Fund or for 18 months, whichever is less, if such contributions or deposits were never returned to the judicial official. For purposes of this subsection, the term "years" shall mean full years and twelfth parts thereof.

(k) REDEPOSIT OF PRIOR CONTRIBUTIONS.—Any judicial official as defined in section 376(a)(1) of title 28, United States Code, who makes an election under section 376(b) of title 28, United States Code, may make a redeposit, as required by section 7 of Public Law 94-554 and section 2(c)(2) of Public Law 99-336, to the credit of the Judicial Survivors' Annuities Fund in installments, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts. If a judicial official elects to make a redeposit in installments—

(1) the Director shall require that the first installment payment made shall be in an amount no smaller than the last 18 months of salary deductions or deposits previously returned to that judicial official in a lump-sum payment; and

(2) the election under section 376(b) of title 28, United States Code, shall be effective upon payment of the first such installment.

(l) AUDIT BY GAO.—The Comptroller General shall—

(1) conduct an audit of the judicial survivors annuities program under section 376 of title 28, United States Code, for the 3-year period beginning on the date of the enactment of this Act; and

(2) report to the Congress, not later than 60 days after the end of that 3-year period, on the results of such audit, comparing such program to other survivors annuities programs within the Federal Government.

SEC. 202. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE III—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 301. AWARD OF FILING FEES IN FAVOR OF THE UNITED STATES.

(a) ACTIONS COMMENCED BY THE UNITED STATES.—Section 2412(a) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) A judgment for costs, when awarded in favor of the United States in an action brought by the United States, may include an amount equal to the filing fee prescribed under section 1914(a) of this title. The preceding sentence shall not be construed as requiring the United States to pay any filing fee.".

(b) DISPOSITION OF FILING FEES.—Section 1931 of title 28, United States Code, is amended by striking "The following" and all that follows through the end and inserting the following:

"(a) Of the amounts paid to the clerk of court as a fee under section 1914(a) or as part of a judgment for costs under section 2412(a)(2) of this title, $60 shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States.

"(b) If the court authorizes a fee under section 1914(a) or an amount included in a judgment for costs under section 2412(a)(2) of this title of less than $120, the entire fee or amount, up to $60, shall be deposited into the special fund provided in this section.".

TITLE IV—JURY MATTERS

SEC. 401. JURY SELECTION.

Section 1863(b)(2) of title 28, United States Code, is amended by adding at the end the following: "The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.".

SEC. 402. GRAND JURY TRAVEL.

Section 1871(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines established by the Judicial Conference, the actual reasonable costs of travel by aircraft when travel by other means is not feasible and when certified by the chief judge of the district court in which the grand juror serves.".

SEC. 403. PERMANENT AUTHORIZATION FOR OPTIONAL USE OF NEW JURY SELECTION PROCESS.

(a) AUTHORITY TO USE ONE-STEP PROCEDURE.—Section 1878 of title 28, United States Code, is amended to read as follows:

"§1878. Optional use of a one-step summoning and qualification procedure

"(a) At the option of each district court, jurors may be summoned and qualified in a single procedure, if the court's jury selection plan so authorizes, in lieu of the two separate procedures otherwise provided for by this chapter. Courts shall ensure that a one-step summoning and qualification procedure conducted under this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title.

"(b) Jury selection conducted under this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure authorized by this section.".

(b) CONFORMING AMENDMENT.—The item relating to section 1878 in the table of sections for chapter 121 is amended to read as follows:

"1878. Optional use of a one-step summoning and qualification procedure.".

(c) SAVINGS PROVISION.—For courts participating in the experiment authorized under section 1878 of title 28, United States Code (as in effect before the effective date of this section), the amendment made by subsection (a) of this section shall be effective on and after January 1, 1992.

TITLE V—MISCELLANEOUS

SEC. 501. PRETERMISSION OF REGULAR SESSIONS OF COURT OF APPEALS.

Section 48(c) of title 28, United States Code, is amended by striking ", with the consent of the Judicial Conference of the United States,".

SEC. 502. REPORTS AND STATISTICS.

(a) ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENT.—After January 1, 1992, the Director of the Administrative Office of the United States Courts is not required to send a report under section 1121(a) of Public Law 95–630 (12 U.S.C. 3421(a)).

(b) TRANSFER OF REPORTING DUTY TO ADMINISTERING AGENCY.—Section 2412(d)(5) of title 28, United States Code, is amended by striking "The Director" and all that follows through "this title," and inserting "The Attorney General shall report annually to the Congress on".

(c) EXTENSION FOR JUDICIAL CENTER REPORT.—Section 302(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 104 Stat. 5104) is amended by striking "2 years" and inserting "2 years and 9 months".

SEC. 503. RECYCLING AND REUSE OF RECYCLABLE MATERIALS.

Section 604(g) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) In order to promote the recycling and reuse of recyclable materials, the Director may provide for the sale or disposal of recyclable scrap materials from paper products and other consumable office supplies held by an entity within the judicial branch.

"(B) The sale or disposal of recyclable materials under subparagraph (A) shall be consistent with the procedures provided in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

"(C) Proceeds from the sale of recyclable materials under subparagraph (A) shall be deposited as offsetting collections to the fund established under section 1931 of this title and shall remain available until expended to reimburse any appropriations for the operation and maintenance of the judicial branch.".

SEC. 504. VENUE IN DIVERSITY AND FEDERAL QUESTION CASES.

Section 1391(a)(3) of title 28, United States Code, is amended by inserting before the period ", if there is no district in which the action may otherwise be brought".

SEC. 505. SUMMARIES OF REPORTS TO CONGRESS.

Section 103(c)(4)(B) of the Civil Justice Reform Act of 1990 (Public Law 101–650) is amended by striking "the reports" and inserting "summaries of the reports".

SEC. 506. COSTS AND FEES IN THE UNITED STATES COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 2412(d)(2)(F) of title 28, United States Code, is amended by inserting before the semicolon "and the United States Court of Veterans Appeals".

(b) APPLICATION TO PENDING CASES.—The amendment made by subsection (a) shall apply to any case pending before the United States Court of Veterans Appeals on the date of the enactment of this Act, to any appeal filed in that court on or after such date, and to any appeal from that court that is pending on such date in the United States Court of Appeals for the Federal Circuit.

(c) FEE AGREEMENTS.—Section 5904(d) of title 38, United States Code, shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 5904(d) of title 38, United States Code, shall not apply with respect to any such award but only if, where the claimant's attorney receives fees for the same work under both section 5904 of title 38, United States Code, and section 2412(d) of title 28, United States Code, the claimant's attorney refunds to the claimant the amount of the smaller fee.

(d) EFFECTIVE DATE.—This section, and the amendment made by this section, shall take effect on the date of the enactment of this Act.

TITLE VI—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 601. JUDICIAL RETIREMENT MATTERS.

(a) JUDICIAL RETIREMENT FUNDS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)) is amended by inserting after "Judicial survivors' annuities fund (10–8110–0–7–602);" the following:

"Judicial Officers' Retirement Fund (10–8122–0–7–602);

"Court of Federal Claims Judges' Retirement Fund (10–8124–0–7–602);".

(b) JUDICIARY TRUST FUNDS.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after "Payment to civil service retirement and disability fund (24–0200–0–1–805);" the following:

"Payment to Judiciary Trust Funds (10–0941–0–1–752);".

SEC. 602. FEDERAL JUDICIAL CENTER.

(a) FUNCTIONS.—Subsection 620(b) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking "and" at the end;

(2) in paragraph (5) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.".

(b) CLERICAL COMPENSATION.—Subsection 625(c) of title 28, United States Code, is amended by striking "competitive service and" and inserting "competitive service without regard to".

TITLE VII—CRIMINAL ADMINISTRATIVE MATTERS

SEC. 701. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

(a) PROBATION OFFICERS.—Section 3603 of title 18, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end;

(2) by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following new paragraph:

"(8)(A) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and

"(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee; and".

(b) PRETRIAL SERVICES.—Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (12) as paragraph (13); and

(2) by inserting after paragraph (11) the following new paragraph:

"(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

"(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee.".

SEC. 702. GOVERNMENT RATES OF TRAVEL FOR CRIMINAL JUSTICE ACT ATTORNEYS AND EXPERTS.

The Administrator of General Services, in entering into contracts providing for special rates to be charged by Federal Government sources of supply, including common carriers and hotels (or other commercial providers of lodging) for official travel and accommodation of Federal Government employees, shall provide for charging the same rates for attorneys, experts, and other persons traveling primarily in connection with carrying out responsibilities under section 3006A of title 18, United States Code, including community defender organizations established under subsection (g) of that section.

SEC. 703. TECHNICAL CORRECTION.

Section 3143(b)(1) of title 18, United States Code, is amended by striking "paragraph (b)(2)(D)" and inserting "subparagraph (B)(iv) of this paragraph".

TITLE VIII—STATE JUSTICE INSTITUTE REAUTHORIZATION

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

The text of section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $25,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996. Amounts appropriated for each such year are to remain available until expended.".

SEC. 802. INTERAGENCY AGREEMENTS.

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(b)) is amended—

(1) in paragraph (1)—

(A) by striking "shall give priority to grants, cooperative agreements, or contracts" and inserting "may award grants to or enter into cooperative agreements or contracts"; and

(B) in subparagraph (A) by striking the comma and inserting a semicolon;

(2) in paragraph (2) by inserting "to" after "award grants";

(3) by striking paragraph (3) and inserting the following:

"(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.";

(4) by redesignating paragraph (4) as paragraph (5); and

(5) by inserting after paragraph (3) the following new paragraph:

"(4) The Institute may enter into contracts with Federal agencies to carry out the purposes of this title.".

SEC. 803. TECHNICAL AMENDMENTS.

(a) BOARD OF DIRECTORS.—Section 204(a)(3) of the State Justice Institute Act of 1984 (42 U.S.C. 10703(a)(3)) is amended in the second sentence by striking "conference" and inserting "Conference".

(b) USES OF FUNDS.—Section 206(c)(7) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)(7)) is amended by striking "effect" and inserting "affect".

SEC. 804. EFFECTIVE DATE.

The provisions of this title shall take effect on the date of the enactment of this Act.

TITLE IX—COURT OF FEDERAL CLAIMS

SEC. 901. SHORT TITLE.

This title may be cited as the "Court of Federal Claims Technical and Procedural Improvements Act of 1992".

SEC. 902. COURT DESIGNATION.

(a) IN GENERAL.—Chapters 7, 51, 91, and 165 of title 28, United States Code, are amended—

(1) by striking "United States Claims Court" each place it appears and inserting "United States Court of Federal Claims"; and

(2) by striking "Claims Court" each place it appears and inserting "Court of Federal Claims".

(b) OTHER PROVISIONS OF LAW.—Reference in any other Federal law or any document to—

(1) the "United States Claims Court" shall be deemed to refer to the "United States Court of Federal Claims"; and

(2) the "Claims Court" shall be deemed to refer to the "Court of Federal Claims".

SEC. 903. MILITARY RETIREMENT PAY FOR RETIRED JUDGES.

(a) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by adding at the end the following new section:

"§180. Military retirement pay for retired judges

"Section 371(e) of this title applies to judges of the United States Court of Federal Claims, and for the purpose of construing section 371(e) of this title, a judge of the United States Court of Federal Claims shall be deemed to be a judge of the United States as defined in section 451 of this title.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end the following:

"179. Insurance and annuities programs.

"180. Military retirement pay for retired judges.".

SEC. 904. RECALL OF COURT OF FEDERAL CLAIMS JUDGES ON SENIOR STATUS.

(a) IN GENERAL.—Section 375 of title 28, United States Code, is amended—

(1) in the first sentence of subsection (a)(1) by striking ", a judge of the Claims Court," and ", judge of the Claims Court,";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.";

(3) by amending paragraph (3) of subsection (a) to read as follows:

"(3) For purposes of this section, the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984."; and

(4) in subsection (f)—

(A) by striking ", a judge of the Claims Court,"; and

(B) by striking ", a commissioner of the Court of Claims,".

(b) RECALL OF RETIRED JUDGES.—Section 797(d) of title 28, United States Code, is amended in the second sentence by striking "civil service".

SEC. 905. LAW CLERKS.

The first sentence of section 794 of title 28, United States Code, is amended by inserting after "may approve" the following: "for district judges".

SEC. 906. SITES FOR HOLDING COURT.

(a) IN GENERAL.—Section 798(a) of title 28, United States Code, is amended to read as follows:

"(a) The United States Court of Federal Claims is authorized to use facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services Administration, shall be made available for trials and other proceedings outside of the District of Columbia.".

(b) HEARING IN A FOREIGN COUNTRY.—Section 798 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) Upon application of a party or upon the judge's own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge of the Court of Federal Claims may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to section 1292(d)(2) of this title, and the United

States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.".

(c) APPEAL JURISDICTION.—Section 1292(d)(2) of title 28, United States Code, is amended by inserting after "When" the following: "the chief judge of the United States Court of Federal Claims issues an order under section 798(b) of this title, or when".

SEC. 907. JURISDICTION.

(a) CERTIFICATIONS.—(1) Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended—

(A) in paragraph (1) in the second sentence—

(i) by striking "and" after "belief,"; and

(ii) by inserting before the period at the end of the sentence the following: ", and that the certifier is duly authorized to certify the claim on behalf of the contractor"; and

(B) by adding at the end the following:

"(6) The contracting officer shall have no obligation to render a final decision on any claim of more than $50,000 that is not certified in accordance with paragraph (1) if, within 60 days after receipt of the claim, the contracting officer notifies the contractor in writing of the reasons why any attempted certification was found to be defective. A defect in the certification of a claim shall not deprive a court or an agency board of contract appeals of jurisdiction over that claim. Prior to the entry of a final judgment by a court or a decision by an agency board of contract appeals, the court or agency board shall require a defective certification to be corrected.

"(7) The certification required by paragraph (1) may be executed by any person duly authorized to bind the contractor with respect to the claim.".

(2) The amendment made by paragraph (1)(B) shall be effective with respect to all claims filed before, on, or after the date of the enactment of this Act, except for those claims which, before such date of enactment, have been the subject of an appeal to an agency board of contract appeals or a suit in the United States Claims Court.

(3) If any interest is due under section 12 of the Contract Disputes Act of 1978 on a claim for which the certification under section 6(c)(1) is, on or after the date of the enactment of this Act, found to be defective shall be paid from the later of the date on which the contracting officer initially received the claim or the date of the enactment of this Act.

(4) The amendments made by paragraph (1)(A) shall be effective with respect to certifications executed more than 60 days after the effective date of amendments to the Federal Acquisition Regulation implementing the amendments made by paragraph (1)(A) with respect to the certification of claims.

(b) JURISDICTION OF COURT OF FEDERAL CLAIMS.—(1) Section 1491(a)(2) of title 28, United States Code, is amended in the last sentence by inserting before the period at the end the following: ", including a dispute concerning termination of a contract, rights in tangible or intangible property, compliance with cost accounting standards, and other nonmonetary disputes on which a decision of the contracting officer has been issued under section 6 of that Act".

(2) The amendment made by paragraph (1) shall be effective with respect to all actions filed before, on, or after the date of the enactment of this Act, except for those actions which, before such date of enactment, have been the subject of—

(A) a final judgment of the United States Claims Court, if the time for appeal of that judgment has expired without an appeal having been filed, or

(B) a final judgment of the Court of Appeals for the Federal Circuit.

SEC. 908. AWARDABLE COSTS.

(a) AWARD OF COSTS.—Section 1919 of title 28, United States Code, is amended—

(1) by striking "district court or" and inserting "district court,"; and

(2) by inserting after "Trade" the following: ", or the Court of Federal Claims".

(b) TECHNICAL AMENDMENTS.—(1) The section caption for section 1919 of title 28, United States Code, is amended to read as follows:

"§1919. Dismissal for lack of jurisdiction".

(2) The item relating to section 1919 in the table of sections for chapter 123 of title 28, United States Code, is amended to read as follows:

"1919. Dismissal for lack of jurisdiction.".

SEC. 909. PROCEEDINGS GENERALLY.

Section 2503 of title 28, United States Code, is amended by adding at the end the following:

"(d) For the purpose of construing sections 1821, 1915, 1920, and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.".

SEC. 910. SUBPOENAS AND INCIDENTAL POWERS.

(a) IN GENERAL.—Section 2521 of title 28, United States Code, is amended—

(1) by amending the section caption to read as follows:

"§2521. Subpoenas and incidental powers";

(2) by inserting "(a)" before "Subpoenas requiring"; and

(3) by adding at the end the following new subsections:

"(b) The United States Court of Federal Claims shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(c) The United States Court of Federal Claims shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for any district in which the Court of Federal Claims is sitting shall, when requested by the chief judge of the Court of Federal Claims, attend any session of the Court of Federal Claims in such district.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 165 of title 28, United States Code, is amended by amending the item relating to section 2521 to read as follows:

"2521. Subpoenas and incidental powers.".

SEC. 911. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE X—ADDITIONAL PROVISIONS

SEC. 1001. VICTIMS' RIGHTS FUNDING.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation."; and

(2) by striking subsection (d) and inserting the following:

"(d) The Fund shall be available as follows:

"(1) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(2) Of the next $100,000,000 deposited in the Fund in a particular fiscal year—

"(A) 49.5 percent shall be available for grants under section 1403; and

"(B) 45 percent shall be available for grants under section 1404(a).

"(3) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(4) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(5) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under paragraphs (1) through (4) shall be available as follows:

"(A) 47.5 percent shall be available for grants under section 1403.

"(B) 47.5 percent shall be available for grants under section 1404(a).

"(C) 5 percent shall be available for grants under section 1404(c).".

SEC. 1002. AUTHORITY TO LIMIT COLLECTION OF PRETRIAL INFORMATION IN CLASS A MISDEMEANOR CASES.

Section 3154(1) of title 18, United States Code, is amended by inserting before the period "; except that a district court may direct that information not be collected, verified, or reported under this paragraph on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title".

SEC. 1003. TERRORISM CIVIL REMEDY.

(a) TERRORISM.—Chapter 113A of title 18, United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

"§2332. Criminal penalties";

(3) by inserting before section 2332 as redesignated the following:

"§2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.";

(4) by adding after section 2332, as redesignated by paragraph (2) of this subsection, the following new sections:

"§2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4-year period set forth in subsection (a).

"§2336. Other limitations

"(a) ACTS OF WAR.—No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of discovery under this subsection, it may stay the action in the interests of justice.

"(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§2337. Suits against Government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his or her official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

"§2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.

(b) TABLE OF CONTENTS.—The table of contents of part 1 of title 18, United States Code, is amended by striking

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals .... 2331"

and inserting

"113A. Terrorism .... 2331".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

TITLE XI—EFFECTIVE DATE

SEC. 1101. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act shall take effect on January 1, 1993.

(b) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any provision of this Act, all sums expended pursuant to this Act shall be subject to the availability of appropriations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5933, the Federal Courts Administration Act of 1992. I will take just a few moments to briefly describe the bill.

H.R. 5933 reforms the judicial survivors' annuity system, reauthorizes the State Justice Institute, and makes a number of miscellaneous improvements in the areas of judicial financial administration; jury matters; and judicial personnel administration, benefits and protection.

H.R. 5933 would also make a number of improvements in the Federal claims litigation process and would assist the U.S. claims court in providing better and more efficient service to its litigants.

In view of the impending adjournment, sine die, the amendment to the bill as reported by our committee incorporates our bipartisan efforts to reconcile the House and Senate bills. The following are those changes: a deletion of an automatic adjustment of rates under the Judicial Survivor's Annuities Act; the addition of a central database on fines and restitution payments; and the addition of a new civil remedy for international terrorism.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5933, the Federal Courts Administration Act of 1992. I would like to commend the chairman of the Intellectual Property and Judicial Administration Subcommittee, the gentleman from New Jersey, BILL HUGHES, for his excellent work on H.R. 5933. In many ways this bill is a follow-up effort to the Federal Courts Study Committee Implementation Act of 1990 which was enacted into law as part of the Judicial Improvements Act of 1990. In this regard, I am pleased as a former Member of the Federal Courts Study Committee, to note that H.R. 5933 contains several recommendations of the Federal Courts Study Committee, such as the abolition of the Temporary Emergency Court of Appeals and the authority for the Supreme Court to prescribe rules for the appeal of interlocutory orders.

In addition to the recommendations of the Federal Courts Study Committee the legislation contains several needed changes to the Judicial Survivors Annuity System which was created by Congress in 1956 to provide financial protection for the spouses and children and members of the Federal judiciary. In 1986 Congress determined that there were a number of deficiencies in JSAS and accordingly passed legislation designed to address those deficiencies and thereby increase the level of participation in the program. A study of the past 6 years indicate that there are still significant problems with the program as evidenced, in part, by the fact that today only about 40 percent of the more than 1,800 eligible judicial officers participate in the JSAS. Moreover, the participation rate of newly appointed judges is lower and has declined to about 25 percent over the past few years. The 1986 act clearly did not accomplish its intended result.

H.R. 5933 would address these problems by changing the contribution rate for judicial officers from the current 5 percent of salary to 2.2 percent of salary during service on the bench including senior status or recall service, and 3.5 percent of annuity upon separation from office. In addition the bill would allow judges to cease participation in the program if their spouses predecease them or they are divorced. The improvements contained in this bill will put back into balance the shared burden of payment borne by the Government and participants in JSAS as intended when Congress passed the 1986 act and will bring JSAS into parity with other survivor benefit programs sponsored by the Government.

H.R. 5933 also contains several other provisions that can best be described as judicial housekeeping measures which will help streamline and improve the judicial system. Mr. Speaker, H.R. 5933 is solid legislation and I urge my colleagues' support for it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. I thank the gentleman for yielding time to me.

Mr. Speaker, I think the Federal Courts Administration Act is a very good bill, as introduced by Chairman HUGHES.

Mr. Speaker, two provisions in H.R. 5933 are falling victim to the end of session. The Committee on Post Office and Civil Service claimed jurisdiction on sections 202 and 203 of this bill. It is too late for the Post Office and Civil Service Committee to consider these provisions. They are provisions which would help a small group of retired magistrates and bankruptcy judges and surviving spouses.

Section 202 would give retired magistrates and bankruptcy judges the right to pay the market price for life insurance. Section 203 would allow surviving spouses to maintain their health insurance. Most of these spouses are women in their eighties who will have no access to health insurance.

Mr. Speaker, clearly, the Post Office and Civil Service Committee must consider these provisions in the future. Sections 202 and 203 will help a small group of people with minimal cost to the Federal Government.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5933, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 2210

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1569) to implement the recommendations of the Federal Courts Study Committee, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:–

S. 1569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Courts Study Committee Implementation Act of 1992".

TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 101. ESTABLISHMENT OF BANKRUPTCY APPELLATE PANELS.

Section 158 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by striking out paragraphs (1), (3), and (4);

(B) by redesignating paragraph (2) as paragraph (1); and

(C) by inserting after paragraph (1) (as redesignated by subparagraph (B) of this paragraph) the following:

"(2) The judicial council of each circuit shall establish a bankruptcy appellate panel if the council certifies that sufficient judicial resources exist to establish such a panel, taking into account such factors as bankruptcy judges' caseloads, the geographical dispersion of bankruptcy judges in the circuit, and the opportunity to establish a joint panel with another circuit. If a judicial council certifies that the circuit has insufficient judicial resources to establish a panel, it shall within 90 days thereafter file a report with the Judicial Conference of the United States describing why the circuit's judicial resources are insufficient to permit establishment of a panel. Any panel established after the date of the enactment of the Federal Courts Study Implementation Act of 1992 shall be established for a period of three years or until a majority of the bankruptcy judges requests the council to discontinue the panel, whichever is earlier. Thereafter, the council may again establish a panel under the same procedures and standards under this paragraph. The council may reconsider its decision not to establish a panel at any time.

"(3) A bankruptcy appellate panel established under this section shall be comprised of three bankruptcy judges from districts within the circuit or circuits, to hear and determine, upon consent of all the parties, appeals under subsection (a). A bankruptcy judge may not hear an appeal originating within a district for which the judge is appointed or designated under section 152 of this title."; and

(2) by amending subsection (c) to read as follows:

"(c) All appeals under this section shall be heard by a bankruptcy appellate panel under subsection (b), unless the appellant elects to file an appeal under subsection (a) or any other party within 30 days after service of notice of appeal elects to have the appeal heard under subsection (a). An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by rule 8002 of the Bankruptcy Rules.".

SEC. 102. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF INTERLOCUTORY DECISIONS.

Section 1292 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The Supreme Court may prescribe rules in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals, that is not otherwise provided for under subsection (a), (b), (c), or (d).".

SEC. 103. ABOLITION OF TEMPORARY EMERGENCY COURT OF APPEALS.

(a) APPEALS UNDER ECONOMIC STABILIZATION ACT.—Section 211 of the Economic Stabilization Act of 1970 (Public Law 91–379; 84 Stat. 799) is amended by striking out subsections (b) through (h) and inserting in lieu thereof the following:

"(b) Appeals from orders or judgments entered by a district court of the United States in cases and controversies arising under this title may be brought in the United States Court of Appeals for the Federal Circuit if the appeal is from a final decision of the district court or is an interlocutory appeal permitted under section 1292(c) of title 28, United States Code.".

(b) JUDICIAL REVIEW OF EMERGENCY ORDERS UNDER THE NATURAL GAS POLICY ACT.—Section 506(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(c)) is amended—

(1) in the first sentence, by striking out "the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended," and inserting in lieu thereof "the United States Court of Appeals for the Federal Circuit"; and

(2) by striking out "Temporary Emergency Court of Appeals" each place it appears and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit".

(c) CONFORMING AMENDMENTS.—Section 1295(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

"(11) of an appeal under section 211 of the Economic Stabilization Act of 1970;

"(12) of an appeal under section 5 of the Emergency Petroleum Allocation Act of 1973;

"(13) of an appeal under section 506(c) of the Natural Gas Policy Act of 1978; and

"(14) of an appeal under section 523 of the Energy Policy and Conservation Act.".

(d) ABOLITION OF COURT.—The Temporary Emergency Court of Appeals created by section 211(b) of the Economic Stabilization Act of 1970 is abolished effective six months after the date of the enactment of this Act.

(e) PENDING CASES.—(1) Any appeal which, before the effective date of abolition described under subsection (d), is pending in the Temporary Emergency Court of Appeals but has not been submitted to a panel of such court as of that date shall be assigned to the United States Court of Appeals for the Federal Circuit as though the appeal had originally been filed in that court.

(2) Any case which, before the effective date of abolition described under subsection (d), has been submitted to a panel of the Temporary Emergency Court of Appeals and as to which the mandate has not been issued as of that date shall remain with that panel for all purposes and, notwithstanding the provisions of sections 291 and 292 of title 28, United States Code, that panel shall be assigned to the United States Court of Appeals for the Federal Circuit for the purpose of deciding such case.

SEC. 104. JURISDICTION FOR MAGISTRATE JUDGES FOR MODIFICATION OF CONDITIONS OR REVOCATION OF PROBATION OR SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (d) by striking out "and to revoke or reinstate the probation of any person granted probation by him." and inserting in lieu thereof "and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge."; and

(2) by adding at the end thereof the following new subsections:

"(h) The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of supervised release by a magistrate judge.

"(i) A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended sentence under the provisions of section 3583(e) of this title. The magistrate judge shall file his proposed findings and recommendations.".

SEC. 105. EXHAUSTION OF REMEDIES.

Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended to read as follows:

"§1997e. Exhaustion of remedies

"(a) CERTIFICATION.—(1) In any action brought pursuant to section 1979 of the Revised Statutes (42 U.S.C. 1983) by an adult convicted of a crime confined in any jail, prison, or other correctional or detention facility, the court shall, if it finds that such a requirement would be appropriate and in the interests of justice, continue the case for 90 days in order to require exhaustion of administrative remedies if the defendant shows the court, or if the Attorney General certifies, under subsection (b), that plain, speedy, and effective remedies are available to the confined adult. Exhaustion of remedies shall not be required in any case in which the claimant alleges facts that show a risk of substantial or irreparable harm.

"(2) The failure of the Attorney General to certify an administrative remedy under subsection (b), or the decision of the Attorney General to suspend or withdraw the certification of an administrative remedy under subsection (c), shall not be binding on the courts.

"(b) PROCEDURE FOR CERTIFICATION.—(1) The Attorney General shall develop a procedure for the prompt review and certification of administrative remedies, as voluntarily submitted by the various States and political subdivisions, for the resolution of grievances of adults convicted of a crime confined in any jail, prison, or other correctional or detention facility, to determine if the administrative remedies provide plain, speedy, and effective remedies.

"(2)(A) The Attorney General or court shall consider the following standards in determining whether or not administrative remedies are plain, speedy and effective:

"(i) advisory role of employees and inmates or representatives of prisoner rights in formulating a plan of administrative remedies;

"(ii) maximum time limits for written responses to grievances;

"(iii) safeguards to avoid reprisals against any grievant or participant in the resolution of a grievance; and

"(iv) independent review of the disposition of grievances by an outside entity.

"(B) If the Attorney General or court finds that the administrative remedies are not in substantial compliance with the standards under subparagraph (A), the State shall prove either to the Attorney General or court that alternate procedures developed by the State accomplish the same objectives of providing a plain, speedy and effective administrative remedy.

"(c) SUSPENSION OR WITHDRAWAL OF CERTIFICATION.—The Attorney General or court may suspend or withdraw the certification of an administrative remedy under subsection (b) if the Attorney General or court has reasonable cause to believe that the administrative remedy no longer provides a plain, speedy, and effective remedy.

"(d) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE REMEDY.—The failure of a State or political subdivision of a State to adopt or adhere to an administrative remedy consistent with this section shall not constitute the basis for an action under section 3 or 5.".

SEC. 106. PARTIES' CONSENT TO DETERMINATION BY BANKRUPTCY COURT.

Section 157(c)(1) of title 28, United States Code, is amended by adding at the end thereof the following: "A party shall be deemed to consent to the findings of fact and conclusions of law submitted by a bankruptcy judge unless the party files a timely objection. If a timely objection is not filed, the proposed findings of fact and conclusions of law submitted by the bankruptcy judge shall become final and the bankruptcy judge shall enter an appropriate order thereon.".

SEC. 107. INTERCIRCUIT TRANSFERS.

Section 291(a) of title 28, United States Code, is amended to read as follows:

"(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.".

TITLE II—JUDICIAL SURVIVORS' ANNUITIES IMPROVEMENTS

SEC. 201. JUDICIAL SURVIVORS' ANNUITIES AMENDMENTS.

(a) ELECTION.—Section 376 of title 28, United States Code, is amended in the matter following subsection (a)(1)(G)—

(1) by striking out "or" at the end of clause (v); and

(2) by adding after clause (vi) "or (vii) the date of the enactment of the Federal Courts Study Committee Implementation Act of 1992;".

(b) CONTRIBUTIONS.—Section 376(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in the first sentence by striking out "including any 'retirement salary', a sum equal to 5 percent of that salary." and inserting in lieu thereof "a sum equal to 1.5 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary of a senior judge eligible to perform judicial services under this title or of a judicial official on recall under sections 155(b), 178, 371(b), 372(a), 373(c)(4), 375, or 636(h) of this title shall be an amount equal to 1.5 percent of retirement salary.";

(3) by redesignating all that follows the first sentence (as amended by paragraph (2) of this subsection) as paragraph (3) and inserting before such paragraph (3) the following new paragraph:

"(2) A judicial official who is not entitled to receive an immediate retirement salary upon leaving office but who is eligible to receive a deferred retirement salary on a later date shall file, within ninety days before leaving office, a written notification of his or her intention to remain within the purview of this section under such conditions and procedures as may be determined by the Director of the Administrative Office of the United States Courts. Every judicial official who files a written notification in accordance with this paragraph shall be deemed to consent to contribute, during the period before such a judicial official begins to receive his or her retirement salary, a sum equal to 3.5 percent of the deferred 'retirement salary' which that judicial official is entitled to receive. Any judicial official who fails to file a written notification under this paragraph shall be deemed to have revoked his or her election under subsection (a) of this section."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking out "so deducted and withheld from the salary of each such judicial official" and inserting in lieu thereof: "deducted and withheld from the salary of each such judicial official under paragraphs (1) and (2) of this subsection".

(c) DEPOSITS.—Section 376(d) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "5 percent" and inserting in lieu thereof "3.5 percent"; and

(2) in paragraph (2) by striking out "5 percent" and inserting in lieu thereof "3.5 percent".

(d) REFUND OF DEPOSITS.—Section 376(g) of title 28, United States Code, is amended to read as follows:

"(g) If any judicial official leaves office and is ineligible to receive a retirement salary or leaves office and is entitled to a deferred retirement salary but fails to make an election under subsection (b)(2) of this section, all amounts credited to his or her account established under subsection (e), together with interest at 4 percent per annum to December 31, 1947; and at 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, minus a sum equal to 1.5 percent of salary for service while deductions were withheld under subsection (b) or for which a deposit was made by the judicial official under subsection (d), shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this section a 'reasonable period of time' shall be presumed to be no longer than one year following the date upon which such judicial official relinquished his or her office.".

(e) PAYMENT OF ANNUITIES.—Section 376(h)(1) of title 28, United States Code, is amended by striking out "or while receiving 'retirement salary'," and inserting in lieu thereof "while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section".

(f) CREDITABLE SERVICE.—Section 376(k) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking out "and" at the end thereof;

(2) in paragraph (4) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) those years during which such judicial official had deductions withheld from his or her 'retirement salary' in accordance with subsection (b) (1) or (2) of this section.".

(g) COMPUTATION OF ANNUITY.—Section 376(l) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "(i) during those three years of such service in which his or her annual salary" and inserting in lieu thereof "(i) during those three years of such service, or during those three years while receiving a retirement salary in which his or her annual salary or retirement salary"; and

(2) in paragraph (1) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) the number of years during which the judicial official had deductions withheld from his or her retirement salary under subsection (b) (1) or (2) of this section; plus".

(h) TERMINATION.—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

"(v) If any judicial official ceases to be married after making the election under subsection (a), he or she may revoke such election in writing by notifying the Director of the Administrative Office of the United States Courts. The judicial official shall also notify any spouse or former spouse of the application for revocation in accordance with such requirements as the Director of the Administrative Office of the United States Courts shall by regulations prescribe. The Director may provide under such regulations that the notification requirement may be waived with respect to a spouse or former spouse if the judicial official established to the satisfaction of the Director that the whereabouts of such spouse or former spouse cannot be determined.".

(i) CREDIT FOR PRIOR CONTRIBUTIONS AT HIGHER RATE.—Notwithstanding any other provision of law, the contribution under section 376(b) (1) or (2) of title 28, United States Code (as amended by this Act), of any judicial official who is within the purview of section 376 on the effective date of this Act shall be reduced by 0.5 percent for a period of time equal to the number of years of service for which the judicial official has made contributions or deposits before the enactment of this Act to the credit of the Judicial Survivors' Annuities Fund or for eighteen months, whichever is less, if such contributions or deposits were never returned to the judicial official. For purposes of this subsection, the term "years" shall mean full years and twelfth parts thereof.

(j) REDEPOSIT OF PRIOR CONTRIBUTIONS.—Any judicial official who makes an election under section 376(b) of title 28, United States Code, may make a redeposit to the credit of the Judicial Survivors' Annuities Fund in installments, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts. If a judicial official elects to make a redeposit in installments—

(1) the Director shall require that the first installment payment made shall be in an amount no smaller than the last eighteen months of salary deductions or deposits previously returned to that judicial official in a lump-sum payment; and

(2) the election under section 376(b) of title 28, United States Code, shall be effective upon payment of the first such installment.

SEC. 202. LIFE INSURANCE COVERAGE.

(a) ELIGIBILITY.—Section 8701(a) of title 5, United States Code, is amended—

(1) in paragraph (9) by striking out "and" after the semicolon;

(2) in paragraph (10) by adding "and" after the semicolon; and

(3) by inserting after paragraph (10) and preceding the matter before subparagraph (A) the following new paragraph:

"(11) a judicial official, including a judge of the United States Court of Federal Claims (i) who is in regular active service, or (ii) who is retired from regular active service under section 178 of title 28, United States Code; a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands (i) who is in regular active service, or (ii) who is retired from regular active service under section 373 of title 28, United States Code; a bankruptcy judge or a magistrate judge (i) who is in regular active service, or (ii) who retired after attaining age 65 from regular active service under chapter 83 or 84 of this title, section 377 of title 28, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note; Public Law 100-659);".

(b) ADDITIONAL OPTIONAL LIFE INSURANCE.—

(1)(A) Sections 8706(a) and 8714b(c)(1) of title 5, United States Code, are each amended in the second sentence by inserting "and judicial officials described under section 8701(a)(11)" after "section 8701(a)(5) (ii) and (iii)".

(B) Sections 8714a(c)(1) and 8714c(c)(1) of title 5, United States Code, are each amended by adding after the first sentence "Justices and judges described under section 8701(a)(5) (ii) and (iii) and judicial officials described under section 8701(a)(11) of this chapter are deemed to continue in active employment for purposes of this chapter.".

(2) The amendments made under paragraph (1) shall apply to a judicial officer described in section 8701(a)(11) of title 5, United States Code (as amended by this Act) who—

(A) is retired under chapter 83 or 84 of title 5, United States Code, section 178, 373, or 377 of title 28, United States Code, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note); and

(B) retire on or after August 1, 1987.".

(c) CONVERSION RIGHTS.—(1) Section 8714a(c)(3) of title 5, United States Code, is amended by inserting "or a judicial official as defined under section 8701(a)(11) who leaves office without an immediate annuity" after "for continuation of the judicial salary".

(2) Section 8714b(c)(1) of title 5, United States Code, is amended in the third sentence by inserting "or a judicial official as defined under section 8701(a)(11) who leaves office without an immediate annuity" after "for continuation of the judicial salary".

SEC. 203. HEALTH INSURANCE FOR SPOUSES.

Section 8901(3) of title 5, United States Code, is amended—

(1) in subparagraph (C) by striking out "and" at the end thereof;

(2) in subparagraph (D) by adding "and" at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(E) a member of a family who is a survivor of—

"(i) a Justice or judge of the United States, as defined under section 451 of title 28, United States Code;

"(ii) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands;

"(iii) a judge of the United States Court of Federal Claims; or

"(iv) a United States bankruptcy judge or a full-time United States magistrate judge;".

SEC. 204. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this title.

TITLE III—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 301. AWARD OF FILING FEES IN FAVOR OF THE UNITED STATES.

(a) Actions Commenced by the United States.—Section 2412(a) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A judgment for costs, when awarded in favor of the United States in an action brought by the United States, may include an amount equal to the filing fee prescribed under section 1914(a) of this title. The preceding sentence shall not be construed as requiring the United States to pay any filing fee.".

(b) Disposition of Filing Fees.—Section 1931 of title 28, United States Code, is amended by inserting "or pursuant to an award in favor of the United States under section 2412(a)(2) of this title" after "chapter".

SEC. 302. AMENDMENTS TO THE JUDICIARY AUTOMATION FUND.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence by striking out "equipment for" and inserting in lieu thereof "equipment, program activities included in the courts of appeals, district courts, and other judicial services account of"; and

(B) in the third sentence—

(i) by inserting ", support personnel in the courts and in the Administrative Office of the United States Courts," after "personal services"; and

(ii) by striking out "in the judicial branch" and inserting in lieu thereof "purchased from the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their automatic data processing needs in accordance with subsections (b) and (c)(2).";

(2) in subsection (b)(1), by striking out "judicial branch", and inserting in lieu thereof "activities funded in subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (28 U.S.C. 1913 note; Public Law 101-515; 104 Stat. 2132)";

(3) in subsection (b)(2), by striking out "judicial branch of the United States" and inserting in lieu thereof, "activities funded under subsection (a)";

(4) in subsection (c)(1)(A), by inserting "all fees collected by the judiciary under section 404 of the Judiciary Appropriations Act, 1991 (28 U.S.C. 1913 note; Public Law 101-515; 104 Stat. 2132)" after "surplus property";

(5) in subsection (e)(1) by striking out "$75,000,000" and inserting in lieu thereof "amounts estimated to be collected under subsection (c) for that fiscal year";

(6) by amending subsection (i) to read as follows:

"(i) Reprogramming.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States may transfer amounts not in excess of $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts in excess of $1,000,000 may be transferred only by following reprogramming procedures in compliance with provisions set forth in section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2227); and";

(7) in subsection (j) in the second sentence by inserting "in statute" after "not specified"; and

(8) in subsection (l) by striking "1994" and inserting in lieu thereof "1999", and by striking out "'Judicial Services Account'" and inserting in lieu thereof "fund established under section 1931".

SEC. 303. VICTIMS' RIGHTS FUNDING.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.";

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The Fund shall be available as follows:

"(1) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(2) Of the next $100,000,000 deposited in the Fund in a particular fiscal year—

"(A) 49.5 percent shall be available for grants under section 1403; and

"(B) 45 percent shall be available for grants under section 1404(a).

"(3) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(4) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(5) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under paragraphs (1) through (4) shall be available as follows:

"(A) 47.5 percent shall be available for grants under section 1403.

"(B) 47.5 percent shall be available for grants under section 1404(a).

"(C) 5 percent shall be available for grants under section 1404(c).".

SEC. 304. FILING FEES.

Section 1931 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The following"; and

(2) by adding at the end thereof the following new subsection:

"(b) If the court authorizes a fee of less than $120, the entire fee, up to $60, shall be deposited into the special fund provided in this section.".

TITLE IV—JURY MATTERS

SEC. 401. JURY SELECTION.

Section 1863(b)(2) of title 28, United States Code, is amended by adding at the end thereof the following: "The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.".

SEC. 402. EXPANDED WORKERS' COMPENSATION COVERAGE FOR JURORS.

(a) Expansion of Coverage.— Section 1877(b)(2) of title 28, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (C); and

(2) by inserting before the period at the end of subparagraph (D) the following: ", or (E) traveling to or from the courthouse pursuant to a jury summons or sequestration order, or as otherwise necessitated by order of the court".

(b) Effective Date.—The amendment made by subsection (a) shall apply to jurors serving on or after December 1, 1991.

SEC. 403. COMPENSATION FOR LOSS OR DAMAGE TO PERSONAL PROPERTY OF JURORS.

Section 604 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(i)(1) The Director may compensate any person for the loss of, or damage to, personal effects of such person incurred incident to the performance of duties pursuant to a summons to serve as a grand or petit juror. Such compensation shall be consistent with sections 3721 and 3723 of title 31.

"(2) The Director shall prescribe guidelines for the allowance of claims for compensation under paragraph (1) of this subsection.".

SEC. 404. GRAND JURY TRAVEL.

Section 1871(c) of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines set by the Judicial Conference, the actual reasonable costs of travel by aircraft when weather conditions warrant and when certified by the chief judge of the district court in which the grand juror serves.".

SEC. 405. PERMANENT AUTHORIZATION FOR OPTIONAL USE OF NEW JURY SELECTION PROCESS.

(a) Authority To Use One-Step Procedure.—Section 1878, title 28, United States Code, is amended to read as follows:

"§1878. Optional use of a one-step summoning and qualification procedure

"(a) At the option of each district court, jurors may be summoned and qualified in a single procedure, if the court's jury selection plan so authorizes, in lieu of the two separate procedures otherwise provided for by this chapter. Courts shall ensure that a one-step summoning and qualification procedure conducted under this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title.

"(b) Jury selection conducted under this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure as authorized by this section.".

(b) Conforming Amendment.—The item relating to section 1878 in the table of sections for chapter 121 is amended to read as follows:

"1878. Optional use of a one-step summoning and qualification procedure.".

(c) Savings Provision.—For courts participating in the experiment authorized under section 1878 of title 28, United States Code (as in effect before the effective date of this section), the amendment made by subsection (a) of this section shall be effective on and after January 1, 1992.

TITLE V—MISCELLANEOUS

SEC. 501. PRETERMISSION OF REGULAR SESSIONS OF COURT OF APPEALS.

Section 48(c) of title 28, United States Code, is amended by striking out ", with the consent of the Judicial Conference of the United States,".

SEC. 502. REPORTS AND STATISTICS.

(a) ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENT.—Section 1121(a) of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (12 U.S.C. 3421(a)) is amended by adding at the end thereof "No report is required under this section after January 1, 1992.".

(b) TRANSFER OF REPORTING DUTY TO ADMINISTERING AGENCY.—Section 2412(d)(5) of title 28, United States Code, is amended by striking out "The Director" and all that follows through "this title," and inserting in lieu thereof "The Attorney General shall report annually to the Congress on".

(c) EXTENSION FOR JUDICIAL CENTER REPORT.—Subsection 302(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 104 Stat. 5104) is amended by striking out "2 years" and inserting in lieu thereof "2 years and 9 months".

SEC. 503. RECYCLING AND REUSE OF RECYCLABLE MATERIALS.

Section 604(g) of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3)(A) In order to promote the recycling and reuse of recyclable materials, the Director may provide for the sale or disposal of recyclable scrap materials from paper products and other consumable office supplies held by an entity within the judicial branch.

"(B) The sale or disposal of recyclable materials under subparagraph (A) of this paragraph shall be consistent with the procedures provided in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

"(C) Proceeds from the sale of recyclable materials under subparagraph (A) of this paragraph shall be deposited as offsetting collections to the fund established under section 1931 of this title and shall remain available until expended to reimburse any appropriations for the operation and maintenance of the judicial branch.".

SEC. 504. BANKRUPTCY RULEMAKING.

(a) METHODS OF PRESCRIBING BANKRUPTCY RULES.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a) (2), by striking out "section 2072" and inserting in lieu thereof "sections 2072 and 2075";

(2) in subsection (d), by inserting "or 2075" after "2072"; and

(3) in subsection (e), by inserting "or 2075" after "2072".

(b) EFFECTIVE DATE OF BANKRUPTCY RULES.—Section 2074(a) of title 28, United States Code, is amended by inserting "or 2075" in the first sentence after "2072".

(c) CONFORMING AMENDMENT.—Section 2075 of title 28, United States Code, is amended by striking out the third undesignated paragraph.

SEC. 505. VENUE IN DIVERSITY AND FEDERAL QUESTION CASES.

Section 1391 of title 28, United States Code, is amended—

(1) in subsection (a)(3) by inserting before the period "if there is no district in which the action may otherwise be brought"; and

(2) in subsection (b), by striking out "in" before "(1)" and inserting in lieu thereof "if".

SEC. 506. SUMMARIES OF REPORTS TO CONGRESS.

Section 103(c)(4)(B) of the Civil Justice Reform Act of 1990 (Public Law 101-650) is amended by striking "the reports" and inserting in lieu thereof "summaries of the reports".

SEC. 507. BANKRUPTCY ADMINISTRATOR PROGRAM.

(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554; 100 Stat. 3123), as amended by section 317(a) of the Federal Courts Study Committee Implementation Act of 1990 (Public Law 101-650; 104 Stat. 5115), or the bankruptcy administrator's designee may preside at the meeting of creditors convened under section 341(a) of title 11, United States Code. The bankruptcy administrator or the bankruptcy administrator's designee may preside at any meeting of equity security holders convened under section 341(b) of title 11, United States Code.

(b) EXAMINATION OF THE DEBTOR.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of enactment of this Act.

SEC. 508. COSTS AND FEES IN THE UNITED STATES COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 2412(d)(2)(F) of title 28, United States Code, is amended by inserting before the semicolon "and the United States Court of Veterans Appeals".

(b) APPLICATION TO PENDING CASES.—The amendment made by subsection (a) shall apply to any case pending before the United States Court of Veterans Appeals on the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 509. COURT TO BE HELD AT LANCASTER, PENNSYLVANIA.

Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

TITLE VI—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 601. JUDICIAL RETIREMENT MATTERS.

(a) CREDITABLE SERVICE FOR CERTAIN JUDICIAL ADMINISTRATIVE OFFICIALS.—(1) Section 611(d) and 627(e) of title 28, United States Code, are each amended by inserting "a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representatives," after "Congress,".

(2)(A) Sections 611(b) and 627(c) of such title are each amended—

(i) in paragraph (b), by striking out "who has served at least fifteen years and" and inserting in lieu thereof "who has at least fifteen years of service and has"; and

(ii) in the first undesignated paragraph, by striking out "who has served at least ten years," and inserting in lieu thereof "who has at least ten years of service,".

(B) Sections 611(c) and 627(d) of such title are each amended—

(i) by striking out "served at least fifteen years," and inserting in lieu thereof "at least fifteen years of service,"; and

(ii) by striking out "served less than fifteen years," and inserting in lieu thereof "less than fifteen years of service,".

(b) JUDICIAL RETIREMENT FUNDS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)) is amended by inserting after "Judicial survivors' annuities fund (10-8110-0-7-602);" the following:

"Judicial Officers' Retirement Fund (10-8122-0-7-602);

Court of Federal Claims Judges' Retirement Fund (10-8124-0-7-602);".

(c) JUDICIARY TRUST FUNDS.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after "Payment to civil service retirement and disability fund (24-0200-0-1-805);" the following:

"Payment to Judiciary Trust Funds (10-0941-0-1-752);".

SEC. 602. FULL-TIME STATUS OF COURT REPORTERS.

Section 753(e) of title 28, United States Code, is amended by inserting after the first sentence the following: "For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter pursuant to the preceding sentence.".

SEC. 603. FEDERAL JUDICIAL CENTER.

(a) FUNCTIONS.—Subsection 620(b) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking out "and" at the end thereof;

(2) in paragraph (5) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.".

(b) COMPENSATION.—Subsection 625(b) of title 28, United States Code, is amended by inserting, after "section 5316, title 5, United States Code", and before the colon, the following language: ", except the Director may fix the compensation of no more than 5 percent of the authorized positions of the Center at a level not to exceed the annual rate of basic pay of level IV of such pay rates".

(c) CLERICAL COMPENSATION.—Subsection 625(c) of title 28, United States Code, is amended by striking out "competitive service and" and inserting in lieu thereof "competitive service without regard to".

TITLE VII—CRIMINAL LAW

SEC. 701. AUTHORITY TO LIMIT COLLECTION OF PRETRIAL INFORMATION IN CLASS A MISDEMEANOR CASES.

Section 3154(1) of title 18, United States Code, is amended by inserting before the period "; except that a district court may direct that pretrial services not collect, verify, and report such information on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title".

SEC. 702. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

(a) Section 3603 of title 18, United States Code, is amended—

(1) in paragraph (7) by striking out "and" at the end thereof;

(2) by redesignating paragraph (8) as paragraph (10) and inserting after paragraph (7) the following new paragraphs:

"(8)(A) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of sections 4243 and 4246 of this title, and report such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and

"(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee;

"(9) if approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe; and".

(b) Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (12) as paragraph (14); and

(2) by inserting after paragraph (11) the following new paragraphs:

"(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

"(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee.

"(13) If approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe.".

SEC. 703. GOVERNMENT RATES OF TRAVEL FOR CRIMINAL JUSTICE ACT ATTORNEYS AND EXPERTS.

The Administrator of General Services Administration, in entering into contracts providing for special rates to be charged by Federal Government sources of supply, including common carriers and hotels (or other commercial providers of lodging) for official travel and accommodation of Federal Government employees, shall provide for charging the same rates for attorneys, experts, and other persons traveling primarily in connection with carrying out responsibilities under section 3006A of title 18, United States Code, including community defender organizations established under subsection (g) of that section.

SEC. 704. TECHNICAL CORRECTION.

Section 3143(b)(1) of title 18, United States Code, is amended by striking out "paragraph (b)(2)(D)" and inserting in lieu thereof "subparagraph (B)(iv) of this paragraph".

TITLE VIII—FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY

SEC. 801. FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY.

(a) AMENDMENT TO TITLE 28, UNITED STATES CODE.—Chapter 115 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1747. Foreign records of regularly conducted activity

"(a)(1) In a civil proceeding in a court of the United States, including the United States Court of Federal Claims and the United States Tax Court, a foreign record of regularly conducted activity, or a copy of such record, shall not be excluded as evidence by the hearsay rule if a foreign certification attests that—

"(A) such record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(B) such record was kept in the course of a regularly conducted business activity;

"(C) the business activity made such a record as a regular practice; and

"(D) if such record is not the original, such record is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

"(2) A foreign certification under this section shall authenticate such record or duplicate.

"(b) As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

"(c) As used in this section, the term—

"(1) 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country;

"(2) 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted activity or another qualified person, that if falsely made, would subject the maker to criminal penalty under the law of that country; and

"(3) 'business' includes business, institution, association, profession, occupation, and calling of every kind whether or not conducted for profit.".

(b) CONFORMING AMENDMENT.—The table of sections of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1746 the following item:

"1747. Foreign records of regularly conducted activity.".

(c) EFFECTIVE DATE.—The amendments made by this section are effective on the date of enactment of this Act.

TITLE IX—STATE JUSTICE INSTITUTE REAUTHORIZATION

SEC. 901. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"There are authorized to be appropriated to carry out the purposes of this title $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $25,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996. Amounts appropriated for each year are to remain available until expended.".

SEC. 902. INTERAGENCY AGREEMENTS.

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705) is amended by—

(1) striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.";

(2) redesignating paragraph (4) as paragraph (5); and

(3) adding after paragraph (3) the following new paragraph:

"(4) The Institute shall have authority to enter into contracts with Federal agencies to carry out the purposes of this title.".

SEC. 903. EFFECTIVE DATE.

The provisions of this title shall take effect on the date of enactment of this Act.

TITLE X—TERRORISM CIVIL REMEDY

SEC. 1001. TERRORISM CIVIL REMEDY.

(a) REINSTATEMENT OF LAW.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

"§2332. Criminal penalties";

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

"§2331. Definitions

"As used in this chapter—

"(1) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin;

"(2) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act; and

"(4) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated, the following new sections:

"§2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) Estoppel Under United States Law.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) Estoppel Under Foreign Law.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§2334. Jurisdiction and venue

"(a) General Venue.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) Special Maritime or Territorial Jurisdiction.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) Service on Witnesses.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) Convenience of the Forum.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

"§2335. Limitation of actions

"(a) In General.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) Calculation of Period.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of the defendant's whereabouts, shall not be counted for the purposes of the period of limitation prescribed by subsection (a).

"§2336. Other limitations

"(a) Acts of War.—No action shall be maintained under section 2333 for injury or loss by reason of an act of war.

"(b) Limitation on Discovery.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the attorney for the Government may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any objections raised by the Government in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(c) Stay of Action for Civil Remedies.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§2337. Suits against Government officials

"No action shall be maintained under section 2333 against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within the officer's or employee's official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within the officer's or employee's official capacity or under color of legal authority.

"§2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.".

(c) Technical Amendments.—(1) The chapter analysis for chapter 113A of title 18, United States Code is amended to read as follows:

"Chapter 113A—Terrorism

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(2) The item relating to chapter 113A in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"113A. Terrorism .... 2331".

(d) Effective Date.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

TITLE XI—COURT OF FEDERAL CLAIMS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Court of Federal Claims Technical and Procedural Improvements Act of 1992".

SEC. 1102. COURT DESIGNATION.

(a) In General.—Chapters 7, 51, 91, and 165 of title 28, United States Code, is amended by—

(1) striking "United States Claims Court" each place it appears and inserting "United States Court of Federal Claims"; and

(2) striking "Claims Court" each place it appears and inserting "Court of Federal Claims".

(b) Other Provisions of Law.—Reference in any other Federal law or any document relating to—

(1) the "United States Claims Court" shall be deemed to refer to the "United States Court of Federal Claims"; and

(2) the "Claims Court" shall be deemed to refer to the "Court of Federal Claims".

SEC. 1103. SOCIAL SECURITY AMENDMENTS.

Section 178 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) For the purpose of construing section 3121(i)(5) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(i)(5)) and section 209(h) of the Social Security Act (42 U.S.C. 409(h)), the annuity of a Court of Federal Claims judge on senior status after age 65 shall be deemed to be an amount paid under section 371(b) of this title for performing services under the provisions of section 294 of this title.".

SEC. 1104. ELIGIBILITY FOR INSURANCE AND ANNUITIES PROGRAMS.

Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§179. Insurance and annuities programs

"For the purpose of construing the provisions of title 5, a judge of the United States Court of Federal Claims shall be deemed to be a 'judge of the United States' as designated in section 2104(a) of title 5.".

SEC. 1105. MILITARY RETIREMENT PAY FOR RETIRED JUDGES.

(a) In General.—Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§180. Military retirement pay for retired judges

"Section 371(e) of this title shall be applicable to judges of the United States Court of Federal Claims, and for the purpose of construing section 371(e) of this title, a judge of the United States Court of Federal Claims shall be deemed to be a judge of the United States as defined by section 451 of this title.".

(b) Table of Sections.—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following:

"179. Insurance and annuities programs.
"180. Military retirement pay for retired judges.".

SEC. 1106. RECALL OF COURT OF FEDERAL CLAIMS JUDGES ON SENIOR STATUS.

(a) In General.—Section 375 of title 28, United States Code, is amended—

(1) in the first sentence of subsection (a)(1) by striking ", a judge of the Claims Court," and ", judge of the Claims Court,";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.";

(3) by amending paragraph (3) of subsection (a) to read as follows:

"(3) For purposes of this section, the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984."; and

(4) in subsection (f) by—

(A) striking ", a judge of the Claims Court,"; and

(B) striking ", a commissioner of the Court of Claims,".

(b) Recall of Retired Judges.—Section 797 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "section 178 of this title or under" after "under"; and

(2) in the second sentence of subsection (d) by striking "civil service".

SEC. 1107. LAW CLERKS AND SECRETARIES.

The first sentence of section 794 of title 28, United States Code, is amended by inserting after "may approve" the following: "for district judges".

SEC. 1108. SITES FOR HOLDING COURT.

(a) In General.—Section 798(a) of title 28, United States Code, is amended to read as follows:

"(a) The United States Court of Federal Claims is authorized to utilize facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services Administration, shall be made available for trials and other proceedings outside of the District of Columbia.".

(b) Foreign Country.—

(1) Redesignation.—Subsection (b) of section 798 of title 28, United States Code, is redesignated as subsection (c).

(2) Hearing in a foreign country.—Section 798 of title 28, United States Code, is amended by inserting after subsection (a) the following:

"(b) Upon application of a party or upon the judge's own initiative, and upon a showing that the interests of economy, efficiency and justice will be served, the chief judge may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to the provisions of section 1292(d)(2) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.".

(c) Appeal Jurisdiction.—Section 1292(d)(2) of title 28, United Sates Code, is amended by inserting after "When" the following: "the chief judge of the United States Court of Federal Claims issues an order under the provisions of section 798(b) of this title, or when".

SEC. 1109. JURISDICTION.

Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) If the certification of a claim pursuant to this Act is technically defective, a court or agency board of contract appeals may permit the certification to be corrected at any time prior to a final decision by the court or agency board of contract appeals unless the failure properly to certify in the first instance was fraudulent, in bad faith, or with reckless or grossly negligent disregard of the requirements of the relevant statutes or regulations.

"(B) If the contracting officer did not challenge the validity of the certification and the court or agency board of contract appeals permits the defective certification to be corrected under this section, interest shall accrue on the claim under section 611 of this Act from the date the claim was first submitted to the contracting officer.

"(C) This paragraph shall be effective with respect to cases filed with any court or agency board of contract appeals under section 607, 608, or 609 of this Act on or after the date of the enactment of this paragraph.".

SEC. 1110. AWARDABLE COSTS.

Section 1919 of title 28, United States Code, is amended by—

(1) striking "district court or" and inserting "district court,"; and

(2) inserting after "Trade" the following: ", or the Court of Federal Claims".

SEC. 1111. PROCEEDINGS GENERALLY.

Section 2503 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d) For the purpose of construing sections 1821, 1915, 1920 and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.".

SEC. 1112. SUBPOENAS AND INCIDENTAL POWERS.

(a) In General.—Section 2521 of title 28, United States Code, is amended by—

(1) amending the section heading to read as follows:

"§2521. Subpoenas and incidental powers";

(2) inserting "(a)" before "Subpoenas requiring"; and

(3) adding at the end thereof the following new subsections:

"(b) The United States Court of Federal Claims shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(c) The United States Court of Federal Claims shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree or command as is available to a court of the United States. The United States marshal for any district in which the Court of Federal Claims is sitting shall, when requested by the chief judge of the Court of Federal Claims, attend any session of the Court of Federal Claims in such district.".

(b) Conforming Amendment.—The table of sections for chapter 165 of title 28, United States Code, is amended by amending the item relating to section 2521 to read as follows:

"2521. Subpoenas and incidental powers.".

SEC. 1113. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE XII—EFFECTIVE DATE

SEC. 1201. EFFECTIVE DATE.

(a) In General.—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act shall be effective on and after January 1, 1993.

(b) Availability of Appropriations.—Notwithstanding any provision of this Act, all sums expended pursuant to this Act shall be subject to the availability of appropriations.

MOTION OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HUGHES moves to strike all after the enacting clause of S. 1569 and insert in lieu thereof the text of H.R. 5933, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FELONY PENALTIES FOR COPYRIGHT INFRINGEMENT

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 893) to amend title 18, United States Code, with respect to the criminal penalties for copyright infringement, as amended.

The Clerk read as follows:

S. 893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL PENALTIES FOR COPYRIGHT INFRINGEMENT.

Section 2319(b) of title 18, United States Code, is amended to read as follows:

"(b) Any person who commits an offense under subsection (a) of this section—

"(1) shall be imprisoned not more than 5 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, during any 180-day period, of at least 10 copies or phonorecords, of 1 or more copyrighted works, with a retail value of more than $2,500;

"(2) shall be imprisoned not more than 10 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

"(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, in any other case.".

SEC. 2. CONFORMING AMENDMENTS.

Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "'sound recording', 'motion picture', 'audiovisual work', 'phonorecord'," and inserting "'phonorecord'"; and

(2) in paragraph (2) by striking "1118" and inserting "120".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. Hughes] will be recognized for 20 minutes, and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 893, a bill to harmonize the felony penalty provisions for infringement of copyrighted works. Piracy costs copyright industries millions of dollars a year through displaced sales. Piracy also causes loss of jobs and reduction in the creation of new works.

The bill we take up today contains important safeguards to ensure that isolated but unauthorized copying, and ordinary business disputes are not subject to felony penalties. One of those safeguards is a stringent mens rea requirement. No criminal liability may be imposed unless the conduct was done willfully and for purpose of commercial advantage or private financial gain.

The second safeguard is a threshold requirement that the defendant must have infringed at least 10 copies of one or more copyrighted works having a retail value of more than $2,500 within a 180-day period.

This is a good bill and I urge its adoption by the House.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 893 which would provide criminal penalties for the infringement of all types of copyright. The recent hearing held by the Intellectual Property Subcommittee on Senator HATCH'S bill, S. 893, clearly documented the need to provide felony penalties for copyright infringement of computer programs. Estimates of lost revenue from software piracy run in the billions of dollars both in the United States and abroad. Current misdemeanor penalties have proven inadequate for stemming software piracy. In 1982, when Congress enacted criminal provisions to protect movies and records from piracy, the computer software industry was not even in existence. Today however, it is a vital component of the U.S. economy that needs enhanced protection for its creative work product.

In addition to providing felony penalties to protect computer software, support was expressed at the subcommittee's hearing for revising the Copyright Act to extend the felony provisions to all types of copyrighted works. The version of S. 893 before us today adopts this across-the-board or generic approach as opposed to proceeding with the current piecemeal approach and I commend the chairman of the Subcommittee, the gentleman from New Jersey [Mr. HUGHES], for developing it and for his excellent work on this issue. In addition to providing strong copyright protection for all copyrighted works, the provisions in S. 893 should prove helpful to our various copyright related industries' antipiracy efforts in other countries. Mr. Speaker, S. 893 is solid legislation and I urge my colleagues' support for it.

Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the Senate bill, S. 893, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An Act to amend title 18, United States Code, with respect to the criminal penalties for copyright infringement."

A motion to reconsider was laid on the table.

INCARCERATED WITNESS FEES ACT

Mr. HUGHES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2324) to amend title 28, United States Code, with respect to witness fees, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Amendments: Page 2, strike out lines 1 to 4 and insert:

"(f) Any witness who is incarcerated at the time that his or her testimony is given (except for a witness to whom the provisions of section 3144 of title 18 apply) may not receive fees or allowances under this section, regardless of whether such a witness is incarcerated at the time he or she makes a claim for fees or allowances under this section.".

Page 2, after line 10, insert:

"(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after the date of the enactment of this act and shall apply to any witness who testified before such date and has not received any fee or allowance under section 1821 of title 28, United States Code, relating to such testimony."

Mr. HUGHES (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from New Jersey?

Mr. MOORHEAD. Reserving the right to object, Mr. Speaker, I yield to the gentleman from New Jersey for an explanation.

Mr. HUGHES. Mr. Speaker, H.R. 2324, the Incarcerated Witness Fees Act, is a noncontroversial bill with bipartisan support which would correct an error in the statute providing for the payments of witness fees in the Federal court systems. The bill passed the House of Representatives on November 18, 1991, and the Senate passed it with some clarifying language on August 6, 1992. The bill before the House now accomplishes what we intended to do in the first place, that is, prohibit the payment of witness fees to incarcerated persons.

I urge the passage of H.R. 2324.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair will make this announcement.

Pursuant to House Resolution 591, the Chair announces the placement at the rostrum and in the Cloakroom of a list of motions to suspend the rules to be entertained tomorrow.

PATENT AND PLANT VARIETY PROTECTION REMEDY CLARIFICATION ACT

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 758) to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. MOORHEAD. Reserving the right to object, Mr. Speaker, I yield to the gentleman from New Jersey for an explanation.

Mr. HUGHES. Mr. Speaker, I rise in support of S. 758, a bill which would clarify that States, their employees and officers acting in an official capacity, and instrumentalities of States are not immune from suit in Federal Court for violations of patents and plant variety protections.

Prior to 1985 and the Supreme Court ruling in Atascadero State Hospital versus Scanlon, intellectual property owners could obtain damages against States for violations of copyright and patent rights.

In fact, Atascadero was contrary to previous Supreme Court decisions. The courts have since held that previous decisions had been wrong and State sovereign immunity could not be waived unless specifically stated by Congress.

During the 101st Congress, the House approved legislation to waive State sovereign immunity for copyright violations. There have been, and continue to be, a number of instances involving violations of patent and trademark rights by States. We need to plug these loopholes as well.

During the 101st Congress a bill relating to the waiver of State sovereign immunity in cases of patent violation was approved by committee but not enacted into law.

The protection of intellectual property rights is of critical importance to the Nations's ability to compete in today's global market.

To permit a State to use an individual's creative invention without any compensation is not only unfair but discourages others from investing time and money into developing new products and processes. States should be subjet to the same remedies as a private entity that violates patent rights.

I urge adoption of this bill.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

S. 758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The Act may be cited as the "Patent and Plant Variety Protection Remedy Clarification Act".

SEC. 2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PATENTS.

(a) LIABILITY AND REMEDIES.—(1) Section 271 of title 35, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'whoever' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.".

(2) Chapter 29 of title 35, United States Code, is amended by adding at the end the following new section:

"§296. Liability of States, instrumentalities of States, and State officials for infringement of patents

"(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of a patent under section 271, or for any other violation under this title.

"(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (includes remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 284, attorney fees under section 285, and the additional remedy for infringement of design patents under section 289.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 29 of title 35, United States Code, is amended by adding at the end the following new item:

"Sec. 296. Liability of States, instrumentalities of States, and State officials for infringement of patents.".

SEC. 3. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.

(a) INFRINGEMENT OF PLANT VARIETY PROTECTION.—Section 111 of the Plant Variety Protection Act (7 U.S.C. 2541) is amended—

(1) by inserting "(a)" before "Except as otherwise provided"; and

(2) by adding at the end thereof the following new subsection:

"(b) As used in this section, the term 'perform without authority' includes performance without authority by any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(b) LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.—Chapter 12 of the Plant Variety Protection Act (7 U.S.C. 2561 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 130. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.

"(a) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of plant variety protection under section 111, or for any other violation under this title.

"(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 124, and attorney fees under section 125.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRADEMARK REMEDY CLARIFICATION ACT

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 769) to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. MOORHEAD. Reserving the right to object, Mr. Speaker, I yield to the gentleman from New Jersey for an explanation.

Mr. HUGHES. Mr. Speaker, I rise in support of S. 759, a bill which would clarify that States, their employees and officers acting in an official capacity, and instrumentalities of State are not immune from suit in Federal court for violations of trademark infringement.

This is a companion bill to the bill we just passed, S. 758, relating to State sovereign immunity for patent infringement.

During the 101st Congress, a bill relating to the waiver of State sovereign immunity in cases of copyright violation was enacted into law. The issues are similar to that of patent and trademark violations. As with patents, there are a number of cases involving trademark infringements by States.

In the 101st Congress, infringement of trademarks by States was the subject of testimony during hearings on legislation in the 101st Congress to waive State sovereign immunity for patent violations. The waiver of State sovereign immunity for patent violations was approved by the Judiciary Committee.

In an era in which we are working to craft international agreements to protect intellectual property rights, it is important that we set an example in our own country. We cannot permit States to evade liability to which private entities are subject.

I urge adoption of this bill.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trademark Remedy Clarification Act".

SEC. 2. REFERENCE TO THE TRADEMARK ACT OF 1946.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et. seq.) (commonly referred to as the Trademark Act of 1946).

SEC. 3. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS.

(a) Liability and Remedies.—Section 32(1) of the Act (15 U.S.C. 1114(1)) is amended by adding at the end thereof the following:

"As used in this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(b) Liability of States, Instrumentalities of States and State Officials.—The Act is amended by inserting after section 39 (15 U.S.C. 1121) the following new section:

"Sec. 40. (a) Any State, instrumentality of a State or any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity for any violation under this Act.

"(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any person other than a State, instrumentality of a State, or officer or employee of a State or instrumentality of a State acting in his or her official capacity. Such remedies include injunctive relief under section 34, actual damages, profits, costs and attorney's fees under section 35, destruction of infringing articles under section 36, the remedies provided for under sections 32, 37, 38, 42, and 43, and for any other remedies provided under this Act.".

(c) False Designation of Origin and False Descriptions Forbidden.—Section 43(a) of the Act (15 U.S.C. 1125(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end thereof:

"(2) As used in this subsection, the term 'any person' includes any State, instrumentality of a State or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity."

(d) Definition.—Section 45 of the Act (15 U.S.C. 1127) is amended by inserting after the fourth undesignated paragraph the following:

"The term 'person' also includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

IN APPRECIATION

(Mr. HUGHES asked and was given permission to address the House for 1 minute.)

Mr. HUGHES. Mr. Speaker, before I yield to my good friend and colleague, the gentleman from Massachusetts, this is really the last time that our subcommittee will have before it any legislation.

Let me just thank my friend and colleague, the gentleman from California [Mr. Moorhead]. I could not have had a better partner. We have worked together on a lot of very important legislation.

He is an able legislator, and frankly, it has been a real pleasure to work with him.

Let me also thank his very able staff, Tom Mooney and Joe Wolfe, my staff, my general counsel of many years, Hayden Gregory, and the rest of our staff, Ed O'Connell, Bill Patry, Jarilyn DuPont, and even our Parliamentarian, Dan Freeman is with us here tonight.

□ 2220

Mr. Speaker, I am so appreciative that I have such an excellent staff, both majority and minority staff.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I think that we have one of the finest subcommittees in the Congress, if not the finest subcommittee on Subcommittee on Intellectual Property and Judicial Administration. It is largely due to the excellent leadership of the gentleman from New Jersey [Mr. Hughes], and to the wonderful staff that we have on both sides of the aisle, and to the Members we have on that subcommittee. They are an excellent group of Members that we have. Every single one of them is attentive to his job and contributes to the work of the subcommittee.

LIMITATION ON MODIFICATION OF CHILD SUPPORT ORDERS

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5304) to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the modification in such other State court, as amended.

The Clerk read as follows:

H.R. 5304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full Faith and Credit for Child Support Orders Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

(2) the laws by which the courts of these jurisdictions determine their authority to establish child support orders are not uniform;

(3) those laws, along with the limits imposed by the Federal system on the authority of each State to take certain actions outside its own boundaries—

(A) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

(B) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequities in child support payments levels which are based solely on the noncustodial parent's choice of residence;

(C) encourage a disregard of court orders resulting in massive arrearages nationwide;

(D) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

(E) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusion, waste of judicial resources, disrespect for the courts, and a diminution of public confidence in the rule of law; and

(4) among the results of these conditions is the failure of the courts of the States to give full faith and credit to the judicial proceedings of the other States, the deprivation of rights of liberty and property without due process of law, burdens on commerce among the States, and harm to the welfare of children and their parents and other custodians.

(b) Statement of Policy.—For the reasons set forth in subsection (a), it is necessary to establish national standards under which the courts of different States will determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of other States.

(c) Purposes.—The purposes of this Act are to—

(1) facilitate the enforcement of child support orders among the States;

(2) discourage continuing interstate controversies over child support in the interest

of greater financial stability and secure family relationship for the child; and

(3) avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.

SEC. 3. FULL FAITH AND CREDIT GIVEN TO CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by inserting after section 1738A the following new section:

§1738B. Full faith and credit given to child support orders

(a) GENERAL RULE.—The appropriate authorities of each State shall enforce according to its terms, and shall not modify except as provided in subsection (e), any child support order made consistently with the provisions of this section by a court of another State.

(b) DEFINITIONS.—As used in this section, the term—

"(1) 'child' means any person under 18 years of age, and includes an individual 18 or more years of age for whom a child support order has been issued pursuant to the laws of a State;

"(2) 'child's State' means the State in which a child currently resides;

"(3) 'child support order' means a judgment, decree, or order of a court requiring the payment of money, or the provision of a benefit, including health insurance, whether in periodic amounts or lump sum, for the support of a child and includes permanent and temporary orders, initial orders and modifications, ongoing support and arrearages;

"(4) 'child support' means a payment of money or provision of a benefit described in paragraph (3) for the support of a child;

"(5) 'contestant' means a person, including a parent, who claims a right to receive child support or is under a child support order, and the term 'contestant' includes States and political subdivisions to whom the right to obtain a child support order has been assigned;

"(6) 'court' means a court, administrative process, or quasi-judicial process of a State which is authorized by State law to establish the amount of child support payable by a contestant or modify the amount of child support payable by a contestant;

"(7) 'modification' and 'modify' refer to a change in a child support order which affects the amount, scope, or duration of such order and modifies, replaces, supersedes, or otherwise is made subsequent to such child support order, whether or not made by the same court as such child support order; and

"(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country as defined in section 1151 of title 18.

"(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made by a court of a State is consistent with the provisions of this section only if—

"(1) such court, pursuant to the laws of the State in which such court is located, had jurisdiction to hear the matter and enter such an order and had personal jurisdiction over the contestants; and

"(2) reasonable notice and opportunity to be heard was given to the contestants.

"(d) CONTINUING JURISDICTION.—A court of a State which has made a child support order consistently with the provisions of this section has continuing, exclusive jurisdiction of that order when such State is the child's State or the residence of any contestant unless another State, acting in accordance with subsection (e), has modified that order.

"(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may modify a child support order with respect to a child that is made by a court of another State, if—

"(1) it has jurisdiction to make such a child support order; and

"(2) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because such State no longer is the child's State or the residence of any contestant, or each contestant has filed written consent for the State to modify the order and assume continuing, exclusive jurisdiction of such order.

"(f) ENFORCEMENT OF PRIOR ORDERS.—A court of a State which no longer has continuing, exclusive jurisdiction of a child support order may enforce such order with respect to unsatisfied obligations which accrued before the date on which a modification of such order is made under subsection (e).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 115 title 28, United States Code, is amended by inserting after the item relating to section 1738A the following:

"1738B. Full faith and credit given to child support orders.".

SEC. 4. DEFINITION.

As used in section 2, the term "State" has the meaning given that term in section 1738B(b) of title 28, United States Code, as added by section 3 of this Act.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Massachusetts. [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

First, Mr. Speaker, there are a couple of people on Independence Avenue, walking by, that they forgot to thank before, so I want to include them so that they would not feel left out as good citizens.

Mr. Speaker, this is a bill which corrects a situation which came to my attention this summer and dismayed me. It is apparently the practice in some cases for noncustodial parents who have left their children and who are subjected to a support order to, in a State far removed from the State where the custodial parent resides with the children, to relitigate the level of support.

What this bill says is this:

"If you have brought children into this world and have been subjected to a court order mandating that you support them at a certain level, if you want to relitigate that, you have got to do that either in the State where the order was issued or with the mutual consent of the custodial parent in another forum. Otherwise you can't do it."

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have only one comment to add to the gentleman from Massachusetts, and that is that many of us felt that the uniform enhancement of support laws was adequate to cover most situations that have arisen in the past in these very same circumstances, but many times the originating order from the originating court in the originating State is not given the full faith and credit which this bill will now provide, thus sanctifying the original order, making it more difficult for a wayward, noncustodial parent to fight the extent and value of this first order.

Mr. Speaker, I yield back the balance of my time.

Mr FRANK of Massachusetts. Mr. Speaker, because this is a piece of legislation in which people may have some interest, I would simply mention here that we had a very full hearing on this on August 12 of this year before the Subcommittee on Administrative Law and Governmental Relations, and I would refer people to that.

Mr Speaker, I yield back the balance of my time.

The Speaker pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 5304, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INTERSTATE RAIL PASSENGER NETWORK COMPACT

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5602) granting the consent of the Congress to the Interstate Rail Passenger Network Compact.

The Clerk read as follows:

H.R. 5602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to the Interstate Rail Passenger Network Compact, which was enacted by the State of Indiana on February 28, 1992, and by the State of Tennessee on April 14, 1992. The compact is substantially as follows:

"INTERSTATE RAIL PASSENGER NETWORK COMPACT

"SEC. 1. The interstate rail passenger network compact is ratified, enacted, and entered into by the State of Indiana with all other States joining the compact in the form substantially as this chapter.

"SEC. 2. It is the policy of the States party to this compact to cooperate and share the administration and financial responsibilities concerning the operation of an interstate rail passenger network system connecting major cities in Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida. The participating States agree that a rail passenger system would provide a beneficial service and would be enhanced if operated across State lines.

"SEC. 3. (a) The States of Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida (referred to in this chapter as 'participating States') agree, upon adoption of this compact by the respective States, to jointly conduct and participate in a rail passenger network financial and economic impact study. The study must do the following:

"(1) Carry forward research previously performed by the national railroad passenger corporation (Amtrak) (report issued December 1990) and the Evansville Amtrak task force (report issued November 1990) that evaluated the 'western route' (Chicago-Evansville-Nashville-Chattanooga-Macon-Waycross-Jacksonville) for purposes of evaluating a representative service schedule, train running times, and associated costs.

"(2) Include consideration of the following:

"(A) The purchase of railroad equipment by a participating State and the lease of the railroad equipment to Amtrak.

"(B) The recommendation that a member of the council serve on the Amtrak board of directors.

"(C) The periodic review of projected passenger traffic estimates on the western route.

"(D) Any other matter related to the financial and economic impact of a rail passenger network along the western route.

"(b) Information and data collected during the study under subsection (a) that is requested by a participating State or a consulting firm representing a participating State or the compact may be made available to the State or firm. However, the information may not include matters not of public record or of a nature considered to be privileged and confidential unless the State providing the information agrees to waive the confidentiality.

"SEC. 4. The participating States agree to do the following:

"(1) Make available to each other and to a consulting firm representing a participating State or the compact assistance that is available, including personnel, equipment, office space, machinery, computers, engineering, and technical advice and services.

"(2) Provide financial assistance for the implementation of the feasibility study that is available.

"SEC. 5. The interstate rail passenger advisory council (referred to in this compact as the 'council') is created. The membership of the council consists of three individuals from each participating State. The Governor, president of the Senate, and Speaker of the House of Representatives shall each appoint one member of the council.

"SEC. 6. The council shall do the following:

"(1) Meet within 30 days after ratification of this agreement by at least two participating States.

"(2) Establish rules for the conduct of the council's business, including the payment of the reasonable and necessary travel expenses of council members.

"(3) Coordinate all aspects of the rail passenger financial and economic impact study under section 3 of this chapter.

"(4) Contract with persons, including institutions of higher education, for performance of any part of the study under section 3 of this chapter.

"(5) Upon approval of the study, determine the proportionate share that each State will contribute toward the implementation and management of the proposed restoration of the interstate rail passenger system along the western route.

"(6) Make recommendations to each participating State legislature concerning the results of the study required by this chapter.

"SEC. 7. This compact becomes effective upon the adoption of the compact into law by at least two of the participating States. Thereafter, the compact becomes effective for another participating State upon the enactment of the compact by the State.

"SEC. 8. This compact continues in force with respect to a participating State and remains binding upon the State until 6 months after the State has given notice to each other participating State of the repeal of this chapter. The withdrawal may not be construed to relieve a participating State from an obligation incurred before the end of the State's participation in the compact.

"SEC. 9. (a) This compact shall be liberally construed to effectuate the compact's purposes.

"(b) The provisions of this compact are severable. If—

"(1) a phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a participating State or of the United States; or

"(2) the applicability of this compact to a government, an agency, a person, or a circumstance is held invalid;

the validity of the remainder of this compact and the compact's applicability to any government, agency, person, or circumstance is not affected.

"(c) If this compact is held contrary to the constitution of a participating State, the compact remains in effect for the remaining participating States and in effect for the State affected for all severable matters.

"SECTION. 2. (a) There is appropriated from the State general fund to the interstate rail passenger advisory council created by IC 8-3-21, as added by this Act, four thousand dollars ($4,000) for the State fiscal year ending June 30, 1992, for its use in carrying out the purposes of IC 8-3-21.

"(b) There is appropriated from the State general fund to the interstate rail passenger advisory council created by IC 8-3-21, as added by this Act, ten thousand dollars ($10,000) for each of the State fiscal years ending June 30, 1993, and June 30, 1994, for its use in carrying out the purposes of IC 8-3-21.

"(c) This section expires July 1, 1994.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Constitution charges the Congress with approving compacts agreed upon by the States. This is one of those compacts, and we think it should be approved. I am particularly eager to see this one approved because, as it now stands, it links the States of Illinois, Indiana, and Georgia in a rail compact, and I am very eager to see the tracks.

Mr. Speaker, I reserve the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I wish to thank Chairman BROOKS and Chairman FRANK for expeditiously bringing to the floor H.R. 5602 which will grant the consent of Congress to the formation of the interstate rail passenger network compact.

This compact will facilitate cooperation between Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida as these States seek to re-establish Amtrak service between Chicago, IL, and Jacksonville, FL. This rail service will provide significant economic benefits to the communities along the route including Vincennes, IN and Evansville, IN in my congressional district.

The Constitution mandates in article I, section 10, clause 3, that any interstate compact must have the consent of Congress. Indiana, Tennessee, and Illinois have passed legislation authorizing this compact and H.R. 5602 would simply give it the constitutionally necessary congressional ratification.

I realize that historically interstate compacts have not received congressional approval until all participating States have ratified the provisions of the compact. Because of the economic importance of this infrastructure initiative, I sought in drafting this legislation to provide more flexibility. Section 7 of the bill provides that the compact becomes effective upon adopting of the compact into law by at least two States and that the additional four States may join the compact upon action by their State legislatures. Congressional ratification of this compact this year will enable the States which have already enacted the necessary legislation to begin economic impact studies and cost appraisals.

The legislation mandates nothing. It will not require the States to spend one dime. It will simply enable the States to work together to re-establish Amtrak service. A State will not incur any obligation to provide funds, equipment, or other things of value under this bill's terms unless these obligations are approved by the legislature of that State.

I have been working with the Senate and am hopeful this can be passed by both Houses this year.

Mr. GEKAS. Mr. Speaker, I yield myself no time at all.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GEKAS] yields back his time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 5602.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

WILKINSON COUNTY SCHOOL DISTRICT IN MISSISSIPPI

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5998) for the relief of the Wilkinson County School District, in the State of Mississippi, as amended.

The Clerk read as follows:

H.R. 5998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Wilkinson County School District, in the State of Mississippi, an amount equal to $57,896 in full satisfaction of all claims of such School District relating to any overpayment of windfall profit tax for periods ending before January 1, 1983.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will try to get over having been one-upped quite effectively by my ranking minority member, the gentleman from Pennsylvania [Mr. GEKAS] with his last pithy comment.

Mr. Speaker, this is a very meritorious bill that deals with a situation where an error can only be corrected by the Congress. A school district in Mississippi should have gotten the proceeds of an oil lease. They were paid by the company instead by mistake of the Internal Revenue Service. By the time the mistake was discovered, the statute of limitations for return had lapsed. This simply allows the IRS and directs the IRS to put the money where it should have been in the first place.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is in direct response to a colleague who noticed the problem and brought it to our attention.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was remiss in not noting that it was the gentleman from Mississippi [Mr. PARKER] who worked hard on this, worked with our staff so we could devise the appropriate remedy for these people.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 5998, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HATE CRIMES SENTENCING ENHANCEMENT ACT OF 1992

Mr. HOAGLAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4797) to direct the United States Sentencing Commission to make sentencing guidelines for Federal criminal cases that provide sentencing enhancements for hate crimes.

The Clerk read as follows:

H.R. 4797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hate Crimes Sentencing Enhancement Act of 1992".

SEC. 2. DIRECTION TO COMMISSION.

(a) IN GENERAL.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for offenses that are hate crimes. In carrying out this section, the United States Sentencing Commission shall assure reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances which might justify exceptions.

(b) DEFINITION.—As used in this Act, the term "hate crime" is a crime in which the defendant's conduct was motivated by hatred, bias, or prejudice, based on the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of another individual or group of individuals.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska [Mr. HOAGLAND] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Nebraska [HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill responds to an epidemic of hate crime which is spreading at an alarming rate throughout this country. Testimony before the subcommittee on crime and criminal justice confirmed the devastating impact hate crime is having in communities across the Nation. The number of anti-semitic acts committed in this Nation in 1991 was the highest total ever reported. Anti-gay assaults in our major cities increased by 31 percent in 1991. Asian-Americans have noted a dramatic increase in Anti-Asian violence as "Japan-Bashing" has become fashionable. Other minorities report similar, demoralizing increases.

This legislation would direct the U.S. Sentencing Commission to establish guidelines to increase the sentence for the Commission of any Federal crime if the perpetrator was motivated by hate, bias, or prejudice based on his victim's race, color, religion, national origin, ethnicity, gender, or sexual orientation. This act would result in an average increase of one-third real time served.

The subcommittee held a hearing examining the constitutional issues surrounding H.R. 4797. The testimony we received at that hearing, including the very able analysis of professor Laurence Tribe, Mr. Bruce Fein, and Mr. Floyd Abrams, convincingly showed that H.R. 4797 is constitutionally sound.

But it is more than simply constitutional. The Hate Crimes Sentencing Enhancement Act is a good idea that should be enacted into law.

This bill enjoys broad bipartisan support. The bill passed both the subcommittee and the Judiciary Committee by voice vote. I urge my colleagues to support the bill.

I reserve the balance of my time.

□ 2230

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mrs. KENNELLY. I rise today in support of H.R. 4797, a bill to increase the jail sentence of those found guilty of committing hate crimes.

I worked extremely hard to ensure the passage of H.R. 3193, the Hate Crimes Statistics Act. That legislation required the FBI to measure the number of crimes motivated purely by prejudice based on race, religion, ethnicity, or sexual orientation.

Hate crimes still plague our society. We are a country that prides itself on being a melting pot of people from all over the world, with different perspectives, thoughts, and ideas. We must take steps to ensure that the United States can rise above the racially and ethnically motivated violence which continues to plague the rest of world.

With this legislation, we are given the opportunity to put more teeth into the laws that protect citizens from hate crimes. I urge my colleagues to vote in favor of suspending the rules and passage of H.R. 4797.

Mr. MINETA. Mr. Speaker, I rise today in strong support of H.R. 4797, the Hate Crimes Sentencing Enhancement Act of 1992.

Mr. Speaker, all of us know the dangers that bigotry and intolerance present for our country. We have only to look at the events in Los Angeles earlier this year to understand that.

But the riots in Los Angeles were simply the events most heavily covered by the press. Many more such incidents have occurred and will continue to occur, spreading fear throughout minority communities.

That, Mr. Speaker, is the special nature of hate crimes and the reason that they are deserving of the penalty enhancements mandated by this bill.

Hate crimes, motivated by bigotry and prejudice, strike not only at their immediate victims but at entire communities. The victims of hate crimes are not simply individuals, they are a race, an ethnicity, a national origin, a gender, or a sexual orientation.

This year, the Asian/Pacific-American community is commemorating the 10th anniversary of the death of Vincent Chin. His tragic death came when he was beaten to death by two unemployed autoworkers who assumed he was Japanese and somehow responsible for the decline of the auto industry.

For the crime of murdering Vincent Chin, his assailants were fined and sentenced to probation. To Asian/Pacific-Americans, a message was sent that our lives and our welfare just didn't matter all that much.

The murder of Vincent Chin and the reprehensible response of the justice system galvanized the Asian/Pacific-American community. We recognized that his murder was not aimed at Vincent Chin the individual, but at Vincent Chin the Asian/Pacific-American. And we recognized that our communities could not remain silent in the face of this threat.

But 10 years after Vincent Chin's death, the violence continues.

Just over 1 month ago, I learned of a horrible crime that had occurred in the city of Coral Springs, FL.

Luyen Nguyen, a college student hoping to become a doctor like his father, was savagely beaten to death by a mob.

He was not beaten because he wandered into the wrong neighborhood. He was not killed because he had threatened or harmed anyone.

He was simply attending a party when a small group of young men made a derogatory remark about his Vietnamese ancestry. He politely asked them to stop, saying he found their remarks offensive.

In a very short time, he found himself struggling to escape from a howling mob. In all, 15 people took part in the attack, punching and kicking him as he lay on the ground and tried to crawl away.

He died when a kick to his head broke his neck and caused a brain hemorrhage. The others attending the party did nothing to stop this incident.

But Mr. Speaker, there was one difference between the murder of Vincent Chin and the murder of Luyen Nguyen. That difference was in the response of the local government.

The mayor took strong steps to denounce the violence, and ordered her police department to vigorously pursue the case. The police department of Coral Springs followed through, and proved to the Asian/Pacific-American community that this horrible crime would not be swept under the rug.

Arrests were quickly made, and indictments filed. The prosecutions are now being prepared.

The horrible murder of Luyen Nguyen cannot be undone. But as Coral Springs has proved, a strong and effective response from police, prosecutors, and political leaders can help to heal the scars such crimes inflict on a community.

Mr. Speaker, Americans have the right to expect that their government will swiftly and effectively respond to crime in our communities. Part of that effective response must be a recognition of the special consequences of crimes of hate and violence.

It does not matter whether those Americans are African-American, Hispanic, Native American or Asian/Pacific American. It does not matter if they are Protestant, Catholic, Buddhist, Muslim, or Jewish. It does not matter whether they are men or women, gay or straight, immigrants or native-born Americans. All Americans are owed the assurance that the law will act to protect them and their rights.

Crimes of hatred and bigotry tear at the fabric of communities across this country, Mr. Speaker. By passing the Hate Crimes Sentencing Enhancement Act, the House can send a clear message that they will no longer be tolerated and they will no longer be ignored. I urge my colleagues to join me in supporting the bill.

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from Nebraska [Mr. HOAGLAND] has very ably described the purpose of this bill, the two hearings that the Subcommittee on Crime and Criminal Justice had on this bill, as well as the resolution of the constitutional problem that was brought about as a result of a Supreme Court decision earlier this year.

I am satisfied that this bill is constitutional. We have had constitutional scholars from the most liberal to the most conservative extreme testify that this is a constitutional approach, and I think that the direction that this bill gives to the Sentencing Commission may very well put some teeth into the prosecution of crimes that are motivated by hate, either racial prejudice, by ethnic prejudice, by sexual orientation prejudice, or by any other type of prejudice.

So, without further ado, I am happy to say that I support the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HOAGLAND. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Nebraska [Mr. HOAGLAND] that the House suspend the rules and pass the bill, H.R. 4797.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

OMNIBUS CRIME CONTROL AND SAFETY ACT OF 1968 AMENDMENT

Mr. HOAGLAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5862) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure an equitable and timely distribution of benefits to public safety officers, as amended.

The Clerk read as follows:

H.R. 5862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISABILITY BENEFITS.

Section 1201(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking "a benefit of up to $100,000,"; and

(2) by inserting "the same benefit in any year that is payable under subsection (a) in such year,".

SEC. 2. RETROACTIVE APPLICATION.

The amendments made by section 1 of this Act shall apply with respect to injuries occurring on or after November 29, 1990, using the calculation method used to determine benefits under section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska [Mr. HOAGLAND] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5862 would eliminate the disparity under the Public Safety Officers Benefit Act between payments made to officers permanently disabled in the line of duty and death benefit payments made to surviving families of officers killed in the line of duty. Currently, the death benefit exceeds the disability payment by approximately $15,000.

This disparity resulted from an inadvertence caused by the application of a CPI adjustment to the death benefit earlier than such adjustment to the disability payments. This bill would equalize those payments.

I would like to congragulate our colleague from New York, TOM MANTON, for his leadership in bringing this inequitable situation to the attention of Congress. This bill enjoys broad bipartisan support. The bill passed both the subcommittee and the Judiciary Committee by voice vote. I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5862. Once again the gentleman from Nebraska [Mr. HOAGLAND] has very ably described the provisions of this legislation. This legislation does correct an anomaly in the law wherein a higher benefit is paid in the case where a public safety officer is killed in the line of duty than if the public safety officer is disabled in the line of duty. In my opinion, this is flat our inequitable because a disabled person, whether it be in the public safety arena or someplace else, has got ongoing medical expenses and living expenses. Thus, to give that person a much lower rate of compensation than if the person had been killed as a result of the accident or as a result of doing something in the line of duty, frankly, I think is unfair.

Mr. Speaker, this bill corrects this unfairness. I hope that not only this body, but the other body, can speedily pass it so that it can be signed into law by the President prior to the expiration of the life of this Congress.

Mr. HOAGLAND. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to commend the chairman of the Committee on the Judiciary, and also would like to commend the chairman of the Subcommittee on Crime and Criminal Justice who developed these bills and held the hearings on these bills. These gentleman put a considerable amount of personal time and effort into bringing these bills to this point. Both gentleman have done excellent work, and I would like to commend them.

Mr. MANTON. Mr. Speaker, I rise in strong support of H.R. 5862, legislation I have introduced to make much-needed improvements in the Federal Public Safety Officers' Benefits Program. This measure should be noncontroversial; it has the solid backing of the Nation's police, firefighters, paramedics, and other public safety officers; and, I urge my colleagues to give it their unanimous support.

Mr. Speaker, due to an unfortunate and I believe misdirected interpretation of public law and congressional intent on the part of the Justice Department, there is currently a discrepancy of approximately $15,000 between the Federal death benefit and the catastrophic injury benefit for public safety officers. The Justice Department has also withheld these payments until the end of the fiscal year. I authored the 1990 provision to provide for the first time a Federal benefit for public safety officers who are permanently and catastrophically injured in the line of duty. This measure was included in the 1990 Omnibus Crime Bill, title XIII of Public Law 101-647. I believe the current administration of the program is unfair and does a disservice to our Nation's public safety officers.

Quite simply, H.R. 5862 will make sure that this problem is corrected and that police officers, firefighters, paramedics, and other public safety officers who are seriously injured in the line of duty are treated equitably and receive these needed benefits in a timely manner. I believe the Catastrophic Injury Benefit Program is an important and worthwhile effort on the part of the Federal Government to pay tribute and provide needed assistance to our Nation's valiant public safety officers who put their lives and well-being on the line each and every day on behalf of their fellow citizens. While this is indeed a modest program, it means so much to those public safety officers and their families.

Mr. Speaker, I had introduced my original legislation during the 101st Congress in honor of Steven McDonald, a young New York City police officer who was seriously wounded in a shooting several years ago. Steven's injuries have left him paralyzed from the neck down. As a former New York police officer myself, I was deeply angered and saddened by this vicious and heinous act of violence. In turn, I have been greatly inspired by the deep faith and good will that have been expressed by Steven and his wife, Patti Ann.

Mr. Speaker, in closing, I also wish to thank my colleague from New York, Mr. SCHUMER, the chairman of the Crime and Criminal Justice Subcommittee, and my colleague from Texas, Mr. BROOKS, the chairman of the full Judiciary Committee, for their efforts and willingness to move this important legislative proposal.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HOAGLAND. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska [Mr. HOAGLAND] that the House suspend the rules and pass the bill, H.R. 5862, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY ACT OF 1992

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2144) to restore the Federal trust relationship of the United Auburn Indian Community, to establish the advisory Council on California Indian Policy, and for other purposes.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advisory Council on California Indian Policy Act of 1992".

SEC. 2. FINDINGS.

The Congress has reviewed the social, economic, and political circumstances of California Indians and of governmental policies and programs affecting California Indians and finds that—

(1) the Congress has recognized a special government-to-government relationship with Indian tribes in the United States;

(2) due to the unique historical circumstances of the Indians of California, Federal law and policies have often dealt specifically with California Indians;

(3) there is an urgent need to clarify the eligibility of unrecognized and terminated California Indian tribal groups to be federally acknowledged as Indian tribes with all the rights and powers attendant to that status;

(4) there is among California Indians a continuing social and economic crisis, characterized by, among other things, alcohol and substance abuse, critical health problems, family violence and child abuse, lack of educational and employment opportunities, and significant barriers to tribal economic development;

(5) these conditions exist even though public policies and programs adopted by the Federal Government have been intended to improve the conditions of California Indians; and

(6) California Indian tribes and tribal organizations have expressed a need for a review of the public policies and programs affecting California Indians and to make such policies and programs more effective in accomplishing Federal policy objectives.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "California Indian tribe" means any federally recognized or unacknowledged Indian tribe located in the State of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(4) The term "federally recognized Indian tribe" means any Indian tribe, band, group, or community that—

(A) has been federally recognized or acknowledged by the United States Government through an Act of Congress, a Federal judicial decision, or an administrative decision by the Secretary pursuant to part 83 of title 25, Code of Federal Regulations;

(B) was terminated by an Act of Congress and has been restored through an Act of Congress, a Federal judicial decision, an administrative determination or action by the Secretary; or

(C) is included, as of the date of the enactment of this Act, on the list of federally recognized tribes maintained by the Secretary.

(5) The term "unacknowledged Indian tribe" means any Indian tribe, band, group, or community that is not now federally acknowledged by the United States Government and has not been terminated by an Act of Congress.

(6) The term "terminated Indian tribe" means any Indian tribe, band, or community that has been terminated by an Act of Congress and has not been restored through an Act of Congress, a Federal judicial decision, or an administrative determination or action by the Secretary.

(7) The term "Council" means the Advisory Council on California Indian Policy established pursuant to section 4.

SEC. 4. ESTABLISHMENT OF ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established the Advisory Council on California Indian Policy.

(b) MEMBERS.—The Council shall be composed of 18 members who, other than the members provided for by paragraph (8), shall be appointed by the Secretary not later than 90 days after the date of the enactment of this Act as follows:

(1) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(2) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(3) Three tribal government representatives (or their designees) from the federally recognized Indian tribes located within the central California Agency area of the Bureau, including all field and subagencies.

(4) Three tribal government representatives (or their designees) from the unacknowledged Indian tribes located in the central California Agency area of the Bureau, including all field and subagencies.

(5) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(6) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(7) Two tribal government representatives (or their designees) from the terminated Indian tribes located within the northern, central, or southern California Agency areas of the Bureau, including all field and subagencies.

(8) The Area Director of the California Area Office of the Bureau and the Area Director of the California Area Office of the Indian Health Service who shall serve ex officio and as nonvoting members of the Council.

(c) RECOMMENDATIONS FROM CALIFORNIA INDIAN TRIBES.—In making appointments to the Council under subsection (b), the Secretary shall ensure that the California Indian tribes have been afforded a full and fair opportunity to select by consensus, in accordance with procedures developed by the California Indian tribes, representatives they will recommend to the Secretary for appointment to the Council, consult with the California Indian tribes; and make appointments to the Council from among those recommended or nominated by California Indian tribes.

(d) INITIAL MEETING.—The Council shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Council have been appointed.

(e) VACANCY.—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(f) QUORUM.—Ten voting members shall constitute a quorum for the transaction of business, but a smaller number, as determined by the Council, may conduct hearings.

(g) CHAIRPERSON; VICE CHAIRPERSON.—The Council shall select a Chairperson, a Vice Chairperson, and such other officers as it deems necessary.

(h) COMPENSATION.—No compensation shall be paid to a member of the Council solely for his services on the Council. All members of the Council shall be reimbursed for travel expenses, including per diem in lieu of subsistence, during the performance of duties of the Council while away from home or their regular place of business in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

SEC. 5. DUTIES OF THE COUNCIL.

The Council shall—

(1) develop a comprehensive list of California Indian tribes and the descendency list for each tribe based upon documents held by the Bureau including, but not limited to those specified in section 6;

(2) identify the special problems confronting unacknowledged and terminated Indian tribes and propose reasonable mechanisms to provide for the orderly and fair consideration of requests by such tribes for Federal acknowledgement;

(3) conduct a comprehensive study of—

(A) the social, economic, and political status of California Indians;

(B) the effectiveness of those policies and programs of the United States that affect California Indians; and

(C) the services and facilities being provided to California Indian tribes, compared to those being provided to Indian tribes nationwide;

(4) conduct public hearings on the subjects of such study;

(5) develop recommendations for specific actions that—

(A) will help to ensure that California Indians have life opportunities comparable to other American Indians of federally recognized tribes, while respecting their unique traditions, cultures, and special status as California Indians;

(B) will address, among other things, the needs of California Indians for economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems; and

(C) will respect the important cultural differences which characterize California Indians and California Indian tribes and tribal groups;

(6) submit, by no later than the date that is 18 months after the date of the first meeting of the Council, a report on the study conducted under paragraph (3) together with the proposals and recommendations developed under paragraphs (2) and (5) and such other information obtained pursuant to this section as the Council deems relevant, to the Congress, the Secretary, and the Secretary of Health and Human Services; and

(7) make such report available to California Indian tribes, tribal organizations, and the public.

SEC. 6. ACCESS TO DESCENDENCY LISTS.

The Secretary shall provide to the Council, not later than 30 days after the first meeting of the Council, the following documents:

(1) The rolls of California Indians developed in 1972 pursuant to the distribution of the Indian Claims Commission award of July 20, 1964, including but not limited to dockets Nos. 31, 37, 80, 80–D, and 347, and authorized by the Act of September 21, 1968 (82 Stat. 860).

(2) The rolls of California Indians developed in 1955 pursuant to the distribution of the 1944 United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602), as amended by the Act of June 30, 1948 (62 Stat. 1166), the Act of May 24, 1950 (64 Stat. 189), and the Act of June 8, 1954 (68 Stat. 240).

(3) The rolls of California Indians developed in 1933 pursuant to the distribution of the United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602).

(4) The lists and rolls of California Indians registered as Indian by the Bureau of Indian Affairs developed pursuant to section 19 of the Act of June 18, 1934 (48 Stat. 984).

(5) The lists and rolls of California Indians developed pursuant to the Acts of Congress terminating reservations and rancherias, including distributee rolls developed for the distribution of assets under the Act of August 18, 1958 (72 Stat. 619), the Act of July 10, 1957 (71 Stat. 283), and the Act of March 29, 1956 (70 Stat. 58).

(6) Any other rolls developed for Indian Claims Commission judgment awards covering any California land areas.

(7) Upon the consent of each tribe, the current tribal membership rolls of California Indian tribes, except that, nothing in this paragraph or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by consent of such tribal government to the Council under this Act.

SEC. 7. POWERS OF THE COUNCIL.

(a) STAFF.—(1) Subject to such rules and regulations as may be adopted by the Council, the Chairperson of the Council shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to the number, classification, and General Schedule rates) of an Executive Director of the Council and of such other personnel as the Council deems advisable to assist in the performance of the duties of the Council, at rates not to exceed a rate equal to the maximum rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title.

(2) Service of an individual as a member of the Council shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Council, or as an employee of the Council, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(b) ACTIONS.—The Council may hold such hearings and sit and act at such times, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, make such expenditures, and take such other actions, as the Council may deem advisable provided, however, that no such action, contracting arrangement or expenditure be committed beyond the duration of the life of the Council pursuant to section 8. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.

(c) TASK FORCES.—The Council is authorized to establish task forces which include individuals who are not members of the Council only for the purpose of gathering information on specific subjects identified by the Council as requiring the knowledge and expertise of such individuals. Any task force established by the Council shall be chaired by a voting member of the Council who shall preside at any task force hearing authorized by the Council. No compensation (other than compensation and expenses authorized under section 4(h) to a member of the Council) may be paid to a member of a task force solely for his service on the task force, but the Council may authorize the reimbursement of members of a task force for travel expenses, including per diem in lieu of subsistence, during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Council shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Council staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Council.

(d) FUNDING.—The Council is authorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of California, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this title.

(e) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Council.

(f) COOPERATION OF FEDERAL AGENCIES.—(1) The Council is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Council may require to carry out the purposes of this title, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates,

and statistics, directly to the Council, upon request made by the Chairperson of the Council.

(2) Upon the request of the Council, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Council and detail any of the personnel of such department, agency, or instrumentality to the Council, on a nonreimbursable basis, to assist the Council in carrying out its duties under this title.

(3) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(g) NO INFRINGEMENT ON TRIBAL AUTHORITY.—The creation of the Council is not intended to, nor shall it, restrict, preempt or infringe the right of any California Indian tribe to interact or communicate with Congress or other branches of the Federal Government on a government-to-government basis.

SEC. 8. TERMINATION.

The Council shall cease to exist on the date that is 180 days after the date on which the Council submits the report required under section 5(6). All records, documents, and materials of the Council shall be transferred to the National Archives and Records Administration on the date on which the Council ceases to exist.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $700,000 to carry out the provisions of this Act. Such sums shall remain available, without fiscal year limitation, until expended.

Amend the title so as to read: "An Act to establish the Advisory Council on California Indian Policy, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2144 is the California Indian Status Act. The bill passed the House in August. The Senate amended the bill by striking the first title which restored the Auburn Rancheria. While we would have preferred to retain title I, we will accept the Senate amendment.

As it stands now, the bill provides for an Advisory Council on California Indian Policy. The Council will be made up of 16 tribal leaders and 2 nonvoting Federal officials. The Council will examine the problems currently facing recognized and unacknowledged tribes in the State of California.

California tribes have a unique and tragic history. Several of the tribes negotiated treaties with the Federal Government during the 1850's. The treaties were never ratified and yet the Indians lost all of their land. Although the Federal Government provided the tribes with small parcels of land called rancherias at the turn of this century, many of these rancherias were terminated by Federal statute during the 1950's.

Mr. Speaker, it is the committee's position that the California tribes themselves must develop their own plan for the provision of Federal services for the 1990's and into the next century. The measure provides the tribes that opportunity.

This bill enjoys tribal and bipartisan support. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from American Samoa [Mr. FALEOMAVAEGA] has very adequately described this bill. I am sure the Speaker does not need for me to describe it to him again. This is a good bill. It is not a great bill, but it is a good bill. I support it and urge its adoption.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I concur in the statements of my two colleagues. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and concur in the Senate amendments to H.R. 2144.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

MAKING TECHNICAL AMENDMENTS TO CERTAIN INDIAN STATUTES

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 5686) to make technical amendments to certain Federal Indian statutes.

The Clerk read as follows:

Resolved, That the bill from the House of Representatives (H.R. 5686) entitled "An Act to make technical amendments to certain Federal Indian statutes," do pass with the following Senate amendment:

Page 3, after line 2, insert:

SEC. 4. AUTHORITY TO CONVEY LANDS.

Notwithstanding any other provision of law, the Mississippi Band of Choctaw Indians is authorized to sell, convey, and warrant to National Disposal Systems, Inc., without further approval of the United States, all the Band's interests in real property located in Noxubee County, Mississippi, that it acquired from National Disposal Systems, Inc.Nothing in this section is intended to authorize the Mississippi Band of Choctaw Indians to sell any of its lands that are held in trust by the United States.

SEC. 5. AMENDMENTS TO 99-YEAR LEASE STATUTE.

The second sentence of subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415) is amended by inserting immediately after "Oklahoma," the following: "lands held in trust for the Pueblo of Santa Clara, lands held in trust for the Confederated Tribes of the Colville Reservation, lands held in trust for the Cahuilla Band of Indians of California,".

SEC. 6. AMENDMENTS TO THE SAN CARLOS IRRIGATION PROJECT DIVESTITURE ACT OF 1991.

The San Carlos Indian Irrigation Project Divestiture Act of 1991 (Public Law 102–231; 105 Stat. 1722 et seq.) is amended by—

(1) deleting in sections 4(a) and 10(b) the date "December 31, 1992" and inserting in lieu thereof the date "July 31, 1993";

(2) inserting immediately before the period at the end of paragraph (1) of subsection 5(a) the phrase "and otherwise administer all customer accounts"; and

(3) deleting "5(a)(2)" in the second sentence of section 6 and inserting in lieu thereof "5(a)(5)".

SEC. 7. EXPENDITURE OF LEDGER ACCOUNT.

The Secretary of the Interior is authorized to expend not to exceed $1,300,000 of receipts, including interest, generated from the Wapato Indian Irrigation Project, currently available in the Bureau of Indian Affair's Account for Operation and Maintenance, Indian Irrigation Systems (Appropriation Account 14X5240), which includes principal collected under the authority of the Act of February 14, 1920, for purposes of rehabilitation and betterment of the irrigation system at the Wapato Indian Irrigation Project, and to which the principal sums collected shall be credited in a manner which reduces the obligation for repayment of construction costs for those units of the Wapato Indian Irrigation Project from which such funds were generated.

SEC. 8. TECHNICAL AMENDMENTS TO SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT ACT OF 1982.

(a) SHORT TITLE.—This section may be cited as the "Southern Arizona Water Rights Settlement Technical Amendments Act of 1992".

(b) TECHNICAL AMENDMENTS.—The Southern Arizona Water Rights Settlement Act of 1982 is amended as follows:

(1) in section 313(b)(1)(A), delete "paragraph (3)" and insert in lieu thereof "paragraph (2)";

(2) in clauses (i), (ii) and (iii) of section 313(b)(1)(B), delete "(adjusted as provided in paragraph (2))" each place it appears and insert in lieu thereof "which has been";

(3) in section 313(b)(1)(C), immediately before the period at the end thereof, insert a comma and the following: "including all interest which has accrued to the Fund since the Fund was established and all interest which accrued on contributions and appropriations to the Fund from October 12, 1985, to the date of the enactment of the Southern Arizona Water Rights Settlement Technical Amendments Act of 1992";

(4) in subsection (b), delete paragraph (2) and renumber paragraph (3) as paragraph (2);

(5) amend section 313 by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (e), if no funds contributed to the Cooperative Fund pursuant to subsection (b)(1)(B) (or accrued interest thereon) have been returned to any of the contributors, the Cooperative Fund shall not be terminated; except that, if the final judgment in the lawsuit referred to in section 307(a)(1)(C) does not dismiss all claims against the defendants named therein, the Cooperative Fund shall be terminated and the Secretary of the Treasury shall return all amounts contributed to the Fund (together with a ratable share of the remaining accrued interest) to the respective contributors.

"(2)(A) If the share contributed to the Cooperative Fund by the United States has been deposited in the General Fund of the Treasury pursuant to subsection (e), there is authorized to be appropriated to the Cooperative Fund the

amount so deposited in the General Fund of the Treasury, adjusted to include an amount representing the additional interest which would have been earned by the Cooperative Fund if that portion had not been deposited in the General Fund of the Treasury.

"(B) If the final judgment in the lawsuit referred to in section 307(a)(1)(C) does not dismiss all claims against the defendants named therein, the share of the Cooperative Fund contributed by the United States shall be deposited in the General Fund of the Treasury.";

(6) in section 304(e)(2), delete ", as long as such water is used for irrigation of Indian lands";

(7) in section 306(c), by adding at the end thereof the following new paragraph:

"(3) For the purpose of determining allocation and repayment of costs of the Central Arizona Project as provided in article 9.3 of contract numbered 14-06-W-245 between the United States of America and the Central Arizona Water Conservation District, dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of Central Arizona Project water under the sales, exchanges or temporary dispositions herein authorized shall be nonreimbursable, and such costs shall be excluded from such District's repayment obligation."; and

(8) in sections 313(c)(1)(A), 304(c)(1) and 305(d)(1), immediately after "10 years" each place it appears, insert "and 9 months".

SEC. 9. AMENDMENTS TO THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS.—The second sentence of section 803(a) of the Native American Programs Act of 1974 (42 U.S.C. 2991b(a)) is amended by striking ", subject to the availability of funds appropriated under the authority of section 816(c),".

(b) DEFINITION.—Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c) is amended—

(1) in paragraph (4) by striking "; and" at the end,

(2) in paragraph (5) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(6) the term 'Native American Pacific Islander' means an individual who is indigenous to a United States territory or possession located in the Pacific Ocean, and includes such individual while residing in the United States.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking subsection (c), and

(2) by redesignating subsection (d) as subsection (c).

SEC. 10. TECHNICAL AMENDMENTS TO AK-CHIN WATER USE ACT OF 1984.

(a) SHORT TITLE.—This section may be cited as the "Ak-Chin Water Use Amendments Act of 1992".

(b) AUTHORIZATION OF USE OF WATER.—Section 2(j) of the Act of October 19, 1984 (Public Law 98-530; 98 Stat. 2698) is amended to read as follows:

"(j) The Ak-Chin Indian Community (hereafter in this Act referred to as the 'Community') shall have the right to devote the permanent water supply provided for by this Act to any use, including agricultural, municipal, industrial, commercial, mining, recreational or other beneficial use, in the areas initially designated as the Pinal, Phoenix and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The community is authorized to lease or enter into an option to lease, extend leases, exchange or temporarily dispose of water to which it is entitled for beneficial use in the areas initially designated as the Pinal, Phoenix and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1: Provided, That the term of any such lease shall not exceed 100 years and the Community may not permanently alienate any water right. In the event the Community leases, extends leases, exchanges or temporarily disposes of water, such action shall be pursuant to a contract that has been accepted and ratified by a resolution of the Ak-Chin Indian Community Council and approved and executed by the Secretary.".

SEC. 11. AMENDMENT.

The Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes", approved October 15, 1977 (91 Stat. 1159), is amended by adding at the end thereof the following:

"SEC. 502. GENERAL ASSISTANCE PROGRAM.

"(a) SHORT TITLE.—This section may be cited as the 'Indian Environmental General Assistance Program Act of 1992'.

"(b) PURPOSES.—The purposes of this section are to—

"(1) provide general assistance grants to Indian tribal governments and intertribal consortia to build capacity to administer environmental regulatory programs that may be delegated by the Environmental Protection Agency on Indian lands; and

"(2) provide technical assistance from the Environmental Protection Agency to Indian tribal governments and intertribal consortia in the development of multimedia programs to address environmental issues on Indian lands.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'Indian tribal government' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'intertribal consortia' or 'intertribal consortium' means a partnership between two or more Indian tribal governments authorized by the governing bodies of those tribes to apply for and receive assistance pursuant to this section.

"(3) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(d) GENERAL ASSISTANCE PROGRAM.—(1) The Administrator of the Environmental Protection Agency shall establish an Indian Environmental General Assistance Program that provides grants to eligible Indian tribal governments or intertribal consortia to cover the costs of planning, developing, and establishing environmental protection programs on Indian lands.

"(2) Each grant awarded for general assistance under this subsection for a fiscal year shall be no less than $75,000, and no single grant may be awarded to an Indian tribal government or intertribal consortium for more than 10 percent of the funds appropriated under subsection (h) of this section.

"(3) The term of any general assistance award made under this subsection may exceed one year. Any awards made pursuant to this section shall remain available until expended. An Indian tribal government or intertribal consortium may receive a general assistance grant for a period of up to four years in each specific media area.

"(e) NO REDUCTION IN AMOUNTS.—In no case shall the award of a general assistance grant to an Indian tribal government or intertribal consortium under this section result in a reduction of Environmental Protection Agency grants for environmental programs to that tribal government or consortium. Nothing in this section shall preclude an Indian tribal government or intertribal consortium from receiving individual media grants or cooperative agreements. Funds provided by the Environmental Protection Agency through the general assistance program shall be used by an Indian tribal government or intertribal consortium to supplement other funds provided by the Environmental Protection Agency through individual media grants or cooperative agreements.

"(f) EXPENDITURE OF GENERAL ASSISTANCE.—Any general assistance under this section shall be expended for the purpose of planning, developing, and establishing the capability to implement programs administered by the Environmental Protection Agency and specified in the assistance agreement. Purposes and programs authorized under this section shall include the development and implementation of solid and hazardous waste programs for Indian lands. An Indian tribal government or intertribal consortium receiving general assistance pursuant to this section shall utilize such funds for programs and purposes to be carried out in accordance with the terms of the assistance agreement.

"(g) PROCEDURES.—(1) Within 12 months following the date of the enactment of this section, the Administrator shall promulgate regulations establishing procedures under which an Indian tribal government or intertribal consortium may apply for general assistance grants under this section.

"(2) The Administrator shall publish regulations issued pursuant to this section in the Federal Register.

"(3) The Administrator shall establish procedures for accounting, auditing, evaluating, and reviewing any programs or activities funded in whole or in part for a general assistance grant under this section.

"(h) AUTHORIZATION.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for each of the fiscal years 1993 and 1994.".

SEC. 12. ENROLLMENT AS NATIVES.

Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enroll the following-named individuals as Natives under the Alaske Native Claims Settlement Act (Public Law 92-203): Yvonne LeCornu Salazar and Andres Manuel Salazar. Each individual is entitled to receive 100 shares of stock in Shaan-Seet, Inc. and such other benefits as the board of directors of that corporation may approve. No individual enrolled pursuant to this Act shall be entitled to share in any dividends or Alaska Native Claims Settlement Act distributions made by the United States or Shaan-Seet, Inc. prior to the individual's enrollment. Nor shall this Act alter said individual's rights to receive dividends or Alaska Native Claims Settlement Act distributions made by Sealaska Corporation prior to the individual's enrollment in Shaan-Seet. Enrollment of these individuals shall not alter the entitlement to or distribution of land to any corporation under the terms of the Alaska Native Claims Settlement Act.

SEC. 13. TRANSFER OF BUREAU OF INDIAN AFFAIRS' ADMINISTRATIVE SITE IN BETHEL, ALASKA TO THE YUKON KUSKOKWIM HEALTH CORPORATION.

(a) CONVEYANCE.—To the extent consistent with this section and applicable Federal and State environmental laws, the Secretary of the Interior, notwithstanding section 1302(h) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)), shall convey, in fee, the buildings of the former Bureau of Indian Affairs Bethel Agency, Bethel, Alaska, and lands nec-

essary for the use of these buildings, but not to exceed 27 acres of the Agency site, to the Yukon Kuskokwim Health Corporation (hereafter referred to as the "Corporation"). Such conveyance shall be made on terms mutually agreed on between the Secretary of the Interior and the Corporation. The Secretary may require that the Corporation, as exclusive consideration for this conveyance, enter into an agreement under which the Corporation agrees to indemnify the United States Fish and Wildlife Service and the Bureau of Indian Affairs for any liability arising out of the operation and maintenance of any response at the property concerning asbestos. The conveyance required by this section shall be made, subject to subsection (b)(2), prior to September 30, 1993.

(b) ENVIRONMENTAL RESPONSE.—Prior to the conveyance of the property to the Corporation pursuant to subsection (a), for responses that are necessary under applicable Federal and State laws to protect human health and the environment with respect to any hazardous substance or hazardous waste remaining on the property, the Secretary of the Interior and the Secretary of the Air Force shall—

(1) complete and equally share the cost of such response, or

(2) grant and equally share the cost of such grant to the Corporation an amount equal to the cost of such response, except that such grant shall be used to complete such response prior to the conveyance of the property.

(c) Notwithstanding any other Federal law, except with respect to liability arising from the operation and maintenance of the property, the United States Fish and Wildlife Service and the Bureau of Indian Affairs shall not be liable under any Federal law for any additional response necessary for asbestos at the property following its conveyance to the Corporation pursuant to the authority of subsection (a). Nothing in this section shall affect any liability of any person other than the United States Fish and Wildlife Service and the Bureau of Indian Affairs.

(d) EASEMENT.—The conveyance under this section shall reserve an easement for access to adjacent areas of the Yukon Delta National Wildlife Refuge, if determined necessary by the Secretary.

(e) DEFINITIONS.—As used in this section:

(1) The terms "response", "hazardous substance", "person", and "environment" as used herein shall have the meaning of such terms as provided in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.).

(2) The term "hazardous waste" shall have the meaning of such term as provided in the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 14. REGULATION OF CLASS III GAMING.

(a) IN GENERAL.—Notwithstanding section 11(d)(1) of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)(1), during the six-month period beginning on the date of the enactment of this Act, any class III gaming activity conducted on Indian lands in the State of Montana shall be lawful if such gaming activity—

(1) is conducted in accordance with State law made applicable by the Indian Gaming Regulatory Act; and

(2) was owned or being conducted on May 1, 1988.

(b) INAPPLICABILITY OF ACT OF JANUARY 2, 1951.—During the six-month period specified in subsection (a), the provisions of section 5 of the Act of January 2, 1951 (15 U.S.C. 1175), shall not apply to any gaming activity described in such subsection which meets the requirements of paragraphs (1) and (2) of such subsection.

SEC. 15. DEFINITIONS.

For purposes of this section, the terms "Indians lands" and "class III gaming" have the meaning given such terms in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

SEC. 16. CONFORMING AMENDMENT.

Section 4(7)(E) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(7)(E)) is amended by striking "or Montana".

SEC. 17. SETTLEMENT OF LAWSUIT.

The Act of October 25, 1972 (86 Stat. 1168), is amended by adding at the end thereof the following new section:

"SEC. 306. AUTHORITY TO SETTLE ACTION.

"Notwithstanding any provision of this Act or any other provision of law, the Attorney General is authorized to negotiate and settle any action that may be or has been brought to contest the constitutionality or validity under law of the distribution to all other Sisseton and Wahpeton Sioux provided for in section 202 of this Act.".

□ 2240

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate amendment to the bill, H.R. 5686.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5686 makes technical amendments to several Federal Indian statutes. The first provision would correct a land description contained in the Grand Ronde Reservation Act. The second provisions would extend the time period for the Secretary of the Interior to develop an economic development plan for the Ponca Indian Tribe of Nebraska.

Another provision in the bill allows the Crow Indian Tribe of Montana to reprogram judgment funds. The bill also allows the Shoshone-Bannock Indian tribe of Idaho to reprogram judgment funds.

In addition, the bill as amended by the Senate, allows three tribes to enter into leases of up to 99 years. The bill also contains several technical amendments to the Ak-Chin Indian Tribe Water Rights Settlement Act and the Southern Arizona Water Rights Settlement Act. There are two amendments related to the San Carlos Indian Irrigation Project and the Wapato Indian Irrigation Project.

Finally, the bill includes two provisions related to Alaska Natives. One provision involves individual relief and the second involves the transfer of land to the Yukon Kuskokwim Health Corp.

Mr. Speaker, this measure is noncontroversial and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in full support of H.R. 5686, a bill to make technical amendments to certain Federal Indian statutes which I introduced earlier this year. Because of the relative simplicity of this legislation, I will not discuss all of its constituent provisions, but rather, will address four key sections of the bill.

Three of the provisions concern my State of Arizona. First, section 6 of the bill clarifies the San Carlos Divestiture Act signed into law in 1991. That act corrected longstanding management and service problems related to the Federal operation of an electrical generation and transmission system serving the San Carlos Apache Indian Reservation and adjacent non-Indian lands. The federally operated utility would be transferred to the ownership and operation of San Carlos Apache Tribe, the Gila River Indian Community, and to private and rural electrical interests off the reservation. Section 6(a) extends the deadline for the parties to the original act to implement the divestiture.

Second, section 8 amends the Southern Arizona Water Rights Settlement Act of 1982. While we have been unable to complete work on a comprehensive southern Arizona water settlement bill this session, such legislation will likely pass early next year. Section 8 provides that the positions of two of the parties to that settlement—the Tohono O'odham Nation and the United States—are not worsened in the interim. The section provides that the cooperative fund established by the act may operate to provide financing for any lease of settlement water by the Tohono O'odham Nation pending construction of the farms where the water will ultimately be used. It would also extend for 9 months the deadline under which penalties under the act would become payable by the United States to the Tohono O'odham Nation.

Finally, the last section of the bill is identical to H.R. 4948, the Ak-Chin Water Use Amendments Act of 1992, a bill I introduced this session. This section would amend Public Law 98-530 to allow the Ak-Chin Indian community to lease off-reservation, but within Arizona, water it does not use. This leasing authority will result in substantial economic benefit the tribe, and will be of similar benefit to surrounding water users.

Finally, I feel constrained to speak briefly about an amendment added in the other body. That amendment provides that the Attorney General is authorized to negotiate and settle any suit brought by the Sisseton and

Wahpeton Sioux challenging the validity of a 1972 Indian Claims Commission Judgment Fund Distribution Act. However, it is my opinion, as well as the opinion of the Department of Justice, that this provision simply recognizes a power that the Attorney General already possesses. Consequently, I would like to make it clear that by including this provision we do not imply that without it the Attorney General does not possess this authority.

Mr. Speaker, we regularly pass technical amendments bills such as this every year, and I urge my colleagues similarly to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 5686, the bill to make technical amendments to certain Indian statutes. The junior Senator from Alaska in the other body has submitted a provision which would allow the Bureau of Indian Affairs to transfer excess property buildings in Bethel, AK to the Yukon Kuskokwim Health Corp. [Y-K].

Yukon Kuskokwim Health Corp. was awarded a Public Law 638 contract in 1990 to provide health services to residents of the Calista Region. This region has the highest population of Native people in the State of Alaska and Y-K has done an excellent job in providing health services to the residents in this region. However, the housing situation in Bethel does not allow Y-K to adequately house their physicians and medical personnel. The excess BIA facilities in Bethel would accommodate at least 20 units which would allow Y-K to provide much needed housing for their medical personnel.

The senior Senator from Alaska from the other body has also included a provision to recognize two individuals not previously enrolled in a Native corporation pursuant to the Alaska Native Claims Settlement Act of 1971. For reasons unknown, Ms. Yvonne LeCornu Salazar and her son Andres Manual Salazar were dropped from the Bureau of Indian Affairs enrollee list from the city of Craig. This was an error and this provision proposes to reinstate them as enrolled to Shaan-Seet, Inc. village corporation. As such, these two individuals are entitled to 100 shares of stock in Shaan-Seet, Inc. and such other benefits as the board of directors of that corporation may approve.

I believe H.R. 5686 is a good bill and encourage my colleagues to vote for passage.

The rest of the bill is needed House cleaning and deserves support.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

I wanted to thank the chairman for assisting us with this bill. It does contain some rather important provisions to the State of Arizona.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of a Senate provision in H.R. 5686, which amends the Native American Programs Act of 1974 to include a definition of Native American Pacific Islanders in the Act, and to eliminate the current set-aside for this population, thereby allowing full participation of the native American Pacific islanders in programs funded under the act.

Although native American Pacific islanders were added in 1987 to the Native American Programs Act, which is operated by the Administration for Native Americans, the act does not define this group. This provision amends the act to include a definition consistent with the definition in the regulations of the Department of Health and Human Services.

Second, this provision amends the act by eliminating the current set-aside for native American Pacific islanders, thereby allowing their participation in all competitive grant programs of the administration for Native Americans.

Mr. Speaker, I believe this amendment will provide equitable treatment for all native American groups served by the act since the distribution of ANA funds to native American Indians, Alaskan natives, native Hawaiians, and native American Pacific islanders will be allocated solely based on merits rather than special set-aside for targeted groups.

I wish to extent my gratitude and appreciation to all my friends and colleagues whose support and assistance enabled this amendment to come this far. I am indebted to my friend Senator DANIEL K. INOUYE, Chairman of the Senate Select Committee on Indian Affairs, for offering this amendment on my behalf, and for ensuring Senate passage of this important legislation. I also want to thank my friends and colleagues in the House for all their support and sensitivity to native American Pacific Island needs. I want to pay particular thanks to Chairman GEORGE MILLER of the House Interior Committee, Chairman WILLIAM FORD of the Education and Labor Committee, Chairman DALE KILDEE of the Education and Labor Subcommittee on Elementary, Secondary, and Vocational Education, and Chairman MATT MARTINEZ of the Education and Labor Subcommittee on Human Resources, and to the following members of Education and Labor, Representatives WILLIAM GOODLING ranking minority member, WILLIAM CLAY, MAJOR OWENS, CHARLES HAYES, TOM SAWYER, PATSY MINK, and ED PASTOR; and my good friend and colleague from Guam, Rep. BEN BLAZ.

Finally, I want to thank the following staff members for their important contribution to this effort: Patricia Zell, Virginia Boylan, and Bob Arnold of the Senate Select Committee on Indian Affairs; Dan Beard, Todd Johnson, and Marie Howard of the House Interior Committee; and Roger McClellan of the House Education and Labor Subcommittee on Human Resources, and my own legislative staff assistant Mr. John Suisala for doing an outstanding job by coordinating this bill with staff and members.

Mr. Speaker, I also want to take this opportunity to pay special tribute to an outstanding Samoan leader whom I have had the privilege of working closely with for the past several years. She is Mrs. Pat Luce-Aoelua, executive director, National Office of Samoan Affairs, based in the Los Angeles area. For the past 15 years, Mrs. Aoelua has been persistent by advocating forcefully the concept that native American Samoans are also Native Americans—given the fact that native Samoans are the indigenous residents of a territory that is under the control and administration of the United States. The passage of this legislation is fulfillment of this long quest and I want to commend Mrs. Pat Luce-Aoelua for this, and also Mrs. June Pouesi and several others of the Samoan community for their invaluable contributions to this piece of legislation.

Since 1988, the Native American Programs Act of 1974 authorizes $500,000 per fiscal for the native American Pacific islander NAPI population to provide financial assistance for social, economic, and governance projects.

NAPI consist of those Americans who are indigenous natives from U.S. Pacific territories and possessions of American Samoa, Guam, Palau, and the Northern Mariana Islands.

According to the U.S. Census of the Bureau, in 1990, the total population of the NAPI group both in the territories and in the United States was 353,100.

Since the inception of the NAPI set-aside in 1988, the amount appropriated for this purpose remain at the level of $500,000 in spite of the considerable increase in population.

Current legislation reauthorizes this set-aside at the same level of $500,000 for the next 4 years (1992, 1993, 1994, and 1995).

While the NAPI population increased significantly in the last 5/10 years, the reauthorization of appropriation of $500,000 per year for this next 4 years, fails to take into account the considerable increase in population.

Current set-aside does not provide adequate funding required to address the critical need to provide economic and social self-sufficiency of the NAPI communities.

Current set-aside does not provide equitable treatment of NAPI in the allocation of funds when compared to other groups (native Indians, Hawaiian, Alaskans) served under the Native American Programs Act.

The elimination of the set-aside and inclusion of NAPI in the overall Native

American program allows the NAPI population to competitively apply for a higher level of funding.

Finally, the inclusion of a definition for NAPI in the Act is essential to solidify our participation in this program as the current definition was established administratively by HHS and could be changed any time the department sees fit.

Mr. WILLIAMS. Mr. Speaker, I rise today to support the technical corrections bill, H.R. 5686, which includes a provision that will extend the amount of time that the Montana tribes and the State of Montana have to negotiate their gaming compacts as required by the Indian Gaming Regulatory Act.

Earlier this year I introduced a bill to extend the amount of time for negotiations of class III gaming compacts between Montana's tribes and the State at the request of the Montana Tribal Chairmen's Association, the Montana State Attorney General, the Montana Governor, the Montana Tavern Association and individual tavern owners. This technical corrections bill has almost exactly the same provisions as my bill. It shows what can happen when we bring the interests of all Montanans together for the good of our State.

The Indian Gaming Regulatory Act provided a grace period for tribes and States to negotiate gaming compacts during which time video poker and keno were considered class II gaming and could operate without a compact. The grace period was extended by an additional year for Montana tribes last December in Public Law 102–238. On June 25, 1992, the U.S. Attorney for Montana announced that class III gaming on Montana's Indian reservations was illegal, absent a State-tribal gaming compact. She based her decision on the fact that the technical correction, passed in December 1991, did not override the Johnson Act of 1951 due to a technical deficiency. All gaming operations came to a halt.

The Montana tribes and tavern owners have been devastated. They have lost hundreds of thousands of dollars. Some small businesses have closed and lots of jobs have been lost. It is only right that right that we let these folks get back to business while the negotiations continue.

This measure does not expand gaming in Montana, it just allows folks who operate video poker and keno games to continue to operate for the next 6 months. The tribes and small businesses on the reservation have no interest in setting up Nevada style gaming such as casinos or big-time gaming operations, nor could they consider such an endeavor in the absence of a class III gaming compact.

I also want to clarify congressional intent relative to the language in the Montana gaming provision which requires the gaming to be conducted in accordance with State law made applicable by the Indian Gaming Regulatory Act [IGRA]. The bill does not mandate in anyway that Indian operated games must, absent a class III compact, comply with State law under section 23 of IGRA; instead, it is may understanding that the phrase refers to the IGRA's criminal/prohibitory and civil/regulatory doctrines which are reflected in section 2, paragraph 5 as well as section 11(d)(1)(B) of IGRA.

This bill clears up the technical deficiency in Public Law 102–238 and overrides the Johnson Act of 1951. It extends the negotiations period for 6 months and restores the status quo as it existed when the machines were shut off.

Mr. Speaker, I strongly support a provision in this bill that allows the Crow Tribe of Montana to access and spend about $664,500 from trust fund accounts held by the Bureau of Indian Affairs for past judgment awards.

The Indian Justice Fund Distribution Act set up a system by which funds awarded to a tribe can be distributed. Up to 80 percent can be distributed on a per capita basis while the remaining funds must be used for the benefit of the entire tribe. The tribe must formulate a plan to spend the funds and reach agreement with the Secretary of the Interior. In the case of the Crow, their plans have been implemented with $664,500 left unspent. The unspent funds cannot be used for purposes outside of the plan and the original act provides no mechanism for additional planning. Therefore, this bill allows the Crow to formulate a second plan with the approval of the Secretary, to utilize the remaining funds.

The Crow Tribe wants to use part of its funds for an excellent and worthwhile effort, renovation of the Crow youth camp in the Bighorn Mountains for drug treatment and rehabilitation programs. Earlier this year, the University of Minnesota completed a study on Native American youth. They found that the death rate for Native American teenagers is twice that of adolescents of other racial and ethnic backgrounds. The study reasons that the high rates of mortality among youth related to suicide and motor vehicle crashes are no doubt associated with substance abuse. I think the Crow Tribe's plan to take care of their youth, and in turn the tribe's future, is commendable.

Funds would also be used to expand the existing Crow tribal offices.

I strongly recommend we pass this legislation.

Mr. BLAZ. Mr. Speaker, I rise today in support of H.R. 5686, a bill to make technical corrections to certain Federal Indian statutes which includes an amendment to allow full participation by Native American Pacific Islanders in the Native American Programs Act of 1974.

This provision will remove a longstanding inequity within the Native Americans Program Act. In 1987, when Pacific islanders were made eligible for this program, it was on the condition that only $500,000 per year would be setaside for grants. While that set-aside has remained constant since the late 1980's, the indigenous Pacific islander population has grown significantly in recent years. The current set-aside does not adequately address the growing needs of our population. This measure will alleviate that injustice and allow all Native American groups to participate fully and compete fairly for these funds.

Mr. Speaker, unlike other Federal programs in which we participate, the Native American Program grants allow Pacific islanders the flexibility to determine the best means to achieve their social and economic goals. I feel this program will be particularly well suited to the needs of Pacific islanders and hope this action will encourage active participation in the program.

Mr. Speaker, this revision could not have been accomplished without the commitment of several Members. I would like to thank the gentleman from American Samoa, Representative ENI FALEOMAVAEGA, for his outstanding efforts and as always, Senator DANNY INOUYE, whose actions on behalf of indigenous American groups is well documented, for including this provision in H.R. 5868. Also, I would like to thank Chairman GEORGE MILLER and ranking member, DON YOUNG, of the House Interior Committee for bringing this measure to the floor in such an expeditious manner, and the members of the House Committee on Education and Labor, especially Representative MATTHEW MARTINEZ, for their strong support.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 5686.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

DIRECTING SETTLEMENT OF LAND RIGHTS OF KENAI NATIVES ASSOCIATION, INC.

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6072) to direct expedited negotiated settlement of the land rights of the Kenai Natives Association, Inc., under section 14(h)(3) of the Alaska Native Claims Settlement Act, by directing land acquisition and exchange negotiations by the Secretary of the Interior and certain Alaska Native corporations involving lands and interests in lands held by the United States and such corporations, as amended.

The Clerk read as follows:

H.R. 6072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the 6-month period beginning on the date of enactment of this Act, the Secretary of the Interior shall engage in expedited negotiation with the Kenai Natives Association, Inc., and Cook Inlet Region, Inc., for independent voluntary exchange agreements or land acquisition agreements through which the United States would acquire all of the surface estate in parcels of high public interest held by such private parties, including lands along the Kenai River and Moose River. Any negotiation (and agreements) shall consider the value of recreational resources and wildlife habitat of such lands being exchanged or acquired and their importance to the purposes and management of public lands, shall consider independent third party appraisals which include such values, and shall not include values for lands retained by such corporations to which they already have title. The Secretary should, within 60 days of the end of the negotiation period, submit to Congress legislation approving the exchanges or acquisitions, or in the event that the parties do not agree, submit a report to Congress describing the reasons why agreement was not reached including the values relied upon by the Kenai Natives Association, Inc., the Cook Inlet Region, Inc., and the Secretary, and the Secretary's justification of any differential between the values arrived at by the Kenai Natives Association, Inc., the Cook Inlet Region, Inc., and the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill, H.R. 6072.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6072 which has been introduced by the gentleman from Alaska. This bill directs the Interior Department to negotiate with two Alaska Native corporations concerning a possible exchange or acquisition of lands within the Kenai National Wildlife Refuge in Alaska and to report to Congress within 6 months.

Since 1982, the Kenai Natives Association, Inc. [KNA] has sought to exchange with the Fish and Wildlife Service property it owns within the boundaries of the Kenai National Wildlife Refuge. The KNA property within the refuge was received subject to development restrictions under section 22(g) of the Alaska Native Claims Settlement Act [ANCSA], and the corporation believes it cannot generate an adequate economic return for its shareholders.

Last April, the Subcommittee on Water, Power and Offshore Energy Resources, which I chair, held a hearing on Congressman Young's legislation [H.R. 4694] to congressionally ratify an exchange with KNA. The Interior Department strongly objected to the bill on the grounds that the exchange was not equal in value or in the best interests of the refuge.

Since that hearing, the Alaska regional office of the Fish and Wildlife Service has engaged in further land exchange negotiations with both KNA and Cook Inlet Region, Inc. [CIRI], which also owns property within the refuge. Unfortunately, the negotiations have failed to significantly progress toward any agreement, and both corporations have expressed frustration.

While I am not prepared to agree to ratify a specific exchange at this time, I am convinced that KNA has received an inequitable ANCSA entitlement and believe that it is especially important for both the Interior Department and the Congress to work hard to find a solution to their dilemma. The other Native corporation, CIRI, adds to their dilemma. The other Native corporation, CIRI, adds to the prospects for reaching a mutually agreeable resolution through its land management expertise and willingness to seek innovative solutions.

H.R. 6072 directs the Secretary of the Interior to enter into negotiations with the KNA and CIRI and bring back to the Congress within 6 months a settlement proposal that includes land acquisitions or exchanges. Both KNA and CIRI are willing sellers of lands which would have high fish and wildlife habitat values for the refuge. In the event that an agreement is not reached, the Secretary is directed to submit a report to the Congress which describes why an agreement was not reached and the values that were relied upon by the parties.

The proper standards for valuation of Native corporation lands is a matter which has generated significant controversy in exchanges which have been considered by the Interior Committee in the past. On an experimental basis, this bill is intended to provide some guidelines for the Secretary to incorporate in negotiations with the two Native corporations involved here.

The legislation directs that negotiations between the parties take into account the value of recreational resources and wildlife habitat of lands involved in the exchanges or acquisitions. The Secretary is directed to consider, but not necessarily be bound by, independent third party appraisals. Since the corporations hold title to lands within the refuge, the value of the property interests in any lands retained by the corporations are not to be charged to them should the Secretary propose to remove section 22(g) restrictions as part of an exchange.

The legislation, however, is not intended to resolve the issue of what value accruing to the Native corporations may be directly attributed to the removal of patent restrictions under section 22(g) of ANCSA as part of an exchange. Instead, the intent is to inhibit the Secretary from so severely discounting the value of the Native lands subject to the section 22(g) patent restrictions as to make them nearly worthless in calculating whether the Government would be receiving fair value in an exchange. Such a result would be clearly inequitable.

In essence, this bill encourages the Secretary to attempt to strike a reasonable balance between the property and economic interests of the Native corporations, the public interest in enhancing the fish and wildlife values of the Kenai refuge, and the interests of the Federal taxpayers. This is, no doubt, a difficult task.

Mr. Speaker, I also want to recognize the jurisdictional interests of the Committee on Merchant Marine and Fisheries in this legislation which affects the management of an important national wildlife refuge. I appreciate the cooperation of Chairman STUDDS and I urge my colleagues to join us in support of Congressman YOUNG's bill.

Mr. Speaker, I include for the RECORD the following letter:

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
Washington, DC, October 3, 1992.

Hon. GERRY E. STUDDS,
Acting Chairman, Committee on Merchant Marine and Fisheries, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you regarding H.R. 6072, to direct expedited negotiated settlement of the land rights of the Kenai Natives Association, Inc., under section 14(h)(3) of the Alaska Native Claims Settlement Act, by directing land acquisition and exchange negotiations by the Secretary of the Interior and certain Alaska Native corporations involving lands and interests in lands held by the United States and such corporations. I recognize that your committee has jurisdiction over fish and wildlife issues and would respectfully request that the Committee on Merchant Marine and Fisheries agree to allow H.R. 6072 to be considered today on the suspension calendar.

I appreciate your thoughtful consideration of this important matter and will submit this letter for the Record during the floor debate.

Sincerely,

GEORGE MILLER,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6072, legislation I introduced to move forward on an important land exchange. For the past 4 years, I have pursued a land exchange involving KNA lands which the regional office of the Department of the Interior approved in 1983. A technicality prevented the execution of the exchange agreement at that time.

I firmly believe that the exchange is meritorious and should be approved by the Department of the Interior and ratified by Congress if needed. However, in view of the time remaining in this session of Congress, the best course of action is to begin an expedited negotiation. The land use issues which have prevented KNA from using lands conveyed to the corporation under the Alaska Native Claims Settlement Act must be resolved. One way or another, they must be resolved.

H.R. 6072 would direct a negotiation to take place between the two Alaska Native Corporations involved [KNA and CIRI] and the Department of the Interior. The purpose is to resolve land use issues within 6 months through the execution of appropriate land acquisition and/or exchange agreements. If the Department fails to reach an agreement in this timeframe—a result I hope does not occur since the matter has been under consideration for some time—it would be required to report to Congress why the effort failed. Finally, the Department would be required to take into account the valuation of third party appraisals. The value of the lands to be conveyed to KNA, if any, would be valued with regard only to those lands which would be conveyed to or from the Federal Government. Lands which are retained in KNA ownership may not be valued in any exchange with the Federal Government since they are not being conveyed.

Mr. Speaker, over the years, I have heard a great deal of sympathy expressed over the KNA land situation. I commend the distinguished chairman of the Interior and Insular Affairs Committee for his effort in this matter. As for others who have expressed sympathy, I say now is the time to help resolve this issue once and for all. Under the bill, there is up to 6 months to achieve that result. If those involved sincerely desire to resolve the pending land use conflict and obtain these acquisitions, I will say again, now is the time.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 6072, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES AUTHORIZATION ACT OF 1992

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3161) to authorize functions and activities under the Federal Property and Administrative Services Act of 1949, to amend laws relating to Federal procurement, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Property and Administrative Services Authorization Act of 1992".

SEC. 2. AUTHORIZATION OF FUNCTIONS AND ACTIVITIES UNDER THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.

Section 603(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 475) is amended to read as follows:

"(a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each fiscal year through the fiscal year ending on September 30, 1995, including payment in advance, when authorized by the Administrator, for library memberships in societies whose publications are available to members only, or to members at a price lower than that charged to the general public. Nothing in this subsection shall affect authorizations of appropriations or appropriations set forth elsewhere in this Act.".

SEC. 3. REQUIREMENTS FOR APPOINTMENTS TO SENIOR POSITIONS IN GENERAL SERVICES ADMINISTRATION.

(a) IN GENERAL.—Section 101 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 751) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) A person appointed as the Deputy Administrator of General Services or as the head of a principal organizational unit of the General Services Administration shall, in addition to any other minimum qualifications, have significant previous management experience in government or the private sector in an area or areas directly related to the functions and responsibilities of the position to which that person is appointed.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply to any person in a position affected by such amendments on the date of the enactment of this Act.

TITLE I—ACQUISITION OF NONDEVELOPMENTAL AND COMMERCIAL ITEMS

SEC. 101. SHORT TITLE.

This title may be cited as the "Nondevelopmental and Commercial Items Acquisition Act of 1992".

SEC. 102. FINDINGS.

The Congress finds that—

(1) the acquisition of nondevelopmental and commercial items can lower Federal agency procurement costs by—

(A) reducing or eliminating the need for research and development;

(B) reducing acquisition lead time by making use of existing production lines and facilities;

(C) opening competition for Federal agency contracts to thousands of manufacturers who sell products in the commercial market; and

(D) increasing Federal agency access to the market-driven innovations and efficiencies available in the commercial market;

(2) the efficient acquisition of nondevelopmental and commercial items is impeded when Federal agencies impose complicated specifications and unnecessarily burdensome contract requirements on simple commercial and off-the-shelf products; and

(3) legislation is needed to reduce impediments to the acquisition of nondevelopmental and commercial items and encourage increased acquisition of such items.

PART A—ACQUISITION OF NONDEVELOPMENTAL ITEMS

SEC. 111. NONDEVELOPMENTAL ITEMS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"ACQUISITION OF NONDEVELOPMENTAL ITEMS

"SEC. 303H. (a) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall require that, to the maximum extent practicable—

"(1) the requirements of Federal agencies with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(3) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(4) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(b) As used in this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously developed item of supply that is in use by a department or agency of the United States, or a State or local government;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Acquisition of nondevelopmental items.".

SEC. 112. COMMERCIAL ITEMS.

(a) SIMPLIFIED UNIFORM CONTRACTS.—(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include one or more simplified uniform contracts for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract or contracts be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract or contracts shall include only—

(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

(B) In addition to the clauses described under subparagraph (A), contracts for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(2)(A) The Federal Acquisition Regulation shall require that, except as provided in subparagraph (B), a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

(B) In addition to the clauses described under subparagraph (A), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract clauses developed under paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2325 note; P.L. 101–189) until the revisions to the Federal Acquisition Regulation required by such paragraphs take effect.

(b) Warranties.—The Federal Acquisition Regulation shall require that, to the maximum extent practicable, Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

(c) Market Acceptance.—The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use; or

(B) been satisfactorily supplied under current or recent contracts for the same or similar requirements; and

(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

(d) Past Performance.—The Federal Acquisition Regulation shall provide guidance to Federal agencies on the use of past performance of products and sources as a factor in award decisions.

(e) Federal Agency Defined.—As used in this section, the term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 472(a)).

SEC. 113. IMPLEMENTATION.

(a) Training.—The Administrator for Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of appropriate personnel in—

(1) the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

(2) market research techniques and the drafting of functional and performance specifications.

(b) Nondevelopmental Items Advocates.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.".

(c) Improved Market Research.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(1) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(2) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including use of existing Government resources; and

(3) such recommendations for changes in law or regulation as the Comptroller General may consider appropriate.

PART B—ENHANCEMENT OF COMPETITION IN CONTRACTING

SEC. 121. TRUTH IN NEGOTIATIONS ACT.

(a) Amendments.—(1) Section 304(d)(5) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)(5)) is amended by striking out "need not" and inserting in lieu thereof "shall not".

(2) Section 304(d)(4) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)(4)) is amended by inserting after "this subsection" the following: "(including paragraph (5)".

(b) Requirement for Revised Regulations.—Not later than 180 days after the date of enactment of this Act, the Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall be revised to implement section 304(d)(5) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)) and section 2306a(b) of title 10, United States Code, as amended by subsection (a) and section 302.

(c) Provisions To Be Included.—(1) In the case of contracts other than cost-reimbursement research and development contracts, the revised regulations promulgated under subsection (b) shall provide that cost or pricing data may not be requested from a contractor when it is likely that circumstances will exist in which an exception to the requirement to provide such data is authorized by section 304(d)(5) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)) or section 2306a(b) of title 10, United States Code, unless the head of the agency determines in writing that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract.

(2) The regulations also shall provide clear standards for determining whether the exceptions authorized by such sections apply. In the case of the exception for provided under section 304(d)(5)(A)(i) of such Act and section 2306a(b)(1)(A) of such title (relating to adequate price competition), the regulations shall specify the criteria that will be used to determine whether adequate price competition exists. In the case of the exception provided under section 304(d)(5)(A)(ii) of such Act and section 2306a(b)(1)(B) of such title (relating to established catalog or market prices of commercial items sold in substantial quantities to the general public), the regulations shall preclude the consideration of sales to the government when determining whether the item has been sold in substantial quantities to the public.

(3) The regulations also shall establish reasonable limitations on requests for sales data relating to commercial items.

SEC. 122. CONTRACT MODIFICATIONS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 29. CONTRACT MODIFICATIONS.

"(a) Public Notice of Contract Modifications.—An executive agency shall not effect a contract modification unless the contracting officer, by not later than 10 days prior to effecting the modification, provides to the Secretary of Commerce for publication in the Commerce Business Daily a synopsis of the modification.

"(b) Exceptions.—Subsection (a) does not apply—

"(1) to any modification that does not require the contractor to supply commercial items with a value greater than 2 times the small purchase threshold;

"(2) in any case in which the modification, if considered independent of the contract to be modified, would meet pertinent requirements for award of a contract to the original contractor using other than competitive procedures;

"(3) to the exercise of a priced option; and

"(4) in any case in which the contracting officer determines that compliance with subsection (a) would not be in the best interests of the Government and justifies that determination in writing.

"(c) Definition.—For purposes of this section, the term 'contract modification' means a modification or change under a contract.".

PART C—ACQUISITION OF COMMERCIAL ITEMS

SEC. 131. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

Section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) is amended by redesignating paragraphs (2), (3), and (4) in order as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) implement a preference for the acquisition of commercial items by—

"(A) whenever practicable, stating specifications in solicitation for bids and proposals in terms such that bidders and offerors are enabled and encouraged to offer to supply commercial items in response to agency solicitations;

"(B) reducing impediments to the acquisition of commercial items in agency procurement policies, practices, and procedures not required by law; and

"(C) requiring training of appropriate personnel in the acquisition of commercial items;".

SEC. 132. ACQUISITION OF COMMERCIAL ITEMS.

Section 28 of the Office of Federal Procurement Policy Act (41 U.S.C. 424) is amended to read as follows:

"SEC. 28. ACQUISITION OF COMMERCIAL ITEMS.

"(a) Market Research.—Before soliciting bids or proposals for a contract for property or services, an executive agency shall conduct market research, appropriate to the circumstances, to determine whether the needs of the agency can be met by the acquisition of commercial items.

"(b) WAIVER OF CERTAIN REGULATIONS.—The Federal Acquisition Regulation shall be revised to require that, in the case of any acquisition not conducted under procedures in which award is restricted to a single source, an executive agency shall waive the inclusion, in any contract in which the offeror is providing commercial items, of any contract clause determined pursuant to section 112 of this Act to not be essential to protect the Federal Government's interest.

"(c) ADVOCATE FOR ACQUISITION OF COMMERCIAL ITEMS.—

"(1) ESTABLISHMENT.—There is established in the Office of Federal Procurement Policy the position of Advocate for the Acquisition of Commercial Items (hereinafter in this subsection referred to as the 'Advocate').

"(2) FUNCTIONS.—The Advocate shall—

"(A) monitor compliance by executive agencies with the preference required under section 16(2) for the acquisition of commercial items;

"(B) make recommendations and proposals to the Administrator regarding the reform of procurement statutes and regulations to implement that preference; and

"(C) report to the Administrator on the prospective effect of proposed statutes and regulations on the acquisition of commercial items.

"(3) REPORT.—The Administrator shall submit an annual report to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives, describing for the year covered by the report all actions taken by the Office of Federal Procurement Policy to promote the acquisition of commercial items.".

PART D—MISCELLANEOUS PROVISIONS

SEC. 141. REGULATIONS AND SIMPLIFIED FORM CONTRACTS.

(a) REVISION OF FAR.—Unless otherwise specifically provided in this title, not later than 180 days after the date of the enactment of this title, the Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall be revised to implement the amendments made by this title and to reflect the findings set forth in section 102.

(b) SIMPLIFIED UNIFORM CONTRACT.—The revision of the Federal Acquisition Regulation under subsection (a) shall include issuance of one or more simplified uniform contracts for the acquisition of commercial items.

SEC. 142. DEFINITIONS.

(a) OFPP ACT.—Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by—

(1) striking "and" at the end of paragraph (10);

(2) striking the period at the end of paragraph (11) and inserting "; and"; and

(3) adding at the end the following new paragraph:

"(12) the term 'commercial items' means items regularly used in the course of normal business operations for other than Government purposes, that—

"(A) have been sold or licensed to the general public;

"(B) have not been sold or licensed, but have been offered for sale or license to the general public;

"(C) are not yet available in the commercial marketplace, but will be available for commercial delivery in a reasonable period of time, or

"(D) are items that, but for minor modifications made to meet Government requirements, would satisfy the criteria set forth in subparagraph (A), (B), or (C).".

(b) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Section 309(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 259(c)) is amended by inserting "'commercial items'," immediately after "'item of supply',".

(c) COMMERCIAL ITEM DEFINED.—In this title, the term "commercial items" has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), as amended by subsection (a).

(d) NONDEVELOPMENTAL ITEM DEFINED.—In this title, the term "nondevelopmental item" has the meaning given that term in section 303H of the Federal Property and Administrative Services Act of 1949, as amended by this title.

SEC. 143. EFFECTIVE DATE.

Unless otherwise specifically provided in this title, the amendments made by this title shall be effective 180 days after the date of the enactment of this title.

SEC. 144. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as amending, modifying, or superseding, or is intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), commonly referred to as the "Brooks Automatic Data Processing Act";

(2) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), commonly referred to as the "Brooks Architect-Engineers Act";

(3) the Small Business Act (15 U.S.C. 631 et seq.), including section 8(a) of that Act (15 U.S.C. 637(a)); or

(4) the Act of June 25, 1938 (41 U.S.C. 46–48c), commonly referred to as the "Javits-Wagner-O'Day Act".

TITLE II—AMENDMENTS TO FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

SEC. 201. AWARD OF MULTIPLE CONTRACTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following:

"(g) AWARD OF MULTIPLE CONTRACTS.—In procuring any supply or service using competitive procedures, an executive agency may award more than one contract for the same supply or service in any case in which the head of the agency determines that it is in the best interests of the Government to award those contracts for the purpose of maintaining a continuous source for the supply or service.".

SEC. 202. SOLICITATION EVALUATION AND AWARD.

(a) SOLICITATION REQUIREMENTS.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1)(A)—

(A) by inserting "and significant subfactors" after "all significant factors"; and

(B) by striking "(including price)" and inserting "(including cost or price, cost- or price-related factors, and noncost- or nonprice-related factors)";

(2) in subsection (b)(1)(B) by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B) by amending clause (i) to read as follows:

"(i) a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c) ESTABLISHING IMPORTANCE OF FACTORS.—(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, and prior experience of the offeror); and

"(B) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall, at a minimum, disclose to offerors whether all evaluation factors other than price or cost, when combined, are—

"(i) significantly more important than price or cost,

"(ii) approximately equal in importance to price or cost, or

"(iii) significantly less important than price or cost.

"(2) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

(b) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a) by inserting "and award a contract" after "competitive proposals";

(2) in subsection (c) in the second sentence by inserting "in accordance with subsection (a)" after "shall evaluate the bids";

(3) in subsection (d) by amending paragraph (1) to read as follows:

"(1) The executive agency shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, if written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), if the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary."; and

(4) in subsection (d) by striking paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2).

(c) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act; and

(B) contracts awarded pursuant to those solicitations.

(2) EARLIER APPLICATION.—The head of an agency may apply the amendments made by this section to solicitations issued before the end of the period referred to in paragraph (1). The head of the agency shall publish in the

Federal Register notice of any such earlier date of application before the beginning of the 10-day period ending on that date.

SEC. 203. CERTIFIED COST OR PRICING DATA THRESHOLD.

(a) CERTIFYING DATA.—

(1) AFFECTED CONTRACTS.—Section 304(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)) is amended—

(A) by striking out "$100,000" each place it appears and inserting in lieu thereof "the cost or pricing data threshold"; and

(B) by adding at the end the following new paragraph:

"(6) For the purposes of this subsection, the term 'the cost or pricing data threshold' means $500,000, or, after December 31, 1995, $100,000.".

(2) APPLICATION.—The amendments made by this subsection shall apply to—

(A) prime contracts, or subcontracts (without regard to the date on which the associated prime contract was awarded), entered into after the date on which a final revision of the Federal Acquisition Regulation is issued pursuant to section 204; and

(B) changes or modifications to prime contracts or subcontracts when those changes or modifications are priced after the date on which a final revision of the Federal Acquisition Regulation is issued pursuant to section 204.

(3) MODIFICATION.—Upon the request of a contractor, the head of an agency may modify a contract to reflect the dollar thresholds set forth in the revision to the Federal Acquisition Regulation issued pursuant to section 204. Any such modification shall be made without requiring consideration.

(b) REGULATIONS FOR BELOW-THRESHOLD PROCUREMENTS.—

(1) TYPE OF PROCUREMENTS.—The Administrator of General Services, in consultation with the Administrator for Federal Procurement Policy, shall prescribe regulations identifying the type of procurements for which contracting officers should consider requiring the submission of certified cost or pricing data under section 304(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C 254).

(2) TYPES OF INFORMATION.—The Administrator of General Services, in consultation with the Administrator for Federal Procurement Policy, shall prescribe regulations concerning the types of information that offerors shall submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under section 304(d) of such Act because the price of the procurement to the United States is not expected to exceed $500,000. Such information, at a minimum, shall include appropriate information on the prices at which such offeror has previously sold the same or similar products.

(3) DEADLINE.—The regulations required under this subsection shall be prescribed no later than 6 months after the date of the enactment of this Act.

(c) REPEAL OF COMMERCIAL PRICING REQUIREMENTS.—

(1) REPEAL.—Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

(2) CLERICAL AMENDMENT.—The first section of the Federal Property and Administrative Services Act of 1949 is amended in the table of contents by striking the item relating to section 303E.

(d) REVIEW OF AMENDMENTS.—

(1) IN GENERAL.—After the amendments made by subsections (a) and (c) have been in effect for 2 years, the Comptroller General shall conduct a review of the effects of the amendments. The Comptroller General shall coordinate that review, insofar as possible, with the review conducted by the Inspector General of the Department of Defense pursuant to section 803(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510).

(2) FACTORS CONSIDERED.—The review conducted under paragraph (1) shall address whether the amendments made by subsections (a) and (c) have improved the acquisition process in terms of reduced paperwork, financial or other savings to the government, an increase in the number of contractors participating in the contracting process, and the adequacy of information available to contracting officers in cases in which certified cost or pricing data are not required.

(3) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1996 to the Congress pursuant to section 1105 of title 31, United States Code, the Comptroller General shall submit to the Congress a report on the review conducted under paragraph (1). The report shall include the comments of the Administrator for Federal Procurement Policy and the Administrator of General Services.

(e) DOCUMENTATION.—Section 304(d)(4) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)(4)) is amended by adding at the end the following: "In any case in which the agency head requires such data to be submitted under this paragraph, the agency head shall document in writing the reasons for such requirement.".

SEC. 204. REVISION OF FEDERAL ACQUISITION REGULATION; EFFECTIVE DATE.

(a) REVISION OF FAR.—Unless otherwise specifically provided in this title, not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall be revised to reflect the amendments made by sections 201, 202, 203, and 301.

(b) EFFECTIVE DATE.—Unless otherwise specifically provided in this title, the amendments made by this title and section 301 shall be effective 180 days after the date of the enactment of this Act.

(c) STANDARDS AND REQUIREMENTS FOR COST AND PRICE AS EVALUATION FACTORS.—

(1) IN GENERAL.—The Federal Acquisition Regulation, as revised pursuant to subsection (a), shall establish standards and requirements for the consideration of cost and price to the Government as evaluation factors under the amendments made by sections 202(a)(4) and 301.

(2) STANDARDS AND REQUIREMENTS.—Standards and requirements established under paragraph (1) shall be adequate to ensure that, to the maximum extent practicable consistent with the needs of the Federal Government in conducting procurements—

(A) cost or price is an evaluation factor of sufficient weight to affect each source selection decision; and

(B) competition among competing offerors is affected by cost or price.

TITLE III—AMENDMENTS RELATING TO TITLE 10, UNITED STATES CODE

SEC. 301. SOURCE SELECTION FACTORS.

Paragraph 2305(a)(3) of title 10, United States Code, is amended to read as follows:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, and prior experience of the offeror);

"(ii) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall, at a minimum, disclose to offerors whether all evaluation factors other than price or cost, when combined, are—

"(I) significantly more important than price or cost,

"(II) approximately equal in importance to price or cost, or

"(III) significantly less important than price or cost.

"(B) Nothing in this paragraph prohibits an agency from—

"(i) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(ii) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

SEC. 302. TRUTH IN NEGOTIATIONS.

Section 2306a of title 10, United States Code, is amended—

(1) in subsection (b) by striking "need not" and inserting "shall not"; and

(2) in subsection (c) by striking "by subsection (a)" and inserting "by subsection (a) or subsection (b)".

SEC. 303. ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS.

Paragraphs (2)(B) and (3)(B) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2325 note; P.L. 101-189) are each amended by striking "appropriate, as determined by the Secretary of Defense, for a contract for such an acquisition." and inserting the following: "essential for the protection of the Federal Government's interest in such an acquisition.".

TITLE IV—BROOKS ACT AMENDMENTS

SEC. 401. SHORT TITLES OF CERTAIN PROVISIONS OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.

(a) AUTOMATIC DATA PROCESSING EQUIPMENT PROVISIONS.—Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(i) This section may be cited as the 'Brooks Automatic Data Processing Act'.".

(b) ARCHITECTURAL AND ENGINEERING SERVICES PROVISIONS.—Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541-544) is amended by adding at the end the following new section:

"SEC. 905. SHORT TITLE.

"This title may be cited as the 'Brooks Architect-Engineers Act'.".

SEC. 402. DISMISSAL; AWARD OF COSTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking subparagraph (C) and inserting the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous,

"(ii) has been brought in bad faith, or

"(iii) on its face does not state a valid basis for protest.

"(D) If a party violates or fails to comply in good faith with, or causes a violation of or failure to comply in good faith with, an order or decision of the board, the board may require that party to pay to any other party the amount of any reasonable costs, including attorney's fees, incurred by the other party in seeking compliance with such order or decision.".

SEC. 403. OVERSIGHT OF ACQUISITION OF AUTOMATIC DATA PROCESSING EQUIPMENT BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), as amended by this Act, is further amended by inserting after subsection (g) the following new subsection:

"(h)(1) The Administrator shall collect and compile data from Federal agencies regarding the procurement of automatic data processing equipment under this section. That data shall include, at a minimum, with regard to those procurements specified by the Administrator in regulation—

"(A) the procuring agency,

"(B) the contractor,

"(C) the automatic data processing equipment and services procured,

"(D) the manufacturer of the equipment procured,

"(E) the amount of the contract,

"(F) the type of contract used,

"(G) the extent of competition for award,

"(H) compatibility restrictions, and

"(I) significant modifications of the contract.

"(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information required to be compiled by the Administrator under paragraph (1).

"(3) The Administrator shall—

"(A) carry out a systematic review and conduct periodic audits of information received under this subsection;

"(B) use such information as appropriate to determine the compliance of Federal agencies with the requirements of this section; and

"(C) suspend the delegation to an agency of authority to lease and purchase automatic data processing equipment upon any substantial failure by the head of the agency to report to the Administrator in accordance with this subsection.

"(4) The Administrator shall, upon receipt of information that a Federal agency has failed to comply with the terms of any delegation of authority to lease or purchase automatic data processing equipment or has failed to comply with any applicable law or regulation, take appropriate corrective action.

"(5) Data collected pursuant to this section shall be drawn from existing Federal agency information resources, and no new or additional information reporting requirements may be imposed on offerors or contractors for that purpose.".

SEC. 404. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date which is 180 days after the date of the enactment of this title.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. PROCUREMENT PROTEST SYSTEM IMPROVEMENTS.

(a) GAO RECOMMENDATIONS ON PROTESTS.—Section 3554 of title 31, United States Code, is amended—

(1) in subsection (b) by adding at the end the following new paragraph:

"(3) The head of the procuring activity responsible for the solicitation, proposed award, or award of a contract shall report to the Comptroller General if the Federal agency has not fully implemented recommendations of the Comptroller General under this subsection with respect to that contract within 60 days after receiving the recommendations, by not later than the end of that 60-day period.";

(2) in subsection (c)(1) by striking "declare an appropriate interested party to be entitled to" and inserting "recommend that the Federal agency conducting the procurement pay to an appropriate interested party";

(3) by amending subsection (c)(2) to read as follows:

"(2) If the Comptroller General recommends under paragraph (1) that a Federal agency pay an amount of costs to an interested party, the Federal agency shall—

"(A) pay the amount promptly out of amounts appropriated by section 1304 of this title for the payment of judgments, and reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose, or

"(B) report to the Comptroller General promptly why the recommendation will not be followed by the agency.".

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) An interested party to which the Comptroller General has recommended that costs be paid under paragraph (1) and the Federal agency recommended to pay those costs shall attempt to reach agreement on the amount of the costs to be paid, but if they are unable to agree, a party may request that the Comptroller General recommend the amount of the costs to be paid."; and

(5) by amending subsection (e) to read as follows:

"(e)(1) The Comptroller General shall report promptly to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives and to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate in any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General, and

"(B) a recommendation regarding whether, in order to correct inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a summary report describing each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year.".

(b) RATIFICATION OF PRIOR AWARDS.—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments, and the Federal agency shall reimburse that appropriation account out of available funds or by obtaining additional appropriations for that purpose.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 45-day period beginning on the date of the enactment of this Act.

SEC. 502. POST-AWARD DEBRIEFINGS.

(a) AMENDMENT TO OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. et seq.) is amended by adding at the end the following new section:

"SEC. 30. POST-AWARD DEBRIEFINGS.

"(a) DEBRIEFING GUIDELINES.—The Federal Acquisition Regulation shall be revised to include guidelines for the debriefing of unsuccessful offerors for any contract for an amount in excess of the small purchase threshold which was awarded on a basis other than price alone. Such guidelines shall provide, to the maximum extent practicable, that such debriefings shall occur upon the written request of an unsuccessful offeror and in a timely manner. Such guidelines shall require, to the maximum extent practicable, such debriefings to include at least the following:

"(1) A detailed review of the offeror's proposal in relation to the evaluation factors and subfactors specified in the solicitation for the contract, including identification of any weaknesses and strengths of the proposal, results of any past performance analyses, and cost realism assessment.

"(2) A description of the rationale for the award of the contract.

"(3) The overall evaluated cost and combined technical and cost scores of the awardee and the debriefed offeror, and the technical point scores of the awardee and the debriefed offeror.

"(4) The overall ranking of all offerors.

"(b) INFORMATION NOT PROVIDED.—A debriefing under subsection (a) shall not make point-by-point comparisons with other offerors' proposals and shall not disclose any information that is not subject to disclosure under section 552 of title 5, United States Code, including information relating to—

"(1) trade secrets;

"(2) privileged or confidential manufacturing processes and techniques; and

"(3) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(c) NOTIFICATION OF DISCLOSURE.—Each solicitation for contracts subject to subsection (a) shall notify participating offerors that the categories of information described in subsection (a) may be disclosed by the Government in post-award debriefings.".

(b) REGULATIONS.—The Federal Acquisition Regulatory Council shall issue a final revision of the Federal Acquisition Regulation implementing section 30 of the Office of Federal Procurement Policy Act, as added by subsection (a), not later than 180 days after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—Section 30 of the Office of Federal Procurement Policy Act, as added by subsection (a), shall apply with respect to solicitations for contracts issued after the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 503. INCREASE IN THE SMALL PURCHASE THRESHOLD.

(a) INCREASE.—

(1) IN GENERAL.—Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by striking "$25,000" each place it appears and inserting "$50,000".

(2) INTERIM RULE.—Until October 1, 1994, notwithstanding paragraph (1), buying ac-

tivities shall continue to report procurement awards with a dollar value of at least $25,000, but less than $50,000, in conformity with the procedures for the reporting of a contract award in excess of $25,000 which were in effect on October 1, 1991.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect upon, and apply to solicitations made and orders placed after, the expiration of the 60-day period beginning on the date of the issuance in final form of revisions to the Federal Acquisition Regulation in accordance with subsection (b).

(b) IMPROVED NOTICE OF SMALL PURCHASE CONTRACTING OPPORTUNITIES.—The Federal Acquisition Regulation shall be revised to provide prospective offerors, especially small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals), with improved access to information regarding small purchase procurement opportunities meeting the standards of section 18 of that Act (41 U.S.C. 416) through the use of techniques appropriate for each buying activity (or class of buying activities), including to the extent practicable providing remote access to such information through electronic data interchange.

(c) PERFORMANCE TEST AND REPORT.—

(1) PERFORMANCE TEST.—The Comptroller General shall monitor the results of the increase in the small purchase threshold made by the amendments made by subsection (a), to ascertain its effects on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) in procurement awards of less than $50,000 and the benefits and detriments, if any, to the buying activities of the various Executive agencies.

(2) PERIOD.—Data shall be collected for purposes of paragraph (1) during the period beginning with the first full fiscal year quarter after the effective date of the amendments made by subsection (a) and ending September 30, 1994.

(3) REPORT.—By March 1, 1995, the Comptroller General shall report to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Small Business of the House of Representatives and the Senate on the effects of the increase in the small purchase threshold made by the amendments made by subsection (a).

(d) FUNCTIONS OF ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) in paragraph (7) by striking "and" after the semicolon at the end;

(2) in paragraph (8) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(9) developing policies that insure that small businesses and small businesses owned and controlled by socially and economically disadvantaged persons are provided with the maximum practicable opportunities to participate in procurements that are conducted below the small purchase threshold; and

"(10) developing policies that will promote achievement of goals for participation by small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals.".

(e) TECHNICAL CORRECTION.—Section 18(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended by striking "(e)" in the first sentence and inserting "(a)".

SEC. 504. TEST PROGRAM.

(a) IN GENERAL.—The Administrator for Federal Procurement Policy (in this section referred to as the "Administrator") may conduct a program of tests of alternative and innovative procurement procedures. To the extent consistent with this section, such program shall be conducted consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413). No more than 6 such tests shall be conducted under this authority.

(b) DESIGNATION OF AGENCIES.—Each test conducted pursuant to subsection (a) shall be limited to not more than 2 specific contracting activities in an agency or a division of an agency designated by the Administrator. Each agency or division of an agency so designated shall designate a procurement testing official who shall be responsible for the conduct and evaluation of tests within that agency.

(c) TEST REQUIREMENTS.—Tests conducted under subsection (a)—

(1) shall be developed and structured by the Administrator, in coordination with agency senior procurement executives designated pursuant to section 16(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3));

(2) shall be for a period of not greater than 4 years and shall be limited to specific programs of agencies or specific acquisitions and shall not include any test with a total estimated life-cycle cost to the Government greater than $100,000,000;

(3) shall include—

(A) a test of simplified procurement procedures for acquisitions with an annual total obligation of funds of $500,000 or less by the National Aeronautics and Space Administration;

(B) a test of alternative automatic data processing equipment commodity procurement methods by the General Services Administration;

(C) a test of streamlined procedures for competition among interested sources participating in the tailoring of a solicitation for the purchase of commercial products by at least one agency; and

(D) a test of commercial item acquisition procedures in which all evaluation factors and subfactors on which a contract award will be based are disclosed in the solicitation, identifying both the absolute and relative weight for each factor and each subfactor; and

(4) shall not include any procurement the cost of which is expected to exceed $5,000,000 (including options), except that one of the 6 tests may include such procurements.

(d) PROCEDURES AUTHORIZED.—Tests conducted under this section may include tests of any of the following procedures:

(1) Publication of agency needs prior to drafting of a solicitation.

(2) Screening of sources and competition among capable vendors.

(3) Issuance of draft solicitations for comment.

(4) Streamlined solicitations, with a minimized number of evaluation factors and information required from vendors, abbreviated periods for submission of offers, and page limitations on offers.

(5) Limitation of source selection factors to—

(A) cost to the Government;

(B) past experience; and

(C) quality of the proposal.

(6) Evaluation of proposals by small teams of highly qualified people, limited to 30 days.

(7) Competition among sources of preevaluated products.

(8) Alternative notice and publication requirements.

(9) In not more than one of the tests, an evolutionary competitive process, that—

(A) is initiated by a broad statement of agency needs; and

(B) allows contracting officials to develop specifications and evaluation criteria based on information provided by responsive sources participating in the competition.

(e) TEST PLAN.—Not later than 60 days before implementing any test program under this section, the Administrator shall—

(1) provide a detailed test plan, including lists of any regulations that are to be waived, and any written determination under subsection (f)(1)(B) to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate; and

(2) publish that plan in the Federal Register and provide an appropriate opportunity for public comment.

(f) WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—For purposes of a test conducted under subsection (a), the Administrator may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to conduct any test of any of the 9 procedures described in subsection (d).

(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law referred to in paragraph (1) are the following:

(A) Section 3709 of the Revised Statutes (41 U.S.C. 5).

(B) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(C) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(D) Section 310 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 260).

(E) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(F) Section 2304 of title 10, United States Code.

(G) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a).

(H) Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b).

(I) Section 2305 of title 10, United States Code.

(J) Section 303C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253c).

(K) Section 2319 of title 10, United States Code.

(L) Section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

(M) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416).

(N) Sections 8(d), (e), and (f) of the Small Business Act (15 U.S.C. 637(d), (e), and (f)).

(g) REPORTS AND REVIEWS.—

(1) ADMINISTRATOR.—The Administrator shall report to the Congress on the results of each test conducted under subsection (a).

(2) COMPTROLLER GENERAL.—The Comptroller General of the United States shall review each test conducted under subsection (a) and report to the Congress on each test and shall report annually to the Congress on the conduct of and results of all tests conducted under subsection (a).

(h) EXPIRATION OF AUTHORITY.—The authority to conduct tests under this section and to award contracts under such tests shall expire on October 1, 1996. Contracts entered prior to October 1, 1996, pursuant to a test shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

SEC. 505. SINGLE AUDIT UNDER BROOKS ARCHITECT-ENGINEERS ACT.

Section 904 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 544) is amended by adding at the end the following:

"(d) An agency may not perform any preaward audit to evaluate proposed costs under any contract, subcontract, or modification awarded or made in accordance with this title in any case in which the contracting officer determines that the objectives of the audit reasonably can be met by accepting the results of an audit conducted by a Federal Government audit agency within the previous year.".

SEC. 506. BUY AMERICAN REQUIREMENT FOR FEDERAL AGENCIES.

(a) APPLICABILITY OF BUY AMERICAN REQUIREMENTS.—The Administrator of General Services shall ensure that the requirements of the Buy American Act apply to all procurements, consistent with international obligations, made with funds provided pursuant to the authorization contained in the amendment made by section 2.

(b) REPORTS ON PROCUREMENTS FROM FOREIGN ENTITIES.—The Administrator of General Services shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993, 1994, and 1995 with funds provided pursuant to the authorization contained in the amendment made by section 2. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in the amendment made by section 2, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) DEFINITION.—For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

TITLE VI—COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION

SEC. 601. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Federal information reporting requirements continue to place an unprecedented paperwork burden upon private citizens, recipients of Federal assistance, businesses, government contractors and grantees, and State and local governments.

(2) A renewed effort is required to assure that the policy stated in subsection (b) is fully implemented.

(3) It is necessary to reexamine the policies and procedures of the Federal Government which have an impact on the paperwork burden, for the purpose of ascertaining what changes are necessary and desirable in its information policies and practices so as to eliminate unnecessary paperwork burdens and ensure that the Federal Government collects and maintains all information needed to set policy, implement laws, and operate programs.

(b) PURPOSE.—It is the policy of the Federal Government to minimize the information reporting burden, consistent with agency missions and the needs for information to set policy, implement laws, and operate programs.

SEC. 602. ESTABLISHMENT.

To accomplish the purpose set forth in section 601(b), there is hereby established the Commission on Information Technology and Paperwork Reduction (hereinafter in this title referred to as the "Commission").

SEC. 603. FUNCTIONS.

(a) REVIEW OF FORMER COMMISSION.—The Commission shall study and review the principal findings and recommendations of the Commission on Paperwork established by the Act of December 27, 1974 (Public Law 93-556), to determine which of those recommendations have been implemented and why any other of those recommendations have not been implemented.

(b) INVESTIGATE FEDERAL INFORMATION LAWS, ETC.—The Commission shall study and investigate statutes, policies, rules, regulations, procedures, and practices of the Federal Government relating to information gathering and processing, and the management and control of these information activities. The Commission shall consider—

(1) the nature and extent of current Federal collections of information from other public and private profit and not-for-profit entities;

(2) the effect of existing statutes on the information requirements of the Federal Government and authorities of existing Federal agencies to collect information on a timely basis;

(3) the nature and extent of management and control over the determination of Federal information needs and the choice of information gathering and processing methods;

(4) the nature and extent to which Federal agencies cooperate with State and local governments and private entities in collecting and processing information;

(5) the procedures used and the extent to which considerations of economy and efficiency impact Federal information activities, particularly as these matters relate to costs burdening the Federal Government and providers of information;

(6) the nature and extent of advances in information technology and its use in minimizing burden and maximizing utility in the collection, processing, and maintenance of information by the Government;

(7) the nature and extent to which information resources management responsibilities and the President's responsibility to review agency paperwork rulemaking should continue to be integrated in the Executive Office of the President;

(8) the nature and extent to which the Paperwork Reduction Act has been appropriately and effectively implemented by the Office of Management and Budget; and

(9) such other matters as the Commission determines affect Federal information resources management.

(c) ASCERTAIN CHANGES.—The Commission shall ascertain and describe what changes are possible and desirable in existing statutes, policies, rules, regulations, procedures, and practices relating to Federal information activities in order to—

(1) assure that necessary information is made available to Federal officials and those acting on behalf of Federal officials;

(2) minimize the burden imposed by Federal reporting requirements on private citizens, recipients of Federal assistance, businesses, government contractors and grantees, and State and local governments;

(3) provide that information held by the Federal Government is processed and maintained to maximize its usefulness to all Federal agencies and the public;

(4) reduce the duplication of information collected by the Federal Government and by State and local governments and other collectors of information; and

(5) reduce the costs of Federal paperwork.

(d) FINAL REPORT.—The Commission shall submit a final report to the Congress and the President within 2 years after the date of the first meeting of the Commission. The final report shall contain a review of its findings and its recommendations for changes in statutes, policies, rules, regulations, procedures, and practices. The Commission may make such interim reports and recommendations as it deems advisable.

(e) ACTION BY OMB.—

(1) IN GENERAL.—Upon submission of the Commission's final report, the Director of the Office of Management and Budget, in coordination with the executive agencies, shall take action to—

(A) formulate the views of the executive agencies on the recommendations of the Commission;

(B) to the extent practicable within the limits of their authority and resources, carry out recommendations of the Commission in which the executive agencies concur; and

(C) propose legislation needed to carry out or to provide authority to carry out other recommendations of the Commission in which the executive agencies concur.

(2) REPORTS.—At least once every 6 months, the Director of the Office of Management and Budget shall report to the Congress and the President on the status of action taken or to be taken as provided in this subsection. The Director shall submit a final report to the Congress and the President not later than 1 year following the submission of the Commission's final report under subsection (d).

SEC. 604. MEMBERSHIP.

The Commission shall be composed of 19 members, as follows:

(1) 2 Members of the Senate, who shall not be members of the same political party, appointed by the President of the Senate.

(2) 2 Members of the House of Representatives, who shall not be members of the same political party, appointed by the Speaker of the House of Representatives.

(3) The Comptroller General of the United States.

(4) The Director of the Office of Management and Budget, the Secretary of the Treasury, and 1 other official or employee of the executive branch of the Federal Government appointed by the President of the United States.

(5) 2 members appointed by the President from among officials of State and local governments, who shall not be members of the same political party.

(6) 9 members appointed by the President from among persons in the private sector

representing small business, labor, health care, education, environment, Federal Government procurement, information technology, libraries and public interest consumer organizations, no more than 5 of whom shall be of the same political party.

SEC. 605. COMPENSATION.

(a) IN GENERAL.—Except as provided in subsection (b), members of the Commission shall each receive as compensation the daily equivalent of the annual rate of basic pay in effect for level 4 of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(b) FEDERAL OFFICIALS.—Members of the Commission who are Members of Congress or who are full-time officers or employees of the United States shall receive no additional compensation for their service on the Commission.

(c) TRAVEL EXPENSE.—While away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed such expenses under section 5703 of title 5, United States Code.

SEC. 606. POWERS.

(a) MEETINGS.—The Commission, or at its direction, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such subcommittee or member may consider advisable. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member.

(b) PERSONNEL.—Members of the Commission shall elect a Chairman and Vice-Chairman from among its members. The Commission shall appoint an Executive Director who shall receive as compensation the equivalent of the basic pay in effect for Level 5 of the Executive Schedule. The Commission may appoint and fix the compensation of such other personnel as it deems advisable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, at a rate not to exceed the rates provided in section 5376 of title 5, United States Code. In addition, the Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in section 5376 of title 5, United States Code.

(c) CONTRACTS FOR STUDIES AND REPORTS.—The Commission may, subject to the availability of appropriations, negotiate and enter into contracts with private organizations and educational institutions to carry out such studies and prepare such reports as the Commission determines are necessary in order to carry out its duties.

SEC. 607. COOPERATION WITH FEDERAL AGENCIES.

(a) FURNISHING INFORMATION.—Each department, agency, and instrumentality of the Federal Government shall furnish to the Commission, upon request made by the Chairman, such data, reports, and other nonconfidential information not otherwise prohibited by law as the Commission considers necessary to carry out its functions under this title.

(b) SERVICES.—The head of each department or agency of the Federal Government may, upon request made by the Chairman or Vice Chairman of the Commission, provide to the Commission such services as the Commission requests on such basis, reimbursable or otherwise, as may be agreed between the department or agency and the Chairman or Vice Chairman of the Commission.

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $8,000,000.

SEC. 609. TERMINATION.

The Commission shall cease to exist 120 days after the submission of its final report under section 603.

SEC. 610. EFFECTIVE DATE.

This title shall take effect January 21, 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3161, introduced by myself and the ranking minority member of the Government Operations Committee, my good friend FRANK HORTON, authorizes appropriations for the General Services Administration through the end of fiscal year 1995. The legislation also includes important procurement reforms designed to enhance competition, reduce the paperwork burden on Government contractors, encourage commercial product acquisition, and greatly simplify procedures for purchases under $50,000.

This legislation reflects years of work by the Government Operations Committee, in cooperation with industry, the executive branch, and others in the procurement community. May of the problems that are now facing the Federal procurement system are addressed by this bill.

Yesterday, we received a statement of administration policy supporting the substitute that I am now offering. I want to thank OMB Deputy Director Frank Hodsoll personally, as well as Administrator for Federal Procurement Policy, Allan Burman, for their efforts in getting reluctant agencies to accept these reforms.

We have also worked closely with Chairman ASPIN and Represenatives MAVROULES and HERTEL of the Armed Services Committee to address their concerns. Senator GLENN and Senator LEVIN have also worked with us to get a bill that we believe can be sent to the President,'s desk. I greatly appreciate their assistance and cooperation in forging this important legislation.

H.R. 3161 repeals the current permanent authorization of appropriations for the General Services Administration, putting GSA on a normal reauthorization cycle and making that multibillion-dollar agency more accountable to the Congress.

H.R. 3161 incorporates S. 260, Senator LEVIN'S fine commercial products bill, already passed by the Senate. This legislation will put an end to the all-too-common practice in Federal contracting of buying expensive, specially designed products when off-the-shelf products would do the job just as well.

The bill includes other enhancements to competition in Federal procurement, including restrictions on overly detailed specifications, public notice of large contract modifications, and limits on burdensome paperwork requirements.

H.R. 3161 strengthens the General Accounting Office bid process process by getting Congress involved when GAO recommendations are ignored, but clarifies that GAO decisions are recommendations only.

H.R. 3161 provides for detailed post-award briefings for bidders to bring sunshine to the procurement process. It wll let losing bidders know exactly why they lost.

The bill increases the small purchase threshold to $50,000, thereby substantially increasing the number of Federal procurements that are set aside for small businesses, usually local firms. This increase will also streamline procedures and significantly decrease administrative overhead in thousands of procurements.

We have deleted the FTS 2000 mandatory use provision from the bill.

In summary, H.R. 3161 will streamline the Federal procurement process, increase competition, and help create a level playing field where all companies can compete fairly. It will make GSA, a multibillion-dollar agency, more accountable to the Congress.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title. Section 1 sets forth the title of the Act, the "Federal Property and Administrative Services Authorization Act of 1992".

Section 2. Authorization of Functions and Activities Under the Federal Property and Administrative Services Act of 1949. Section 2 amends the existing permanent authorization of functions and activities in section 603(a) of the Federal Property and Administrative Services Act, including certain operations of the General Services Administration funded through the annual appropriations process. This will put GSA on a normal, cyclical authorization cycle. This bill includes an authorization expiring at the end of fiscal year 1995. Section 2 also amends section 603(a) to add at the end a clarification that that section does not impact funds authorized elsewhere in the Property Act, including the Public Buildings Fund authorized by section 210(f) of the Act, 40 U.S.C. 490.

Section 3. Requirements for Appointments to Senior Positions in General Services Administration. Section 3 amends the Federal Property and Administrative Services Act to establish certain minimum qualifications for senior positions within the General Services Administration. Subsection (a) amends the Property Act to provide that persons appointed to the position of Deputy Administrator of General Services or to a position as the head of a principal organizational unit of the General Services Administration shall have, in addition to any other minimum qualifications, significant previous management experience in government or the private sector in an area or areas directly related to the functions and responsibilities of the position to which appointed.

Subsection (b) provides that the amendments made by subsection (a) shall not apply to any incumbent in an affected position as of the date of enactment of the Act.

TITLE I—ACQUISITION OF NONDEVELOPMENTAL AND COMMERCIAL ITEMS

Title I of the bill is the Nondevelopmental and Commercial Items Acquisition Act of 1992. This act amends Federal procurement laws to encourage acquisition by the Federal government of nondevelopmental and commercial items, i.e., items that may be purchased "off-the-shelf" without development.

Section 101. Short Title. Section 101 sets forth the title of title I of the bill, the "Nondevelopmental and Commercial Items Acquisition Act of 1992".

Section 102. Findings. Section 102 sets forth the findings of Congress regarding the desirability of promoting the acquisition of nondevelopmental and commercial items and the means by which acquisition of nondevelopmental and commercial items can be promoted.

Part A—Acquisition of Nondevelopmental Items

Part A of Title I amends the Federal Property and Administrative Services Act and the Office of Federal Procurement Policy Act to encourage the acquisition by Federal agencies of nondevelopmental items. Part A is substantially similar to S. 260, 102d Congress, passed by the Senate.

Section 111. Nondevelopmental Items. Section 111 codifies requirements for the acquisition of nondevelopmental items by adding a new section 303H to the Federal Property and Administrative Services Act, addressing the acquisition of nondevelopmental items by Federal civilian agencies.

New section 303H, added by subsection (a) of the bill, is similar to the provision in Section 2325 of Title 10, U.S. Code (added by Section 907 of the FY 1987 Defense Authorization Act), which defines nondevelopmental items, creates a preference for the acquisition of nondevelopmental items, and requires Federal agencies to state requirements in terms of functions or performance, rather than detailed design specifications, to the maximum extent practicable.

Nondevelopmental items are defined to include products that are or soon will be in use in the commercial marketplace or the government sector, and would meet Government needs with no modifications or only minor modifications. Although this definition does not encompass products that would require substantial modification to meet Government needs, it is not intended to prohibit or discourage the purchase of such products, if no nondevelopmental items are available and the products otherwise meet Government needs. Although nondevelopmental items are defined as items of supply, they many include such services as are customarily provided with the product in the commercial sector.

Section 303H would also require Federal agencies to conduct market research, prior to developing new specifications, to determine whether nondevelopmental items are available or could be modified to meet agency needs. Section 810 of the 1991 DOD Authorization Act (P.L. 101-510) added the same language to section 2325 of Title 10, imposing a similar requirement on the Department of Defense.

Section 112. Commercial Items. Section 112 addresses the acquisition of commercial items by Federal agencies.

Subsection (a) would require the use of standardized, simplified uniform contracts for the acquisition of commercial items by Federal agencies, to the maximum extent practicable. Paragraph (1) would require the development of a simplified, uniform contract or contracts for commercial acquisitions. It permits the promulgation of more than one uniform contract, at the discretion of the Federal Acquisition Regulatory Council, to take into account varying requirements for different types of commercial item acquisitions, *e.g.*, commodity acquisitions, ADP equipment acquisitions, *etc.* Paragraph (2) would limit the "flow-down" of contract clauses to subcontractors in commercial item acquisitions.

Subsection (b) would require Federal agencies to take advantage of commercial warranties to the maximum extent practicable and to avoid repairing and replacing items at their own expense when such repair and replacement could be conducted under warranty.

Subsection (c) addresses the issue of "market acceptance" requirements—i.e., the limitation of procurements to products that have been successfully sold in either the public or the private sector. Under this provision, agencies may use market acceptance requirements as a mechanism to ensure that products are suitable for the agency's use. Unnecessary and burdensome market acceptance requirements, however, would be contrary to the intent of the law and would be subject to administrative or civil action under existing procedures. The purpose of this subsection is to make it easier for Federal agencies to use simplified purchase descriptions, as required by subsection (a).

Subsection (d) would require the promulgation of regulations providing guidance to agencies on the use of past performance of products and sources as a factor in award decisions. The Committee is aware of several programs by Federal agencies to consider past performance in award decisions. The Committee is concerned, however, that these programs may unnecessarily limit competition or result in higher than necessary prices for the Government. The development of government-wide guidance on the consideration of past performance should help prevent abuses and ensure fair consideration of all offers.

Subsection (e) defines the term "Federal agency" for purposes of section 112.

Section 113. Implementation. Section 113 addresses the implementation of Part A.

Subsection (a) would require the training of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items.

Subsection (b) would amend Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) to make competition advocates responsible for promoting the acquisition of nondevelopmental items as well as promoting competition. Competition advocates are already responsible for challenging unnecessarily detailed specifications and unnecessarily restrictive statements of need; this amendment makes them responsible for challenging unnecessarily burdensome contract clauses as well.

Subsection (c) would require the General Accounting Office to conduct a study on the adequacy of the existing market research mechanisms of Federal agencies. This study is intended to facilitate the implementation of new section 41 U.S.C. 303H(a)(4), as added by the bill, which would require Federal agencies to conduct market research to determine whether existing products will meet their needs prior to developing specifications for new products.

Part B—Enhancement of Competition in Contracting

Part B of the act includes several amendments to law that, although not limited in effect solely to "commercial item" acquisitions, are designed to enhance competition in Federal contracting and thereby make acquisition of commercial items more likely.

Section 121. Truth in Negotiations. Section 122 makes amendments to the Truth in Negotiations Act (TINA) in title 41 of the United States Code, and sets forth criteria for the regulatory implementation of those amendments and parallel amendments made to title 10 of the United States Code in section 302 of the bill.

Subsection (a) in paragraph (1) would amend section 304(d)(5) of the Property Act, the "exceptions" provision in TINA, by striking "need not" and inserting "shall not." Under this amendment, application of the exceptions to the submission of cost or pricing data would be mandatory when requisite requirements are met. This amendment changes the emphasis of the statute and is intended to establish in law the principal that requests for cost or pricing data are disfavored when a pertinent exception is applicable.

Subsection (a) in paragraph 2 would amend section 304(d)(4) of the Property Act, to clarify that cost or pricing data may be requested from a vendor, notwithstanding the mandatory nature of the exceptions in paragraph 304(d)(5), "when the head of the agency determines that such data are necessary."

Under subsection (b), the Federal Acquisition Regulation will be revised to reflect the amendments made by section 121(a) and section 302.

Subsection (c) provides for specific provisions to be included in the amendments to the FAR under subsection (b). Paragraph (c)(1) provides that the regulations as amended under subsection shall prohibit agencies from requesting cost or pricing data in support of a proposal (other than a proposal for a cost-reimbursement research and development contract) in any case in which circumstances providing an exemption to the submission of such data are reasonably expected. This prohibition, however, would not prevent a subsequent request for such data if the requirements for an exemption ultimately were not met. The head of an agency may grant an exemption to this prohibition in writing.

Paragraph (c)(2) provides that the amendments to the FAR under subsection (b) shall include "clear standards" for application of the "adequate price competition" exception to the submission of cost or pricing data. It also provides that the amended regulations shall prohibit an agency from considering the percentage of a vendor's total sales that are sales to the Government in determining whether a commercial item is sold "in substantial quantities to the general public" for purposes of the "catalog or market price" exception to the submission of cost or pricing data. Under current procedure, the percentage of a vendor's sales of a commercial item that are Government sales has a significant, and often overriding, effect on a determination by an agency as to whether that commercial item is sold in substantial quantities to the general public. This provision would eliminate that overriding effect.

Paragraph (c)(3) provides that the regulations also shall establish reasonable limitations on requests for sales data relating to commercial items.

Section 122. Contract Modifications. Section 122 adds a new section to the Office of Federal Procurement Policy Act that provides "sunshine" in circumstances in which an agency procures goods or services by modifying an existing contract. Under this section, agencies are prohibited from making certain modifications to contracts until 10 days after the contracting officer provides a notice of the modification for publication in the Commerce Business Daily.

Subsection (b) provides for 4 exceptions to the notice requirements of subsection (a), covering the vast majority of contract modifications by Federal agencies.

The first exception (paragraph (b)(1)) is for modifications that do not require the contractor to supply to the Government "commercial items" with a value greater than twice the small purchase threshold. A modification not requiring the contractor to supply commercial items (with a value more than twice the small purchase threshold) would not be subject to the notice requirement, without regard to the total value of the modification. (Under the bill in section 504, the small purchase threshold is increased to $50,000. Accordingly, the dollar threshold for notification under subsection (a) would be $100,000.)

The second exception (paragraph (b)(2)) is when the contracting officer determines that the proposed modification, were it conducted as an independent procurement, would meet pertinent requirements for award of a contract to the incumbent contractor using other than competitive procedures, i.e., a sole source procurement. Detailed requirements for the use of "other than competitive procedures" are set forth in the Competition in Contracting Act, as implemented by the federal Acquisition Regulation.

The third exception (paragraph (b)(3) is when the agency is exercising a "priced option," included in the original contract award.

The fourth exception (paragraph (b)(4)) is when the contracting officer determines that compliance with the notice requirement of subsection (a) "would not be in the best interests of the Government" and justifies that determination in writing, typically by a memorandum in the contract file.

Subsection (c) defines the term "contract modification" as a modification or change under a contract. The test for applicability of this section should be whether the pertinent requirements of the Government were subject to competition (or sole source justification) by being set forth, identifiably and specifically, in the contract solicitation upon which award of the contract was made. It is not the intent of this section, accordingly, to require notice of orders placed against existing "requirements" type contracts for goods or services specifically set forth in such contracts.

It is not the intent of this section to alter existing rules regarding contract modifications "within the scope" of a contract, for resolicitation, fiscal, or other purposes. If a contract modification is outside the scope of a contract, it would be improper, whether or not the modification requires notice under this section. Similarly, a contract modification that is "within the scope" of a contract may or may not require notice under this section, depending on whether or not the requirements of this section are met.

The term "value" as used in paragraph (b)(1) to describe the dollar value threshold means the total amount to be paid by the Government for the items delivered under the modification, not merely the increase in cost to the Government under the modification.

It is the intent of the Committee that large contract modifications not be broken-down into several smaller modifications merely to avoid the requirements of this section.

Part C—Acquisition of Commercial Items

Part C of the act includes amendments to the Office of Federal Procurement Policy Act establishing in law a preference and system for the acquisition of commercial items by Federal agencies.

Section 131. Preference for Acquisition of Commercial Items. Section 131 amends section 16 of the Office of Federal Procurement Policy Act to include the implementation of a preference for the acquisition of commercial items among the procurement responsibilities of the head of each Executive agency. The amendment requires agencies to implement a preference for the acquisition of commercial items by, whenever practicable, stating specifications in terms such that bidders and offerors are enabled and encouraged to offer to supply commercial items in response to agency solicitations; by reducing impediments to the acquisition of commercial items in agency procurement policies, practices, and procedures not required by law; and by requiring training of appropriate personnel in the acquisition of commercial items.

Section 132. Acquisition of Commercial Items. Section 132 amends section 28 of the Office of Federal Procurement Policy Act to put in place procedures for the acquisition of commercial items.

New subsection (a) of section 28 requires that Federal agencies, prior to beginning a procurement, conduct market research to determine if commercial items can meet the needs of the agency. Such market research shall be "appropriate to the circumstances." In some circumstances, such as the acquisition of major new weapons systems, such market research need be only nominal and perfunctory and may consist of a simple determination by the contracting officer that market research manifestly would not be useful or worthwhile in the circumstances. In other circumstances, such as the acquisition of commodities or simple commercial-type items, it would be clear at the outset that the Government's needs could be met by the acquisition of commercial items, and the contracting officer need only so determine. Between these two extremes, however, the agency should conduct realistic market research, sufficient to determine whether the Government's requirements can be satisfied by the acquisition of commercial items.

New subsection 28(b) requires the promulgation of an amendment to the Federal Acquisition Regulation to provide that, in the case of any acquisition not conducted under procedures in which award is restricted to a single source, an executive agency shall waive the inclusion, in any contract in which the offeror is providing commercial items, of any contract clause determined pursuant to section 112 not to be essential to protect the Federal Government's interest.

New subsection (c) is adapted substantially from existing section 28 of the OFPP Act, which provides for the establishment of an "Advocate for the Acquisition of Commercial Products" in the Office of Federal Procurement Policy. Under the amendment, that position becomes the "Advocate for the Acquisition of Commercial Items." The Advocate's responsibilities are revised to reflect the statutory preference for the acquisition of commercial items and to include the monitoring of compliance by Executive agencies with the preference for the acquisition of commercial items. Such monitoring could include the compilation and analysis of data, study of particular cases, and distribution of information (such as, for example the establishment of a "hotline") to assist contracting officers, competition advocates, and vendors. The Advocate will continue to report to and make recommendations to the Administrator for Federal Procurement Policy. In addition, the Administrator will make an annual report to the Senate Committee on Governmental Affairs and the House Committee on Government Operations on any action taken by the Advocate to promote the acquisition of commercial items and the substance of any recommendations, proposals, and reports made to the Administrator during the previous year and any implementing action taken by the Administrator.

Part D—Miscellaneous Provisions

Section 141. Regulations and Simplified Uniform Contracts. Subsection 141(a) provides for the issuance of regulations under section 25(c) of the OFPP Act to implement this title. Subsection (a) provides that a revision to the Federal Acquisition Regulation to implement this title shall be promulgated in final form 180 days after enactment of the act.

Subsection 141(b) provides that the revision to the FAR shall include a simplified uniform contract (or contracts) for the acquisition of commercial items, required by section 112 of the Act.

Section 142. Definitions. Section 142 adds a new definition to the "Definitions" section of the Office of Federal Procurement Policy Act, defining the term "commercial item." This definition is also made applicable to the act itself and to Title III of the Federal Property and Administrative Services Act. This definition is purposefully broad in order to encourage wide application of the reforms set forth in the act. The definition of "commercial item" is adopted substantially from the definition of commercial items currently set forth in the Defense Federal Acquisition Regulation Supplement at section 211.

Section 143. Effective Date. Section 143 provides that the amendments to law made by this title shall be effective 180 days after enactment.

Section 144. Provisions not Affected. Section 144 lists statutes that are not intended to be affected by the act.

TITLE II—AMENDMENTS TO FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Title II of the bill includes three amendments to the Federal Property and Administrative Services Act.

Section 201. Award of Multiple Contracts. Section 201 amends the Federal Property and Administrative Services Act of 1949 specifically to permit Executive agencies to establish multiple contracts for the same requirements. This section adds a new subsection (g) to section 303B of that Act. Multiple contracts are appropriate when the agency head determines that the Government has a need to maintain a continuous supply source for a particular item. An Executive agency will use competitive procedures to procure multiple sources. the agency, however, may in its discretion, divide a requirement so that more than one offeror will be entitled to an award. Nothing in this section should be construed as affecting in any way laws requiring preferential procurement by Government agencies, such as purchases made from Federal Prison Industries, Inc.

Section 202. Solicitation Evaluation and Award. Section 202 amends section 303A of the Federal Property and Administrative Services Act to clarify an agency's responsibilities regarding statements of evaluation factors in a solicitation. The general intent of this section is substantially to conform section 303A to changes made to section 2305 of Title 10 by section 802 of Public Law 101-510. See H.R. Rep. No. 665, 101st Cong., 2d Sess. 299-303 (1990). This section will clarify procedures for the award of contract without discussions when technical evaluation factors are more important than cost for purposes of selecting a contractor.

Subsection 202(a)(4) also includes further amendments to CICA to clarify the importance that must be assigned to price or cost in a source selection decision and the information that must be provided to competing vendors regarding the relationship between price or cost and other source selection factors. Section 202(a) adds to section 303A of the Property Act a further subsection (c) which (in subparagraph ((1) (B)) clarifies that price or cost must be a source selection factor and must be considered in all source selection decisions subject to the Competition in Contracting Act. New subsection (c) (in subparagraph ((1)(C)) also provides that in any acquisition, competing vendors must be informed whether all evaluation factors other than price or cost are (1) significantly more important than price or cost, (2) approximately equal in importance to price or cost, or (3) significantly less important than price or cost. New paragraph (c)(2) clarifies that the requirements of subsection (c) are only minimum requirements, and that agencies remain free to provide more detailed information to competing vendors and to state that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.

Section 203. Certified Cost or Pricing Data Threshold. Section 203 in subsection (a) raises the cost or pricing data threshold under the Truth in Negotiations Act in Title 41 to $500,000, through December 31, 1995, when it would revert to $100,000. In the interim, the Committee will study the effects of this increase and consider making the increase permanent.

This increase will be applicable to prime contracts or subcontracts entered into after the date on which a final revision of the FAR reflecting the increase in the threshold in promulgated and to changes or modification to prime contracts or subcontracts when those changes or modifications are priced after the date of final revision of the FAR. Paragraph (a)(3) authorizes the head of an agency to modify a contract, at the request of a contractor, to reflect the increased threshold.

Subsection (b) of section 203 provides for the promulgation of regulations governing the types of procurements for which contracting officers should consider requiring cost or pricing data.

Subsection (c) of section 203 repeals the "Commercial Pricing" certificate requirements of 41 U.S.C. 253e. This statute currently requires that vendors in sole-source procurements certify that the Government is getting their best price. The comparable title 10 provision was repealed in a recent defense bill. The DOD Inspector General had concluded that these certifications were of little value, but were very burdensome to industry. This amendments aligns title 41 with title 10.

Subsection 203(d) provides for a review by the Comptroller General of the effects of the amendments made by subsections (a) and (c) and a report to Congress.

Subsection 203(d) amends section 304(d)(4) of the Property Act to require that in any case in which the submission of cost or pricing data is not required by this section but the head of an agency decides to require such data notwithstanding, that the reasons for such determination be documented in writing.

Section 204. Revision of Federal Acquisition Regulation; Effective Date. Section 204 provides for revision of the Federal Acquisition Regulation (within 180 days) and sets forth the effective date of the amendments in this title and in section 301 (after 180 days).

Subsection 204(c) sets forth standards for revision of the FAR under subsection (a) regarding standards and requirements for cost and price as evaluation factors under the amendments made by section 202(a)(4) and 301. The regulation drafters are directed that standards for the consideration of cost or price should be adequate to ensure that, to the maximum extent practicable, cost or price is an evaluation factor of sufficient weight to have an effect on the source selection decision and to ensure price competition among competing vendors. This may be accomplished by requiring that price be given a minimum weight in certain categories of acquisitions, subject to appropriate exceptions.

TITLE III—AMENDMENTS RELATING TO TITLE 10, UNITED STATES CODE

Section 301. Source Selection Factors. Section 301 amends the Competition in Contracting Act in section 2305(a)(3) of title 10, United States Code, to put in place in title 10 amendments identical to the amendments made by section 202(a)(4) to parallel provisions of CICA in title 41.

Section 302. Truth in Negotiations. Section 302 amends the Truth in Negotiations Act in section 2306a of title 10, to put in place in title 10 amendments identical to the amendments made by section 121(a) to parallel provisions of TINA in title 41.

Section 303. Acquisition of Commercial and Nondevelopmental Items. Section 303 makes a technical amendment to section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Public Law No. 101-189, regarding acquisition of commercial items.

TITLE IV—BROOKS ADP ACT AMENDMENTS

Title IV of the bill includes a series of amendments to the Brooks Automatic Data Processing Act, most of which clarify or enhance the powers of the GSA Board over ADP bid protests.

Section 401. Short Titles of Certain Provisions of Federal Property and Administrative Services Act. Section 401 provides that section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) may be cited as the "Brooks Automatic Data Processing Act" and that Title IX of the Federal Property and Administrative Services Act of 1949 may be cited as the "Brooks Architect-Engineers Act". These amendments reflect common usage and honor one of the giants of Federal procurement legislation.

Section 402. Dismissal; Award of Costs. Section 402 amends paragraph (f)(4)(C) of the Brooks ADP Act to clarify the intent of Congress that the Board be able to dismiss protests brought "in bad faith." This amendment adds a new subparagraph (D) that authorizes the board to impose costs for violation or failure to comply in good faith with its orders and decisions. These amendments clarify the GSBCA's ability to manage its docket and prevent abuse of its procedures.

Section 403, Oversight of Acquisition of Automatic Data Processing Equipment by Federal Agencies. Section 403 adds a new subsection to the Brooks ADP Act that requires GSA to keep track of agency procurements under the Brooks ADP Act.

Section 404. Effective Date. Section 404 provides that the amendments made by the title shall be effective 180 days after enactment, to permit revision of pertinent regulations and rules.

TITLE V—GENERAL PROVISIONS

Section 501. Procurement Protest System Improvements. The bill amends and clarifies provisions of the Competition in Contracting Act that authorize the Comptroller General to award bid and proposal preparation and protest costs to companies that file meritorious bid protests. These provisions, which have operated successfully for eight years, have been under attack recently by the Justice Department, which has filed an extraordinary lawsuit, wholly without precedent, claiming that the authority of the Comptroller General to award costs is unconstitutional. CICA has previously been upheld by the courts against similar constitutional arguments.

The controversy over the Justice Department lawsuit provides an excellent opportunity to review the GAO bid protest statute, to see how it might be clarified and strengthened. The bill does this. Under the amendments made by section 502, payment of costs, as well as implementation of other recommendations of the Comptroller General in the GAO bid protest process, clearly will be discretionary with the contracting agency.

The GAO bid protest process operated for many years without specific statutory authority, as simply an extension of the constitutional authority of Congress to appropriate Federal funds and oversee their expenditure. The amendments in the bill reemphasize that constitutional function in the GAO bid protest process by getting the Congress directly involved when GAO finds wrongdoing or inequity, but the agency chooses not to take corrective action.

Section 501 amends and clarifies provisions of the Competition in Contracting Act that authorize the Comptroller General to award bid and proposal preparation and protest costs to companies that file meritorious bid protests. 31 U.S.C. §3554.

Under subsection (a), payment of those costs, as well as implementation of other recommendations of the Comptroller General in the GAO bid protest process, will be discretionary with the contracting agency.

The head of a procuring activity is to report to the Comptroller General in each case in which the recommendations of the Comptroller General are not followed by the agency.

Costs recommended by GAO will be paid out of the judgment fund authorized by 31 U.S.C. §1304, subject to reimbursement of that fund by the procuring agency.

Under amended section 3554(e), in any case in which an agency fails to implement recommendations of the Comptroller General, including both substantive recommendations and recommendations regarding bid and proposal preparation costs and protest costs, the Comptroller General shall provide a comprehensive report to appropriate committees of Congress and will make specific recommendations regarding legislative action to correct inequity or to preserve the integrity of the procurement process.

Subsection (b) provides for the ratification of cost awards made by GAO under existing 31 U.S.C. §3554, prior to enactment of the bill.

Subsection (c) provides that the amendments to title 31 in this section will be effective 45 days after enactment of the Act.

Section 502. Post-Award Debriefings. Section 403 adds a new section 30 to the Office of Federal Procurement Policy Act to provide for detailed post-award briefings in procurements over a certain dollar threshold and awarded on the basis of other than price alone. Under the new section, in any procurement with a dollar value over the small purchase threshold agency, at the request of any offeror, would be required to provide a comprehensive, detailed debriefing at which certain minimum information would be provided.

Subsection (a) of the new section requires amendment of the Federal Acquisition Regulation to set forth guidelines for debriefings. Those guidelines shall require that such debriefings occur in a timely manner. The briefings shall also include—

(1) a detailed review of the offerors proposal in relation to the evaluation factors and subfactors;

(2) a description of the rationale for award;

(3) the overall evaluated cost and combined technical and cost scores of the awardee and the debriefed offeror, and the technical point scores of the awardee and the debriefed offeror; and

(4) the overall ranking of all offerors.

Subsection (b) of the new OFPP Act section provides that debriefings shall not make point-by-point comparisons with other offerors' proposals and that information shall not be disclosed if it would not be subject to disclosure under section 552 of title 5, United States Code, the Freedom of Information Act.

Subsection (c) of the new OFPP Act section requires that each solicitation for a contract subject to subsection (a) shall notify participating offerors that the categories of information described in subsection (b) may be disclosed by the Government.

Subsection 502(b) provides for amendment of the Federal Acquisition Regulation to implement section 503 within 180 days of enactment of the Act.

Subsection 502(c) provides that new section 30 of the OFPP Act, as added by section 502(a), shall be effective with respect to solicitations issued after the expiration of the 180-day period beginning on the date of enactment of the Act.

Section 503. Increase in the Small Purchase Threshold. Section 404 provides for an increase in the small purchase threshold.

Subsection (a)(1) amends the definition of small purchase threshold in section 4 of the Office of Federal Procurement Policy Act to increase that threshold to $50,000.

Subsection (a)(2) provides that, until October 1, 1994, buying activities shall continue to report procurement awards with a dollar value of at least $25,000, but less than $50,000, in conformity with the procedures in place prior to October 1, 1991.

Subsection (a)(3) provides that the increase in the small purchase threshold made by subsection (a) shall apply to solicitations made after the expiration of the 60-day period beginning on the date of the issuance in final form of revisions to the Federal Acquisition Regulation under subsection (b).

Subsection (b) requires that the Federal Acquisition Regulatory Council revise the Federal Acquisition Regulation to provide improved access to information regarding small purchase procurement opportunities, especially for small disadvantaged businesses.

Subsection (c) requires that the Comptroller General monitor the results of the increase in the small purchase threshold to ascertain its effects on the participation of small business concerns, especially SDB's, in procurement awards of less than $50,000 and the benefits or detriments to buying activities. Data for purposes of this monitoring will be collected through September 30, 1994. The Comptroller General is to report to the Congress by March 1, 1995.

Subsection (d) adds to the function of the Administrator for Federal Procurement Policy, set forth in section 6 of the OFPP Act, requirements that the Administrator develop policies that will ensure that small businesses and small businesses owned and controlled by socially and economically disadvantaged persons are provided with the maximum practicable opportunities to participate in procurements conducted below the small purchase threshold and develop policies that will promote achievement of goals for participation by small businesses and small disadvantaged businesses.

Subsection (e) sets forth a technical amendment to section 18(d) of the Office of Federal Procurement Policy Act.

Section 504. Test Program. Section 504(a) authorizes the Administrator for Federal Procurement Policy to conduct a test program of alternative and innovative procurement procedures.

Under subsection (b) each test shall be limited to not more than two specific contracting activities in an agency or a division of an agency designated by the Administrator to conduct tests.

Subsection (c) makes it clear that tests conducted under this authority are to be developed and structured by the Administrator for Federal Procurement Policy, shall be for a period of not greater than 4 years, and are limited to specific programs of agencies or specific acquisitions. Procurements involved in any given test shall not have a cumulative, total estimated life-cycle cost to the Government greater than $100,000,000. Subsection (c) prescribes four specific tests to be conducted (out of the 6 tests permitted). With the exception of one of the tests to be designated by the Administrator, procurements under any test may not exceed $5 million, including options.

Subsection (g) sets forth specific procedures that may be tested.

Subsection (e) provides for Congressional and public notice of any test.

Subsection (f) in paragraph (1) permits the Administrator to waive any provision of the Federal Acquisition Regulation not required by law and any provision of the Federal Acquisition Regulation, required by a statute set forth in paragraph (f)(2), the waiver of which the Administrator determines in writing to be necessary to implement tests of any of the nine procedures specifically set forth in subsection (e). Paragraph (2) sets forth specific laws that may be waived.

Subsection (g) requires a report to Congress on the results of each test conducted under subsection (a), as well as a review by the Comptroller General of each test. Additionally, the Comptroller General is to report annually to the Congress on the conduct of, and result of, all tests.

Subsection (h) clarifies that the authority to conduct tests under this section ends on October 1, 1996. Contracts entered into prior to that date under any test, however, remain in effect.

Section 505. Single Audit under the Brooks A-E Act. New section 407 prohibits agencies from conducting pre-award audits under the Brooks A-E Act in any case in which the objectives of such an audit can be met by accepting the results of another audit of the contract awardee conducted by a Federal agency within the preceding year. This provision is intended to correct a deficiency in current law brought to the attention of the Committee. Currently, there is no explicit statutory prohibition on an A-E contractor being subject to multiple, duplicative preaward audits in a single year, wasting both contractor and agency resources. Section 407 would correct this, while ensuring that the Government could still conduct audits whenever necessary.

Section 506. Buy American Requirement for Federal Agencies. Subsection (1) requires the Administrator of General Services to ensure that the requirements of the Buy American Act apply to all procurements made with funds authorized by the Act.

Subsection (b) requires GSA to report the Congress on the amount of procurements made from foreign entities in fiscal years 1993, 1994, and 1995 with funds authorized by the Act.

Subsection (c) prohibits the award of any contract or subcontract made with funds authorized by the act to any person found to have intentionally affixed a label bearing a "Made in America" inscription to a product sold in the United States that is not made in the United States.

Subsection (d) defines the term "Buy American Act" for purposes of this section.

□ 2250

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 3161, the Federal Property and Administrative Services Act of 1992. First, Chairman CONYERS is to be commended for his determination, perseverance, and ability for being able to cut a compromise in these final hours of this Congress on a bill that just a few days ago had almost no chances for success. Intensive negotiations, precipitated directly by actions of Chairman CONYERS, between the House, Senate, and administration, produced this compromise. Congratulations, Mr. Chairman, to your staff, to Senator GLENN and his staff, Senator LEVIN and his staff, and administration officials Frank Hodsoll and Allan Berman for this successful effort and to my staff Director Don Upson and my other staff persons who worked so hard to make it possible for us to reach this point. And the effort is worth it.

H.R. 3161, first and foremost, authorizes the General Services Administration, which is supposed to be control central for implementation and guidance of and on important procurement procedures and policies. GSA is a $10 billion agency, and I believe an authorization not only ensures better accountability to Congress of its programs, but also, it gives the agency enhanced authority through the authorization process. This authorization is, in my view, the most fundamental reason why H.R. 3161 should be supported.

But there are other reasons. The bill corrects the constitutional problem with the General Accounting Office bid protest system. It puts into statute important language to encourage the purchase by the Government of commercial products as opposed to the Government always designing its own everything from fruitcake to computers, and almost always at unreasonably high cost to the taxpayer. It raises the small purchase threshold from $25,000 to $50,000. It establishes a structured test program that will allow the evaluation of other approaches to the Government's acquisition of goods and services.

The legislation also includes as a separate title the legislation passed by a unanimous voice vote of this House only 2 weeks ago to establish a Commission on Information Technology and Paperwork Reduction. That legislation is now in the Senate. The Commission is important, and I appreciate Chairman CONYERS' agreeing to my request to add the Commission as a separate title to increase its chances of enactment as we rush to adjournment of this 102d Congress.

Mr. Speaker, I urge all of my colleagues to support this important procurement reform initiative.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 3161, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CASH MANAGEMENT IMPROVEMENT ACT AMENDMENTS OF 1992

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5377) to amend the Cash Management Improvement Act of 1990 to provide adequate time for implementation of that Act, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

SEC 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.

The Cash Management Improvement Act of 1990 (Public Law 101–453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four and inserting "Five".

SEC. 3 INTERNAL REVENUE SERVICE TAX REFUND OFFSET.

Section 3720A of title, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "to obtain payment of such debt." and inserting in lieu thereof "(determined on a government-wide basis) to obtain payment of such debt; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, non-profit organization, or any other form of business association,"; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall supply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

SEC. 4. EXTENSION OF THE PRIVATE COUNSEL PILOT.

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States." approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

(d) CONTRACT EXTENSION.—The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.

SEC. 5. AUDIT BY INSPECTOR GENERAL.

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

SEC. 6. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

SEC. 7. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall take effect on the date of enactment of this Act, except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Michigan?

Mr. HORTON. Mr. Speaker, reserving the right to object, and I do not intend to object, I would take this opportunity to yield to the gentleman from Michigan [Mr. CONYERS], the chairman of the Committee on Government Operations, for an explanation of the bill.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, on July 21, the House passed H.R. 5377, to extend the effective date of the Cash Management Improvement Act of 1990. The 1990 act was designed to regulate and enforce the timely and efficient transfer of funds between the Federal and State governments, and included a 2-year effective date.

However, delays by the Department of the Treasury in implementing regulations have made it impossible for some States to implement the new law by the October 24, 1992, deadline. H.R. 5377 extends the effective date so that States can amend their laws and make the necessary adjustments required by the act.

Because H.R. 5377 will be scored by OMB as increasing outlays by $75 million in fiscal year 1993, the Senate, in order to avoid a sequester, amended the bill by adding two debt collection provisions.

The first extends for 4 years the Department of Justice private counsel pilot project, and requires a detailed audit by the Department's inspector general after 2 years to determine the cost-effectiveness of this project. I have worked closely with the Senate to include language to ensure that ongoing debt collection activities by private attorneys are not interrupted.

The second provision makes mandatory that all Federal agencies refer all delinquent debt to the Internal Revenue Service for offset against income tax refunds otherwise due to delinquent debtors. Such offsets have been authorized since 1986 on a voluntary basis with great success. OMB estimates that this would raise an additional $50 million over the next 4 years.

I would like to note that OMB, the Department of Justice, and the Department of the Treasury all support H.R. 5377, as amended, and that none of these increases in revenue come from additional fees or taxes, but simply through improving collection of debts owed the Federal Government.

I would like to thank the chairman of the Judiciary Committee, Mr. BROOKS, the chairman of the Committee on Ways and Means, Mr. ROSTENKOWSKI, and the gentleman from New York [Mr. HORTON] for their assistance on this legislation.

Mr. HORTON. Mr. Speaker, I join Chairman CONYERS today in urging the House to pass S. 2970. This bill is very similar to one passed by the House several weeks ago allowing States adequate time to implement the Cash Management Improvement Act.

That act was passed overwhelmingly 2 years ago with a simple purpose: Ensure greater efficiency in the transfer of funds between the Federal and State governments. The reason we offer this bill today is that the effective date of the act is October 24, but the Department of Treasury just recently released their regulations. State governments are in the impossible position of having to negotiate payment agreements, train their personnel, and implement the payment agreements in 3 short weeks. This is an impossible task that may cost States millions in Federal penalties.

This bill extends the effective date of the act from October 24, 1992, to July 1, 1993, or the first day of a State's fiscal year beginning in 1993, whichever is later. States will have 9 more months to amend their financial practices to meet the requirements of the act.

Unfortunately, our desire to provide this relief does not come without a price. The bill before the House today would makeup lost revenue by enacting a couple of good-government initiatives. The first would reauthorize and expand the private counsel pilot project run by the Department of Justice to supplement the Department's ability to collect debts. The second requires Federal agencies that are owed past-due, legally enforceable debts to participate in the now voluntary IRS tax refund offset program. The current program has resulted in the collection of almost $2.8 billion in debt collected since 1986. OMB has estimated that an additional $50 million in debt will be collected by this provision over the next 4 years.

Theses are very good management projects which I have included in my proposal, H.R. 5995, the Federal Debt and Credit Management Act of 1992. Standing alone, they are needed to help the Government operate in a more efficient manner. In this bill, they also allow for the much-needed extension of the Cash Management Improvement Act.

I ask all of my colleagues to support this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr, Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include therein extraneous material, on the Senate amendment to the bill, H.R. 5377.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

□ 2300

TRIBUTE TO HON. CARROLL HUBBARD, JR., LARRY J. HOPKINS, AND CARL C. "CHRIS" PERKINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. NATCHER] is recognized for 60 minutes.

Mr. NATCHER. Mr. Speaker, I want to thank our friend from California [Mr. DORNAN] who has permitted us to go ahead of him.

Mr. Speaker, three of our colleagues from Kentucky will not be with us in the 103d Congress. All have served with distinction and honor and certainly we will miss all three of our friends.

Representative CARROLL HUBBARD, Jr. was elected to the 94th Congress and has served since that time as a Member of the House of Representatives. He was born in Murray, Calloway County, KY, and after attending public schools, graduated from Eastern High School in Louisville, KY in 1955. He received his B.A. degree from Georgetown College in 1959 and his J.D. from the University of Louisville Law School in 1962. Mr. HUBBARD was admitted to the Kentucky Bar in 1962 and commenced practice in Mayfield, KY. He served as a member of the Kentucky State Senate from 1968 to 1975.

CARROLL HUBBARD, at the present time, is a member of the Committee on Banking, Finance and Urban Affairs, and the Committee on Merchant Marine and Fisheries and has served as a deputy whip for a number of years. He is a good committee member and has established an excellent record in the House. He has always represented his people well and his concept of public trust is without parallel. In every position he has held either public or private, he has achieved distinction. His service in all of his assignments while serving as a Member of Congress is marked by a high sense of conscience and duty. We will all miss our friend, CARROLL HUBBARD, and we want to wish him the best of everything in the future.

Mr. Speaker, our colleague and friend, LARRY J. HOPKINS, is also leaving us at the close of this session of Congress. He was born in Detroit, MI, and after attending public schools in Wingo, KY, attended Murray State University. From 1961 to 1964, he served in the U.S. Marine Corps and following his service was a stockbroker from 1964 to 1966 and was associated with Hilliard-Lyons, Inc. He served in the Kentucky State House of Representatives from 1972 to 1976 and in the State Senate of Kentucky from 1976 to 1978. He was elected to the 96th Congress and has served with us since that time.

During his service in the Congress, LARRY HOPKINS has served as a Member of the Committee on Armed Services and the Committee on Agriculture. He, during his service on the Committee on Armed Services, established an outstanding record as a member of this committee and on many occasions was cited for his expertise of a number of the weapons systems we have now in our Department of Defense. Coming as he did from the central part of Kentucky with the Lexington district being his home base, he was very much concerned about agriculture. This section of Kentucky is not only industrial, but is one of the best agriculture sections in our State and in our section of the United States. He was always a defender of tobacco and the tobacco industry and in every program beneficial to the farmer. He understood at all times that agriculture is our largest industry and that the American farmer is not expecting a subsidy, but only a fair share of our national income. On many occasions he has vigorously defended the farm programs set forth in our regular agriculture bills and was known throughout this country as a friend of the American farmer. His life exemplifies those virtues that make a great Congressman and these are fairness, generosity, a willingness to listen and an unyielding devotion to the principles of his party and to all matters which are in the best interests of our country. His character, achievements, and faithful service will be an inspiration to generations yet to come. We will all miss our friend. LARRY HOPKINS, and we want to wish him the best of everything in the future.

Mr. Speaker, CARL C. "CHRIS" PERKINS will not be with us in the 103d Congress and it will be right unusual not to have a Perkins in the Congress from Kentucky. His father, Carl D. Perkins established an outstanding record in the House of Representatives and at the time of his death was serving as chairman of the Committee on Education and Labor. CHRIS PERKINS was born here in our metropolitan area and after attending public schools in Fairfax County obtained his B.A. degree from Davidson College in North Carolina in 1976 and his J.D. from the University of Louisville in Kentucky in 1978. He practiced law in Kentucky from 1978 to 1984 and then was elected to the 98th Congress following the death of his father, Carl D. Perkins. CHRIS PERKINS will be missed by his many friends in the Congress and while serving, established an outstanding record in this body. His character, achievements and faithful service will be an inspiration to generations yet to come. He will have a high place in the history of our country and in the hearts of his countrymen.

While serving in the House, he served as a Member of the Committee on Education and Labor and the Committee on Science, Space, and Technology. During his tenure he was served on other committees in the House and was a good committee member. He was always a strong defender of the working men and women in this country and of the coal miners who mined the coal in eastern Kentucky. Words are inadequate to fully appraise CHRIS PERKINS' tremendous capacity for loyalty and love of his country. He will always be remembered by the poor people and by the working men and women in this country. CHRIS PERKINS has served his country well and he always has kept the common touch. Along with his father, he is a man who will be known in all time to come in the mountains of Kentucky and at the far corners of our country. He labored with dedicated devotion and with a passion on the ramparts of individual freedom, honesty, and constitutional government. His service in all of his assignments has been marked by a high sense of conscience and duty. Mr. Speaker, we will all miss our friend CARL PERKINS and we want to wish him the best of everything in the future.

Mr. Speaker, I yield to my friend, the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank my dean, the gentleman from Kentucky, for yielding. It is a pleasure to join with my dean in paying tribute to three of our friends and colleagues who will not be with us in the next Congress. The gentleman from Kentucky [Mr. NATCHER] has outlined their virtues and their very great talents.

In the case of the gentleman from the First District, CARROLL HUBBARD, CARROLL and I really were friends before we got to Congress. CARROLL was in law school at the University of Louisville about the time I was there back in the late 1950's and the early 1960's. Then CARROLL and I were elected to the Kentucky State Senate in the very same year, in 1968. And our paths have really become intertwined since then.

His work on the Committee on Banking and Currency and other committees of the House has been exemplary, and we wish him and his wife Carol, of course, fully the best.

In the case of the gentleman from the Seventh District, Mr. PERKINS, of course I have known CHRIS less long than I have known CARROLL. but of course all of us, the dean and I go back to the time that CHRIS's father was here. And I remember the outstanding eulogy that CHRIS delivered at the time that we had the funeral services for Mr. Perkins in Hindman.

CHRIS, while not there a lengthy period of time, certainly has given representative service and worked hard for the people of the Seventh District, and I wish him, as we do CARROLL, much good in the times ahead.

Congressman HOPKINS, the gentleman from the Sixth District, I did not know before I got to Congress, but have obviously met and worked with here and enjoyed working with LARRY. I have found him to be extremely knowledgeable in agricultural matters, which of course for the Commonwealth is so important. And then more recently on the Armed Services Committee where he took a strong leadership position.

I certainly join with the dean of our delegation in wishing all three of our friends many years of health, happiness and much success in the future.

Mr. Speaker, I yield to our friend, the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the mark of an effective Member of Congress is his ability to balance legislative decisions affecting the policies and direction of this country as a whole with services to his constituents by acting as their voice in the Congress and personalizing their interaction with the Federal Government.

For the past 14 years, our distinguished colleague from Kentucky, LARRY HOPKINS, has demonstrated his skill and effectiveness time and again at achieving that balance. The people of Kentucky's Sixth District have been well-served by his personal attention to the individual and community concerns of the district. He has a great ability to get an unwieldy Federal bureaucracy to respond to the needs of individuals and local governments alike. While maintaining a strong voice for the Sixth District in Washington, DC, the people of the country have also been well-served by LARRY'S active participation in and formulation of Federal policy, particularly in the areas of agriculture and defense.

For the last 14 years, I have had the opportunity—and the pleasure—to work with LARRY as we served together on the House Armed Services Committee. I know first hand the outstanding job he has done as the ranking member of the House Armed Services Subcommittee on Investigations, as well as the contributions he has made in his work on the Procurement and R&D Subcommittees and the defense policy panel. LARRY'S keen interest in this country's national security, his own service add experience as a member of the Marine Corps and his dedication to the principle of peace through strength made him a valuable member of the committee.

LARRY'S leadership on defense matters will for some time be reflected in such legislation as the 1986 Goldwater-Nichols Defense Reorganization Act, but for those of us who worked with him, his leadership will also be long remembered because of his effectiveness, tenacity, and sense of fair play.

As LARRY retires at the close of the 102d Congress, the House of Representatives will lose a dedicated Member who has worked hard and served his district, his State, and his country well and with distinction. We will lose a Member who is as much at home with a head of State as he is with the head of a house, and is equally attentive and responsive to their views and concerns. Arizona will lose a friend who understands and had lent a helping hand on many issues including agriculture and defense concerns.

Personally, I will lose a close friend and colleague for whom I have a great deal of respect and admiration. LARRY has successfully approached the issues facing this Congress creatively, and his humor has enlivened many a long day and eased many a tense, decisive moment.

To my very good friend, LARRY HOPKINS, we thank you for your fine record of dedicated public service. You will be missed, but we wish the very best to you, Carolyn and the family.

□ 2310

Mr. NATCHER. Mr. Speaker, I yield to our friend and colleague, the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, I want to thank the dean of our delegation, the gentleman from Kentucky [Mr. NATCHER], for taking this special order to pay tribute to the three members of the seven-member Kentucky delegation who will not be returning next year. These three gentlemen have served in this body with great distinction. They have honored us with their service. They have been diligent in their work on behalf of the people of Kentucky and the districts which they have represented these many years.

Kentucky has a great tradition of service in this body dating, of course, all the way back to the great Henry Clay who, on his first day of service in this body, was elected Speaker of the House as a freshman which is, I think, a record yet unbroken.

But these three gentlemen have served this body and our country and our State and their districts with great distinction. They have worked hard on the committees that they have served under. They have represented the people of our State admirably, and we certainly will miss them.

On a more personal note, these are three friends who have served with us here all of these years, have built up so many friendships amongst the membership of this body, and have honored us with their friendship as well as service to their country.

Mr. Speaker, so given the late hour, I am going to make my remarks rather brief and wish for our three colleagues good luck in their future endeavors and Godspeed in their work.

I thank the gentleman from Kentucky [Mr. NATCHER] for giving us this time.

Mr. NATCHER. Mr. Speaker, again, I want to thank our friend and colleague, the gentleman from California [Mr. DORNAN], for his thoughtfulness and kindness in permitting us to go ahead of him at this time.

Mr. STENHOLM. Mr. Speaker, it is a privilege to join the other Members in voicing best wishes to Congressman CARROLL HUBBARD upon this return to private life. Since coming to this body in January, 1975, CARROLL has made his mark in a number of areas including the banking and housing industries as well as the merchant marine. His years of service have provided an exceptional example for his constituents in Kentucky and his colleagues here on Capitol Hill.

The first district of Kentucky is a lot like my district in Texas: largely rural, cotton-producing, and very conservative. Because of this, I have turned to CARROLL from time to time for his thoughts and advice. I regret that he will no longer be readily available for consultation, but I am certain we will benefit from his accomplishments for a long time.

It has been a pleasure to serve with CARROLL and I will miss him as a colleague and friend.

Mr. CRANE. Mr. Speaker, the House of Representatives will lose a valued member with the retirement of LARRY HOPKINS of Kentucky. He will step down at the end of this 102d Congress wrapping up a distinguished career which began in this Chamber in 1979. His election to the House of Representatives came only a short time after he moved up to the Kentucky State Senate. His senate service followed a 6-year tour in the Kentucky House of Representatives.

While he has served well on the House Agriculture Committee, he is best known for carrying out his duties on the House Armed Services Committee.

He cosponsored the Pentagon reorganization bill. This was one of the outstanding legislative accomplishments of Congress in 1986. After visits to American marines in Beirut, he came home to warn that the marines there were in danger. His warning was followed by the tragic bomb explosion which took the lives of 249 marines. Larry is said to have been stunned that the command structure of the military made it so difficult to take sensible precautions.

As a former marine, who had served in Korea, LARRY fashioned an answer to the problem and helped push it through Congress.

The Agriculture Committee assignment helped to look to the concerns of his farmer consitutency. He has been of particular assistance to tobacco farmers of his district and State.

LARRY HOPKINS has been more than a fine congressman. He has been a good friend and will be missed.

Mr. QUILLEN. Mr. Speaker, I want to take this time to bid farewell to one of the great workhorses of the Congress, my good friend LARRY HOPKINS. For 14 years, LARRY has represented the people of the Sixth District of Kentucky in the House of Representatives with pride and distinction.

LARRY has served his country in the Marine Corps and had a flourishing career as a stockbroker before he entered politics. In both houses of the Kentucky Legislature, he showed the same determination and good judgment that he has displayed here in Washington. Since joining the House, he has risen in seniority so that he now serves as ranking Republican on key subcommittees of the Armed Services and Agriculture Committees.

These committees handle complicated issues and produce mammoth pieces of legislation that concern all of us. We depend on leaders like LARRY, who take the time to master all the details of these bills. The 1990 farm bill and the 1986 Defense Reorganization Act are but two instances where LARRY'S strong leadership and wise counsel carried the day.

Mr. Speaker, as LARRY HOPKINS leaves Congress, he leaves this body poorer for his departure. I thank him for all he has done for me and for this institution, and send him all good wishes for the future.

Mr. PANETTA. Mr. Speaker, I regret that prior commitments prevent me from joining in the tribute tonight to my good friend and colleague on the other side of the aisle, Representative LARRY J. HOPKINS. I would like to take this opportunity now to honor Mr. HOPKINS who will not be returning to the 103d Congress. He is a very fine man who has dedicated almost 3 decades of his life to public service. His years of service and dedication to his community and the country will be sorely missed by those who knew and worked with him.

LARRY HOPKINS has had a long and distinguished career in public service. He began with elected office in the Kentucky House of Representatives in 1971. After serving in both the State House and Senate, he was then elected to Congress in 1978 to represent the Sixth District of Kentucky.

He has served his constituents in outstanding manner, rising to the fourth senior Republican on the 52-member Armed Services Committee, and to the third senior ranking Republican on the 43-member Agriculture Committee. He has authored and sponsored major legislative initiatives in defense reorganization and national farm and water policy, issues critical to this nation's security and food supply.

I had the privilege and pleasure of serving with LARRY on the House Agriculture Committee. He has worked tirelessly on the two agricultural subcommittees he sits on and was a leader during the 1990 farm bill negotiations to make improvements to the tobacco program. By serving as a conferee during this authorization process, he led efforts to shape the best agricultural policy for the good people of Kentucky and farmers across this country. My colleague worked with great balance guided by great vision which gained him the respect and admiration of both Democrats and Republicans alike on the committee and in Congress.

I wish to thank him for his friendship, his 14 years of service in this esteemed institution, and his dedication on behalf of agriculture and all farming States. He has served honorably and well deserves this recognition for service to the public.

Mr. Speaker, I join in recognizing LARRY's achievements and offer my tribute. again, we will sorely miss LARRY's years of experience and commitment.

Mr. RINALDO. Mr. Speaker, I rise today to pay tribute to our distinguished colleagues and dear friends from Kentucky, CARROLL HUBBARD, LARRY HOPKINS, and CHRIS PERKINS.

CARROLL HUBBARD has served the people of Kentucky's First Congressional District in Congress since 1974. He has risen to leadership positions in the House of Representatives during his tenure here, and has been an able and respected member of the Banking, Finance and Urban Affairs Committee and the Merchant Marine and Fisheries Committee.

CARROLL has a long and distinguished career of public service. He attained the rank of captain in the Kentucky Air National Guard, serving from 1962 to 1967, and later served in the Kentucky Army National Guard from 1968 to 1970. He was elected to the State Senate in 1967 and was reelected again in 1971. During that time of service in the Kentucky State Senate, CARROLL was honored by the Kentucky Jaycees as One of Three Outstanding Young Men of Kentucky and was also chosen one of the Outstanding Young Men in America in 1970.

CARROLL has been a pleasure to work with and a pleasure to know, and I wish him and his wife the very best for the future.

LARRY HOPKINS is another gentleman from Kentucky that Congress will be sorry to see go.

LARRY has distinguished himself in the House of Representatives since 1978. As the fourth senior Republican on the House Armed Services Committee, LARRY has spearheaded efforts to restructure the management organization and structure of the Department of Defense. In 1989, he authored legislation to expand the Department of Defense's mission to include drug interdiction and surveillance.

LARRY's expertise in defense-related matters has taken him around the world to evaluate U.S. security, military operations, and defense issues. He was the first Western official to inspect the Soviet chemical weapons disposal system at Chapayesk, which was essential to our assessment of the Soviet capability to fulfill the terms of the 1990 bilateral chemical weapons agreement.

LARRY was also a leader on the House Agriculture Committee, and served as a conferee to the landmark Food, Agriculture, and Trade Act of 1990 which authorized a national 5-year farm program.

LARRY has demonstrated a life-long commitment to public service. He served in the U.S. Marine Corps from 1954 to 1956. In 1969, he was appointed Fayette County clerk. In 1971, he was elected to the Kentucky House of Representatives, and later served in the Kentucky State Senate before being elected to the U.S. House of Representatives.

LARRY has honored this institution by his work, his patriotism, and his lifelong commitment to serving the public good. I wish him, his wife Carolyn, and their children and grandchildren the very best for the future.

CHRIS PERKINS was first elected to the 98th Congress in 1984, and has faithfully served the people of Kentucky's Seventh Congressional District ever since.

CHRIS has distinguished himself as a respected leader on the House Education and Labor Committee, promoting legislation to improve and expand Federal job training programs, reinvigorate the rural education system in this country, and create jobs. Most notably, CHRIS was instrumental in the effort to reauthorize the Carl D. Perkins Vocational Educational Act during the 101st Congress, and was a driving force behind the reauthorization of the School Improvement Act of 1987.

CHRIS has also provided very able and competent service on the House Science, Space, and Technology Committee, and Kentucky benefited a great deal from his work on the Public Works and Transportation Committee.

CHRIS has demonstrated a longstanding commitment to public service. Following graduation from law school, CHRIS served as a law clerk and assistant Commonwealth attorney in Jefferson County from 1977 to 1978. In 1981, CHRIS was elected to the Kentucky General Assembly for the 92d Legislative District, and was named Outstanding Orator by the State press corps for the 1982 legislative session.

CHRIS will leave the House of Representatives at the end of this session after serving a relatively short time. However, he can look back on a successful and productive tenure of service which has benefited the people of eastern Kentucky and this country as a whole. He has been a credit to this institution, and I wish him, his wife Janet, and their son the very best.

Mr. CRANE. Mr. Speaker, CARROLL HUBBARD is about to conclude a congressional career which he began with his election in 1974. He has been a hard working Member for these 18 years.

Congressman HUBBARD's Kentucky constituents are the best speakers for the district service he has worked on for almost 2 decades. He not only served his constituents well, but as has been reported many times, quickly.

And he has worked hard on his committee assignments here in the House of Representatives.

He has been particularly active on the House Banking Committee, where he serves as chairman of the General Oversight and Investigations Subcommittee. He is well known for his knowledge of the subcommittee work on financial institutions supervision, the high-profile subcommittee of the House Banking Committee which has done so much work in recent years in dealing with the savings and loan industry's crisis as well as the troubled banking industry.

Besides his Banking Committee work, he also serves on the Merchant Marine and Fisheries Committee.

CARROLL HUBBARD leaves behind a record of 18 distinguished years in the House of Representatives. We will miss his friendship.

Mr. BLILEY. Mr. Speaker, I would like to take the opportunity of this special order to say a few words about my good friend and esteemed colleague LARRY HOPKINS upon his retirement from the House of Representatives. I have had the great pleasure of knowing LARRY for the 12 years that I have served in the House. On numerous occasions over the years LARRY and I have joined forces on tobacco issues to protect the industry that is vital to the economies of both Kentucky and Virginia.

While I will truly miss LARRY and his leadership in the House, I would like to let him known that there is one minor event that occurred during our friendship that I will not miss. LARRY and his leadership in the House, I would like to let him know that there is one minor event that occurred during our friendship that I will not miss. LARRY got me into a lot of hot water once with another one of my good friends and constituent, when he asked me to support his candidate, Gen. George Patton's son, for superintendent of Virginia Military Institute. Little did I know at that time my constituent also wanted the job. Needless to say, supporting LARRY on that one put some severe strains on relations with my friend who was in the running for the position.

Seriously through, LARRY's leadership and loyal service to this House will be greatly missed. As a senior Republican member of both the Armed Services and Agriculture Committees, he leaves behind an exemplary record of legislative accomplishments. His retirement has been well-earned after 14 years of public service to the people of Kentucky. I would like to wish him great happiness and success in his future pursuits.

Mr. GOODLING. Mr. Speaker, when I was elected to Congress as a Member of the class of 1974, I sent a letter to each of the incoming freshmen indicating I was looking forward to meeting each of them and urging that we work together in a bipartisan manner putting politics aside. Only one Member of my class responded. That Member was CARROLL HUBBARD who responded saying he looked forward to working with me and the other Members of our class.

CARROLL HUBBARD has a long and distinguished career of service his home State of Kentucky and the country at large. He served as a member of the Kentucky Air National Guard and the Kentucky Army National Guard, as to a State senator in Kentucky and then continued his service to the residents of Kentucky in the U.S. House of Representatives. He has served very ably on the House Banking, Finance and Urban Affairs and Merchant Marine and Fisheries Committees.

During our service together in this House, CARROLL HUBBARD and I have worked in a nonpartisan manner and I have enjoyed very much working with the gentleman from Kentucky.

CARROLL HUBBARD has visited the 19th District in Pennsylvania, which I represent, and met with a number of my constituents. I understand he was not treated kindly when he spoke well of me in a speech before a group of my constituents of his party. I appreciate his strength of character and ability to be honest about his views and impressions and most of all, I have appreciated his willingness to put political affiliation aside and do what he always thought was in the best interest of the Nation.

It has been a pleasure for me to serve with the gentleman from Kentucky and I wish him the very best in his future endeavors.

Mr. STENHOLM. Mr. Speaker, I would like to take this opportunity to express my gratitude to and admiration for Congressman LARRY HOPKINS, the distinguished Member from the Sixth District of Kentucky, upon his departure from Congress. LARRY and I came to the House of Representatives together as part of the class of 1978. Since that time, it has been a pleasure to work closely with him on various subcommittees of the Agriculture Committee as well as on other legislation. I have long admired his diligence and his commitment to farmers and ranchers in his district and throughout the country.

During his House career, LARRY has demonstrated over and over his belief in fairness and equity for all Americans. He has been a fine example for all of us and he will most certainly be missed by his colleagues and friends. I join them now in wishing him the very best for the future.

Mr. CALLAHAN. Mr. Speaker, I am pleased to participate in this special order in honor of my good friend, LARRY HOPKINS. I am grateful to Chairman NATCHER for giving us this opportunity to pay tribute to a great American.

Although I have not known LARRY very long, he quickly became one of those kinds of people that I just like to be around. It hasn't been easy for most of us to maintain a sense of humor under the circumstances Congress has faced in the last year. Yet, LARRY's wit has not faltered.

LARRY was first elected to the House in 1978. He serves on the House Armed Services Committee, where he is ranking Republican on the Investigations Subcommittee. He is also the ranking member on the Agriculture Subcommittee on Peanuts and Tobacco. Before he came to Congress, LARRY, a former marine, was a stockbroker and served in the Kentucky House and Senate.

Mr. Speaker, I was very interested to learn that LARRY worked very closely with our late colleague from Alabama, Bill Nichols, in developing legislation to reorganize the Pentagon and the Joint Chiefs of Staff. This was an issue of major importance to our national security and it has surely contributed to the decline of communism and to the United States reinstatement as the world's foremost superpower. The Pentagon reorganization is the accomplishment of a lifetime, and LARRY can be extremely proud of his role in this effort.

I hope LARRY will stay in touch and that whatever the future holds will bring him to Washington from time to time. I also hope that he will have plenty of time to enjoy his retirement and his family and grandchildren. I wish him and his wife, Carolyn, great happiness in the years to come.

Mr. GALLO. Mr. Speaker, I want to join with my colleagues today to recognize the significant accomplishments of an esteemed Member of this body for the last 14 years, and a good friend. The gentleman from Kentucky [Mr. HOPKINS].

As a member of the Armed Services Committee, Mr. HOPKINS has played a major role in legislation affecting defense and defense strategy. His influence and leadership in the passage of the Joint Chiefs reform bill exemplifies his hard work and dedication.

As the ranking Republican on the Armed Services Subcommittee on Investigations, Mr. HOPKINS has worked closely with his Democratic chairman, showing the spirit of bipartisanship to which he adheres.

I have had the privilege and honor to work with Mr. HOPKINS for the last 8 years, and I hold him in high regard. His sound advice has always been welcome, and his good counsel has always been greatly appreciated. His work for his district, his State, and his country is a true sign of the dedication he brings to this Congress.

Mr. Speaker, I want to take this opportunity to thank our colleague, SONNY CALLAHAN from Alabama, for his leadership and dedication in organizing this special order.

I join with my colleagues on both sides of the aisle in recognizing the many accomplishments of the gentleman from Kentucky [Mr. HOPKINS] and join with them to wish them all the best.

Mr. HUTTO. Mr. Speaker, I want to pay tribute to another of my classmates who came to this body with me in the 96th Congress. LARRY HOPKINS not only began his congressional career with me at the same time, but he and I somehow have been neighbors throughout our 14-year tenure. We both started out on the fifth floor of the Cannon Building, then after 2 years we moved to the third floor of Cannon, and then in January 1987 we both moved next door to each other on the fourth floor of the Rayburn Building. Our proximity to each other meant that oftentimes we have walked together to make votes in the House Chamber and in this manner a lot of talking is done. This experience helped me to know and respect LARRY HOPKINS.

LARRY and I also have served on the Armed Services Committee together for all these years and in that capacity he has done a fine job of supporting our men and women in uniform. Especially noteworthy has been LARRY'S service as ranking minority member of the Investigations Subcommittee where he has often questioned Pentagon practices relating to weapon systems, cost overruns, and other matters. He has been particularly effective in leading the move for elimination of chemical warfare.

LARRY HOPKINS has done a fine job of representing his people in Kentucky and I want to let him know that I have enjoyed his company. He has truly been a good neighbor and I wish LARRY and his family Godspeed as he concludes his service in the House.

Mr. HORTON. Mr. Speaker, I want to pay tribute to LARRY HOPKINS who will be retiring from the Congress at the end of the year. LARRY HOPKINS has served this Nation with distinction as a Member of this body for 14 years.

Through his work on the Armed Services and Agriculture Committees, LARRY HOPKINS has helped move this Nation's business forward. Although I did not serve with him on either panel, I nevertheless know of his reputation for commitment to public service.

And although it is fashionable in some circles to denigrate this institution and its Members, our colleagues who remain behind and our successors would do well to look to the career of LARRY HOPKINS as one to emulate. The essence of the Congress is for Members of different views to come together to discuss the issues, hash out the differences, and forge public policy that incorporates the best elements of the varying positions. LARRY HOPKINS contributed to that process.

My wife, Nancy, joins me in extending our best wishes to LARRY HOPKINS and his family. We wish him the best of luck in all of his future endeavors.

Mr. HORTON. Mr. Speaker, I want to pay tribute to CARROLL HUBBARD who will be retiring from the Congress at the end of the year. CARROLL HUBBARD has served this Nation with distinction as a Member of this body for 18 years.

CARROLL HUBBARD has demonstrated true leadership through his work on the Banking and Merchant Marine Committees. Although I do not serve with him on either committee, I nevertheless know of his reputation for commitment to the little guy. As one who shares this commitment, I want to salute CARROLL HUBBARD for his tireless effort on behalf of those left behind by the system. The citizens of the First Congressional District of Kentucky have been ably served by CARROLL HUBBARD and are sure to miss his representation.

My wife, Nancy, joins me in extending our best wishes to CARROLL HUBBARD and his family. We wish him the best of luck in all of his future endeavors.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order of today, the service and tenure of our three colleagues.

The SPEAKER pro tempore. (Mr. PAYNE of Virginia). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

HEALING OUR NATION'S WOUNDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. MCDERMOTT] is recognized for 60 minutes.

Mr. MCDERMOTT. Mr. Speaker, I come to the well to speak on an issue that troubles me very deeply.

We have come to expect that in America, Presidential campaigns will be wars of words and rhetoric, battles of sound bites and simple answers. There is nothing inherently wrong about this—but I am sure we all agree it is not the best way to inform voters.

However, there is something very wrong when candidates use their words and authority to divide our Nation, to split us into hostile camps, to splinter the electorate into us and them. In

1988, the Willie Horton ads created by President Bush's supporters were designed to frighten and divide. In 1992, we are witnessing the President and his supporters employing this strategy again. This time, we are being divided by generation, pushed along the fault lines that ruptured among us 25 years ago—love of country, patriotism, Vietnam.

One characteristic of leadership is an ability to look beyond one's own experiences and understand those of others. George Bush's experience includes proudly volunteering to serve in the Second World War, a war supported by all Americans, a war fought by all classes and races of Americans, a war that honored those who served and united those at home. That war shaped George Bush's views of patriotism, courage, and service to country. And he served bravely.

A whole generation of World War II veterans came home and had sons and told them war stories of Anzio, Iwo Jima, Normandy, Corregidor—all the heroic battles of the 1940's. Those fathers raised their sons to be courageous, brave, and willing to lay down their lives for their families and fellow countrymen.

Those sons came of age in the 1960's. This new generation met another war—a war undeclared, undefined, and unyielding. This war tore our country apart. For 2 years of that war, I was a Navy psychiatrist whose job was to decide whom to send to war and how to deal with the emotional casualties it produced. I talked with Marine Corpsman who had seen their entire company cut to ribbons before them, while they had watched, unable to move or to care for the wounded. It was men who had thrown grenades into officers' hooches because they were afraid their green, unproven leaders would lead them into dangerous traps. I listened to their guilt and their frustration. I talked with nice Midwestern farm boys who had nailed their unit patch to the forehead of every Viet Cong they killed, so that the enemy would know who had done the job.

I met college graduates who had chopped off their trigger fingers with hatches or fired their rifles into their feet to obtain medical exemptions. I examined conscientious objectors who were willing to go to prison rather than participate in a war they could not justify, and others who used the homophobic regulations of the U.S. military to qualify for discharge as homosexuals.

I met countless confused 20-year-old men who, finishing their tour in "Nam," were returned within 24 hours to the streets of San Francisco or Los Angeles, and then were spat on and called baby killers by their contemporaries. I met dozens of brave young men who were angry at their fathers—fathers who, like George Bush, had served in World War II and had insisted that their sons must serve their country in a war fueled by deception and falsehood. I also talked with many young men whose fathers had rejected them, thrown them out of the house, because of their long hair and their resistance to war. Vietnam took a terrible toll on our country. As it went on, even the surest of the sure—men like John Paul Vann—lost their belief in the correctness of their country's path and the necessity of this war. Few people escaped that time without feeling somehow betrayed.

Then, in 1973, after the troops came home, insult was added to injury. There were no V-E or V-J Day parades to honor these brave young men. There were no tickertape parades to signal the welcome home of a grateful citizenry. Eventually, many years after the war ended, our Vietnam Vets had to give themselves a parade.

Mr. Speaker, it appears to me that our President and some of my colleagues on this floor have lost either their understanding of that war or their human compassion for the thousands of young men who faced the anguished, bitter choices of that time—choices that sundered our families and our entire Nation.

There were 26 million American men of draft age during the Vietnam era. Fewer than two million of them served in active combat. Nine of ten of them did not go to Vietnam. I served 2 years in the Navy, but I did not go to Vietnam. Only 15,000 of more than a million National Guardsmen and reservists were sent to Vietnam. Millions of men did not serve in any capacity, including some now serving in the current administration. It is no secret who fought this war, and it was not the sons of the powerful and privileged. But I do not condemn any man for his choices. Millions of Americans searched for the red badge of courage of this war; they searched in vain. This war offered no simple choices, and those who had to select among them at the time understood that. Those who question their decisions now, 25 years later, ought to understand that as well.

The debate on Vietnam in recent weeks has not been a healing one. Too often, it has been tinged with moral superiority, the harshness of narrow prejudice, and an intent to divide us once again. It has suggested that the ultimate test of manhood lies in uniform or in combat, and that failure to meet this test disqualifies one for leadership. Surely we know better.

It falls to us too often to remind the President, and others in this body, that dissent is a cornerstone of democracy. In recent years, we have heard a wearisome refrain of personal attacks on the character and patriotism of those who disagree with the President. These attacks undermine our democratic process and denigrate all those who have struggled—in war and in peace—to preserve our freedom to think and to speak and to differ. Perhaps the long trial of Vietnam is not yet over, but I am unwilling to ordain any individual its sole judge and jury. I have heard the exhortations of those eager to condemn and to punish, and I have heard the fury of those unable to rise above their own hatred and bitterness. Neither offers anything constructive to our Nation.

It might be good for Mr. Bush to leave the White House one evening and go to the Mall to visit Mr. Lincoln's memorial. Mr. Lincoln, at the end of the Civil War, said,

> "With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan—to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations."

On his way back to the White House, George Bush might stop and join the endless stream of people who visit the Vietnam memorial. He might come to realize that although dividing us now may win his reelection, divided we will not stand. He has reopened the wounds of Vietnam; I pray that in the coming weeks he will seek to close them, once and for all.

□ 2320

BILL CLINTON'S RUN FROM HONOR—A STORY OF DECEPTION AND DECEIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, there is just a small mistake in procedure that certainly was not your fault, and I appreciate that the gentleman from Washington, the good doctor, was as short as he said he would be because you had not realized that I had deferred to Mr. NATCHER out of respect to the Kentucky delegation members who are retiring, as 2 nights ago I sat here for 2 hours to let other State delegations go ahead of me and pay respects to our colleagues who are retiring.

By a fluke, I got to hear Mr. MCDERMOTT's words before my 1-hour special order instead of after because I would point out to him that Vietnam, although I never wore the uniform there, is probably the major public event of my life, that shaped my life, almost cost me my marriage.

I was so concerned about at least 20 of my friends who were in Hanoi, most of them did not come home—I mean the ones in Hanoi obviously did come home. Most of the other pilots of my youth that I had flown with did not come home.

My squadron commander, Robby Reisner, was a prisoner, unbelievably tortured. In listening to the doctor's last words, I can assure him because I have gotten to know the President, President Bush, I can assure him of something, he has been to the Wall many times. He has been to the Wall alone at night. He has been to the Lincoln Memorial. He is the type of person that would join on his 18th birthday and was serving in this House for 4 of the roughest years of the war. He came here out of the 1966 election and served to 1967 and 1968, the 2 bloodiest years of the war. And then 1969, the third bloodiest year of the war, and 1970, the fifth bloodiest year of the war, 1966 being bloodier.

I can assure you that he understands the agony of those that served, and I can assure you that I visited on seven of my eight trips, the first ones merely to carry over an airplane, asked to stay and was told to go home "to your five kids under 9. You are 35–36, you have been out of the cockpit too long." So I went back seven times as a journalist. As I said, the last 2 nights, 3 of those trips were with wives and mothers of men missing in action. Not one of those wives or mothers—and I traveled with almost 20, 20—and not one ever got their hero husband or son back. We often mused that maybe we were being punished because we went to meet with the Pope, met with Indira Gandhi, went to all the capitals of Europe, went to Asia, visited the hospitals in Cambodia and Laos and Vietnam, visited prison camps in Laos to make sure—and in Vietnam—to make sure that the prisoners from North Vietnam and the Viet Cong were well taken care of.

No, I will never get Vietnam out of my life because, as I said the first night, because I believe the man who should have been running for President this year on the Democratic ticket was probably killed in Vietnam under the immoral rules of engagement of two Democratic Secretaries of Defense, Robert McNamara for 7 years and the new-beseiged and elderly Clark Clifford for the bloodiest year of all, 1968.

I believe on the Republican side, if someone did want to take on President Bush in a much fairer way than the challengers who hit him this year, it would have been a younger man from that Vietnam or the Korean war, our first no-win war—fought to an armistice only; still to this day no treaty, merely a cessation of hostilities—that it would have been an honorable man or maybe even an Army nurse that served in one of those two conflicts, but certainly not a man who went to Moscow, to the enemy heartland, to the capital, the eye of the hurricane of the evil empire. And when you, Mr. McDERMOTT, distinguished gentleman from Washington, are talking about all these agonies that you witnessed as a doctor both there and at home in San Francisco, I can tell you, until you have walked the killing fields and seen skulls for a mile or more, you do not feel in the depth of your bone marrow the nobility of the cause to do for South Vietnam what we did for South Korea and what we did for France and for Belgium and Holland and Norway and Denmark and the Eastern European countries before the world's greatest killer—worse than Hitler by a margin—Stalin, did to all those people. The suffering under communism in this world is unknown in all of history with the sole exception of Adolf Hitler's reign of terror, which lasted 12 years, whereas Stalin's reign of terror lasted 29.

The heartbreak for me—as an Irish-American from the heritage of all Democrats, on both sides of my family, until my mom and dad switched in 1940—the sadness for me is that rarely would I ever hear proud, outspoken, forthright anti-communist speeches for the captive nations or for anybody suffering under communism or Communist assault, be it in Nicaragua, Angola, or Afghanistan. The exceptions just are so mammoth in my mind, like CHARLIE WILSON of Texas fighting for the Afghans to get them Stinger missles. The sad thing about the course of history in this splendid Hall and the other Chamber is that a small but powerful minority in the majority party of this country dragged out this cold war in sometimes a way that bordered on subversive. And to hear Clinton campaigning for the presidency of the United States say, "We won the cold war," we, who the hell is Bill Clinton to say "we"? He never lifted a pinkie in the cold war, never. He was not in this Chamber or the other, voting to rebuild an Army hollowed out by people who tried to commit the same sins after Vietnam and gut the national security of this country the way shortsighted people gutted this country after Korea, after World War II, and after World War I.

Imagine, it was not even a full century, it was 73 years from 1919 until the Berlin Wall is coming down that we made four horrible mistakes and we came within a whisker of doing it again this year. And I voted for the first defense conference report between the House and the Senate this year, the first one in 5 years I have been able to vote for in good conscience because it was not gutted.

But I shudder for my country next year if Bill Clinton, with advisers like David Ifshin, who went to Hanoi and then broadcast for the enemy, who worked out the People's treaty there in 1970 which was a Communist sham to gut the 4 years of hammering out that peace treaty in Paris.

□ 2330

No, I shudder at the thought at how this defense budget and our national security next year will be treated like a cash cow to try and fulfill some of the promises made in that 54-minute long speech that the Governor of Arkansas made at the Democratic Convention.

I am not going to be lectured to by anybody about the agony of Vietnam, but my sense of agony takes my mind to every corner of this world, the suffering that has been imposed on this world by fascism and communism, communism even beyond fascism, is so enormous that this goes down in history as the bloodiest period of mankind, irrespective of population, and the hell goes on now in Bosnia, which is the fallout from a Communist regime under another man who took a phony pseudonym Tito, Stalin, Ho Chi Minh, Hitler, all these people with theatrical fake names, killing in the name of some socialist ideology, killing in the name of saying the state is everything and there is no God, there is no hereafter, there is no soul in a human being from the moment of conception.

Mr. Speaker, I yield to my colleague, the gentleman from California, Mr. DUKE CUNNINGHAM.

Gentleman, let us set some new ground rules here that are actually the decorum rules of the House that we pushed a little bit last night.

I did not tell the two of you that the rule by the distinguished Speaker of this House to try and bring a little more decorum on the floor, because the well has been so politicized, I might add by the majority party lining up 15 people to bash the President and question his honor, his integrity, his truthfulness.

I got in that well way back before we broke for the August break and said, "What are we doing here? Are we going to get like the Senate and politicize this place? We are never going to get our business finished by October 3d," and we did not. That is today, but we came within 2 days of it, miraculously. We will be out of here in the wee hours of the 6th of October.

Then a few days later I got up and said, "Well, well, well, what are we doing here? We are continuing this bashing of the President. "

So I hit Clinton with words that I believe are true about his personal conduct, his marital vows, and about his draft dodging. Then I was accused by a Member from North Carolina of saying SOB, and he moves it on the wire services.

I never said it in the aisle here, and I sure as heck did not say it on the mike and violate the decorum of this House.

Then the dust settles down again. Then another Member from North Carolina on our side got in the well and used the word "liar" five times in respect to different aspects of Clinton's life.

So the Speaker comes up with an arbitrary new rule that I respect, and here it is. "We don't say lie. We don't say lying. We don't say liar."

But the gentleman from Connecticut [Mr. GEJDENSON] taught me that you can say, "He is not telling the truth. He is telling untruths. He is crushing the truth, abusing the truth, damning the truth, smashing the truth," but no liar.

Also, let us go back to the formal decorum of calling one another mister and saying everything through the Speaker, because I am a traditionalist. Obviously, I am a conservative. I think that maybe we have a leg up on the Canadian Parliament, the British Parliament, where they shout one another down, scream and yell, and waste a lot of time; but I do love it that their Prime Minister has to come in on Thursdays and face the questioning of the opposition, because that shoe will be on the other foot someday.

I would love to have had President Carter here. I know they would have loved to have had President Reagan here and maybe both sides would like to have President Bush here. Maybe we could have hammered him into fighting shape earlier, because he is sure going to have to be in fighting shape for the debates.

So with the decorum of the House, I say to my dear friend and colleague, the gentleman from San Diego, Mr. CUNNINGHAM, I yield to the gentleman.

Mr. CUNNINGHAM. Mr. Speaker, I thank my friend, the gentleman from California, for yielding to me.

I would like to make basically two main points and then I would be happy to yield to the great Congressman SAM JOHNSON from the State of Texas.

I would like to first address my friend from Maine and tell him what I agree with in his statement, and then maybe give a little bit of light or different thought to what his comments were.

First of all, my view of what happened in Vietnam and what should happen on this floor in a person's conduct does not fit in Oliver Stone's view of the world in that glass cage. My idea of patriotism is not avoiding the draft, not campaigning in other countries against our country.

When Jane Fonda and Tom Hayden conducted antiwar protests, they had every right to do that and I would die for that right, but I do feel that they stepped across the line when they went to Hanoi and brutally got our prisoners, like SAM JOHNSON who was a prisoner of war for 7 years in Hanoi, when they did that and got him tortured, that stepped beyond the line and did not fit in not only with the decorum of this House, but my idea of patriotism or Americanism.

The attempts to divide the American people, what we are trying to do, the press has hidden many, many of the facts. We are trying to let the people be that voice, that distant corner that makes the decision that those facts and figures are being hidden by the press.

This forum documents item after item and allows the people to be the sole judge of what the facts are.

And does Bill Clinton even have the right to run for the Presidency?

The facts. Bill Clinton avoided the draft. We have documented in the RECORD date by date not only how he avoided the draft, how he finessed out of the ROTC, and this is from the colonel who was in charge of the draft board, to where he said he was a Rhodes scholar and finished Oxford.

As a matter of fact, I had a lady call me today and say that she talked to the New York Times and the New York Times is going to write an article that Bill Clinton did finish Oxford and finished his degree.

Well, we have right here, it is called "The Combat Kid, the Life and Career of Bill Clinton," by Charles Allen. I would like to quote out of this:

> Clinton looks back with mixed feelings about his decision to end his study at Oxford.

This is Bill Clinton's words, and I quote in paragraphs, in italics, and this is Bill Clinton speaking in the book:

> I kind of regret the fact that I never got a degree from Oxford. My class had the highest percentage of Rhodes Scholars that ever earned a degree, because we were right there in the middle of Vietnam.

Here it is in Bill Clinton's own words, that he did not complete Oxford.

The other facts and figures. Bill Clinton went to foreign countries and campaigned antiwar against this country. If Bill Clinton would have followed and just been an antiwar drafter in this country, he had every right to do that, but when he went to other countries and fought basically against this country, in my feeling, that stepped across the line. When he went to the Soviet Union which was an enemy of this country, was supplying weapons, training and manpower to an enemy that shot SAM JOHNSON down and shot me down with their weaponry, their training and their equipment, that stepped beyond the line.

When he had someone like David Ifshin as his chief, and David Ifshin is standing here with the Communist delegation in Hanoi, that steps beyond the line.

Also, the press said today, I would like to make some clarification on the second point. The press wrote an article, the Washington Post, and in there several Members, DENNIS ECKART says "When he speaks, no one listens." He is speaking about Congressman BOB DORNAN from California.

We had over 2,000 phone calls today saying, "We did not know the facts."

If the press was doing their job, then we would not have to bring these documented facts out.

Representative BARNEY FRANK, Democrat from Massachusetts, "The Bush campaign might be asking for equal time."

Well, who are they trying to discredit and discredit Congressman DORNAN?

The most liberal Member of this House, Representative FRANK.

And this is someone that is going to berate a patriot, someone who served his country?

We look here at a draft-dodging, womanizing, and they said SOB. I was here. That never, ever happened. That steps across the line also.

The SPEAKER pro tempore [Mr. PAYNE of Virginia]. Will the gentleman suspend.

Members should refrain from referring to other Members of the House in a derogatory manner.

Mr. CUNNINGHAM. Mr. Speaker, may I have a parliamentary inquiry?

The SPEAKER pro tempore. The gentleman may proceed.

Mr. CUNNINGHAM. Mr. Speaker, when I mention the facts, I mean, he has admitted this. That is not a derogatory term. He has openly admitted that and he has been before the Ethics Committee. Is that not proper conduct? Is that what the Chair is referring to?

The SPEAKER pro tempore. The reference to Mr. FRANK'S conduct was out of order.

Mr. CUNNINGHAM. That he was with the Ethics Committee?

The SPEAKER pro tempore. In the opinion of the Chair, that reference was out of order.

□ 2340

Mr. CUNNINGHAM. I apologize to the Speaker.

PARLIAMENTARY INQUIRY

Mr. DORNAN of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore [Mr. PAYNE of Virginia]. The gentleman will state it.

Mr. DORNAN of California. Mr. Speaker, when there is a vote to expel someone, they are gone, so one can talk about them. When there is a vote to censor someone or to reprimand someone, is there a rule that we can never make reference to that ever again? I think there might be.

The SPEAKER pro tempore. The Chair says to the gentleman from California under the precedents that after the fact, after the House action is over, it is no longer proper to discuss that matter regarding a sitting Member.

Mr. CUNNINGHAM. This Member apologizes, Mr. Speaker. I thought I was relating facts.

The SPEAKER pro tempore. The gentleman from California [Mr. CUNNINGHAM] may proceed in order.

Mr. CUNNINGHAM. Mr. Speaker, I ask unanimous consent that those remarks be revised, taken out and stricken from the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

Mr. CUNNINGHAM. Basically, the people in here, what they are trying to do is discredit the gentleman from California [Mr. DORNAN] with their statements in the Washington Post. Every single one of these Members cannot be rated because we have it documented with facts. Everything that Congressman DORNAN has said, all the way from him not finishing as a Rhodes scholar to the avoiding of the draft is fact.

Mr. DORNAN of California. Reclaiming my time, Mr. Speaker, I would be unfair to myself and my reputation if I did not state that I took that newspaper article today to our Parliamentarian. Although he was hired by the majority, he has a job of integrity where he is supposed to protect all the Members as the Speaker is supposed to be the Speaker for all the Members, although he is generally appointed, in this century, by the majority party only. The Parliamentarian gave a very fair ruling, I thought, because he said: "You have a right on a point of personal privilege to speak to this entire Chamber," and it was filled with 200 or 300 Members at any point because it is a Saturday. Many of the offices are closed, which is good for a lot of Members because every Member's phone was ringing today about this series of special orders about which tonight is the seventh or eighth.

Mr. Speaker, I chose not to take an hour in the middle of this busy day to defend my honor, and I said to the Parliamentarian that I will pass. I have this special order tonight, and I may or may not defend myself, and the gentleman did not tell me he was going to do this, so I do not have to defend myself now.

But on a busy day like this, in the middle of the afternoon, who knows what the C-SPAN audience was then? Mr. Speaker, I chose to let it go because I am being hard on Mr. Clinton here, as we all are, because if someone cannot take it as well as they can dish it out, they should not be standing up front riding point and trying to affect the history of their country.

The gentleman who said, "Nobody listens to Mr. DORNAN," is a friend of mine. He is retiring at a rather young age. Ten years of frustration around here. Get this: in the majority, moving up to ranking position. He would have been a chairman probably next year. He is already ranking chairman on the subcommittee. He gets to sit in the Speaker's chair up there and preside over this body, and he was frustrated because of the deficit and the growing debt, that he cannot get anything done here. And he is a father with young kids, so he is leaving.

I was with him on the memorial astride the deck the U.S.S. *Arizona*. We get along, but, when he took that shot at me and said, "Nobody listens to Mr. DORNAN," not only is it ludicrous on its face, because people are visiting our Chamber, and I will not refer to them up there other than to comment that people have driven 4 hours to follow the proceedings of their Government.

There is one man in Bakersfield who walked down the street three nights ago, so I assume he has got a bunch of people at his house banging on the doors of neighbors who are friends and neighbors who he has never met till this week telling them to turn on C-SPAN, and I might say that I heard those words before: When Mr. DORNAN speaks; a little play on an ad for an investment company—when Mr. DORNAN speaks, nobody listens.

That was the motto for 8 months of an incumbent Democrat who had been here 10 years in Orange County who had won by 62 percent the year before I challenged him in 1984 because I had been gerrymandered out of my aerospace seat in west Los Angeles County. I shamelessly carpetbagged to a whole new county. I am the only Member here that has represented two different districts, and he said, "Nobody listens to Mr. DORNAN." And then I beat him 53½ percent to 42-point-something, and I guess somebody listened to me in my comeback.

And I know people are listening tonight in all 50 States, Guam, the Virgin Islands, and Puerto Rico, even up at Dead Horse Airport in Alaska.

Mr. CUNNINGHAM. Mr. Speaker, would the gentleman yield?

Mr. DORNAN of California. I yield again to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, I will be brief. I would like to sum up here in just a second and then yield to my friend, the great SAM JOHNSON.

I think that when we say no one listens, I know that right outside this lobby we have had people drive all the way up from Norfolk, VA. We have had people who flew out today especially from Dallas, and I have had people come in from other States specifically to hear this here in Washington, DC.

And I would like to sum up with my friend, the gentleman from Washington [Mr. MCDERMOTT]. I say to the gentleman, I think you're absolutely correct. We have every right in this country to dissent and protest, and I will fight, and I'll defend that, just as much as I'm defending President Bush and fighting against what I believe that Governor Clinton did not do for this country. But when people step over the line, in my opinion, as I mentioned with Jane Fonda and with Governor Clinton going to the Soviet Union and protesting against this country and other countries, and avoiding the draft, and in a position as important as the President of the United States, then I take reference to that, and I thank my friend.

Mr. DORNAN of California. Mr. Speaker, I would like to engage in a colloquy with the gentleman from Texas [Mr. JOHNSON] and, Mr. Speaker, I yield to him.

Mr. JOHNSON of Texas. Mr. Speaker, I had over 100 telephone calls today in my office—it was not open all day—from last night from nearly every State in the Union asking, making comments, like did we find the article about Clinton meeting with Nelson Mandela during the Democratic Convention. The gentleman may be aware of that.

As the gentleman knows, I cannot find very many that are not in favor, but one of them which I thought was kind of funny was: "Why is DORNAN calling Cuomo a colleague? I did not know Cuomo was a colleague of anybody except Mr. Clinton maybe."

Mr. DORNAN of California. He is not. That was a slip of the tongue.

Mr. JOHNSON of Texas. And while we were talking about New York, I understand that the Clinton campaign is openly going to bars, the gay bars around New York, and soliciting those people to vote in their party.

Mr. DORNAN of California. Nothing secret about that. He has reached out as no other candidate in the history of this Nation for that vote.

Mr. JOHNSON of Texas. Well, I think the matter is still integrity, and we talked about it last night, integrity, then honesty, and I think BOB DOLE was right on target when he said, "You know, the question is whether Bill Clinton is telling the truth or not," and I think we talked about it a little bit yesterday.

But, as the gentleman knows, Clinton said he may not have gotten an induction notice while he was at Oxford. The gentleman must remember that comment, and then he responded later, "Well, maybe I did," and, "I have to see if I can find anything."

He will route around in his files.

Mr. DORNAN of California. I will look for it.

Mr. JOHNSON of Texas. But I did find it. I found a draft notice, and, as my colleagues know, when I got called into the service, which was right after I got out of SMU because I was in ROTC—we were called up for Korea, and the whole class went. Now that has been 20 to 30 years ago—40 years ago.

Mr. DORNAN of California. Forty years ago.

Mr. JOHNSON of Texas. My goodness.

Mr. DORNAN of California. I do not mind the gentleman shaving 10.

Forty years.

Mr. JOHNSON of Texas. Well, I am shaving now.

Mr. DORNAN of California. Somebody told me your call sign was Tiger.

If Tiger wants to shave off 10 years, I am not going to argue.

Mr. JOHNSON of Texas. I used that both in Korea and Vietnam—but that is 40 years ago, and that is a moment in my life, in my history, that I do not think I would ever forget.

I ask the gentleman, "Would you? Could you ever forget the day you went into service?"

Mr. DORNAN of California. No. Vividly. Riding on a bus up to Parks Air Force wondering, praying to God, please let me pass my pilot training test or work out how I can transfer to the Army so I can go to Korea and serve in the mud.

I mean I said it here the other night. My mother and father were, I guess, different by some standards today, and there was a reference made earlier tonight to George Bush who is the type of parent who encouraged his sons to go. That means someone who served in the Army units under Patton that got all the way to Pilsen, Czechoslovakia, saw the ugly face of what communism was going to do to Eastern Europe, that maybe had an older brother save South Korea, one of the tigers like Singapore, Malaysia, Taiwan, the economic tigers that we are so proud of on the Pacific rim, and, yes, maybe a younger brother might be encouraged like a mom or dad like my mom and father—my mom and dad to go and, yes, face God-less, atheist, murdering communism about to kill 2 million people in the killing fields of Cambodia and execute by order by death list on pads, clipboards, that were taken, stolen, from our Embassy when it was overrun—execute 68,000 people who loved us, trusted us, and thought we were the greatest country in the world and we would never leave them to the untender mercies of Communist hell which exists to this day.

□ 2350

So that is why it is so funny that we still have to defend as a noble cause what our young men and women tried to do, including the draftees, who after they got over there, a handful, a handful, may have cut off a finger or shot themselves in the foot. Holy God, a handful fragged their sergeants, murdered them. There are names on the Wall of Men, on that Vietnam Wall, that were murdered by their own men, most of them on drugs.

That was society's problems working its way over to Vietnam, and we still suffer those drug murders today. Now we have murders by young people who are not on drugs because their conscience has been ripped out of their heads by some of the social decay in this country. That decay is certainly not caused by conservative families, conservative judges, conservative doctors, conservative high school teachers like my brother, conservative producers like my older brother, conservative writers and directors and actors and television producers.

No, no. This is not a conservative failing that we see in America, the social problems and the moral decay.

No. I maintain forthrightly liberal philosophy has ripped the soul out of America. When you can tell a teenage kid she can kill her child in her womb behind her parents' back, and they fight to get tax dollars from people that believe that is a horrible offense against God, we have got problems in this country that we are not going to solve for a long, long time.

Mr. JOHNSON of Texas. You can bet there is only one Presidential candidate that feels that way, though.

Mr. DORNAN of California. That is right.

Mr. JOHNSON of Texas. You are talking about George Bush earlier. I had an opportunity to run into his tail gunner——

Mr. DORNAN of California. Leo Nado.

Mr. JOHNSON of Texas. Yes. You know, when he went on that mission that he was shot down on, he put another guy in the back seat if you remember.

Mr. DORNAN of California. Lieutenant Ed White.

Mr. JOHNSON of Texas. Yes, because he just wanted to go with him. And the gunner back there did not want that to happen. He wanted to go because he wanted to fly with his boss, and he loved him.

Well, he did not go, of course, and he was shot down and the other two guys were killed, if you remember. George Bush survived at sea and was taken back to San Diego, I think, to the hospital for a while.

Mr. DORNAN of California. No, he was picked up by a submarine and spent 30 days at sea, was depth charged, and went back to Hawaii. They offered him the opportunity to go home. They said you have got 48 combat missions.

Mr. JOHNSON of Texas. And he wanted to go back to his ship.

Mr. DORNAN of California. Not only that, Mr. JOHNSON, the young lieutenant who was with him in the hospital in Hawaii when they said you are fit for duty, they offered both of them a chance to go back to the United States. I keep meaning to ask the President this man's name. It should be enshrined in this Chamber. And the two of them made a pact, "Let's go back to the U.S.S. *San Jacinto*," named after that great battle in your State avenging the Alamo, and they said, "Let's go back and finish our tour."

The 48 missions in Europe, you got a Distinguished Flying Cross for 25. Toward the end of the war when our fighters were dominating and had air superiority, if not darn near air supremacy, they kicked it up to 35 if you had not reached your 23d mission. And they got a Distinguished Flying Cross almost automatically, the way Senator McGovern got one.

But here was a man with 48 combat missions, one water ditching, where the whole crew survived, and one bailout where the two men were killed, including his regular crewman Johnny Delaney, Leo Nado, as you said, back on San Jacinto.

So Lt. Ed White, a Yale graduate—Bush was a high school graduate, but a family friend, 4 years older, says, "George, come on. I want one combat mission." It was his one and only and he died.

Back to Hawaii, here is Bush with this other Navy lieutenant off his ship. They said, "Let's go back." They make this pact.

Bush goes back and gets 10 more successful missions, comes home.

Mr. JOHNSON of Texas. But who asked to get in the airplane with him? The tail gunner.

Mr. DORNAN of California. That lieutenant that made the pact in Hawaii died on the first mission back, and he could have gone home.

Mr. JOHNSON of Texas. Yes, I know it.

Mr. DORNAN of California. That is the kind of feeling, the bonding of men. Now, there are detractors in this hall of our effort in Vietnam that would say, "Oh, but that was everybody's war."

Why is it in my heart and in my brain I feel that Mr. Clinton would not have shown up for the call in World War II either?

Mr. JOHNSON of Texas. Or Korea or Vietnam.

Mr. DORNAN of California. I am entitled to my opinion. In his letter to Colonel Holmes he damns Korea along with Vietnam, because he says that he knew more than anybody else knew about Vietnam, and had never been there and has not been there to this day.

As a matter of fact, I do not know where he has traveled as Governor on commercial trips, which I think are fine for export-import for your State. But I only know of three places he has ever visited: England, Norway, possibly Sweden, and the heart of the evil empire in Moscow.

I think the media owes it to this Nation to say how, who, what, when, where, money, sponsorship, lodging, and give us the dates.

Mr. JOHNSON of Texas. Under the arm of the KGB. Well, what do you know?

Mr. DORNAN of California. We have a former CIA member serving with us on this side of the aisle. He said to me in dead earnestness, and he is thinking about joining us in the special order tomorrow night, that every student who went to Moscow under the aegis of peace groups, the Soviet word for both "world" and "peace" is "mir," that whole mir operation, let's face it: Communism used peace like a bloody ax to tear up a third of this world. Every one of them who went over there was worked by the KGB. Every Soviet peace group was run by the KGB, manipulated by the KGB, and every student who came there, particularly at 26 degrees below zero in the dead of winter, would have been probably the only one that came that whole month. Probably nobody else showed up until March or April when his good friend and chief senior staff adviser David Ifshin showed up. He was probably the only action they had going in the month of January 1970.

So he got special care and treatment, and I emphasize, giving him the benefit of the doubt on one thing, he probably did not know how he played in the hands of the enemy and was used against the four young men that took his place in the draft.

Probably by law of averages one was in Europe, one was stateside, and probably two did go to Vietnam. Probably one had one of those 7 to 9 backup jobs, what Oliver Stone, you know, viciously called REMF's, rear echelon mother ——— and maybe one of them made it into combat. And maybe like most, he got home. Maybe he came home in a wheelchair. Maybe he was hit with some kind of postdelayed stress syndrome. Maybe his name is on the wall. We just do not know.

But Clinton, we do know. By the admission of the staff and his own mouth on the front page of the Arkansas Gazette paper, June 12, 1989, he went to the enemy heartland under the shadow of the Kremlin to be used by enemy forces, crushing people all over the world on every single continent of the world, including North America, because they were ginning up for the Nicaraguan and the El Salvadoran operations even at that time. That started in the 1970's.

Mr. JOHNSON of Texas. You had to pry all that information out, though.

Mr. DORNAN of California. We do not have all of it yet.

Mr. JOHNSON of Texas. Do you draw any similarity between that kind of episode in the history of Bill Clinton and Ho Chi Minh? You know, his life was sort of a parallel, because he went to France for training and then kind of disappeared for a while, and ended up in Moscow for a little KGB training like you are talking about. The next thing you know, he pops up as the head of Vietnam.

Mr. DORNAN of California. With a separate name, his real name being the most common name in Vietnam, like Smith or Jones here, Nguyen, and then there are two names given for his middle name, That, like the word "that," or "than," and his last name, Thanh.

So like the other dictators I mentioned, he assumed a phony name. One of the Marxist priests, and this is rare in the Jesuit order, I am happy to say, being Jesuit trained, but the McSorley who traveled with Clinton at least in Norway, he named his book—I did not say this the other night, I just found this out by reading more of the book—the book "Peace Eyes" that came out of Clinton's mouth, that he said, "Father, what a great way to see the world, through the eyes of peace workers." But the people he was meeting with in Oslo were 100, according to the book, 100 U.S. deserters.

Now, will he be appointing deserters to the Cabinet, to Under Secretary?

Mr. JOHNSON of Texas. Or Ifshin?

Mr. DORNAN of California. Or Ifshin? What is Ifshin going to do? If he was going to run the transition team for Dukakis, maybe he will run the transition team for Clinton if he wins.

I mean, this is, to use the words of letters we are getting and what I am hearing on the phone, stunning, sensational, awesome. And yet the news media of this country that I have spoken to so far says no: boring, nothing, not very different. Lots of people went to Moscow.

In the case of small newspapers, they say, all the callers that are calling in, because they are all calling their local newspapers in 50 States, "If Congressman Dornan can get an AP Wire story moved, then we will print it."

One Member who makes up a story about my saying SOB, when I did not, and it gets translated on the floor and then they say I pushed him. I have never seen a Member push another Member in this House in the 16-year-span I have been here, but they moved that story on his word without so much as a courtesy call to me. But they cannot move this story, just a little curious item.

Why will not reporters on the Clinton national tour ask him what the dates were he was in Moscow, where he got the money? Did his Rhodes tuition, since he had no intention of taking his tests for a degree, and why did he go in the dead of winter, where did he stay at 26 degrees below zero?

One thing somebody asked me to mention is they said, keep pointing out, it is fascinating, that I was in Moscow or on the outskirts at Chermikio Terminal that very week with four MIA wives, one marine wife, Carol Hansen, three Air Force wives, Connie Hestel, Patricia Hardy and Pat Mearns. We were under custody in this dirty, filthy little building, freezing with one blanket each, all five of us got sick. And one young wife started to slip into pneumonia.

At least they let the KGB or secret police or airport security, we had people come out and interrogate us. They let the U.S. doctor come out from the Embassy.

Mr. Speaker, if he is listening, I wish he would contact us. I would like to know who was the CIA station chief, because I went back there years later, as a citizen, for my third trip in 1972. I went back as a Congressman for a month in 1978. A year later I went back in 1979. I was on codels for senior Democrats.

One of them said to me, I helped stop the safeguard system for this country, Sprint, Sparton and the safeguard system, the ABM system in the Dakotas. After 3 weeks in this country, I think it was the biggest mistake of my life. That was former Congressman Bob Leggett of northern California. These were the first codels also going over there.

In all of those trips we would meet in the bubble inside the cold, decaying U.S. Embassy. I met some of the sharpest military attachés, Army, particularly, that I have ever met in my life. Some outstanding station chiefs. We all know the KGB put econ officers and political officers up there a block away from the White House at 16th Street. We did that.

I would like to contact, Mr. Speaker, the CIA station chief in Moscow in January 1970 to say, what were you doing with these Americans that were coming over there either, again, being generously or generously accepting the benefit of the doubt that Clinton was too dumb to know he was being used by the CIA, but some came over there not only saying, use me, they said, can you get me through Rangoon into Hanoi so I can lick the boots of the Communist killers there who are killing.

You guys are supplying all the weaponry here from Moscow. Where do you make these MIG's? At Cherlosk or Novo Shavers? Can I go visit a MIG plant to see the planes that are going to fly against guys like Mr. CUNNINGHAM, Mr. JOHNSON, shoot both of you down. I want to see this radar-directed plane. Where is the factory that makes it? My name is David Ifshin, and I am betraying my country.

This was a weird period.

Mr. CUNNINGHAM. Mr. Speaker, I would like to state for the RECORD that this Member was not shot down by a MIG. I was shot down with a surface-to-air missile. That is very important to a fighter pilot.

Mr. JOHNSON of Texas. There is not a MIG around that could get either one of us.

Mr. CUNNINGHAM. I think at one period for us to get across we told the folks and addressed the Speaker that we would not get into the economics, if Bill Clinton was President, but before that, I would like to make one other statement in relating that why it was important that when Bill Clinton was in the Soviet Union, then the Soviet Union in January 1970, why it was important because I was in Vietnam in 1970.

I went back in December 1971, and I was shot down on the 10th of May 1972.

And while Governor Clinton was in the Soviet Union, all of those weapons in that training, every country that we could conceivably fight up until when the Soviet's wall fell, the Soviet Union was the enemy of the United States. Today it is not the enemy, but up to last year, the Soviet Union was a very desperate enemy against the United States.

And when you step over the line and help a country like that, again, that is stepping over the line.

Second point, I would like to have the Speaker think what kind of person would you want next to you in a foxhole or on your wing or as a law enforcement agent if you thought that person was going to cut and run on you? Would that person stand and fight or would he cut and run?

Let me tell you where a person did not step over the line that cut and ran.

We had a pilot in our squadron, he came to me personally and said, "Duke, I don't know what I am going to do when I see MIG's. I think I will run."

Well, he went to the commanding officer, and the commanding officer basically said, "You are going to fly with the rest of us and that is the end of that."

Well, on the same day that I was shot down, that individual cut and ran when he got jumped by MIG's.

I had no animosity toward that gentleman at all because he came out and admitted his fear and tried to get help.

The same as a ground pounder would or someone that cut off their finger or someone that had other problems. That man did not step over the line. But someone that would turn their back on this country to me is stepping across that line.

Mr. DORNAN of California. Mr. Speaker, I want to give some ground rules to the gentleman from California DUNCAN HUNTER. Under the Speaker's arbitrary new rule that I am sure we all support to bring a little less intensity to this Chamber during the last few hours, is we really can easily avoid the words "liar, lying, or liar" by alluding to a Presidential candidate who we think destroys the truth, crushes the truth, mutilates, the truth, abuses the truth or tells untruths. So that is a nicer way to skin the same cat.

The other thing is, this is all my own doing after talking to the Parliamentarian, our Parliamentarian on this side, BOB MICHEL'S strongest right arm, who plays Benjamin Franklin at all of our gatherings after an election, that Ben Franklin said, try calling one another mister. So Mr. HUNTER from San Diego, we will get to you in 1 second.

I just gave a photograph to DUKE that we all passed around this morning, and it was taken November 23, 1969. This picture, since Clinton bragged of his demonstrations in a foreign country in the company of Englishmen who hated the United States from the Socialists or Labor Party, the Labor Party was in control, Mr. Wilson was the Prime Minister. This is a 23-year span, in a few weeks in November, well, October in a few days is the 23d anniversary, that is half of Clinton's life. He was 23 then, 46 now.

We have coming up on the 23d an anniversary of the first demonstration that he led and organized. Those are words in print by him in the letter to Colonel Holmes, dated December 3, 1969.

The second demonstration he said he led was November 16. Here is a picture from November 23. Over a 23-year span, I come within 1 week of getting a picture and I did not get it, it was sent to us.

It is the front page of the Times, the London Times, of the Times. And it shows people burning an American flag, a big American flag, ripping it to shreds. And you can read the signs on there. You can see about 20 faces.

I was kidding some Republicans. If they could find Clinton's face a week after his demonstration, Bush would probably win the election and that person could probably ask to be Ambassador to the Court of St. James.

This picture comes within a week. there are reporters now in London and in Moscow, scouring the libraries, looking at all the Oxford journals, seeking a picture that might show young Bill Clinton, the man, engaged in this kind of conduct.

This just grew out of this series of special orders and, again, I repeat, my frustration, when reporters say, are you coordinating this with the White House or the campaign committee?

My answer is not only no, I will say it is a triple no. I have never even gotten a good going buddy call.

□ 0010

This is my, yours, yours, and yours impulse to try and prevent a disaster.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield for 10 seconds?

Mr. DORNAN of California. I yield to the gentleman.

Mr. CUNNINGHAM. I would like to reflect just briefly. I had a call today from a gentleman that was at Oxford with Governor Clinton at the time. He has asked us to look up the Oxford paper in 1969 and we would find him. We are also doing that.

Mr DORNAN of California. I repeat that I was with a former Member of Parliament on the steps yesterday who has decided to retire and live in California but maintains his British citizenship and loyalties. "I won a debate at Oxford in September or October of 1969 before the Oxford Union," and the proposal, the way they state it, Mr. Speaker, is, "Resolved, that the United States effort in Vietnam is proper and moral and just." They won that debate by a whisker.

He said he remembers the antagonism of the American students, the Rhodes scholars, a handful of them in the front row. He said, "I swear I can see that face of Bill Clinton. I am going home to get my diaries, my journals, my records, the names of the people involved in that debate," so we may have a story there.

What I find circulating on the floor all the time, and I guess the Democrats can take great comfort in this, is that on our side in this Chamber, and I visited the Senate Cloakroom last night, the attitude is, "They must have this phantom letter of him asking to become a British citizen or a Swedish citizen, denouncing his citizenship." That rumor is all over the country.

I have never believed it. I am not holding out for the magic bullet, the magic stake. I do not understand what is going on.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding to me.

I have been quite taken with listening to the gentleman from Orange County, Mr. DORNAN, and Mr. CUNNINGHAM, my seatmate, and to Mr. JOHNSON, talking about where Bill Clinton was during this time and the fact that he was demonstrating against the United States in Great Britain and Norway.

However, I thought it might also be appropriate at this time to go to the same year that he was demonstrating against America and talk about what other Americans were doing, and particularly I was thinking about Vietnam. I wanted to show, and the gentleman has his picture of Mr. Clinton's group there demonstrating against the United States and burning a flag in Great Britain.

This is a picture of a place called Khe Son in Vietnam, just a few miles south of the demilitarized zone. This is a picture of the Marines, the U.S. Marines. That means Marines from all across this Nation, from small farms, from big cities, from California to New York, West Virginia, Oklahoma, a lot of people who did not volunteer to go, some were drafted, some volunteered, but folks that ended up defending American values and America's forces in Vietnam, in this little bitty place called Khe Son.

While the gentleman has contrasted Mr. Clinton writing this letter, and saying that he was so frustrated that sometimes he even had to overeat because he was frustrated with Vietnam, and with the fact that somebody had to go in his place, I thought it might be important to talk to little bit about all those folks that did go, folks who are not this year running for President of the United States.

Let me tell the Members a little bit about Khe Son. Khe Son was a very small place, and it would only allow about 6,000 defenders. The North Vietnamese thought that Khe Son was going to be Dien Bien Phu for the United States of America.

The Members may recall the French were besieged at Dien Bien Phu in an ever-tightening encirclement of heavy-duty North Vietnamese artillery, and General Giap, the North Vietnamese general, had moved in an enormous amount of artillery and ground forces around Khe Son in 1968.

They started their attack right after January 21. In fact, it was right after midnight on January 21 in Khe Son. The North Vietnamese expected this to be the American Dien Bien Phu. They pounded Khe Son, they pounded the Marines there, they moved in with extremely heavy tanks and infantry.

I just wanted the gentleman to know that while Mr. Clinton was demonstrating in Great Britain, other Americans who did not have Senators calling to keep them out of the war and were not undertaking fancy maneuvers with their draftboards were in fact defending Khe Son. They continued to push the North Vietnamese back and to hold on.

Ultimately the North Vietnamese took such massive casualties from the Marines at Khe Son, without ever being able to take that small area that would only hold about 6,000 American troops, that they were forced to move away.

So, while one American was showing his lack of support for the United States and was demonstrating against it and was participating in these marches in which American flags were burning, other Americans in Khe Son, Vietnam, just a few miles south of the demilitarized zone, were holding the American flag proudly aloft and were defending our country and our foreign policy over there.

I thought it was appropriate with all of this talk about Mr. Clinton to remember that there were a lot of folks who were not doing what he was doing. It is unfortunate that one of them is not running for President of the United States.

Mr. CUNNINGHAM. I remember Ira Hayes holding the flag up high, too.

Mr. DORNAN of California. At Iwo Jima.

Mr. CUNNINGHAM. The gentleman is right. In fact, my dad has Ira Hayes' autograph, I believe in 1953, when they put the statue up right across the Potomac River, a proud native American for this country.

Mr. DORNAN of California. I just wanted to read something from Bill Clinton's letter to Col. Eugene Holmes, that Bataan death march survivor.

He said that, "Even Korea was an example where, in my opinion, certain military action was justified, but the draft was not for reasons stated above." Interestingly enough, I was against the draft for Vietnam, and if we could not do it with volunteer people, and people who did not have the guts to declare war, I only know of one Governor and one major public figure, and that includes all Senators and Congressmen, I only knew one man who said, "Declare war and give all of our POW men proper protection, and fight this thing to a victory or get out," and that was Gov. Ronald Reagan.

Of course, there were many demonstrations in front of the capitol in Sacramento after he did that, but I thought, "That is a courageous man."

Listen to this, Clinton writing: "Because of my opposition to the draft and the war," and that was certainly honorable as long as you didn't go to Moscow or demonstrate in a foreign country, "I am in great sympathy with those who are not willing to fight, kill, maybe die for their country; i.e., the particular policy of a particular country, right or wrong. Two of my friends at Oxford are conscientious objectors." Nothing wrong with that, either. Drive an ambulance, work in a hospital, go home, do anything, but state your conscientious objection.

You can never be President of the United States or head of the CIA. Ted Sorensen lost it under President Carter's appointment, because in the Senate it came out he was a conscientious objector. How could he ever send CIA agents in harm's way everywhere in the world at that time if he himself was unwilling to do that in this own youth?

He says, "I wrote a letter * * * two of my friends at Oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board."

Believe me, that young man saved this letter, and it will come out and be published if he becomes President, just like we are going to learn all about his personal life, all about who went with him to Moscow, if anybody went with him. All of this is going to come out in great detail if he succeeds in becoming the leader of the free world, Commander in Chief of all of our military forces.

I repeat again what I said the other night. No one has contradicted this in eight nights of this.

Mr. HUNTER. Will the gentleman yield on this point?

Mr. DORNAN of California. Just let me hit this point.

Bill Clinton could not get a commission in the U.S. Coast Guard, the Army, the Navy, the Air Force, or the Marine Corps because of his conduct during this period, the fall of 1969 and January 1970, and he is going to probably end up, he thinks, as the Commander in Chief, when he could not get a commission?

Let me hit this punch line. He says, "One of my roommates is a draft resister." Nothing wrong with that. What is he in England for? Is he going to hide out in England as a Rhodes scholar?

He says, "He is publicly under indictment, and may never be able to go home again." So he got his draft notice, and he is no resister, he is just refusing to come home.

"He is one of the bravest men I know."

Mr. CUNNINGHAM. I wonder if he will end up as Secretary of State.

Mr. DORNAN of California. "His country needs men like him more than they know. His being considered a criminal is an obscenity." He was defying laws passed in this House.

I was talking to a radio show host today and he was saying, "Here is a man who," but maybe this is too rough. I will think it over here for a second.

"The decision not to be a resister and the related subsequent decisions were the most difficult part of my life." Here is the whip to this whole letter, the essence of it.

☐ 0020

"I decided to accept the draft."

That is untrue on its face. I have a chronology that I would include at the end of my remarks, the entire chronology with probably a lot of things we will add to it over the days, four pages long that prove beyond a shadow of a doubt, from newspaper articles in the Arkansas Gazette, September 14, the London Times, in case he says he was there and not here, all stating that Mr. Nixon, then President, said we are only going to draft 19-year-olds next year. Everybody who is in graduate school gets to finish out their year, and anybody who draws a number, whether it is 1 or 311, do not worry about it. We are canceling all draft calls this year, stretching out to September 1, which he was not called in, and he was home free, and he never submitted himself for the draft.

Mr. CUNNINGHAM. Is that not when he reneged on the ROTC?

Mr. DORNAN of California. That very week.

Mr. HUNTER. What year?

Mr. DORNAN of California. This letter is December 3, 1969, Get this, 28 days before he went to Moscow, according to this senior staff down there, who by the way, some of them still answer the phone that I am lying, he never went to Moscow, he was a graduate of Oxford. So they do not even have it straight in their own organizational headquarters in Little Rock.

The SPEAKER pro tempore (Mr. PAYNE of Virginia). The time of the gentleman from California [Mr. DORNAN] has expired. The documents referred to previously follow:

[George Washington Rules of Etiquette (written as a teenager)]

"YOUTH"

1. RULES WRITTEN FOR HIS OWN GUIDANCE IN HIS FOURTEENTH YEAR.

Every action in company ought to be with some sign of respect to those present.

In the presence of others, sing not to yourself with a humming noise, nor drum with your fingers or feet.

Be no flatterer; neither play with any one that delights not to be played with.

Read no letters, books, or papers in company; but when there is a necessity for doing it, you must ask leave. Come not near the books or writings of any one so as to read them, unless desired, nor give your opinion of them unasked; also, look not nigh when another is writing a letter.

Show not yourself glad at the misfortune of another, though he were your enemy.

When you meet with one of greater quality than yourself, stop and retire, especially if it be at a door or any strait place, to give way for him to pass.

Let your discourse with men of business be short and comprehensive.

In visiting the sick, do not presently play the physician, if you be not knowing therein.

Undertake not to teach your equal in the art himself professes; it savors of arrogancy.

When a man does all he can, though it succeeds not well, blame not him that did it.

Being to advise or reprehend any one, consider whether it ought to be in public or in private, presently or at some other time, in what terms to do it; and in reproving show no signs of choler, but do it with sweetness and mildness.

Take all admonitions thankfully, in what time or place soever given; but afterwards, not being culpable, take a time or place convenient to let him know it that gave them.

Mock not, nor jest at anything of importance; break no jests that are sharp-biting, and if you deliver anything witty and pleasant, abstain from laughing thereat yourself.

Wherein you reprove another be unblamable yourself; for example is more prevalent than precepts.

Use no reproachful language against any one, neither curse, nor revile.

Be not hasty to believe flying reports to the disparagement of any.

In your apparel, be modest, and endeavor to accommodate nature, rather than to procure admiration; keep to the fashion of your equals, such as are civil and orderly with respect to times and places.

Play not the peacock, looking everywhere about you to see if you be well decked, if your shoes fit well, if your stockings sit neatly, and clothes handsomely.

Associate yourself with men of good quality, if you esteem your own reputation; for it is better to be alone than in bad company.

Let your conversation be without malice or envy, for it is a sign of a tractable and commendable nature; and in all causes of passion admit reason to govern.

Be not immodest in urging your friend to discover a secret.

Utter not base and frivolous things amongst grave and learned men; nor very difficult questions or subjects among the ignorant: nor things hard to be believed.

Speak not of doleful things in time of mirth, nor at the table; speak not of melancholy things, as death, and wounds, and if others mention them change, if you can, the discourse. Tell not your dreams but to your intimate friend.

Be not tedious in discourse; make not many digressions, nor repeat often the same manner of discourse.

Be not angry at table, whatever happens, and if you have reason to be so, show it not; put on a cheerful countenance, especially if there be strangers, for good-humor makes one dish of meat a feast.

Set not yourself at the upper end of the table; but if it be your due, or that the master of the house will have it so, contend not, lest you should trouble the company.

Let your recreations be manful, not sinful.

Labor to keep alive in your breast that little spark of celestial fire called conscience.

1746. 2 Sparks's Writings of Washington, 412.

2. A SURVEYOR AT SIXTEEN.

Since you received my letter of October last I have not slept above three or four nights in a bed, but, after walking a good deal all the day, I have lain down before the fire upon a little hay, fodder, or a bearskin, whichever was to be had, with man, wife, and children, like dogs and cats; and happy is he who gets the berth nearest the fire. Nothing would make it pass off tolerably but a good reward. A doubloon is my constant gain every day that the weather will permit of my going out, and sometimes six pistoles. The coldness of the weather will not allow of my making a long stay, as the lodging is rather too cold for the time of year. I have never had my clothes off, but have lain and slept in them, except the few nights I have been in Frederictown.

To A Friend, March, 1748. 2 Sparks, 419

[From the New York Post, Sept. 7, 1984]

FRITZ'S LEGAL AIDE SIGNED "PEACE" WITH HANOI IN 1970

(By Dorothy Rabinowitz)

With what fascination we learned this week of Mr. Tip O'Neill's displeasure with Walter Mondale on the grounds that the Democratic candidate has been showing insufficient roughness on the campaign trail.

Mr. O'Neill, of course, failed to credit the edifying scene provided only a few days earlier by running mate Geraldine Ferraro, who in the course of a Labor Day speech shamelessly played on the tragedy of our slain marines.

But, that aside, had Mr. O'Neill focused on the general pattern of disrepair evident in the Mondale campaign from its beginning, he would have had a point. That pattern reestablished itself conspicuously once again this week.

Take, for example, the New York Labor Day Parade fiasco, in which several pro-Solidarity members were beaten up—by AFL parade marshals—when they dared insist on carrying banners praising both the AFL-CIO and President Reagan for their support of Solidarity.

This morally instructive event (reported only by the local CBS affiliate and The New York Post) should tell us something about the sincerity of those in the councils of labor who have spent so much time these months in the effort to identify with Solidarity.

The pro-Solidarity marchers have as yet heard no word of explanation or concern either from spokesmen of labor or from the Mondale campaign in whose name this attack was perpetrated.

But larger questions still lay ahead for the Mondale campaign this week: of the sort which have dogged it from the beginning, namely the question of the kind of people who have been drawn into that campaign.

To appreciate the importance of such questions we need only remember what happened upon the election of James Earl Carter. For it was only after that election that Americans understood the price they had paid for not attending to the political company Carter seemed to be keeping.

It was only then that Americans learned that the entire foreign policy apparatus was to be given over to the same group, the Richard Holbrookes and the Tony Lakes, that had turned on Lyndon Johnson.

This crew, given a new lease on life by Jimmy Carter, promptly set out on the mightiest of its innumerable efforts to introduce appeasement as the centerpiece of our foreign policy.

Of Carter it can be said, at least, that he knew what he was doing and with whom. The same cannot be said of our current Democratic candidate for President—a man who has shown himself, as we have seen, not least in his choice of Vice President, altogether incapable of asking the proper questions of those he has chosen to surround himself with.

Take the choice, as chief of legal staff for the Mondale-Ferraro campaign, of David Ifshin: a personage better known, in the heady days of the early '70s, as an emissary to Hanoi.

Mr. Ifshin, a member of good standing in the anti-war movement, went in response to an invitation from the Communist government of Hanoi to help negotiate what was known then, memorably, as "the People's Peace Treaty."

In sum, Mr. Ifshin went to Hanoi at the behest of a government with which his country was at war and there made pronouncements that—whether he willed it or not—made useful propaganda for Hanoi Radio.

Mr. Ifshin is now a number of years older and doubtless wiser. And he is well entitled to argue that he was one of many of his generation who chose to make a stand against the war as we are entitled to note that men and women have made such stands without going so far as to put themselves at the service of the enemy.

Mr. Ifshin, by his own estimate and that of others who know him, has come a long way, politically speaking, since the days of the '70s.

That being the case, it might not be untoward for Mr. Ifshin to come forward and tell us in detail just what it is he has learned on his long political odyssey.

So far we have only Mr. Ifshin's estimate of matters, recited from Mondale-Ferraro headquarters in Washington yesterday: "Everybody in my generation did it." Not quite everybody, as our Vietnam War Memorial can testify.

But Mr. Ifshin is hardly an important issue in himself. The issue is that we have once again been reminded of Walter Mondale's capacity to avoid asking important questions of those with whom he has chosen to associate himself.

And we have been reminded of the still larger question: what sort of people is it that candidate Mondale seems to draw?

What—on the basis of the care he has already exhibited—can we expect by way of choices for the most important of our government posts in the event of a Mondale presidency

Geraldine Ferraro promised early on that the sleaze factor would be a major issue in this campaign.

Well, now there are some forms of sleaze, as Mrs. Ferraro has cause to know, that are worse than others. And they are not issuing from the camp of the Republicans.

TEXT OF BILL CLINTON'S LETTER TO ROTC COLONEL

The text of the letter Bill Clinton wrote to Col. Eugene Holmes, director of the ROTC program at University of Arkansas, on Dec. 3, 1969:

I am sorry to be so long in writing. I know I promised to let you hear from me at least once a month, and from now on you will, but I have had to have some time to think about this first letter. Almost daily since my return to England I have thought about writing, about what I want to and ought to say.

First, I want to thank you, not just for saving me from the draft, but for being so kind and decent to me last summer, when I was as low as I have ever been. One thing which made the bond we struck in good faith somewhat palatable to me was my high regard for you personally. In retrospect, it seems that the admiration might not have been mutual had you known a little more about me, about my political beliefs and activities. At least you might have thought me more fit for the draft than for ROTC.

Let me try to explain. As you know, I worked for two years in a very minor position on the Senate Foreign Relations Committee. I did it for the experience and the salary but also for the opportunity, however small, of working every day against a war I opposed and despised with depth of feeling I had reserved solely for racism in America before Vietnam. I did not take the matter lightly but studied it carefully, and there was a time when not many people had more information about Vietnam at hand than I did.

I have written and spoken and marched against the war. One of the national organizers of the Vietnam Moratorium is a close friend of mine. After I left Arkansas last summer, I went to Washington to work in the national headquarters of the Moratorium, then to England to organize the Americans here for demonstrations Oct. 15 and Nov. 16.

Interlocked with the war is the draft issue, which I did not begin to consider separately until early 1968. For a law seminar at Georgetown I wrote a paper on the legal arguments for and against allowing, within the Selective Service System, the classification of selective conscientious objection for those opposed to participation in a particular war, not simply to "participation in war in any form."

From my work I came to believe that the draft system itself is illegitimate. No government really rooted in limited, parliamentary democracy should have the power to make its citizens fight and kill and die in a war they may oppose, a war which even possibly may be wrong, a war which, in any case, does not involve immediately the peace and freedom of the nation.

The draft was justified in World War II because the life of the people collectively was at stake. Individuals had to fight, if the nation was to survive, for the lives of their countrymen and their way of life. Vietnam is no such case. Nor was Korea an example where, in my opinion, certain military action was justified but the draft was not, for the reasons stated above.

Because of my opposition to the draft and the war I am in great sympathy with those who are not willing to fight, kill and maybe die for their country (i.e. the particular policy of a particular government) right or wrong. Two of my friends at Oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board, a letter which I am more proud of than anything else I wrote at Oxford last year. One of my roommates is a draft resister who is possibly under indictment and may never be able to go home again. He is one of the bravest, best men I know. His country needs men like him more than they know. That he is considered a criminal is an obscenity.

The decision not to be a resister and the related subsequent decisions were the most difficult of my life. I decided to accept the draft in spite of my beliefs for one reason: to maintain my political viability within the system. For years I have worked to prepare myself for a political life characterized by both practical political ability and concern for rapid social progress. It is a life I still feel compelled to try to lead. I do not think our system of government is by definition corrupt, however dangerous and inadequate it has been in recent years. (The society may be corrupt, but that is not the same thing, and if that is true, we are all finished anyway.)

When the draft came, despite political convictions, I was having a hard time facing the prospect of fighting a war I had been fighting against, and that is why I contacted you. ROTC was the one way left in which I could possibly, but not positively, avoid both Vietnam and resistance. Going on with my education, even coming back to England, played no part in my decision to join ROTC. I am back here, and would have been at Arkansas Law School because there is nothing else I can do. In fact, I would like to have been able to take a year out perhaps to teach in a small college or work on some community action project and in the process to decide whether to attend law school or graduate school and how to begin putting what I have learned to use.

But the particulars of my personal life are not nearly as important to me as the principles involved. After I signed the ROTC letter of intent, I began to wonder whether the compromise I had made with myself was not more objectionable than the draft would have been, because I had no interest in the ROTC program in itself and all I seemed to have done was to protect myself from physical harm. Also, I began to think I had deceived you, not by lies—there were none—but by failing to tell you all the things I'm writing now. I doubt that I had the mental coherence to articulate them then.

At that time, after we had made our agreement and you had sent my 1-D deferment to my draft board, the anguish and loss of my self-regard and self-confidence really set in. I hardly slept for weeks and kept going by eating compulsively and reading until exhaustion brought sleep. Finally, on September 12 I stayed up all night writing a letter to the chairman of my draft board, saying basically what is in the preceding paragraph, thanking him for trying to help in a case where he really couldn't, and stating that I couldn't do the ROTC after all and would he please draft me as soon as possible.

I never mailed the letter, but I did carry it on me every day until I got on the plane to return to England. I didn't mail the letter because I didn't see, in the end, how my going in the Army and maybe going to Vietnam would achieve anything except a feeling that I had punished myself and gotten what I deserved. So I came back to England to try to make something of this second year of my Rhodes scholarship.

And that is where I am now, writing to you because you have been good to me and have a right to know what I think and feel. I am writing too in the hope that my telling this one story will help you to understand more clearly how so many fine people have come to find themselves still loving their country but loathing the military, to which you and other good men have devoted years, lifetimes, of the best service you could give. To many of us, it is no longer clear what is service and what is disservice, or if it is clear, the conclusion is likely to be illegal.

Forgive the length of this letter. There was much to say. There is still a lot to be said, but it can wait. Please say hello to Col. Jones for me.

Merry Christmas.

Sincerely,

BILL CLINTON.

ROTC CHIEF FEARS DRAFT-DODGING PRESIDENT

September 7, 1992.

Memorandum for Record.

Subject: Bill Clinton and the University of Arkansas ROTC Program.

There have been many unanswered questions as to the circumstances surrounding Bill Clinton's involvement with the ROTC department at the University of Arkansas. Prior to this time I have not felt the necessity for discussing the details. The reason I have not done so before is that my poor physical health (a consequence of participation in the Bataan Death March and the subsequent 3½ years internment in Japanese POW camps) has precluded me from getting into what I felt was unnecessary involvement. However, present polls show that there is the imminent danger to our country of a draft dodger becoming the Commander-in-Chief of the Armed Forces of the United States. While it is true, as Mr. Clinton has stated, that there were many others who avoided serving their country in the Vietnam war, they are not aspiring to be the President of the United States.

The tremendous implications of the possibility of his becoming Commander-in-Chief of the United States Armed Forces compels me now to comment on the facts concerning Mr. Clinton's evasion of the draft.

This account would not have been imperative had Bill Clinton been completely honest with the American public concerning this matter. But as Mr. Clinton replied on a news conference this evening (September 5, 1992) after being asked another particular about his dodging the draft, "Almost everyone concerned with these incidents are dead. I have no more comments to make". Since I may be the only person living who can give a first hand account of what actually transpired, I am obligated by my love for my country and my sense of duty to divulge what actually happened and make it a matter of record.

Bill Clinton came to see me at my home in 1969 to discuss his desire to enroll in the ROTC program at the University of Arkansas. We engaged in an extensive, approximately two (2) hour interview. At no time during this long conservation about his desire to join the program did he inform me of his involvement, participation and actually organizing protests against the United States involvement in South East Asia. He was shrewed enough to realize that had I been aware of his activities, he would not have been accepted in the ROTC program as a potential officer in the United States Army.

The next day I began to receive phone calls regarding Bill Clinton's draft status. I was informed by the draft board that it was of interest to Senator Fullbright's office that Bill Clinton, a Rhodes Scholar, should be admitted to the ROTC program. I received several such calls. The general message conveyed by the draft board to me was that Senator Fullbright's office was putting pressure on them and that they needed my help. I then made the necessary arrangements to enroll Mr. Clinton into the ROTC program at the University of Arkansas.

I was not "saving" him from serving his country, as he erroneously thanked me for in his letter from England (dated December 3, 1969). I was making it possible for a Rhodes Scholar to serve in the military as an officer.

In retrospect I see that Mr. Clinton had no intention of following through with his agreement to join the Army ROTC program at the University of Arkansas or to attend the University of Arkansas Law School. I had explained to him the necessity of enrolling at the University of Arkansas as a student in order to be eligible to take the ROTC program at the University. He never enrolled at the University of Arkansas, but instead enrolled at Yale for attending Oxford. I believe that he purposely deceived me, using the possibility of joining the ROTC as a ploy to work with the draft board to delay his induction and get a new draft classification.

The December 3rd letter written to me by Mr. Clinton, and subsequently taken from the files by Lt. Col. Clint Jones, my executive officer, was placed into the ROTC files so that a record would be available in case the applicant should again petition to enter into the ROTC program. The information in the letter alone would have restricted Bill Clinton from ever qualifying to be an officer in the United States Military. Even more significant was his lack of veracity in purposefully defrauding the military by deceiving me, both in concealing his anti-military activities overseas and his counterfeit intentions for later military service. These actions cause me to question both his patriotism and his integrity.

When I consider the calabre, the bravery, and the patriotism of the fine young soldiers whose deaths I have witnessed, and others whose funerals I have attended * * *. When I reflect on not only the willingness but eagerness that no many of them displayed in the earnest desire to defend and serve their country, it is untenable and incomprehensable to me that a man who was not merely unwilling to serve his country, but actually protested against its military, should ever be in the position of Commander-in-Chief of our Armed Forces.

I write this declaration not only for the living and future generations, but for those who fought and died for our country. If space and time permitted I would include the names of the ones I knew and fought with, and along with them I would mention my brother Bob, who was killed during World War II and is buried in Cambridge, England (at the age of 23, about the age Bill Clinton was when he was over in England protesting the war).

I have agonized over whether or not to submit this statement to the American people. But, I realize that even though I served my country by being in the military for over 32 years, and having gone through the ordeal of months of combat under the worst of conditions followed by years of imprisonment by the Japanese, it is not enough. I'm writing these comments to let everyone know that I love my country more than I do my own personal security and well-being. I will go to my grave loving these United States of America and the liberty for which so many men have fought and died.

Because of my poor physical condition this will be my final statement. I will make no further comments to any of the media regarding this issue.

EUGENE J. HOLMES
Colonel, U.S.A., Ret.

BILL CLINTON'S RUN FROM HONOR—"A STORY OF DECEPTION AND DECEIT"

August 19, 1964: Clinton registers for the draft. (Washington Post, September 13, 1992)

September 1964: Clinton, age 18, enters Georgetown University. (The Comeback Kid by Charles F. Allen and Jonathan Portis, p. 20)

Comment: Clinton, as a freshmen, was a member of the Georgetown ROTC. This, however, would be the closest he would come to military service. After one semester, the Air Force program was restricted to only juniors and seniors. (Washington Post, September 13, 1992)

November 17, 1964: Clinton is classified 2-S (student deferment) "which would shield him from the draft throughout his undergraduate years." (Washington Post, September 13, 1992)

February 16, 1968: ". . .the Johnson administration unexpectedly abolished graduate deferments." (Washington Post, September 13, 1992)

March 20, 1968: Clinton, age 21, is classified 1-A, eligible for induction, as he nears graduation from Georgetown. (Washington Post, September 13, 1992)

Comment: "The [Los Angeles] Times found that the future Arkansas governor was the only man of his prime draft age classified 1-A by that board in 1968 whose pre-induction physical examination was put off for 10 ½ months—more than twice as long as anyone else and more than five times longer than most area men of comparable eligibility." (Los Angeles Times, September 2, 1992)

Summer 1968: Political and family influence keeps Clinton out of the draft. "Robert Corrado—the only surviving Hot Springs draft board member from that period—concluded that Clinton's [draft] treatment" (the long delays) was the result of "some form of preferential treatment." According to the Times, "Corrado recalled that the chairman of the three-man draft panel. . .once held back Clinton's file with the explanation that 'we've got to give him time to [go] to Oxford,' where the term began in the fall of 1968.

"Corrado also complained that he was called by an aide to then-Sen J. William Fullbright urging him and his fellow board members to 'give every consideration' to keep Clinton out of the draft so he could attend Oxford.

"Throughout the remainder of 1968, Corrado said, Clinton's draft file was routinely held back from consideration by the full board. Consequently, although he was classified 1-A on March 20, 1968, he was not called for his physical exam until February 3, 1969 when he was at Oxford."

Clinton's Uncle Raymond Clinton personally lobbied Senator Fullbright, William S. Armstrong, the chairman of the three-man Hot Springs draft board, and Lt. Cmdr. Trice Ellis Jr., commanding officer of the local Navy reserve unit, to obtain a slot for Clinton in the Naval Reserve. Clinton secured a "standard enlisted man's billet, not an officer's slot * * * [which] have required Clinton to serve two years on active duty beginning within 12 months of his acceptance." This Navy reserve assignment was "created especially for the young Clinton at a time in 1968 when no existing reserve slots were open in his hometown unit."

According to the Los Angeles Times, "after about two weeks waiting for Bill Clinton to arrive for his preliminary interview and physical exam, Ellis said he called [Clinton's uncle] Raymond to inquire: 'What happened to that boy?' According to Ellis, the Clinton uncle replied: 'Don't worry about it. He won't be coming down. It's all been taken care of." (Los Angeles Times, September 2, 1992)

Fall 1968: Because of the local draft board's continuing postponement of his pre-induction physical, Clinton is able to enroll at Oxford University. (Washington Post, September 13, 1992)

February 2, 1969: While at Oxford, Clinton finally takes and passes military physical examination. (Washington Times, September 18, 1992.)

Comment: Clinton avoided being called for his pre-induction physical for more than 10 months after becoming eligible for the draft. According to some accounts, the delay was "five times longer than most area men of comparable eligibility." (Los Angeles Times, September 2, 1992)

April 1969: Clinton receives induction notice from the Hot Springs, Ark., draft board. Clinton, however, claims that the draft board told him to ignore the notice because it arrived after the deadline for induction. (Washington Post, September 13, 1992)

Comment: This notice set off the chain of events which led to Clinton's efforts to avoid the draft. The draft notice contradicts Clinton's statements that "the only military option I was offered and considered was the ROTC." (Associated Press, September 4, 1992).

June-July 1969: Clinton receives a second induction notice with a July 28 induction date. (Washington Times, September 18, 1992)

Comment: Clinton benefited from yet another lobbying campaign in order to evade this induction notice. "Democratic presidential candidate Bill Clinton, who has said he did not pull strings to avoid the Vietnam-era draft, was able to get his Army induction notice canceled in the summer of 1969 after a lobbying effort directed at the Republican head of the state draft agency." Arrangements were made for Clinton to meet with Col. Willard A. Hawkins, who "was only person in Arkansas with authority to rescind a draft notice * * * The apparently successful appeal to Hawkins was planned while Clinton was finishing his first year as a Rhodes scholar in England. Clinton's former friend and Oxford classmate, Cliff Jackson—now an avowed political critic of the candidate—said it was pursued immediately upon Clinton's return to Arkansas in early July [1969] to beat a July 28 deadline for induction." (The Los Angeles Times, September 26, 1992)

July 11, 1969: Clinton's friend at Oxford, Cliff Jackson, writes that "[Clinton] is feverishly trying to find a way to avoid entering the Army as a drafted private. I have had several of my friends in influential positions trying to pull strings on Bill's behalf." (Washington Times, September 18, 1992).

Comment: Jackson's statement is contrary to Clinton's repeated assertions that he received no special treatment in avoiding military service. "(I) never received any unusual or favorable treatment." (The Los Angeles Times, September 2, 1992)

August 7, 1969: Clinton is reclassified 1-D after he joins the University of Arkansas ROTC program although he was not enrolled in the Law School for Fall 1970 as he claimed. (Washington Post, September 13, 1992)

Comment: Clinton's admission into the ROTC program again runs contrary to his repeated statements that he received no special treatment in order to evade military service. Col. Eugene Holmes, commander of the University of Arkansas ROTC program, said Clinton was admitted after pressure from the Hot Springs draft board and the office of Senator J. William Fulbright (D-Ark.). Again, Clinton was receiving preferential treatment. In addition, records from the Army reveal that Clinton was not legally eligible for the ROTC program at that time. (Washington Times, September 17, 1992)

Fall 1969: Clinton returns to Oxford for a second year (Washington Times, September 18, 1992)

September 14, 1969: The Arkansas Gazette published in Little Rock headlined that a draft suspension was reportedly planned by the President.

September 19, 1969: "President Nixon, facing turmoil on college campuses, suspended draft calls for November and December of [1969] and said the October call would be spread out over three months." (Washington Post, September 13, 1992)

September-October 1969: "At some point, Clinton decided to make himself eligible for the draft and said in February [1992] his stepfather had acted in his behalf to accomplish this. Newsweek, attributing the information to campaign officials, said this all happened in October 1969. [Clinton spokesperson Betsey] Wright . . . said she believed it took place in September. The difference is potentially significant . . . If Clinton did not act to give up his deferment until October, he could have known he faced no liability from the draft until the following summer, that he could take his chances with the lottery and find alternative service if he got a low number." (Washington Post, September 13, 1992)

October 1, 1969: "[Nixon] announced that anyone in graduate school could complete the full year." (Washington Post, September 13, 1992)

Comment: Clinton is now safe from the draft through June 1970.

October 1969: President Nixon suspends call-up of additional draftees until a draft lottery is held in December. (Washington Times, September 18, 1992).

October 15, 1969: Clinton organized and led demonstrations in London. (Clinton's letter to Col. Holmes and Peace Eyes by Father Richard McSorley)

Comment: According to Mcsorley, Clinton's demonstrations "had the support of British peace organizations" such as the British Peace Council and an arm of the KGB-backed World Peace Council.

October 30, 1969: Clinton reclassified 1-A, eligible for induction, when he told the draft board that he was giving up his ROTC deferment. (Washington Times September 28, 1992).

Comment: Clinton reneged on his ROTC commitment and reentered the draft pool at a time when it was increasingly unlikely he would be drafted. His draft chances had decreased for two reasons: (1) President Nixon had called for a draft lottery and announced a 50,000-man reduction in draft calls for the rest of 1969; and (2) President Nixon had proposed reversing the order of induction by calling 19-year-olds first as opposed to 23- to 26-year-olds. At this time, Clinton was 23-years-old. (Washington Times, September 28, 1992).

November 16, 1969: Clinton organized and led anti-war demonstrations in London. (Clinton's letter to Col. Holmes and Peace Eyes by Father Richard McSorley)

December 1, 1969: Clinton receives draws #311 out of a possible 365 in the first draft lottery. (Washington Times, September 18, 1992)

Comment: Clinton was virtually assured that he would not be drafted because of the high lottery number.

December 2, 1969: Clinton applies to the Law School at Yale University. (Washington Times, September 18, 1992).

December 3, 1969: Clinton writes to Col. Eugene Holmes, commander of the University of the Arkansas ROTC program and states, "From my work I came to believe that the draft system itself is illegitimate . . . I decided to accept the draft in spite of my beliefs for one reason: to maintain my political viability." (Washington Times, September 18, 1992)

December 12, 1969 or later: Clinton visits Norway where he meets with various "peace" organizations. Clinton is told of Norwegian conscientious objectors who opposed Norway's role in NATO. (Peace Eyes by Father Richard McSorley)

December 31, 1969—January 6, 1970: Clinton travels to Moscow. He later said "relations between our two countries were pretty good then." He then described his visit as "a very friendly time, a good atmosphere." (Arkansas Gazette, June 12, 1989 and Knight -Ridder Newspapers, September 25, 1992)

Comment: Despite Clinton's Claim that January 1970 was a "time of detente," relations between the United States and the Soviet Union were anything but warm. The Soviets were supplying the North Vietnamese with advisors and anti-aircraft weapons, and the KGB was secretly running the war from Moscow.

September 7, 1992: Col. Eugene Holmes, U.S.A. Ret., signs a notorized statement in which he asserts that "there is the imminent danger to our country of a draft dodger becoming Commander-in-Chief of the Armed Forces of the United States." He later writes that "I believe that he (Clinton) purposefully deceived me, using the possibility of joining the ROTC as a ploy to work with the draft board to delay his induction and get a new draft classification." (letter reprinted in the Washington Times, September 17, 1992)

GRANTING OF SPECIAL ORDER AND ORDER OF BUSINESS

Mr. JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to address the House for 60 minutes and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. McDERMOTT. Reserving the right to object, Mr. Speaker, is there a list of other Members who have time before the House?

The SPEAKER pro tempore. The Chair has called all of the names on the list.

Mr. McDERMOTT. All of the names present, or is the Chair at the bottom of the list?

The SPEAKER pro tempore. The Chair has called all of the names on the list of those who requested under a previous order of the House to be recognized for 60 minutes this evening.

Mr. McDERMOTT. Mr. Speaker, I would say to the gentleman from California [Mr. DORNAN] I only rise to object on the basis that the staff is going to be here all night tonight, and all night tomorrow night, and all night the next night, and I hope that you do not run them into the ground. That is my only reason for reserving the right to object. I will not object. But I think it would be in the interest of humanity—and I know you are a humane person—to think of those folks. They are going to have to be back here.

Mr. DORNAN of California. As an Irishman, if the gentleman will yield, you touch a soft spot in every Irishman's heart, and we will not take the full hour. Plus the gentleman from Oklahoma [Mr. EDWARDS] a close friend of all of us, and a classmate of mine, was on the original list, and I know he can reclaim that if we work out a time for continuity of how long we will go, and he can certainly ask for this special order to be reinstated.

Mr. EDWARDS of Oklahoma. Mr. Speaker, reserving the right to object, are there others intervening or is my special order supposed to intervene between now and another one which might be granted at this point?

The SPEAKER pro tempore. The gentleman's name was called earlier. However, if he requests permission to reclaim his time, he was next on the list of all of the Members who are present.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I do not wish to object, but I would like to have some indication from the gentleman from Texas who is asking for additional time how long it might take. I have my own special order on a different subject which I would like to be able to proceed with sometime soon and still allow the staff to get home. Twenty minutes would be fine.

Mr. JOHNSON of Texas. Mr. Speaker, if I could adjust that request to 20 minutes.

The SPEAKER pro tempore. If there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CUNNINGHAM. If I might inquire, if that is the case, then the gentleman from Oklahoma [Mr. EDWARDS] would be allowed to follow us?

The SPEAKER pro tempore. The gentleman is correct.

PARLIAMENTARY INQUIRY

Mr. McDERMOTT. Parliamentary inquiry, Mr. Speaker. It is required that there be unanimous consent for the gentleman from Oklahoma [Mr. EDWARDS] to speak?

The SPEAKER pro tempore. To reclaim his time he would need unanimous consent. The gentleman from Oklahoma [Mr. EDWARDS] would need unanimous consent to reclaim his time. The Chair understood, however, that there was no objection to the gentleman from Oklahoma [Mr. EDWARDS] reclaiming his right.

Mr. MCDERMOTT. That is correct, Mr. Speaker.

BILL CLINTON'S RUN FROM HONOR: A STORY OF DECEPTION AND DECEIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. JOHNSON] is recognized for 20 minutes.

Mr. JOHNSON of Texas. Mr. Speaker, I thank the gentleman for his indulgence.

Let me just make one statement to follow up on what the gentleman from California [Mr. DORNAN] said, because we were talking about deception here.

You know Mr. Clinton wrote to his recruiter and acknowledged publicly, I think, that he had deceived the recruiter, and thanked him for saving him from the draft, and asserted that he had done it all just to maintain "my political viability within the system." So he was getting out of his duty to his country while you and I were serving in order to further his political career.

Do we want that kind of a guy running our services?

Mr. DORNAN of California. Will the gentleman yield for one other sentence from that letter?

Mr. JOHNSON of Texas. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. HUNTER alluded to a line, and I think it should be in the RECORD exactly as he wrote it at that time. "After we had made our agreement," he is referring to himself and Colonel Homes, "and you had sent my 1-D deferment to my draft board," and Colonel Holmes obviously is anguished over the fact that he did this, under pressure from the head of the draft board with whom Clinton visited with for over 2 hours, and he has no recollection of it, but he does not deny it, and the chief of staff of the U.S. Senate, the most famous man to ever serve since the Civil War from the State of Arkansas, Senator Fulbright. His chief of staff leaned on Colonel Holmes to lean on the draft board; he said, "After you had done that for me," and now these are Bill Clinton's exact words, "the anguish and loss of my self-regard and self-confidence really set in. I hardly slept for weeks and kept going by eating compulsively and reading till exhaustion brought sleep."

He sleeps by overeating while you were eating seaweed soup with an occasional pig's eye in it, and chunks of pig fat in it, and sometimes in solitary confinement nothing but dirty water. And some of our POWs contracted diseases. I remember one who died in the last few months of cholera, and one Marine major who won the highest decoration of his service had a 45 put to his head, and cocked, and they threatened to kill him. And his response was to read off the nomenclature of that 45 pistol held to his head. He is the one who did 200 pushups every day. He was the one who died of cholera toward the end of the years of captivity.

So I do not think that Clinton has any concept of the depths of how dishonorable this was.

A man called me in the cloakroom tonight. He said I am a peacetime soldier like you, and he said I only have one medal. I also have this medal. He said it is the Good Conduct medal, and it is a beautiful medal, red and white. And he said do I know what is on the medal: efficiency, fidelity, and in the center, "honor."

If I can put a title on my prior hour, it is what I have put at the head of this chronology, "the story of deception and deceit," subtitled "Bill Clinton's run from honor."

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Texas. I yield to the gentleman from California. Mr. Speaker, I ask unanimous consent that we can continue the colloquy between the four of us.

The SPEAKER pro tempore. The gentleman from Texas has the floor and he may yield time to others.

Mr. HUNTER. I thank the gentleman for yielding. Let me just take off on that word "honor" that Mr. DORNAN of California just spoke of, and Mr. CUNNINGHAM has alluded to several times.

While he was in Great Britain, and Norway, and ultimately in Moscow demonstrating against the United States, those countries were providing the war material that was being sent to the North Vietnamese Communists that was being used to kill Americans. They were supplying North Vietnam. And a major issue, in fact, on this floor at the time was whether or not we should give any foreign aid to these countries that were supplying North Vietnam.

I just wonder how Mr. Clinton can ever square that with all of these people like these people that were holding Khesanh against overwhelming Communist forces, and at the same time he was demonstrating against America. And in fact that he was with people in these countries that were part of our problem, who were supplying this war material and ammunition and supplies that were being used against our own folks. And I guess it makes all Americans wonder what is this guy going to do with respect to foreign policy when American interests butt up strongly against the interests of other countries.

□ 0030

It looks to me like he was definitely in the corner of the enemy in this particular conflict, and not only in the corner of the enemy, but he was in the opposite corner of every young person who was 18 years, 19 years, 20 years old who answered this country's call and put on a uniform and went overseas to serve our country.

Maybe the gentleman could comment on that.

Mr. CUNNINGHAM. It was not only our people. Today I got calls from Asian Americans and an Asian newspaper. We had a fax sent to us from Asian Americans and an Asian newspaper. We had a fax sent to us from Vietnamese Americans, Laotian Americans, Cambodian Americans, that were incensed at some of the language used that said the people were over there just to kill. They considered themselves free because of our efforts in Vietnam. The only reason we did not win it is because of how the liberals tied our hands and this Congress tied our hands, unlike they did in Desert Storm. So it was not just our people that were tied. It was Soviet weapons, the enemy of this country, that were used in Grenada; the Soviets in Desert Storm. That was their equipment, and when the North Koreans took the *Pueblo*. So there are many Americans that are in this country today because of what those men and women in many cases which are on the wall died for and every single one of them died at the hands of Soviet technology unless it was a handmade item or something that they had taken from one of our ordnances and created.

Mr. JOHNSON of Texas. You know, DUNCAN, we have got a ton of Vietnamese Americans in this country that are American citizens today who would love to see that country change just like Eastern Europe and maybe hopefully Russia has, and go back to their country and a democratic society, and so people that say that that was useless are crazy, I think that we fought a war for, again, the words "integrity and honor" of this country, of the beliefs that this country was built on, and hopefully Vietnam someday will survive that way as well.

Mr. DORNAN of California. Mr. JOHNSON, here is what I thank is the biggest mystery that is going on in country right now over this issue. The letter that was sent to all of us today, and here is the original, and we all got faxes earlier. They flew up here to deliver the original. It is by James Strachan, and Strachan is an Irish name, so it is spelled in a Celtic way, James D. Strachan, who is the editor-in-chief, the publisher is Da Thao, the Asian-American News, out of Houston. Listen to the opening paragraph that we were discussing among ourselves today:

> DEAR CONGRESSMAN DORNAN: As a newspaper editor and a Vietnam veteran, I was stunned to accidentally engage C–SPAN on September 24 and learn for the first time through your remarks on the House floor that Bill Clinton's pro-Communist activities while U.S. and military personnel were under fire from Soviet-bloc and Chinese Communist weapons; the additional comments about Clinton's hidden past made by Representatives Cunningham, Hunter, Johnson and you before Congress on October 1, 2,——

And now we can add 3—

> were equally informative that the major news media in this country have not yet reported these significant, if not sensational, facts about Clinton, so that the American people can judge the nature and quality of his behavior and character will go down as a low point in the history of our free press which has long shunned censorship in any form. Although we——

Asian-American News—

> are only a small monthly paper, we will report the facts as you presented them to the nation and the U.S. House of Representatives.

And then he goes on with a very thoughtful letter.

Here are some of the key words, and if we had a thesaurus to look for synonyms of "stunned," "sensational," "startling," "significant," every word in the thesaurus we have all heard over the phones. Here is the rub, as the Board would say: How is that newsmen and reporters that I have spoken to from the Post, Baltimore Sun, New York times, CNN, ABC, CBS, national ABC, national CBS, national NBC, that they say, "We have no interest in this. This means nothing." and thousands, if not hundreds of thousands, of people across this country some of them who will drive here to sit in the gallery or wait for us in the halls, are stunned.

How can the news media not find any interest at all and say, "So what if he went to Moscow? A lot of people went to Moscow." In January of 1970 to the dead of winter? Almost nobody went to Moscow. Because you did not get a visa. That is why we were arrested at the airport, these four wives and I, the same week Bill Clinton was there. You do not get a visa unless they tell you, "Come her," unless they invite you, unless he went to 10 Kensington Palace Gardens.

I am never going to forget this week for my life, because it is all bias of the media.

Mr. CUNNINGHAM. Unless you are a known antiwar protestor.

Mr. DORNAN of California. they what?

Mr. CUNNINGHAM. Unless you are a known antiwar protestor.

Mr. DORNAN of California. Mr. Speaker, I am going to place in the RECORD at the end of my special order of today George Washington's rules for his own guidance in his 14th year, a stunning statement of character of the Father of our Country, that I said days ago I would put in. I am also putting in Dorothy Rabinowitz' article from 8 years ago, 8 years ago in the New York Post, Friday, September 7, 1984, on David Ifshin, a fascinating column. We read part of it the other night, and, Mr. Speaker, I am putting it at the end of my special order, again so that they do not have to ask for other records of our journal of the House proceedings, the full text of Bill Clinton's letter to the commanding officer of the ROTC in Arkansas, and that commander's full letter from September 7, 1992 to the American people.

Mr. HUNTER. If the gentleman will yield, while you are putting in those things, BOB, let us put something else in, because I think that you being out here and talking about——

The SPEAKER pro tempore (Mr. PAYNE of Virginia). The gentleman from California will suspend. As the gentleman is addressing other Members, if he would address them as we do in the House through the Chair and in the third person.

Mr. HUNTER. Mr. Speaker, I thank the gentlemen who are here tonight. Let me say that I think this is also, that this has been an opportunity the last 4 or 5 days, in talking about Mr. Clinton and the fact that he wants to become the Commander in Chief of a military that he despises and turned against when he had his own opportunity to support this country, and it is also a chance for us to elevate those folks who served under very difficult conditions in Vietnam, people who did not get their names in papers and who are not being considered to be Commanders in Chief of the Armed Forces, but nonetheless who heeded the call, and that is all of the hundreds of thousands of men and women who went to Vietnam in various capacities, in the armed services, some of them in highly visible positions like "DUKE" CUNNINGHAM, like Mr. CUNNINGHAM of California, like Mr. JOHNSON of Texas, and like many others, but some of them carrying baseplates for mortars, making a few hundred bucks a month, some of them leaving the family farm, some of them coming from inner cities, and many of them coming back to no recognition and to difficult situations once they got to the United States of America. But those people carrying the American flag and bearing that burden and every one of them holding on to that invisible line that couples us together when we follow this tradition of America that, rich or poor, no matter what ethnic background we come from, everyone serves and everyone supports our country when she calls us to except, of course, this gentleman who wants to be Commander in Chief of the armed services and President of the United States. So I want to thank you all for helping to elevate all of those folks who did go and who obviously have considered your words over the last week or so. I think it has been a good thing for America.

Mr. JOHNSON of Texas. Thank you. Mr. Speaker, can you give us an idea of what the time is?

The SPEAKER pro tempore The Gentleman from Texas has 6 minutes remaining.

Mr. JOHNSON of Texas. Thank you sir.

You know, I would like to just talk a little bit about Clinton's decision to study at Oxford. I think that the gentleman has been negotiating that answer path rather tenuously, but from a book, "The Scholar Sees the World," Clinton looks back with mixed feelings about his decision to end his studies at Oxford. He says, "I kind of regret the fact that I never got a degree from Oxford." He said, "My class had the highest percentage of Rhodes Scholars that never earned a degree because they were right in the middle of that Vietnam war buildup." Clinton said the threat of being drafted into service practically dictated a student's curriculum.

Mr. DORNAN of California. Will the gentleman yield? It was not buildup. That was the builddown when he arrived at Oxford to begin giving, and again, giving him the benefit of the doubt, the first year, I assume, he did go to class in the Socratics aisles and sit around. He claimed in the letter that he wrote other papers, but there was no requirement for any theme papers. I talked to all of our Rhodes Scholars who serve in the Senate, four of them, and one of our own Members in this House, one from Maryland.

□ 0040

It was the greatest honor system I have ever heard of in my life. You were to study hard, set your own standards for a number of books that you would read, the work you would do, and tests, I mean massively tests, like law exams, at the end of 2 years, 8 3-hour exams for 24 hours. Then after you were home living life for 7 years, you got a M.A. degree on top of your B.A. degree or your philosophy degree, and if you stayed a third year you got a doctorate in philosophy. He did not do any of this.

Mr. JOHNSON of Texas. Well, he said we were over there changing courses 3 or 4 times because we knew that we would get a year and that would be done, it would be done and the war would be over is what he was talking about. So, ironically, at the end of the first year is when Nixon started to wind the war down, so there were only a couple of us who actually were—he was playing the system is what it amounted to.

Mr. Speaker, I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank the gentleman for yielding.

If you notice, in that paragraph even there he is making an excuse why he quit school and did not finish at oxford.

I also had a call from a member of the American Legion that saw Mr. Kennedy and Governor Clinton standing together, where he said, "Well, my father was a veteran, so I am a son in the American Legion, American Legion son."

Well, the gentleman said no, he cannot because a draft evader cannot be a son in the American Legion. He was also going to research that.

Mr. JOHNSON of Texas. I yield to the gentleman from California.

Mr. DORNAN of California. I thank the gentleman for yielding. I passed around and showed all of you today Mr. Clinton's acceptance speech, which he called the most important speech in his life. This might be the most important thing we touch on tonight. I will pick up on this in tomorrow night's special order. He makes reference to Lincoln, more or less, in the text that we Republicans, that he reveres him more than we Republicans, in essence. Then he says, "As a teenager, I heard John Kennedy's summons to citizenship. Then as a student at Georgetown I heard that call clarified by a professor named Carol Quigley." Well, I have here Quigley's book, almost 1,000 pages, without one footnote. This Quigley is a hot Socialist. I remember this book coming out in 1966 because it was an attack on Goldwater and the fact that he taught at a Catholic university as an unabashed Socialist, referring to the petit bourgeoisie and the shopkeepers of America, referring to the Republican Party as appealing to fascist instincts and hate-mongering in people. I am going to read all of this into the RECORD tomorrow night and discuss this Carol Quigley. And I would hope, Mr. Speaker, we could hear from some students of Quigley because this book came out at the end of Clinton's sophomore year at Georgetown and that is the year he dropped his Army ROTC after the first 2 years.

Mr. JOHNSON of Texas. We have about 1 minute left. I yield to the gentleman from California.

Mr. CUNNINGHAM. We had mentioned last night that we were going to talk about the economic effects. Since we are feeling for the staff, I would like to get into that because we have had a lot of requests to get into the economic effects if Governor Clinton was elected.

Mr. JOHNSON of Texas. I will tell you what, we will get into economics tomorrow, I am sure. I would like to just close by one quote from Clinton: "You may not live like a millionaire, but Clinton will tax you like one." So there is a little taste of what Clintonomics can do to you, sudden death to the country.

Mr. DORNAN of California. Mr. JOHNSON, tomorrow I will tell this Chamber a little bit more about your cochairman that I did not earlier when you were on this floor, Roger Staubach, and what he gave to serve the Navy for a full 4 years. We lost 11 pro football players in World War II. And one of the most badly wounded pro football players, giving up 2 years, 2 precious years of his career, he was wounded so badly the doctors said, "You will never play football again." He came back to star as a linebacker for the Pittsburgh Steelers, season after season.

Mr. CUNNINGHAM. U.S. Navy.

Mr. DORNAN of California. We will talk about him tomorrow night too, and Roger Staubach.

Mr. JOHNSON of Texas. I thank you all, the gentleman from California [Mr. CUNNINGHAM], the gentleman from California [Mr. DORNAN], the gentleman from California [Mr. HUNTER], and I thank the Speaker.

THOUGHTS ON LEAVING CONGRESS

The SPEAKER pro tempore [Mr. PAYNE of Virginia]. Under a previous order of the House, the gentleman from Oklahoma [Mr. EDWARDS] is recognized for 60 minutes.

Mr. EDWARDS of Oklahoma. I yield to my good friend, the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding. I thank the gentleman for his patience in watching us discuss this issue for a long time, while he had to wait to talk.

I know the gentleman has some important things to say. Let me just say to the gentleman who is in the well, he is going to be leaving the House of Representatives after this congressional session closes, and I just wanted to let this gentleman know, and my colleagues, that MICKEY EDWARDS has been one of the most valuable Members of the House of Representatives that we have ever had. He is a guy of great intellect, great leadership capability, and great dedication. And it should be gratifying for the American people to know that they have some people who will stay up long hours, who will devote themselves rigorously to a very, very difficult legislative agenda and will give everything that they have in serving in this House of Representatives. And Mr. EDWARDS of Oklahoma has epitomized the term "Representative" because he has been a great Representative for his State. It has been a lot of fun and very, very inspiring to work with him over the last 12 years in the U.S. Congress. I appreciate his leadership.

Mr. EDWARDS of Oklahoma. That means an awful lot to me, coming from my good friend, the gentleman from California [Mr. HUNTER].

Mr. Speaker, I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. EDWARDS, I have only known you in my short tenure here of 2 years as a freshman, but there are certain people you meet in leadership who take you under their wing and help you. Maybe because my father was born in Shawnee, OK, and I have got red clay in my blood. But I would like to personally thank you for all the help you have been to me and to the other freshman class members.

At the same time, I would also like to thank the staff here for staying so late for us.

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the gentleman for yielding to me, a classmate of the gentleman in the well.

That million audience, I do not know what it has dwindled to that was supposed to watch on C-SPAN; I think they are going to think that you set this up.

Mr. EDWARDS of Oklahoma. I would not have been nearly so smart.

Mr. DORNAN of California. No. Again, we have reestablished that we should call one another by our formal names to keep the decorum level high here during these tense closing hours.

I used to tease you when you got here that I kind of have a fond affection for the name Mickey. I love to say it because that was my mother's name. It is a great name whether it is male or female. My dad used to sing about Mickey Branigan had a fine pup.

MICKEY, you were a classmate of the Class of 1976, our great self-educated parliamentarian, BOB WALKER, majority leader Mr. GEPHARDT, two Vice-Presidential candidates, one sitting Vice President DAN QUAYLE, and AL GORE. MICKEY, you did not make it the first go-around. You fought to come here a couple of cycles. I already knew you by reputation because of your chairmanship of the American Security Council.

I was told when I met you I would meet a real fighter, and we met at the end of that beautiful bicentennial year at all the various seminars.

To all the good words that DUNCAN HUNTER just said, they apply to you, just let me add: Imagination, energy, energy, energy. You have been an outstanding leader in our party, a true friend.

You are still a kid, so I expect to see a lot more conservative fiscal sanity and great leadership out of MICKEY EDWARDS of Oklahoma. Go get them and dazzle us with your footwork and from some other approach in the great public scene of America today.

Mr. JOHNSON of Texas. Mr. Speaker, I associate myself with those remarks.

Mr. EDWARDS of Oklahoma. Mr. Speaker, for 16 years, in times of war and peace, in economic prosperity and the despair of recession, I have served in a position virtually unrivaled in all of human history. America devised a system of representative government unlike any which had preceded it and different still from those which share this moment in history. In a nation of more than a quarter of a billion people, fewer than 600 make the decisions which shape the Nation's life and its destiny—and, by extension, the lives and destinies of hundreds of millions of fellow voyagers whose lives are subtly, and sometimes sharply, altered by the courses we Americans set. For 16 years, nearly a third of my life, I have been privileged to sit in that unique Chamber which represents—and sometimes advances—the hopes and the dreams of every single living American. For half of my adult life, I have been the voice of half a million men, women, and children who performed the act of self-government by delegation to me. Nothing can ever diminish that honor.

I have many times recalled the words my mother spoke to me at the time of my formal induction into this uniquely American institution. My mother watched as I became a Member of Congress and she asked, in absolute wide-eyed wonder, .confused and perplexed and overwhelmed with both joy and amazement: "Who are we to have a Congressman in our family?"

Who indeed? To understand the full impact of her question—and to comprehend her wonder—one has to understand two things: First, this honor which had come to me was not, in her mind, nor in the minds of others in my family, a routine step along an expected path. Not routine, first, because it would be hard to imagine an honor greater than this. My family is not jaded by the cynicism of the age. No land was as good as this land, no people as good as these people, no air as free as in America. The Congress of the United States was an institution cherished and revered—not for each of its Members, nor for every view espoused in its Chambers, but as an institution of free men and women charting their own destinies. So first, in hearing the question: "Who are we to have a Member of our family in Congress," underline the words "in Congress," because it is that institution, which creates the awe and reverence. Second, underline the "Who are we", because that, too, is a part of the uniqueness of America and this institution. My story is not untypical of men and women who achieve leadership roles in America, but it is miraculously divergent from the role my family had come to expect. My mother and father were new Americans: Not only their parents, but their older brothers and sisters had been born in Eastern Europe—in Poland and Lithuania. None of my four grandparents spoke English. My father's father made a living sorting scrap metal. When he died, my father was raised in an orphanage until he was old enough to go to work to help support his younger brother and sisters. My mother was the daughter of a peddler who sold rags from a cart he pushed through the streets of Cleveland. This was not just a poor family, but a family of poor Jews. I recall as a child, knowing of my Polish background, believing that maybe I was somehow descended from Polish kings. It was a shock to me to learn that Poles did not grant such power to Jews. But here, in this country, it was amazing what was possible. And it was with this sense of wonder that my mother shook her head as this young son of a shoe salesman who had been raised an orphan, this grandson of a rag peddler, achieved a position that would have been unobtainable to any previous generation of our family since the dawn of time.

I will soon be leaving the Congress after 16 years of participation at the highest levels of government, a member of my party's leadership, an occasional shaper of policy, a man given the rare opportunity to advance the cause of freedom. It is an honor—and an opportunity—given to few, and I leave not with a heavy heart at the passing of this marvelous moment, but with pure joy at the gift this great Nation bestowed upon me.

As the days of this career draw to a close, I have found myself reflecting on lessons I have learned in these past 16 years, and lessons I would pass on.

I began with the simple questions: What is the role of the Congress? What is the role of the Congressman? But neither question, nor the two together, can be answered in a vacuum. To understand the role of a Congressman, one must first understand the role of Congress. To understand that, one must additionally understand the role of government. Due to the unique nature of the American experiment in self-government, that question begs another: What is the role of America? And because I believe America to fulfill a special and extraordinary function in human development, one must begin the exercise by asking, first, what is the role of man?

It is admittedly an ambitious undertaking and one which has engaged the minds of great scholars throughout the ages, and which cannot be well served in the tens of thousands of volumes of a modern library, much less in the few short words allowed to me here. But neither can I forgo this opportunity to suggest a few basic principles which seem to me to underline American government and our role in it.

Much is transitory, much is situational, but the basic role of man is neither. One can neither define the role of government nor one's own obligations within it without a framework delineating the boundaries of the human obligation. Each of us will set those parameters differently, but where we plant the stakes will determine the course we will each follow.

These then, are the duties I feel to have been imposed upon me by God's decision to give me life, and through serious dangers—a shooting, a near drowning—to let that life continue. For these gifts, what did I owe in return?

I make no attempt to place these obligations in hierarchical rank because they seem to me to be equally binding.

First, the promotion of freedom. In the Biblical admonition, "Proclaim liberty throughout the land, unto all the inhabitants thereof," the obligation, it seems to me, is unambiguous and binding, and has served as a guiding principle both in my life and in my public career. The admonition is not to enjoy liberty but rather to proclaim it—not a passive role, but an obligation to be pro-active in the promotion of freedom. "Throughout the land"—liberty not in isolated enclaves, but in every nation, every province, every city, every village. "Unto all the inhabitants"—not for an elite few, but for every single living human being. The practical ramifications of this injunction are enormous for any man or woman who enters public life. It is a great tragedy that those among us who define themselves as "liberal" and those who consider themselves "conservative" have each tended to seize upon narrow aspects of this obligation and deny other equally binding strictures. For example, the conservative is apt to understand that this mandate imposed a serious obligation to resist the oppression of communism, whether in Nicaragua or Afghanistan, and to defend against it in places like El Salvador. But conservatives too easily embraced repression by anti-Communist governments in the name of opposing communism. It was on this ground that I respectfully disagreed with my good friend Jean Kirkpatrick when she attempted to make more of a distinction than I thought justified between authoritarian and totalitarian governments. One is obligated not to support one and oppose the other, but to oppose both, and not to be passively noninvolved—noninterventionists—but to be pro-active in the promotion of God's plan that man be free.

Liberals too often attempted to bind and restrict man's efforts to provide for himself and his family through individual entrepreneurial initiatives, while conservatives for too many years were too willing to allow businesses to engage in labor practices which impose a de facto slavery on workers, including children. Where my own votes and positions have sometimes seemed to traditional liberals or conservatives to be contradictory, they have, in fact, been as close to consistent as I could manage, but based not on accepted party line policies but rather on the imperative to freedom.

A second imperative of man, it seems to me, is to learn to love. That love to which we are called finds its outlet in the promotion of peace between peoples, tolerance of diversity and promotion of accommodation. It is quite clear that a man cannot be forced to love his neighbor, but it is possible to create a society which impels people to act toward one another as though motivated by love. Thus, one should properly do whatever helps to promote peace between peoples. Some may conclude that this requires a pacifism which turns a collective cheek to any wrong. Others will feel, as I do, that liberty is a paramount mandate and that aggression requires resistance, and will therefore believe that peace is best preserved by maintaining a strength which will deter aggression. Finally, I believe, it is a mandate of man to grow, and that growth requires hope, and that hope can be sustained only by opportunity. Liberals may attempt this goal by provision: conservatives may attempt to reach it through a variety of opportunity enhancements like those proposed by Housing Secretary Jack Kemp, but the imperative is to not destroy the dream.

If these mandates form the role of man and society, then what role does this unique nation "conceived in liberty" take unto itself?

America is an exemplar. No nation in man's history has so served as a model for fulfillment of man's assignment.

America's special role derives largely from its ability to serve as a mold from which other nations can draw. Other nations serve liberty, but without the size or strength or stature or wealth to lead others. As Richard Nixon pointed out even before the collapse of Communism, the United States was then—and is now—the only true global superpower, that is, a superpower militarily, economically, and diplomatically. On race occasions other nations have approached this level of international dominance, but never was the situation quite the same. For example, the Roman Empire, which not only encompassed much of the known world but also exemplified important virtues, such as the tolerance of diverse religions, was not a true democracy—even at the height of the Senate—but at best a constrained dictatorship. Further, while it treated its subjects liberally, they became Roman subjects through conquest rather than through free choice of association.

America's exemplary role has never been better illustrated than in the recent demise of the Communist empire. I will quarrel with those who give undue credit to the United States for bringing about that collapse, although it seems clear that the firm military resolve in this country did play a role in hastening that result. While the Government of the United States may claim a share of the credit for what befell the Communist experiment, far more credit is due Vaclav Havel, Lech Welesa, and Boris Yeltsin, who risked imprisonment or death in a desperate struggle for freedom. Nonetheless, those nations lit their torches from the flame America kept alive. Universal suffrage, the Bill of Rights, the unique creation of a legislative body with powers equal to—and sometimes in excess of—those of the chief executive, are patterns for the progress of liberty. While it may be naive to suggest that America has no classes, my own experience—"Who are we to have a Congressman in our family"—emphasizes the American difference: here, the walls between the classes are more than porous, they are cheesecloth; and class is not a matter of inheritance, but of a changeable condition.

In addition to being a beacon, America is an international Knight of the Round Table. For America to be isolationist—either by turning a blind eye to the peril of others or by ignoring the promise of Emma Lazarus—is ludicrous. America is by definition a pro-active nation: not merely an enjoyer of liberty but its champion.

If these are the duties man is called to, and if this is the special role to which America is called in fulfillment of that mandate, then what, in the American scheme, is the role of government, for clearly the American experience has demonstrated the wisdom of Jefferson's admonition that "that government governs best which governs least."

The key word here is "least." To my liberal friends, I would point out that "least" is the opposite of "most" and that the corollary is quite simply: "That government governs worst which governs most." This is not the evidence of rhetoric; it is an observation based on emperical knowledge. But to my more conservative friends, those with whose views I am most in sympathy, I would point out as well that "least" does not mean "not at all." Jefferson was warning that government must exercise restraint; that it is not called upon to inject itself into each element of human life; that when it does choose to intrude, it should do so only sparingly and no more than necessary to remedy demonstrable wrongs. Jefferson did not say that government should not govern. He did not say that government should not attempt to ensure equality of opportunity. He did not say government should turn a blind eye to oppression of some men by others, either physically or economically. An example: A government which attempts to dictate to each local school district how the children of its citizens should be educated will—through the inefficiency of government and the levying of taxes—make the condition of its "beneficiaries" worse, not better. But that does not suggest that government has no role in providing a GI bill of rights or a repayable program of low-interest student loans to ensure that educational opportunity is available to more than the wealthy.

American Government is carefully designed to circumscribe the power of the governors over the governed. No concept in the history of nations is more profound nor more substantively important on a day-to-day basis than the way in which powers are assigned and accumulated. There are numerous parts to America's governmental uniqueness, or at least its original uniqueness—it is a sign of this country's exemplary role that so many aspects of this American experiment have now been incorporated into the governmental schemes of other countries—but at the very core are the separation of powers which at other times and in other places have been held in a single pair of hands, and the careful balancing of those powers so as to provide not just a division but an equality. That is why no tampering with the American Government is so potentially dangerous as those proposed changes which would upset that balance.

Presidents, of course, constantly seek to enlarge their powers because the separation of powers and the constraints thus imposed are frustrating checks on activism. In recent years, with Republican domination of the Presidency and Democratic domination of the Congress, there has been an eagnerness by Republicans in Congress to enlarge the powers of the Presidency to help promote the Republican agenda. It is an understandable impulse, and some of the changes they are seeking—for example, a line-item veto for the President—could conceivably have beneficial effect, but they carry with them terrible dangers, both philosophically—a serious move, after 200 years, toward the concentration of power in a chief executive—and pragmatic—none have yet figured out how to assign such powers only to Presidents of their own party. Some of the Congressional advccates of giving more power to the President are simply nonthinkers' knee-jerk bumper-sticker-mentality types whose political philosophy boils down to this: "If it sounds good, say it." Others, however, are more thoughtful and some of those conclude that the Congress itself has infringed on the powers of the Presidency, and such remedies as the line-item veto are merely prescriptions for restoring the balance originally intended. That is a sound and defensible position, but one which relies primarily on an assumption of Presidential primacy in matters of foreign policy, a highly debatable conclusion since the Constitution after designating the President as the supreme military commander and assigning to him sole authority for the negotiating of treaties and appointment of ambassadors—but leaving approval in both cases to the Congress simply avoids the subject altogether, so that both the advocates of Presidential primacy and those who argue that the setting of policy—primarily through the appropriating or withholding of funds—lies with the Congress, must both rely not on reading but on construction. Those who construe the vagueness one way—the Congress has no business making foreign policy—believe the balance of powers has improperly shifted; those who read it otherwise do not.

Here I must say that while my own reading of the Constitution suggests to me that the Congress properly has the same policy-setting authority in foreign policy as in domestic save for the prohibition against non-Presidential negotiating with foreign powers, I believe that doubts should always be resolved in favor of the Congress, and not the President. The whole essence of American Government is the desire to see a diffusion of power, and not its concentration. Given a choice of where to reside any power in question, I would always choose to place it in that arena where conflicting parties and conflicting ambitions will tend to make that power harder to exercise. An underlying fundamental of American Government is that power over the people should be sparingly used. While inefficiency breeds frustration, and delay in dealing with problems unquestionably has harmful results, those frustrations and injuries are far less than would result from a government empowered to move quickly and efficiently to impose new laws or new taxes on the people. If frustration and neglect are harmful, and they unquestionably are, and if regulation, restriction, and taxation are harmful as well, it is an underlying premise of the American form of government that the former is to be preferred to the latter.

The role of government in a society which emphasizes the people over the rights of the government, and which adheres to the doctrine that that government governs best which governs least, but which lives in a world with peace, love, and opportunity as high values, is to find ways to advance those goals without injecting the heavy hand of Government into the everyday lives of its citizens.

What, then, is the role of Congress in such a context?

It is the role of the courts, and of journalists, and of intellectuals, and even of private citizens to defend the citizenry against the excesses of Government. For the legislator, the imperative is somewhat different. Legislating is, by definition, a proactive activity. It is therefore not the job of Congress to undo Government, but rather to do those things which Government properly can do, within the delineated boundaries. The philosophical battles in Congress will obviously revolve around different understandings as to where the parameters lie, but within those parameters is where one finds not a field of nonactivity but of activity. One who wishes no role other than to carp and to criticize would be best served seeking another forum for expression. The role of the critic is important, and I do not mean to denigrate it. But that role is different from the role of a legislator. A conservative legislator who resists governmental intrusion by liberals is acting properly and within the mandate of the Congress; a legislator who has nothing positive to offer in any field whatsoever, confuses limited government with anarchy and confuses the legislative branch of Government with a debating society. It is the role of a conservative Congress to put forth proposals which stimulate and enhance non-intrusive means—through incentives to the private sector, for example—or through reasonable amounts of public investment, to promote the proper objectives of Government.

Congress exists as a check on the power of the executive branch, but it does not exist for that purpose alone. To suggest that it does is to suggest either that there should be no government at all or that all governmental activism should flow from the executive branch. That clearly is the belief of many of today's leading and most vocal conservatives, but is a violent and frightening departure from both the principles of conservatism—which abhors centralized power—and from the basic premises underlying America itself.

Unfortunately, liberals, who do understand the need for occasional governmental activity, fail to recognize the restricted field on which they play and so, unfortunately, the political vision is too often destructive of the individual dream.

The problem, obviously, is that the Congress must find a way to advance those areas properly within its purview without stepping across the boundaries. The liberal will not be sufficiently mindful of the boundaries and the important reasons for their existence; the conservative will be properly attentive to not stepping out of bounds, but will neglect the playing field. Because these two philosophies are antithetical, talk about divided government, so frequently invoked as a reference to the electorate's placement of executive power in the hands of one party (or philosophy) and the legislative power in the hands of another, can also refer to the stalemate within the Congress itself which results when men of different persuasions find themselves so focused on their differences, and so politicized, so intent on unifying the power that is now divided between the two governing branches, that they find accommodation impossible. This is the current state of affairs.

For the Congress to function effectively and to win back the respect and support of the people, it must do two things:

First, it must, as a whole as well as in its individual parts, relate to the populace with honesty and candor. That requires objective evaluation of circumstance and cause, and an objective statement of the necessary prescriptions for cure. I wish I could state at this point that it has been my experience that the public will forgive almost anything—including harsh but necessary measures—so long as it is dealt with truthfully and candidly. That, unfortunately, is not the case. Propose either a tax increase to pay for desired programs, or a reduction in desired programs, and the populace is too often unforgiving and punitive. Nonetheless, my remarks center not on the prospects for praise or reelection, but on the duties and responsibilities of the elected official. What the Congress must do, therefore, is this:

First, in the opening days of the new Congress, having taken the advice of the Executive as presented through his State of the Union Address, and accompanying documents), the leaders of Congress should sit down in a bipartisan way and hammer out in as many days as it takes a common statement of problems to be addressed. This exercise should not concern itself with the differing approaches to those problems and their solutions, but rather should be restricted to an agreement as to which problems—and opportunities—ought to be addressed by a responsible legislature. Second, the Speaker of the House, after consulting with the minority, should issue a schedule for committee and floor consideration of each of these problems. Third, working bipartisan task forces should be appointed to consider alternatives in their broadest context. At this stage, leaders of the two parties would be given an opportunity to try to define those proposals which would, in their view, go beyond the scope of potential consensus and trigger partisan confrontation, and to determine those proposals which would form the nucleus of a possible agreement. At that point, with clear instructions from the Speaker and minority leader to try to find a bipartisan solution, the proposals would be forwarded to the appropriate committee for hearings and debate.

Granted, this approach will not diminish very real passions and may, in the end, lead to no solutions and bitter and rancorous battles no different than those encountered today, but at least it would be a step toward setting problem-solving and consensus-building on the agenda as a primary goal.

To make such a system work, however, it would be necessary to take strong measures to ensure that all Representatives are given fair opportunity to be heard and to have their views seriously considered. To that end, the House should work to eliminate so-called closed rules, which prohibit debate and votes on amendments to committee proposals. While debate—and votes—muddy up the process, the result is a diminished sense of having been rolled, and a greater public acceptance of the final work product.

The target of all this would seem to be the building of consensus. To some, this smacks of compromise, a term connoting an abandonment of principal. But progress need not be made in a single fell swoop; it can be, and usually is, made incrementally. A foundation here, a building block there. Compromise is properly a pejorative term when it implies abandonment of principle; it should be a praiseworthy term when it suggests movement toward the final goal. By the building of consensus, people with a focus on different parts of a problem may all find ways to move toward their end goal. And the result will be a government that works without abandoning the safeguards built into the American system by the founding fathers in order to make it difficult to pass laws which impinge on the freedoms of the citizens.

Having now considered the broader roles we assume as citizens and the proper goal of the Congress, the final dividual Member of Congress do to fulfill these responsibilities and obligations?

The role of the Congressman is dictated by our perceptions of our human responsibilities, the unique role of America in this world we share with so many others, the role government plays in advancing America's purposes, and the role the Congress serves as an instrument of that responsibility. Therefore, let me, as I leave this institution, reflect for a moment on the specific role of those men and women fortunate enough to be entrusted by the public with the responsibility and opportunity to shape America's public life.

Every Member of Congress should ask himself, or herself, on the day of installation, and many times thereafter, these two questions: What kind of society do I want to live in? And: What kind of society do I not want to live in? In other words, what is our positive vision of the America we would create; what is the negative future we would defend against? The answers will differ, according to personality and philosophy, but without these self-directed questions repeated periodically, there can be no compass by which to steer one's political decision-making.

These questions present another aspect of the self-definition and job description ruminations to which a good public servant must submit himself or herself. One cannot answer these questions without thinking in terms of other people. Whether one envisions a society free from war or a society free from regulations, there are human beings in the center of the stage.

On the night I learned I had lost my campaign for reelection and would not be serving a ninth term in Congress, I went to face my supporters with no thought in mind as to what I might say, other than conveying my deeply felt belief that I had been inordinately lucky to have been given this rare opportunity of service. As I looked out upon that audience of friends—my political family, almost—what I found myself saying was that my successor, whoever that might be, should keep in mind always that those of us who have been entrusted with such power must always care, first and above all, for the people we serve. I mentioned that America is an ideal, an idea, a marvel. It is those things, but it is those today, not just in history books, and it is those things for the people who live in it, not just for those who theorize about it.

What is too often missing from the political environment is a sense of compassion and caring aimed at real human beings. In his book "Cancer Ward," Alexander Solzhenitsyn tells of a powerful Russian bureaucrat named Rusanov who was found to be ill and placed in a hospital ward with Russians of less exalted status. Rusanov had always loved the people, Solzhenitsyn says, the great Russian people, but it was all these filthy, sick, complaining individual human beings around him he couldn't stand. It is the challenge of a public servant to think of people not as symbols but as themselves.

Much of the work today of a Congressman is of a nonlegislative, and completely nonphilosophical, nature. A Congressman becomes, upon election, an ombudsman, charged with locating lost social security checks, straightening out problems with government pensions, helping social security recipients, etc. To the Congressman and his staff, these may be inconsequential parts of the job; to the people with these problems, they are real, they are important, and the Congressman is the last hope.

But this same consideration carries over to the legislative arena as well. Here, too, the individual must remain paramount. Our republic is a living institution. It is a representative democracy: People who live today—and whose concerns are today's concerns—cast votes for people who are to represent them and their concerns. America has not become—and must not be allowed to become—an ossified relic of the 18th century. To that extent, every issue must be considered in today's terms. For example, whether or not one supports some form of restriction on the purchase and ownership of firearms, one must debate that issue in part on the facts as they are today—not trappers and hunters and woodsmen hunting their evening meals or townspeople armed in a land patrolled by an occupying army—but an environment in which urban centers are occupied by armies of armed criminals. Health care issues must be debated not in terms of family physicians carrying their few and mostly futile remedies to the sickbed in one's own home, but modern medical centers equipped with expensive technology and an extensive array of pharmaceuticals which today prolong or save the lives of citizens who in the golden century of the house call would have been comforted and left to die. Roads, highways, and bridges carry not wagons or lightweight, low-powered cars, but heavy, fast automobiles and enormous, heavily weighted trucks. One cannot continue to debate in terms of rhetoric derived from another age and still serve Americans who live today.

And yet if the Nation lives, so, too, does its Constitution, which serves as an umbrella shielding us from the heat of the power-seeking politician or the deluge of laws, taxes, and regulations which powerful government can pour down on the heads of its citizens. As problems become more complex, and their solutions more urgent, there will inevitably follow a tendency on the part of some activists to ignore constitutional protections, to concentrate Federal power in fewer hands, to brush aside State and local governments, and to relegate the concept of limited government to history.

It will be helpful, therefore, to return again to the concept of America as the teacher and the beacon—a beautiful alabaster angel of freedom carrying the message of constrained government to every part of the world. To Americans who have become anesthesitized by the invisible cocoon of freedom which surrounds us, the Polands, the Hungarys, the Czechoslovakias, the Russians cry out a reminder of how precious are those freedoms which flow when free men put chains around their governments and empower the people, themselves, to forge their own individual destinies.

We can be sensitive and responsive to the needs of others. Indeed we must, as citizens of the world, hear—and heed—the cries which demand our attention. The great American poet Edna St. Vincent Millay once wrote: "A man was starving in Capri; he moved his eyes and looked at me; I felt his gaze; I heard his moan; and knew his hunger as my own." If we do not hear the moans of the hungry and hopeless and the helpless, we forfeit our birthright as common inheritors of this precious jewel of a planet which God has handed into our keeping.

But those who would serve the people—who would serve both their physical needs and the freedom which God made a part of that birthright—must know always the divisions between that which men do as people and that which they do as governments. The more Government is empowered, the greater will be the threat it may potentially pose to the freedoms which have set this country apart. The role of the Congressman is to maintain the balance—not to let the urgency of the need set aside the necessary limits on Government; not to let the limits preclude action. A philosophy of Government which cannot protect the freedoms of the citizens should not be entrusted with power; a philosophy of Government which cannot meet the fundamental requirements of the people is not worthy of serious consideration and should not be entrusted with power. There is a balance between the two: Finding that balance is, in the end, the most important job facing every man or woman who seeks to guide the Government of this unique Nation.

I am deeply aware that this is one of the last times I shall be privileged to speak in this Chamber. My voice will be absent from the debates in this great institution. There is still so much more to do, and at least that part of it which must be done in the House of Representatives must be passed on to others. I close with these words, this charge, borrowed, again, from Edna St. Vincent Millay, from her words dedicating a statue in this building to the brave women who fought to win for women the right to vote and to emerge as equal participants in the great American dream:

Upon this marble bust that is not I
Lay the round, formal wreath that is not fame;
But in the forum of my silenced cry
Root ye the living tree whose sap is flame.
I, that was proud and valiant, am no more;—
Save as a dream that wanders wide and late,
Save as a wind that rattles the stout door,
Troubling the ashes in the sheltered grate.
The stone will perish; I shall be twice dust.
Only my standard on a taken hill
Can cheat the mildew and the red-brown rust
And make immortal my adventurous will.
Even now the silk is tugging at the staff.
Take up the song; forget the epitaph.

I leave this Chamber to continue the struggle in other places and by other means. But for those many friends and colleagues who have embraced me in these last days and expressed sorrow at my departure from the Congress, I say to you: I leave the flag of what I have tried to accomplish. Put my standard on a taken hill. You, in your victories, can make my will live again in this place. I have had a wonderful, wonderful opportunity here with you. I am going on from here. I need no epitaph. But pick up my flag.

CONFERENCE REPORT ON H.R. 4016

Mr. DINGELL submitted the following conference report and statement on the bill (H.R. 4016), to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of:

CONFERENCE REPORT (H. REPT. 102-986)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4016), to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Environmental Response Facilitation Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The closure of certain Federal facilities is having adverse effects on the economies of local communities by eliminating jobs associated with such facilities, and delay in remediation of environmental contamination of real property at such facilities is preventing transfer and private development of such property.

(2) Each department, agency, or instrumentality of the United States, in cooperation with local communities, should expeditiously identify real property that offers the greatest opportunity for reuse and redevelopment on each facility under the jurisdiction of the department, agency, or instrumentality where operations are terminating.

(3) Remedial actions, including remedial investigations and feasibility studies, and corrective actions at such Federal facilities should be expedited in a manner to facilitate environmental protection and the sale or transfer of such excess real property for the purpose of mitigating adverse economic effects on the surrounding community.

(4) Each department, agency, or instrumentality of the United States, in accordance with applicable law, should make available without delay such excess real property.

(5) In the case of any real property owned by the United States and transferred to another person, the United States Government should remain responsible for conducting any remedial action or corrective action necessary to protect human health and the environment with respect to any hazardous substance or petroleum product or its derivatives, including aviation fuel and motor oil, that was present on such real property at the time of transfer.

SEC. 3. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS OR THEIR DERIVATIVES WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property to which this paragraph applies (as set forth in subparagraph (E)), the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which no hazardous substances and no petroleum products or their derivatives were stored for one year or more, known to have been released, or disposed of. Such identification shall be based on an investigation of the real property to determine or discover the obviousness of the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property. The identification shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property:

"(i) A detailed search of Federal Government records pertaining to the property.

"(ii) Recorded chain of title documents regarding the real property.

"(iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(v) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(vi) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

"(vii) Interviews with current or former employees involved in operations on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to the Administrator and State and local government officials and made available to the public.

"(B) The identification required under subparagraph (A) is not complete until concurrence in the results of the identification is obtained, in the case of real property that is part of a facility on the National Priorities List, from the Administrator, or, in the case of real property that is not part of a facility on the National Priorities List, from the appropriate State official. In the case of a concurrence which is required from a State official, the concurrence is deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

"(C)(i) Except as provided in clauses (ii), (iii), and (iv), the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made at least 6 months before the termination of operations on the real property.

"(ii) In the case of real property described in subparagraph (E)(i)(II) on which operations have been closed or realigned or scheduled for closure or realignment pursuant to a base closure law described in subparagraph (E)(ii)(I) or (E)(ii)(II) by the date of the enactment of the Community Environmental Response Facilitation Act, the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made not later than 18 months after such date of enactment.

"(iii) In the case of real property described in subparagraph (E)(i)(II) on which operations are closed or realigned or become scheduled for closure or realignment pursuant to the base closure law described in subparagraph (E)(ii)(II) after the date of the enactment of the Community Environmental Response Facilitation Act, the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made not later than 18 months after the date by which a joint resolution disapproving the closure or realignment of the real property under section 2904(b) of such base closure law must be enacted, and such a joint resolution has not been enacted.

"(iv) In the case of real property described in subparagraphs (E)(i)(II) on which operations are closed or realigned pursuant to a base closure law described in subparagraph (E)(ii)(III) or (E)(ii)(IV), the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made not later than 18 months after the date on which the real property is selected for closure or realignment pursuant to such a base closure law.

"(D) In the case of the sale or other transfer of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action or corrective action found to be necessary after the date of such sale or transfer shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a re-

sponse action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

"(E)(i) This paragraph applies to—

"(I) real property owned by the United States and on which the United States plans to terminate Federal Government operations, other than real property described in subclause (II); and

"(II) real property that is or has been used as a military installation and on which the United States plans to close or realign military operations pursuant to a base closure law.

"(ii) For purposes of this paragraph, the term 'base closure law' includes the following:

"(I) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(II) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(III) Section 2687 of title 10, United States Code.

"(IV) Any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of enactment of the Community Environmental Response Facilitation Act.

"(F) Nothing in this paragraph shall affect, preclude, or otherwise impair the termination of Federal Government operations on real property owned by the United States.".

SEC. 4. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence of such paragraph the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to the Administrator to be operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the remedy has been demonstrated to the Administrator to be operating properly and successfully does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out ", and" at the end of subparagraph (A)(iii) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer.".

SEC. 5. REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), as amended by section 3, is further amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF STATES REGARDING CERTAIN LEASES.—In the case of real property owned by the United States, on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor oil) was stored for one year or more, known to have been released, or disposed of, and on which the United States plans to terminate Federal Government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall notify the State in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made before entering into the lease and shall include the length of the lease, the name of person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property.".

And the Senate agree to the same.

From the Committee on Energy and Commerce, for consideration of the House bill and Senate amendments, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,
JIM SLATTERY,
GERRY SIKORSKI,
NORMAN F. LENT,
DON RITTER,
MATT RINALDO,

As additional conferees from the Committee on Public Works and Transportation, for consideration of the House bill and Senate amendments, and modifications committed to conference:

ROBERT A. ROE,
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,

As additional conferees from the Committee on Armed Services, for consideration of Senate amendments Nos. 1 through 4, and modifications committed to conference:

LES ASPIN,
RICHARD RAY,
JIM SAXTON,
Managers on the Part of the House.

D.P. MOYNIHAN,
JOHN H. CHAFEE,
FRANK R. LAUTENBERG,
JOHN WARNER,
GEORGE MITCHELL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

REQUIREMENT FOR IDENTIFICATION OF UNCONTAMINATED LAND

House amendment

The House provision amends section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9620(h)) to require identification of uncontaminated real property. In the case of real property owned by the United States and on which the United States plans to terminate Federal operations, the Federal government is to identify real property on which no hazardous substances and petroleum products or their derivatives were stored for one year or more, or are known to have been released, or disposed of.

The identification is to be based on an investigation of the real property, including, at a minimum: (1) a detailed search of Federal records relating to the property, (2) the recorded chain of title documents regarding the real property, (3) aerial photographs, (4) a visual inspection of the real property, improvements on such property and properties immediately adjacent to the real property, (5) a physical inspection of property adjacent to the real property, (6) reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, and (7) interviews with current or former employees involved in operations on the real property. The identification is also to be based on sampling, if appropriate.

Senate amendment

The Senate-passed bill, like the House bill, makes identification requirements applicable to all non-military installations on which the Federal government plans to terminate operations. However, for the Department of Defense, the Senate bill narrows the scope of the identification requirement to apply only to Department of Defense military installations on which the United States terminates military operations pursuant to a base closure law.

The Senate-passed bill also adds a provision allowing a completed preliminary assessment and site investigation to be used for identification purposes if such preliminary assessment and site investigation provides information equivalent to that required in the House-passed bill.

Conference substitute

The conference agreement retains the House provisions but adopts the Senate provisions narrowing the scope of the identification provision for the Department of Defense to apply only to military installations on which the United States has operations which are or will be closed or realigned pursuant to a base closure or realignment law.

The conferees support the House report language which contained the following statement: "In detailing sources of information to be reviewed concerning the current and previous uses of the real property, the Committee does not intend to require an agency to duplicate or retake actions which have already been performed properly." The conferees reiterate their intention that the review of sources should reference existing documentation when adequate and performed properly, not result in duplication of previous or ongoing efforts and paperwork, and not require new forms.

The conferees note there has been some question on the part of the heads of Federal departments, agencies and instrumentalities as to whether they may, under the law, transfer uncontaminated parcels of real property if those uncontaminated parcels have been part of a facility that is or has been listed on the National Priorities List.

The Community Environmental Response Facilitation Act addresses this question by establishing a process for identifying parcels of property, prior to termination of federal activities, that have not been contaminated by the storage, release or disposal of hazardous substances or petroleum products or their derivatives. The expeditious identification of such parcels that do not require environmental response is intended to facilitate the ultimate transfer of such property for economic redevelopment or other purposes. As the Defense Environmental Response Task Force said in its October 1991 report to Congress,

> The Task Force found that transferring uncontaminated parcels of a closing base, with appropriate safeguards to prevent interference with the clean-up of contaminated parcels, will speed the process of establishing non-military uses of the land and therefore constitutes an appropriate method of accomplishing reuse. Such transfers will not contravene the policies underlying Section 120(h)(3) if sound or definitive criteria are used for determining that no hazardous substances were stored, disposed of, released on, or are likely to migrate to a particular parcel, and that the transfer is otherwise consistent with the statutory policy of protecting human health and the environment and facilitating the cleanup of sites containing hazardous substances.

Thus, this legislation specifically allows the head of the federal department, agency, or instrumentality with jurisdiction over real property that has been determined to be free from contamination under the provisions of this legislation, to sell, lease, or otherwise transfer any right, title, or interest to that real property without regard to whether the property is or has been listed on the National Priorities List, as long as that transfer is done in compliance with Section 120, as amended by H.R. 4016.

CONCURRENCE

House amendment

The House bill (new section 120(h)(4)(B) of CERCLA) provides that the identification required in subparagraph (A) is not complete until concurrence in the results of the identification is obtained: (1) in the case of real property that is part of a facility on the National Priorities List, from the Administrator, or, (2) in the case of real property that is not part of a facility on the National Priorities List, from the appropriate State official.

The House bill (new Section 120(h)(4)(C) of CERCLA) requires identification and concurrence at least 6 months before the termination of operations on the real property. In cases where State concurrence is required, the State concurrence is deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

Senate amendment

The Senate bill adopts the House language but adds a different schedule for property on which the United States terminates military operations. The Senate bill provides that the identification and concurrence required on parcels from military installations are to be made 18 months after the base is selected for closure pursuant to a base closure law, or 60 days after the Environmental Protection Agency approves a remedial investigation/feasibility study, whichever is later.

The Senate bill also provides that the United States may transfer real property for which State concurrence is required 180 days after submitting a request for concurrence. The effect of this provision is to give the responsible State official a maximum of 180 days to resolve all issues.

Conference substitute

The conference agreement retains the deadline provided in the House bill for nonmilitary installations. For such installations, the required identification and concurrence are to be made at least 6 months before the Federal government terminates operations on the real property.

For military installations to be closed pursuant to a base closure law, the required identification and concurrence determination must be made (1) not later than 18 months after date of enactment of this legislation for such installations already selected for closure, or (2) not later than 18 months after final disposition of the resolution of disapproval for military installations selected for closure after the date of enactment of this legislation. This is a maximum time frame. Where reliable identification and concurrence can be achieved before this 18-month deadline, this should be done so that uncontaminated parcels of Federal property will be available as quickly as possible for economic re-use.

The conference adopts the House language regarding State concurrence. The conferees are concerned about limiting or restricting State actions. The conferees express their hope that the parties involved in these actions will act in good faith to resolve differences expeditiously, within the 90-day period allotted.

COVENANT

House amendment

The House bill (new section 120(h)(D)) provides that the deed entered into by the United States for the sale or transfer of identified uncontaminated property shall contain a covenant warranting that the United States will conduct any response action or corrective action found to be necessary after the date of the sale or transfer. The House bill also provides that the deed is to contain a clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary at the property or the access is necessary to carry out a response action or corrective action on adjoining property.

The House bill also provides that the requirement to identify clean parcels does not affect, preclude, or otherwise impair the termination of Federal operations.

Senate amendment

The Senate amendment adopts the House language.

Conference substitute

The conference substitute adopts the House language.

CLARIFICATION OF COVENANT WARRANTING REMEDIAL ACTION HAS BEEN TAKEN

House amendment

The House bill adds a new sentence at the end of section 120(h)(3) of CERCLA clarifying that "all remedial action" described in subparagraph (3) has been taken if the construction and installation of an approved remedial design has been completed and the remedy has been demonstrated to the Administrator of EPA to be operating properly and successfully. Long-term pumping and treating or operation and maintenance does not preclude transfer so long as the remedy has been demonstrated to the Administrator of EPA to be operating properly and successfully.

The House amendment also requires that the dead transferring the property include a clause granting the United States access to the property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer of the property.

Senate amendment

The Senate amendment adopts the House provision.

Conference substitute

The conference substitute adopts the House provision.

REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES

House amendment

The House bill (Section 5) adds a new paragraph (5) to section 120(h) of CERCLA. This paragraph requires the United States to notify the State of any lease for real property owned by the United States that will encumber the property beyond the date of termination of operations on the property.

Senate amendment

The Senate amendment adopts the House provision.

Conference substitute

The conference substitute adopts the House provision.

From the Committee on Energy and Commerce, for consideration of the House bill and Senate amendments, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,
JIM SLATTERY,
GERRY SIKORSKI,
NORMAN F. LENT,
DON RITTER,
MATT RINALDO,

As additional conferees from the Committee on Public Works and Transportation, for consideration of the House bill and Senate amendments, and modifications committed to conference:

ROBERT A. ROE,
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,

As additional conferees from the Committee on Armed Services, for consideration of Senate amendments Nos. 1 through 4, and modifications committed to conference:

LES ASPIN,
RICHARD RAY,
JIM SAXTON,
Managers on the Part of the House.

D.P. MOYNIHAN,
JOHN H. CHAFEE,
FRANK R. LAUTENBERG,
JOHN WARNER,
GEORGE MITCHELL,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 4250

Mr. DINGELL submitted the following conference report and statement on the bill (H.R. 4250), to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-990)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4250), to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amtrak Authorization and Development Act".

SEC. 2. SAFETY IMPROVEMENTS.

Title VIII of the Railroad Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end the following new section:

"SEC. 811. RAIL AT-GRADE CROSSINGS.

"(a) ELIMINATION.—The Secretary, in consultation with the States along the main line of the Northeast Corridor, shall develop a plan by September 30, 1993, for the elimination of all highway at-grade crossings of such main line by December 31, 1997.

"(b) EXCEPTIONS.—The plan developed under subsection (a) may provide that the elimination of a highway at-grade crossing not be required if eliminating such crossing is impracticable or unnecessary and the use of the crossing will be consistent with such conditions as the Secretary considers appropriate to ensure safety.

"(c) FUNDING.—The Corporation shall pay 20 percent of the cost of the elimination of each highway at-grade crossing pursuant to the plan.".

SEC. 3. EXPERIMENTATION WITH NEW TECHNOLOGIES.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) (as amended by section 2) is amended by adding at the end the following new section:

"SEC. 812. EXPERIMENTATION WITH NEW TECHNOLOGIES.

"(a) PLAN.—The Corporation shall develop a plan for the demonstration of new technologies in rail passenger equipment. Such plan shall provide that any new equipment procured by the Corporation that may significantly increase train speeds over existing rail facilities shall be demonstrated, to the extent practicable, throughout the national intercity rail passenger system.

"(b) REPORT TO CONGRESS.—The Corporation shall, not later than September 30, 1993, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report summarizing the plan developed under subsection (a), including its goals, locations for technology demonstration, and a schedule for implementation of the plan.

"(c) COOPERATION.—The Corporation, in order to facilitate efforts to increase train speeds throughout the national intercity rail passenger system, shall upon request by eligible applicants, consult and cooperate, to the extent feasible, with such applicants proposing technology demonstrations authorized and funded pursuant to Federal law.

SEC. 4. NORTHEAST CORRIDOR PROGRAM MASTER PLAN.

"(a) AMENDMENT.—Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended by adding at the end the following new section:

"SEC. 708. PROGRAM MASTER PLAN.

"Within 1 year after the date of enactment of this section, the Secretary, in consultation with the Corporation and the commuter and freight railroads operating over the Northeast Corridor main line between Boston, Massachusetts, and New York, New York, shall develop and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a program master plan for a coordinated program of improvements to such main line that will permit the establishment of regularly scheduled, safe, and dependable rail passenger service between Boston, Massachusetts, and New York, New York, including appropriate intermediate stops, in 3 hours or less. Such plan shall include—

"(1) a description of the implications of such improvements for the regional transportation system, including the probable effects on general travel trends and on travel volumes in other transportation modes, and the implications for State and local governments in attaining compliance with the Clean Air Act;

"(2) an identification of the coordinated program of improvements and the specific projects that comprise that program, including their estimated costs, schedules, timing, and relationship with other projects;

"(3) an identification of the financial responsibility for the specific projects that comprise the program, and the sources of those funds;

"(4) an operating plan for the period of construction of the improvements demonstrating a coordinated approach to scheduling intercity and commuter trains;

"(5) an operating plan, for the period after completion of commuter trains, including the provision of priority scheduling, dispatching, and occupancy of tracks for appropriately frequent, regularly scheduled intercity rail passenger service of 3 hours or less between Boston, Massachusetts, and New York, New York, with appropriate intermediate stops;

"(6) a comprehensive plan to control future congestion on the Northeast Corridor attributable to increases in intercity and commuter rail passenger service;

"(7) an assessment of long-term operational safety needs and a list of specific projects designed to maximize operational safety; and

"(8) any comments the Corporation submits to the Secretary regarding the contents of the plan.

The Secretary shall submit to the Congress any modifications made to the program master plan, along with any comments the Corporation submits to the Secretary regarding such modifications.".

(b) CONFORMING AMENDMENT.—The table of contents for the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by inserting after the item relating to section 707 the following new item:

"Sec. 708. Program master plan.".

SEC. 5. AUTHORIZATION OF PREFERRED STOCK.

Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end the following new paragraph:

"(4) No amendment to the articles of incorporation of the Corporation shall be required for the issuance of the preferred stock required to be issued pursuant to this subsection.".

SEC. 6. PROPERTY FINANCING.

Section 306(n) of the Rail Passenger Service Act (45 U.S.C. 546(n)) is amended to read as follows:

"(n)(1) The Corporation shall not be required to pay any additional taxes as a consequence of its expenditure of funds to acquire or improve real property, equipment, facilities, or right-of-way materials or structures used directly or indirectly in the provision of rail passenger service. For purposes of this subsection, 'additional taxes' means taxes or fees (A) on the acquisition, improvement, ownership, or operation of personal property by the Corporation; and (B) on real property other than taxes or fees on the acquisition of real property, or on the value of real property which is not attributable to improvements made, or the operation of such improvements, by the Corporation.

"(2) For purposes of this subsection, the term 'Corporation' includes the Corporation's railroad subsidiaries and any lessors and lessees of the Corporation or its railroad subsidiaries.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended to read as follows:

"SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

"(a) CAPITAL ACQUISITION AND CORRIDOR DEVELOPMENT.—

"(1) NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under title VII of the Railroad Revitalization and Regulatory Improvement Act of 1976 (45 U.S.C. 851 et seq.)—

"(A) $220,000,000 for fiscal year 1993; and

"(B) $250,000,000 for fiscal year 1994.

"(2) GENERAL CAPITAL EXPENDITURES.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under this Act—

"(A) $250,000,000 for fiscal year 1993; and

"(B) $250,000,000 for fiscal year 1994.

"(3) NEW CORRIDOR DEVELOPMENT.—

"(A) IN GENERAL.—Of the amounts appropriated pursuant to paragraphs (1) and (2), not more than 15 percent of each amount shall be made available for projects described in subparagraphs (B) and (C) of this paragraph.

"(B) CORRIDORS BETWEEN DENSELY POPULATED CITIES.—(i) Except as provided in clause (ii), funds made available under subparagraph (A) shall be used to develop new intercity rail passenger service on corridors—

"(I) between cities undergoing significant population growth; and

"(II) where such service can reasonably be expected to provide travel times comparable with other surface transportation modes.

"(ii) Amounts shall be expended for the purposes described in clause (i) only if the service is requested by a State or States and the Corporation and such State or States agree that—

"(I) at least 90 percent of the cost of the acquisition of rolling stock for such service shall be paid by the Corporation; and

"(II) at least 90 percent of the cost of improvements in the right-of-way, including track structure, signal systems, passenger station facilities, highway and pedestrian grade crossings, and other safety equipment or facilities, shall be paid by the State or States.

"(iii) Service described in clause (i) shall be subject to section 403(b) with respect to operating expenses.

"(C) LONG DISTANCE RAIL PASSENGER CORRIDOR DEVELOPMENT.—(i) Except as provided in clause (ii), funds made available under subparagraph (A) shall be used to initiate new long distance intercity rail passenger service.

"(ii) Amounts shall be expended for the purposes described in clause (i) only if the service is requested by a State or States and the Corporation and such State or States agree that—

"(I) at least 75 percent of the cost of the acquisition of rolling stock for such service shall be paid by the Corporation; and

"(II) at least 90 percent of the cost of improvements in the right-of-way, including track structure, signal systems, passenger station facilities, highway and pedestrian grade crossings, and other safety equipment or facilities, shall be paid by the State or States.

"(iii) Service described in clause (i) shall be subject to section 403(b) with respect to operating expenses.

"(b) OPERATING EXPENSES.—

"(1) CORE SYSTEM.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses—

"(A) $381,000,000 for fiscal year 1993; and

"(B) $381,000,000 for fiscal year 1994.

Of the amounts appropriated in subparagraphs (A) and (B), not more than 5 percent for each fiscal year shall be used for the payment of operating expenses under section 403(b) of this Act for service in operation as of September 30, 1992.

"(2) NEW STATE-SUPPORTED SERVICE.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating losses under section 403(b) of this Act for service commencing after September 30, 1992—

"(A) $7,500,000 for fiscal year 1993; and

"(B) $9,500,000 for fiscal year 1994.

The expenditure by the Corporation of funds appropriated for operating losses under section 403(b) of this Act for service commencing after September 30, 1992, shall not be considered to be an operating expense for purposes of calculating the revenue-to-operating expense ratio of the Corporation.

"(c) MANDATORY PAYMENTS.—There are authorized to be appropriated to the Secretary $150,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994, for the payment of—

"(1) tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in such fiscal years in excess of amounts needed to fund benefits for individuals who retire from the Corporation and for their beneficiaries;

"(2) obligations of the Corporation under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in such fiscal years in excess of its obligations calculated on an experience-rated basis; and

"(3) obligations of the Corporation due under section 3321 of the Internal Revenue Code of 1986.

Funds appropriated under this subsection shall not be considered a Federal subsidy of the Corporation.

"(d) ADMINISTRATION OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisitions and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with the Secretary's budget request as approved or modified by Congress at the time of appropriation. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.

"(e) SCHEDULE OF PAYMENTS.—In each fiscal year in which funds are authorized to be appropriated under this section, payments by the Secretary to the Corporation of appropriated funds shall be made on the following basis—

"(1) 50 percent on the first day of a fiscal year;

"(2) 25 percent on the first day of the second quarter of a fiscal year; and

"(3) 25 percent on the first day of the third quarter of a fiscal year.".

"(b) CONFORMING AMENDMENT.—Section 403(b)(1)(B)(iii) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)(B)(iii) is amended by striking "and 50 percent of the associated capital costs" and inserting in lieu thereof "and, except as provided in section 601(a), 50 percent of the associated capital costs".

"(c) REPEAL.—Section 602 of the Rail Passenger Service Act (45 U.S.C. 602) is repealed.

SEC. 8. DEFINITION.

Section 103 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

"(1) by redesignating paragraphs (13) through (17) as paragraphs (14) through (18), respectively; and

"(2) by inserting after paragraph (12) the following new paragraph;

"(13) 'Northeast Corridor' has the meaning given such term in section 701(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851(c)).".

SEC. 9. HIGH SPEED RAIL CORRIDOR DEVELOPMENT.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) (as amended by section 3) is amended by adding at the end the following new section:

"SEC. 813. HIGH SPEED RAIL CORRIDOR DEVELOPMENT.

"(a) ENCOURAGEMENT AND ASSISTANCE.—The Corporation shall, upon reasonable request by States, political subdivisions, regional partnerships, private sector representatives, and other qualified persons, consult and cooperate with such parties to the extent feasible to assist the efforts of such parties to achieve high-speed rail service through equipment upgrades, grade-crossing safety improvements, and incremental infrastructure improvements on existing railroad facilities utilized by the Corporation, other than the Northeast Corridor.

"(b) REPORT.—The Corporation shall submit a written report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by September 30, 1993, on the Corporation's efforts under subsection (a).".

SEC. 10. DISCONTINUATION, MODIFICATION, OR ALTERATION OF CERTAIN RAIL PASSENGER SERVICES.

Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended by inserting at the end the following: "Notwithstanding the second sentence of this subsection, on any date between October 1, 1993, and September 30, 1995, if the service operated pursuant to this paragraph on a route during the previous 6-month period has a short-term avoidable loss, the Corporation may elect to consider discontinuance, modification, or adjustment of such service. If such election is made, the Corporation shall solicit public comment on alternatives to discontinuance, modification, or adjustment of such service. The public comment period shall be at least 30 days. Within 60 days after the expiration of that comment period, the Corporation may discontinue, modify, or adjust such service so that there is no short-term avoidable loss for operation of service pursuant to this subsection on the route. For purposes of this paragraph the calculation of short-term avoidable loss shall not include the cost of providing passenger equipment required to operate such service.".

SEC. 11. EMERGENCY TRAINING AND RESPONSE.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) (as amended by section 9) is amended by adding at the end the following new section:

"SEC. 814. EMERGENCY TRAINING AND RESPONSE.

"(a) TASK FORCE.—The Corporation, together with representatives from each of the on-board service and operating crafts and unions, shall form a task force to consider recommendations for improving emergency training and performance of on-board service and operating crew members. A representative of the Federal Railroad Administration shall serve on the task force. The task force shall convene its first meeting within 90 days following the date of enactment of this section.

"(b) MATTERS TO BE CONSIDERED.—The task force formed under subsection (a) shall consider, at a minimum—

"(1) whether the Corporation's emergency training and drill program as presently constituted is adequate, and if not, in what ways it can be augmented or improved;

"(2) whether medical first-aid training, including cardiopulmonary resuscitation, should be required for all onboard service crew members;

"(3) whether the Corporation's requirements with respect to employee responsibilities for passenger evacuation, emergency communications, crew coordination, and disaster response should be coordinated; and

"(4) whether certification of the Corporation's emergency training program and evacuation procedures by the Federal Railroad Administration is warranted.

In considering the matters described in paragraphs (1) through (4), the task force shall address relevant prior recommendations and findings by the National Transportation Safety Board.

"(c) REPORT.—Not later than June 1, 1993, the task force shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate on its findings in subsection (b), together with a summary of actions implemented to date and recommendations for future action.".

SEC. 12. COLUMBUS AND GREENVILLE RAILWAY.

(a) IN GENERAL.—Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"SEC. 518. COLUMBUS AND GREENVILLE RAILWAY.

"(a) LIMITATION OF UNITED STATES INTEREST.—Notwithstanding any other provision of this title, the Secretary shall limit the interest of the United States in any debt of the Columbus and Greenville Railway under sections 505 and 511 of this title to an interest which attaches to such debt in the event of (1) bankruptcy, or (2) substantial sale or liquidation of the assets of the railroad, the proceeds of which are not reinvested in the operations of the railroad. The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary deems appropriate and which conform to the terms in this section.

"(b) HIGHER PRIORITY FOR NEW DEBT.—If the interest of the United States is limited under subsection (a) of this section, any new debt issued by such railroad subsequent to the issuance of the debt described in such subsection may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such subsection as the Secretary and railroad may agree.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by inserting immediately after the item relating to section 517 the following new item:

"Sec. 518. Columbus and Greenville Railway.".

SEC. 13. NEW YORK CITY STATION FACILITIES.

Title VIII of the Rail Passenger Service Act (455 U.S.C. 642 et seq.) (as amended by section 11) is amended by adding at the end the following new section:

"SEC. 815. NEW YORK CITY STATION FACILITIES.

"The Corporation shall develop a plan for new or redeveloped station facilities in New York City, New York, to accommodate the inter-

city rail passenger service requirements of the Corporation, along with needs of the commuter rail services currently using New York Penn Station. In developing the plan, the Corporation shall consider use of the James A. Farley Post Office building as the primary facility for handling intercity passengers, shall evaluate sources of State, local, and private funding therefor, and shall determine the future allocation of space and costs in the existing New York Penn Station and new facilities among all transportation services using the facilities. The plan shall be predicated upon completing the project without Federal funds appropriated for the Corporation. The Corporation shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on such plan no later than April 1, 1993.".

SEC. 14. LOCOMOTIVE CONSPICUITY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(u) LOCOMOTIVE CONSPICUITY.—

"(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to locomotive conspicuity and shall complete the Department's current locomotive conspicuity research no later than December 31, 1993. As part of this review, the Secretary shall collect relevant data from operational experience by railroads having enhanced conspicuity measures in service.

"(2) Not later than December 31, 1992, the Secretary shall issue interim regulations identifying ditch lights, crossing lights, strobe lights, and oscillating lights as interim locomotive conspicuity measures, and authorizing and encouraging installation and use of such measures. The interim regulations and any amendments thereto shall be adopted without regard to subchapter II of chapter 5 of title 5, United States Code. Any locomotive equipped with such interim conspicuity measures on the date of issuance of final regulations under paragraph (3) shall be considered in full compliance with such final regulations until 4 year after issuance of such final regulations.

"(3) Not later than June 30, 1994, the Secretary shall initiate a rulemaking proceeding to issue final regulations requiring substantially enhanced locomotive conspicuity measures. In such rulemaking proceeding, the Secretary shall consider, at a minimum—

"(A) revisions to the existing locomotive headlight standard, including standards for placement and intensity;

"(B) requiring use of reflective materials to enhance locomotive conspicuity;

"(C) requiring use of additional alerting lights (including ditch, crossing, strobe, and oscillating lights);

"(D) requiring use of auxiliary lights to enhance locomotive conspicuity when viewed from the side;

"(E) the effect of any enhanced conspicuity measures on the vision, health, and safety of train crew members;

"(F) separate standards for self-propelled, push-pull and multi-unit passenger operations without dedicated head-end locomotive.

"(4) In issuing regulations under paragraph (3), the Secretary may exclude from any specific conspicuity requirement and category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with rail safety (including grade-crossing safety).

"(5) The Secretary shall issue final regulations requiring enhanced locomotive conspicuity measures no later than June 30, 1995. The Secretary shall require that all locomotives not excluded from the regulations be equipped with interim conspicuity measures under paragraph (2) or the conspicuity measures mandated by final regulations issued under this paragraph, no later than December 31, 1997.

"(6) As used in this subsection, the term 'locomotive conspicuity' means the enhancement of day and night visibility of the front-end unit of a train, by means of lighting, reflective materials, or other means, with particular consideration to the visibility and perspective of drivers of motor vehicles at grade crossings.".

And the Senate agrees to the same.

JOHN D. DINGELL,
AL SWIFT,
JIM SLATTERY,
NORMAN F. LENT,
DON RITTER,
Managers on the Part of the House.

J.J. EXON,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the exacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

1. SHORT TITLE

House bill

Designates short title as "Amtrak Capital Acquisition and Technology Development Act."

Senate amendment

Designates short title as "Amtrak Authorization Act of 1992."

Conference Agreement

House recedes to Senate amendment with a technical amendment. Designates short title as "Amtrak Authorization and Development Act."

2. SAFETY IMPROVEMENTS

House bill

Requires the Secretary to develop a plan for the elimination of highway at-grade crossing along the main line of the Northeast Corridor by December 31, 1997 (unless such elimination is impracticable or unnecessary). Requires Amtrak to pay 20 percent of the cost of eliminating such crossing pursuant to the plan.

Senate amendment

Same as House bill, except it requires the development of the plan by September 30, 1993, and additionally requires Amtrak to make recommendations for the elimination of hazards of highway at-grade crossings.

Conference Agreement

Senate recedes to House bill with technical amendment providing for development of plan by September 30, 1993.

3. NEW TECHNOLOGIES

House bill

Requires Amtrak to develop a plan for demonstration of new high-speed passenger rail technologies throughout the national system and to report to Congress by September 30, 1993 on such plan.

Senate amendment

Same as House bill except it additionally requires Amtrak to take steps to establish cooperative arrangements with eligible applicants proposing demonstrations for financial assistance under law.

Conference Agreement

House recedes to Senate amendment with a clarifying amendment.

The conferees believe that a critical element in the cooperative efforts by Amtrak with other entities to develop high speed rail corridors through incremental improvements is the availability of a suitable high-speed passenger locomotive for operation in non-electrified territory, with or without a dual-power capability. Consequently, the conferees expect Amtrak to proceed with the recent solicitation to contract for and procure such prototype high-speed lightweight locomotives, and to move toward operational service testing of such locomotives as soon as practicable.

4. NORTHEAST CORRIDOR PROGRAM MASTER PLAN

House bill

Requires the Secretary to develop and submit to Congress a program master plan for a coordinated program of improvement to the main line between Boston, Massachusetts, and New York City.

Senate amendment

No provision.

Conference Agreement

House Bill, with a technical amendment requiring a report to be submitted to the Committees of jurisdiction.

5. AUTHORIZATION OF PREFERRED STOCK

House bill

Provides that Amtrak's articles of incorporation require no amendment for the issuance of preferred stock under section 304(c) of the Rail Passenger Service Act.

Senate amendment

Identical provision.

Conference Agreement

House bill.

6. PROPERTY FINANCING

House bill

Clarifies obligation to pay additional taxes with respect to acquisition and improvement of real property, equipment, facilities, or rights-of-way materials or structures used directly or indirectly in the provision of rail passenger service.

Senate amendment

Same as House bill with technical drafting differences.

Conference Agreement

House bill.

7. AUTHORIZATION OF APPROPRIATIONS

House bill

Authorizes appropriations to the Secretary for the benefit of Amtrak as follows:

Northeast Corridor: $272 million, fiscal year 1993; $281 million, fiscal year 1994.

General Capital Expenditures: $300 million, fiscal year 1993; $309,304,000, fiscal year 1994.

Operating Expenses (Core System): $389,820,000, fiscal year 1993; $321,500,000, fiscal year 1994.

New State-Supported Service: $7.5 million, fiscal year 1993; $9.5 million, fiscal year 1994.

Mandatory payments: $150 million, fiscal year 1993; $157 million, fiscal year 1994.

Provides for administration of funds appropriated pursuant to this section.

Requires that 15 percent of amounts appropriated for the Northeast Corridor and General Capital Expenditures be made available for projects involving: (a) Corridors between densely populated cities; and (2) long distance rail passenger corridor development.

Senate amendment

Authorizes appropriations to the Secretary for the benefit of Amtrak as follows:

Northeast Corridor: $220 million, fiscal 1993.

General Capital Expenditures: $300 million, fiscal year 1993; $300 million, fiscal year 1994; $300 million, fiscal year 1995.

Operating Expenses (Core System): $331 million, fiscal year 1993; $331 million, fiscal year 1994; $331 million, fiscal year 1995.

New State-Supported Services: $5 million, fiscal year 1993; $7 million, fiscal year 1994; $10 million, fiscal year 1995.

Mandatory Payments: $146 million, fiscal year 1993; such sums as may be necessary for fiscal years 1994 and 1995.

Provides for administration of funds appropriated pursuant to this section.

Conference Agreement

Senate recedes to House bill with an amendment as follows:

Northeast Corridor: $220 million, fiscal year 1993; $250 million, fiscal year 1994.

General Capital Expenditures: $250 million, fiscal year 1993; $250 million, fiscal year 1994.

Operating Expenses (Core System): $381 million, fiscal year 1993; $381 million, fiscal year 1994.

New State-Supported Service: $7.5 million, fiscal year 1993; $9.5 million, fiscal year 1994.

Mandatory Payments: $146 million, fiscal year 1993; such sums as may be necessary for fiscal year 1994.

Delete 1992 authorization in House bill.

Retain 15 percent language in House bill for corridors between densely populated cities and for long distance rail passenger corridors. Retain conforming and technical provisions in House bill.

Amend section 601(b)(2) by replacing the word "expenses" both places it appears with the word "losses".

Amend section 601(e) further by adding a provision requiring the Secretary to make certain scheduled payments to Amtrak in each fiscal year in which funds are authorized under the bill.

It is the intent of the conferees that Amtrak proceed as soon as practicable, but not later than 12 months after the date of enactment of the conference agreement, to initiate daily 403(b) train service between New Orleans, Louisiana and Mobile, Alabama, under the previously-established first-year formula of 55 percent (Amtrak) and 45 percent (State/local match), as originally agreed upon between Amtrak and the States of Alabama, Louisiana, and Mississippi.

8. DEFINITION

House bill

Provides definition for Northeast Corridor.

Senate amendment

No provision.

Conference Agreement

House bill.

9. HIGH SPEED RAIL CORRIDOR DEVELOPMENT

House bill

No comparable provision.

Senate amendment

Directs Amtrak to encourage efforts by state and regional partnerships and others to develop high speed rail service outside the Northeast Corridor. Requires Amtrak, to the maximum extent feasible, to offer planning assistance, marketing analysis and support, engineering expertise, and other assistance for such purposes and to report to the Congress on such efforts.

Conference Agreement

House recedes to Senate amendment with a clarifying amendment.

10. PAYMENT BY AMTRAK OF COSTS OF CERTAIN NEW SERVICES

House bill

No comparable provision.

Senate amendment

Provides for increased payments by Amtrak under section 403(b) of the Rail Passenger Service Act, during the first two years of operation, in the case of the first rail passenger service under such section that commences after October 1, 1995, and that serves a state not served by the Corporation as of date of enactment.

Conference Agreement

House bill (no provision).

The conferees direct Amtrak, during each year for which funds are authorized under the conference agreement, to provide for an operating loss payment by a state, agency, or person under section 403(b)(ii)(I) and (II) of no more than 45 percent in the first year of operation and 65 percent in the second year of operation in states not served by Amtrak as of the date of enactment of the conference agreement or in states with routes on which rail passenger service has been terminated since 1971. The conferees additionally note that Amtrak has agreed to provide the equipment necessary to operate rail passenger service on certain routes. The conferees further direct Amtrak to provide the necessary equipment when a state has provided the requisite financial contribution toward operating losses, and service on such routes is ready to be commenced. Examples of such routes include those specifically referenced in Amtrak's testimony before the Senate Committee on Commerce, Science, and Transportation (see, S. Hrg. 102-641, p. 70) and before the House Committee on Energy and Commerce (see, Serial No. 102-111, p. 72).

11. DISCONTINUATION, MODIFICATION, OR ALTERATION OF CERTAIN RAIL PASSENGER SERVICE

House bill

No provision.

Senate amendment

Allows Amtrak to discontinue, modify, or adjust short-distance service routes operated by Amtrak, if as of October 1, 1993, such service experienced short-term avoidable loss in previous 6 months that exceeded the average loss per passenger for such service.

Conference Agreement

House recedes to Senate amendment with a technical amendment.

12. BOARD OF DIRECTORS

House bill

No provision.

Senate amendment

Provides for membership on Amtrak's Board of Directors of a person representing the interests of rail passengers, to be selected by the Secretary from a list of three names submitted by the National Association of Rail Passengers.

Conference Agreement

House bill (no provision).

13. CHIEF EXECUTIVE OFFICER

House bill

No provision.

Senate amendment

Replaces the word "president" with "chief executive officer" in various places in section 303 of the Rail Passenger Service Act.

Conference Agreement

House bill (no provision).

14. EMERGENCY TRAINING AND RESPONSE

House bill

No provision.

Senate amendment

Requires Amtrak, with representatives of on-board service and operating crafts and unions, to form a task force to consider recommendations for improving emergency training and performance of on-board service and operating crew members.

Conference Agreement

House recedes to Senate amendment with a clarifying amendment.

15. COLUMBUS AND GREENVILLE RAILWAY

House bill

No provision.

Senate amendment

Requires the Secretary to limit the interest of the United States in any debt of the Columbus and Greenville Railway under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976.

Conference Agreement

Senate amendment.

The conferees intend that the reference to the Columbus and Greenville Railway includes the Delta Transportation Company, a wholly-owned subsidiary of the Columbus and Greenville Railway.

16. NEW YORK CITY STATION FACILITIES

House bill

No provision.

Senate amendment

Directs Amtrak to develop a plan for new or redeveloped station facilities in New York City to accommodate intercity and commuter rail service.

Conference Agreement

House recedes to Senate amendment with a clarifying amendment that requires that the plan be predicated upon completing the project without federal funds appropriated for Amtrak.

17. ALERTING LIGHTS

House bill

No provision.

Senate amendment

Requires the Secretary, within six months of date of enactment, to issue such rules, regulations, orders, or standards as may be necessary to require each intercity passenger, commuter, and freight train, other than a switch locomotive, to be equipped with alerting lights affixed to the locomotive in the normal direction of movement.

Conference Agreement

House recedes to Senate amendment with an amendment.

The conference agreement reflects three basic components regarding locomotive conspicuity, as defined in the conference agreement.

First, the conference agreement requires the Secretary to complete a review of the

Department of Transportation's current locomotive conspicuity research no later than December 31, 1993.

Second, the conference agreement directs the Secretary to issue interim regulations, not later than December 31, 1992, using relevant data from railroads utilizing enhanced locomotive conspicuity measures, that identify interim locomotive conspicuity equipment and that authorize and encourage installation and use of such measures. The conference agreement also establishes conditions as to the status of locomotives that are equipped with interim locomotive conspicuity measures in compliance with the interim regulations.

Finally, the conference agreement requires the Secretary to issue final regulations requiring enhanced locomotive conspicuity measures. The Secretary is directed to commence such rulemaking not later than June 30, 1994, to issue the final regulations not later than June 30, 1995, and to require in such regulations that all locomotives be equipped with either the interim locomotive conspicuity measures or the conspicuity measures mandated by the final regulations not later than December 31, 1997. The Secretary is directed to consider various factors in issuing the final regulations and is given the ability to exclude any category of trains or rail operations from any specific locomotive conspicuity requirement if such an exclusion is in the public interest and is consistent with rail safety (including grade-crossing safety).

Additionally, the conferees intend that the Secretary carefully evaluate any potential exclusions under a two-pronged test—that the exclusion is in the public interest and is consistent with rail safety (including grade-crossing safety). In making such evaluations, consideration of grade-crossing safety should be weighed very heavily, including relevant accident data, the presence of active warning devices, and vehicular traffic volume. The limited exclusions contemplated under this provision should recognize only those categories of trains or rail operations with limited exposure to grade-crossing accidents.

JOHN D. DINGELL,
AL SWIFT,
JIM SLATTERY,
NORMAN F. LENT,
DON RITTER,
Managers on the Part of the House.

J.J. EXON,
JOHN C. DANFORTH,
Managers on the part of the Senate.

CONFERENCE REPORT ON H.R. 5427

Mr. FAZIO submitted the following conference report and statement on the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-1007)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5427) "Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 7, 8, 11, 14, 26, 33, 34, and 36.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 9, 10, 12, 13, 15, 17, 19, 22, 24, 29, 30, 31, 32, and 40.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

Retain the matter inserted by said amendment, amended as follows:

Under the heading "Official Mail Costs", after "$20,000,000" insert: , *to remain available until September 30, 1994*

And under the heading "Administrative Provisions", add the following new sections:

SEC. 5. Section 10 of Senate Resolution 144, agreed to June 13, 1989 (101st Congress, 1st Session) as amended by Senate Resolution 352, agreed to October 27, 1990 (101st Congress, 2d Session), is amended by striking "one hundred and second Congress" and inserting "one hundred and third Congress".

Effective with this reauthorization, Commission shall support objectives of P.L. 100-696 and be renamed accordingly.

SEC. 6. Section 105(a) of the Legislative Branch Appropriations Act 1965 (2 U.S.C. 104a) is amended by adding at the end the following new paragraph:

"(3) The report requirement relating to quantity, as contained in subparagraph (2) of paragraph (1), does not apply with respect to the Senate.".

Amendment numbered 16:

That the House recede from its disagreement to amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$23,955,000*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,600,000, of which $200,000 shall remain available until expended*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$57,291,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$4,906,000, of which $2,000,000 shall remain available until expended*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$203,163,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$26,228,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 207. (a)(1) None of the funds appropriated for any fiscal year may be obligated or expended by any entity of the executive branch for the procurement of any printing related to the production of Government publications (including printed forms, unless such procurement is by or through the Government Printing Office.

(2) Paragraph (1) does not apply to (A) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, and, as certified by the Public Printer, cannot be provided more economically through the Government Printing Office, (B) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (C) printing from other sources that is specifically authorized by law.

(3) As used in this subsection, the term "printing" means the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the end items of such processes.

(b) Section 206 of the Legislative Branch Appropriations Act, 1991 (44 U.S.C. 501 note) is repealed.

And the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$435,167,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of "SEC. 316" named in said amendment insert: *SEC. 314*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of "SEC. 318" named by said amendment insert: *SEC. 315*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of "SEC. 319" named in said amendment insert: *SEC. 316*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 317. The provisions of House Concurrent Resolution 192 (102d Congress), agreed to August 6, 1992 (relating to the Joint Committee on the Organization of Congress), shall continue in effect until December 31, 1993.

SEC. 318. Section 6(a) of the Judiciary Office Building Development Act (40 U.S.C. 1205(a)) is amended by adding at the end of the following new paragraphs:

"(7) LEASE AUTHORITY.—The Architect of the Capitol is authorized to lease and occupy not more than 75,000 square feet of space in the Federal Judiciary Building. Payments under any such lease shall be made upon vouchers approved by the Architect of the Capitol. There are authorized to be appropriated—

"(A) to the Architect of the Capitol such sums as may be necessary to carry out this paragraph, including sums for the acquisition and installation of furniture and furnishings for space leased under this paragraph; and

"(B) to the Sergeant at Arms of the Senate such sums as may be necessary for the planning, acquisition, and installation of telecommunications equipment and services for the Architect of the Capitol with respect to space leased under this paragraph.

"(8) LEASE APPROVAL.—Any lease under paragraph (7) shall be subject to approval by the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the House Office Building Commission, and the Committee on Rules and Administration of the Senate.".

SEC. 319. (a) Section 312(d)(2) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(2) is amended to read as follows:

"(2) With respect to employees of the center, the House of Representatives shall make Government contributions and payments for health insurance, retirement, employment taxes, and similar benefits and programs in the same manner as such contributions and payments are made for other employees of the House of Representatives.".

(b) The amendment made by subsection (a) shall apply to fiscal year beginning after September 30, 1992.

SEC. 320. (a) The provisions of this section shall apply to any individual who—

(1)(A) on the date of the enactment of this Act is employed by the Senate day care center (known as the "Senate Employee Child Care Center") established pursuant to Senate Resolution 269, Ninety-eighth Congress, and section 3 of the Act entitled "An Act to authorize appropriations for the American Folklife Center for fiscal years 1985 and 1986, and for other purposes", approved August 21, 1984 (40 U.S.C. 214b; Public Law 98-392; 98 Stat. 1362); and

(B) makes an election to be covered by this section with the Secretary of the Senate, no later than 60 days after the day of the enactment of the Act; or

(2) is hired by the Center after the date of the enactment of this Act and makes an election to be covered by this section with the Secretary of the Senate, no later than 60 days after the date such individual begins employment.

(b)(1) Any individual described under subsection (a) may be credited under section 8411 of title 5, United States Code, for service as an employee of the Senate day care center before the date of the enactment of this Act, if such employee makes a payment of the deposit under section 8411(f)(2) of such title without application of the provisions of section 8411(b)(3) of such title.

(2) An individual described under subsection (a) shall be credited under section 8411 to title 5, United States Code for any service as an employee of the Senate day care center on or after the date of the enactment of this section, if such employee has such amounts deducted and withheld from his pay as determined by the Office of Personnel Management (in accordance with regulations prescribed by such Office subject to subsection (h) of this section) which would be deducted and withheld from the basic pay of an employee under section 8422 of title 5, United States Code.

(c) Notwithstanding any other provision of this section, any service performed by an individual described under subsection (a) as an employee of the Senate day care center is deemed to be civilian service creditable under section 8411 of title 5, United States Code, for purposes of qualifying for survivor annuities and disability benefits under subchapters IV and V of chapter 84 of such title, if such individual makes payment of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such individual if such individual had been an employee subject to section 8422 of title 5, United States Code, for such period so credited, together with interest thereon.

(d) An individual described under subsection (a) shall be deemed a congressional employee for purposes of chapter 84 of title 5, United States Code, including subchapter III thereof and may make contributions under section 8432 of such title effective for the first applicable pay period beginning on or after the date of the enactment of this section.

(e) An individual described under subsection (a) shall be deemed an employee under section 8701(a)(3) of title 5, United States Code, for purposes of life insurance coverage under chapter 87 of such title.

(f) Government contributions for individuals receiving benefits under this section, as computed under sections 8423, 8432, and 8708, shall be made by the Secretary of the Senate from the appropriations account, within the contingent fund of the Senate, "Miscellaneous Items".

(g) The Office of Personnel Management shall accept the certification of the Secretary of the Senate concerning creditable service for the purpose of this section.

(h) The Center shall—

(1) consult with the Secretary of the Senate on the administration of this section;

(2) maintain records on all employees covered under this section in such manner as the Secretary of the Senate may require for administrative purposes;

(3) make deductions and withholdings from the pay of employees in the amounts determined under sections 8422, 8432, and 8707 of title 5, United States Code; and

(4) transmit such deductions and withholdings to the Secretary of the Senate for deposit and remittance to the Office of Personnel Management.

(i) The Office of Personnel Management may prescribe regulations to carry out the provisions of this section.

SEC. 321. Effective as of the enactment of the Act entitled "An Act to add to the area in which the Capitol Police have law enforcement authority, and for other purposes" (S. 1766, One Hundred Second Congress), section 104 of such Act is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

SEC. 322. Of the funds appropriated in the Legislative Branch Appropriations Act, 1992, for the House of Representatives under the headings "SALARIES AND EXPENSES" and "OFFICIAL MAIL COSTS" there is rescinded the sum of $21,000,000.

SEC. 323. Section 814(i) of Public Law 99-93 (99 Stat. 405) is amended by striking "September 30, 1988" and inserting in lieu thereof "September 30, 1997."

SEC. 324. (a) There is established in the Congress the Commission on the Bicentennial of the United States Capitol (hereafter in this section referred to as the "Commission") for the purposes of—

(1) overseeing the development of appropriate projects and activities to observe in 1993 the 200th anniversary of the laying of the cornerstone of the United States Capitol;

(2) taking actions to appropriately bring this anniversary date to the attention of the public; and

(3) conducting other activities that facilitate, encourage, or otherwise support any purposes specified in paragraph (1) or (2), including the coordination of such activities as necessary with appropriate organizations outside the Congress.

(b) The Commission shall be composed of the following Members of Congress:

(1) The Majority Leader of the Senate and the Minority Leader of the Senate shall be the Senate Co-chairmen. The Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall be the House Co-chairmen.

(2) The President pro tempore of the Senate.

(3) The Majority Leader of the House of Representatives.

(4) The Chairman and the Ranking Minority Member of the Committee on Rules and Administration of the Senate, and the Chairman and the Ranking Minority Member of the Committee on House Administration of the House of Representatives.

(5) One Senator appointed by the Majority Leader of the Senate and one Senator appointed by the Minority Leader of the Senate.

(6) One Member of the House of Representatives appointed by the Speaker of the House of Representatives and one Member of the House of Representatives appointed by the Minority Leader of the House of Representatives.

(c) Each member of the Commission specified under subsection (b) (other than a member under paragraph (5) or (6) of such subsection) may designate a Senator or Member of the House of Representatives, as the case may be, to serve as a member of the Commission in place of the member so specified.

(d) In addition to the members under subsection (b), the Architect of the Capitol shall participate in the activities of the Commission, ex officio, and without the right to vote.

(e) The Co-chairmen may designate staff to work on Commission projects; however, no additional staff shall be employed by the Commission under the authority of this section.

(f) The Commission may utilize such voluntary and uncompensated staff and services as it deems necessary and may utilize the services, information, facilities, and personnel of the Secretary of the Senate and the Clerk of the House of Representatives. The Commission shall also receive such support and assistance as it deems necessary from the United States Capitol Preservation Commission, the United States Senate Commission on Art, the House of Representatives Fine Arts Board, the Library of Congress and other agencies of the legislative branch. The Co-chairmen shall each designate an Executive Secretary of the Commission for the Senate and the House of Representatives, respectively, to keep records and perform all necessary administrative tasks.

(g) As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(h) The expenses of the Commission, including official reception and representation expenses, shall be paid out of the contingent funds of the Senate and the House of Representatives, and shall be authorized on vouchers approved by the Co-chairmen of the Commission or their designees. The Secretary of the Senate and the Clerk of the House of Representatives are authorized to advance such sums as may be nec-

essary to defray the expenses incurred in carrying out the provisions of this section.

SEC. 325. WORKERS' COMPENSATION.

(a) AMENDMENT.—Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this Act, where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this Act in the case of bodily injury or death.

"(2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (c) of actual damages for loss from an injury or death but does not preclude recovery under subsection (c) for statutory damages or an injunction.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to all actions commenced after the date of the enactment of this Act but shall not apply after the expiration of 9 months after such date.

(2) REVIVAL.—Notwithstanding any applicable statute of limitations, an action for actual damages brought by a migrant or seasonal worker for loss from bodily injury or death under section 504 of the Migrant and Seasonal Agricultural Worker Protection Act which may not be brought during the 9-month period referred to in paragraph (1) may be commenced, either as part of an earlier action or as an action by itself, after the expiration of such period. A statute of limitations which is waived by the preceding sentence shall be extended for only 9 months from the date of expiration of such statute of limitations.

And the Senate agree to the same.

VIC FAZIO,
LAWRENCE SMITH,
DAVID R. OBEY,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JAMIE L. WHITTEN,
JERRY LEWIS,
JOHN EDWARD PORTER,
BARBARA F. VUCANOVICH,
JOSEPH M. MCDADE,
Managers on the Part of the House.

HARRY REID,
BROCK ADAMS,
ROBERT C. BYRD,
SLADE GORTON,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate to the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5427) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

Amendment No. 1: Appropriates $451,450,700 for the operations of the Senate, and contains several administrative provisions, as proposed by the Senate. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, have receded to the Statement amendment with an amendment to the Senate "Official Mail Costs" appropriation, and have added provisions regarding the compilation of a history of the Senate, and revising a category description required in a Senate report.

HOUSE OF REPRESENTATIVES

ADMINISTRATIVE PROVISIONS

Amendment No. 2: Inserts language proposed by the Senate, regarding the Capitol Guide Service.

Amendment No. 3: Deletes subparagraph designation, as proposed by the Senate.

Amendment No. 4: Deletes the inclusion of "Capitol Guide Service" in the list of purposes for which funds may be transferred to an office established by the House Administrative Reform Resolution of 1992, as proposed by the Senate.

JOINT ITEMS

JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1993

Amendment No. 5: Appropriates $906,000 for the Joint Committee on Inaugural Ceremonies of 1993, as proposed by the Senate.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

Amendment No. 6: Provides $62,852,000 for the salaries and related personnel expenses of the Capitol Police as proposed by the House instead of $64,093,000 as proposed by the Senate.

Amendment No. 7: Appropriates $31,000,500 to the Sergeant at Arms of the House, to be disbursed by the Clerk of the House, for the salaries and related personnel expenses of the Capitol Police assigned to the House rolls as proposed by the House instead of $31,741,500 as proposed by the Senate.

Amendment No. 8: Appropriates $31,851,500 to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate, as proposed by the House instead of $32,351,500 as proposed by the Senate.

Amendment No. 9: Provides that funds for Capitol Police salaries and related personnel expenses may be transferred between the House and Senate details, upon approval of House and Senate Committees on Appropriations, as proposed by the Senate.

SPECIAL SERVICES OFFICE

Amendment No. 10: Appropriates $366,000 for the salaries and expenses of the Special Services Office as proposed by the Senate instead of $292,000 as proposed by the House.

STATEMENTS OF APPROPRIATIONS

Amendment No. 11: Deletes the appropriation of $20,000 proposed by the Senate for the compilation and preparation of the statements of appropriations for the second session of the 102nd Congress.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

Amendment No. 12: Appropriates $8,144,000 for salaries, Office of the Architect of the Capitol, as proposed by the Senate instead of $8,286,000 as proposed by the House. The conferees direct that the number of permanent positions be reduced by three. One of the positions allowed above the House level will be a budget analyst to fill a current vacancy. From time to time it will be expected that the Architect of the Capitol will continue the practice of making a budget analyst available to assist the House Committee on Appropriations.

The Architect of the Capitol is reminded that direction was given in a colloquy during the June 24, 1992, House floor debate on H.R. 5427 to obtain a proposal from the local electric utility regarding an energy efficient lighting retrofit for the Capitol complex. That proposal should determine the conditions of a retrofit project fully paid for (supplies, materials, and labor costs) by the utility and/or private contractors, the savings to be shared between contractor, or utility and the Congress.

CONTINGENT EXPENSES

Amendment No. 13: Deletes the authority for contingent expenses to remain available until expended proposed by the House and stricken by the Senate.

CONTRACT STUDY OF GAO

Amendment No. 14: Deletes the appropriation of $2,000,000 proposed by the Senate to the Architect of the Capitol, as contracting officer, for the expenses of the General Accounting Office Peer Review Committee.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

Amendment No. 15: Provides increase of $340,000 in the cost limitation established by H. Con. Res. 550 as proposed by the Senate instead of $300,000 as proposed by the House.

Amendment No. 16: Appropriates $23,955,000 for Capitol buildings instead of $23,515,000 as proposed by the House and $24,040,000 as proposed by the Senate. The conferees agree with the direction in the Senate report to reduce the staffing authorization by 10 positions. Funds are provided for security equipment at the Postal Square Building and for a Senate restaurant project.

Amendment No. 17: Provides that $4,645,000 shall be available until expended as proposed by the Senate instead of $4,245,000 as proposed by the House.

CAPITOL GROUNDS

Amendment No. 18: Appropriates $5,600,000, of which $200,000 shall remain available until expended, for Capitol grounds instead of $5,256,000 as proposed by the House and $6,000,000, of which $200,000 shall remain available until expended, as proposed by the Senate. The conferees commend the efforts of the Architect of the Capitol to improve the appearance of the grounds for visitors and tourists. The $344,000 provided above the House bill includes $200,000 for a street lighting project and $144,000 which shall be allocated for grounds improvements including tree replacement and repairs to Omstead fountains and planters. The conferees agree to the restoration of one authorized position that had been eliminated in the House funding level, as proposed by the Senate.

SENATE OFFICE BUILDINGS

Amendment No. 19: Appropriates $47,339,000 for "Senate office buildings", of which $11,339,000 shall remain available until expended, as proposed by the Senate. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, have receded to the Senate amendment.

CAPITOL POWER PLANT

The conferees direct that the staffing authorization for Capitol Power Plant be reduced by two positions through attrition.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

Amendment No. 20: Appropriates $57,291,000 for salaries and expenses of the Congressional Research Service instead of $56,583,000 as proposed by the House and $58,000,000 as proposed by the Senate.

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

Amendment No. 21: Appropriates $4,906,000, of which $2,000,000 shall remain available until expended, for salaries and expenses of the Botanic Garden and related activities instead of $2,906,000 as proposed by the House and $10,131,000, of which $7,225,000 shall remain available until expended, as proposed by the Senate. The conferees have provided $2,000,000 for the design and preparation of construction documents for the structural repair of the conservatory.

Amendment No. 22: Deletes House language stricken by the Senate which allows $500,000 in excess project funds to be used for the Botanic Garden conservatory renovation.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

Amendment No. 23: Provides $203,163,000 for salaries and expenses, Library of Congress, instead of $200,073,000 as proposed by the House and $206,252,000 as proposed by the Senate. The conferees have been informed that the Joint Committee on the Library has agreed that the Library of Congress may negotiate an agreement with the National Park Service to temporarily extend an exhibition of a Lincoln draft of the Gettysburg Address at the Gettysburg National Military Park, on terms consistent with the past loan arrangement and for a period of not less than two years, and providing further that the drafts shall be permanently returned to the Library of Congress no later than January 1, 1995 for preservation purposes and for any future exhibitions at the Library of Congress.

Amendment No. 24: Inserts language proposed by the Senate which adds a purchase option to uses for which funds may be expended for a secondary storage facility.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

Amendment No. 25: Appropriates $26,228,000 for salaries and expenses, Copyright Office, instead of $26,040,000 as proposed by the House and $26,417,000 as proposed by the Senate.

ADMINISTRATIVE PROVISION

Amendment No. 26: Deletes language proposed by the Senate which credits funds appropriated to the Library of Congress with sums recovered as restitution for damaged or stolen books or other materials.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

The conferees direct that the staffing authorization for the Architect of the Capitol, Library buildings and grounds, structural and mechanical care, be reduced by three positions.

GOVERNMENT PRINTING OFFICE

SUPERINTENDENT OF DOCUMENTS

The conferees direct the Superintendent of Documents, in accordance with Section 3 of the Government Printing Office Electronic Information Access Enhancement Act of 1992 (H.R. 5983), to utilize the assistance of the Owensboro, Kentucky, Community College Distance Learning Center in a feasibility study of enhancing public access to Federal electronic information.

ADMINISTRATIVE PROVISION

Amendment No. 27: Amends a provision proposed by the House bill and stricken by the Senate regarding the Government Printing Office. The conference agreement clarifies the intent of Section 206 of the Legislative Branch Appropriations Act, 1991, which requires procurement of printing through the Government Printing Office and deletes references to CD-ROM's, CD-ROM replication and map/chart products from the House bill. The conferees recognize that the Federal Prison Industries is authorized by the Joint Committee on Printing, pursuant to 44 U.S.C. section 501(2), as an alternative printing source and expects the Government Printing Office, the Joint Committee on Printing and the Federal Bureau of Prisons to reach an agreement which will facilitate the training and employment of increased numbers of inmates in the printing trade while not significantly impacting on the level of work procured through the Government Printing Office.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

Amendment No. 28: Appropriates $435,167,000 instead of $442,167,000 as proposed by the House and $440,167,000 as proposed by the Senate. The conferees believe this level will not require a reduction in force nor will it necessitate a curtailment of the asbestos removal project below the budgeted amount. The Comptroller General is directed to inform the Committees on Appropriations if either of these actions becomes necessary.

Some questions have been raised regarding the consistency of the accounting principles used by House legislative service organizations. The managers on the part of the House direct the General Accounting Office, in cooperation with the Committee on House Administration, to provide accounting standards and guidelines that should be used by all such organizations to insure that all revenues and expenditures are recorded and reported, and that there be consistency in these financial records.

TITLE III—GENERAL PROVISIONS

Amendment No. 29: Deletes language proposed by the House and stricken by the Senate, and inserts language proposed by the Senate regarding a secondary storage facility for the Library of Congress. The conference agreement provides that the Architect of the Capitol, acting on behalf of the Library of Congress, may utilize funds transferred from the Library of Congress, subject to approval, to purchase, rent, lease, or otherwise obtain storage and warehouse space for the use of the Library of Congress.

Amendment No. 30: Deletes language proposed by the House and stricken by the Senate and inserts language proposed by the Senate amending the Judiciary Office Building Development Act regarding the duties of the Capitol Police for the interior security at the Judiciary Office Building.

Amendment No. 31: Inserts language proposed by the Senate changing a date in Section 316 of Public Law 101-302.

Amendment No. 32: Inserts language proposed by the Senate amending Section 12 of the Act of November 5, 1990 (2 U.S.C. 58c-1) regarding Senators' office accounts.

Amendment No. 33: Deletes language proposed by the Senate regarding reimbursement to the General Accounting Office for personnel detailed to Congressional committees.

Amendment No. 34: Deletes language proposed by the Senate to establish a General Accounting Office Peer Review Committee.

Amendment No. 35: Changes section number and inserts language proposed by the Senate regarding the promulgation of regulations by the Senate Committee on Rules and Administration.

Amendment No. 36: Deletes language proposed by the Senate regarding obligation limitations, unobligated funds, and a staff analysis. Based on Congressional Budget Office scoring, the conference agreement achieves an outlay reduction below the fiscal year 1992 level that surpasses the fiscal year 1993 objective of the Senate language. With respect to carryover balances, the House of Representatives has added an additional rescission of $21,000,000 in House franked mail funds in this conference agreement which should complete the elimination of the prospective carryover balances left over from fiscal years 1991 and 1992 funds. If further balances remain after the fiscal year 1992 books are closed, the House and Senate will be in a position to rescind those balances, also. Other carryover balances, primarily for construction purposes, may be available under the terms of the original appropriations, as is true throughout the Federal budget. Finally, with respect to the staff study, the conferees understand that the ad hoc Joint Committee on the Organization of Congress plans to study Congressional staff issues. The authorization for the Joint Committee is contained in Section 317 of the Act.

Amendment No. 37: Amends section number and inserts language proposed by the Senate establishing a Senate Bipartisan Task Force.

Amendment No. 38: Amends section number and inserts Senate language amending the Government Employee Rights Act of 1991, regarding payments by the President or a Member of the Senate.

Amendment No. 39: Deletes language proposed by the Senate regarding procedures applicable to foreign travel since comparable procedures already exist. The agreement also inserts several provisions as follows:

1. A provision that continues in effect the provisions of H. Con. Res. 192 (102nd Congress), which established an ad hoc Joint Committee on the Organization of the Congress, until December 31, 1993. The authority contained in Section 3(d)(2) of H. Con. Res. 192 allows for the payment from the contingent fund of the House of the House portion of the expenses of the Joint Committee through the date of adoption of a primary expense resolution in the House.

2. A provision that authorizes the Architect of the Capitol, subject to approval, to lease and occupy space in the Federal Judiciary Building. The Architect is directed to present to the Committees on Appropriations of the House and Senate, in connection with the required approval, a cost analysis of this prospective relocation, together with comparisons to other locations such as the Ford House Office Building.

3. A provision which authorizes the employer share of House Day Care Center employee benefits (life insurance, retirement, health care) to be derived from the line item "Government contributions" within the "Allowances and expenses" paragraph under the appropriation for "Salaries and expenses, House of Representatives" for the operations of the day care center. It should be pointed out that the provision amending Section 312(d)(2) of P.L. 102-90 only provides that the House will pay the employer share into the fund available. The amount made available annually for the operations of the center will still be subject to annual review and approval in the appropriations Act. The managers on the part of the House intend this approval process to generate careful budget planning on the part of the day care center,

and maximum use of non-appropriated funds. The managers on the part of the House urge the Committee on House Administration to establish a new salary schedule for Day Care Center employees which is consistent with salary schedules of other public operated day care centers and to determine if the current policy of not providing office equipment is consistent with other Federal day care operations.

In connection with employee life insurance coverage, the House of Representatives participates in the government-wide program administered by the Office of Personnel Management. The managers on the part of the House believe that less expensive group life insurance is available and, if submitted to the industry for competitive bidding, substantial reductions in premiums are possible. Therefore, the managers on the part of the House direct that the Director of Non-legislative and Financial Services solicit proposals from the industry so that House employees are given a choice in selecting life insurance coverage.

4. A provision which authorizes the Senate to pay the employer share of certain benefits for Senate day care employees.

5. A provision which extends the effective date by which the Capitol Police must implement a unified payroll. The conferees have agreed to extend the date for the implementation of the unified Capitol Police payroll until October 1, 1993. The current deadline was not feasible and cannot be reached. In implementing the unified payroll, the Capitol Police should consider utilizing the services of the National Finance Center. Funding and administrative support for this conversion and annual operating costs should be shared by the Architect of the Capitol, the House Finance Office and the Senate Disbursing Office. The Capitol Police Board should report their intentions for this conversion to the House and Senate Committees on Appropriations. If this matter is not settled in a reasonable period, the Committees on Appropriations intend to direct an appropriate solution.

6. A rescission of $21,000,000 in House official mail funds.

7. A provision amending a termination date of a Senate Caucus.

8. A provision establishing a Joint Commission on the Bicentennial of the Capitol.

9. A provision amending the Migrant and Seasonal Agricultural Workers Protection Act.

Amendment No. 40: Deletes inoperable language proposed by the House and stricken by the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follow:

New budget (obligational) authority, fiscal year 1992	$2,303,844,100
Budget estimates of new (obligational) authority, fiscal year 1993	2,670,364,500
House bill, fiscal year 1993	1,796,750,357
Senate bill, fiscal year 1993	2,314,106,057
Conference agreement, fiscal year 1993	2,275,148,057
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1992	−28,696,043
Budget estimates of new (obligational) authority, fiscal year 1993	−395,216,443
House bill, fiscal year 1993	+478,397,700
Senate bill, fiscal year 1993	−38,958,000

VIC FAZIO,
LAWRENCE SMITH,
DAVID R. OBEY,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JAMIE L. WHITTEN,
JERRY LEWIS,
JOHN EDWARD PORTER,
BARBARA F. VUCANOVICH,
JOSEPH M.MCDADE,
Managers on the Part of the House.

HARRY REID,
BROCK ADAMS,
ROBERT C. BYRD,
SLADE GORTON,
MARK O. HATFIELD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS (at the request of Mr. MICHEL) for today, on account of attending his son's wedding.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HORTON) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mr. BROOMFIELD, for 60 minutes each day, today and on October 4 and 5.

Mr. EDWARDS of Oklahoma, for 60 minutes each day, today and on October 5.

Mr. NUSSLE, for 60 minutes, today.

Mr. SANTORUM, for 60 minutes, today.

Mr. KLUG, for 60 minutes, today.

Mr. HUNTER, for 60 minutes each day, today and on October 4.

Mr. SENSENBRENNER, for 5 minutes, today.

(The following Members (at the request of Mr. PAYNE of Virginia) to revise and extend their remarks and include extraneous material:)

Mr. HAYES of Illinois, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MOAKLEY, for 5 minutes today, and 5 minutes on October 4, 5, and 6.

Mr. ROSE, for 60 minutes, on October 4 and October 5.

Mr. MCDERMOTT, for 60 minutes, today.

Mr. KENNEDY, for 5 minutes, on October 4, 5, and 6.

Mr. OLVER, for 5 minutes, on October 4, 5, and 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HORTON) and to include extraneous matter:)

Mr. BLAZ in two instances.
Mr. LIGHTFOOT.
Mr. GUNDERSON.
Mr. DORNAN of California in seven instances.
Mr. HUNTER in three instances.
Mrs. BENTLEY in two instances.
Mr. GUNDERSON.
Mr. GRADISON in two instances.
Mr. FISH in two instances.
Mr. GREEN of New York.
Mr. BURTON of Indiana.
Mr. PORTER.
Ms. MOLINARI.
Mr. SOLOMON.
Mr. KOLBE.
Mr. JAMES.
Mr. MOORHEAD.

(The following Members (at the request of Mr. PAYNE of Virginia) and to include extraneous matter:)

Mr. VENTO.
Mr. BORSKI.
Mr. ROE.
Mr. BERMAN.
Mr. DOWNEY.
Mr. CLEMENT.
Mr. DARDEN.
Mr. DYMALLY.
Mr. STARK in two instances.
Mr. DE LUGO.
Mr. SWETT.
Mr. MAZZOLI in two instances.
Mr. JACOBS.
Mr. HOAGLAND.
Mr. MARKEY.
Mr. WAXMAN.
Mr. STARK.
Mr. SCHEUER.
Mr. BONIOR.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

H.R. 3379. An act to amend section 594 of title 5, United States Code, relating to the authorities of the Administrative Conference.

H.R. 5678. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

H.R. 5925. An act to amend title VII of the Civil Rights Act of 1964 to establish a revolving fund for use by the Equal Employment Opportunity Commission to provide education, technical assistance, and training relating to the laws administered by the Commission.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3195. An act to require the Secretary of the Treasury to mint in commemoration of the 50th anniversary of the United States' involvement in World War II.

BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the following titles:

On February 7, 1992:

H.R. 4095. An act to increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.

On February 14, 1992:

H.R. 1989. An act to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes.

On February 24, 1992:

H.R. 2927. An act to provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and for other purposes.

On March 3, 1992:

H.R. 476. An act to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes.

H.R. 543. An act to establish the Manzanar National Historic Site in the State of California, and for other purposes.

On March 5, 1992:

H.R. 355. An act to provide emergency drought relief to the Reclamation States, and for other purposes.

On March 9, 1992:

H.R. 3866. An act to provide for the designation of the Flower Garden Banks National Marine Sanctuary.

On March 10, 1992:

H.J. Res. 350. Joint resolution designating March 1992 as "Irish-American Heritage Month".

H.J. Res. 395. Joint resolution designating February 6, 1992, as "National Women and Girls in Sports Day".

On March 11, 1992:

H.J. Res. 343. Joint resolution to designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day".

On March 12, 1992:

H.R. 2092. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

H.R. 4113. An act to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. Lexington to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial.

On March 20, 1992:

H.J. Res. 446. Joint Resolution waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress.

On March 26, 1992:

H.J. Res. 284. Joint Resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

On April 1, 1992:

H.J. Res. 456. Joint Resolution making further continuing appropriations for the fiscal year 1992, and for other purposes.

On April 2, 1992:

H.J. Res. 272. Joint resolution to proclaim March 20, 1992, as "National Agriculture Day".

On April 13, 1992:

H.J. Res. 410. Joint resolution designating April 14, 1992, as "Education and Sharing Day, U.S.A.".

On April 21, 1992:

H.R. 3686. An act to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina.

H.R. 4449. An act to authorize jurisdictions receiving funds for fiscal year 1992 under the HOME Investment Partnership Act that are allocated for new construction to use the funds, at the discretion of the jurisdiction, for other eligible activities under such Act and to amend the Steward B. McKinney Homeless Assistance Amendments Act of 1988 to authorize local governments that have financial adjustment factor to use recaptured amounts available from refinancing of the projects for housing activities.

On April 28, 1992:

H.J. Res. 402. Joint resolution approving the location of a memorial to George Mason.

H.R. 4572. An act to direct the Secretary of Health and Human Services to grant a waiver of the requirement limiting the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the medicare or medicaid programs in order to enable the Dayton Area Health Plan, Inc., to continue to provide services through January 1994 to individuals residing in Montgomery County, Ohio, who are enrolled under a State plan for medical assistance under title XIX of the Social Security Act.

On May 11, 1992:

H.J. Res. 430. Joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week".

On May 13, 1992:

H.R. 2454. An act to authorize the Secretary of Health and Human Services to impose debarments and to take other action to ensure the integrity of abbreviated drug applications under the Federal Food, Drug, and Cosmetic Act, and for other purposes.

H.R. 3337. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes.

On May 14, 1992:

H.J. Res. 425. Joint resolution designating May 10, 1992, as "Infant Mortality Day".

On May 18, 1992:

H.J. Res. 466. Joint resolution designating April 26, 1992, through May 2, 1992, as "National Crime Victims' Rights Week".

H.R. 2763. An act to enhance geologic mapping of the United States, and for other purposes.

H.R. 4184. An act to designate the Department of Veterans Affairs Medical Center located in Northampton, Massachusetts, as the "Edward P. Boland Department of Veterans Affairs Medical Center".

On May 19, 1992:

H.J. Res. 388. Joint resolution designating the month of May 1992, as "National Foster Care Month".

On May 20, 1992:

H.J. Res. 371. Joint resolution designating May 31, 1992, through June 6, 1992, as a "Week for the National Observance of the Fiftieth Anniversary of World War II".

H.R. 4774. An act to provide flexibility to the Secretary of Agriculture to carry out food assistance programs in certain countries.

On June 4, 1992:

H.R. 4990. An act rescinding certain budget authority.

On June 15, 1992:

H.R. 1917. An act for the relief of Michael Wu.

On June 19, 1992:

H.R. 2556. An act entitled the "Los Padres Condor Range and River Protection Act".

On June 22, 1992:

H.R. 5132. An act making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes.

On June 23, 1992:

H.J. Res. 442. Joint resolution to designate July 5, 1992, through July 11, 1992, as "National Awareness Week for Life-Saving Techniques".

H.J. Res. 445. Joint resolution designating June 1992 as "National Scleroderma Awareness Month".

H.R. 1642. An act to establish in the State of Texas the Palo Alto Battlefield National Historic Site, and for other purposes.

On June 26, 1992:

H.J. Res. 517. Joint resolution to provide for a settlement of the railroad labor-management disputes between certain railroads and certain of their employees.

On June 30, 1992:

H.J. Res. 470. Joint resolution to designate the month of September 1992 as "National Spina Bifida Awareness Month".

On July 2, 1992:

H.J. Res. 499. Joint resolution designating July 2, 1992, as "National Literacy Day".

H.J. Res. 509. Joint resolution to extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for the school operations costs of Bureau-funded schools.

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes.

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building".

H.R. 3711. An act to authorize grants to be made to State programs designed to provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods, and for other purposes.

H.R. 4548. An act to authorize contributions to United Nations peacekeeping activities.

On July 3, 1992:

H.R. 5260. An act to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes.

On July 8, 1992:

H.J. Res. 459. Joint resolution designating the week beginning July 26, 1992, as "Lyme Disease Awareness Week".

On July 19, 1992:

H.R. 5412. An act to authorize the transfer of certain naval vessels to Greece and Taiwan.

On July 23, 1992:

H.R. 158. An act to designate the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service as the "Zora Leah S. Thomas Post Office Building".

H.R. 4505. An act to designate the facility of the United States Postal Service located at 20 South Montgomery Street in Trenton, New Jersey, as the "Arthur J. Holland United States Post Office Building".

August 3, 1992:

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System.

H.R. 5343. An act to make technical amendments to the Fair Packaging and Labeling Act with respect to its treatment of the SI metric system, and for other purposes.

August 6, 1992:

H.R. 3289. An act for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini.

August 7, 1992:

H.R. 3836. An act to provide for the management of Federal lands containing the Pacific yew to ensure a sufficient supply of taxol, a cancer-treating drug made from the Pacific yew.

H.R. 5059. An act to extend the boundaries of the grounds of the National Gallery of Art to include the National Sculpture Garden.

August 11, 1992:

H.R. 4026. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.

H.R. 5566. An act to provide additional time to negotiate settlement of a land dispute in South Carolina.

August 14, 1992:

H.R. 5487. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

August 26, 1992:

H.J. Res. 411. Joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week".

H.J. Res. 507. Joint resolution to approve the extention of nondiscrimination with request to the products of the Republic of Albania.

H.R. 2549. An act to make technical corrections to chapter 5 of title 5, United States Code.

H.R. 2926. An act to amend the Act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes.

H.R. 2977. An act to authorize appropriations for public broadcasting, and for other purposes.

H.R. 3795. An act to amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California.

H.R. 4312. An act to amend the Voting Rights Act of 1965 with respect to bilingual election requirements.

H.R. 4437. An act to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100-202.

H.R. 5481. An act to amend the Federal Aviation Act of 1958 relating to administrative assessment of civil penalties.

H.R. 5560. An act to extend for one year the National Commission of Time and Learning, and for other purposes.

H.R. 5623. An act to waive the period of congressional review for certain District of Columbia Acts.

H.R. 5688. An act to amend title 28, United States Code, to authorize the appointment of additional Bankruptcy judges, and for other purposes.

September 2, 1992:

H.J. Res. 492. Joint resolution designating September 1992 as "Childhood Cancer Month".

September 3, 1992:

H.R. 2607. An act to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 through 1994, and for other purposes.

September 4, 1992:

H.R. 4111. An act to amend the Small Business Act and related Acts to provide loan assistance to small business concerns, to extend demonstration programs relating to small business participation in Federal procurement, to modify certain Small Business Administration programs, to assist small firms to adjust to reductions in Defense-related business, to improve the management of certain program activities of the Small Business Administration, to provide for the undertaking of certain studies, and for other purposes.

September 7, 1992:

H.R. 3033. An act to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes.

September 23, 1992:

H.R. 5620. An act making supplemental appropriations, transfer, and rescissions for the fiscal year ending September 30, 1992, and for other purposes.

September 24, 1992:

H.J. Res. 413. Joint resolution to designate September 13, 1992, as "Commodore John Barry Day".

SENATE BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the Senate of the following titles:

On February 18, 1992:

S. 1415. An act to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes.

On March 17, 1992:

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day".

On March 19, 1992:

S. 996. An act to authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River; and for other purposes.

S. 2184. An act to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

On March 20, 1992:

S. 1467. An act to designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the "Frank M. Johnson, Jr., Federal Building and United States Courthouse".

S. 1889. An act to designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the "Ewing T. Kerr Federal Building and United States Courthouse".

S.J. Res. 240. Joint resolution designating March 25, 1992, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

On March 26, 1992:

S. 2324. An act to amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the food stamp program, and for other purposes.

On April 15, 1992:

S.J. Res. 246. Joint resolution to designate April 15, 1992 as "National Recycling Day".

On April 16, 1992:

S.J. Res. 271. Joint resolution expressing the sense of the Congress regarding the peace process in Liberia and authorizing limited assistance to support this process.

On April 20, 1992:

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.

On April 21, 1992:

S. 985. An act to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

On April 22, 1992:

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes.

On May 9, 1992:

S.J. Res. 174. Joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month".

On May 9, 1992:

S.J. Res. 222. Joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians".

On May 14, 1992:

S.J. Res. 251. Joint resolution to designate the month of May 1992 as "National Huntington's Disease Awareness Month".

On May 20, 1992:

S. 2378. An act to amend title 38, United States Code, to extend certain authorities relating to the administration of veterans laws, and for other purposes.

On May 26, 1992:

S. 1182. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes.

On May 27, 1992:

S. 452. An act to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes.

S. 749. An act to rename and expand the boundaries of the Mound City Group National Monument in Ohio.

On May 28, 1992:

S. 838. An act to amend the Child Abuse Prevention and Treatment Act to revise and extend programs under such act and for other purposes.

S.J. Res. 254. Joint resolution commending the New York Stock Exchange on the occasion of its bicentennial.

On June 2, 1992:

S. 2569. An act to provide for the temporary continuation in office of the current Deputy Security Advisor in a flag officer grade in the Navy.

On June 9, 1992:

S. 870. An act to authorize inclusion of a tract of land in the Golden Gate National Recreation Area, California.

On June 16, 1992:

S. 2783. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to medical devices and for other purposes.

On June 26, 1992:

S. 756. An act to amend title 17, United States Code, the copyright renewal provisions, and for other purposes.

S. 2703. An act to authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.

On July 1, 1992:

S. 2905. An act to provide a 4-month extension of the transition rule for separate capitalization of savings associations' subsidiaries.

On July 2, 1992:

S. 2901. An act to direct the Secretary of Health and Human Services to extend the waiver granted to the Tennessee Primary Care Network of the enrollment mix requirement under the medicaid program.

On July 10, 1992:

S. 1254. An act to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes.

S. 1306. An act to amend the Public Health Service Act to restructure the Alcohol, Drug Abuse, and Mental Health Administration and the authorities of such Administration, including establishing separate block grants to enhance the delivery of services regarding substance abuse and mental health, and for other purposes.

On July 20, 1992:

S.J. Res. 324. Joint resolution to commend the NASA Langley Research Center on the celebration of its 75th anniversary on July 17, 1992.

On July 22, 1992:

S. 2780. An act to amend the Food Security Act of 1985 to remove certain easement requirements under the conservation reserve program, and for other purposes.

On July 23, 1992:

S. 1150. An act to reauthorize the Higher Education Act of 1965, and for other purposes.

On August 3, 1992:

S. 992. An act to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, Nevada.

S. 2938. An act to authorize the Architect of the Capitol to acquire certain property.

S.J. Res. 92. Joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day".

S.J. Res. 295. Joint resolution designating September 10, 1992, as "National D.A.R.E. Day".

On August 4, 1992:

S. 249. An act for the relief of Trevor Henderson.

S.J. Res. 310. Joint resolution to designate August 1, 1992, as "Helsinki Human Rights Day".

On August 6, 1992:

S. 2641. An act to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1991.

On August 7, 1992:

S. 295. An act for the relief of Mary P. Carlton and Lee Alan Tan.

S. 2917. An act to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

On August 12, 1992:

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day".

On August 14, 1992:

S. 2759. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.

On August 17, 1992:

S. 959. An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson.

On August 26, 1992:

S. 544. An act to protect animal enterprises.

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years.

S. 1770. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.

On August 26, 1992:

S. 1963. An act to amend section 992 of title 28, United States Code, to provide a member of the United States Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress.

S. 2079. An act to establish the Marsh-Billings National Historical park in the State of Vermont, and for other purposes.

S. 3001. An act to amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes.

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes.

S. 3163. An act to amend the Federal Food, Drug, and Cosmetic Act to coordinate Federal and State regulation of wholesale drug distribution, and for other purposes.

On September 24, 1992:

S.J. Res. 303. Joint resolution to designate October 1992 as "National Breast Cancer Awareness Month".

ADJOURNMENT

Mr. EDWARDS of Oklahoma. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to, accordingly (at 1 o'clock and 23 minutes a.m.) under its previous order, the House adjourned until today, Sunday, October 4, 1992, at 2 p.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of the various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third quarter of 1992, in connection with foreign travel pursuant to Public Law 95-384, and amendments to the second quarter consolidated report of expenditures for foreign travel authorized by the Speaker as well as amendments to various miscellaneous delegation travel in 1990 and 1991, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Carroll Hubbard	9/4	9/9	England		[3]1,735.00						1,735.00
Committee total					1,735.00						1,735.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

HENRY GONZALEZ, Chairman, Sept. 24, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO POLAND AND RUSSIA, MS. KRISTI WALSETH, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 19 AND JUNE 28, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Kristi E. Walseth	6/19	6/24	Poland	13,046,400	960.00						960.00
	6/24	6/28	Russia		1,450.00						1,450.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO POLAND AND RUSSIA, MS. KRISTI WALSETH, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 19 AND JUNE 28, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Commercial transportation							3,571.80				3,571.80
Committee total					2,410.00		3,571.80				5,981.80

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, July 10, 1992.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE NORTH ATLANTIC ASSEMBLY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1990

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Addendum to 1990 report:											
British American Parliamentary Group visit to Washington, DC, 11/10/90: Lunch.									37.25		37.25
Committee total									37.25		37.25

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DANTE B. FASCELL, Aug. 12, 1992.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE NORTH ATLANTIC ASSEMBLY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Subc. on Defense Cooperation Washington, DC, 1/21: Reception.									150.57		150.57
Ground transportation									800.00		800.00
Standing Committee—Key West, FL. 4/4– 4/7/91: Ind. Exp.:											
Peter Abbruzzese	4/4	4/7			512.75						512.75
Nancy Bloomer	4/4	4/7			537.18						537.18
John Brady	4/4	4/7			390.00						390.00
Hon. Jack Brooks	4/4	4/7			1,068.88						1,068.88
Sharon Matts	4/4	4/7			403.50						403.50
Spencer R. Oliver	4/4	4/7			394.27						394.27
Arch Roberts	4/4	4/7			679.11						679.11
Hon. Charlie Rose	4/4	4/7			106.00						106.00
Dara Schlieker	4/4	4/7			588.91						588.91
Jo Weber	4/4	4/7			591.90						591.90
Standing committee/Deleg. Exp.:											
Ground transportation									190.38		190.38
Transportation of interpretation equipment									2,950.00		2,950.00
Expenses for Interpretation Assistants									1,048.10		1,048.10
House Delegation share of hotel costs (i.e. functions).									5,516.45		5,516.45
Miscellaneous admin. expenses									1,604.49		1,604.49
Economic Committee meetings in Atlanta and Washington, 4–91											
Ground transportation/Atlanta									5,222.50		5,222.50
Ground transportation/Wash									1,279.50		1,279.50
Receptions in Washington									2,059.45		2,059.45
Receptions in Atlanta									601.02		601.02
Subc. on Alliance Strategy, Washington, 6/27—Reception.									115.05		115.05
Subc. On Verification and Technology, Washington, 9/9–12/91:											
Reception									388.80		388.80
Ground transportation									1,236.25		1,236.25
Subc. on Southern Region, Tampa, FL, 9/17: Reception.									461.41		461.41
Ground transportation									543.38		543.38
Individual expenses for Arch. Roberts					100.87		354.50				455.37
Fall meeting, Madrid, Spain, 10/91—incidental expenses.									513.63		513.63
Committee total					5,373.37		354.50		24,680.95		30,408.85

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DANTE B. FASCELL, June 2, 1992.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4351. A letter from the Secretary of the Treasury, transmitting the annual report on the operations of the Exchange Stabilization Fund [ESF] for fiscal year 1991, pursuant to 31 U.S.C. 5302(c)(2); to the Committee on Banking, Finance and Urban Affairs.

4352. A letter from the Chairman, Export-Import Bank of the United States, transmitting a statement with respect to a medium-term financial guarantee to support United States exports to the Russian Federation; to the Committee on Banking, Finance and Urban Affairs.

4353. A letter from the Director, Office of Management and Budget, transmitting a pay-as-you-go status report for district spending and receipts legislation enacted as of October 2, 1992, pursuant to Public Law 101–508, section 1301(a) (104 Stat. 1388–582); to the Committee on Government Operations.

4354. A letter from the Chairperson, U.S. Commission on Civil Rights, transmitting an interim report entitled "Prospects and Impact of Losing State and Local Agencies from the Federal Fair Housing System," pursuant to 42 U.S.C. 1975c(c), 1975f; to the Committee on the Judiciary.

4355. A letter from the Chairman, U.S. International Trade Commission, transmitting the seventh annual report on the impact of the Caribbean Basin Economic Recovery Act on U.S. industries and consumers, pursuant to 19 U.S.C. 2704; to the Committee on Ways and Means.

4356. A letter from the President, Resolution Trust Corporation, transmitting a status report of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act for the month of August 1992, pursuant to Public Law 101–507, section 519(a) (104 Stat. 1386); jointly, to the Committees on Appropriations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 5928. A bill to amend chapter 2 of title 3, United States Code, relating to the Office and compensation of the President and related matters (Rept. 102–985). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee of conference. Conference report on H.R. 4016 (Rept. 102–986). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 6013. A bill to provide for the protection and continued vitality of the Sierra Nevada forests of California, and for other purposes; with an amendment (Rept. 102–987, Pt. 1). Ordered to be printed.

Mr. HALL of Ohio: Committee on Rules. House Resolution 596. Resolution providing for the consideration of the bill (H.R. 2321) to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes (Rept. 101–988). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 597. Resolution waiving the requirement of clause 4(b), rule XI, against consideration of a certain resolution reported from the Committee on Rules (Rept. 102–989). Referred to the House Calendar.

Mr. DINGELL: Committee of conference. Conference report on H.R. 4250 (Rept. 102–990). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 1252. A bill to authorize the State Justice Institute to analyze and disseminate information regarding the admissibility and quality of testimony of witnesses with expertise relating to battered women, and to develop and disseminate training materials to increase the use of such experts to provide testimony in criminal trials of battered women, particularly in cases involving indigent women; with an amendment (Rept. 102–991). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1253. A bill to amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation (Rept. 102–992). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5328. A bill to amend title 35, United States Code, with respect to late payment of maintenance fees, and for other purposes; with amendments (Rept. 102–993). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5862. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure an equitable and timely distribution of benefits to public safety officers. (Rept. 102–994). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5998. A bill for the relief of the Wilkinson County School District, in the State of Mississippi; with an amendment (Rept. 102–995). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 6020. A bill to amend titles 11 and 28 of the United States Code, relating to bankruptcy; with an amendment (Rept. 102–996). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. S. 893. An act to amend title 18, United States Code, to impose criminal sanctions for violation of software copyright; with amendments (Rept. 102–997). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. House Concurrent Resolution 89. Concurrent resolution expressing the sense of Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible when offered in a State court by a defendant in a criminal case. (Rept. 102–998). Referred to the House Calendar.

Mr. FAZIO: Committee of conference. Conference report on H.R. 5427 (Rept. 102–1007). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 3336. A bill for the relief of Florence Adeboyeku; with an amendment (Rept. 102–999). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 5164. A bill for the relief of Craig B. Sorensen and Nita M. Sorensen; with an amendment (Rept. 102–1000). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 5359. A bill for the relief of the heirs and assigns of Hattie Davis Rogers of the Nez Perce Indian Reservation, ID; with an amendment (Rept. 102–1001). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 5749. A bill for the relief of Krishanthi Sava Kopp; with an amendment (Rept. 102–1002). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 5923. A bill for the relief of Anna C. Massari (Rept. 102–1003). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H. Res. 568. Resolution referring the bill (H.R. 5953) for the relief of Donald W. Sneeden, Mary S. Sneeden, and Henry C. Best, to the chief judge of the U.S. Claims Court; with an amendment (Rept. 102–1004). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. S. 1181. An Act for the relief of Christy Carl Hallien of Arlington, TX (Rept. 102–1005). Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 5933. A bill to implement the recommendations of the Federal Courts Study Committee, and for other purposes; with an amendment; referred to the Committee on Post Office and Civil Service for a period ending not later than October 4, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(o), rule X (Rept. 102–1006, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SKELTON:

H.R. 6115. A bill to name the nuclear-powered aircraft carrier designated as CVN–76 the U.S.S. *Harry S. Truman*; to the Committee on Armed Services.

By Mr. ACKERMAN:

H.R. 6116. A bill to amend subtitle D of the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to promulgate regulations governing the placement and operation of solid waste transfer stations; to the Committee on Energy and Commerce.

By Mr. DE LUGO:

H.R. 6117. A bill to provide for the self-determined political, social, and economic development of the insular areas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DIXON:

H.R. 6118. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in business enterprises owned by disadvantaged individuals; to the Committee on Ways and Means.

By Mr. MAZZOLI:

H.R. 6119. A bill to amend the Employee Retirement Income Security Act of 1974 to waive the preemption requirements of that act to allow States to provide for State universal health plans, State risk pools for the medically uninsurable, or prospective payment systems and to impose State provider taxes; to the Committee on Education and Labor.

By Mr. RIDGE:

H.R. 6120. A bill to exclude unemployment compensation received during 1992 by low- or moderate-income individuals from gross income; to the Committee on Ways and Means.

By Mr. SLATTERY:

H.R. 6121. A bill to prohibit foreign assistance funds from being used to encourage or subsidize the transfer of U.S. manufacturing or other business operations abroad; to the Committee on Foreign Affairs.

By Mr. STARK:

H.R. 6122. A bill to amend the Controlled Substances Act to further regulate oral prescriptions of certain controlled substances; to the Committee on Energy and Commerce.

By Mr. THOMAS of California:

H.R. 6123. A bill to amend the Endangered Species Act of 1973 to require the preparation of economic impact analyses with respect to certain actions to protect endangered species and threatened species, to provide compensation for economic losses incurred under that act, and to authorize appropriations to carry out that act through fiscal year 1997; to the Committee on Merchant Marine and Fisheries.

By Mr. DE LA GARZA (for himself and Mr. COLEMAN of Missouri):

H.R. 6124. A bill entitled "An act to amend the Food, Agriculture, Conservation, and Trade Act of 1990, to improve health care services and educational services through telecommunications, and for other purposes"; to the Committee on Agriculture.

H.R. 6125. A bill entitled "An act to enhance the financial safety and soundness of the banks and associations of the Farm Credit System, and for other purposes"; to the Committee on Agriculture.

H.R. 6126. A bill entitled "An act to amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, and for other purposes"; to the Committee on Agriculture.

H.R. 6127. A bill entitled "An act to amend the Perishable Agricultural Commodities Act, 1930, to prescribe conditions under which a transferee shall be deemed to have received trust assets with notice of the breach of the trust, and for other purposes"; to the Committee on Agriculture.

H.R. 6128. A bill to amend the U.S. Warehouse Act to provide for the use of electronic cotton warehouse receipts, and for other purposes; to the Committee on Agriculture.

H.R. 6129. A bill to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971, and for other purposes; to the Committee on Agriculture.

By Mr. ROE:

H. Con. Res. 374. Concurrent resolution recognizing Belleville, NJ, as the birthplace of the industrial revolution in the United States; to the Committee on Post Office and Civil Service.

By Mr. RIGGS (for himself, Mr. SANTORUM, Mr. BOEHNER, Mr. DOOLITTLE, Mr. KLUG, Mr. NUSSLE, and Mr. TAYLOR of North Carolina):

H. Res. 595. Resolution providing for an annual independent financial and performance audit of the accounts and operations of the House of Representatives; to the Committee on House Administration.

By Ms. MOLINARI (for herself, Mr. HUNTER, Mr. ROHRABACHER, Mr. ZELIFF, and Mr. ENGEL):

H. Res. 598. Resolution concerning the crisis in the former Yugoslavia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. McCANDLESS introduced a bill (H.R. 6130) for the relief of John M. Ragsdale; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 34: Mr. HAYES of Louisiana, Mr. ATKINS, and Mr. MARLENEE.

H.R. 73: Mr. NcNULTY and Mr. McGRATH.

H.R. 643: Mr. CAMPBELL of California.

H.R. 1200: Mr. ALLEN.

H.R. 1246: Mr. COSTELLO.

H.R. 1311: Mr. HANSEN, Mr. DORNAN of California, Mr. HOBSON, Mr. JONTZ, Mr. MAZZOLI, and Mr. MORAN.

H.R. 1312: Mr. HANSEN, Mr. DORNAN of California, Mr. HOBSON, Mr. MAZZOLI, and Mr. MORAN.

H.R. 1317: Mr. JAMES and Mr. COX of California.

H.R. 2797: Mr. CLAY.

H.R. 3122: Mr. DARDEN.

H.R. 4045: Mr. HAYES of Illinois and Mr. COX of Illinois.

H.R. 4124: Mr. SHAYS.

H.R. 5053: Mr. ALLEN.

H.R. 5179: Mr. RINALDO.

H.R. 5250: Mr. MOODY and Mr. RAHALL.

H.R. 5276: Mr. SPRATT, Mr. TALLON, and Mr. BUNNING.

H.R. 5325: Mr. SHAYS and Mr. STUMP.

H.R. 5326: Mr. FOGLIETTA, Mr. CONYERS, Mr. PETERSON of Minnesota, Mrs. COLLINS of Illinois, Mr. RANGEL, Mr. ATKINS, Mr. FROST, Mr. DeFAZIO, Mr. MAZZOLI, Mr. DYMALLY, and Mr. OWENS of Utah.

H.R. 5497: Mr. BEREUTER, Mr. SCHAEFER, and Mr. BOEHNER.

H.R. 5828: Mr. QUILLEN, Mr. HENRY, and Mr. SANTORUM.

H.R. 5896: Mr. SWETT.

H.R. 5948: Mr. ARMEY.

H.R. 5977: Mr. SHAYS.

H.R. 6023: Mr. MACHTLEY.

H.J. Res. 471: Ms. KAPTUR, Mr. PICKETT, Ms. HORN, Mr. LaROCCO, Mr. PAYNE of Virginia, Mrs. JOHNSON of Connecticut, Mr. BREWSTER, Mr. HOYER, Mr. KLUG, Mr. MACHTLEY, Mr. OWENS of Utah, Mr. SAWYER, Mr. CLEMENT, Mr. LEVIN of Michigan, Mr. MANTON, Mr. BLACKWELL, Mr. MILLER of Washington, Mr. PRICE, Mr. PAYNE of New Jersey, Mr. COLORADO, Mr. MFUME, Mr. BACCHUS, Mr. BILBRAY, Ms. DeLAURO, Mrs. VUCANOVICH, Mr. FALEOMAVAEGA, Mr. SMITH of Oregon, Mr. BILIRAKIS, Mr. BERMAN, Mr. McGRATH, Mr. RAY, Mr. STARK, Mr. NAGLE, Mrs. KENNELLY, Mr. OWENS of New York, Mr. MILLER of Ohio, Mr. DARDEN, and Mr. FISH.

H.J. Res. 479: Mr. COSTELLO.

H.J. Res. 489: Mr. KOLTER, Mr. GAYDOS, and Mr. JENKINS.

H.J. Res. 495: Mr. LEWIS of Georgia, Mr. PERKINS, and Mr. LANTOS.

H.J. Res. 529: Mr. ANDREWS of New Jersey, Mr. ANDREWS of Texas, Mr. BILBRAY, Mr. BROWN, Mr. CARR, Mr. CHAPMAN, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CARDIN, Mr. CLAY, Mr. COLORADO, Mr. DeFAZIO, Mr. DE LUGO, Mr. DOOLITTLE, Mr. EDWARDS of California, Mr. DOOLEY, Mr. FRANK of Massachusetts, Mr. GLICKMAN, Mr. GORDON, Mr. HARRIS, Mr. HALL of Ohio, Mr. HAMMERSCHMIDT, Mr. HERTEL, Mr. HYDE, Mr. JONES of Georgia, Ms. KAPTUR, Mr. KLUG, Mr. JACOBS, Mr. LANCASTER, Mr. LANTOS, Mr. LEHMAN of California, Mr. LEWIS of Georgia, Mr. LaROCCO, Mr. LEVIN of Michigan, Mr. MARTIN, Mr. MINETA, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. MAZZOLI, Mr. MOODY, Mr. NATCHER, Ms. OAKAR, Mr. PANETTA, Mr. PARKER, Mr. PETRI, Mr. RIGGS, Mr. PICKLE, Mr. RINALDO, Mr. SISISKY, Mr. SKEEN, Mr. SARPALIUS, Mr. SIKORSKI, Mr. SKELTON, Mr. STAGGERS, Mr. TANNER, Mr. TOWNS, Mr. STENHOLM, Mr. TAUZIN, Mr. THOMAS of Wyoming, Mr. TRAFICANT, Mr. VALENTINE, Mr. VOLKMER, Mr. YOUNG of Alaska, Mr. APPLEGATE, Mr. MANTON, Mr. KENNEDY, Mr. CRAMER, Mr. LEACH, Mr. TORRICELLI, Mr. RITTER, Mr. SMITH of Texas, Mr. HUGHES, Mr. CLEMENT, Mr. BORSKI, Mr. ESPY, Mr. BILIRAKIS, Mr. ROBERTS, Ms. MOLINARI, Mr. DUNCAN, Mr. CARPER, Mr. CONYERS, Mr. LEWIS of California, Mr. LEVINE of California, Mr. BOUCHER, Mr. ASPIN, Mr. ECKART, Mr. WASHINGTON, Mrs. PATTERSON, Mr. NEAL of North Carolina, Ms. LONG, Mr. JEFFERSON, and Mr. SLATTERY.

H.J. Res. 534: Ms. HORN.

H.J. Res. 543: Mr. RAY, Mr. SMITH of New Jersey, Mr. WOLF, and Mr. RIDGE.

H.J. Res. 544: Mr. VENTO, Mr. BROWN, Mr. BUSTAMANTE, Mr. DICKS, Mr. DYMALLY, Mr. ENGEL, Mr. ESPY, Mr. EWING, Mr. FROST, Mr. GUARINI, Mr. HERTEL, Ms. HORN, Mr. HUBBARD, Mr. KLECZKA, Mrs. MINK, Ms. NORTON, Mr. PASTOR, Mr. POSHARD, Mr. QUILLEN, Mr. RANGEL, Mr. RAY, Mr. REED, Mr. RHODES, Mr. SANGMEISTER, Mr. SAWYER, and Mr. SHAYS.

H.J. Res. 549: Mr. HALL of Ohio.

H.J. Res. 550: Mr. BROOMFIELD, Mr. CALLAHAN, Ms. DeLAURO, Mr. DIXON, Mr. GINGRICH, Mr. JOHNSON of South Dakota, Mr. LANCASTER, Mr. LEWIS of California, Mr. LIPINSKI, Ms. LONG, Mrs. LOWEY of New York, Mr. NEAL of Massachusetts, Mr. PARKER, Mr. RHODES, Mr. SAXTON, Mr. SERRANO, Mr. SHAYS, Mr. STAGGERS, Mr. TALLON, Mr. VALENTINE, Mr. WASHINGTON, Mr. WOLF, and Mr. YOUNG of Alaska.

H.J. Res. 552: Mrs. MEYERS of Kansas, Mr. JACOBS, and Mr. STARK.

H. Con. Res. 233: Mrs. KENNELLY, Mr. DURBIN, Mr. CAMPBELL of Colorado, and Mr. REED.

H. Con. Res. 363: Mr. MORAN and Mr. BRUCE.

EXTENSIONS OF REMARKS

SUPPORT FOR THE ANTI-CAR THEFT ACT OF 1992

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. DOWNEY. Mr. Speaker, I rise today in strong support of the Anti-Car Theft Act of 1992. The recent media attention focusing on violent car jackings clearly reinforces the need to address one of the most prevalent crime problems plaguing our communities. Unfortunately, armed car jacking is not a new crime. In 1990, over 1,000 automobiles were stolen at gunpoint in New York City. Car theft has become one of the most pressing property crime epidemics throughout this country. Over 1 million vehicles were stolen in 1990. It is time that this body takes effective action to crack down on auto theft.

The Anti-Car Theft Act will help reduce the incidences of auto theft. Making it easier for motor vehicle departments to track stolen cars and including tough new penalties for auto theft will make this a far less attractive crime to commit.

This bill will also take the profit out of car theft. Including identification numbers on auto parts will help to close down illegal chop shops which have made the sale and resale of stolen parts possible and profitable.

This legislation will help law enforcement, lower insurance costs, help consumers, and make our constituents safer. I urge my colleagues to support this legislation.

TRIBUTE TO MRS. LOUISE FOLLETTE

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. KYL. Mr. Speaker, the closure of various military bases across the country has received praises and criticism. Congress was called upon to make tough decisions and each of us made them with some amount of heartache. This is particularly true for the Arizona delegation. Williams Air Force Base has been a part of our community for over 51 years and we are very sad to see it go.

Not only has "Willie" produced top-notch pilots, it has also congregated top-notch citizens. One of those citizens who stands alone is Louise Follette. In 1941, Louise, came with her husband to the desert as one of the first 20 or so people to open the then Higley Field. She took a job with the base exchange and to this day still manages that store. She has seen Williams Air Force Base come full circle, and with the closure of the base she will grudgingly retire.

I would like to take this time to salute and congratulate Mrs. Louise Follette for her many years of dedication and service. You have provided your country and the men and women of Williams Air Force Base with a noble service, and I would like to thank you personally.

THE YEAR OF THE MILLENNIUM OF THE SHERIFF

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues, 1992 is a very special year for sheriffs across this Nation and throughout the world as this is the year of the millennium of the sheriff.

Rich in heritage and tradition, sheriffs have upheld the law for 1,000 years. Their history dates back to England before the Norman Conquest. In England, the local court was the shire court. In Anglo-Saxon times, the head of the shire, or county as we know it, was an earl who acted through a reeve. The reeve was a local administrative agent who was similar to a bailiff, or a steward, but of more importance. Under the earl, the reeve managed the shire court and oversaw lesser courts throughout the shire and was called the shire reeve. This eventually developed into the term sheriff we use today.

In England, the sheriff ran the shire and was an agent of the king. The sheriff was a position of great distinction and power. However, the position of sheriff began to decline in stature and authority until the settling of America. The need to maintain law and order in the small and often remote settlements of the American frontier brought a return to the stature and importance of the sheriff.

The sheriff in America shares a common history with his English predecessor. The early sheriffs in America were burdened with numerous responsibilities such as tax collecting, peace keeping, census taking, public health and many other duties that often are not associated with the concept of sheriff we have today.

In Maryland, the office of sheriff can be traced back to 1632 when King Charles I granted the power to appoint law enforcement personnel in the State and the sheriff became the first officeholder to be appointed. In 1776, the Maryland Assembly enacted its first Constitution and specifically provided for the office of sheriff as an elected position.

Today, the 24 sheriffs of Maryland are responsible for many different law enforcement duties. Just as Maryland is quite diverse from the rural country side of the Eastern Shore and mountains of western Maryland to the urban areas of Baltimore, Annapolis, and surrounding communities of Washington, DC, the sheriffs' departments of Maryland have evolved differently. In many of the rural areas, in the absence of organized police departments, the sheriff is the primary law enforcement figure. In other areas, the sheriff often is responsible for the supervision of jails, prisoner transportation, court security, serving warrants, and civil process service.

Although their duties vary, each share a common history and rightly are proud of that history. Their hard work and dedication to upholding law and order is just as important, if not more so, than it was 1,000 years ago in England or 360 years ago here in Maryland.

The basics of upholding law and order has never been an easy one. Many of us are familiar with recent events across the Nation that have demonstrated the increasing demands on law enforcement. In Baltimore alone, the last few weeks have seen the shooting of two Baltimore police officers and one Baltimore County police officer. Tragically, one of those officers did not survive his attack and the other is still in very serious condition. As one police officer said in response to the attacks, when a police officer is attacked, it is more than just one attack on a law enforcement officer, it also is an attack on society. I could not agree more. Those sworn to enforce our laws also represent our society and are the first line of defense between law and lawlessness.

The job of law enforcement is, indeed, a very dangerous one. Today it seems that disregard for law and order continues to grow among the criminal element. In their contempt for law and order, many of these criminals appear to place no value on an officer's or civilian's life.

Over the years, society has changed and so have the challenges and demands on law enforcement. Such changes have required our sheriffs to change as well. Without a doubt, the continued effort to increase professionalism through training and education is quite evident. Regardless of what changes the future may bring, I know our sheriffs always will be ready to serve with the same honor and distinction as their predecessors.

Mr. Speaker, my fellow colleagues, it is with utmost respect and admiration that I congratulate the 24 sheriffs of Maryland and the many other sheriff departments here in the United States and around the world on this momentous occasion. For 1,000 years they have upheld law and order. Through protecting life and property, they have given of themselves in service to others. On this, the millennium of the sheriff, I would like to recognize the sheriffs of Maryland. I respectfully submit this list of the sheriffs of Maryland and commend them all on a job well done.

Allegany County—Gary Simpson.

Anne Arundel County—Robert G. Pepersack, Sr.

Baltimore City—John Anderson.

Baltimore County—Norman M. Pepersack, Jr.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Calvert County—Lawrence C. Stinnett.
Caroline County—Louis Andrew.
Carroll County—John H. Brown.
Cecil County—Rodeny E. Kennedy.
Charles County—James F. Gartland II.
Dorchester County—Philip McKelvey.
Frederick County—Carl R. Harbaugh.
Garrett County—Martin Van Evans.
Harford County—Robert E. Comes.
Howard County—Michael A. Chiuchiolo.
Kent County—William T. Bright.
Montgomery County—Ray Kight.
Prince George's County—James V. Aluisi.
Queen Anne's County—Charles Crossley.
St. Mary's County—Wayne L. Pettit.
Somerset County—Robert N. Jones.
Talbot County—John J. Ellerbusch.
Washington County—Charles F. Mades.
Wicomico County—R. Hunter Nelms.
Worcester County—Daniel McAllister.

The men and women of each of these departments and those across the United States deserve our utmost respect and admiration. Their calling is a noble and honorable one.

SUPPORT SOLOMON/CARPER LINE-ITEM VETO

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. HASTERT. Mr. Speaker, I rise in support of the Solomon/Carper line-item veto proposal. This bipartisan proposal would give the President enhanced rescission authority. Earlier in the year this House fell just eight votes short of a key test in support of the line-item veto.

The proposal we have before us today builds on the current rescission approval process instituted of the budget act by compressing the congressional review period from 45 down to 20 days and ensuring that Congress is forced to vote on any proposed rescissions.

This is a modest reform that would only apply to rescissions for the 103d Congress. But it is important that as this session winds down this House sends a message to the American people that we are serious about reforms.

I have no illusions that the line-item veto alone is the answer to our budget deficits or will balance the budget. But it is the crucial tool that can help in his regard. The Governor of Illinois has the line-item veto, and when I was on the Revenue Committee in the Illinois General Assembly I would offer reduction amendments that the Governor later followed with vetoes. The line-item veto works.

The line-item veto is not a partisan issue: 41 State Governors have it, including the Governor of Arkansas, who thinks the Chief Executive should have it. It is a tool that our President needs to balance the Federal budget.

I urge approval of this measure.

PROGRESS OF THE FEDERAL SUPERFUND PROGRAM

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. BORSKI. Mr. Speaker, the Committee on Public Works and Transportation has long played an important role in improving the quality of our Nation's water resources through the passage of the Clean Water Act, the authorization of flood control and navigation projects and sharing primary jurisdiction over the Superfund Hazardous Waste Cleanup Program with another committee of the House. We have recently finished a comprehensive examination of the progress being made in cleaning up hazardous waste sites. The cleanup of hazardous waste sites has already suffered too many delays. We can ill afford a legislative process that fails to reauthorize this important program in a timely fashion.

With that in mind, the Subcommittee on Investigations and Oversight, which I chair, has held mine hearings on the Superfund Program. Fundamental to the subcommittee's examination of the program was the question, "How is the best way to clean up hazardous waste sites in a timely and effective manner, thereby protecting human health and the environment?" I want to emphasize that the members of the subcommittee approached this question with no preconceived answer in mind. The objective of our subcommittee's hearings was to provide for a frank and open discussion of issues, that will ultimately provide the members of our committee with information needed to make an informed decision about how to improve the Superfund Program.

After holding 12 months of hearings, receiving testimony from over 70 witnesses, and accepting volumes of materials for the record, I have reached the conclusion the Superfund Program is not working effectively. There are currently 1,275 sites on the Superfund National Priorities List. The Environmental Protection Agency expects the list to grow to more than 2,000 sites by the end of this decade. Since 1980, when the Superfund Program was first enacted, 80 hazardous waste sites have had cleanup construction completed, with only 40 sites actually deleted from the National Priorities List. To date, over $10 billion has been spent by the Federal Government in an effort to clean up hazardous waste sites in the Superfund Program.

We must do better than complete 80 construction cleanups in a decade. Our hearing record indicates that it takes over 10 years for a Superfund site to have cleanup construction completed. Even more alarming, it takes over 15 years from the time a waste site is identified as posing a risk to human health and the environment, to being listed on the National Priorities List, to having cleanup construction finally completed.

Of equal concern to the subcommittee is the testimony that indicate large expenditures are being made in the program for administrative and transaction costs as opposed to paying for the actual cleanup of hazardous wastes. The subcommittee found that up to a third of corporate expenditures at Superfund sites may be devoted to transaction costs, with up to 75 percent of those costs going to legal services.

The U.S. Congress has made a commitment to the American people to clean up hazardous waste sites in a timely and effective manner, thereby protecting human health and the environment. We are currently falling short of that commitment. While progress has been made in the past decade, much more needs to be done. We cannot be satisfied with a program that takes over 10 years to complete construction cleanups at hazardous waste sites. We cannot, as a society, afford a program that generates billions of dollars misdirected to costs other than hazardous waste cleanup.

In the coming months, the Subcommittee on Investigations and Oversight will release a report containing a factual record and findings as well as recommendations for how to improve the Superfund Program. It is my hope that in the 103d Congress, the House will follow the leadership of the Public Works and Transportation Committee and pass legislation to improve the Federal Superfund Program.

THE 400 U.S. ATHLETES BRING HOME THE GOLD IN NINTH INTERNATIONAL PARALYMPICS IN BARCELONA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. STARK. Mr. Speaker, this is a time to look with pride at the accomplishments and opportunities of the 43 million Americans with disabilities, 400 of whom have just finished competing in the Ninth International Paralympics in Barcelona. I want to particularly congratulate the team members from California, which sent the largest contingent to the games. Our team won 76 gold medals, more than the American team at the Olympics earlier in the summer. Altogether, from September 3 through 14, 3,000 Paralympians from 85 countries competed in 15 sports, including swimming, soccer, and judo. To be the best, our American athletes have gone through intensive, grueling training, often combined with medical rehabilitation.

Yet athletic accomplishment is but one piece of the changing picture of life for Americans with disabilities and of the opportunities created by successful medical rehabilitation. Earlier this summer, the critical phase of the Americans With Disabilities Act went into effect, helping individuals with disabilities to find better opportunities in the workplace. In this same timeframe, it has become routine to open a newspaper and see advertisements that include individuals with disabilities.

While much remains to be done, each of these items is a further sign of the degree to which, in 1992, individuals with disabilities have become a more visible part of the mainstream in America.

A number of factors have helped this come about: new laws, increased activism, better public awareness of the abilities of individuals with disabilities, and steady improvements in the medical, and technological support for persons with disabilities. In particular, expansion of the scope and technology of medical rehabilitation has been an important force in helping an ever-larger number of Americans with disabilities to return to the work force, participate in the consumer marketplace, and involve themselves in activities that were previously difficult or impossible for them.

Mr. Speaker, I hope that in the New Year, this Nation can finally enact a national health plan that will ensure that every American has access to health care and where appropriate to rehabilitation services necessary to help them contribute their fullest to our society. The success of our Paralympians is an example of what can and should be the range of options for our Nation's disabled.

RETIREMENT OF PINK VAN GORDEN

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. GUNDERSON. Mr. Speaker, it is with pride that I rise today to recognize the service of my friend Heron "Pink" Van Gorden to the citizens of the 69th assembly district in the State of Wisconsin. After 10 years of dedicated and distinguished work in the State Legislature, Pink will be retiring this year as representative of the same district I served before coming to this Chamber.

Pink's legislative career has been highlighted by his endeavors for the well-being of Wisconsin's farmers and veterans, and the fitness of its highways. Since he was first elected in 1982, he has served on the State Assembly's Agriculture Committee and its Veterans and Military Affairs Committee. In addition, he has been the ranking minority member of the Highways Committee since 1987.

In 1982, one of Pink's first initiatives was welfare reform. He was instrumental in implementing Wisconsin's highly regarded Workforce and Learnfare Programs. More recently, Pink helped the Highground, a memorial to Vietnam veterans, become a reality. Respected on both sides of the aisle, Pink will be remembered for the willing and thoughtful assistance he offered toward advancing his colleagues' initiatives.

Wisconsin Gov. Tommy Thompson shares my warm respect for Pink, and I would like to include a statement from him in this recognition:

> Pink Van Gorden has been an outstanding representative to his constituents in northcentral Wisconsin during his ten years in the Wisconsin State Assembly. His efforts on behalf of rural Wisconsinites and Wisconsin veterans have been the hallmarks of his tenure. I'll miss his true commitment to sound public policy and fiscal responsibility as, I'm sure, will the people of his district.

A family man with a daughter and four grandchildren, a sportsman who especially loves squirrel and deer hunting, and a neighbor who has owned and operated a feed mill near his home throughout his tenure in the legislature, Pink is known both in State capital and in his hometown as a true model of the citizen-legislator. While the people of Neillsville will gladly welcome Pink home, his colleagues in Madison will dearly miss his humor, warmth, and deep integrity.

REGARDING ROLLCALL VOTE NO. 409

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. FAWELL. Mr. Speaker, on September 23, 1992, the House voted on the conference report on H.R. 2194, the Federal Facilities Compliance Act in rollcall vote No. 409. I intended to vote and did vote "aye" on the conference report, but it appears that my vote was erroneously recorded as "nay" by the electronic voting device.

I would like this statement to be inserted in the RECORD, immediately after the vote, to reflect that I actually voted "aye" on this bill, just as I did when the measure first passed the House.

H.R. 5126, CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. VENTO. Mr. Speaker, both the House and the Senate have completed action on H.R. 5126, the Civil War Battlefield Commemorative Coin Act and the measure is currently pending before the President.

Under the provisions of this legislation, the Bureau of the Mint is authorized to mint coins commemorating the Civil War. The proceeds from the sale of these coins will be used to protect at-risk Civil War battlefield sites. The Civil War Battlefield Foundation was designated as the recipient of these proceeds.

As H.R. 5126 has moved through the legislative process, the Civil War Battlefield Foundation has changed, or is in the process of changing its name to the Civil War Trust. As the author of H.R. 5126, it is my intent that the Civil War Trust be the recipient of the proceeds from the sale of commemorative coins as authorized by H.R. 5126 and that all requirements set forth in that legislation apply to the Civil War Trust.

LET'S LISTEN TO VETERAN ON DRAFT ISSUE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. STOKES. Mr. Speaker, I want to take this opportunity to share with my colleagues a newspaper article by E.J. Montini entitled "Let's listen to veteran on draft issue" which recently appeared in the Arizona Republic.

Montini's article suggests that the draft-dodging issue should not be the primary focus of the Presidential campaign. Instead, Montini maintains that the candidates ought to develop issue-oriented campaigns in which their efforts are concentrated on confronting issues in which they have been directly involved. I hope my colleagues will have the occasion to read this most interesting article:

> LET'S LISTEN TO VETERAN ON DRAFT ISSUE
>
> Nowhere on the television news last night did I hear a single comment from Earl W. Bowers of Glendale. Likewise on the front page of today's newspaper, or in papers throughout the United States. I saw lots of George Bush. I heard plenty of Bill Clinton.
>
> But Earl W. Bowers?
>
> Nothing.
>
> It's an oversight which, by the end of this column, I hope to correct.
>
> Yesterday, President Bush spoke to a convention of National Guard members in Salt Lake City. He went there in order to tell the Guard members how terrible it was that Bill Clinton was a draft dodger during the Vietnam War.
>
> Of course, being a politician, the way the president called Clinton a draft dodger was to not call him a draft dodger.
>
> What Bush said was, "There's been a lot of controversy swirling around about service to country, about using influence to avoid the military, and I've read a great deal of speculation saying that I was going to come out here and use this forum to attack Governor Clinton. I want to tell you I do feel very strongly about certain aspects of the controversy swirling around Governor Clinton, but I didn't come here to attack him."
>
> Of course not.
>
> Anyway, Clinton followed Bush on the podium and, being a politician, he defended the fact that he had avoided the draft by not defending the fact that he had avoided the draft. Instead, Clinton emphasized the notion that he would be a good commander in chief even without military experience.
>
> And maybe he would.
>
> DOING A GOOD JOB
>
> Secretary of Defense Dick Cheney, whom Bush appointed, appears to be doing a pretty good job, just as he managed to do a pretty good job of hopping from deferment to deferment during the Vietnam War.
>
> Bush's oldest son, George Jr., got into the Texas Air National Guard during Vietnam, just as Vice President Dan Quayle got into the Indiana National Guard. They were lucky young men, I guess, as this happened at a time when National Guard waiting lists (made up of patriotic youngsters hoping to fight the Vietnam War in places like Indiana and Texas) numbered in the tens of thousands.
>
> Bush's second son, Jeb, was in the draft lottery but was never called to active duty and so stayed home.
>
> There are others. Republican Rep. Newt Gingrich, who criticizes Clinton and now seems to like war, managed to avoid attending the one in Vietnam.
>
> And former presidential candidate Patrick Buchanan, who often calls Clinton a draft dodger, received a medical deferment during the Vietnam War because of a bad knee. In fact, the condition remains severe enough to restrict Buchanan to jogging only about five miles a day.
>
> ISSUE IS A PLOY
>
> The point is, when it comes to draft dodging, we shouldn't listen to Bush, Clinton, Buchanan or the rest, we should listen to Earl W. Bowers of Glendale. Bowers wrote me a letter recently discussing this subject. He said in part:

"I served as a combat infantryman in World War II. Having been wounded at age 18 the first time and age 19 the second time, I spent well over a year in hospitals going through surgeries and learning to walk. Today, I am a double amputee. To tell the truth, I cannot get emotionally worked up over the draft status of others.

"The (Clinton) draft issue is a ploy. This 23-year-old draft incident is nothing more than a smoke screen and a farce to divert attention from the true and pressing issues affecting America."

That's the kind of talk we should be listening to.

And, once upon a time, we actually did.

Believe it or not, I'm old enough to remember a hard-fought, issue-oriented presidential campaign in which an incumbent president, a man who happened to be a U.S. Naval Academy graduate and a decorated war veteran, was defeated soundly by a man who had managed to dodge regular military service all through the dark and dangerous days of World War II.

The winner in that election was named Reagan.

THE CREW 582 CELEBRATES 5TH REUNION MUSTER, 48TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues, I am proud to recognize the crew of U.S.S. LST–582 as they celebrate their fifth reunion muster and 48th anniversary, October 15, 1992 in Baltimore, MD.

Built in Evansville, IN, and commissioned in New Orleans on July 31, 1944, LST 582 and her crew served their country with great valor and honor. Deployed in the South Pacific theater of war, the crew of LST–582 was involved in both the invasion of Okinawa and Luzon.

The LST—landing ship tank—was used by U.S. forces to transport men and materials ashore. They did this job well, almost always under heavy enemy fire. These large diesel-powered craft could carry over 2,000 tons of cargo in their cavernous interior. Despite their large size, 300 feet in length, the shallow draft of LST's allowed them to run right up on shore, or near the beach, to deliver cargo through large doors and a ramp in the bow.

Although an impressive sight, their low speed, size, and lack of maneuverability also made them a prime target. Sailors familiar with the vessels often joked that LST actually stood for, "large stationary target." In spite of the puns, the men who served on them were dedicated to their job and developed that special bond with their comrades and ship that is unique only to war.

Unlike any other friendship, war seems to form a bond between those who serve together that transcends time and place. Likewise, pilots and sailors share a love for their craft as they truly depend on it for their very life. If there is, in fact, a good by-product of war, it would be this love and friendship that remains with those who served together. They entrusted their lives to one another and in the heat of battle grew to depend on one another.

This bond that was forged 48 years ago is just as strong today, half a world away, as it was nearly five decades ago.

On this, the fifth reunion muster and 48th anniversary of the crew of LST–582, I think it is appropriate that we not forget the men and women who fought in defense of our Nation. Although World War II was half a century ago, we must always be mindful of the lessons we learned and the sacrifices made. The men of U.S.S. LST–582 were part of perhaps the single most significant event in world history during this century.

Never before did the modern world witness an event of such great magnitude that it changed the course of world history as did World War II. War is sometimes necessary in defense of freedom and democracy and the crew of LST–582 answered that noble calling with great honor and valor. Their efforts were a vital part of an overall struggle that culminated in the victory over tyranny and injustice and ensured the reign of freedom and democracy.

Mr. Speaker, my fellow colleagues, it is with utmost respect and admiration that I commend the crew of LST–582 on its fifth reunion muster and 48th anniversary. May God bless them in the years ahead and may we never forget those who have answered the calling.

A TRIBUTE TO THE REPUBLIC OF CHINA ON TAIWAN ON ITS 81ST NATIONAL DAY

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. BLAZ. Mr. Speaker, I rise today to pay tribute to the people of the Republic of China on Taiwan as they prepare to celebrate their 81st National Day on October 10, 1992. Taiwan's friendship and goodwill toward the United States and the territory Guam, which I represent, has been a source of pride and comfort to me over the years.

As one of the world's most competitive and dynamic economies, Taiwan's real growth in gross national product has averaged almost 9 percent a year during the last three decades. Export growth has been even greater, which has helped to provide Taiwan with the impetus for industrialization, ranking Taiwan as the world's 13th largest trading partner. Considering this economic power, strong consideration needs to be given for Taiwan's entry into GATT.

Although Taiwan has problems to work through, I feel certain that considering its economic achievements and recent successes in political liberalization, Taiwan will more fully embrace democratic practices and expand its belief in democratic capitalism so that its continued economic growth can be assured for itself and the entire region.

To President Lee Teng-hui and Ambassador Ding Mou-shih go my heartiest congratulations and my high hopes for continuing friendship and cooperation in the years to come between the Republic of China on Taiwan and the United States of America.

A TRIBUTE TO MARK LAINER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. BERMAN. Mr. Speaker, I rise to pay tribute to Mark Lainer, whose leadership positions with religious, communal and educational institutions throughout the Jewish community is being honored tonight by the Los Angeles Hillel Council. In an era when the spirit of volunteerism is thought to be on the wane, Mark is proof that you can't always believe what you read.

Whether as vice president of the Jewish Federation Council of Greater Los Angeles or vice president of Congregation Valley Beth Shalom, Mark has had a major impact on Jewish life in Los Angeles. To take just one example, Mark's concern for Jewish education has been exemplary. Mark was the founding president of the Abraham Joshua Heschel Day School and is a past chair of the Bureau of Jewish Education. He recognizes the value of Jewish education, especially given the social pressures and uncertainty that characterize the modern world.

Mark has also found the time to raise much-needed funds for a number of Jewish community organizations, including the major gifts campaign for the United Jewish Fund of the San Fernando Valley region of the Jewish Federation Council, which he served as a former chair.

Taken together, Mark's efforts represent an all-out assault on apathy. His tireless commitment and dedication to so many organizations is both admirable and remarkable. And I also want to pay tribute to Mark's equally dedicated wife, Ellie and his brothers, Luis and Nahum—and certainly to his parents, Sara and Simha Lainer, who taught their fine family the joy to be found in service and generosity.

Mr. Speaker: We ask our colleagues to join us in saluting Mark Lainer, whose enthusiasm in the service of worthy causes is an inspiration to all those of us fortunate enough to be his friend.

THE INTRODUCTION OF LEGISLATION TO PROHIBIT U.S. FOREIGN ASSISTANCE FROM BEING USED TO ENCOURAGE OR SUBSIDIZE THE TRANSFER OF U.S. MANUFACTURING OPERATIONS ABROAD

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. SLATTERY. Mr. Speaker, I rise today to introduce legislation to prohibit U.S. foreign assistance funds from being used to encourage or subsidize the transfer of U.S. manufacturing operations abroad.

Many of us saw, and all of us have heard, about three recent news programs detailing efforts by the Agency for International Development [AID] to lure U.S. firms abroad with promises of cheap labor, tax holidays, and low interest loans. These efforts were paid for by U.S. taxpayers.

I came to the well yesterday to highlight this problem. Later in the day, I joined several of my colleagues, including the majority leader, in sending a letter to President Bush asking for a complete accounting of the AID practices in question.

AID has understandably denied these charges. But they have not been able to explain why AID employees, in taped conversations, not only touted the advantages of moving U.S. plants overseas, but promised to help screen out workers who might try to form unions.

We are dealing with a tremendous amount of legislation in this last hectic week of the 102d Congress. It will take more time than we have to sort through all the problems with AID cited in these press accounts. My colleague from California, the esteemed chairman of the Committee on Interior and Insular Affairs, has asked the General Accounting Office to prepare a report on AID's efforts to lure U.S. manufacturers overseas. He has also introduced legislation, of which I am a cosponsor, to stop a variety of practices which encourage U.S. businesses to move abroad.

I want to make sure, however, that we do something to address this problem before we adjourn. Yesterday the Senate approved by voice vote an amendment to the fiscal year 1993 Foreign Assistance Act, offered by Senator PATRICK LEAHY, which states simply: First, U.S. foreign aid funds may not be used to lure U.S. companies abroad if this would directly result in the loss of U.S. jobs; and second, U.S. foreign aid funds may not be used for any project which violates internationally recognized workers rights.

I am offering identical language, to encourage conferees on the foreign aid appropriations bill to compromise and incorporate at least some language making clear to AID that Congress will not tolerate the use of U.S. tax dollars to export jobs overseas.

VIETNAM VETERANS INSTITUTE AND THE ASSIGNMENT OF WOMEN IN THE ARMED FORCES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. DORNAN of California. Mr. Speaker, I would like to enter into the RECORD the testimony of J. Eldon Yates, chairman of the board, Vietnam Veterans Institute, before the Presidential Commission on the Assignment of Women in the Armed Forces.

TESTIMONY OF J. ELDON YATES, CHAIRMAN OF THE BOARD, VIETNAM VETERANS INSTITUTE BEFORE THE PRESIDENTIAL COMMISSION ON THE ASSIGNMENT OF WOMEN IN THE ARMED FORCES

The concern of the Vietnam Veterans Institute is that American military personnel when exposed to combat have the best chance of surviving that combat with minimum casualties and disabling wounds.

The bottom line to every military action is the success of the mission and the preservation of personnel. These two objectives must be in the forefront of any recommendations that are rendered by this body. Equally, we must assure that standards for military personnel are equal. For standards to be equal, we do not have the luxury of putting an erroneous face on them. There have been overwhelming attempts to adjust the military into an all encompassing body for the purposes of equal opportunity. It has been argued that children have been born psychologically neutral. It has been argued that children are born a blank canvas that society imprints values, interest and occupational propensity upon. Modern science has evolved to the point that the postulates within the social scientist community of the last two decades are being proved to be erroneous. "It seemed very important in the radical feminist atmosphere of the 70's to understand the truth about the differences between men and women. If there were proven differences in ability between men and women, then it was intellectually dishonest for anyone to deny those differences (Dr. Anne Moir)." "In the last twenty years, we have witnessed contradictory positions. Scientific research into the differences between the sexes, and the political denial that such differences exist."

On June 25, 1981, the Supreme Court decided (453US57) that women would not be conscripted, based on the law that exempted women from combat. I was at the National Press Club where Eleanor Smeal, then President of NOW, was the guest luncheon speaker. Upon receiving this information at the podium, Ms. Smeal read it and went on to editorialize that this was just another example of a male dominated society attempting to keep women in second class roles in society. During the question and answer session following Ms. Smeal's luncheon address, I asked Ms. Smeal that if she felt it is sexist to exclude women from the draft, how she felt about combat assignments for women. Ms. Smeal's response was "There are plenty of technological jobs in the military. There is never a need for a woman to serve in combat." During the Vietnam War, their position was that women should not be conscripted into the service.

As EEO grows, so grows the demand for women in combat roles. I point this out simply because it is the attitude and insistence of a very few that has led this nation to the issues that occupy this Commission. Feminists are insisting on something that only 26 percent of Americans think is OK (Newsweek, August 5, 1991). The concern of the Vietnam Veterans Institute is, as a nation, are we acquiescing to the demands of a few without giving credence to the needs of the majority. Those who must be prepared to make the ultimate sacrifice, but, more importantly, must be prepared physically and mentally to carry out their military mission while sustaining a minimum of casualties and, hence, contribute to the preservation of their comrades in arms.

Scientific evidence supports the age-old truisms that men as a whole are better prepared and have a greater aptitude for carrying out what the social scientists have deemed as sexual stereotypes. For instance, men biologically generally have greater upper body strength than women. This point is articulated by Major General Jeanne Holm in her book "Women in the Military," and she is well quoted on her position that women are not suitable for infantry or other military roles for which strength is a factor. What is not mentioned by the social scientists or the feminists is the scientific evidence that clearly points to the fact that males also have greater endurance. This is an issue that must be taken seriously in any area of combat arms.

"Testosterone gives men a particular advantage in that it is focusing and galvanizing a brain that is already, by its very structure, more focused than the female. Remember that the male brain is a tidier affair, each function in its special place; already, the male is biased towards a more single-minded approach—he is less easily distracted. Add the hormone, with its mind-concentrating and fatigue-restraint qualities and the differences between the male and female brain-performance are accentuated." (Dr. Anne Moir, Brain Sex, published 1989.)

There is no question that some women may run faster than some men or that there may be some women who are taller than some men, but in the world community, the fastest runners will be men and the tallest people will be men. The world community is the community in which war is waged. The simple fact is that a nation cannot build an army based on the exception. To do so, has implications on mission, personnel, and another crucial issue the feminists and social scientists wish to ignore—morale! I am certain that our current adversaries and potential enemies would be happy to see a superpower such as ourself with significant numbers of females comprising the battalions that they will face in combat.

Personally, during the Persian Gulf War, my sympathies were with the women who wanted to fight, as opposed to some young men who tried to get out of military assignments once the risk of combat had become a reality. The women who articulate these desires are unquestionably patriotic people. I hasten to add, that not all women in uniform, and I postulate most do not feel capable of preserving their own life or protecting the lives of those they would serve with, in a combat engagement.

Enlisted personnel make up approximately 85 percent of the armed forces. Their views are not being heard and there seems to be evidence that their views are being suppressed. Equally, there is an undertone government-wide aimed at suppressing opinions that are opposed to the assignment of women in combat. At a recent social activity in Norfolk, Virginia, the overwhelming opinion by Navy personnel was that because of the Tailhook Conference incident, the Navy has indicated, off the record to its officers, not to get involved with the Commission with personal opinions. Interestingly, Naval Station Norfolk is currently conducting an internal study of women in the enlisted ranks as it relates to overall mission. Thirty-five percent of enlisted personnel are female at Norfolk Naval Base. At any given time, approximately 50 percent of those are pregnant. Of that 50 percent who are pregnant, approximately 50 percent of those are single women. The study, as I understand it, was initiated because of the concern for mission readiness. When a female becomes pregnant, she is immediately removed from sea duty for two years. The concern is that through pregnancy alone, a female can avoid sea duty for six to eight years, on the average. The more serious questions are, who is taking the additional sea duty and what impact does it have on mission, morale, and retention. The study is still ongoing but it is my understanding that at least one female commander is as upset and concerned by these trends as is any of the males in the command structure.

Moshe Dayan, the heroic Israeli General and former Defense Minister, stated in a debate concerning the use of women in combat by the United States, that "We do not do what you do in the United States because, unfortunately, we have to take war seriously." I make the segue to Moshe Dayan's comment and the Israeli experience because the Israeli position of women in combat has been widely misquoted by the proponents of women in combat in the United States. Jeff Hirshowitz in his book: "The Women's Corps in the War of Independence," writes "Prior to the War of Independence, the military effort was completely reorganized and the position of women in the approaching conflict was reviewed. Some leaders argued that women should serve alongside of men. Others preferred that women serve in a separate organizational framework. During the War of Independence in 1948, women soldiers were assigned to front line combat positions. After three weeks of combat, the results were so disastrous that female soldiers were recalled from the front lines and never again utilized in the infantry or in front line duties. Although they are trained in counterterrorist tactics, their role during an actual attack is support to the male soldiers."

General Dayan's observations are based on the common sense that the social scientists of the last couple of decades have tried to trivialize.

The death cries of those women who were slaughtered during the Israeli War of Independence should speak louder than any of our biases.

Quoting Dr. Moir again, "In the past ten years, there has been an explosion of scientific research into what makes the sexes different. Doctors, scientists, psychologists and sociologists working apart have produced a body of findings which taken together paints a remarkably consistent picture, and the picture is one of startling sexual asymmetry." She asserts that today "there is too much new biological evidence for the sociological argument to prevail that children are a "blank slate." It is our hormones that make us behave in certain stereotypical ways. But hormones, alone, do not provide the whole answer. What makes the difference is the interplay between those hormones, and the male or female brains, pre-wired specifically to react to them. These brain differences directly determine the significant differences between males and females. The spatial ability, the ability to picture things, or shape position, geography and proportion, are all skills that are crucial to work with three dimensional objects or drawings are clearly superior traits in males. The question for the Commission is what impact does spatial ability have on military mission?

In yet another example, Dr. Camilla Benbow and Dr. Julian Stanley conducted tests of mathematical excellence to survey abstract concepts of space, relationships and theory. These two American psychologists worked with highly gifted students of both sexes. They found that the best girl never outperformed the best boy. They also discovered a startling sex ratio of mathematical brilliance. For every exceptional girl, there were 13 exceptional boys. Dr. Benbow now says "after 13 years of looking for an environment explanation and getting zero results, I gave up." Her belief now is the difference in ability has a biological basis.

Even professional skeptics have been converted. "When I was younger, I believed that 100% of sex differences were due to the environment," says Dr. Jerre Levy, professor of psychology at the University of Chicago. "After 20 years spent studying the brain, Ms. Levy is convinced, "I'm sure there are biologically based differences in our behavior." (Time Magazine, January 20, 1992). What implication for military mission does this biological basis have?

It will not surprise most who have worked inside the Beltway that the politically correct centurions of the Pentagon and the Congress display a cavalier attitude toward those of us who oppose women in combat. The military centurions see troops as expendable resources. Congressional centurions do not internalize the realities of war and see this more as an exercise in gaining political capital. Both groups see it as an opportunity to get their ticket punched. For the rest of us, whose sons and daughters will comprise the armed forces, this is a more serious issue. For us, one casualty of war is too many. But, there are those who will die in conflicts under this nation's flag. It will be criminal if this nation sets in motion reckless policies and laws that will put their sons and daughters at needless additional risk.

This Commission has one enlisted person on it. Almost 85% of the combined armed forces are enlisted people. Why aren't we hearing from the preponderance of those who picked up arms during Desert Storm as well as the career NCO's who served in Vietnam?

In post World War II, Dr. Frederick Demming, of Washington, D.C., went to Japan to implement a new management tool he had developed to assist with reconstruction. That management tool had been turned down by every American manufacturer that Dr. Demming had approached. The management tool is called "Quality Circles Management." The premise is a simple one: the people that do the actual work know more about what is required to produce that work in a quality, cost-effective and timely manner than does supervision, mid-management, or the Chairman of the Board. The highest award for industrial excellence in Japan is the Frederick W. Demming Award. I submit that Dr. Demming's principles can be applied to this issue among the combat arms personnel in all of our armed services. It won't cost a lot of money. The risk is that the outcome may not be "politically correct."

It is a paradox that some voiced disdain over minority rule in South Africa, and yet many of the same people want to impose minority rule over the military so that a few people may be positioned to bet anything they want. If the combat exclusion laws are repealed, even in limited duty assignments, what will be the outcome evolving from the lawsuits? Will women be forced to register for the draft and will legal precedents require women to serve in combat, per se? The immorality of not making a clear cut decision is typical of what Americans have come to expect from rule-makers inside the Beltway. The agenda seems to be to leave the point fuzzy and leave open the final decision for the courts. When this happens, it will not be the daughters of Congresswoman Schroeder, it will not be the daughters of the leaders of the National Organization of Women, it will not be the daughters of the Senators who are proponents of this issue. It will be the daughters from inner-city America and daughters of the hillbillies and farmers whose bodies are dismembered and guts blown out on the battlefield.

General Norman H. Schwarzkopf stated "Decisions on what roles women should play in war must be based on military standards, not women's rights." The "gender" feminists insist that women can do anything men can do but do not balk at the idea of having double standards for women. Currently one of the physical requirements for males to enlist in the United States Army is that they are able to do 13 push-ups. The parallel requirement for females to enlist in the United States Army is that they are able to do one push-up. A member of the DACOWITS (Defense Advisory Committee on Women in the Services), in interviewing midshipmen at the Naval Academy, found in candid conversations that the Naval Academy has quotas, double standards, gender-norming and affirmative action for women midshipmen. This does not seem to be an issue of questionable integrity, either for the "gender" feminists or the politicians or the military politically correct centurions. The lady from DACOWITS goes on to say that any disagreeable reactions or reservations expressed about women at the Academy would bring the threat of termination to a male midshipman. As a matter of fact, the Naval Academy ranks comments by male midshipmen that suggest women don't belong there or that standards have been lowered since admitting women to the academy as sexual harassment! Rear Admiral T.C. Lynch, Superintendent of the Naval Academy in response to the member of the DACOWITS states,

"* * * I will address your assertion that somehow we have stifled academic freedom and free speech. Let me assure you that we encourage free and open discussion about a wide range of issues that are significant to this nation, including whether the country will be well served by changing the laws and policies pertaining to the use of women in the armed forces."

Admiral Lynch's response seems to contradict the confidential concerns of the male midshipmen. He goes on to say:

"The measure of a highly capable military, ready to meet the future threats that we may face, is its people. We have learned from history that in wartime only a relatively few military officers will face the ultimate test of leading troops on the battlefield in ground combat action. Unquestionably those officers must have strength, stamina, and endurance to fight and win. Many more during times of conflict and all in peacetime will have wide-ranging responsibilities of leadership in a great variety of career fields and roles. The Academy's mission is to provide the country with leaders who have the ability and strong motivation to serve this country in many different leadership roles, any of which simply do not require brute strength."

Admiral Lynch's comment seems to suggest that in the future that only a select few will face the ultimate dangers of combat while the rest will be developing in their career fields at the cost of the blood of those who are and always have been the most qualified all round for military service. Isn't this the ultimate double standard? Additionally, Admiral Lynch, in his response, seems to have rewritten the mission of the Naval Academy. Are we to give credence to the current and historical mission statement of the Naval Academy or to the Admiral's rewrite? I guess the military personnel who have the gender-specific edge in strength, endurance, and spatial skills will bear the brunt of battle, while the women, as Eleanor Smeal suggested, will handle the technological requirements of combat, have a greater chance of survival, get the same kudos and faster promotions.

What if the technological positions are overrun by invading enemy airborne units, for example. Are those without the strength and endurance going to be able to protect the technologically superior military systems, not to mention their lives and contribute to preserving the lives of their comrades who are under siege? Will one push-up suffice when the enemy airborne units get past the radar and engage in hand to hand combat? Is the double standard still OK when the mission and the lives of American troops depend on equal prowess, physically and mentally, to ward off of the enemy whose single purpose is to destroy the lives of your sons and daughters in uniform. Could another outcome be that, in such a scenario, that this great nation could be forced to make the immoral decision to use unconventional weapons, hence taking on a profile of a Saddam Hussein, simply because we have a double standard that has resulted in a standing army that is marginally prepared for the hard core realities and variables that inevitably come to play during military interventions?

The sexual harassment issue has been beat to death and I will not try to resurrect it, but I would be remiss if I didn't include a couple of observations and questions in this treatise. Again the proponents of women in combat insist that sexual harassment can be drilled out of human beings, even during prolonged field duty. I submit that commandary cannot permanently impact on natural human instincts. Sex is one of the biggest driving forces in human beings. To suggest that fraternization under adverse circumstances and the quest for sexual attention can be ordered away is possibly one of the most ludicrous premises uttered by a human being. Army Major Rhonda Cornum stated in these hearings and was quoted in USA Today that "for female soldiers, being raped by the enemy, should be considered an occupational hazard of going to war." If it is an occupational hazard in dealing with the enemy, why is it so difficult for some to believe that fraternization and sexual preoccupation will not be a variable in the United States Armed Forces? Further, if the sexual intrusions of Major Cornum were no big deal, as she suggested, why did the Pentagon keep it secret for over a year?

Currently the double standards directed toward gender-norming are replete in the United States Armed Forces. If a male officer, for example, would have made the comment that Major Cornum made concerning rape being an occupational hazard . . . he would probably have been drummed out of the service by the pressure of the feminists and the media. If the restrictions on women in combat are lifted even in select cases then let's implement it without double standards. As General Schwarzkofp suggest let's be sure the standards are based on military needs not the needs of special interest groups. If all standards are equal, the implication for readiness, mission and retention will not present an unnecessary security risk to Americans serving in uniform. If standards are equal, we will not spend one additional dollar of tax payers money to accommodate women who voluntarily wish to place themselves in environs which are predominately the domain of men. And if all things are equal, do not create by policy any special provisions, billeting or otherwise, that would inconvenience the majority of personnel in combat or readiness commands.

General Schwarzkofp, General Vuono, General Barrow (former Commandant of the Marine Corps) and Major General Peay have publicly stated their opposition to changing the combat exclusion law. Thousands of others, commissioned and enlisted alike, have privately echoed the same sentiments. Army Lieutenant Susan Longworth was quoted in the Washington Times September 21, 1990 "the men are very protected. I don't think [women] should be here (Saudi Arabia) because it would be rougher for the (men) seeing a woman go down."

If the United States government wishes to make an unbiased and intelligent decision, as opposed to one steeped in special interest, is easily enough done. The Newsweek poll alluded to earlier in this testimony already states that 84 percent of the American population do not feel that women should be in combat. It would be easy enough to conduct a poll, completed in short order, reflecting the opinions of combat veterans and others assigned to field duties. And for that matter, the Armed Forces at large.

Please indulge me for a moment longer as I close with these words of Thomas Paine: "moderation in temper is always a virtue, but moderation in principle is always a vice."

TAIWAN'S 81ST NATIONAL DAY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. CLEMENT. Mr. Speaker, I am pleased to join my Taiwanese friends on the 81st National Day, which commemorates the founding of the Republic of China.

Taiwan should be congratulated on this historic occasion not only for its implementation of democratic reforms and policies, but also for its responsiveness in beginning to address the trade imbalances between our two countries.

I extend my congratulations to President Lee Teng-hui, Vice President Li Yuan-zu, Premier Hau Pei-tsun, and the Taiwanese representative in Washington, Dr. Ding Mou-shih.

I look forward to building even closer ties between Taiwan and the United States and, in particular, the State of Tennessee.

INTRODUCTION OF THE PRESCRIPTION DRUG FRAUD DETERRENCE ACT OF 1992

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. STARK. Mr. Speaker, I am introducing today legislation to address a little-known, but apparently common, problem involving prescription drug fraud.

The measure, the Prescription Drug Fraud Deterrence Act of 1992, obviously has no chance of passage this session, but hopefully will prompt action within the pharmacy community to act to address the problem. I also believe that when Congress does revisit the Prescription Drug Marketing Act and related issues, this proposal will serve as a benchmark for debate. I introduce the measure intending to spark a debate within the health care community in the area of prescribing controlled substances. I believe this legislation, as well as H.R. 5051, the Prescription Accountability and Patient Care Improvement Act, can serve and benefit public policy at the Federal level and at State government levels.

The problem of prescription drug diversion—and the ease by which diversion takes place—is outlined in a series of reports in the Miami Herald by reporter Derek Reveron, "Buying Prescription Drugs With No Rx." I think the Herald's series should be required reading for all policymakers involved in law enforcement or health fraud-related issues, and I plan on sending this report to those policymakers in the next few weeks. If we are ever to get serious with the war on drugs we must address the illegal diversion of the narcotic and tranquilizer classes of prescription drugs, including Valium, Halcion, Xanax, Percodan, and Ativan. The Valium for crack market has been ignored for far to long, and the fraud associated with this illegal trade costs the taxpayer hundreds of millions in Medicaid and Medicare fraud, not to mention adding to the scourge of the illegal drug war.

Reporter Reveron, in cooperation with Federal drug enforcement officials, went undercover to show how simple it is to scam legal but potentially dangerous narcotics and tranquilizers. If the problem that apparently exists in Florida exists throughout the country—and I have no doubt the scam exists elsewhere—then one policy answer is outlined in the Herald's story: pharmacies should install a direct, unlisted telephone for the purposes of called-in prescriptions for Controlled Substances on Schedules II, III and IV.

I plan for this legislation to be reintroduced next Congress. In the meantime, I would hope all interested parties—pharmacists, the medical community, and law enforcement—would review the legislation and make constructive suggestions. For the purposes of consideration of this legislation during the next few months before Congress reconvenes, I have included the Herald's story for review.

[From the Miami Herald, May 1992]

BUYING PRESCRIPTION DRUGS WITH NO RX—14 OUT OF 15 PHARMACIES AGREE TO SELL TRANQUILIZERS TO REPORTER

(By Derek Reveron)

Anyone can buy addictive drugs at the drugstore.

You don't need a prescription from a real doctor. You don't need to be sick. All it takes is a phone call.

And a bit of lying. Florida's safeguards for screening prescriptions don't keep addictive drugs off the streets.

Believe me, I know. I telephoned 15 pharmacies in Dade and Broward one afternoon and gave them the name of a nonexistent doctor. At each store, I ordered 30 tablets of Ativan, an often-abused tranquilizer. The next day I showed up to pick up the prescriptions.

In 15 attempts, I hit on 14—enough, as they say on the streets, to keep the monkey on my back for months.

"There isn't a pharmacist out there who hasn't had it tried on him," said Vernon Bell, investigations chief for the Florida Department of Professional Regulation.

In its manual for pharmacists, the U.S. Drug Enforcement Administration lays it on the line:

"Loose or routine dispensing procedures, without control and professional caution, are an invitation to the forger."

Invitation, indeed. According to DEA's Harold Dieter, pharmacists are a big part of the problem. They're too busy to verify. They want to sell prescriptions, not police them.

The Florida board of Pharmacy, charged with policing 24,000 druggists, took disciplinary action against 86 pharmacists last year; mostly for using drugs, selling illegally and keeping lousy records.

But the board's prosecutor can't recall a single case involving fake prescriptions by telephone.

In South Florida, street junkies contend that they buy drugs at their friendly neighborhood drugstore, as easily as toothpaste and aspirin.

By no means, though, is the problem confined to street addicts. At Mount Sinai Medical Center's addiction treatment center, to be specific, eight of 20 patients got into trouble taking unneeded or fake prescriptions.

How easy is it? The Herald decided to find out.

PHONY DOCTOR

I concocted a phony doctor's name and made up a DEA number. Legitimate doctors prescribe by DEA number, which is assigned by the federal government to help monitor addictive prescription drugs. Real doctors also give real telephone numbers. That is so druggists can verify.

Before the first call, I wrote a script to use in impersonating a doctor. I pretended to be the patient, using my own name.

"This is Dr. Robert Brady. I need a prescription for 1 milligram Ativan, 30 tablets. One in the morning, one at bedtime. No refills. My DEA number is . . . My office number is 324-1402."

The telephone number was real. It was an answering service for doctors that recorded messages. In that way, if any druggist checked prior to filling the prescription, there would be a record.

No one bothered.

I made the 15 calls on April 1, selecting druggists from Homestead to Fort Lauderdale; everything from mom-and-pop outfits to chain outlets with computer access to doctors' names and DEA numbers.

None of that mattered. I suspect the same thing would have happened if I'd picked another 15.

THE SPIEL

Hallandale's Phar-Mor was typical.

After a couple of minutes on hold, a woman asked, "Hi. Can I help you?"

I began the spiel.

"DEA number?" she asked.

I gave the concocted DEA number.

"Office phone number?"

I gave a phone number that rang at an answering service.

"And where's that at? Miami?"

I gave her the address of a doctors' office building.

"OK, thank you," she said.

The next day, April 2, I made the pickup. A Herald photographer, his camera dangling around his neck like a tourist, walked into the store separately.

At Phar-Mor, a warehouse-sized store at 1762 E. Hallandale Beach Blvd., three pharmacists poured, counted and weighed pills in assembly-line fashion.

A clerk, a young woman with long brown hair, handed change to an elderly woman in front of me. Before she could walk away, the clerk said to me, "last name?"

I told her. She couldn't find the prescription.

"When did you bring it in?" she asked.

"My doctor called it in yesterday," I said.

She talked with a pharmacist for a few minutes and retrieved my prescription from her.

The clerk asked for my address and phone number.

"Generic or brand?"

"Generic," I said.

About 10 minutes later: "It's ready. Three dollars," said the clerk.

I picked up the vial of Ativan and read the label.

I put it down. I patted my pants pocket, pretending to feel for my billfold. I didn't actually want to buy the prescription. "I forgot my money," I said.

"OK. I'll keep it until you get back."

I left the store and didn't return. I didn't want to break any laws. I'm sure some people will accuse me anyway.

THE LAW

The fact is, the druggists didn't break any laws either. The law leaves the screening of prescriptions entirely to the professional judgment of pharmacists. The $3 price tag was cheap. One store put the price at $14.40 for generic.

I took generic whenever any one asked. Not everyone did.

Twelve drug stores filled the prescriptions as I waited. Two pharmacies—Walgreens at 12295 Biscayne Blvd. and Eckerd at 9060 Biscayne Blvd.—had the Ativan ready for pickup.

At Walgreens, a young cashier plucked the prescription from a wall lined with alphabetically ordered baskets containing hundreds of orders. On the bag was stapled a yellow piece of paper. On it was written, in red ink, "need address." she wrote my home address on the slip and said, "That'll be $21.75."

At Eckerd, a young cashier snatched my prescription from one of dozens of metal baskets. Quickly, she said, "That'll be $24.59."

Only one drug store, Serrano Pharmacy Discount, 10453 Bird Rd., declined to accept the Ativan order by telephone. The store has a policy of not accepting telephone prescriptions for controlled drugs from unknown doctors.

"I accept them if I know the doctor and he lives near here and the information checks out," said owner Esperanza Serrano.

ONE SUSPICIOUS OF "DOCTOR"

Of the 14, only one seemed suspicious of the "doctor" on the telephone. That was Brownsville Drug Store at 4634 NW 27th Ave.

"And your name, again, is. . .?"

I repeated the doctor's name. The pharmacist asked for a DEA code and office number.

"OK. I'll check on that," he said.

The next day, I walked into the tiny pharmacy, located next to a vacant lot where men and women brazenly sold crack.

The owner-clerk asked my name and address, and if I wanted generic. She conferred with two pharmacists.

She asked me to spell the doctor's name again because she couldn't find it in a directory of Dade doctors.

She conferred with the pharmacists again. Five minutes passed.

I was afraid they'd caught me. Maybe they'd called the cops or the DEA. I was wrong.

Ten minutes later, she put the Ativan on the counter. "That'll be $6.50," she said.

The people at Arco Drugs, 8900 NW Seventh Ave., got suspicious when my photographer shot close-ups of me holding the Ativan.

After I left, a clerk telephoned the "doctor." She sounded frantic, "calling to verify" the prescription.

"Ask him to call me soon."

The same thing happened at Opa-locka Drugs. " Ask the doctor to give me a call," the druggist said after I left. "It's important."

The truth was he was too late. So was everyone else. In all, I could have walked off with 420 tablets of Ativan.

SIX VIETNAMESE HONORED FOR HEROISM

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. GILCHREST. Mr. Speaker, I would like to call to the attention of our colleagues the bravery and heroism of Vietnamese who survived reeducation camps. On August 5, the Vietnamese Council for a Free Vietnam, the American Committee for a Free Vietnam, and the Joint Congressional Task Force on Vietnam honored six of these outstanding Vietnamese fighters for freedom, democracy, and human rights.

In addition, 19 Members of Congress, 3 Senators and 16 Representatives were also honored for their stand and activities to promote human rights and democratic development in Vietnam. At this point I wish to enclose into the RECORD the text of the citation for the honorees.

THE AMERICAN COMMITTEE FOR A FREE VIETNAM AND THE VIETNAMESE COUNCIL FOR A FREE VIETNAM

Upon recommendation from Dr. Le Phouc Sang, Ambassador William R. Colby, and Dr. Michael Szaz.

Presented to Do Huu Danh hero Dr. by the U.S. Joint Congressional Task Force on Vietnam, American Committee for A Free Vietnam, Vietnamese Council for A Free Vietnam, and by the 20 U.S. organizations, 10 Industrialized Nations Committees, the Vietnamese Council's 18 political member groups, 9 professional member associations, as well as the Vietnamese Council's 12 Regional Chapters in Europe, 8 Regional Chapters in Australia and the Pacific, 36 Regional Chapters inside Vietnam, and 16 Regional Chapters in North America.

All participating in the first Vietnamese World Convention and First International Conference on Vietnam actually scheduled in Washington, D.C. on June 27 and June 29, 1992, with more than 1000 delegates from all over the world and about 5000 Vietnamese-Americans there in present.

In recognition of his Concerns, Efforts, Devotion, Commitment, Activities, Sacrifices and Achievements displayed with the highest degree of intensity possible, both before 1975 in Vietnam and after 1975 overseas, for the cause of Freedom, Democracy, Human Rights, Peace and Prosperity for the Vietnamese people.

Hero Dr. Do Huu Danh is a Freedom Fighter, an outstanding pharmacist, a qualified scholar, and a human rights activist.

Hero Do Huu Danh is a most effective leader, having all the necessary qualities to exert leadership. He displays perseverance, willpower, patience, determination, courage and leadership.

Dr. Do Huu Danh is known and recognized as a distinguished hero whenever it comes to serving the noble cause of the Vietnamese people as well as the most sacred and lofty principles of mankind.

He totally forgets himself in the service of the freedom of the people of Vietnam. He is, therefore, a shining example and an inspiring force to people around him, regardless of time or place.

Hero Do Huu Danh suffered for several years under Communist oppression. Although he now resides in the United States, his efforts and activities are effectively directed and recognized taking place, everywhere overseas, particularly inside Vietnam, making the enemy worry.

Hero Do Huu Danh has been actively working with the Vietnamese Council for A Free Vietnam since its first days as a most important and dynamic leader, as a most enthusiastic benefactor and a strong and tireless supporter.

All of us therefore owe Do Huu Danh the highest respect, admiration, appreciation and gratitude for what he has done so far in the cause of freedom, democracy, human rights, peace and prosperity for the Vietnamese People, who are suffering from unspeakable humiliation and poverty of all kinds. We can stay assured, firmly expecting that as a strong leader in the Vietnamese Council. Do Huu Danh will continue to do more and achieve more in the future for the noble cause of Vietnamese freedom. Hero Nguyen Tung is a valuable asset to Chairman Dr. Le Phuoc Sang in leading the Vietnamese Council toward final victory for the Vietnamese people.

A TRIBUTE TO DETECTIVE RONALD JAMES BURBANK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. ANDERSON. Mr. Speaker, I rise today in praise of Det. Ronald James Burbank who has served over 25 years in the Long Beach Police Department. This dedicated professional, who has received over 40 commendations for excellence, will be missed by his fellow officers when he retires November 6, 1992.

Ron earned two degrees from our excellent local educational institutions: an A.A. from Long Beach City College and a B.S. from California State University, Long Beach.

Detective Burbank was hired by the Long Beach Police Department on May 1, 1967. He became a detective in January 1974 and worked on many details including the Forgery/Fraud Detail, the Burglary Detail, and the Juvenile Crimes Against Persons Detail. Ron has twice been the Long Beach nominee for the International Association of Chiefs of Police "Service Awards." During his years of service, he has received basic, intermediate, and advanced police officers standards and training certificates from the State of California. In 1977, he was on the board of directors of the International Association of Credit Card Investigators.

While in the Forgery/Fraud Detail, Ron met his wife, Det. Olivia Burbank. Olivia is also retiring on November 6 of this year. Together the Burbank's enjoy the love and support of their four children, Christy, Patty, Dana, and Denise and their two grandchildren. Besides spending time with their family, Ron and Olivia plan on camping and fishing after retiring. The Burbank's enjoy spending time on the road with their 35-foot trailer behind them. They also look forward to many more trips with the Cop Outs, a camping group of active and retired police officers.

My wife, Lee, joins me in congratulating Ron and Olivia on a job well done and wish them both our best for a long and happy retirement.

ELECTION RESULTS IN ANGOLA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. DYMALLY. Mr. Speaker, the just completed elections in Angola produced a new high water mark in the democracy wave sweeping through Africa. To be sure there were the usual problems associated with a first-time effort in a Third World environment which included power and phone outages and scattered mechanical breakdowns. But the consensus among the more than 800 observers from the United Nations and private organizations is that the electoral process was a success and was completed in a fair and equitable manner. They are confident that the winner produced by this process will indeed be the choice of the people. We congratulate the members of the MPLA and UNITA for their vital role in assuring Angola's move toward democracy and wish the winner, and the people of Angola, much success as they grapple with the many serious problems facing their country.

Finally, I would like to include an article from today's Washington Post on the elections:

[From the Washington Post, October 3, 1992]

ANGOLA'S SLOW VOTE STIRS RANCOR: DOS SANTOS APPEARS TO HAVE COMMANDING LEAD IN PRESIDENTIAL RACE

(By Paul Taylor)

LUANDA, ANGOLA.—President Jose Eduardo dos Santos took a lopsided early lead in Angola's first election in history, but two days after the polls closed, challenger Jonas Savimbi's party continued to insist today the Savimbi was ahead and that government-run media were selectively reporting returns.

The official tally of the nonpartisan National Electoral Council showed that with just over a quarter of the precincts reporting in an agonizingly slow count, dos Santos had 60 percent, Savimbi 32 percent and nine minor candidates the remainder.

These first returns have been mainly from urban areas, strongholds for dos Santos.

Returns reported on government television and radio showed a more decisive pattern, with a 20-to-1 edge holding up with slightly more than half the votes counted.

However, Savimbi's National Union for the Total Independence of Angola (UNITA) held two news briefings to complain of irregularities in the counting process. By nightfall, the party released its own unofficial tally that showed Savimbi in the lead with roughly one-quarter of the votes counted.

"The UNITA leadership is in possession of facts that contradict even bigger problem in a country that is larger in size than Texas and California combined and where telephone communication in rural areas is either nonexistent or unreliable and where many roads are in poor shape or impassable. The flow of information from 5,900 polling places to Luanda, the capital has been extremely slow.

"Everything worked fine until the counting, but the delay has been deadly," said former U.S. ambassador to the United Nations Donald McHenry, an official observer. "It feeds all sorts of rumors and tension."

UNITA has had harsh words for the media reporting, but it has consistently said it will abide by the results of the count of the electoral council. However, the party began making isolated charges of irregularities today, alleging that 14 ballot boxes disappeared while under police escort in an area of UNITA strength.

The international monitoring effort was organized by the United Nations, which has 400 observers here in addition to 400 independent observers.

A consensus appeared to be forming within the diplomatic community here that, while the gap between dos Santos and Savimbi is sure to narrow, dos Santos is likely to emerge as the leading vote-getter in the presidential race. There is less certainty that dos Santos will get more than 50 percent, which he needs to avoid a runoff.

In separate parliamentary elections, dos Santos's MPLA was running ahead of Savimbi's UNITA by nearly 2½-to-1 margin with about one-quarter of the returns counted.

COMMENDING THE U.S. NAVAL SHIP REPAIR FACILITY, GUAM

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. BLAZ. Mr. Speaker and Members of the House, I rise today to commend an institution in my district that has become such a part of the everyday life on Guam that were it to disappear tomorrow, my constituents would feel as they would at the passing of an old and dear friend. To some it may appear melodramatic to make this comparison, but the Naval Ship Repair Facility on Guam, or simply the SRF, has influenced and participated in our community far beyond what one could normally expect of a military base.

There are only two ship repair facilities in the western Pacific, and SRF Guam is the only one on U.S. soil. This is a fact which I am frequently making to my colleagues whenever military construction funding for Guam is being considered. It is one of the largest naval activities on Guam, employing approximately 840 civilians. Its economic contribution to our local economy is sizable and very significant.

What is even more significant in this respect is the Navy Apprenticeship Program, which was founded at the SRF in 1957 to train and develop skilled personnel as future key employees and supervisors. There are currently 135 apprentices in the program. From machinery to pipefitting to welding, all major ship repair trade groups are covered. With over 500 graduates, 273 of whom are still employed at the SRF, the program has created a pool of skilled and responsible workers whose impact is felt throughout the entire local economy.

I rise to commend as well those military personnel who maintain and operate the enormous amount of equipment that make the SRF the efficient organization that it is. Four floating drydocks of varying sizes enable them to repair, refit, and upgrade those ships so necessary to protect the United States' security interests in my part of the world. The engineering and technical expertise resident in our military neighbors enable the complicated planning, budgeting, and coordination of the SRF to go forward smoothly. The SRF also operates the only shore recompression chamber capable of treating divers with diving-related illnesses. Over the past 5 years, SRF divers have conducted over 230 humanitarian treatments/therapy, including medevacs from Truk, Palau, and Saipan.

Community involvement is a hallmark of the SRF. It has received awards from both COMNAVMARIANAS and the Government of Guam's Department of Vocational and Rehabilitation for Outstanding Employer of the year for hiring and placement of individuals with disabilities. In support of the first Navy Multicultural Awareness Fair on Guam, the SRF spearheaded the logistics committee. As a result of its participation with the village of Agat in the Sister Village Program, the SRF has been actively involved in local school activities and functions, receiving the COMNAVMARIANAS award for that program for the past 3 years. Reef relief projects, installation of playground equipment, blood donation, math and English tutor programs, and tours of the facility for local groups are just a few of the myriad of services that the SRF has provided as a part of everyday business. This entire effort culminated in the reception of the First Lady of Guam's Volunteer Award as the Most Outstanding Military Volunteer Organization.

Mr. Speaker, there are communities around the United States which complain that the local military base is next to, but not part of, the community. Not so on Guam. The interests of the people of Guam and our military tenants are inextricably intertwined. A strong economy, clean and safe workplaces, and good schools for our children are things we all want. Our island is small, and we realized long ago that only by working together would our dreams be realized. The Naval Ship Repair Facility on Guam is a model of this cooperation, and I believe that this Chamber is a most fitting and proper setting for recognition of their outstanding contribution to the quality of life in my district, for both the civilian and military communities.

S. SGT. JONI MILLER ON THE ASSIGNMENT OF WOMEN IN COMBAT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. DORNAN of California. Mr. Speaker, I would like to enter into the RECORD the testimony of S. Sgt. Joni Miller, U.S. Army Reserve, before the Presidential Commission on the Assignment of Women in the Armed Forces.

POSITION PAPER OF THE VIETNAM VETERANS INSTITUTE—TESTIMONY OF STAFF SERGEANT JONI MILLER CARTER BEFORE A PANEL OF THE PRESIDENTIAL COMMISSION ON THE ASSIGNMENT OF WOMEN IN COMBAT, MAY 14, 1992

Ladies and gentlemen of the commission, it is both a privilege and pleasure to be invited to testify before this important body.

My name is Staff Sergeant Joni (Lee) Miller Cater. Accompanying me is Mr. Adrian Cronauer, Vice Chairman of the Vietnam Veteran Institute and a communications attorney in private practice here in the District. Mr. Cronauer, as a number of you may recall, was portrayed by Robin Williams in the Academy Award Winning movie "Good Morning Vietnam." I am testifying in my capacity as a Sergeant in the United States Army Reserve and as a member of the advisory council of the Vietnam Veterans Institute.

I have ten years of honorable service with the United States Army and Active Duty Reserve. In that period, I have had field training exercises in simulated combat environments with the 10th Special Forces Group, The Berlin Brigade, and joint field exercises with the 82nd Airborne Corps. I have served with numerous other infantry units in similar combat training exercises. Additionally, I was among the first to be trained in a coeducational basic training at Fort Jackson, South Carolina in 1981. I participated in Return of Forces to Germany (Reforger) (a large scale field training exercise remote from military compounds). During these exercises, men and women were housed in GP mediums (Army tents) together for 2 to 3 weeks at a time. I have attended the following military schools:

Basic Combat Training, Advanced Individual Training (Administration), Primary Leadership Development Course, Basic Non-Commissioned Officer Training Course, Personnel Information Management Course, Pre-Officer Candidate Course, Instructor Training Course, Recruiter Training Course. Additionally I have been awarded the eight medals and ribbons for meritorious service and achievement.

AFFECTS ON RECRUITING AND RETENTION

I can only postulate the affects on recruiting. I'm certain that if the pressure of a few radical groups whose numbers are comparatively small result in the assignment of women in combat arms, that the armed forces will, in turn award multi-million dollar contracts to Madison Avenue advertising firms to entice naive young women into combat arms MOS's. Like amounts of money have been spent to direct advertising specifically to an 18-year-old male market selling the machismo of Special Forces and other elite units. I will further postulate that most of those teenage women who are naively enticed will leave the Armed Forces at the earliest possible convenience or seek transfers to non-combat MOS's once the hardcore reality of service in combat units shatters their fantasies of military adventure and their femininity.

According to the "Atlantic Monthly," August 1990 in an article addressing Canadian women in combat arms "The Canadian experience has not been heartening for those who seek to end the combat-exclusion rule in this country. Only seventy-nine women were recruited into the infantry training program and only one completed the course. She has since requested a transfer out of the infantry."

I do have some very strong feelings about the ability to retain women in field combat units once the realities of day to day operations, the lack of privacy in joint living conditions, and the increased likelihood of "female infections" due to our anatomical differences as it relates to a lack of sanitation in field environments. And of course, for those of us who do not welcome it, the overt and subtle sexual harassment that exist when a small number of women are billeted for long periods of time along with men who have been isolated by extended field duty. While many would like to believe this can be legislated away, the reality is that human nature, being what it is, that sexual issues, in my experience in the field, will have a negative impact on the morale of both male and female soldiers. And, ladies and gentlemen under combat conditions in isolated units, you will not legislate it away regardless of the rhetoric of the hard lined feminists who have little if any experience in combat field environments.

I am equally concerned that women who are currently serving in support roles and functioning at a high level of efficiency in all probability will when faced with assignments to the combat arms either leave the military at the end of the current term of service or look for surreptitious ways to terminate military service immediately.

I believe that when the reality of women's overall inability to function in line units with men can no longer be ignored despite the ignorant clamoring of the feminists and those that would sacrifice national security for popularity among a misguided constituency. This exercise will cost millions of dollars and will contribute to the inefficiency of military operations.

Equally, it will become necessary to spend more money to recruit young men into special units to assure national security. I am concerned with the potential immorality that will have women in combat units with all the hoopla that the media and the feminists can conjure up while elite units will retain standards that only men can meet and that those units in turn will always be sacrificed first as the civilian feminists who have never wore the uniform and the retired female generals who have never tasted combat lead the battle cry from the grounds of the Washington Monument.

Major General Jeanne Holm, USAF (Retired) asserted in November 1979 to the Military Personnel Subcommittee of the House Armed Services Committee "I have great difficulty with ground combat where the number one concern is physical strength. Every member of a ground combat team must support the team effort to come out with minimum casualties."

Recently at Fort Benjamin Harrison, Indiana, a highly decorated combat veteran of Desert Storm, a classmate of mine, stated in reference to a discussion on women in combat "how could my country do this to me? I put my life on the line to defend our freedom and I've trained so that my chances for survival are great. I choose to be an infantryman and the people making decisions to place women in combat want to make sure I don't have a chance to survive. Now the question is, do I choose to die needlessly? If that is my choice, I quit."

Women who are against women in combat would find themselves in combat arms units not by choice. Duty position narratives would change. They would now be "in line" for combat duty based upon duty position and unit assignment. Currently women serve in support roles in units as the 82nd Airborne. If combat arms open to women, these current "support slots" and their requirements would change to accommodate new legislation which, in turn, would change unit functions thus affecting unit readiness.

EFFECTS ON PROMOTION OFFICER VERSUS ENLISTED

For the record, approximately 85% of the standing military forces are enlisted personnel.

E5 through E6 promotions in the Army are based upon a point system. Currently, whether a soldier is administrative (71 Lima) or infantry (11 Bravo) for example, the promotion point system and requirements are basically the same. The 71 Lima is just as likely to be promoted or not be promoted based on the needs of the Army at any specific given time. If the military is facing reduction in forces or cutbacks, the points required for promotion will be much higher than they are when there is a greater demand for military personnel. Hence, women in combat arms MOS's will not necessarily have greater opportunities for career advancement in the enlisted ranks.

E7 through E9 promotions are reviewed at Department of the Army level. A panel reviews all the experience of the military personnel who have been recommended for promotion to include demographic considerations.

AFFECTS OF A MANDATORY DRAFT

In the event of a national emergency in which women were conscripted, I believe there would be a national outcry and that Congress would reverse any law requiring women to serve in combat against their will. Hence, increasing the double standard and further negatively impacting troop morale.

TESTIMONY OF ENLISTED PERSONNEL

As an enlisted person, you are indoctrinated from day one not to make a ripple, let alone a wave. Part of the premise of creating an Army of enlisted personnel is to respond to orders without questioning. Most enlisted personnel are not revered by a preponderance of the officer corps. We are the lower strata of a caste system, the blue collar employees of the profession of arms. Because of these attitudes, the following examples are almost commonplace methods of intimidation. Conveniently not being referred to promotion panels, being informally reprimanded for going outside the chain of command, enlisted evaluation reports will not reflect the true level of achievement while not falling below average, involuntary transfers to less than desirable duty stations, hence disruption of both and family and career goals.

CONCLUSION

I wish to leave you with a few observations. Although they are graphic, I assure you that my objective is not to be vulgar. These are simply issues that detract from morale and unit effectiveness. Earlier I alluded to men and women living in GP mediums together during field training exercises. In exercises I participated in, I literally had to go in to my sleeping quarters while male and female soldiers routinely copulated in sleeping bags, ignoring of the offensive nature of these acts to those of us whose values and morales were traditional and christian. I learned to sleep with my head covered and to dress and undress in my sleeping bag while fighting back the anger of those who routinely violated my privacy and any decent code of morality. I regret to inform you, sexual harassment was more pronounced among minority personnel and a significant percentage of the officer corps, per se. Often when women refused the advances of an individual who happen to be a minority, there would be attempted intimidations suggesting that the female soldier was a racist. A couple of illustrations: an Army Colonel motioned to me indicating that he wished to whisper something confidential to me. He leaned in and proceeded to stick his tongue in my ear! In an incident in Germany a minority soldier during duty hours started hassling me while I was in route to the orderly room and proceeded to inform me of his interest in and prowess in sodomy. Certainly, not everyone that I have been in contact with during my military career conducts themselves in these ways. I have met some fine human beings and excellent soldiers at all levels and of all races that I have worked with and have been proud to serve with. They wear the uniform with pride. I submit that they are equally disgusted with deviant and unprofessional conduct.

I am saddened at the fact that the effectiveness of our military and the lives of many Americans may be sacrificed because of a selfish and single-minded objective whose bottom line is to turn the officer corps into an Equal Opportunity Program. I do not question the patriotism of women who truly wish to serve their country. I do question the patriotism of those who would push themselves into positions that they are not able to perform in equally, and endanger the security of this nation in turn. In a recent six-week recruiting school, I was in a class of 38 Army personnel of which three were women and at least 25% were combat veterans. I placed second in the Armed Forces Physical Fitness Test and second academically in the class. I am very proud of that. Conversely, while serving with a 10th Special Forces A Team in a combat training exercise, I fell down while on patrol and was unable to get up due to the weight of my sixty-pound ruck sack. Men had to endanger their position to assist me back to my feet. This is just one example of how even a physically fit woman such as myself cannot perform on an equal level with men in the field environment. In a real combat situation that fall could have very easily cost the whole platoon their lives.

These are strong statements but I would be remiss if I, in summary, did not speak fully and openly on the issues that negatively impact on the Army I have served for ten years and the image of the uniform that I wear with pride and the nation I love.

Thank you for this opportunity to testify.

352D CIVIL AFFAIRS COMMAND, HUMANITARIAN RELIEF IN THE PERSIAN GULF WAR, 20 AUGUST 1990–20 JULY 1992

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. HOYER. Mr. Speaker, on October 30, 1992, the 352d Civil Affairs Command will hold a formal Desert Storm Homecoming Anniversary Ball. The 352d Civil Affairs Command is a Reserve general officer command in my district located in Prince George's County, MD. I am very proud to relate to the Congress the outstanding accomplishments of the oft decorated and highly dedicated citizen soldiers of this command during Operations Desert Shield, Desert Storm, and Desert Calm.

The outstanding accomplishments of the 352d Civil Affairs Command in the gulf war earned them recommendations for the much coveted Meritorious Unit Commendation and the Humanitarian Service Medal for their contributions to the relief and restoration of Kuwait City and the Emirate of Kuwait. Numerous members of the command were individually decorated with the Legion of Merit, the Bronze Star Medal, the Joint Service Commendation Medal, the Army Commendation Medal, the Joint Service Achievement Medal, and the Army Achievement Medal. The command is also eligible for all three Campaign Streamers issued thus far.

The command played a major role in planning civil affairs operations during Operation Desert Shield by deploying members of the command in early August 1990 to work closely with Third U.S. Army's Civil Affairs Staff and Operations and battle planning staff. Other members of the command were assigned to various staff positions at U.S. Central Command in Riyadh, Saudi Arabia, the Naval Central Command, and the U.S. Special Operations Command. In early December, at the request of the Kuwaiti Government, the command formed the Kuwait Task Force, made up of subject experts, to begin planning for the provision of emergency and restoration services following the liberation of Kuwait.

Throughout December 1990 until February 1991 the command continued to deploy troops to the desert in preparation for their mission to provide humanitarian relief to the people of Kuwait. In January 1991, Gen. Norman Schwartzkopf, unleashed the thunder and lightning of Operation Desert Storm. Shortly afterwards, members of the Command's Coalition Warfare Branch accompanied combat forces into Kuwait and Kuwait City. On February 28, 1991, the main body of the Command's Combined Civil Affairs Task Force began the treacherous journey into Kuwait, travelling over bombed out roads littered with war debris and through areas of the country not yet secured by United States and Coalition Forces. The command arrived in Kuwait City at 11:00 p.m. and brought with it a 76-truck convoy of emergency food and supplies for the people of Kuwait.

Beginning the very next morning, March 1, 1991, the Combined Civil Affairs Task Force, operating under the command of Third U.S. Army's Task Force Freedom, began relief and restoration operations for the people and country of Kuwait.

For the next 2½ months, the 550 men and women of the Combined Civil Affairs Task Force, now supplemented by the 431st Civil Affairs Company from Little Rock, AR, the 432d Civil Affairs Company from Greenbay, WI, and the Active Component's 96th Civil Affairs Battalion, Airborne, from Fort Bragg, NC, supported by a 4,500-person support force from Third U.S. Army's Task Force Freedom, toiled under the burning oil fires of Kuwait to restore those basic life-sustaining emergency services needed to revitalize this once proud and beautiful country of Kuwait. Timeliness, technical proficiency and innovation were the qualities demonstrated by the members of the Combined Civil Affairs Task Force whose herculean humanitarian efforts ensured that no further loss of life resulted from lack of essential services.

I was briefed by the Task Force at Camp Freedom at Kuwait City when the unit was in the midst of operations that helped ensure rapid restoration of electricity and other services, as well as food distribution.

To quote Ambassador Edward W. Gnehm, Ambassador to Kuwait, "The soldiers, noncommissioned officers and officers of this command have worked tirelessly and selflessly to support the reconstruction of Kuwait. They have served under conditions that were extremely austere and sometimes dangerous. Every member has shown noteworthy attention to detail and a genuine sense of urgency. Their technical expertise, organizational skills and flexibility have cut through organizational constraints and given the Kuwaiti people what they needed most: rapid and effective help. The challenge has been formidable, but the soldiers have responded magnificently".

Mr. Speaker, as a result of the absolutely magnificent accomplishments of the soldiers of the 352d Civil Affairs Command, not one precious life was lost for lack of food; not one child thirsted for water; not one Kuwaiti citizen suffered from pestilence. Law and order was quickly restored, allowing the vulnerable citizenry the precious time necessary to recover—in peace. The once smoke-darkened Kuwaiti skys glowed with the numerous successes resulting from the untiring energy, love and devotion to duty exhibited by the brave and heroic men and women from the 352d Civil Affairs Command.

Accordingly, the men and women of the 352d Civil Affairs Command, were truly the calm after the storm. Each soldier of the command can justifiably take great personal pride in their individual and unit's gulf war accomplishments.

CPT Alberti, Jr., Paul L.
MAJ Alcan, Bruce H.
SPC Allen, Joseph E.
MAJ Allison, Kenneth J.
LTC Baker, Jr., Wilson.
CPT Barsotti, Ercole.
SFC Baylor, Angela.
COL Beasley, Michael.
COL Blount, Lawrence C.
COL Brackney, Richard C.
LTC Brooks, Mark E.
SGT Bryant, Karen D.
MAJ Bushey, Douglas J.
MAJ Caplan, Les M.
LTC Carr, James R.
1LT Closs, Carolyn R.
SPC Cooper, Leon A.
SPC Craig, Robin T.
SSG Crosse, Islyn I.
SSG Dambach, Fredrick W.
MAJ D'Angelo, Colomba A.
SFC Daugherty, Carmen Y.
MAJ Davidson, Charles H.
SPC Dominski, John A.
CPT Driessen, Robert S.
COL Duncan, Richard E.
SFC Elam, John E.
COL Elliott, Randall T.
MAJ Ettinger, William.
COL Evans, James H.
SSG Feuer, Deborah A.
SFC Fields, Henry L.
LTC Fielder, Robert E.
SFC Forte, June A.
CPT Foye, Robert L.
1LT Fraley, Derrick
CSM Freeman, William H.
SGT Fulco, Mark A.
LTC Gebhards, John E.
SFC Gedge, Donald C.
LTC George, Edward H.
COL Geyer, Richard E.
LTC Ghent, III, James R.
SGT Gibbs, Wayne W.
MAJ Gibmeyer, John F.
SPC Goard, Cynthia M.
SPC Gray, John E.
SGT Greene, Maurice L.
LTC Greenhut, Jeffrey F.
COL Gulick, James S.
1LT Hamilton, Clay M.
MAJ Harbell, John W.
MAJ Hashem, Steven S.
LTC Hirsh, Carl M.
SSG Hope, Carol A.
LTC Howton, Charles F.
LTC Huber, James P.
SGT Hyater-Davis, Yolanda A.
LTC Johnson, Theodore R.
MAJ Johnston, Gary N.
COL King, Edward A.
LTC Lambrinos, Jorge J.
COL Lange, Gary A.
MAJ Langley, Kim G.
PFC Lanier, Alfreda A.
MSG Lee, Larry L.
SPC Lenihan, Claire E.
SPC Lewis, Carolyn V.
SPC Lewis, Deborah A.
COL Lichtenstein, Jack D.
SPC Lora, Diego A.
LTC Luedeke, James A.
CPT Marsh, Scot W.
SFC McDonald, Layton D.
SGT McKenzie, Ben.
LTC McKinney, Donald C.
LTC McNaugher, Thomas L.
SGM Mead, Michael J.
LTC Meyer, Gary W.
LTC Miller, Edwin D.
CPT Miller, Jr., James M.
LTC Mitchell, David C.
BG Mooney, Jr., Howard T.
SSG Murphy, Kevin J.
MAJ Natsios, Andrew S.
COL Neale, John D.
MAJ Newcomb, Dana L.
COL Padar, George Z.
LTC Paternoster, Jr., Pete.
LTC Perl, Raphael, F.
MAJ Peters, Robert D.
SSG Philpott, Cynthia L.
SPC Poe, Jr., David C.
LTC Polk, Artie L.
SFC Popescu, Sr., John P.
SPC Reilly, Kelly M.
SGT Reilly, Kevin P.
CPT Riley, Brian T.
1TC Russell, Timothy R.
COL Sadek, Charles H.
1LT Salazar, Jeffrey A.
LTC Setzer, David A.
SSG Skidmore, Charles E.
SFC Skipwith, Jessie L.
COL Smith, Herbert J.
COL Smith, Ronald M.
SGT Smith, Teresa A.
MAJ Sternfeld, Michael D.
MAJ Thorsen, Robert H.
CPT Trail, William H.
MAJ Trombetta, Jr., Orfeo.
MAJ Ulmer, David.
SFC Venson, Sheila M.
MAJ Verrier, Fernand R.
COL Walz, Jr., Arthur H.
LTC Webber, David J.
MAJ Whidden, Stanley J.
SFC White, Gracie V.
SFC Widner, David D.
MAJ Williams, John L.
COL Wilson, Lester R.
MAJ Wilson, Thomas R.
MAJ Winder, Jr., Coulberne.
SPC Wolfgram, Franklin M.
SSG Wolfrey, Brenda L.
CPT Wolverton, Wayne A.
SSG Wright, Franklin L.
SSG Wright, Virginia D.
SFC Yost, David L.
LTC Young, Bennett H.
COL Young, Ralph H.

AFTER RIO—SURVIVAL'S SHARP EDGE

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. ROBERTS. Mr. Speaker, one of the critical concerns Congress consistently faces is the issue of balancing this Nation's and the world's food and fiber needs, the economic viability of the men and women whose stewardship of the farms and ranches of this country put food on our tables and clothes on our backs, and the growing interest by society in preserving natural resources around the globe.

At the recent U.N. meetings on the environment held in Rio de Janeiro, Brazil, many agendas were put forth and agreements signed aimed at making the nations of the world more active in protecting the environment. Amidst the debates, there also was much finger pointing over who was least sensitive, much to the media's delight.

One elemental point lost in all of the debate was a thoughtful, logical look at why individuals in some regions of the world willfully encroach on nature, seemingly without regard to the ecological impact of their actions.

I would like to submit for the RECORD a research paper by Stephen A. Vosti, Ph.D., of the International Food Policy Research Institute in Washington, DC, that should be reviewed by anyone interested in a balanced, common sense approach to conserving Earth's natural resources. Dr. Vosti has lived in Brazil and worked in the Amazon.

AFTER RIO: SURVIVAL'S SHARP EDGE

(By Stephen A. Vosti)

Jose Carvalho is busy sawing down a large tree on the fringes of the Amazon rain forest. He has not reacted to the United Nations Earth Summit's Rio declarations. If he pauses at all, it is to ensure that his sacred bit of technology—a chain saw—is properly fueled and lubricated so as to minimize wear. Oh, he heard the Rio proclamations with all their pomp and circumstance, but it did not really matter. It did not matter because his actions are not driven by the wishes or mandates of people outside his immediate family—especially those from other countries speaking other languages.

What drives this urge to deforest? Not a perverse desire to denude the world of rain forests. Not the love of toil and danger associated with felling massive trees with often rudimentary technologies. Ask him, he'll tell you. Jose's deforestation activities are a direct response to immediate human needs. In his case it's guaranteeing food on the table for his family of six living in one of the least hospitable places in the world. It is not an easy task. Jose Carvalho has been dealt a bad hand in the social reshuffling of natural resources. But by hook or by crook, he gained access to trees (lots of them), poor soils, seasonally torrential rains, and malaria (lots of it)—all of which combine all too frequently to generate hunger.

Jose didn't always live in the Amazon. Why not give him a one-way ticket back to his hometown in southern Brazil? Don't expect him to use it. Reverse migration is not an option. For better or for worse—and often in response to government initiatives—people like Jose Carvalho and his family often move into these areas from places where they had been sharecropping or worse. They left with hope of a better life, and they are in the Amazon to stay. They are part of the ecosystem now, and they can be expected to do whatever is necessary to guarantee survival, just like all the other species in this ecosystem.

Given his ecosystem, Jose has no choice but to deforest small plots of land. Once the land is exhausted—often after a few years—he needs to deforest more. His choices are limited; his future is bleak. He begins to saw the next tree.

But it doesn't have to be that way. If soils can be made more productive, trees don't need to fall—at least not in such great numbers. Soils can be protected, and agricultural activities can last longer than a few years on a given piece of land. But changes are needed; changes outside the immediate grasp of Jose. Better seeds, fertilizers, and credit to purchase them are needed in the marginal areas of the Amazon (as well as in many other parts of the developing world). New farming methods are not being developed quickly enough, and those that exist are not getting to farmers. International and national attention for these critical elements of sustainable agriculture are dwindling—not a healthy trend for tree or man.

Reaching people like Jose—the people who will ultimately determine the success of the Rio Summit—requires:

Food crops and improved farming technique's that don't denude and deplete the soils so Jose can farm the same area continuously. This will take more research.

Provision of information Jose needs to farm his land more efficiently, with less damage to the environment. This will take trained extension workers.

All-weather roads and improved markets so Jose can diversify his crops and take them to market. When Jose starts making money from his farm, he will start to manage the land in a more environmentally suitable way. This will take the commitment of Jose's government and financial support from outside Brazil.

Simple health and nutrition services for the outlying areas where Jose lives. If poor nutrition and health problems can be improved through programs targeted to people like Jose and his family, then Jose will be able to go beyond his survival-at-any-environmental-cost mentality to one in which he cares about the future.

Any investment aimed at conserving or preserving the environment in countries such as Brazil, Ethiopia, or the Philippines must be accompanied by a plan to ensure food security for their Jose Carvalhos. Without such an approach, the wide gap between the international preoccupation with saving the environment and the short-term food needs of rural people will never merge.

Jose Carvalhos saw will not cease to buzz until the Rio declarations are translated into something that will improve his family's chances of survival.

POSTSCRIPT

Dr. Vosti is a research fellow at the International Food Policy Research Institute (IFPRI) in Washington, D.C. IFPRI was established in 1975 to carry out the task of analyzing technological advances in agriculture and ensuring those advances are available to and adopted by farmers to achieve economic growth, help provide developing countries with adequate supplies of food, and where necessary, working with governments to implement appropriate food policies. IFPRI is part of the Consultative Group on International Agricultural Research (CGIAR), an informal association of 50 countries, international and regional organizations, and private foundations working together to support agricultural research around the world.

TROOP 27, BSA OF NEWBURGH, NY, CELEBRATES 50TH ANNIVERSARY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. FISH. Mr. Speaker, I rise to recognize and pay special tribute to Troop 27 of the Boy Scouts of America of Newburgh, NY, which is celebrating its first 50 years of existence this year. It is a history which they have every right to be proud. Over 60 Scouts have reached the rank of Eagle and the troop has received many State and local Council awards for their achievement.

Troop 27, which is sponsored by American Legion Post 1420 of the town of Newburgh, continues to be an asset to the community. They have developed hundreds of young boys into responsible adults through the teaching of Scouting ideals and the training of scouts.

The objectives of the Boy Scouts of America are contained in what we know as the scout oath and the Scout law—a codification of centuries of WESTERN values. Honor—loyalty—courage. These are rare commodities but are key elements which our Nation looks for in its leaders and are the building blocks that the future of our society depends.

To teach a Scout to live by the Scout oath and laws, to respect leadership and others and to develop individual skills and friends while having a good time has changed very little over the past 50 years. The skills of camping, cooking, hiking and pioneering are still the same. Although some requirements have changed to keep pace with new technologies, the Scout still looks and acts the same in a campsite or on the trail as he did in 1942.

Over the past 50 years, the troop has developed a proud history and has maintained the traditional values of Scouting. The troop has been extremely active in the community by providing many Eagle and community service projects to include: paper and food drives during World War II and in recent times; cleanup and restoration projects of local and historical sights and cemeteries; building bridges and marking hiking trails; providing support to the elderly and needy; developing wildlife preservation areas; bike-a-thons and blood drives; and, American Legion service.

I would also like to acknowledge the efforts of literally countless Troop 27 members of Order of the Arrow have donated their time and labor on weekends over the years to maintain the permanent Scout camps of the Hudson Delaware Council.

Mr. Speaker, I am well aware of the outstanding contributions that Troop 27 has made over the years that have greatly benefited the people of Newburgh and the county of Orange. I know they will continue to provide invaluable service to the community and remain a credit to the Mid-Hudson Valley.

PROCLAIMING THE CITY OF BELLEVILLE, NJ, AS THE BIRTHPLACE OF THE AMERICAN INDUSTRIAL REVOLUTION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. ROE. Mr. Speaker, I take great pleasure in rising today to pay special tribute to a community in my Eighth Congressional District. The city of Belleville, NJ, has a special place in the history of our Nation. As the site of the first functioning steam engine operating in the Western Hemisphere and the foundry where the first American steam engine was manufactured and constructed, Belleville has the unique distinction of witnessing the spark which heralded the beginning of the American Industrial Revolution.

In recognition of these momentous occurrences and the many other significant historic events in which Belleville has taken part, it can truly be called the "Birthplace of the American Industrial Revolution."

Josiah Hornblower arrived in America from England in 1753 carrying duplicate and triplicate parts to erect the first steam engine in the Western Hemisphere. This engine was built at the direction of Col. John Schuyler to be used in a copper mine near Belleville, NJ, then known as Second River. Before coming to America, Hornblower was an associate and rival of James Watt, who is credited with inventing the steam engine. Hornblower and his family were very active in the research surrounding the steam engine and there is a substantial body of evidence which suggests that it was the Hornblowers rather than Watt who are due the credit. Josiah stayed on in America and became a successful entrepreneur.

He was much more than a simple businessman, however. He distinguished himself as a patriot of the highest order during the American Revolution and was one of the shapers of our Nation. Elected to the New Jersey State Assembly in 1779, he became speaker in 1780. He was a tireless supporter of the war effort. A bounty of 1,000 pounds was placed on his head, and he narrowly escaped capture by the British. Tragically, he lost a son in the conflict.

With the end of the war, he became a valued leader and helped shape the new Government. Before retiring to his farm in New Jersey he served in the Congress of the Confederation. In the 1790's using designs developed by Hornblower, Nicholas Roosevelt, who was the great-uncle of both Franklin and Theodore Roosevelt, commissioned the first steam engine ever built in America to be made in a Belleville foundry. The engine was used to power the first experimental steamboat in America, the *Polacca,* which sailed the Passaic River in 1797 several years before Robert Fulton's *Clermont* sailed the Hudson River.

Hornblower also served as a judge of the Essex County Court of Common Pleas from 1790 until his death in 1809. His youngest son Joseph became the chief justice of New Jersey. He was laid to rest in the churchyard of the Dutch Reformed Church which is also the final resting place for soldiers of the American Revolution, Civil War, and veterans from every era.

Upon his death, Josiah Hornblower was described as tall and commanding, a dignified judge, a courtly gentlemen, noted for hospitality, energy, courage, wide knowledge, conciliatory nature, and honesty of purpose, a useful benevolent citizen. This seems a gross understatement for a man of his accomplishments.

Hornblower's presence attracted other scientists, engineers, and entrepreneurs to Belleville. Over the years there have been many important developments rising from these seeds of progress. Samuel Morse sent his first message to Washington, DC over copper wires made in Belleville; George Eastman developed the modern photographic plate; Thomas Edison created the voltaic battery; and so many other firsts occurred in Belleville that it may truly be considered as the cradle and incubator of modern industry.

Today, the people of Belleville have worked diligently to keep the spirit and accomplishments of Josiah Hornblower alive. The city celebrated Josiah Hornblower Day on August 13, 1992. This event was the work of the tireless efforts of many dedicated members of the community including, Louis Cicenia, chairman of the Belleville Renaissance Committee, Mr. Edward O'Neil and Mr. Robert McFadden of the Belleville Historic Society, and the Belleville Times newspaper.

This gala event celebrated the proclamation by Gov. James Florio recognizing Belleville as the birthplace of the American Industrial Revolution. It also offered an opportunity to give well deserved recognition to the direct descendants of Josiah Hornblower, Joseph Hatch and Adenine Brehm, both of whom still reside in Belleville and who deserve a great deal of credit for keeping the memory of Josiah Hornblower alive.

Mr. Speaker, Belleville, NJ was truly blessed as the site of not just one extraordinary event, but a series of innovative discoveries which in the course of time have fundamentally changed the course of history and led to the significant advancement of industry in this Nation. I will introduce today a resolution recognizing the tremendous impact of these events.

Mr. Speaker, I have been proud to represent the city of Belleville, and I would ask that you and all my colleagues here in the House of Representatives join with me today in recognizing the outstanding contribution of Josiah Hornblower and the citizens of Belleville in creating the birthplace of the American Industrial Revolution.

RECOGNITION OF ANDRI AKINS PILGRIM

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. DARDEN. Mr. Speaker, today I rise to recognize the special achievement in the field of education by Andri Akins Pilgrim of Carrollton, GA.

Education is critical to the well-being and ultimate success of our Nation. Educational achievement makes the American work force more competitive in the global marketplace, improves our citizens' abilities to function productively in society, and enhances our overall quality of life.

While the States and Federal Government work to maintain a strong commitment to improving education in our Nation, our efforts would be needless if it were not for quality, caring educators.

Mrs. Pilgrim is a young teacher who already has been rewarded for helping to make a difference in our Nation's schools. Today, I commend her on being selected as 1 of 100 teachers to receive the 1991–92 Sallie Mae First-Year Teacher Award. This award recognizes outstanding performance by first-year elementary and secondary school teachers nationwide, including at least one from every State and the District of Columbia, and includes a cash award of $1,000.

The awards program is sponsored by Sallie Mae, the Nation's single largest source of education loan funds, and administered by the American Association of School Administrators [AASA], the professional organization for nearly 19,000 public and private school leaders.

Mrs. Pilgrim teaches third grade at H.A. Jones Elementary School in Bremen, GA. She received a bachelor of arts degree in early childhood education and psychology from Agnes Scott College in 1990, and a master of education degree in guidance and counseling from West Georgia College in 1991.

Now, more than ever, we need more young teachers like Mrs. Pilgrim who can serve as a positive role model to our Nation's students and other teachers as well.

Again, I congratulate Mrs. Pilgrim on a job well done and wish for her continued success in her career.

[From the Times-Georgia, Sept. 20, 1992]

PILGRIM RECEIVES NATIONAL RECOGNITION

Andri Akins Pilgrim, of Carrollton and a teacher in the Bremen school system, has been selected as one of 100 teachers to receive the 1991-92 Sallie Mae First-Year Teacher Award.

This award recognizes outstanding performance by first-year elementary and secondary school teachers nationwide, including at least one from every state and the District of Columbia. The honor includes a $1,000 cash award from Sallie Mae.

The awards program is sponsored by Sallie Mae, the nation's single largest source of education loan funds, and administered by the American Association of School Administrators (AASA), the professional organization for nearly 19,000 public and private school leaders.

Pilgrim teaches third grade at H.A. Jones Elementary School in Bremen. She received a Bachelor of Arts degree in early childhood education and psychology from Agnes Scott College in 1990, and a Master of Education degree in guidance and counseling from West Georgia College in 1991.

The Sallie Mae First-Year Teacher Award program invites school district superintendents across the nation to nominate for the award their most outstanding first-year elementary or secondary school teacher (or, in large districts, two teachers) based on their district's criteria for excellent performance. Nominees were judged by a panel of education experts appointed by AASA.

"Now more than ever, we need good teaching to motivate our young people, help keep them in school, and prepare them for full, purposeful lives," said Harry R. King, Sallie Mae chairman of the Board.

Sallie Mae (Student Loan Marketing Association) is the nation's largest provider of financing for higher education.

PASS THE HEALTH CARE REFORM INITIATIVES WE AGREE ON BEFORE ADJOURNMENT

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. STEARNS. Mr. Speaker, in everyday life, people disagree with one another. Generally when people do disagree, they discuss each other's views and, when they have to come to some conclusion, reach an agreement and move on.

Well, you would think this would be the same method of operation in the U.S. Congress, but unfortunately it is not.

After watching C–SPAN for just one afternoon, I am sure the American public wonders how we get anything done around here. However, every so often, Democrats and Republicans do agree on some things. The desperate need for health care reform is one issue that we do agree on.

Mr. Speaker, I am introducing a resolution which calls on the House and Senate to pass the health care reform initiatives that have gained overwhelming bipartisan support before the 102d Congress adjourns this fall.

We only have 6 or 7 legislative days left in the House to act on reform initiatives.

In this short time we will, most likely, be unable to come to a consensus on reforms involving Government mandates and takeovers. However, there are portions of major reform proposals that have been universally accepted on both sides of the aisle in the House and Senate and at the White House.

Let us take a look at the provisions that have received bipartisan support among both congressional leaders and President Bush.

This chart compares certain provisions in four health care reform plans:

H.R. 5502 introduced by our majority leader, Mr. GEPHARDT, and Mr. STARK, the chairman of the House Ways and Means Subcommittee on Health;

H.R. 5325 the House Republican proposal introduced by our minority leader, Mr. MICHEL;

S. 1872, a bipartisan proposal introduced by Senators BENTSEN and DURENBERGER, which has already passed the Senate as part of the Economic Growth Acceleration Act debated in

March. However, the health provisions were removed in conference and President Bush's reform plan.

You can see all four plans agree on four very important provisions:

Job lock security, preexisting illness exclusions, 100 percent deductibility for the self-employed, and administrative simplifications.

Mr. Speaker, it is estimated that roughly half of the uninsured are in families of workers employed by small businesses. In all four proposals there are provisions that deal with reforms in the small group insurance market.

One specific measure is this issue of job lock. Job lock occurs when an individual is afraid of leaving their job because they or a family member has an illness that may make them uninsurable under a new company's insurance plan. So they stay in their job, afraid to leave it, for fear of losing their medical coverage and being wiped-out economically.

Another problem is what is known as cherry picking. This is the practice of denying individuals health care coverage under a group's plan due to a preexisting health ailment or history of claims. Insurance companies will write policies to exclude employees who have a preexisting health problem, or will simply cancel coverage once claims are submitted.

All four of these proposals include provisions aimed at correcting these two problems.

Every one of these plans also include a provision which would allow self-employed individuals to deduct 100 percent of their premium costs from their taxable income.

We also seem to agree there is a dire need to streamline the health care insurance claims process. Each plan contains a provision which seeks to lower administrative costs by standardizing this process.

And these are not the only provisions on which there is a consensus. Malpractice reforms and the need to crack down on fraud and abuse in the system are also widely accepted as ways in which to bring down the skyrocketing costs of health care. Even though these four proposals are not identical, there exists room for developing a consensus and to break the gridlock that has plagued us in this area.

Mr. Speaker, in a study done by the Healthcare Leadership Council, they polled State lawmakers and committee officials, both Democrat and Republican, from all 50 States to ask them about their views on congressional health care reforms.

By a two-to-one margin, these individuals agreed that Congress should pass health care reform legislation where agreement exists; 68 percent of these individuals said reforms in the small group market are important first steps.

These may not be the only solutions to our health care crisis, but they do offer hope to millions of Americans. By passing these provisions in this Congress, it does not say that we cannot go further. These reforms will not place a roadblock in the way of future reforms. Both sides realize this.

But this is a political year, and politics plays a role in everything—health care reform is not immune from this fact. I hope that this will be one area in which we will finally be able to set aside our political differences. I'm sure that every Member of Congress hears the pleas from their constituents to do something—I know I do.

The people of my district are hurting, and I know their concerns represent what the whole of America is going through. The people of our country demand reforms now, not when it will be politically beneficial. Politics is a sad excuse to tell people who are suffering, why Congress cannot get anything done in this area.

I say we bring each of the reform initiatives that have gained bipartisan support to the floor, discuss and debate them and then pass them. The President will sign these proposals and we can all claim victory for the American people who are, at this point, desperate for any sort of reform.

I urge my colleagues to join me in this very important effort. I think this is not only a politically smart thing to do, but also the right thing to do.

INITIATIVES INCLUDED IN PRIMARY HEALTH CARE REFORM PROPOSALS

	H.R. 5502 (Democrat)	H.R. 5325 (Republican)	S. 1872 (bipartisan)	Bush proposal
"Job lock" security	Yes	Yes	Yes	Yes.
Ban preexisting illness exclusion	Yes	Yes	Yes	Yes.
100 percent deductibility for the self-employed	Yes	Yes	Yes	Yes.
Administrative simplification	Yes	Yes	Yes	Yes.

THE RED-TAILED FIGHTERS—VICTORY OVER THE NAZIS AND RACIAL PREJUDICE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. DORNAN of California. Mr. Speaker, I would like to include in the RECORD an article from the September 1992 issue of the Retired Officer Magazine, regarding the heroics of all African-American fighter squadrons during World War II.

[From the Retired Officer Magazine, Sept. 1992]

THE RED-TAILED FIGHTERS

(By Col. C.V. Glines, U.S.A.F. (Ret.))

The fighter squadrons of World War II all had their red letter days—those days when they first met the enemy in aerial combat and received their baptism of fire. For the 99th Fighter Squadron, it was June 9, 1943, when some of its pilots tangled with the Luftwaffe over Pantelleria and damaged a Messerschmitt Me-109. A month later, the unit chalked up its first shootdown of an enemy aircraft.

While such an event would be memorable for members of any of the dozens of U.S. fighter squadrons fighting on many fronts, it had special meaning for the 99th, the first all-black flying unit in the Army Air Force. It was the first demonstrable proof that blacks could fight the enemy in the air, despite the long-held antiblack attitude of the military services.

The right for blacks to prove their mettle on an equal basis with whites began with a directive from President Franklin D. Roosevelt that had been politically inspired before the presidential election of 1940. The War Department would create a black flying unit in the Army Air Corps. Detailed war plans called for the Army Air Corps to activate the all-black 99th Pursuit Squadron on an experimental basis in 1941.

The first black pilot training class reported to Tuskegee, Alabama, for training at what later became Tuskegee Army Air Field (TAAF) in the spring of 1941. Primary training was conducted in Stearman PT-17s by black civilian instructors on a contract basis at nearby Moton Field, while basic and advanced flying were conducted by the Air Corps at TAAF by while military instructors in Vultee BT-13s and North American AT-6s. Later, a few of the returning black veteran combat pilots of the 99th and 332nd Fighter Group were assigned as flight instructors at TAAF.

There was widespread skepticism that such a program would succeed. LGen Benjamin O. Davis, Jr., a 1936 West Point graduate who had suffered through four years of "the silent treatment" at the academy because he was black, was assigned to take the training with the ultimate goal of taking command of the 99th when he graduated. At the time a captain and the son of the Army's first black general, he described his feelings in his autobiography as he was assigned to begin training at Tuskegee:

"My own opinion was that blacks could best overcome racist attitudes through their achievements, even though those achievements had to take place within the hateful environment of segregation. I believe that TAAF should move ahead rapidly and prove to all to see, especially within the Army Air Corps, that we were a military asset. The coming war represented a golden opportunity for blacks, one that could not be missed, and our future in the Air Corps would be determined by the account we gave of ourselves. At that moment, years before the integration of the armed services became a possibility, it seemed as if we had made a number of gains. We owned a fighter squadron—something that would have been unthinkable only a short time earlier. It was all ours. The airplane would be the center of the squadron's existence. Furthermore, we would be required to analyze our own problems and solve them with our own skills. And although we might be confronted with problems on the ground by racists who would seek to divert us from our primary mission, I was confident that we could meet all challenges."

It's almost forgotten now by most Americans, but the United States fought a segregated World War II. Black troops, led by white officers, were lodged in separate barracks and ate in segregated messes. The few black officers in the services were barred from white officers' clubs. When traveling cross-country, they often found it difficult to find food and lodging. Socialization in any form with whites was denied anyone of Afro-American descent.

Separation of the black and white races had been official military policy for scores of years. It was endorsed for the Army by a War College study published in 1925. The study titled "The Use of Negro Manpower in War," was the end product of several years of effort by the faculty and classes of white students. It concluded that blacks were inferior to whites in every way: They lacked intelligence and courage, were morally weak and of such low character that they should never be mixed with whites. It was a foregone conclusion that they would never be skillful enough to fly aircraft of any type. But progress toward proving these allegations false had been made in aviation circles in the 1920s and '30s. Bessie Coleman, a daring black woman, learned to fly in France and became the first licensed black pilot in the United States in 1922. Eugene Bullard, the first black male pilot to be licensed, also had learned to fly in France. Their accomplishments inspired many black men and women to dream of earning a living in aviation.

By the time of Lindbergh's famous transoceanic flight of 1927, a few more blacks had begun to fly, assisted by the organization of flying clubs encouraged by William J. Powell, one of the country's first black male pilots, and Cornelius R. Coffey, owner of a flight school at Harlem Airport near Chicago. The first all-black air show was on Labor Day, 1931, in Chicago.

C. Alfred Anderson and Albert E. Forsythe, both highly respected blacks, made newsworthy long distance flights. In 1933 they made a round-trip flight from Atlantic City, New Jersey, to Los Angeles. The next year they made a Pan American Goodwill Flight throughout the Caribbean in a Lambert monocoupe named the "Booker T. Washington." Grover C. Nash became the first black American to fly the air mail during Air Mail Week in 1938.

The federally funded Civilian Pilot Training (CPT) program begun in 1939 gave blacks the first military-related opportunity to get flight training. By 1941, there were 102 licensed black pilots in the United States. However, they continued to suffer the frustrations of hostile receptions at flying fields and segregated facilities wherever they went.

The program's first class of 12 aviation cadets and one officer—Davis—began primary training at Moton Field. Eleven of these cadets and Davis were college graduates. Only five of the first 13 who entered primary training successfully completed the program and transferred to TAAF for training in the BT-13. By the end of the war, more than 900 black pilots had been trained at Tuskegee.

Davis was promoted to major and two weeks later to lieutenant colonel before assuming command of the 99th, which was equipped with Curtiss P-40s. While the squadron got experience on the fighters at Tuskegee, successive class graduates were also assigned until the squadron was at its full strength at the end of July 1942. At first, the 99th was scheduled to go to Liberia, then to Burma and India. As Davis said, "The waiting got tiresome," and it wasn't until the spring of 1943 that orders finally were issued making it the fourth squadron on an all-white fighter group in North Africa where new P-40s awaited them for gunnery and tactical training.

The 99th's first day of combat was June 2, 1943, when the squadron was assigned a strafing mission against Pantelleria. Shortly after, bomber escort missions were assigned. The first brush with German fighters came on June 9; the 99th's Lt Willie Ashley damaged on Me-99 in the melee. The first air-to-air victory by a black pilot was scored by Lt Charles B. Hall against a Focke-Wulf 190 on July 2, 1943. On that day, the 99th also suffered its first combat losses: Lts Sherman White and James McCullin.

The squadron took part in missions against Sicily, moving there when the island was occupied. In September 1943, Davis was suddenly called back to the States to take command of the all-black 332nd Fighter Group, which had been activated in October 1942 under white leadership. Instead of going home with the satisfaction that the 99th had demonstrated it could perform any job assigned to it, Davis found an unsatisfactory report had been forwarded to the Pentagon. The report stated "that the 99th had demonstrated insufficient air discipline and had not operated satisfactorily as a team; that its formations had disintegrated under fire; and that its pilots lacked aggressiveness," according to Davis. As a result, the 332nd was to be sent to a non-combat area, and the planned activation of the all-black 447th Bombardment Group was to be canceled. As Davis says bitterly, "In the minds of the commanders of the Mediterranean theater and the AFF, the 'experiment' was over, and blacks had demonstrated their expected inability to perform in combat at the required level of proficiency."

Davis was furious at this and went public with his own story of the squadron's achievements. He pleaded his case before the War Department's Committee on Special Troop Policies. Gen George C. Marshall, Army chief of staff, decided that an in-depth study should be made of the 99th's operations between July 1943 and February 1944 before its fate would be decided. The study, titled "Operations of the 99th Fighter Squadron Compared with Other P-40 Squadrons in the Mediterranean Theater of Operations," concluded that "An examination of the record of the 99th Fighter Squadron reveals no significant general difference between this squadron and the balance of the P-40 squadrons in the [theater]." What had no doubt helped solidify this conclusion was that in January 1944, eight enemy fighters had been downed by the 99th in one day, and four more the next day.

Thus assured, the AAF allowed the 332nd to continue in existence and prepare for combat. Composed of the 100th, 301st and 302nd Fighter Squadrons, it was equipped at first with Bell P-39s and assigned to Selfridge Field, Michigan. The unit moved to Italy in February 1944 and was assigned by the Twelfth Air Force to fly cover for convoys, protect harbors and fly armed reconnaissance missions.

In April the squadrons transitioned briefly to Republic P-47s, then to North American P-51 Mustangs and were placed under the Fifteenth Air Force. Meanwhile, the all-black 99th Fighter Squadron had continued flying missions and had been assigned to the 324th Fighter Group.

Transferred to Italy and with their Mustang tails painted a brilliant red for easy identification, the 332nd, with Davis in command and now known as the Red Tails, flew bomber escort missions between May 1944 and April 1945 that struck oil refineries, factories, airfields and marshalling yards. The Red Tails also made strafing attacks on bridges, river traffic, troop concentrations, radar facilities, power stations and similar targets. The Germans called the fearsome pilots of the 332nd *Schwartze Vogelmenschen*, or Black Birdmen.

The 100th squadron's Lt Clarence D. "Lucky" Lester, flying his P-51 named "Miss Pelt," made history for the 332nd when he shot down three enemy fighters on July 18, 1944, while on a bomber escort mission. The flight lasted only about five minutes. Recalling that day, Lester said, "Everything went the same as in training except for the real bullets. Real Bullets!! Until then the danger of this mission had never occurred to me."

The 332nd received the Distinguished Unit Citation in March 1945 for "extraordinary heroism in action." The group had escorted B-17s during a raid on a tank factory at Berlin, had fought the interceptors that attacked the formation and had strafed transportation facilities while flying back to the base in Italy, all without losing a single bomber on the mission. The citation for the award noted: "Through their superior skill and determination, the group destroyed three enemy aircraft, probably destroyed three and damaged three. Among their claims were eight of the highly rated enemy jet-propelled aircraft with no loss sustained by the 332nd Group."

Meanwhile, the 99th had been flying dive bombing and strafing missions with the 324th Fighter Group and had scored 17 victories by May 1944. More than 500 missions and 3,200 sorties had been flown. In June, the 99th Fighter Squadron joined the 332nd making the four-squadron all-black group the largest fighter group in the theater.

In the States, meanwhile, the four squadrons of the 477th Bombardment Group had been equipped with North American B-25 medium bombers but were embroiled in difficulties caused mostly by problems linked to segregation. In *Black Wings*, authors Von Hardesty and Dominick Pisano summarize the unit's wartime experience: "From 1943, when the 477th was activated, to the end of the war, low morale, caused by transfers from base to base and the rigidly segregated atmosphere of a stateside training situation, impeded the organization's effectiveness.

"There were also racial protests. The worst of these, the so-called Freeman Field [Seymour, Indiana] mutiny of April 1945, erupted over the question of whether black officers of the 477th had the right to use the officers' club on base. As a result of the Freeman Field protest, Gen. Henry H. 'Hap' Arnold replaced the existing command structure of white officers with blacks and placed them under the leadership of Col. Benjamin O. Davis, Jr."

Davis assumed command of the group at Godman Field, Kentucky, in June 1945. Scheduled to proceed to the Pacific in October, the war ended before the 477th deployed. The 477th then became a composite group until 1947 consisting of the 99th Fighter Squadron and two B-25 squadrons.

The 332nd Fighter Group was inactivated on October 19, 1945, and the wartime saga of the Red Tails ended. Its record was impressive: More than 15,500 sorties were flown; 111 enemy aircraft, 57 locomotives and a German navy ship were destroyed, 95 pilots won the Distinguished Flying Cross and more than 800 Air Medals were received. But the record of which the pilots of the 322nd are most proud is that no bomber under the group's protection during its several hundred escort missions was ever lost to an enemy fighter.

In 1948, President Harry Truman issued Executive Order 9981, which ordered desegregation of the services. The Air Force promptly announced: "It is the policy of the United States Air Force that there shall be equality of treatment and opportunity for all persons in the Air Force without regard to race, color, religion or national origin." The war record of the precedent-breaking 99th Fighter Squadron and the three squadrons of the 332nd's Red Tails helped bring about that policy. Policy, of course, cannot eliminate prejudice, but it opened paths for black Americans to serve their country with honor and dignity in peace and war. The nation has benefited immeasurably as a result.

THE NEED FOR ACTION IN FORMER YUGOSLAVIA

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Ms. MOLINARI. Mr. Speaker, as the violent ethnic strife in former Yugoslavia continues to be waged by the Serbian Military forces against the breakaway Republics, the United States, European Community and United Nation's combined efforts to find a solution—have failed.

Few would have predicted, despite the strong demands to end the horrifying realities of brutality, murder and rape—or else—that Serbia would not even blink. As the New York Times noted earlier this week, "the West's inaction only whets Serbia's appetite for aggression."

Now the latest reports from Bosnia-Hercegovina have reported that hundreds of Moslem and Croat women have been raped, recreational killings are on the rise, and conditions at concentration camps are worsening. Mr. Speaker, talk is cheap, and the time for action is now.

That is why I am introducing H. Res. 598, which expresses the sense of the House that the United States should immediately close our Embassy in Belgrade and break all diplomatic ties with Serbia and Montenegro. This resolution also resolves that funding for radio broadcasting to Serbia and Montenegro should be authorized for Radio Free Europe through the Board for International Broadcasting.

If nothing comprehensive is done before the introduction of the 103rd Congress next January, the armed conflict could severely escalate, thousands of more innocent people may be killed, and the fleeing refugees could very possibly destabilize the continent.

In that regard, Congressmen DUNCAN HUNTER, DANA ROHRABACHER, WILLIAM ZELIFF, Jr., and ELIOT ENGEL, have all joined me in introducing this resolution. We are all fully aware of the time constraints placed upon the House for this session. Nonetheless, our deep convictions on this issue compel us to do everything possible to instigate action.

PUTTING COMMUNITY FIRST

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. BENNETT. Mr. Speaker, as the dean of the Florida congressional delegation, it is my distinct pleasure to recognize the fine efforts of a major Florida company, Southern Bell, and their employees from Jacksonville and other cities throughout the State.

Major natural disasters bring out the best in many people. But the actions of Southern Bell employees, 2,500 of whom are from Jacksonville, and the Telephone Pioneers—Southern Bell retirees—during Hurricane Andrew stand as an impressive example of how strongly and deeply committed the telephone company is to community service.

By now, the performance of the telephone system in the storm ravaged areas has been lauded in newspapers and television stations throughout the State. Employees of Southern Bell worked non-stop throughout the worst of the storm, and beyond, to ensure that telephones continued to operate. The system allowed lives to be saved and gave many people the ability to call for emergency help. Many employees left their families in perilous situations or hundreds of miles away because they knew the good of the general public was at stake.

According to Joe Lacher, president of Southern Bell, the Florida Pioneer organization swung into action even before Hurricane Andrew hit. BellSouth donated warehouse space to serve as a central distribution center to collect and disburse basic supplies to anyone in need—and I can assure you many people were in need. Donations of clothing and canned goods poured in from Pioneer organizations all over the country—from as far away as California and Oregon and as close as Georgia, Kentucky, and the Carolinas.

I am told that more than 500 Telephone Pioneer volunteers lent a hand during the first week after the storm. Volunteers and their families helped sort, shelve and pack supplies. They grilled more than 5,000 hot dogs and hamburgers for storm victims located in remote areas of Florida.

The list of telephone company employees, both retired and active, and other public minded volunteers deserve credit for their actions and the list is long and distinguished. However, the people of Florida owe a debt of gratitude to Southern Bell President Joe Lacher. Mike Raynor, Don Hatchcock, Davis Johnson, of Jacksonville, and thousands of other who made personal sacrifices to provide much needed assistance following the landfall of Hurricane Andrew.

As the son of a weatherman who served many years with the National Weather Service, I have weathered many hurricanes and understand the damage that these storms can do and deeply appreciate the amount of effort given to the storm victims by Southern Bell employees throughout Jacksonville, the State of Florida and the country.

FOREIGN FORCES MUST LEAVE LEBANON

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. BONIOR. Mr. Speaker, today Lebanon stands in the midst of a political crisis. The recent elections have resulted in chaos and uncertainty. The presence of foreign troops and the resulting boycott of the elections seriously undermine the legitimacy of the results.

Democracy is on the march across the globe. The world has witnessed many elections—some that were free and fair and some that were not. The world community can easily tell the difference between the two. In order to hold a fair election, people must feel free to debate the issues and exchange ideas without intimidation or fear of violence. To ensure much broader participation and the emergence of a truly representative government in Lebanon, new elections should be held under international observation and after foreign troops withdraw.

Let me make it clear that I support the withdrawal of all foreign forces. Lebanon must be allowed to determine its own future—independently and without foreign intervention.

Lebanon is a diverse nation. All groups in Lebanon need to be represented and respected. National reconciliation must be achieved. I am confident that this goal can be reached if the Lebanese people are allowed to work together without foreign interference. It is an enormous task facing the Lebanese people. All sides will have to give something for a prosperous future. The challenge is great, but it must be met.

LINE-ITEM VETO

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. KOLBE. Mr. Speaker, today we struck a blow for fiscal integrity. Because of pressure brought on the Democrat leadership by Members who have long fought for line-item veto authority, the Speaker finally agreed to allow an up-or-down vote on a compromise version of the line-item veto proposal—and we won. H.R. 2164, a bill that would amend the 1974 Budget Act to set in place expedited recession powers for the President, passed an important hurdle on the road to becoming law.

Ever since coming to Congress, I have supported policies that could help put our fiscal house in order—one in particular has been line-item veto authority. In its purest form, line-item-veto authority would empower the President to carve out wasteful spending in an appropriation bill unless two-thirds of Congress disagrees with him. Under current law, Congress can choose to ignore the President's package of rescissions, or spending cuts, allowing the pork barrel spending to stand.

H.R. 2164 would change this process. It allows the President to rescind up to 100 percent of all unauthorized appropriations, and rescind up to 25 percent of all authorized appropriations in this fiscal cycle. It would require Congress to cast an up-or-down vote on the President's package of spending reductions within 10 calendar days of introduction. And a simple majority would be necessary to pass the legislation, along with Senate concurrence. At the very least, it will help make the President and Congress more accountable to the taxpayer's wallet—and that is important in a climate of $300 billion deficits.

Forty-three States, including Arizona, have provided their Governors with a form of line-item veto authority. I realize there is no surefire procedural cure to our budget woes. But giving the President the ability to get an up-or-down vote on his proposed rescissions, or cuts, is an important tool, one which could make a real significant difference in restoring control over the flood of unnecessary pork barrel spending that seems to defy any attempt at restraint. Last year's example of asking the American taxpayers to spend a half a million dollars to refurbish the birthplace of Lawrence Welk has to symbolize the pork barrel mentality that has ballooned our Federal deficit into the stratosphere.

Whether Republican or Democrat, H.R. 2164 makes good budget sense. In the heat of this election cycle it is a welcome sign that opposing parties can strip away the partisan rhetoric and show a modicum of fiscal integrity by supporting this enhanced rescission authority.

IN HONOR OF ROBERT E. ABBOTT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. PORTER. Mr. Speaker, I rise to pay tribute to Robert E. Abbott, who is retiring this year after 23 years of outstanding service as an educator in Waukegan, IL School District 60. Throughout his career, Mr. Abbott has distinguished himself as a national leader in providing education services for children with special needs.

After receiving his bachelor in arts degree in special education and masters in arts in school administration from Illinois State University, Mr. Abbott joined the Waukegan School System as a special education teacher and rose to become the associate superintendent for special education and pupil personnel services. He has consistently brought distinction to Waukegan and Illinois through his numerous lectures, speeches, and publications. In honor of his extraordinary work to initiate programs for the preschool disabled, bilingual disabled, and other students with special needs, prior to his retirement the Waukegan School Board renamed its West School as the Robert E. Abbott Middle School.

Robert Abbott has been a leading member of the Council for Exceptional Children [CEC], an international professional organization of 65,000 members, and he is a past president of the Illinois Council For Exceptional Children and the Illinois Division for Learning Disabilities. This past year, he was selected to receive the "Outstanding Contributor to Special Education" Award given by the National CEC, and was also named the 1991 "Citizen of the Year" by the Northeastern Chapter of the American Business Women's Association.

In addition, Mr. Abbott was a delegate to the White House Conference on Handicapped Children and Youth in 1977. He is currently an advisor on the attention deficit disability issues confronting Congress, and serves on a State task force reviewing the education delivery systems for children with handicaps.

Mr. Speaker, I am very proud to represent a congressional district that includes individuals like Robert Abbott. He has dedicated his professional life to improving educational services for children with special needs and leading the way for teachers and administrators in his field. Robert Abbott's exemplary contributions to special education will be his enduring legacy and will serve as a touchstone for all those who strive for excellence in education.

SAFE HOMES OF SOUTH GLENS FALLS JUNIOR HIGH

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. SOLOMON. Mr. Speaker, when most people merely talk about alcohol and drug abuse, parents of junior high school students in South Glens Falls, NY are doing something about it.

It's with great pride that I take the floor today to talk about Safe Homes of South Glens Falls Junior High. Safe Homes was formed to establish a parents' network of support to fight against the use of alcohol and illegal drugs by young people.

Parents participating in the Safe Homes Program sign a pledge that they will not serve alcohol to minors and that they will supervise activities in their homes. This and other efforts are designed to eliminate drinking parties and to encourage communication between parents and their children. It's all strictly voluntary, but the support of the entire community is being sought.

Mr. Speaker, this is what America is all about. This is people giving freely of their time and talents to solve local problems and to make the community a better place to live.

And so, Mr. Speaker, I would ask you and all Members to join me in saluting Safe Homes of South Glens Falls Junior High for making a difference.

SIXTY YEARS OF WFAS SERVICE TO WESTCHESTER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mrs. LOWEY of New York. Mr. Speaker, this year marks the 60th year that WFAS radio in Westchester County, NY., has been on the air, and throughout those six decades, WFAS has remembered that information and public service are essential to truly responsible journalism. In a very competitive marketplace, WFAS has most definitely met the test of time.

Having begun operations just before the great depression, WFAS knows what it means to operate in good times and in bad. Consistently, WFAS has found ways to overcome obstacles, economic and otherwise, to reach out to the people it seeks to serve. The station has been aggressive in covering local events, news and features, and in doing so has claimed for itself an important leadership position in Westchester County.

All of us in public life understand the critical need for accurate, up-to-the-minute information. WFAS has made it its business to see that just such information is readily available to the busy residents of Westchester County. Those who operate this station also understand that no matter where one lives, local news should not be overshadowed by national and international agendas. They have committed themselves to solid reporting of community issues as well as the world and national agendas.

Effective communication is absolutely essential to the functioning of our society, and those of us who call Westchester County home are fortunate to have WFAS helping to bring us the latest information. By doing so, WFAS has broadened our perspective and made our lives more manageable.

To all of those who have made WFAS the effective and responsible communicator that it is, I extend my heartiest congratulations and best wishes for many years of further service.

STANFORD HAS DEFEATED NOTRE DAME, 33 TO 16

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. CAMPBELL of California. Mr. Speaker, I interrupt our proceedings to note that Stanford has just defeated Notre Dame in college football, 33 to 16. This is, of course, a vindication that righteousness does, indeed, triumph. It is also a major repudiation of the wisdom of so-called experts who had rated Stanford a two-touchdown underdog, and as such, constitutes a reassurance to all running for election this November about the fallability of expert polls and prognosticators.

REMEMBERING ABUSES OF POWER—THE LIES OF NIXON AND KISSINGER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. STARK. Mr. Speaker, I wish to remind the Congress of how abuses of power and authority will severely damage our Nation's integrity and destroy our credibility as elected and appointed officials. As we shape our election campaigns, let us remember what it means to be responsible for our actions in serving the people of this Nation.

In the latter half of the 1960's, our country found itself in the middle of an ugly and tragic conflict in Vietnam. Many of our leaders became immersed in a sea of political lies and deception that ultimately increased the arsenals, maimings and deaths of Americans, Vietnamese, Laotians, and Cambodians.

I will never forget the impact that such a hypocritical ideology and complete lack of social responsibility had upon the American people, especially in creating an era of distrust of Government that still plagues us.

On April 30, 1970, former President Nixon addressed the Nation in a live television appearance to remind the American people that American policy since 1954 "had been to scrupulously respect the neutrality of the Cambodian people." As well, he assured us that for the past 5 years "neither the United States nor South Vietnam had moved against these enemy sanctuaries" located within the borders of Cambodia.

Lies

On April 2 and 27, 1970, former Secretary of State Rogers testified before the Senate

Foreign Relations Committee that in Cambodia, United States "hands are clean and our hearts pure * * *. Our best policy is * * * to avoid any action which appears to violate the neutrality of Cambodia."

Lies.

On March 31, 1971, Senator Harold Hughes requested that then Air Force Secretary Seamans supply the Senate Armed Services Committee with a report on Indochina bombing sorties and tonnages for both fighter-bombers and B–52's, by month and by country. The classified Air Force report to the committee displayed zeros in the columns pertaining to Cambodia from the beginning of the conflict through April 1970, indicating no bombing raids had been made.

More lies!

Actually, the United States initiated the bombings of Communist, North Vietnamese sanctuaries in Cambodia at 3 o'clock in the morning on March 18, 1969. Fourteen months before Nixon lied to the public on national television. Fourteen months.

The first bombing raid on those sanctuaries in March was given the code name "breakfast." It became the first of many to follow, including "lunch," "snack," "dinner," "supper," and "dessert." Between March 1969 and May 1970, United States B–52's flew 3,875 sorties and dropped 108,000 tons of bombs on Cambodia.

In 1973, Henry Kissinger lied "It was not a bombing of Cambodia, but it was a bombing of North Vietnamese in Cambodia." Untrue. A 1969 Joint Chiefs of Staff memo to the National Security Counsel, of which Kissinger was a member, showed the sanctuaries to be populated by both North Vietnamese and Cambodian civilians.

On July 17, 1973, former Defense Spokesman Jerry Friedheim explained that routine bombing reports "were deliberately not completely accurate in order to provide security that it was felt that the operation at that time required." Whether or not tampered flight documents were considered falsifications or not, it is clear that a secret channel of flight accounting allowed the NSC to take a secret war into Cambodia.

Many other examples of abuses of power exist from the Vietnam conflict, including the illegal bombing raids into North Vietnam in 1971 and 1972 under the authority of Air Force Gen. John D. Lavelle, and the duplicity of the pre-1972 election Geneva accords.

Mr. Speaker, this is by no means ancient history. An old adage states, "power tends to corrupt." Before we repeat our mistakes, we must realize the responsibility we have to our citizens who, during this time of economic and political uncertainty, look to us now for real and sincere leadership.

TRIBUTE TO ALBERT A. CHESNES

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. SCHEUER. Mr. Speaker, today, I rise to give honor and congressional accolade to Albert Chesnes of Fort Washington, MD. Mr. Chesnes has recently retired from the U.S. Department of Energy after 15 years of Federal service and an outstanding tenure as Deputy Assistant Secretary of Transportation Technologies. In this position, Mr. Chesnes developed and managed some of the most innovative technology research and development programs that will impact our transportation systems well into the 20th century.

Mr Chesnes exemplifies the best of what public service can give to the Nation. From the drawing boards to commercial products, the decisions that American industry is making on electric vehicles, alternative fuels, advanced propulsion systems, diesels, and advanced materials are being shaped by transportation programs that Mr. Chesnes led at the Department of Energy.

Mr. Chesnes has forged model collaborative agreements between the public and private sector to give new life to our automobile industry that will help us compete in world markets in the next decade. These technologies will reduce our dependence on foreign oil and improve our environment and quality of life.

It is especially fitting to pay honor to Mr. Chesnes as we consider the major energy legislation coming before us, as he has provided key insight on research opportunities in hearings conducted by the Subcommittee on Environment of the House Committee on Science, Space, and Technology. Many of his ideas are embodied in this energy legislation.

Mr. Chesnes is creating our future with a degree of vision, vigor and vitality that is all too rare. Thank you, Al, for your dedication and gift to America.

TRIBUTE TO HON. CARLETON T. WOODRING

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to a fine man, Hon. Carleton T. Wooding, one of the most influential members of the Northampton County Court, in the 15th Congressional District, who passed away September 23, 1992, at age 90.

In 1923, Carleton earned a bachelor of science degree in forestry from Pennsylvania State University. He then worked as a forester for the Crossett Lumber Co. in Arkansas for 3 years. In 1926, he returned to Easton, PA, and worked at his father's hat store before attending the University of Pennsylvania. He earned his law degree in 1930.

For 17 years, Carleton Woodring practiced law for the Northampton County Bar, Pennsylvania Supreme, Superior and Federal Courts, including the Supreme Court of the United States, before becoming a judge. In 1940, he was elected to a term in the Pennsylvania House of Representatives and in 1942 and 1946 to a term and a half in the State Senate. He ran for judge in Northampton County during the second half of his second term. He defeated a former president judge in the Democratic primary and the incumbent president judge that November. Carleton believed he could do more for society serving as a judge rather than as a lawyer.

Feeling that alcoholism was tied to many crimes, he was actively involved in setting up an Alcoholics Anonymous unit in prisons.

At age 65, Judge Woodring decided not to run for a third term on Northampton County Court, but he served 13 additional years as a senior judge in Northampton County and tried cases in many other counties within the State. He retired for a second time at age 80.

Carleton was a member of the First Presbyterian Church of Easton. In his earlier years as a member of the Lutheran Church, he served on the executive committee of the Ministerium of Pennsylvania, was a delegate to the United Lutheran Church of America, 1952–58, and secretary of the Board of American Missions, Lutheran Church of America. He was a trustee of Muhlenberg College, director of Family Services, Inc. and the Salvation Army, and past president of the Easton Exchange Club. Carleton was a delegate to the Pennsylvania Constitutional Convention, where he served as cochairman for the finance and taxation committee. He was a director of the Lehigh-Northampton Airport Authority for 19 years, serving as vice president and secretary of the board of managers. He had been president of the Bethlehem Bach Choir and president and chairman of the board of the Lehigh Valley Blue Cross

Carleton served the people of the 15th Congressional District with dedication, devotion, and dignity. He has touched many people and has been a guiding light to his peers. Mr. Speaker, please join me in extending heartfelt sympathy to his lovely life Margaret and their special children, Sally of Hillside, NJ, sons Carleton, Jr. of Easton, and M. Douglas of Kentfield, CA, his sister Elizabeth Pedersen of Haverford, Delaware County, and his brothers, George of Allentown, and E. Douglas of Craigville, MA, and to their fine grandchildren.

ERISA: HURDLE TO STATE HEALTH CARE REFORM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. MAZZOLI. Mr. Speaker, efforts to enact broad health care reform legislation in the 102d Congress have, thus far, been stymied.

There is uncertainty among Members over which reform plan, of the scores introduced, is the best. There are powerful special interests involved which prefer no reform at all, or, at best, little reform. And, complicating things further, there is a lack of consensus in the Nation on what to do about health care, how to do it, and how to pay for it.

Yet, the cost of, access to, and the quality of health care remain among the most agonizing concerns for American citizens—young and old. In the absence of Federal action, a number of States—including the Commonwealth of Kentucky—are moving ahead on their own health care reform plans.

Following months of planning sessions and public forums held across the Commonwealth, Kentucky Gov. Brereton Jones has laid out an ambitious agenda which aims at providing comprehensive health insurance for all Kentuckians. An estimated 429,000 Kentuckians are currently without any health insurance coverage.

The program Governor Jones has outlined is employer-based. Businesses would be required to extend coverage to all their full-time and part-time employees. Coverage for the poor would be provided through an expanded Medicaid Program with selected taxes on health service providers, and cost savings through insurance pooling providing a significant portion of the funding for the new program. Governor Jones' plan will be the subject of a special session of the Kentucky General Assembly early next year.

Whether or not one agrees with the Governor's proposal, health reform legislation enacted by Kentucky, or any State, should not be thwarted by Federal roadblocks. One such potential roadblock to State implementation of health care reforms is ERISA, the Employee Retirement Income Security Act of 1974.

ERISA, as the courts have interpreted it, preempts State authority over most employer-employee benefit programs, including the State authority to regulate self-insured employer health plans.

Accordingly, I am introducing legislation today that will permit States like Kentucky to move forward with their health care reform plans by removing the restriction posed by ERISA's preemption clause.

Statutory relief is needed so that the States can have the flexibility to manage and exercise control over their own health care programs. Identical legislation (S. 3223) has been introduced in the Senate by Senators DURENBERGER and BRADLEY.

Mr. Speaker, on this critical issue, government at the Federal level must allow States the prerogative of addressing one of the most important issues facing all of us today—health care reform. We must not stifle State initiatives which offer hope for substantive reform that will reduce costs and assure quality and affordability of health care for all citizens.

I urge all of my colleagues to join with me in this effort and cosponsor this important legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Health Care Financing Equity Act of 1992".

SEC. 2. WAIVER OF ERISA PREEMPTION FOR STATE UNIVERSAL HEALTH PLANS.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraph:

"(9)(A) Upon application by a State, subsection (a) shall not apply to any State program that the Secretary finds to be a qualified State health financing program. The Secretary shall make the finding under this subparagraph within 60 days of receipt of the written determination of the Secretary of Health and Human Services under subparagraph (C).

"(B) For purposes of subparagraph (A), the term 'qualified State health financing program' means a State program which—

"(i) imposes a tax or premium surcharge on, or requires participation in a risk pool for the medically uninsurable by, health plans (including self-insured health plans) doing business within the State,

"(ii) provides that—

"(I) the tax, surcharge, or participation described in clause (i) is imposed in a manner that does not discriminate between health plans on the basis of their types or sizes, regardless of whether such plans are subject to this Act,

"(II) in the case of a State plan to provide a State risk pool for the medically uninsurable, deductions, credits, or exclusions are applied to adjust the taxes, surcharge, or participation described in clause (i) for any health plan to account for the extent to which limitations in coverage or benefits under such plan place individuals who are, or could become, covered under the plan at risk for becoming medically uninsurable, and

"(III) no deductions, credits, or exclusions (other than those required under subclause (II)) are allowed which would directly or indirectly vary the level of tax, surcharge, or participation described in clause (i) among different types and sizes of health plans, and

"(iii) uses the proceeds from the tax, surcharge, or participation described in clause (i) to finance a State risk pool for the medically uninsurable, or to finance a State plan the purpose of which is to significantly improve and expand access of State residents to efficient and cost effective health care services.

"(C)(i) The Secretary shall not make a finding under subparagraph (A) with respect to any State program unless the Secretary of Health and Human Services, after conducting a review of such program, issues a written determination that the State plan—

"(I) has sufficient resources and capacity to accomplish the goals of the plan applicable under subparagraph (B)(iii), and

"(II) meets such other related standards as the Secretary of Health and Human Services may prescribe.

"(ii) The Secretary of Health and Human Services may conduct studies, and collect, analyze, and publish data and information, relating to the implementation and effectiveness of State plans referred to the Secretary for review under clause (i).

"(iii) Not later than 3 years after the third State plan is approved under this paragraph, the Secretary of Health and Human Services shall publish a report on the impact and effectiveness of the first 3 plans so approved in achieving plan goals, including recommendations as to how such plans, or administrative procedures thereunder, may be improved.

"(D) If a plan approved under this paragraph is substantially modified, such modifications must be approved under this paragraph in the same manner as the plan in order for the approval of the plan to remain in effect."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed on and after the date of the enactment of this Act.

SEC. 3. STATE PROVIDER TAXES AND PROSPECTIVE PAYMENT SYSTEMS.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)), as amended by section 2, is amended by adding at the end the following new paragraphs:

"(10)(A) Nothing in subsection (a) or any other provision of this Act shall be treated as prohibiting a State from imposing a nondiscriminatory broadbased health care tax.

"(B) For purposes of subparagraph (A), the term 'nondiscriminatory broad-based health care tax' means any tax that—

"(i) either—

"(I) is related to health care items or services (or to the provision of, the authority to provide, or payment for, such items or services), or

"(II) is not limited to such items or services but provides for the treatment of persons providing or paying for such items or services that is different from the treatment provided to other persons,

"(ii) with respect to any class of health care items or services, is imposed at least with respect to all items or services in the class furnished by all non-Federal, nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class or such area; and

"(iii) is imposed uniformly (as determined under subparagraph (C)).

"(C) For purposes of subparagraph (B)(iii), a tax shall be treated as imposed uniformly if—

"(i) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(ii) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed of each provider of such items or services in the class; and

"(iii) in the case of a tax based on revenues or receipts with respect to a class of health care items or services, (or of providers of items or services), the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or of all such providers) in the State (or, in the case of a tax imposed by a unit of local government with the State, in the area over which the unit has jurisdiction).

A tax imposed with respect to a class of health care items and services shall not be treated as being imposed uniformly if the tax provides for any credits, exclusions, deductions, or discounts for different types of plans, including discounts for plans that are not subject to this Act or discounts for plans based on the size of their plan.

"(D) For purposes of subparagraph (B)(i)(I), a tax shall be treated as related to health care items or services if at least 80 percent of the burden of the tax falls on health care providers.

"(E) For purposes of this paragraph, the term 'tax' includes any licensing fee, assessment, or other mandatory payment.

"(11)(A) Nothing in subsection (a) or any other provision of this Act shall be treated as prohibiting a State from setting hospital rates prospectively, or from using a Diagnosis Related Group payment methodology that either—

"(i) includes a charge for uncompensated care, or

"(ii) includes adjustments to account for costs incurred by statutes and regulations that affect the delivery of health care.

"(B) For purposes of subparagraph (A)(i), the term 'uncompensated care' includes, but is not limited to, care for the indigent and expenses that result from bad debts.

"(C) For purposes of subparagraph (A)(ii), the term 'statutes and regulations that affect the delivery of health care' includes titles XVIII and XIX of the Social Security Act, and regulations thereunder."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxes imposed, and rates and methodologies established, after the date of the enactment of this Act.

ON THE INTRODUCTION OF THE INSULAR AREAS POLICY ACT

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. DE LUGO. Mr. Speaker, the longer statement I am submitting for the RECORD today spells out in technical terms the provisions and the reasoning behind the bill I introduce now entitled "the Insular Areas Policy Act."

But I wanted to say to you and my colleagues today that what is really behind this bill is over 20 years of dealing with the Federal Government on territorial issues: Eighteen years as a seated Member of Congress and before that, 4 years as the at-large elected Washington representative of the people of the Virgin Islands.

My good friend, the late Tony Won Pat, and I became the first seated delegates from our respective territories of Guam and the Virgin Islands in 1972, thanks to some outstanding Members of this body, including the Speaker himself, the late, great Phil Burton, and our former colleague from the other side of the aisle, Don Clausen, Members who recognized that basic Democratic principles required some representation in Congress for the American citizens of the off-shore areas who are bound by the laws enacted by the Congress.

It was a major step forward, and in retrospect a timely one, given the extraordinary giant steps forward that have been made by countries and former colonial entities throughout the world in the past few years.

Twenty-two years ago, the off-shore areas of the United States, with perhaps the exception of Puerto Rico in certain regards, were just that—colonies—and we were administered from afar by a little bureau stuck in a corner somewhere in the vast expanse of the Department of Interior. Their word was Bible and edicts were issued like the Ten Commandments.

Some of the greatest satisfactions of my career in Government have been the bills I have worked on that have brought increasing self-government to the territories:

The elected Governors Act of 1970; the elected delegate in 1972; the authority to write a constitution in 1976; full control over excise tax matching fund in 1981; establishment of the grand jury system in 1982; expansion of territorial court jurisdiction and authorization of a local appelate court in 1984; the rights of initiative, referendum and recall in 1986.

In 1980 during the Carter administration, the Office of Territorial Affairs was elevated to an assistant secretary level. In 1981, when the Reagan administration tried to downgrade it again, we were successful in blocking that move because we wanted the Federal administration to keep up with the political maturation of the territories that we were bringing about in the Congress.

That did not happen for reasons I spell out in my written statement. Let me tell you the present system of administering the territories is not working. It has created problems where none should exist. It has left the United States open to criticism when that should not be the case. It is not in the best interests of the territories or the United States to continue this system, and it is totally inappropriate in this new world order of today.

I want to assure my very good friend, the Secretary of Interior Manuel Lujan, that in no way is this legislation a criticism of him. He has been the best Secretary of Interior the territories have ever had, and I am personally indebted to him for all his support and assistance on so many issues especially in my own district, the U.S. Virgin Islands, in Puerto Rico, Guam, American Samoa, and Palau.

He has demonstrated the depth of his knowledge on the issues and his sensitivity to the people over and over again. I think the Secretary, whom I had the privilege of serving with on the Interior Committee since I came to Congress—I think he will agree that it is time to end the colonial status of territories within the administration.

Mr. Speaker, I urge the support of my colleagues on this legislation which I will reintroduce at the start of the next Congress. In particular, Mr. Speaker, I would welcome and be honored by your support since throughout your career, even before your election to this House in 1962, as a key staff person to the late Senator Scoop Jackson, you have played such an active role in every major piece of legislation affecting the territories.

INTRODUCTION OF THE INSULAR AREAS POLICY ACT

Mr. Speaker: As chairman of the subcommittee with jurisdiction regarding issues relating to the insular areas of or associated with the United States, I have just introduced legislation to provide a new framework for the development and implementation of insular policy within the Executive Branch.

The bill, the Insular Areas Policy Act, is intended to enable the Congress to fulfill its constitutional assignment to "make all needful rules and regulations" regarding the insular areas for which our nation is responsible.

To do this, we need to determine policy objectives and ensure that the Executive is organized to—and does—consider the insular areas as it proposes and carries out the specifics of domestic and foreign policy.

Thus, the bill I have just introduced proposes a basic insular policy and would require Executive consideration of insular matters and reporting to the Congress on them.

Perhaps most importantly, it would reorganize the way that the Executive is structured to handle insular matters, replacing the current outmoded and ineffective structure.

The heart of the proposal would establish a Cabinet Council on Insular Affairs to develop, coordinate, and oversee the implementation of policies regarding the U.S. insular areas.

The Council would include representatives of the heads of all agencies, be chaired by the President's chief foreign and domestic policy advisors, and be assisted by a small staff within the Executive Office of the President.

It would be required to provide the President and the Congress with information and advice necessary to appropriately apply policies to the insular areas. And it would serve as a liaison between agencies and insular areas, reconciling programs and insular policy objectives.

The Council would have to report annually to the Congress on insular circumstances and needs in a number of specified areas and make appropriate recommendations. Its staff would coordinate agency activities in insular areas working through the line agencies of government to the maximum extent possible and with the agencies required to cooperate. Meaningful consultation with the insular areas would also be required.

This dynamic structure is intended to ensure appropriate consideration of the insular areas in the performance of all Executive functions.

It is also intended to recognize that, with the development of self-government in the insular areas, most insular issues are now outside the jurisdiction of the Interior Department (which has traditionally overseen insular governments) the insular areas need to be considered in most national policies because their situations often vary from those of the States; and policies affecting insular areas are inter-related in nature.

Finally, it is intended to recognize that the Federal government has special responsibilities to adapt policies to insular situations and do so in consultation with the areas, especially because the 3.9 million Americans of the insular areas are essentially powerless in the Federal system.

This new insular policy operation would make the assignment of Puerto Rican issues to the Office of the President work in practice and assume the Interior Department's presumed policy role regarding the other areas.

Currently, there is no consistent structure in the President's Office to handle matters concerning Puerto Rico—the assignment is only exercised sporadically—making it more important in theory than in practice.

While Interior's Office of Territorial and International Affairs (OTIA) has some specified insular responsibilities and an organization, it lacks a clear insular policy mission and the authority that it would need to be effective. The Insular Areas Policy Act would, therefore, replace OTIA.

The Interior Department would, though, retain its responsibilities for providing special assistance to insular areas through a streamlined, administrative office. It would also retain its responsibility to account for spending special aid to insular areas, although the President would be authorized to transfer Interior's authority to audit spending of local money in insular areas to independent and adequately-funded local auditors.

Mr. Speaker, I am introducing this bill now so that all concerned in the insular areas and the Federal government can be ready to have it considered at the beginning of the new Congress and a new administration. Its enactment will be among my highest priorities next year since it would provide the basis for almost everything that can be done on insular matters.

In this connection, I want to note that my bill is very similar to one introduced by the distinguished chairman of the Senate committee with jurisdiction regarding insular matters, J. Bennett Johnston, Jr. I also want to note that years of experience and thought have gone into its drafting.

To more fully explain how serious we are about making changes in the Executive's approach to insular policymaking, I want to provide some background on the development of our legislation.

Our bills were essentially conceived during the Reagan Administration. The initial drafts prompted a General Accounting Office report on the lack of clear Federal insular policies that was requested by the Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee and a subsequent series of hearings by our House committee.

The drafts were also related to legislation that I, and others, introduced to require annual reporting to Congress on insular matters as well as a proposal that I, and others, made that would have required the Executive to reconsider the way it was structured to handle insular responsibilities.

We then prepared to act on a reorganization along the lines we are now formally proposing as the Bush Administration took office. As a result of our consultation with the Minority in developing our reorganization proposal, the Bush transition worked on a similar restructuring plan.

But the appointment of our friend and former colleague, Manuel Lujan, Jr., as Secretary of the Interior persuaded us to give him an opportunity to make his own proposal in this area. Unfortunately, although Secretary Lujan committed to consider what was needed, those he entrusted to develop it failed to carry out the assignment. Their understanding of the problem was not as great as his.

So, having given up on the Executive Branch proposing how it needs to change to adequately develop and implement policy affecting the insular ares in today's world, Chairman Johnson and I have introduced our bills.

As I have said, these bills are very similar. They are not, though, identical. Still, the differences are not critical and shouldn't prevent agreement.

The one distinction that should be noted is that my bill would establish a new insular policy staff in the Executive Office of the President, abolishing the current Interior Department office for handling matters for the areas other than Puerto Rico and carrying out the current assignment of Puerto Rican matters to the President's office, while Chariman Johnston's bill would leave the Interior Department and presidential offices in place.

Both he and I have considered both structures and recognize arguments for both. But my inclination is that the one I have proposed is preferable.

The reasons are that: 1) the same issues generally concern Puerto Rico and the smaller islands and inconsistencies are inevitable when there are separate structures; 2) the issues run the gamut of Federal policies, most of which are outside of normal Interior Department responsibilities; and 3) it may take an office within the Executive Office of the President to deal effectively with the other offices within the EOP that have important insular policy responsibilities—the Office of Management and Budget and the United States Trade Representative—as well as deal with the line agencies of government that may resist cooperation with Interior.

It may also be worthwhile to signal a new approach to insular policymaking by removing the Interior Department's policy role regarding the areas other than Puerto Rico. They would probably welcome this as much as Puerto Rico would resent having its concerns reassigned to Interior.

A concern about locating an office within the EOP has related to Congress' access to it. But my bill addresses this through statutory requirements.

The justification for transferring policy responsibilities regarding the smaller insular areas from Interior to the Executive Office is essentially similar to the justification for the already-accomplished transfer regarding Puerto Rico. To expand further on the justification, let me point out that:

All of the areas are now locally self-governing in almost all respects;

Interior's past role as an overseer of governments is now obsolete;

Interior's programs for assistance to insular areas are of decreasing significance and involve little policy discretion;

Interior's office appears to be more comfortable in trying to manage congressionally-mandated assistance than in recommending policy;

Interior has little ability to influence the most important insular issues—involving their unique treatment under tax, trade, social program, foreign relations, immigration, military activity, environmental, transportation, constitutional, and other policies;

Insular issues involve fundamental policy questions even more than program management issues;

Insular areas have to relate to the agencies that can act on these matters virtually as the States do but lack the States power in Federal decision-making processes; and

Insular treatment under some of these policies has significant impacts on others and presidential involvement is needed to reconcile the important, complex, and sensitive issues involved.

The other differences between the bills that Chairman Johnston and I have introduced may not be significant. They may reflect our separate final changes to the same base draft more than differences of opinion.

Finally, Mr. Speaker, there is one more point that I would like to make indicating how serious we are about pursuing the changes in the Federal insular policy process that we have proposed. It is that my views of the need for and purposes of this legislation are so similar to those of Chairman Johnston that I also endorse the explanation of it that he provided when introducing his bill printed on pages S 9805–6 of the July 2d Record.

A CELEBRATION OF THE QUINCENTENARY OF CHRISTOPHER COLUMBUS' HISTORIC VOYAGE OF DISCOVERY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mrs. LOWEY of New York. Mr. Speaker, Columbus Day has special meaning to all of us, but it is especially important to Americans of Italian descent. This day is more than an observation of one man's exploration. Each year, on this occasion, we join in celebration of the rich and varied heritage of the Italian-American community, and we pay tribute to their myriad contributions to the development of our own society.

I look around my own community, and I am constantly reminded of the important contributions Italian-Americans have made to our lives. Italian-Americans have been entrusted with positions of leadership in public and private life in New York and around the Nation. In serving as stewards of the public trust, these proud individuals have been important in guiding the course of our Nation.

Furthermore, in every city, town, and village, through a wide range of charitable organizations, Italian-Americans in Westchester County have reached out in every direction to respond to the needs of our society. In doing so, they have helped others overcome adversity and achieve their personal goals. And, of course, we are all grateful to those who have preserved Italian culture in our communities and for the richness that adds to all of our lives.

This year, however, Columbus Day brings with it an added significance. In 1992, we are also celebrating the 500th anniversary of Christopher Columbus' courageous voyage across the Atlantic Ocean, and his discovery of the New World that has come to be synonymous with the birth of the American dream.

The landing of Christopher Columbus was not only a great feat in itself, but an event that changed the world. In addition to the 500th anniversary of Columbus' arrival on these shores, this year also marks the bicentennial of the first formal observance of Columbus Day in the United States. It was in New York City in 1792 that Italian-Americans first gathered in a ceremony to honor Columbus. The first of innumerable memorials in America to this discoverer was constructed that same year.

New York has continued to lead the Nation in honoring Columbus, becoming the first State to declare Columbus Day to be a holiday throughout the State, in 1909. That year, in New York City, a parade of prominent Italian-Americans marked the occasion. This parade has grown into a tradition which reminds all of us of the countless accomplishments of Italian-Americans.

I take great pride in representing the State which has never relinquished its lead in observing Columbus Day and in serving a distinguished Italian-American community as their representative in this Congress. It is our challenge today to have the courage of Christopher Columbus and to pursue missions that can broaden opportunities for all just as he did 500 years ago. With that spirit, we can secure the promise of the future.

TRIBUTE TO GEN. JAMES VAN FLEET

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. BENNETT. Mr. Speaker, the Nation suffered a tragic loss this week with the death of Gen. James A. Van Fleet at age 100.

General Van Fleet, a 1915 graduate of West Point, was one of the greatest Army generals that ever served this Nation. His career included decorated tours of duty during World War I, World War II, and the Korean war.

General Van Fleet is probably best known for his service in Greece from 1947 to 1950, when he led United States forces there, and as the commander of U.N. forces in Korea in 1951. Both Greece and South Korea credit General Van Fleet with rescuing their nation from communism in the volatile post-World War II period. Statues of the general have been erected in both nations.

I too remember General Van Fleet as a great man of Florida. He served as a professor of military science in the ROTC Program at the University of Florida as well as the coach of the Gators football team in 1923 and 1924. General Van Fleet died in his sleep in the State he loved, and I know that the people of Florida and the Nation mourn his passing.

COUNTRY MUSIC ASSOCIATION AWARD WINNERS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. CLEMENT. Mr. Speaker, in my congratulatory remarks to the Country Music Association award winners which appeared in the CONGRESSIONAL RECORD of October 1, the list of those who won awards was inadvertently omitted.

I would like to share the full list of winners at this time and, again, to them and the nominees, offer my heartfelt congratulations for making 1992 one of country music's best years.

NASHVILLE, TN.—Winners of the 26th annual Country Music Association awards:

Entertainer of the Year—Garth Brooks.

Male Vocalist of the Year—Vince Gill.

Female Vocalist of the Year—Mary-Chapin Carpenter.

Single of the Year—"Achy Breaky Heart," Billy Ray Cyrus.

Album of the Year—"Ropin' the Wind," Garth Brooks.

Vocal Group of the Year—Diamond Rio.

Duo of the Year—Brooks and Dunn.

Music Video of the Year—"Midnight in Montgomery," Alan Jackson.

Horizon Award—Suzy Bogguss.

Song of the Year (award to songwriter)—"Look at Us," Max D. Barnes and Vince Gill.

Vocal Event of the Year—Travis Tritt and Marty Stuart.

Musician of the Year—Mark O'Connor.

Country Music Hall of Fame—George Jones and Frances Preston.

STATEMENT ON H.R. 2164

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. CARDIN. Mr. Speaker, I rise in strong support of giving the President line-item veto authority on spending measures. As an original cosponsor of H.R. 2164, I am glad we have the opportunity to vote on this important piece of legislation today.

Serious concerns have been raised about whether a line-item veto might be an unconstitutional delegation of Congress' power of the purse. These questions have been considered thoroughly in crafting this compromise legislation.

This legislation allows us to move forward with the advantages of a line-item veto without amending the Constitution. It allows the President to focus attention on individual spending items without having to veto an entire appropriations bill. This power is accomplished by giving the President enhanced rescission authority. Under existing law, if the President rescinds spending authority, the Congress only needs to wait 45 days, and the spending is reinstated. Congress does not even have to vote on the proposal.

The legislation we have before us today, H.R. 2164, does not shift the balance of power between the Congress and the President. Instead, it creates a process for expediting the consideration in Congress of spending rescissions proposed by the President.

Mr. Speaker, reducing the Federal deficit is one of my highest priorities. While I do not believe the line-item veto or the enhanced rescission authority of H.R. 2164 will be a panacea for eliminating the Federal deficit, it will provide for the orderly examination of questionable spending projects, particularly those which escaped the review of the authorization process.

The frustration of the American people over the size of the Federal deficit and wasteful Government spending is real, and I share it. H.R. 2164 is a modest step, but an important one, toward increasing accountability in the budget process.

THE EXCELLENCE IN PUBLIC ARCHITECTURE AND SUPERVISING ARCHITECT RESTORATION ACT

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. SWETT. Mr. Speaker, I want to call my colleague's attention to legislation I have introduced that will help ensure better-designed Federal buildings—H.R. 6095, the Excellence in Public Architecture and Supervising Architect Restoration Act.

This week marks the public opening of an example of what can be achieved when Federal buildings are designed with an eye to posterity. I am referring, of course, to the new Federal judiciary building. This major project has been completed on time and under budget. Just as important, this project is a visual triumph which proves that public architecture does not need to be boring, pedestrian and—sometimes—downright ugly. My legislation will help ensure that future Federal building projects hew to the high standards set by this new jewel, rather than repeat the aesthetic blunders which have too often characterized Federal projects in the past.

Mr. Speaker, my legislation has two provisions. First, it parallels legislation introduced and passed in the Senate by Senator MOYNIHAN of New York which requires design competitions for important Federal building projects. Second, my bill adds to the Moynihan legislation by recreating the post of Supervising Architect within the General Services Administration. These two provisions will go a long way toward ensuring that the American taxpayer gets a good return on his investment in new public buildings—buildings which are not only functional but attractive; buildings whose design will stand the test of time; buildings of which this U.S. Congress and the American people can be proud. I urge my colleagues to support this important legislation.

TRIBUTE TO PEPSI-COLA CO.

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. FISH. Mr. Speaker, the most important decisions that this body will always make, and the most important debates of this election year, are on issues effecting our youth. Our Nations's survival and success in the 21st century rests on not only our natural and material resources, but on our human resources. How we develop these resources now, will determine America's future in the world.

In the private sector we've seen that successful companies look ahead, plan and prepare for their future through capital investment, technology, research and development. Because of such planning a number of companies from my congressional district in New York will lead their industry sector in the coming century.

Today I rise in recognition of one corporate constituent who, not only plans for the future through capital investments, but also invests in our Nation's most precious resource, our people.

Mr. Speaker, I'm proud of the initiatives that the Pepsi-Cola Co. has taken to invest in America's future by providing a program called the Pepsi School Challenge. The program is aimed at improving the education and self-esteem of our inner-city children.

Three years ago, the national dropout rate was 25 percent—the latest numbers show the rate is now stuck at 30 percent. Three years ago, the average dropout rate in inner cities was 40 percent for African-American and Hispanic children. On top of that, violence was at an all-time high. Three million students were attacked at school annually with a record number, 70,000 weapons assaults each year.

National news reports summed it up as a "near total breakdown in our public schools." While press reports were dim, Pepsi got to work to figure out a way to change those statistics. And they did. With the work of the Pepsi School Challenge Program. The premise: To change a school's culture—to challenge and improve the lives of each and every student.

Pepsi's concept was to set reasonable, reachable goals, and reward teachers and principals. They involved their local bottlers to act as mentors and role models for the students. They considered the program a partnership and entered into a cooperative agreement with the schools. A 4-year partnership in fact. To follow students from entry as freshmen to graduation as seniors.

To start, Pepsi focused on Americas neediest high schools to become national pilots.

They identified two schools: L.G. Pinkston High School in Dallas—where only 30 percent of the students went on to postsecondary education and Southwestern High School in Detroit—where the dropout rate was 33 percent.

The program was designed for the average student in below-average environment. To qualify for the program, students must maintain a "C" average or above, meet State-mandated attendance standards and remain drug free.

In return for successfully meeting these standards, students receive a $250 grant from Pepsi each semester to be applied to higher education after graduation. Students can earn up to $2,000 to be used for an accredited college, vocational school, or skills training program.

Perhaps one of the most important components of the program was the mentoring system. Money alone is not enough to keep at-risk students at school. Understanding the variety of student needs and figuring out ways to help meet these needs, the mentorship component linked teachers and Pepsi employees with students.

The success of this one-on-one attention was summed up by a student, "My mentor is no longer just my teacher; my mentor is now my friend."

Parents and guardians are encouraged to get involved as well. At Pinkston, a special Pepsi Parents' Center has been created where volunteers actively participate with the students and the schools.

Employees of the nearby Pepsi plants serve as real life role models and expose students to the world of business.

In those 3 years, many things happened. The highlights: 2,700 students have participated in the Pepsi Challenge and have earned $1,350,000 in Pepsi scholarship money. By the end of the pilot program in 1995, it is anticipated that this number will hit the $2 million mark.

In Pinkston, the dropout rate has been cut in half, 83 percent of 1990–91 graduates went on to postsecondary education and annual scholarship funding has increased from $169,000 to more than $1 million.

At Southwestern, the dropout rate has declined by more than one-third, 75 percent of 1990–91 graduates have gone on to postsecondary education.

That's the top line, but there's a lot more to it on a very real and personal level. Like the success of Alicia Martinez.

Alicia graduated first in the Pinkston class of 1991 with over $273,000 in scholarship funds. She is majoring in engineering at the University of Texas. Alicia is the first in her family to graduate from high school. Her mother is disabled.

Cacendra Washington is in the 12th grade. She watched her brother drop out of school in the 10th grade and make it on the street. She wanted to drop out too, but with her mother's encouragement and the structure of the Pepsi Challenge, she remained in school and is now second in her class of 150-plus students.

Taniqua Cater, a 1991 graduate of Southwestern and president of her senior class, received over $200,000 in scholarship money. Taniqua served as a mentor and member of her school's debating team. A single mother at 14, she represents the first generation of her immediate family to attend college.

That's what it's all about. Schools and students serving as positive agents of change. Developing their own solutions to the specific challenges faced by their student communities.

Last year, the Pepsi Challenge received the Labor Department's LIFT Award—Labor Investing For Tomorrow, which was established to honor creative solutions to the skills challenge faced by America's workers and America's employers.

Mr. Speaker, I am proud to highlight a program that ultimately benefits students, teachers, schools, communities, and business. The Pepsi School Challenge Program is making a very real difference in the lives of our youngsters.

TRIBUTE TO CONNIE HENSINGER AND BRIAN OSBORNE

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. GILLMOR. Mr. Speaker, I want to take this opportunity to salute two award winning employees at Continental Cablevision in Bellevue, OH.

I recently learned that Connie Hensinger, a customer service representative, and Brian Osborne, a service technician, were selected winners of Continental Cablevision's "Quality Customer Encounters" Program. I would like to congratulate these two individuals on receiving this high honor. I commend them for their good work.

Quality Customer Encounters is a training program that helps employees handle customer service interactions. The program puts the spotlight on employees who have shined in their fields of endeavor.

Mr. Speaker, employees who demonstrate a solid commitment to excellence are the lifeblood of the American economy. Connie Hensinger and Brian Osborne are two such employees, and they should be very proud of the recognition their company is bestowing on them.

TRIBUTE TO THE NEW JERSEY DELEGATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. CLINGER. Mr. Speaker, the New Jersey delegation is being decimated by retirements this year, Barney Dwyer, Frank Guarini, Matt Rinaldo, and Bob Roe—a star studded quartet if there ever was one. The State of New Jersey will be hard pressed to find abler representatives than these four gentlemen have provided on their respective committees: Barney Dwyer on Appropriations and Budget, Frank Guarini on Ways and Means and Budget, Matt Rinaldo on Energy and Commerce and Aging, and Bob Roe as chairman of the Public Works and Transportation Committee.

I have enjoyed knowing and working with them all. I have delighted in Barney's quiet humor from his vantage point as an honorary member of the Pennsylvania corner in the back of the Chamber. Or maybe the Pennsylvanians are members of Barney's New Jersey corner. Frank Guarini is a fellow Member of the class of 1978 who has been a good friend down through the years. And I have benefited from Matt Rinaldo's leadership as a member of the Select Committee on Aging where he has served with such distinction and caring concern for the Nation's elderly.

But it is Bob Roe with whom it has been my good fortune to work for the past 14 years. In fact, even before my election to Congress I benefited from Bob's friendship and good advice, for he was chairman of the Economic Development Subcommittee when I was chief counsel at the EDA.

If there is a harder working, more dedicated or more effective Member of Congress than Bob Roe, I do not know him or her. To call him a workaholic is a gross understatement. And nobody, I mean nobody, knows in detail more about each and every piece of legislation Bob Roe has brought to the floor than he does. He was a superb chairman of the Science and Technology Committee and remains a forceful advocate for space exploration as well as the superconducting super collider.

For the past 2 years—too short a tenure in my view—Bob has been our leader on Public Works and Transportation. But despite his brief time at the helm he has shepherded landmark legislation through the Congress. Most notable, of course, is the Intermodal Surface Transportation Act of 1991. The entire Nation is indebted to Bob Roe for his persistent refusal to give up when it looked as though the intransigence of the other body would kill the measure and stall transportation reform and highway construction for at least a year.

The other thing that I think sets Bob Roe apart is the style with which he has chaired our committee. Bob's objective has always been to do all he could to build America's infrastructure and he has never felt he had to be a partisan Democrat to do it. Highways and bridges, waterways and airports do not recognize party labels. And neither has Bob when it comes to the work of the committee. He has been more than fair to the minority Members and, in fact, Public Works is known as having the most equitable ratio of Democrat to Republican Members in the Congress.

I salute him for all he has done for America and wish him good fortune in his future pursuits which, knowing Bob, will be busy and productive.

OPPOSE THE BROOKS BILL

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. JAMES. Mr. Speaker, if H.R. 5096 comes to the floor in the closing days of this Congress, I ask my colleagues to oppose it.

I oppose H.R. 5096 because it violates the Constitution. When I was sworn in as a Member of Congress, I vowed to uphold the Constitution. I cannot in good conscience vote for a bill which offends the Constitution.

I want to make it clear that I think Congress is responsible to produce legislation that will guide telecommunications policy. Such legislation, however, should encompass the entire telecommunications industry. There is no reason for Congress to embrace a bill that shapes the future of telecommunications, but applies only to seven companies bearing the name "Bell."

This bill violates the Constitution in two respects. First, it violates the principle of separation of powers. Second, it is a bill of attainer.

First, H.R. 5096 offends the fundamental principle of separation of powers. Our Constitution requires that Congress make the laws, not adjudicate or execute them. By attempting to codify the modified final judgment [MFJ], the Judiciary Committee has crossed that line and attempts to fill the court's shoes.

The judge in the case involving AT&T and the Bell companies has already made decisions about the Bell's entry into various lines of business. This bill overturns those decisions and usurps the court's authority. It is not our function to intervene in a case the court has adjudicated since the 1984 breakup of AT&T.

Of course, there is nothing wrong with passing a law of general application that would apply to everyone or to a reasonable class.

However, this bill's only purpose is to change the rights of the specific parties in a specific legal action. Put another way, H.R. 5096 does nothing but change a final court ruling—and violate the separation of powers.

Second, H.R. 5096 is a bill of attainer, forbidden by the Constitution. Article I of the Constitution, which established Congress' legislative authority, mandates that "no bill of attainer * * * shall be passed." A "bill of attainer" describes any law that legislatively inflicts punishment on named groups or an identifiable entity. Accordingly, legislation that singles out companies by name is an impermissible bill of attainer.

H.R. 5096, by naming the seven Bell companies, clearly violates the Constitution's prohibition of bills of attainer. The bill essentially exempts other similarly situated large local exchange carriers in a way that discriminates against only the Bell-operating companies. As a result, while other similarly situated companies may enter into manufacturing, information services, and long distance, the seven Bell companies may not.

When the Judiciary Subcommittee held hearings about the need for comprehensive legislation to curb monopoly abuses, I publicly expressed my concern about legislation that named specific corporate entities. I suggested that this was a violation of the Constitution, and recommended language which would apply to all telecommunication companies that could abuse their monopoly powers.

This bill violates the core principle of separation of powers, and is a bill of attainer. I am left with no other alternative than to vote against a bill I believe to be unconstitutional. Instead, I hope that Congress will address this critical public policy issue with legislation that applies fairly to everyone, not just companies bearing the Bell name.

HELPING FAMILIES AND COMMUNITIES AFFECTED BY THE DEFENSE BUDGET ADJUSTMENTS

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. HOAGLAND. Mr. Speaker, on October 1, 1992, I testified before the Defense Conversion Commission and presented some thoughts and suggestions on how we can ease the transition for families affected by defense base closures and realignments. I would like to share my statement with my colleagues:

TESTIMONY OF CONGRESSMAN PETER HOAGLAND BEFORE THE DEFENSE CONVERSION COMMISSION

Chairman Berteau and members of the Commission, thank you for this opportunity to testify. My name is Peter Hoagland and I represent eastern Nebraska, including Sarpy County, the home of Offutt Air Force Base, headquarters of the Strategic Air Command.

Until June of this year, Offutt Air Force Base was the headquarters of the Strategic Air Command. SAC was the single largest employer in Nebraska, and its total Offutt payroll in 1990 was just under $400 million. Offutt has seen its authorized personnel decline since 1990 from 12,181 military and 1,958 civilians to 8,958 military and 1,386 civilians by mid-1992, a reduction of roughly 3,800 authorized positions. These figures do not include the accompanying reductions in non-authorized civilian personnel and the reduction in military dependents living in the surrounding community. The bulk of these cuts were in a relatively short period of time during the first few months of this year.

The community did not have very much warning that these reductions were coming. The Defense Base Closure and Realignment Commission had not singled out Offutt for significant reductions, so it came as a surprise to many when the Secretary of the Air Force announced a plan to restructure the major commands on September 17, 1991. The Strategic Air Command was to be inactivated. Many of SAC's functions and personnel were removed from Offutt. A new Strategic Command was to assume only a few of SAC's previous responsibility. On December 13, 1991, the specific impact of the restructuring on the affected bases was announced, and received the first reliable information about how severe the impact on our community would be. The Strategic Air Command was officially inactivated on June 1, 1992.

DEFENSE PERSONNEL AND EMPLOYEES ARE A VALUABLE RESOURCE—ADDITIONAL TRAINING IS THE KEY TO SUCCESSFUL ECONOMIC CONVERSION

Scaling back our defense establishment, the military and the defense industrial base, is taking a toll on many communities and it is taking a toll on many American families. One of the most serious challenges facing us as we downsize defense is creating opportunities for the displaced workers in jobs that offer pay and benefits comparable to, if not better than, the jobs lost. We can't leave the people who worked to win the Cold War out in the cold. After all, the House passed a bill last week to help 750 Soviet high-tech defense scientists and their families to bring their knowledge to America for the next four years. If we can take special steps to "re-employ" Soviet scientists, surely we can take special steps to "re-employ" our people.

We must capitalize on the highly skilled and competent people who will move from defense jobs to the private sector. We must recognize that they can bring valuable talents to many sectors of our economy. We have to improve our training and retraining effort to help defense and defense industry personnel move effectively into the private sector. This is a two-pronged challenge.

First, we must devote more resources at all levels of government to programs like the Job Training Partnership Act, student loans and adult education. We must promote measures like my bill to enhance technology training at the nation's community colleges. The community college network is the largest arm of American higher education. With its roots in the local community and its ties to the local economy, a community college is in the unique position of being able to design training programs to meet the demands of an economy in transition. Community colleges are especially advantageous for adults because of their low cost and flexibility in scheduling. Today, almost 50 percent of community college students are of non-college age.

The second aspect of helping former defense personnel move to the private sector is job creation. It seems to me that with the problems confronting this nation, there must be a way of stimulating new jobs in manufacturing, by, for example, using more recycled materials. With more and more communities collecting recyclables, many are finding that market for recyclables saturated and some local governments even have to pay companies to take their materials. Why can't we launch an all-out effort to reuse all this trash, to treat it as a resource? Some companies are making park benches and boat docks out of old plastic. Can't we do more of this?

After the Vietnam war, many highly-trained military medical personnel moved to our hospitals and clinics and brought to our health care system valuable medical skills and knowledge that were sharpened in the military. Medical science has advanced tremendously since that time. During Operations Desert Shield and Desert Storm we were able to erect "instant" hospitals in the desert. I hope we can help some of the displaced military medical personnel move to our civilian health care delivery system, particularly underserved inner city and rural areas. Similarly, there are military police, teachers and trainers, scientists and researchers, mechanics and electrical engineers who can no doubt bring their talents to the private sector. Why can't we help military trainers augment the teaching staff and fill the unmet needs of the nation's community colleges? My point is that we can benefit from the human wealth and excellent training of displaced military people and we should capitalize on it.

Job training and job creation go hand in hand. The two together are critical to a smooth economic conversion.

HOMEOWNER'S ASSISTANCE PROGRAM

I would like to bring your attention to some problems concerning the Homeowner's Assistance Program, which is administered by the Army Corps of Engineers and intended to offset the loss of property value of that may occur when a base closes or realigns. Service members or civilian employees who accept reassignment or who lose their jobs because of the base closure or realignment and who cannot sell their home at a reasonable price may qualify for assistance.

Altogether, nearly four thousand people have been reassigned or lost their jobs in the past year as a direct consequence of the downsizing of Offutt Air Force Base in my district. Because the cutbacks at Offutt were primarily from the inactivation of the Strategic Air Command and secondly from realignments associated with the Defense Management Review, many of the military jobs lost were SAC officers or civilians involved in management. As these service members move to their new assignments, or as the people who have lost their jobs relocate to find new ones, an excess of housing has accumulated in some sectors of the regional market.

I have received many letters and telephone calls from service members and their families who must relocate but will lose money in selling their homes. Driving down some of the streets of Bellevue, the community closest to the base, one sees "For Sale" signs in many yards. Some families have been split up because they cannot afford to keep up the mortgage payments on their homes in Nebraska as well as rent accommodations for the whole family where the service member has been restationed, so the family stays behind in the home until they can find a buyer.

Many of these people purchased homes because they were transferred in a Permanent Change of Station, and they expected to remain in the area for some time to come. However, the restructuring of the Air Force, combined with the cuts resulting from the end of the Cold War and budgetary pressures, has meant that many people were transferred out again sooner than they had anticipated. Their property has not appreciated enough in the short period of time for them to recover the closing costs and sales commissions, and since these are not reimbursed under the HAP, they would have to take a loss if they sold their home, even if there has not been any decline in the market as a consequence of cutbacks at the base. An examination is warranted to determine whether costs other than the sale price of the home should be reimbursed by the HAP and what the appropriate extent of any such reimbursement would be.

I hope new regulations can be issued in time to help some of the people in my district who have not yet been declared eligible for assistance. I also hope our experience in Nebraska will show what changes are necessary and will help the personnel who will be relocated as a result of future base closures and realignments.

This is important for the families affected and for the stability of the local real estate market. And it is important to the taxpayer. Given our experience with the Resolution Trust Corporation and its difficulties in disposing of properties that have come into its hands, we should know that the government should seek to avoid taking over or otherwise acquiring mortgages of properties, because it is simply impossible for even the best intentioned government bureaucracy to become an efficient property manager comparable to the marketplace. This lesson should be borne in mind by those administering the Homeowner's Assistance Program. We should try to get more of the money in the program in the hands of beneficiaries and encourage them to sell their property and keep it in private hands rather than have that money going towards the administration of properties acquired by the government. I suspect in the long run that will prove to be the least costly approach we can follow.

ENVIRONMENTAL CLEANUP

We need to continue to expand the Defense Environmental Restoration Program. I believe our environment is an essential element of our national security and that we will never have as great an opportunity as the present to repair environmental damage associated with the necessities of the Cold War.

Our national security organizations cannot evade their responsibility to clean up after themselves. To fail to do so would alienate many of our own citizens. It would also impair our ability to negotiate extensions of treaties allowing American military bases abroad. Our allies would not trust us to be environmentally responsible in their countries, if we do not behave that way in our own country, and they will ask for more stringent and costly guarantees against environmental hazards.

That is why I believe it is consistent with our national security to provide for environmental restoration within the defense budget. Environmental rehabilitation of areas which have suffered degradation from military use also is key to economic conversion, and therefore of specific interest to the members of this commission.

The property occupied by military installations is a valuable resource. However, we cannot take advantage of those resources if businesses do not feel secure moving into these areas or purchasing the lands because the property is contaminated. Nor are banks likely to lend if the property involved is likely to be polluted. Thus, environmental cleanup is key to making sure we get our full value from the properties.

When I am home in Nebraska, I hear a lot of concern about a dump site in Sarpy and Cass Counties where asbestos-covered pipes represent a health hazard or I hear about the fears of western Nebraskans of the impact of a proposed low-level nuclear waste facility. Here in Washington, the *Post* has headlines about the damage caused by leaks and spills at a tank farm in Virginia. Accelerating the environmental cleanup of military facilities could employ many people. Even though it may not help in any of the specific cases I just mentioned, there will be many more such cases in the future where we will need skilled people to fill the demand for jobs in these environmental fields.

Members of the military have many of the important skills necessary to carry out this clean up. Some have experience handling hazardous materials and with additional retraining can become skilled clean up workers. We need to develop and make use of these skills while these individuals are still in the service. By training and using active duty military personnel for environmental restoration, we are also building a skilled workforce for what could be an expanding sector of the economy.

The shrinking of the military will be painful for many people and many communities. My goal is to lessen that pain as much as possible. We owe it to thousands of military and civilian families who have sacrificed for their country and devoted many years to the protection of our country.

UNITED STATES NO LONGER WILLING TO TOLERATE INDIAN BRUTALITY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. BURTON of Indiana. Mr. Speaker, before the 102d Congress ends and we return to our districts for the November elections, I want to once again call your attention to the tragic suffering which is taking place in Indian-occupied Kashmir and Punjab.

Earlier this year, I offered an amendment to the House foreign operations appropriations bill to cut $24 million in developmental aid to India. I offered this amendment to demonstrate that the United States is no longer willing to tolerate Indian brutality against the people of Kashmir and Punjab. In a historic vote, this amendment passed by a 219-to-200 vote.

For years, the U.S. Congress has expressed sympathies for the people of Kasmir and Punjab through "Sense of the Congress" resolutions, bill report language, and behind-the-scenes diplomacy. We must now face facts. These policies have resulted in no change at all in India's policy of repression.

Mr. Speaker, actions speak louder than words. In June, the House of Representatives acted when we voted to cut United States foreign aid to India. Unfortunately, the Senate did not make a similar cut in their foreign operations appropriations bill, and instead, has adopted the same old policy of appeasement toward India.

If the conference committee, which must resolve differences between the House and Senate foreign operations bills, adopts the Senate position it will be a tragedy. Every minute we maintain a policy of appeasement toward India, another person dies in Kashmir and Punjab.

On September 22, 11 Kashmiris were killed, 6 of them beheaded by Indian paramilitary forces, during house to house searches in Buchpora and Sovra—northeast part of the Capital City of Srinigar. The entire area has been under a crack-down the last 3 days including warrantless searches and endless curfews.

On September 27, Abdullah, 25-year-old son of Rustum Akhoon of Kushi, Kupwara, 64 miles north of Srinigar, was taken into custody on his farm. After several hours his dead body was found on the street in Kushi.

At the same time, the killing also continues in Punjab. Some estimates indicate that Sikhs are being killed in extrajudicial murders at a rate of 30 to 40 each day. And still, the so-called world's largest democracy refuses to allow access to internationally recognized human rights organizations like Amnesty International.. Sikhs simply ask for freedom and instead they receive brutal oppression. America must not stand for such a situation. I urge my colleagues to join my efforts to bring peace and freedom and human rights to the Sikhs and all South Asia.

Mr. Speaker, I submit for the RECORD an open letter from Dr. Gurmit Singh Aulakh, president of the Council of Khalistan to Indian Prime Minister P.V. Narasimha Rao. I hope that when the 103d Congress convenes next year that all my colleagues devote serious attention to the suffering people in Kashmir and Punjab.

SIKHS WILL NOT SUBMIT KHALISTAN ZINDABAD

Mr. Rao: It is the policy of your government to crush the movement for Sikh freedom with all violent means at your disposal. You have sent your henchmen to the killing fields of Khalistan. Your jeeps thunder through the dark roads of Punjab: Operation Night Dominance is in full swing. You undertake this operation to reclaim the night wrongfully seized by the "Sikh militants" you and your party seem so fond of reinventing. Mr. K.P.S. Gill revels in the blood he spills while your cronies in New Delhi cheer him on—rabid with each new, fresh kill.

Mr. Rao, you cannot hide the moral decay of your government. It has descended to a level unbecoming of the stature you hope to portray to the world community. You have brought to full fruition the reign of decadence in India. Continue to kill for your political life, Mr. Rao. One reaps what he sows. In the end the Sikhs will survive; we will have our freedom, and you will be left to face yourself and the misdeeds you so wrongfully perpetrate against the innocent.

It is well that you know Sikhs will not submit to your tyranny, Mr. Rao. We have embarked upon the road of freedom and would betray only ourselves by turning back now. And it is right that we remain on the road we have chosen. We struggle for control of our homeland, Khalistan—the land rightfully ours.

In your hubris, you forget that you have no mandate to rule over the Sikh nation. Never has any such arrangement been agreed upon by our two nations. Your arrogance, perhaps, has led you to assume so, but you are simply mistaken. You are purportedly a scholarly man, Mr. Rao; you need simply reread your history to discover that to this day, no Sikh has signed the Indian constitution. This clearly means that you have no legal right to rule in Khalistan. Under Indian domination the Sikh destiny is one of oppression, needless suffering, and constant challenges to our very existence. We do not need India in Khalistan. We want to control our own destiny, thank you. With all due respect, Mr. Rao, you and your occupying army can go now.

In the long run, this will be in India's best interest. For as I have tried to make perfectly clear, the Sikh nation will not submit. Since 1984 your government has killed over 100,000 Sikhs. Today over 38,000 Sikhs languish in the prisons of the so-called world's largest democracy without charge or any chance of getting a trial under draconian laws that would earn the envy of Vladimir Lenin. Every day, 30 to 40 Sikhs are killed in extrajudicial murders. With particular relish, your police and paramilitary forces humiliate Sikhs, torture Sikhs, rape and murder Sikhs. We have not submitted yet; we shall never submit.

While you carry out your oppressive policies, I am hard at work exposing your tyranny to the international community. It is with the least bit of compunction that I inform you, India is now considered one of the worst violators of human rights in the world. As you well know, the United States House of Representatives has voted to cut 24 million dollars in U.S. aid to India in protest of your violation of human rights against the Sikhs. Governments in countries like Germany, Japan and Norway have taken steps in the same direction. The world wants to know: What is India trying to hide?

International human rights organizations have uncovered your police state apparatus and are spreading the word. On a regular basis, Urgent Action reports from Amnesty International come across my desk describing extrajudicial murders, fake encounters, unlawful arrests, torture in detention and "disappearances" committed by Indian police against Sikh men, women and children. Asia Watch has revealed that "Virtually everyone detained in Punjab is tortured." Amnesty International says torture is daily routine in everyone of India's 25 states.

A few months ago I met a Sikh man who came to America after suffering torture at the hands of the Indian government. Your police spread his legs apart, tearing his groin muscles and rolled an iron bar up and down his legs with the weight of two officers on each side, crushing the muscles in the thighs.

It seems, however, that your police were not to let the mere fact of his absence restrain them from practicing their art of torture. His wife and family became their next target. Both the wife and her father were brought to the local police station where they were ordered to strip each other naked and beat one another with bamboo sticks.

In another instance, the police took the family's 7 month old daughter, poured molasses over her body, placed her on top of an ant colony, and watched as she was eaten away at by the ants. The mother was forced to watch this sadistic scene. When she protested, the police responded with more torture. Today she remains bedridden. It is difficult to tell if she will ever fully recover.

Or take the case of Chimna village near Jogram. Recently, police descended on the village and gathered all its inhabitants from their houses. The S.S.P., Swaran "Ghotna" Singh ordered that four beds be brought from the houses and commanded the father of one girl to strip her naked. The Sarpanch of the village objected and was promptly beaten. Again the father was ordered to strip his daughter naked. Upon refusal, he too was beaten mercilessly. Others refused and were beaten as well. In the end, four girls were forced to be stripped naked. The S.S.P. then took the girls, tied them to the beds by their hands and feet and tortured them. The villagers were forced to watch this atrocity under threat of violence. When he felt his mission to torture these innocent girls completed, the S.S.P. then took the entire village into custody where they were humiliated and many of them reportedly beaten.

Incidents like this are sadly commonplace in today's Punjab, Mr. Rao. It is more likely that Mr. "Ghotna" Singh will receive a promotion than punishment for his crimes. You support such tactics, and since 1978 the government you serve has refused to allow free access to international human rights organizations like Amnesty International for the purpose of investigations. You put on a show of standing strong against the tide of world opinion, but the question remains: What is India trying to hide?

You say you have nothing to hide, and now you have a brilliant plan to "prove" it, do you not? You're going to set up a human rights commission. Apparently you want the world to believe that such a commission will act independently of your political concerns. At this suggestion the world can only laugh. Your judiciary cannot find enough courage to act independently; what makes you think things will be different for a government appointed commission? This plan will get nowhere fast, Mr. Rao. Stop skirting the issue and allow Amnesty International access. Refuse, and the world must ask: What is India trying to hide?

Sikhs know exactly what you are trying to hide, and we will continue to expose you. With the force of violence you seek to deny us the freedom we rightly deserve. You attempt to frame the issue in the context of "law and order," but the real issue is freedom. You attempt to label Sikhs as "terrorists," but the Indian government is the real terrorist. You attempt to win the hearts of Sikhs with false promises of peace and prosperity, but your real intention is domination. The Sikhs nation turns its back on you and the Indian government. We will not again fall victim to your lies. We know the Indian government all to well, and we know that our survival can only be guaranteed through the outright independence of Khalistan. The Punjab is our homeland, and we shall see the day of its liberation. In the face of our determination, all the strength of your police state force is mere weakness. We will not submit. We will not be destroyed. Khalistan will be free.

DR. GURMIT SINGH AUALKH,
President, Council of Khalistan

BUCK OWENS FULFILLS HIS DREAM

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. CLEMENT. Mr. Speaker, Buck Owens, one of the most popular country music entertainers of all time, was recently profiled in an Associated Press story.

I would like to share that profile with my colleagues. Buck Owens is a great pioneer in the field of country music and deserving of recognition by a wide audience:

NASHVILLE SOUND: BUCK OWENS FULFILLS HIS DREAMS

(By Joe Edwards)

NASHVILLE, TN—Country music veteran Buck Owens told an audience in Fort Worth, Texas, last year:

"You know folks, when I was a little bitty kid, I used to dream about playing the guitar and singing like some of those great people that we had the old thick records of."

His dreams came true. Owens, 63, can look back on a career in which he played a flashy red, white and blue guitar and sang on records for more than 30 years.

His honky-tonk twang shaped the sound of country music and kept the style alive in the mid-1960s when popular music was dominated by the Beatles and other rock 'n' roll groups.

Owens also had a highly visible TV career as the grinning co-host of "Hee Haw" from 1969 to 1986.

His musical legacy has inspired "The Buck Owens Collection," just released by Rhino Records. It is a compilation of 62 of his records, including his hits, rare B sides and recent duets with Dwight Yoakam, Emmylou Harris and Ringo Starr.

The release is part of Owens' increased visibility these days. "Hee Haw" is in reruns for the next year and Owens will be included in most of those shows. Although he describes himself as semiretired, he also does a few concerts and plans to do one overseas tour each year or so.

"I only do fun things," he said in a telephone interview from his office in Bakersfield, Calif.

His recording career was one of the most illustrious in country music history. He had 20 No. 1 records, most of them from the mid-1960s to the mid-1970s.

They include "Together Again," "Act Naturally," "I've Got a Tiger by the Tail," "Love's Gonna Live Here," "My Heart Skips a Beat" and "Waitin' in Your Welfare Line."

And he's the answer to this music trivia question: What country music star had a record that was later done by the Beatles? Owens' "Act Naturally" in 1963 predated the Beatles' version by two years.

More recently he and Dwight Yoakam had the No. 1 record "Streets of Bakersfield" in 1988. In 1989, Owens and Ringo Starr did a duet recording of "Act Naturally."

He said the 62 songs on "The Buck Owens Collection" are just part of his body of work.

"There are probably 700–800 songs in the vault," Owens said. "There are a lot I don't remember."

He said he saw a similar project a few years ago on Eric Clapton and agreed to cooperate on a compilation of his own music.

"There are some songs I wouldn't have put in there because they are not very good sounding or very representative. But they are part of the story, so I said go ahead."

He welcomes the rebroadcasts of the old "Hee Haw" shows, now called "Hee Haw Silver" to mark the program's 25 years on the air.

"'Hee Haw' means the most to the real dyed in the wool country music fan. I feel good about the show and look forward to seeing it. I think it's going to be greeted with a lot of enthusiasm by people wanting to see Junior (Samples), Stringbean and Archie (Campbell) again."

He's regarded as a strong candidate for the Country Music Hall of Fame. But he has yet to make the yearly list of five finalists.

"If I belong in the Hall of Fame, I belong because of how well I made music," is his stock reply to questions about it.

Rhino Records, promoting "The Buck Owens Collection," referred to him as a "pioneer" in its media kit.

"I know I pioneered some things, no doubt," he said. "I don't really know how to feel about it.

"I never think about it except to know that I'm happy to have been a part of it and to have gotten the opportunity. I showed up on time and didn't get into trouble. I had a wonderful upbringing and practiced good habits."

Behind the scenes, he wrote much of what he sang, plus the Ray Charles' hit "Crying Time." He currently owns the Real Country satellite country music radio network.

"We're up to about 100 stations now, and just added Atlanta and Pittsburgh," Owens said. "It plays more of the older songs and that's why it's doing so well.

"Last weekend we had a tribute to all the pioneers of country music. I don't know whether they included me or not."

FAMILY OF DISTINCTION

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. WAXMAN. Mr. Speaker, we ask the House to join us in saluting a remarkable family, Bruce and Toni Corwin and their sons David and Daniel, who will receive the Family of Distinction Award from Temple Emanuel of Beverly Hills on November 7, 1992.

Following in the footsteps of his father, the late philanthropist Sherill Corwin, Bruce Corwin is a major figure in the movie theatre industry. In keeping with the traditions of his late father and his mother, Dorothy, Bruce has dedicated himself to community service. He is particularly devoted to the Multiple Sclerosis Society and organizations benefitting children, such as the Los Angeles Children's Museum and the Beverly Hills Educational Foundation.

Toni Corwin is an extraordinary person who balances family obligations, career, and charitable activities. Especially notable is the leadership role she has played as board member and former president of Temple Emanuel. She has devoted her time to children and young people whose development and opportunities depend on the vital work of organizations such as the Maple Center and the Beverly Hills Educational Foundation.

Toni and Bruce's sons have distinguished themselves academically and in the community. David, 22, earned his bachelor's degree at Georgetown University and is currently studying law at the University of Southern California. Daniel, 20, has just begun his third year at the University of California, Santa Barbara.

We congratulate the Corwins for their selection as the Temple Emanuel's Family of Distinction. We wish them good health and many years of continued success and dedication to our community and its charitable institutions.

THE TALK OF THE TOWN

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. JACOBS. Mr. Speaker, I cannot recall ever reading anything in the New Yorker that was not excellently written.

The following is no exception.

[From the New Yorker, Sept. 30, 1992]

THE TALK OF THE TOWN

NOTES AND COMMENTS

With thousands of people dying of starvation every day in Somalia, the outside world is at last paying attention. In the famine there, it is estimated, a hundred thousand Somalis have already died, and relief officials predict that the final death toll will be over a million if food aid does not increase quickly and substantially. An enormous relief effort, paid for by the United States, Great Britain, France, German, and Italy, was begun last month, and journalists have arrived from around the world to witness what *The Economist* has called "a brave attempt to save a dying country." Part of the credit for the new interest in Somalia belongs to Boutros Boutros-Ghali, the United Nations Secretary-General, who last month pointedly observed that the world seemed much more concerned about Yugoslavia than about Somalia, even though the civil war in Somalia had lasted longer and caused more deaths and displacement than what he called "the rich man's war" in Yugoslavia. But it is now clear that Boutros-Ghali's words were heeded too late. A recent story in the Times noted that relief officials "are discovering that the country's famine is far worse than previously believed and that current efforts . . . are falling far short of what is needed to ease the crisis."

"The world has been acting as if this problem had just arisen," says Rakiya Omar, who is the executive director of the human-rights group Africa Watch and is herself a Somali. "But this is entirely a man-made famine. It is a famine with a history. The world knew it was coming for 18 months." Although Ms. Omar overstates the case somewhat—it is not just civil war but also four consecutive years of drought that have brought hunger to Somalia—there is no denying that the world was alerted to the impending famine well in advance. The United Nations estimated this spring that 2½ million people in Somalia would need emergency food aid at some point in 1992. The U.N. put the number of people at risk in the Horn of Africa (Somalia, Ethiopia, Djibouti, and Sudan) at 19 million and in Africa as a whole at 42 million. Private aid groups echoed these warnings.

The problem—a recurring one—is that governments don't mobilize against hunger until it is too late; in effect, they wait until the battle is lost before sending in reinforcements. As for news organizations, they seldom or never bother to cover the hunger story until large numbers of people are dying. "If you aren't talking about ten thousand people falling over dead from hunger, it's not a story in the newspaper," Brigette Menge, of the Red Cross, has said. "If instead you need a vaccination program to keep farmers' cattle alive so they and their families can avoid falling into the destitution that leads to starvation, it's not sexy enough to interest the media."

Nor do either journalists or donor governments necessarily trust the famine alerts they receive from aid agencies. The United Nations estimates of the number of people at risk are viewed with particular dubiousness. In 1991, for example, the U.N. estimated that thirty-two million Africans would need some emergency food aid. When the end of the year came and nowhere near that many people had died, the U.N. was accused of crying wolf in order to justify its bureaucratic existence and pad its budget. Stephen Green, an expert with the U.N.'s World Food Program, who is responsible for estimating Sudan's food needs, recalls attending a meeting in Khartoum last December with officials from the United States Agency for International Developments, the European Community, and various Western governments, and says he "encountered some skepticism" there, adding that in his report estimating food needs for 1992 he had to deal with the question of why there weren't thirty-two million corpses littering the African bush.

If by famine one means vast numbers of people dropping dead at the same time, then famine is actually the last stage of a long process of gradual decline. The key to preventing such catastrophes is to intervene early, before the decline can accelerate to the point where it is impossible to reverse. By repeatedly waiting until Africans are only two steps ahead of death before addressing the problem, donor governments and the international media end up reinforcing the fatalistic belief that famine is an ineradicable part of the natural order in Africa. The fact is, however, that there is little disagreement among specialists about how to alleviate hunger. Relief aid is essential in emergency situations like present-day Somalia, but charity can never be more than a stopgap solution. In the short to medium term, real progress is impossible without an end to war and to the disruption of planting, harvesting, and over-all economic life that war causes. beyond that, what people need is practical, basic arrangements that enable them to better their own lot, such as access to clean water, education, and health care. In short, they need justice and development, not last-minute handouts. Now that the international community is trying to relieve the misery in Somalia, it must realize that merely to resuscitate this dying nation, as difficult as that will be, is not enough. There are Somalias-in-waiting throughout Africa and the rest of the Third World—Mozambique, Sudan, and Afghanistan, to name only *three*. Like Somalia a year ago, they are on the verge of a situation that will claim countless lives and cripple their societies for generations to come. If the world learns nothing from Samalia, here will be the famines next time.

CONSEQUENCES

Ric Burns, who, with his brother Ken, produced the PBS documentary "The Civil War" 2 years ago, has produced a new documentary for PBS. Like "The Civil War," this one, to be broadcast on October 28, relates the events of a shameful chapter in 19th-century American history. The format will also be familiar: the slow pans across sepia-toned photographs, the readings from diaries, the haunting music. But this documentary will not be accompanied by the release of 250,000 copies of a glossy coffee-table book and a storm of media coverage. And it will probably not be discussed much at America's dinner tables. It's called "The Donner Party."

We called Ric Burns recently, at his office at Steeplechase Films, here in New York, while he was working on the final cut of the film, and asked him how he got the idea of making a documentary about one of the most famous entries in the annals of cannibalism. This is what he said: "Eighteen months ago, I was sitting on a beach in Miami reading one of Ray Billington's histories of the frontier, and the story of the Donner Party was in it, which I'd read about in bits and pieces before. But this was the first time I'd read an account of Lansford Hastings' role in it. Hastings is a kind of Sam Houston figure without the right stuff. There's something about a guy with no sense of consequences that's completely American, And I was stunned to find out that no one had treated it in documentary form. The story is so compelling. It's like an iron chain of linked coincidences, causes, and effects; it's as if the gears of the story get hold of you and wind you out the other side."

Burns and his co-producer, Lisa Ades, spent months following the Donner Party's ill-chosen trail across Wyoming, Utah, Nevada, and California. They were amazed to find a few Americans who not only knew the obscure story but could "pick up a rock and show you the rust from the iron tires" of the Donner Party's wagons. They found that the tire ruts made by those wagons are still visible from the air above the salt flats of Utah, but that there are no known photographs of George and Tamsen Donner, for whom the party was named.

The family's name was attached to the group out of respect for the Donners' wealth: they had three wagons loaded with goods that ranged from bolts of silk to watercolors and a quilt with ten thousand dollars in bills sewn into it. The Donners set off for California from Springfield, Illinois, in April, 1846, with another wealthy family—James Frazier Reed and his wife and four children, who were travelling in an opulent two-story wagon fitted with spring-loaded seats and its own iron stove. The Reed's daughter, Virginia, called it the Pioneer Palace Car. There were also a dozen less well-to-do families, including that of Patrick Breen, an Irishman with seven children, and there were a number of single men, who just wanted to see the West. Altogether, there were eighty-seven people. Forty-six would survive.

They all ran into trouble long before they reached the pass in the Sierra Nevada Mountains of California, where they faced snow and starvation. In Utah, they lost precious days breaking a trail across the Wasatch Mountains, trusting in the word of Lansford W. Hastings, a reckless young adventurer who claimed, in a book that the Donners brought with them, to have discovered a route to California that was 400 miles shorter than the known way. Hastings had never travelled this route in a wagon, and the party ended up having to cut through 36 miles of heavy brush. Then, in crossing the Great Salt Lake Desert, they discovered that Hastings' route through it was twice as long as the old route; the crossing took them five waterless days and nights, during which they abandoned most of their possessions, including the Pioneer Palace Car. At the end of October, weeks behind other wagon parties, which had already crossed the mountains into California, the Donner Party reached the pass, where a few feet of snow had fallen. They decided to rest for a night before crossing. That night, it snowed heavily, and in the morning there was no getting over the mountains.

While some twenty-two feet of snow fell on them in the course of that winter, the members of the Donner Party were forced to camp next to what is now Donner Lake. They ate what little meat was left from their cattle, then their dogs, then the boiled hides of their animals, and, finally, as some of them died, each other. A group of fifteen struggled on homemade snowshoes over the pass, only to be buried by a furious blizzard on Christmas Eve; miraculously, seven made it alive to the Sacramento Valley. In all, it took four relief parties four months to bring out the other survivors.

Ric Burns, in pursuing approval and funding for his project, displayed the now famous Burnsian refusal to take no for an answer. He told us, "PBS was sort of reluctant. The story is so patently gruesome. But there's a weird, uncanny poetry to it. What sold PBS on it is that the horror of it actually composes the tale, in a very unusual way: the larger events of 1846 seem to move these people implacably toward their fate. There's a strange kind of guilt that attaches to the Donner Party, as if they were being punished for something. The story inspires a compulsion to repeat every detail, as if, somewhere, someone had done something wrong—as if some form of hubris were at work."

WOMEN AND MINORITIES IN SCIENCE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. GREEN of New York. Mr. Speaker, on September 16, 1992, Representative TIM VALENTINE and I sponsored a briefing on the status of women and minorities in science. I am pleased to commend to my colleagues the statement of a panelist at that briefing, Dr. Frances Conley, chief of neurosurgery section at a VA medical center.

STATEMENT OF DR. FRANCES CONLEY

Representatives Green and Valentine and distinguished panel members: I very much appreciate having the opportunity to meet with you today.

In 1956 the Olympic Games were held in Melbourne, Australia, and the longest distance that women were allowed to run in competition was 200 meters. Women did not run a 1500 meter race until 1972, and it took twelve more years, 1984, until the world first saw a women's Olympic marathon competition. I think it is important to explore why this prohibition against distance running for women persisted for so very long, because much of male thinking and control over women carries over into other aspects of women's lives as well. Pure and simple, women were not thought capable of running anything greater than 200 meters, and some reasons given for this incapacity are embedded in unfounded, unstudied scientific myths that have been perpetuated about women for many hundreds of years.

One such myth is that distance running leads to uterine prolapse, and meet directors didn't want to be held responsible for flooding gynecologist's offices with women suffering from displaced reproductive organs. Ergo, women were prevented, sometimes physically, until quite recently from entering distance running races. There is, of course, no specific proof whatever that distance running contributes to an increased incidence of uterine prolapse, and, that, in actuality, women who are in good physical condition are far less apt to suffer from this abnormality than are their sedentary sisters.

The lack of feminine input into scientific investigation has meant that little effort has been directed at defining that which is "normal" for women. After all, scientists are human, and mostly male, and it is a human characteristic that we tend to be interested in studying matters that affect us on a personal level. Thus, a quasi science, rooted in theory and male misconceptions, rather than actual facts, has been perpetuated unquestioned through the years about "female problems". We live today with the legacy left us by turn-of-the-century male physicians who truly believed that "It was as if the Almighty in creating the female sex, had taken the uterus and built up a women around it", or that "woman has a head almost too small for intellect but just big enough for love".

The message that persists today from this legacy is that, for women, the dominant, life-directing organ is the uterus, and the brain but a secondary appendage, attached, with a bit a luck, to a beautiful face. Women continue to be valued in our society today far more for their physical appearance and reproductive capabilities than for their ability to think. The myths continue: that to pursue a career with vigor and talent somehow diminishes one's femininity; that a demanding career, as in science or medicine, must be pursued at the expense of a happy family life; that a working woman who does choose to combine career and family somehow is not as intelligent, and certainly not as dedicated as men, or even those women who are willing to sacrifice "true happiness" for that chance to get to the top. And, probably the worst myth, and one that continues to be reinforced by our educational system today, is that, like distance running, women do not have the capability or requisite brain structure to succeed in science or mathematics. Negative reinforcement is very powerful; you tell a young girl often enough that she isn't capable of doing something, she may try it, but she will find that she is, indeed, not capable of doing it. Instead, girls and young women are channeled into educational programs that lead to vocations that are societally acceptable, quashing any dormant aptitude for engineering, physics or molecular biology.

And, what happens to those few women who surpass the hurdles, prepare superb dissertations in statistics, finance, or emerge from a training program fully qualified in orthopedic or cardiovascular surgery? Their work world is one where they are considered to be freaks, aberrations of nature, and, worst of all, not as competent as their male colleagues. Despite high visibility, most will contend with an undercurrent of an inferior status for their entire professional life. One of my male patients, from the legal profession, was asked by a colleague during the course of a cocktail party, "Surely you didn't let a female neurosurgeon operate on you, did you?" Because of the paucity in numbers, many professional women in the sciences are isolated in their jobs, deal daily with subtle hostility and harassment that erodes self confidence such that the net effect becomes the incessant need to ask oneself, "Am I really as good as they are?"

All of us are living with the results of perpetuation of stereotypic thinking and perception, something all of us are guilty of, such as the automatic assumption that a surgeon is a man and a nurse is a woman. But, the unwillingness to relinquish traditional thinking and behavior has had enormous ramifications on the base of scientific knowledge in this country; in health issues this base is far better defined for masculine pathology than it is for feminine pathology. I remember being carefully taught during my medical schooling that fortysomething women seeking medical care were usually depressed and that most complaints, regardless of the substance of the complaint, could be managed with antidepressants. On the other hand, fortysomething men did not generally go to doctors, so if one showed up in your office, he should be taken very seriously because his symptoms undoubtedly would prove to have pathological significance. Why shouldn't forty-plus women be depressed? Their worth to society is gone—they are no longer beautiful in the head-turning manner of their evanescent youth, and reproductive capacity for most, is over. They join an invisible population, revered on an individual basis as someone's mother, aunt, sister, and wife, but, in actuality, on a societal level, they have become expendable. In the business world one does not throw money at an expendable commodity, so very little research money or time has been devoted to health concerns that keep aging women from living as good a quality of life as possible.

Studies delineating the effect of additive calcium, exercise, replacement hormonal therapy, a daily tablet of aspirin, on the longevity and quality of that longevity in the lives of women are in their infancy. Because of many years of sophisticated scientific research, a simple blood test can now detect the second most prevalent form of cancer in men—prostatic carcinoma. By contrast, women must get an expensive yearly exposure to a small dose of radiation to find the breast cancer that poses the second biggest threat to life from malignancy for them.

The real question is how do we as a society effect change, promulgate those actions necessary to dispel lifetimes of prejudicial and inaccurate thinking. Women can appear at hearings like this and rant and rave, gnash their teeth, vent anger—cry—but to what purpose? There needs to be affirmation in this country that while no human beings are created equal in terms of intellect, athleticism, beauty, musical talent, etc. that each of us is equal in having the right to develop ourselves to the maximum of our individual potential. That equal right will be realized only when educational and occupational environments are provided that are free of hostility, put-downs and second class citizenship for females and minorities. We are shackled with a mind-set that women are "fair game"; if a woman is harassed or raped somehow it becomes her fault. Our legal system and institutional structures work to make vulnerable victims, victims yet again. And, we all recently saw a major political party negate the very existence and accomplishments of the working women of this great country.

For those of you in positions of power to effect change, think of your daughters and the world you are asking them to live in and compete in. Until the cycle of pervasive privilege enjoyed by white males as their birthright ceases to be the definition of normative culture, equality for women and minorities in math and sciences will not be possible. There was an article in the Wall Street Journal on Friday, 11 September, written by David Stipp detailing the gender gap produced by our present educational system. In schools your sons will be praised for doing a job well; by contrast, your daughters will be praised for being a good girl. I believe one hope for the future, interestingly, comes from Title IX legislation, even though, to date, it has been imperfectly implemented. For the first time ever we have a generation of American women who have been encouraged and provided the opportunity to pursue competitive sports from the time they were children. Girls and women are learning about mental commitment, a killer instinct, a chance to be lauded as number one, and how lessons from competitive athletics apply to other playing fields in the passage called "life". However, considerable work remains if we are to end the discrimination that begins the minute an obstetrician announces, "It's a girl!"

ACT TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 3, 1992

Mr. MOORHEAD. Mr. Speaker, today, BILL HUGHES and I are introducing legislation to allow the United States to adhere to the protocol relating to the Madrid Agreement concerning the international registration of marks.

Trademarks are among the most valuable assets of any business. They represent the good will of a business and identify its products and services. The protection of trademarks owned by U.S. businesses is of a paramount importance to the continued competitiveness of U.S. businesses internationally. Foreign countries throughout the world play an increasingly important role as markets for our products. However, in most countries, unlike the United States, trademark rights are obtained only by registration in that country. U.S. businesses are discovering that early registration in many intended markets abroad may be the only way to prevent pirates from registering the U.S. company's marks and causing untoward problems, often blocking the U.S. company's entry into the foreign market under their existing trademark.

The major obstacle to the international protection of trademarks is the difficulty and cost of obtaining and maintaining a registration in each and every country. U.S. businesses today proceed country-by-country to protect their trademarks.

The United States has never belonged to an international trademark registration system, but has considered it in the past because of the trade advantages such a system would offer. In the late 1960's the United States considered joining the Madrid Agreement concerning the international registration of marks, which is administered by the World Intellectual Property Organization. The United States did not join the Madrid Agreement because it contained provisions disadvantageous to U.S. trademarks owners and was unworkable under then existing U.S. trademark law.

In 1989, the member of the Madrid Agreement concluded a protocol, which will establish an international trademark registration system independent of, but parallel to, the Madrid Agreement. The protocol will enter into force after ratification or accession by four States or organizations. Spain has deposited its instrument of ratification and many other countries are considering ratification or accession.

The protocol contains significant modifications to the Madrid Agreement. With these changes, along with the recent significant change to U.S. trademark law permitting intent-to-use applications, the United States is now in a position to become a member of the international trademark community.

The benefits of the protocol to U.S. trademark owners are substantial. When it enters into force, the protocol will provide a trademark registration filing system that will permit a U.S. trademark owner to file for registration in any number of member countries by filing a single standardized application, in English, in the USPTO and filing a single fee. Registration may be obtained without obtaining a local agent and without filing an application in each country. Equally important, under the protocol renewal and recordation of an assignment of a trademark registration in each country may be made by the filing of a single request with a single fee with the World Intellectual Property Organization.

The protocol system will not prevent a U.S. business from filing an application to register a trademark directly in any country, as is the practice today. The protocol will offer U.S. businesses an additional route to registration internationally.

The proposed legislation adds a new title to the Trademark Act of 1946, as amended, containing the basic statutory provisions necessary to implement the protocol. This proposed new title parallels the existing provisions of the Trademark Act regarding examination and registration maintenance practices, and rights and remedies, to the extent possible under the protocol. It is not necessary to make any amendments to the existing provisions of the Trademark Act in order to implement the protocol.

I introduce this legislation at this time to highlight the importance of U.S. adherence to the protocol to U.S. competitiveness internationally, and with a view toward early reintroduction and consideration of this legislation in the next Congress.

HOUSE OF REPRESENTATIVES—*Sunday, October 4, 1992*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We gather this day with the weariness of the week and many tasks to be accomplished, and we pray, Almighty God, that each person receive the strength and the patience and the attitude of respect that is so essential for this community. We know of the pressures of the moment and the tensions of the days ahead and yet at this time we come together in prayer to express our thanksgiving for the opportunities we have to be of service to others and the gratitude we can express for the trust that comes with public service. We pray, gracious God, that we will be worthy of the high calling we have received and be faithful stewards of the responsibilities before us. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Massachusetts [Mr. MARKEY] please come forward and lead the House in the Pledge of Allegiance.

Mr. MARKEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that he will receive not more than four 1-minute requests on each side.

PRESIDENTIAL VETO OF S. 12, CABLE CONSUMER PROTECTION AND COMPETITION ACT OF 1992

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, President Bush's veto yesterday of the cable bill is mystifying because this issue is not an example of partisan politics. It is baffling because the bill is not special interest legislation. The veto is merely the final scene of the "Shootout at the Cable Corral," where on one side you have unprotected consumers and on the other you have the monopolist cable industry.

The cable bill represents bipartisan legislation. It was carefully crafted by Republican and Democratic House and Senate Members to control rates for consumers, who have seen their rates skyrocket 61 percent since 1986.

It is worth noting that the Consumer Federation of America has estimated that consumers currently are being charged $6 billion more for cable service every year than they ought to be because cable is unregulated and can reap monopoly rents. The Federal Communications Commission has said that if competition existed to the cable monopolies, consumers would save $5.3 billion.

The cable bill allows Americans to reap those savings immediately through the rate controls, and ultimately through the advent of viable competition to cable.

So I urge my colleagues to remember this tomorrow when we vote again on the bill. The $1 billion savings this bill will ultimately reap go right into the pockets of 60 million hard-working Americans who subscribe to cable television.

REPEAL THE EARNINGS LIMITATION

(Mr. GILLMOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILLMOR. Mr. Speaker, as an original cosponsor of the Older Americans Freedom To Work Act, I would like to express my disappointment with the continued failure of Congress to repeal the earnings limitation placed upon Social Security recipients between ages 65 and 69.

The earnings limitation unfairly penalizes senior citizens who remain active in the work force. In 1991, a senior could earn only $9,720 before beginning to lose Social Security benefits. This amounts to age discrimination. The earnings cap discourages seniors from pursuing opportunities and additional financial security once they reach age 65.

I believe that if a person chooses to remain actively involved in the community, we should offer every encouragement. The Social Security earnings cap sends a message to seniors that we think they have nothing left to offer our communities. I could not disagree more strongly. I ask my colleagues to join me in supporting the repeal of this discriminatory provision.

URGING OVERRIDE OF CABLE BILL VETO

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I am perplexed. I will concede that I was up until late last night, and perhaps I have not been able to focus this morning yet but, I am perplexed as to why the President has vetoed the cable bill. That is a pro-people bill. That is a proconsumer bill. Above all, it is a procompetition bill. These are all the things the President stands for.

We all know what the cable bill will do. It will again cause rates to be regulated. It will provide competition by allowing signals to reach the households other than across the strung cable. It will allow people to have a freer choice of programming, and, I think with competition, there would be a lowering of the prices and the fees. It will set standards for cable companies for consumer services and customer relations.

I believe this veto is another of the unnecessary vetoes of the President, and this veto, for the people of America, should be overriden by Congress.

CONGRESS MUST PASS A CRIME BILL

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, earlier in the 102d Congress, the House passed the conference report for the omnibus crime bill. The conference report on the crime bill contains measures to assist our Federal, State, and local law enforcement agencies in fulfilling their responsibilities in protecting our lives and property.

In addition, Mr. Speaker, the crime bill contains tough anticrime measures and expands Federal penalties to a range of crimes. Of particular importance, the bill mandates tough penalties for a number of drug crimes and drug-related crimes, including drive-by shootings. The crime measure also contains the Brady bill, a measure to provide law enforcement with an important tool to enforce Federal law, banning the sale of handguns to felons.

Mr. Speaker, it is regrettable that the crime bill has become tied up in the other body. Our constituents are understandably impatient with Congress. Hopefully, we will convince the other body to enact this bill before adjournment. We need a tough crime bill that strengthens our fight against drugs. The American people are demanding that we pass such legislation. Let us pass it now.

AMERICA NEEDS AN EDUCATION REFORM BILL

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, I rise today to express my distress over the recent action on the education reform bill. This bill, which would have constituted a positive step toward real reform and improvement in our Nation's schools, instead became a victim of partisan election year politics.

As you know, this House passed the Neighborhood Schools Improvement Act conference report with little enthusiasm and a filibuster in the other body has now killed the bill.

Mr. Speaker, I know I am not the only Member who has worked hard locally in my district to promote education reform. I am not the only Member who thinks the Federal Government can help our local school systems look forward to the educational demands of the future. Nor am I the only Member who thinks we need to take a long, hard look at our existing system and assist local educators in improving it.

But, Mr. Speaker, am I the only Member who thinks that the education of our children is too important to degenerate into a partisan political issue? Am I the only Member who thinks that of all the things we can do for our children, providing them with the opportunity for a quality education should be considered among the most important?

I sincerely hope that next year, we can set aside partisanship and pass an education reform bill that will encourage innovation in education and help improve our schools for the needs of the children of the 21st century.

□ 1410

EDUCATING THE NEXT GENERATION

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I would say to my colleague, the gentleman from Florida [Mr. BILIRAKIS] no, he is not the only Member who feels deeply that Congress has not lived up to its responsibility to care for the education of the next generation of Americans.

As the 102d Congress approaches its waning days and hours, and as my congressional career is doing the same with 2 days to go, I must confess that the one deeply held regret I have is that Congress has not risen to the challenge of educating its young people, including the two-thirds or three-quarters of the American youngsters who are not college bound, but who will be producing the things that America is going to see in international trade, the goods, the services that will make us prosperous and make us productive and great. They are not competitive with young people from all over the world in the industrialized countries, and even in some less developed countries.

Mr. Speaker, our Congress in the last couple of years has completed cost-benefit studies of what the returns are to society from an investment in Head Start for the kids who are on the cutting edge of education failure, as well as postsecondary education, and the cost-benefit figures are phenomenal, indicating a rate of $7 to $12 back for every dollar of Government investment.

I hope the next President, whoever he is, will put educating American kids as the topmost item on the national agenda.

No leader in America has been more eloquent on the need to improve the skill and education levels of our youth than Governor Clinton. He testified brilliantly at a hearing of the Joint Economic Committee, which I chaired, when we were investigating the changes in American society that had to be made in order to produce an educated, competent, skilled work force, a work force that could compete effectively in producing goods and services in the global marketplace.

He was especially eloquent in articulating the need to upgrade the quality of vocational education for the two-thirds of the American youth who were not college bound. He advocated significant additional investment in training noncollege-bound youth at the secondary school level and making available to them the high-technology machinery and equipment that is available in Europe and Japan for industrial arts degree students.

Governor Clinton has shown deep commitment and resolve to improving education, expanding the Head Start Program for 3-, 4-, and 5-year-olds, enriching elementary and secondary education for college bound and non-college-bound youth, and providing an opportunity for a postsecondary education to every student who has the desire to have such an education.

Governor Clinton's election would be a shot in the arm for education.

ANGEL OF THE WORLD

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, while some may doubt angels would venture into this Chamber they are present for the 10th time today. I am honored to present to my colleagues the 10th edition Angel of the World, Billy, the all American.

The residents of T&M Ranch in Indiantown, FL, have invited me to share their 1992 effort and final edition of this series.

These beautiful Christmas ornaments are produced by mentally handicapped adults residing at this special ranch.

Through projects like this residents are taught vocational skills allowing them to become working members of their communities.

While they have never sought praise let me acknowledge some special people behind the angels:

Bill Taylor, Susan Padgett, Jan Davisson, and all the staff who lovingly run the T&M Ranch; Bob Dittmer for his commitment; Laszlo Ispanky for creating the angel series, and Bill Brooks, general manager of WPTV, for his personal interest and support of this project.

Through this commitment a nonprofit foundation with no budget and all volunteers has survived and produced this gift creating not only revenue but a spirit of independence and self-worth money can't buy. On behalf of Congress, the President, and the Cabinet, I thank the T&M Ranch for enriching our lives these past 10 years. Congratulations and best wishes in your future endeavors.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1993, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. DERRICK, from the Committee on Rules, reported the following privileged resolution (H. Res. 599, Rept. No. 102–1008), which was referred to the House Calendar and ordered to be printed:

H. RES. 599

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 5427) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 599 and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 599 provides for the consideration of the conference report on H.R. 5427, legislation to make appropriations for the legislative branch for the fiscal year ending September 30, 1993.

The rule waives points of order against the conference report on H.R. 5427 and against its consideration. The rule further provides that the conference report shall be considered as read.

Mr. Speaker, swift passage of this rule will allow us to consider the conference report on H.R. 5427. With the passage of the legislative branch appropriations, Mr. Speaker, this body will have only two additional appropriations matters to complete before adjournment.

This conference report provides vast reductions over the fiscal year 1992 bill and over the estimates for fiscal year 1993. It is responsible and balanced and I urge the adoption of this rule and of the conference report.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just briefly, this rule does waive all points of order to permit the House to consider the legislative branch appropriations. And while I have some reservations about a broad waiver of points of order, I am prepared to support this rule in order to move this necessary piece of legislation so late in the session.

The outlay level provided in the bill is 6.5 percent less than the outlay amount for fiscal year 1992.

And in addition, this is very important, the Hamilton-Gradison Joint Committee on the organization of Congress is authorized until December 31, 1993, that is over a year from now, by this conference agreement.

I would just point out that the Republican Members on both the Senate and House sides have been appointed, and I would hope that before this day is out perhaps the Speaker would appoint the Democrats in the House, and then we can push the majority leader over in the Senate to do the same.

The other important issue to mention is that there is one significant piece of legislation in this appropriation bill. It is legislation to deal with a court decision dealing with fruit growing that happens to be a very, very important industry in this country, particularly in the Hudson Basin that I represent. This will be very beneficial.

So I support the rule so that the House may proceed to consideration of this legislative appropriation.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1420

GENERAL LEAVE

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on consideration of the conference report to the bill, H.R. 5427, making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes, and that I may also include extraneous and tabular material.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1993

Mr. FAZIO. Mr. Speaker, pursuant to House Resolution 599, I call up the conference report on the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 599, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 3, 1992, page 31241.)

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] will be recognized for 30 minutes, and the gentleman from California [Mr. LEWIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to begin, first of all, by speaking to the fact that three very, very prominent members of my subcommittee will not be back next year, one being that slot next to me in subcommittee seniority held by the gentleman from Florida [Mr. SMITH]. Then there is a longstanding colleague who is retiring, the gentleman from Michigan [Mr. TRAXLER], a good friend of mine and a contributor to the work of this subcommittee for many years. Finally, there is the one further down on the subcommittee held by the gentleman from Florida [Mr. LEHMAN]. They have all been great members, have made stellar contributions, and our subcommittee will miss them very much.

I also pay tribute to all the members of our subcommittee who contributed so much this year.

The gentleman from California [Mr. LEWIS], the ranking Republican on this subcommittee, has worked diligently to pursue the goals of his conference and the ideology of his party; but he has worked also very cooperatively for the best interests of this institution. We have together brought to the floor this afternoon, I think, a very successful conference. Forty amendments to the House bill have all been resolved. They are all, as the rule permits, inside the conference report.

I will, for the record, include a table showing the details of that conference agreement.

Our toughest problem was to reduce spending while at the same time providing the resources necessary for this very important legislative branch to carry out its responsibility as one of the coequal powers as envisioned by our Founding Fathers when they drafted the Constitution.

We have shown maximum restraint on legislative spending. We have applied higher standards to our own budget, frankly, than the administration applied to their administrative budget.

For example, part of the Botanic Garden had to be torn down due to structural weakness. The conferees had to determine how to get started with the restoration without breaching the budget limits.

For example, we could only provide for 1,800 less House staff than was authorized. That will not be an easy task for Members and others in this institution to absorb, but we did it.

We also had to balance the needs of the legislative branch agencies, such as the Library of Congress and the General Accounting Office, both of these institutions are very important to the country at large with values that go far beyond those of the Congress, the House or the Senate.

We did find some additional funds for the Library of Congress over last year in this bill; we wish we could have done more.

The GAO, a legislative agency designed to ferret out fraud, waste, and abuse, met with budget restraints; a $7 million reduction below the House bill. But I think the GAO is up to the task of continuing to increase their productivity and continue to make contributions to the effective management of Government across the spectrum.

Specifically, the conference agreement on budget authority is $2.27 billion. That is a 16-percent cut, a $395 million cut below the budget requests made to us. It is $53 million below our own committee's allocation to the Subcommittee on the Legislative Branch, the so-called 602(b) budget resolution target. It is $28.7 million below the 1992 level of budget authority. That is 1¼ percent below last year.

The conference budget authority, compared to the House bill, is as follows: The bill we sent to the Senate did not have funds for Senate operations, obviously. Through comity, we allowed that figure to be placed in the bill by the other body. The bill was then $32.2 million below 1992, or 1.8 percent below 1992.

We are still far below a freeze. But a scorekeeping change after House floor passage made our job more difficult in the meantime. We rescinded, as some of you may remember, $40 million in House and Senate mail funds in the rescission bill passed in response to the President's request several months ago.

That had the effect of lowering the 1992 base, which we were trying to freeze, making it more difficult to meet that objective. But I might say that if we had not made that intervening rescission, if we had not contributed to the overall reduction in Federal spending, the conference bill would be some $68.1 million below 1992, almost 3 percent below 1992.

In outlays, which is really what counts in terms of fighting the deficit, the expenditures from the appropriations in the bill will be down by $11 million below the 1992 bill. The bill we sent to the Senate was $95 million under 1992 in new outlays. This outlay reduction would be 5.4 percent.

But we have another category: total outlays. That is the concept that brings in expenditures that will be made in 1993 that result from appropriations made in prior years. That, for example, would include the construction projects on the west front of the Capitol, the restoration of the Library of Congress, et cetera.

So this is very important. According to the CBO, this conference agreement is $150 million below 1992 in total outlays, or a 6.5-percent reduction in total outlays under last year. I think that is a particularly important figure because I know Members are absolutely committed to coming back with something less than 5 percent. We do that in every sense. But I am particularly focused on giving the Members the impression, an impression that is accurate, that we have cut 6.5 percent in outlays over last year.

The House bill that was sent to the Senate was $109 million below 1992, and we are now at $150 million, based on current CBO estimates.

There are a number of other matters that I think we can place in the RECORD that show comparisons between the House and the conference report between the House and the Senate and between the House and the executive branch, specifically the executive branch, specifically the Executive Office of the President.

I also think, however, it is important to point out at this point that this institution continues to have its reputation besmirched by people who do not look at the facts. I would like to lay some of them out.

First of all, the legislative branch has not experienced the explosive staff growth that has been alleged. Between 1979 and the year ending 1991, the legislative branch has declined from 39,099 people to 38,251. That is a 2.2-percent decline in staff.

During the same period, the executive branch staff has increased by over 210,000 employees. That is not a comparable decline, obviously; it is an increase of 7.4 percent. Between 1979 and 1993's budgets, we have held the legislative branch to virtually zero growth in constant dollars, nine-tenths of 1 percent. The executive branch budget has grown by 34 percent in constant dollars; that is real growth as well. This is an apples-and-apples comparison. The legislative budget has been tightly constrained, and that hardly ever gets reported to the American people.

It would be interesting to look at how the deficit would have been affected by similar rates of increase between what the executive branch was asking for and permitted to have, and what we have done to ourselves here in the legislative branch.

Our 1993 Federal deficit has been estimated to be about $350 billion.

□ 1430

If the Federal budget had grown at the same virtually level growth of the legislative branch since 1979, we would have a surplus, a surplus, Mr. Speaker, in 1993 of $113 billion, not a deficit of $350 billion.

Since 1979, Federal budgets have accumulated deficits of $2.8 trillion, but if the Federal budget had grown at the legislative branch rate, we would have had no increase in Federal debt and would have had an accumulated surplus of $106 billion.

I make these points not simply for debating points, but simply because I want on the record to show the restraint that has existed here in the Congress.

In this bill, we have gone for another mail rescission of $21 million. We have eliminated all carryover balances that we know about. If more results when the books for 1992 are closed, we will see if they can be rescinded as well.

We have also, and I think this is very important because, a number of Members have come to me and asked for assistance in this area, we have instructed the Architect of the Capitol to obtain proposals from the local electric utility for a lighting retrofit program to save electrical energy. We have been told that the utility or a contractor will pay all installation costs, supplies, materials and labor, and then we would all share in the savings in our energy bills. We believe this is an important initiative for the Congress to save money in energy conservation.

We have an entity called the Palm House located at the Botanic Gardens Conservatory. It is a national treasure built in the 1930's. It had to be torn down because of structural weaknesses.

The Botanic Garden Conservatory needs major renovations. This is one of the foremost Botanic Gardens in the world. We have the responsibility to protect that asset for the American people. This project will cost over $23 million. We do not have the money for it at the present time. All we can do in this bill is to provide $2 million to have the design and construction documents prepared.

We took care of the needs for the Gettysburg National Military Park. The gentleman from Pennsylvania [Mr. GOODLING] I think has led the effort to continue for 2 years a loan of a Lincoln draft of the Gettysburg Address, which has been borrowed from the Library of Congress. The Joint Committee on the Library gave special exemption for that temporary loan, and we were pleased to help work that out.

We have asked the GAO to set audit standards for our legislative service organizations. I think that is a very important initiative. We all understand that we have to tighten up the manner in which the so-called caucuses or delegation groups operate their funding for their activities.

We have, however, not been able to totally respond to the Seymour amendment as we had been asked to.

We have determined that Senate amendment No. 36 [SEYMOUR] is not workable and will only lead to the hiring of many more accountants. In fact, the use of the term "obligations" in that amendment was particularly confusing. We are much more able to deal with budget authority or outlays.

So instead, we have met the spirit of that amendment by the outlay reductions I have already reported, going beyond the 5 percent requested, up to 6.5 percent.

We have also rescinded, as I have indicated, all known carryover balances in House funds, but we will not limit ourselves to carrying over funds in the future because there will be, as there has always been in capital outlay accounts, for example, a need to have no-year funding until the project has been completed.

As the gentleman from New York [Mr. SOLOMON] has indicated, our congressional staffing study which was again part of that amendment is part of the Hamilton-Gradison committee, which we have extended through December 31, 1993.

I want to touch also on the House Day Care Center. We have these employees, as most Members know, on our payroll. We transferred them last year. We have inserted language in the bill allowing the House to pay our share of benefits as the employer, but the share of benefits will not exceed $146,000. We have asked the House Administration Committee to set a salary schedule that is comparable to those in other public employee day care centers, and in the future the day care budgets will be subject to appropriations approval. We will expect more savings and fundraising to save appropriated dollars, particularly as the entity may be able to expand the number of children that it provides for. We think their overhead is rather fixed and we may be able to profit more by having more children in an expanded facility.

In summary, the bill, as I said, is almost $400 million below the request. It is almost $29 million below 1992 in budget authority. It is $150 million below 1992 outlays, 6½ percent.

We have a very tight bill, and I would hope that all Members would find it within themselves to support it.

COMPARISONS BETWEEN HOUSE BILL AND CONFERENCE AGREEMENT (BUDGET AUTHORITY)

House bill sent to Senate was $32.2 million below 1992 in budget authority (−1.8 percent).

Conference agreement is $28.7 million below 1992 (−1.25 percent).

But, that comparison reflects a scorekeeping change because we rescinded $20 million in House mail funds in the Rescission bill last summer that was scored against our 1992 base.

Using the same base used when the House bill was sent to the Senate, the conference agreement would have been $68.7 million below 1992, or a −2.9-percent reduction.

Conference agreements that changed amounts in bill House sent to the Senate:

	Millions
Library of Congress	+$4.5
Capitol grounds	+.4
Senate operations (above 1992)	+4.4
Congressional Research Service	+1.5
Offset by reductions:	
GAO	−7.0
House mail funds (rescission)	−21.0

HOUSE BUDGET COMPARED TO EXECUTIVE OFFICE OF THE PRESIDENT

House budget was pared even further in conference.

Overall, appropriations for House operations have been reduced by $22.7 million (−3.3 percent) below 1992.

If we can overlook rhetoric, the figures show we are down 3.3 percent in the House budget while the Executive Office of the President is up 0.8 percent.

I will insert comparisons into the Record:

HOUSE BUDGET COMPARED TO EXECUTIVE OFFICE OF THE PRESIDENT

[Budget authority]

	1992	1993	Increase (decrease)	Percent increase (decrease)
House of Representatives	$694.0	$671.3	−$22.7	−3.3
Executive Office of the President	318.3	320.7	+2.4	+.8
Such as:				
The White House Office.	34.9	35.4	+.5	+1.4
Special Assistance to the President	2.9	3.2	+.3	+7.4
Office of Management and Budget	51.9	53.0	+1.1	+2.0
Office of Policy Development	3.7	3.8	+.1	+1.9

H.R. 5427 - LEGISLATIVE BRANCH APPROPRIATIONS, 1993

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - CONGRESSIONAL OPERATIONS						
SENATE						
Payments to Widows and Heirs of Deceased Members of Congress						
Gratuities, deceased Members	231,400					-231,400
Mileage and Expense Allowances						
Mileage of the Vice President and Senators	60,000	60,000		60,000	60,000	
Expense allowances:						
Vice President	10,000	10,000		10,000	10,000	
President Pro Tempore of the Senate	10,000	10,000		10,000	10,000	
Majority Leader of the Senate	10,000	10,000		10,000	10,000	
Minority Leader of the Senate	10,000	10,000		10,000	10,000	
Majority Whip of the Senate	5,000	5,000		5,000	5,000	
Minority Whip of the Senate	5,000	5,000		5,000	5,000	
Chairmen of the Majority Conference Committee	3,000	3,000		3,000	3,000	
Chairmen of the Minority Conference Committee	3,000	3,000		3,000	3,000	
Subtotal, expense allowances	56,000	56,000		56,000	56,000	
Representation allowances for the Majority and Minority Leaders	30,000	30,000		30,000	30,000	
Total, Mileage and expenses allowances	146,000	146,000		146,000	146,000	
Salaries, Officers and Employees						
Office of the Vice President	1,387,000	1,483,000		1,431,000	1,431,000	+44,000
Office of the President Pro Tempore	419,000	536,000		432,000	432,000	+13,000
Offices of the Majority and Minority Leaders	2,012,000	2,098,000		2,076,000	2,076,000	+64,000
Offices of the Majority and Minority Whips	624,000	650,000		644,000	644,000	+20,000
Conference committees	1,826,000	2,004,000		1,884,000	1,884,000	+58,000
Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority	350,000	416,000		362,000	362,000	+12,000
Office of the Chaplain	161,000	190,000		172,000	172,000	+11,000
Office of the Secretary	11,357,000	12,472,000		11,715,000	11,715,000	+358,000
Office of the Sergeant at Arms and Doorkeeper	32,700,000	35,345,000		33,739,000	33,739,000	+1,039,000
Offices of the Secretaries for the Majority and Minority	1,059,000	1,245,000		1,133,000	1,133,000	+74,000
Agency contributions	18,000,000	20,133,000		16,307,000	16,307,000	-1,693,000
Total, salaries, officers and employees	69,895,000	76,572,000		69,895,000	69,895,000	
Office of the Legislative Counsel of the Senate						
Salaries and expenses	3,080,000	3,450,000		3,080,000	3,080,000	
Office of Senate Legal Counsel						
Salaries and expenses	833,000	905,000		833,000	833,000	
Expense Allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate: Expenses allowances	12,000	12,000		12,000	12,000	
Contingent Expenses of the Senate						
Senate policy committees	2,398,200	2,538,000		2,398,200	2,398,200	
Inquiries and investigations	77,000,000	81,184,000		77,000,000	77,000,000	
Expenses of United States Senate Caucus on International Narcotics Control	336,000	346,000		336,000	336,000	
Secretary of the Senate	1,855,500	1,452,500		1,452,500	1,452,500	-403,000
Sergeant at Arms and Doorkeeper of the Senate	88,800,000	82,944,000		82,944,000	82,944,000	-5,856,000
Miscellaneous items	7,200,000	6,748,000		6,748,000	6,748,000	-452,000
Senators' Official Personnel and Office Expense Account	185,768,000	213,326,000		185,768,000	185,768,000	
Office of Fair Employment Practices		825,000		825,000	825,000	+825,000
Stationery (revolving fund)	13,000	13,000		13,000	13,000	
Official Mail Costs						
Expenses	32,000,000	35,700,000		20,000,000	20,000,000	-12,000,000
Rescission	-20,000,000					+20,000,000
Total, Official mail costs	12,000,000	35,700,000		20,000,000	20,000,000	+8,000,000
Total, contingent expenses of the Senate	375,370,700	425,076,500		377,484,700	377,484,700	+2,114,000
Total, Senate	449,568,100	506,161,500		451,450,700	451,450,700	+1,882,600

H.R. 5427 - LEGISLATIVE BRANCH APPROPRIATIONS, 1993

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
HOUSE OF REPRESENTATIVES						
Payments to Widows and Heirs of Deceased Members of Congress						
Gratuities, deceased Members	259,000	....	....	....	....	-259,000
Mileage of Members						
Mileage of Members	210,000	210,000	....	....	....	-210,000
Salaries and Expenses						
House Leadership Offices						
Office of the Speaker	1,477,000	1,580,000	1,383,000	1,383,000	1,383,000	-94,000
Office of the Majority Floor Leader	1,127,000	1,224,000	994,000	994,000	994,000	-133,000
Office of the Minority Floor Leader	1,388,000	1,551,000	1,348,000	1,348,000	1,348,000	-40,000
Office of the Majority Whip	1,025,000	1,148,000	1,095,000	1,095,000	1,095,000	+70,000
Office of the Minority Whip	764,000	821,000	741,000	741,000	741,000	-23,000
Total, House leadership offices	5,781,000	6,324,000	5,561,000	5,561,000	5,561,000	-220,000
Members' Clerk Hire						
Clerk hire	218,500,000	243,092,000	228,313,000	228,313,000	228,313,000	+9,813,000
Committee Employees						
Professional and clerical employees of standing committees	67,900,000	103,694,000	70,950,000	70,950,000	70,950,000	+3,050,000
Committee on the Budget (Studies)						
Salaries and expenses	409,000	424,000	389,000	389,000	389,000	-20,000
Standing Committees, Special and Select						
Salaries and expenses	57,900,000	72,252,000	57,900,000	57,900,000	57,900,000	....
House Information Systems						
Salaries and expenses	8,615,000	10,135,000	8,139,000	8,139,000	8,139,000	-476,000
Allowances and Expenses						
Official Expenses of Members	82,600,000	87,535,000	78,545,000	78,545,000	78,545,000	-4,055,000
Supplies, materials, administrative costs and Federal tort claims	19,116,000	24,886,000	19,116,000	19,116,000	19,116,000	....
Office equipment	4,427,000	7,300,000	4,427,000	4,427,000	4,427,000	....
Furniture and furnishings	1,810,000	1,901,000	1,720,000	1,720,000	1,720,000	-90,000
Stenographic reporting of committee hearings	1,100,000	1,100,000	1,055,000	1,055,000	1,055,000	-45,000
Reemployed annuitants reimbursements	1,000,000	1,160,000	1,039,000	1,039,000	1,039,000	+39,000
Government contributions	103,833,000	135,356,000	116,203,000	116,203,000	116,203,000	+12,370,000
Miscellaneous items	632,000	672,000	632,000	632,000	632,000	....
Advance obligational authority from P.L. 101-520	4,500,000	....	....	....	....	-4,500,000
Total, allowances and expenses	219,018,000	259,910,000	222,737,000	222,737,000	222,737,000	+3,719,000
Committee on Appropriations (Studies and Investigations)						
Salaries and expenses	6,500,000	7,990,000	6,631,000	6,631,000	6,631,000	+131,000
Official Mail Costs						
Expenses	80,000,000	92,467,000	47,711,000	47,711,000	47,711,000	-32,289,000
Rescission	-20,000,000	....	....	....	-21,000,000	-1,000,000
Total, Official mail costs	60,000,000	92,467,000	47,711,000	47,711,000	26,711,000	-33,289,000
Salaries, Officers and Employees						
Office of the Clerk	20,860,000	27,979,000	22,354,000	22,354,000	22,354,000	+1,494,000
Office of the Sergeant at Arms	1,288,000	1,616,000	1,369,000	1,369,000	1,369,000	+81,000
Office of the Doorkeeper	10,013,000	11,748,000	10,750,000	10,750,000	10,750,000	+737,000
Office of the Postmaster	4,377,000	6,020,000	4,079,000	4,079,000	4,079,000	-298,000
Office of the Chaplain	120,000	131,000	123,000	123,000	123,000	+3,000
Office of the Parliamentarian	946,000	1,003,000	854,000	854,000	854,000	-92,000
Office of the Parliamentarian	(648,000)	(684,000)	(587,000)	(587,000)	(587,000)	(-61,000)
Compilation of precedents of the House of Representatives	(298,000)	(319,000)	(267,000)	(267,000)	(267,000)	(-31,000)
Office of the Historian	361,000	369,000	310,000	310,000	310,000	-51,000
Office of the Law Revision Counsel	1,356,000	1,472,000	1,403,000	1,403,000	1,403,000	+47,000
Office of the Legislative Counsel	4,171,000	4,261,000	4,155,000	4,155,000	4,155,000	-16,000
Six minority employees	713,000	786,000	735,000	735,000	735,000	+22,000
House Democratic Steering Committee and Caucus	1,476,000	1,608,000	1,461,000	1,461,000	1,461,000	-15,000
House Democratic Steering Committee	(943,000)	(1,018,000)	(934,000)	(934,000)	(934,000)	(-9,000)
House Democratic Caucus	(533,000)	(590,000)	(527,000)	(527,000)	(527,000)	(-6,000)
House Republican Conference	1,476,000	1,608,000	1,461,000	1,461,000	1,461,000	-15,000
Other Authorized Employees	1,721,000	1,799,000	1,724,000	1,724,000	1,724,000	+3,000
Technical assistant, Office of the Attending Physician	(142,000)	(159,000)	(145,000)	(145,000)	(145,000)	(+3,000)

H.R. 5427 - LEGISLATIVE BRANCH APPROPRIATIONS, 1993

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
L.B.J. Interns	(1,056,000)	(1,096,000)	(1,056,000)	(1,056,000)	(1,056,000)	....
Former Speakers' staff	(410,000)	(426,000)	(410,000)	(410,000)	(410,000)	....
Miscellaneous items	(113,000)	(118,000)	(113,000)	(113,000)	(113,000)	....
Total, salaries, officers and employees	48,878,000	60,400,000	50,778,000	50,778,000	50,778,000	+1,900,000
Total, salaries and expenses	693,501,000	856,688,000	699,109,000	699,109,000	678,109,000	-15,392,000
Rescission of prior year balances	....	....	-6,775,643	-6,775,643	-6,775,643	-6,775,643
Total, House of Representatives	693,970,000	856,898,000	692,333,357	692,333,357	671,333,357	-22,636,643
JOINT ITEMS						
Joint Committee on Inaugural Ceremonies	....	906,000	....	906,000	906,000	+906,000
Joint Economic Committee	4,020,000	4,284,000	4,020,000	4,020,000	4,020,000	....
Joint Committee on Printing	1,391,000	1,568,000	1,391,000	1,391,000	1,391,000	....
Joint Committee on Taxation	5,759,000	6,592,000	5,759,000	5,759,000	5,759,000	....
Office of the Attending Physician						
Medical supplies, equipment, expenses, and allowances	1,509,000	1,543,000	1,509,000	1,509,000	1,509,000	....
Capitol Police Board						
Capitol Police						
Salaries:						
Sergeant at Arms of the House of Representatives	31,741,500	33,369,000	31,000,500	31,741,500	31,000,500	-741,000
Sergeant at Arms and Doorkeeper of the Senate	32,351,500	35,349,000	31,851,500	32,351,500	31,851,500	-500,000
Total, salaries	64,093,000	68,718,000	62,852,000	64,093,000	62,852,000	-1,241,000
General expenses	2,029,000	2,204,000	2,029,000	2,029,000	2,029,000	....
Total, Capitol Police Board	66,122,000	70,922,000	64,881,000	66,122,000	64,881,000	-1,241,000
Capitol Guide Service						
Salaries and expenses	1,603,000	1,660,000	1,644,000	1,644,000	1,644,000	+41,000
Special Services Office						
Salaries and expenses	292,000	366,000	292,000	366,000	366,000	+74,000
Statements of Appropriations						
Preparation	20,000	20,000	....	20,000	....	-20,000
Total, joint items	80,716,000	87,861,000	79,496,000	81,737,000	80,476,000	-240,000
OFFICE OF TECHNOLOGY ASSESSMENT						
Salaries and expenses	21,025,000	23,668,000	21,025,000	21,025,000	21,025,000	....
CONGRESSIONAL BUDGET OFFICE						
Salaries and expenses	22,542,000	23,895,000	22,542,000	22,542,000	22,542,000	....
ARCHITECT OF THE CAPITOL						
Office of the Architect of the Capitol						
Salaries	8,144,000	8,913,000	8,286,000	8,144,000	8,144,000	....
Travel (limitation on official travel expenses)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	....
Contingent expenses	100,000	100,000	100,000	100,000	100,000	....
Contract study of GAO	....	....	....	2,000,000	....	....
Total, Office of the Architect of the Capitol	8,244,000	9,013,000	8,386,000	10,244,000	8,244,000	....
Capitol Buildings and Grounds						
Capitol buildings	27,611,000	29,078,000	23,515,000	24,040,000	23,955,000	-3,656,000
Capitol grounds	5,266,000	5,600,000	5,256,000	6,000,000	5,600,000	+334,000
Senate Office Buildings	45,106,000	58,861,000	....	47,339,000	47,339,000	+2,233,000
House Office Buildings	33,403,000	43,696,000	32,387,000	32,387,000	32,387,000	-1,016,000
Capitol Power Plant	35,203,000	35,307,000	35,288,000	35,288,000	35,288,000	+85,000
Offsetting collections	-3,200,000	-3,200,000	-3,200,000	-3,200,000	-3,200,000	....
Net total, Capitol Power Plant	32,003,000	32,107,000	32,088,000	32,088,000	32,088,000	+85,000
Total, Capitol buildings and grounds	143,389,000	169,342,000	93,246,000	141,854,000	141,369,000	-2,020,000
Total, Architect of the Capitol	151,633,000	178,355,000	101,632,000	152,098,000	149,613,000	-2,020,000

H.R. 5427 - LEGISLATIVE BRANCH APPROPRIATIONS, 1993

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
LIBRARY OF CONGRESS						
Congressional Research Service						
Salaries and expenses	56,583,000	61,274,000	56,583,000	58,000,000	57,291,000	+708,000
GOVERNMENT PRINTING OFFICE						
Congressional printing and binding	91,591,000	117,595,000	89,591,000	89,591,000	89,591,000	-2,000,000
Total, title I - Congressional Operations	1,567,628,100	1,855,707,500	1,063,202,357	1,568,777,057	1,543,322,057	-24,306,043
TITLE II - OTHER AGENCIES						
BOTANIC GARDEN						
Salaries and expenses	2,862,000	10,258,000	2,906,000	10,131,000	4,906,000	+2,044,000
LIBRARY OF CONGRESS						
Salaries and expenses	198,873,000	215,216,000	200,073,000	206,252,000	203,163,000	+4,290,000
Authority to spend receipts	-7,300,000	-8,200,000	-7,500,000	-7,500,000	-7,500,000	-200,000
Net total, Salaries and expenses	191,573,000	207,016,000	192,573,000	198,752,000	195,663,000	+4,090,000
Copyright Office, salaries and expenses	26,040,000	27,363,000	26,040,000	26,417,000	26,228,000	+188,000
Authority to spend receipts	-15,979,000	-16,717,000	-16,717,000	-16,717,000	-16,717,000	-738,000
Net total, Copyright Office	10,061,000	10,646,000	9,323,000	9,700,000	9,511,000	-550,000
Books for the blind and physically handicapped, salaries and expenses	42,184,000	46,017,000	43,144,000	43,144,000	43,144,000	+960,000
Furniture and furnishings	4,490,000	7,658,000	4,490,000	4,490,000	4,490,000	....
Total, Library of Congress (except CRS)	248,308,000	271,337,000	249,530,000	256,086,000	252,808,000	+4,500,000
ARCHITECT OF THE CAPITOL						
Library Buildings and Grounds						
Structural and mechanical care	15,187,000	14,454,000	9,733,000	9,733,000	9,733,000	-5,454,000
COPYRIGHT ROYALTY TRIBUNAL						
Salaries and expenses	865,000	944,000	911,000	911,000	911,000	+46,000
Authority to spend receipts	-735,000	-802,000	-781,000	-781,000	-781,000	-46,000
Net total, Copyright Royalty Tribunal	130,000	142,000	130,000	130,000	130,000	....
GOVERNMENT PRINTING OFFICE						
Office of Superintendent of Documents						
Salaries and expenses	27,082,000	30,983,000	29,082,000	29,082,000	29,082,000	+2,000,000
GENERAL ACCOUNTING OFFICE						
Salaries and expenses	448,860,000	488,683,000	443,367,000	441,367,000	436,367,000	-12,493,000
Offsetting collections	-6,213,000	-1,200,000	-1,200,000	-1,200,000	-1,200,000	+5,013,000
Total, General Accounting Office	442,647,000	487,483,000	442,167,000	440,167,000	435,167,000	-7,480,000
Total, title II - other agencies	736,216,000	814,657,000	733,548,000	745,329,000	731,826,000	-4,390,000
Grand total	2,303,844,100	2,670,364,500	1,796,750,357	2,314,106,057	2,275,148,057	-28,696,043

NOTE: FY 1992 enacted includes $34,035,000 in advance obligational authority from P.L. 101-520, Sec. 312 distributed as follows:

Senate - $4,700,000
House of Representatives - $4,500,000
Other congressional operations - $10,028,000
Other agencies - $14,807,000

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the recognition. I would like to express to the Chair and to the Members, my appreciation for the work of my chairman on what is a very difficult bill.

It is apparent to Members of Congress that across the country people are calling for constraint in the role of Government. That is part of the reason why the legislative branch bill receives such focus.

I am proud to say that the bill we brought to the House back in June, was a very, very tight bill.

From there, responding to action that was taken on the Senate floor by way of amendments sponsored by JOHN SEYMOUR of California, the House instructed our conferees to make this bill even tighter.

I must say that the legislative branch, as my chairman suggests, has over the years progressively moved in the direction of trying to keep our belt tighter than inflation, and this piece of work reflects that continuing effort.

The bill itself is a little over $2 billion. $2.271 billion to be precise. That is approximately $400 million below the budget request.

Among other things, we have cut the GAO by more than $7 million over last year's level. I think the Members will recall my own concern about this issue.

I was also pleased that the Senate put in language that instructs the Appropriations Committee to begin the practice of paying for their own GAO detailees. We had an extensive discussion of detailees on last year's bill.

We have extended the authority of the Hamilton-Gradison reform projects through the 1993 fiscal year.

As you know, I was most pleased when the Klug amendment passed the House in June. In the spirit of the effort of the gentleman from Wisconsin [Mr. KLUG] the conferees rescinded an additional $21 million from the House accounts. These are funds that otherwise would have remained available through 1992, so we essentially eliminated any consideration of that which some people have referred to in the past as a slush fund.

I am also pleased that during conference, we eliminated the Architect of the Capitol's contingent fund.

I was particularly pleased with the chairman and the committee's response to my concern about legislative service organizations. Within the language of this bill, we provide a very specific accounting process, for the funds used by LSO's, as to how LSO's should operate.

Mr. Speaker, one more time I would very much like to express my appreciation not just to my chairman and the members of his committee, but also to my members on the minority side, the gentleman from Illinois [Mr. PORTER] and the gentlewoman from Nevada [Mrs. VUCANOVICH] for their help in what is a very difficult appropriations process, the legislative branch appropriations bill.

Mr. FAZIO. Mr. Speaker, I reserve the balance of my time,

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for yielding me this time.

I have a question I would like to ask the gentleman from California [Mr. FAZIO], if I may.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield, I would be happy to help.

Mr. DANNEMEYER. I was impressed by the gentleman's presentation to the House about the comparison between the growth of the Federal Government expenditures and the growth of the expenditures for the legislative branch. I think the gentleman's reference here was to 1979.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield further, I am very pleased that the gentleman is impressed.

Mr. DANNEMEYER. I listened to that very carefully, and I have one simple question.

If the gentleman's point was to draw attention or criticism to the growth in the Federal Government since 1979 and kind of cast a few flowers to the benefit of the growth of the legislative branch, there is a simple question the American people would like to ask the gentleman.

Mr. FAZIO. Why does the gentleman not speak for them?

Mr. DANNEMEYER. Who has been authorizing or appropriating the money that resulted in the growth of the expenditures of the Federal Government so that this year we are looking at the addition to the national debt of close to $430 billion, who has been doing that?

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. Yes; I yield to the gentleman from California.

Mr. FAZIO. I simply wanted to stipulate that we all understand that these are legislative enactments, which means that Presidents like President Reagan and President Bush have signed bills which have been sent to them by the Congress, which has at times been bipartisan in its leadership, and other times been partisan Democratic.

☐ 1440

So, the conclusion I could reach, the same as the gentleman, is that it has been a cooperative effort by Republican Presidents and Congresses of different stripes, but clearly in the years since 1979, the same period I am talking to, I think it has been made very public in this campaign that the Congress has actually appropriated some perhaps $31.8 billion less than was requested of it by the executive branch.

May I inquire? What year was that the gentleman made reference to?

Mr. FAZIO. That would cover the same 1980–90 timeframe.

Mr. DANNEMEYER. I am going to reclaim my time now and just observe for all of us to understand that that last statement I take issue with.

I have a comparison that I am going to put into the RECORD at this point, and I will say, "You know, people in the legislative branch point to the White House and say the White House is responsible for this runaway spending. You and I know, Mr. FAZIO, that the buck stops here. We're the House."

Mr. FAZIO. It certainly does not stop at the White House.

Mr. DANNEMEYER. We are the agency in this Federal Government where the taxing and the spending has to get approved in order for it to take place.

Mr. LEWIS of California. No, Mr. DANNEMEYER, the buck flows here.

Mr. DANNEMEYER. This excess of budget that we are witnessing today is the work product of the Congress of the United States of which the gentleman and I are all a part, and nobody should believe who is listening to this or reading it in the RECORD that somehow the guy in the White House is responsible. We in the House of Representatives are responsible for the fiscal disarray taking place in this country today.

The SPEAKER pro tempore (Mr. MONTGOMERY). The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. DANNEMEYER. May I have 2 additional minutes?

Mr. LEWIS of California. I yield the gentleman from California [Mr. DANNEMEYER] such time as he may consume.

Mr. DANNEMEYER. Let me just say that I have heard this statement made in my years here that Congress has appropriated less money than what the President has asked be spend. I am glad the gentleman points that out because I have got an analysis, and I do not have it with me right now, but I will bring it over here, and I will put it in the CONGRESSIONAL RECORD because I am serving on the Committee on the Budget, and I do not know whether the gentleman knows that or not, so this is the vantage point from which I speak. I made a comparison of the requests of President Reagan and President Bush in terms of what the Congress has appropriated all during the years of their Presidency, and would the gentleman believe that Congress has appropriated about $400 billion more in the 10-year span between 1982 and 1992 than what Presidents Reagan and Bush requested be spent?

My colleagues, we are in this mess, not because Presidents are asking too much or signing bills for too much. We are in this fiscal mess because Congress appropriates too much money. This is the place where the American public wants to change this irresponsible and runaway spending. It has to control who serves in the Congress of the United States beginning next January.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I just wanted to clarify, since we are off the subject——

Mr. LEWIS of California. Mr. Speaker, if the gentleman would yield, I just want to mention that I do need some time left over here.

Mr. FAZIO. I simply wanted to say that the statistics since 1979, which was the base year I had used, showed that we have appropriated $31.7 billion below the amounts requested by the Presidents.

Now I do not know what the gentleman's data includes. It may include interest on the debt. It may include other things, RTC, off-debt spending, and things of that sort which the President has asked us to provide for the bailout of the S&L's or something of that sort. I am talking only about appropriated matters.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from California [Mr. LEWIS] for yielding this time to me.

Mr. Speaker, I am not a member of this committee, but I am coming to the issue as a member of the Committee on House Administration. I am on the subcommittee that has the jurisdiction of the personnel and the funds that result from some of the projects that are approved by the legislative appropriations bill. We have the oversight, we have the oversight role for that jurisdiction.

I want to thank the chairman, and I want to thank the ranking member, for taking action in regard to legislative service organizations, or LSO's, or caucuses. It has been reported to me that the subcommittee has agreed to adopt into the conference report language that is somewhat similar to the language that I proposed that would require the Committee on House Administration to adopt some guidelines and some regulations in regard to the accounting and bookkeeping of the LSO's.

Now, back on June 24, the gentleman from New York [Mr. WALSH] and I offered an amendment to end the financial and other abuses that have occurred within the LSO's. At that time I predicted the entire situation was an accident that was simply waiting to happen. Since that time several news reports, and it was just last week, have detailed this abuse, and special interest relationships and other very questionable activities, and editorials have urged the adoption of accounting procedures, and public disclosure and even abolishment.

I am very pleased this action has been taken by the subcommittee and would hope that further actions would be taken by the Committee on House Administration to end questionable activities. This language, however, I want to tell my colleagues, does not address several questions, such as the financial reserves held by the LSO's, and questionable spending practices, such as taxpayer-funded lunches, and dinners, and receptions, and travel and trips, and the relationships with special-interest outside foundations. I would again urge the Committee on House Administration to simply address these situations.

What I had originally suggested was language that said this: The committee would direct the Comptroller General to conduct a financial audit, not a recommendation, but an audit, of the 30 House legislative service organizations, or what we call the caucuses, and these audits would detail the financial receipts, and disbursements and cash reserves over the last 5 years. Now that has not been done. We would have had a report in 30 days. That report would have been made public. What we have instead is language saying that the conferees direct the GAO in cooperation with the Committee on House Administration to provide accounting standards and guidelines, but no audit. I would just say to my colleagues this is still an accident waiting to happen.

It has been somewhat reported in the press, and until we have an audit, we are not going to have the kind of public disclosure that we need.

I would also like to say in addition that I only have very limited information and facts with regard to other spending in this bill due to the time constraints we have here. A report on this bill has been late in coming, and I would ask the chairman, if I could, if he could give me an assurance that no funds would be available in this bill for special funding projects. He and I have had a colloquy in the past on those matters.

I think my colleagues have some concern where there is a funding project or something in an overall spending bill, and magically we have new elevator floors, or maybe a gym under the Cannon steps, or a modular furniture study, or a visitors center, and these things magically appear, and I have on page 5 here under the Capitol Grounds section—I cannot find any of that, but I would remind the chairman that, when I asked him this question when we were considering this bill as of June, that somehow water leakage funds or funds to repair the water leakage that was occurring underneath the Cannon steps turned into a plan for a House gym for staffers. I am not opposed to that per se, but at the time of budget restrictions and many questions to be asked, I would just like to ask the gentleman: Are there any special funding projects such as construction of a House gym in the Cannon Building, a new $26 million visitors center in the Capitol, or any modular furniture studies or any other projects in this bill?

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from California.

Mr. FAZIO. No, I know those three are very much in focus for the gentleman from Kansas. They are not specifically referenced in this bill in any sense, and, as I indicated to the gentleman, we have talked about this before. These are things that need to be done up front and with the concurrence of many different points within this congressional institution, and that is the only way that I would want to proceed on it.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from California [Mr. FAZIO] for that assurance.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I am a little concerned about what we just heard. What we just heard was that they are not specifically referenced in here.

Now, if I recall correctly, the last time the gym moved through, the gentleman has said correctly that the money was used out of a water leakage fund in order to move the gym forward. I think we can probably be assured that none of these things are specifically in the bill. I wonder whether or not there is anything in here which could be used in any fashion whatsoever to proceed with a gym, with a visitors center and various other projects.

☐ 1450

Mr. ROBERTS. Mr. Speaker, if I could reclaim my time, I have on page 5 here, and I would be happy to share it with the gentleman from Pennsylvania [Mr. WALKER], the section on Capitol Grounds. I am taking the chairman at his word, and we both agree that any projects of this type should be planned and discussed so that Members know what is going on on a priority basis.

I think everyone knows that budget restrictions we are under and the type pressure we have on funds. It is this business of all of a sudden something appearing magically.

I can assure the gentleman in my look-see over there I have seen, in cooperation with the Architect's Office, that the leakage has indeed been repaired, and it did not magically turn into a shower in regard to a gym.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield further, I feel constrained to assure both gentleman there is no such thing as a water leakage fund. That does not exist. Occasionally when there are repairs that must be done on an emergency basis the Architect has the ongoing authority to do it. But that certainly, as the gentleman from Kansas [Mr. ROBERTS said, is not going to turn into anything like a shower. It should be repairing pipes or walls or what have you.

The gentleman referred to something in here on Capitol Grounds. We were asked by the Senate conferees to provide a large amount of funding and make improvements on the Capitol Grounds. We did not give them all the money. We earmarked some of it for street lighting for safety purposes, and left $144,000 to be allocated for a variety of ground improvements, including tree replacement and repairs to fountains and planters on the Capitol Grounds. It is pretty specific. So I do not think there is anything there that anyone should worry about.

I would reiterate my comments from earlier: we are going to make these decisions, if and when we make them, together and publicly.

Mr. ROBERTS. Mr. Speaker, reclaiming my time, I thank the gentleman for his contribution. I will take a very cold shower and maybe fly speck all the language of this report to make sure that some of these projects do not happen.

I would add only that the money that the gentleman has mentioned is in fact in regard to security. That was part of a plan that has been ongoing for several years.

What I am trying to point out here is whether it is a caucus, an LSO, or a special project, we need public disclosure. It is when we do not have public disclosure that we get into trouble.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume. I have looked at this issue, of water leakage, and have found that no money will go toward a staff gym.

Mr. WALKER. Mr. Speaker, if the gentleman would yield, the concern that I am expressing is we had a document room not far off the House Chamber here that all of a sudden became some kind of a lounge that I do not think was ever specifically referenced in any of the appropriations bills that went through this House.

Funds seem to appear magically along the way that end up being major expenditures. That one cost us a few million bucks.

Mr. LEWIS of California. Reclaiming my time, Mr. Speaker, I must say the gentleman is expressing concerns I have myself. There is kind of an extension on the Judiciary Building that suddenly appeared a year ago. Those kinds of changes are controlled by working in-house committees that reflect the majority and minority. But to really get a handle on those things and stop that sort of thing, separate from not having this bill at all, we would probably have to become the majority. The gentleman from Pennsylvania [Mr. WALKER] and I are working very hard to accomplish that.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, is there anything in the gentleman's bill that will assure some equitable assignment of the new space that is being completed in the Capitol Building with the new west wing extension? Do we have some assurance that that space is going to be used for legislative purposes and is not going to be redesigned into a series of hideaways?

Mr. LEWIS of California. Mr. Speaker, there is no language that is specific about that in this measure. I can assure the gentleman that we have had detailed discussions with the Speaker and the leader regarding the question the gentleman is asking, and I am satisfied that we have every assurance that there will be a fair allocation.

Mr. Speaker, I further did want to express my own feelings about the change that is going to take place in our subcommittee. The Committee on Appropriations is a very special place itself. There are three of our Members on the other side of the aisle that are going to be leaving us that have been of great service to the House over the years. The gentleman from Florida [Mr. LEHMAN], the gentleman from Florida [Mr. SMITH], and my dear friend, the gentleman from Michigan [Mr. TRAXLER], are not going to be with us in subsequent years. They have made a great contribution not just to the House, but especially the Committee on Appropriations and the subcommittee.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in support of the conference report on fiscal year 1993 legislative branch appropriations. It's a step in the right direction.

The House-Senate agreement cuts total legislative branch outlays by $150 million or 6.5 percent below the current level, which surpasses the proposed Senate reduction of 5 percent below the fiscal year 1992 level. The House version of the bill had already cut funding for its own operations below the 1992 level. This agreement makes an even deeper cut by rescinding $21 million in funds for official mail. This reduction will eliminate any carryover balances in official mail accounts remaining from fiscal year 1991 and fiscal year 1992.

I want to clarify that the amount in the conference agreement is higher than the House-passed bill. That is because the House version traditionally excludes funding for Senate operations and buildings. However, as I noted, funding in this agreement for all congressional operations and related agencies is below the 1992 level. If we exercised such discipline for all agencies of Government we wouldn't be facing enormous deficits.

No doubt there is more to do in reducing waste in the legislative branch—as in the other two branches of Government. I intend to work for the reforms outlined in the report of the Democratic Caucus Task Force on Government Waste—which I chaired—in order to achieve that goal. But this conference agreement shows some fiscal discipline and I support it.

Mr. LEWIS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FAZIO. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 253, nays 143, not voting 36, as follows:

[Roll No. 463]

YEAS—253

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carr
Chapman
Clay
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gonzalez
Gordon
Grandy
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella

Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Riggs
Rinaldo
Ritter
Roe
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—143

Allard
Allen
Archer
Armey
Barrett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gilman
Gingrich
Glickman
Goodling
Goss
Gradison
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Hubbard
Hughes
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
Machtley
Marlenee
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Moorhead
Nichols
Nussle
Oxley
Packard
Pallone
Paxon
Petri
Pickett
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Slattery
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—36

Alexander
Andrews (NJ)
Anthony
Baker
Barnard
Boxer
Carper
Chandler
Clement
Coleman (TX)
Coughlin
Davis
Dwyer
Flake
Hayes (LA)
Holloway
Huckaby
Kasich
Kennedy
Klug
Levine (CA)
Lipinski
Livingston
McCrery
McDade
Neal (MA)
Owens (NY)
Panetta
Roukema
Savage
Sawyer
Staggers
Thomas (GA)
Towns
Wylie
Young (FL)

□ 1524

The Clerk announced the following pairs:

On the vote:

Mr. Anthony for, with Mrs. Roukema against.

Messrs. LIGHTFOOT, GILMAN, HALL of Texas, and HUGHES, Mrs. VUCANOVICH, and Mrs. JOHNSON of Connecticut changed their vote from "yea" to "nay."

Messrs. RINALDO, EDWARDS of Oklahoma, and CRAMER changed their vote from "nay" to "yea."

□ 1520

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ANDREWS of New Jersey. Mr. Speaker, I regrettably missed the rollcall vote on the legislative appropriations conference report due to a promise I made to the Polish-American Society in my district, who hosted a parade this afternoon. Had I been present, I would have voted in the affirmative.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5368, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1993

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, October 4, 1992, to file a conference report on the bill, (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO ADJOURN

Mrs. VUCANOVICH. Mr. Speaker, I send to the desk a privileged motion.

The SPEAKER pro tempore. The Clerk will report the privileged motion.

The Clerk read as follows:

Mrs. VUCANOVICH moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentlewoman from Nevada [Mrs. VUCANOVICH].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mrs. VUCANOVICH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

PARLIAMENTARY INQUIRY

Mr. RAHALL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RAHALL. I understand the gentlewoman from Nevada made a motion to adjourn.

The SPEAKER pro tempore. A recorded vote has been ordered on the motion to adjourn. It is a 15-minute vote, and Members will vote either "aye" or "no."

The vote was taken by electronic device, and there were—ayes 83, noes 316, not voting 33, as follows:

[Roll No. 464]

AYES—83

Allard
Allen
Armey
Ballenger
Barton
Bentley
Bilbray
Boehner
Burton
Clinger
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dreier
Duncan
Emerson
Ewing
Fields
Franks (CT)
Gallegly
Gekas
Gilchrest
Gingrich
Goodling
Gunderson
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Houghton
Hunter
Hyde
Inhofe
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lehman (CA)
Lewis (CA)
Lowery (CA)
Marlenee
McCandless
McEwen
Miller (OH)
Molinari
Moorhead
Myers
Nussle
Packard
Paxon
Quillen
Rhodes
Ridge
Riggs
Roberts
Rohrabacher
Santorum
Schaefer
Skeen
Smith (OR)
Smith (TX)
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Young (AK)
Zeliff
Zimmer

NOES—316

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barrett
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chapman
Clay
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini

Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Hoyer
Hubbard
Hughes
Hutto
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (FL)
Lent
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron

NOT VOTING—33

Alexander
Andrews (NJ)
Anthony
Baker
Barnard
Boxer
Carper
Chandler
Clement
Coleman (TX)
Coughlin
Dwyer
Flake
Gaydos
Hayes (LA)
Holloway
Huckaby
Kennedy
Levine (CA)
Lipinski
Livingston
McCrery
McDade
Neal (MA)
Owens (NY)
Panetta
Roukema
Savage
Sawyer
Staggers
Towns
Wylie
Young (FL)

□ 1543

Mr. OWENS of Utah changed his vote from "aye" to "no."

Mr. THOMAS of California and Mr. ZIMMER changed their vote from "no" to "aye."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. RAHALL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. (Mr. MONTGOMERY). The gentleman will state it.

Mr. RAHALL. Mr. Speaker, is it this gentleman's correct interpretation that the House is in session today awaiting action on the energy conference report and not completion of the current pending legislation?

The SPEAKER pro tempore. This is not a parliamentary inquiry that the gentleman has stated to the Chair.

MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1992

The SPEAKER pro tempore. The unfinished business is the vote on the adoption of House Resolution 574, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

REQUEST TO SPEAK OUT OF ORDER

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent to speak out of order for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. RAHALL. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The SPEAKER pro tempore. The vote is on the resolution.

The vote was taken by electronic device, and there were—yeas 251, nays 146, answered not voting 35, as follows:

[Roll No. 465]

YEAS—251

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Bennett
Berman
Bevill
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carr
Chapman
Clay
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (UT)
Pallone
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Saxton
Scheuer
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NAYS—146

Allard
Allen
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Horton
Houghton
Hubbard
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
LaRocco
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Olin
Orton
Oxley
Packard
Pastor
Paxon
Porter
Pursell
Rhodes
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Santorum
Schaefer
Schiff
Schroeder
Schulze
Shaw
Shuster
Skeen
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Taylor (NC)

Thomas (CA)
Thomas (WY)
Torres
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Williams
Wolf
Young (AK)
Zeliff

NOT VOTING—35

Alexander
Andrews (NJ)
Anthony
Baker
Barnard
Beilenson
Boxer
Carper
Chandler
Clement
Coleman (TX)
Dwyer
Flake
Gaydos
Hayes (LA)
Holloway
Huckaby
Kennedy
Kennelly
Levine (CA)
Lipinski
Livingston
McCrery
McDade
Neal (MA)
Owens (NY)
Panetta
Roukema
Savage
Sawyer
Staggers
Towns
Wheat
Wylie
Young (FL)

☐ 1602

Mr. McGRATH changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 574 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 918.

☐ 1603

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 918) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as read the first time.

The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes; the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes; the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 10 minutes; and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 10 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the year was 1872.

Ulysses S. Grant resided in the White House.

Union troops still occupied the South.

The invention of the telephone and Custer's stand at the Little Bighorn were still 4 years away.

And in 1872 Congress passed a law that allowed people to go onto public lands in the West, stake mining claims, and if any gold or silver were found, mine it for free.

In an effort to promote the settlement of the West, Congress said that these folks could also buy the land from the Federal Government for $2.50 an acre; 1872, $2.50 an acre—OK, back then probably a decent price.

That was 1872. This is 1992. Yet, today, the mining law of 1872 is still in force.

And, for the most part, it is not the lone prospector of old, as we see in pictures of the good old days, pick in hand, accompanied by his trusty pack mule, who is staking those mining claims.

Today, it is large corporations, many of them foreign controlled, foreign owned or controlled conglomerates, who are mining gold owned by the people of the United States for free, and snapping up valuable Federal land at fast food hamburger prices.

Remaining as the last vestige of frontier-era legislation, the mining law of 1872 played a role in the development of the West. And a highly successful role at that, I might add.

But it also left a staggering legacy of poisoned streams, abandoned waste dumps, and maimed landscapes.

Obviously, at the public's expense, the western mining interests have had a good thing going all of these years. And this effort today makes them mad, very mad.

But the question has to be asked for the sake of sound public policy: Is it right to continue to allow this speculation with Federal lands, not to require that the lands be reclaimed, and to permit the public's mineral wealth to be mined for free?

Make no mistake about it.

Today, you, or me, or anybody else watching this debate can go onto Federal lands in States like Nevada and Montana and stake any number of mining claims, each averaging about 20 acres.

In order to maintain our mining claim, all that we are required to do is to spend $100 per year on it.

Say you value your time at $5 an hour. Over the course of a year, if you spend 20 hours digging around with a shovel on that mining claim you've met the requirement.

Now, in the event we find gold or silver on that mining claim, we mine it for free. We are not required to pay the Federal Government any rental for the use of the land, or any royalty in return for the profit we make from producing minerals from these Federal lands.

During 1990, an estimated $9 billion worth of hardrock minerals were mined like this in the Western States.

Yet, the Federal Government did not collect one red penny in royalty from any of this mineral production that was conducted on public lands owned by all Americans.

Incredible you say. Oh, it gets better. Does it ever.

As it stands, we have a mining claim on Federal lands.

We pay no rent for the use of the land, or royalty for the production of minerals from this land.

And all that we are required to do to keep the claim is to dig around a bit each year, or at least say that we did. With about 1.2 million claims out there, who is going to know the difference.

But say we decide that we want to own the Federal land that is embraced by our mining claim. For whatever reason, we want to actually buy this Federal land.

The mining law of 1872 says that we can do this. And it says that we can do this by first showing that the lands have valuable minerals, and then by paying the Federal Government $2.50 or $5 an acre.

You heard me right.

Depending on the type of claim, $2.50 or $5 an acre.

You heard me right.

Depending on the type of claim, $2.50 or $5 an acre for land that may contain millions of dollars worth of gold, silver, copper, lead, and zinc.

This is called obtaining a mining claim patent. Perhaps a good feature in 1872, when we were trying to settle the West. But today, I hardly think we need to promote the additional settlement of Los Angeles, San Francisco, or Denver.

To give you an idea of what is going on, recently a mining company received preliminary approval to obtain 25 of these patents covering about 2,000 acres of public land in Montana.

This company will pay the Federal Government little more than $10,000 for land estimated to contain $32 billion worth of platinum and palladium.

Now, once we own those lands, nothing in this so-called mining law says that we have to actually mine it.

The land is now ours to do with what we will. We are free to build condos or ski slopes on this land. We are free to sell the land for whatever price we can charge. We can do this because the land is now ours.

Why, just last week the Arizona Republic carried a story about a gentleman who paid the Federal Government $155 for 61 acres worth of mining claims.

Today, these mining claims are the site of a Hilton Hotel. The gentleman now estimates that his share of the resort is worth about $6 million. Not a bad deal, uh, except from the American taxpayer's point of view. Are these the types of jobs my dear opponents to this bill claim I'm eliminating? Do you want mining jobs or maids' jobs? Rather, my effort is to preserve and create jobs for the serious mineral developer in accord with sound public policy governing the public lands.

But to this gentleman's credit, even he admits, and I quote him: "The government is selling the land, and they aren't making any money off of it. I would favor that the government would retain ownership of the land.”

But all of this is still not even the whole story.

As it turns out, you can mine these Federal lands with minimal reclamation requirements.

Two States, New Mexico and Arizona, do not even have reclamation laws on their books.

Meanwhile, the only Federal requirement is that when operating on these lands you do not cause unnecessary or undue degradation.

And what does this term mean? It means that you can do whatever you want as long as it's pretty much what all of the other miners are doing.

That, my colleagues, is the standard that has given rise to an incredible amount of environmental damage.

How can this be, you might ask. This is incredible. This is absurd. This is unreal, unbelievable, crazy, idiotic. Why this is a rip-off!

Well my dear colleagues indeed, it is.

If you are mining coal, this is not the case. There's a very stringent Federal law on the books that says coal miners must completely reclaim the land, whether on private or public lands.

It simply makes no sense whatsoever to provide a lesser degree of protection to people and communities who happen to be near hardrock mining operations than those near coal mining operations.

And I would remind my colleagues that the mining law and the pending legislation does not deal with coal, or for that matter, oil and gas. These energy minerals, if located on Federal lands, are leased by the Government, and a royalty is charged. The American taxpayer is not being ripped off in these areas.

Further, the mining law of 1872, and the pending legislation, does not deal with private lands. The scope of the mining law and this bill is limited to Federal lands in the Western States.

The pending legislation addresses all of these concerns.

It would prohibit the continued give-away of public lands.

It would require that mining claims are diligently developed.

It would require that a rental be paid for the use of the land, and that a royalty be paid on the production of valuable minerals extracted from these Federal lands.

And, it would require industry to comply with some basic reclamation standards.

We are beginning a historical debate. A debate, I would maintain, that is long overdue.

I am here to suggest that if we continue under the current regime, that if we do not make corrections, the ability of the mining industry to continue to operate on public domain lands in the future is questionable. And this, I dare say, will put mining jobs in real jeopardy.

While the mining law of 1872 over the years has helped develop the West, and caused needed minerals to be extracted from the Earth, the fact of the matter is that we have already passed the point in time when this 19th century law can be depended upon to serve the country's 21st century mineral needs.

And to do so in a manner accepted by society.

Reform of the mining law of 1872 is also a matter of the public interest.

The interest of the American taxpayer. The interest of all Americans who are the true owners of these public lands. The name of every American is on the deed of these lands.

□ 1610

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I am glad to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I ask the gentleman to yield because my district involves some 20,000 square miles of territory. You could put four eastern States in it easily. There is a lot of mining territory in there, and yet I do not serve on this committee.

I am curious, the gentleman has described this law, 1872. Has the law ever been changed since 1872?

Mr. RAHALL. Oh, yes, the law has been changed a few times to take out, as I mentioned in my opening comments, oil and gas, to take out coal, to put them under a separate regime where they do have to pay a royalty to the Federal Government. Yes; it has been amended in that way.

Mr. Chairman, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I yield 5 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I know it is the time for the flu season. I would like to suggest that is not why I feel ill. It was just the previous speaker and his statements that made me very disgusted with what I heard.

Mr. Chairman, in fact, the mining law has been changed 127 times since 1872, 127 times, just as recently, beginning in 1918, it has been changed as recently as 1990, so to have someone sit here or stand here and say it has not been changed is absolutely so much droppings as we would find in the wild where this mining takes place. It is not true.

Mr. Chairman, I would like to just suggest respectfully that in a way I want to thank the chairman of the subcommittee for allowing us to debate this issue. It is dead. It is a filler for the next legislative package, the energy bill that is coming up today.

Last night, as I said, that side of the aisle over here talks a great game. They talk about the poor, they talk about joblessness, they talk about the economy, they talk about having more jobs and workers working in America, and increasing the tax base.

Think of it. They cry out for affordable housing, but they also tell us, “Do not cut any trees. Do not cut any trees; we are going to build houses out of Alice in Wonderland material.” So we import the wood from Canada at a higher rate, about $5 more per house. The price of housing goes up, the American dream goes down.

They complain about the energy crisis, the imports. At the same time they kick all of our energy companies out of this country, 370,000 jobs down to less than 100,000 jobs in less than 14 years, that side, the Democrat side. The energy companies go on to Russia, Colombia, China, Vietnam, they go on where they can drill, because we are told, “They cannot drill here.” We are told, “They cannot drill anywhere in the United States,” so Americans spend twice as much on foreign oil as we do on Japanese cars, and then that side speaks of the trade deficit.

This country does not have a trade deficit, it has an oil deficit.

Last Friday we locked up lands in Montana to resource development. Today we are telling the miners to go out and flip hamburgers. Tomorrow we are going to cut off water to farmers in California, our richest agricultural State.

Sometimes I think that some of the people in this body who are puppets of the extreme environmental groups will not be happy until the opportunity to work in America on any job where you can get dirt under your fingernails is gone. Then we can sit around and sue each other with our bunches of lawyers and watch Russia, China, Japan, and Europe pass us by.

Like going to Reno to get married, people from other parts of the world will come to the States to sue each other. While here, they can help support our declining standard of living by seeing the sights and buying a hamburger made by an ex-logger, an ex-roustabout or toolpusher, or an ex-miner. This is the new covenant of Bill Clinton and “Owl” GORE. In this new age service economy, we can eat new fruits from exotic places, since California's agricultural lands will return to the desert. We will buy finished product from foreign nations made of foreign minerals derived from foreign lands. Our automobiles will be gone—as AL GORE has said they should be gone, because of the pollution—and we will ride on public transportation to do-nothing, make-work jobs.

We can live like drones, and our standard of living decreases each day. I blame that side. Again, I challenge them to show me where they passed one law in 20 years that has produced a real job, a job that comes from the resources of this land. It has not happened.

I hear a lot about how the mining law is over a hundred years old. By the way, the Yellowstone Park is over 100 years old. So is our Bill of Rights. So in our Nation, blessed by God with the natural resources which built us into the world power that we are today. I wish to God that the wisdom of the Congress that saw the need to encourage the development of our minerals through the mining law, the development of our agriculture through the Homestead Act, and the blooming of our deserts through water development in the arid Western United States would be visited upon us today. For on this day, we squander a legacy.

Mr. Chairman, I would suggest to this body that we have lost sight about what America is. We have become a body in this Congress of creating make-believe. That is all this is, make-believe: Pass these laws, the Clean Air Act, 350,000 jobs; and the Coal Act, "back to the original contour," that is a lot of jobs. We are not mining the coal we should be. We are not developing the resources we have here and we should be developing in an environmentally safe way.

□ 1620

But I can tell you, the day of reckoning has come, and it will be here sooner than you think, because you cannot make something out of nothing. And that is what you are doing. You have borrowed the dollars to fulfill all of these good, and feel-good, and fuzzy-wuzzy programs, and borrowed them, and decreased the ability to produce the resources of this Nation.

You have driven manufacturing overseas, and now you are driving the oil industry overseas, and the mining industry overseas, and now agriculture overseas, and you ought to be happy. You ought to be real happy because you have driven America overseas. You have made us a third-rate country instead of the first-rate country we should be.

Mr. JOHNSON of South Dakato. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to state my strong support for moving forward with legislation to reform the 1872 Mining Act. This act, signed by President Grant, may have been appropriate to its time, but changes in our society, changes in our values, and simply in mining technology have made reform long overdue. New recovery techniques now make it possible and profitable to crush 100 tons of mountain rock to obtain a single ounce of gold. And we have seen a tenfold increase in gold recovery over the past decade alone.

The old law has long since ceased to adequately protect either the interests of the environment or the taxpayers.

There are some areas where gold mining is no doubt the very best use of public lands. But the 1872 act gave primacy to mining over all other uses, almost regardless of the nature of that land. Public land managers are currently not in a position to adequately weight scenic, recreational, wildlife, grazing, timber, or air and water-quality values in a balance between mining and other uses. I believe it is particularly important for competing potential uses of public land to be thoughtfully and carefully balanced where, as in the case of my own State, mining areas are interwoven with timber, grazing, tourism, business, recreational, and residential uses.

Where mining does take place, it is essential that the Federal Government insist on reasonable reclamation standards, certainly standards which the mining industry can realistically meet, but which also restore the land for the use of future generations.

There are currently some half million acres of public land that have been mined out and abandoned. Forty-eight of the Superfund sites in this country are abandoned mines, with the largest of all being in my neighboring State of Montana. Huge pits carved for miles in the mountain, and left with water contaminated by arsenic and mercury, are not a legacy that this Nation wants to leave to future generations.

While much is made of the fact that 15 of the 25 largest gold-mining companies in the United States are owned by foreign interests, the 1872 act prevents professional management of smaller mining sites. In California, in particular, literally thousands of trailers, shacks, and cabins have been set up in the foothills on public land, ostensibly as mining operations, but in fact as homes to full-time squatters and vacation-shack seekers. One BLM manager in California contends that his region contains 10,000 mining claims to supervise, but that only 4 or 5 are actually involved in mining.

In the meantime, the public loses access to what is supposed to be public lands, and environmental damage occurs, and pristine wildernesses are esthetically blighted.

Mr. Chairman, it is long overdue that this Congress moves forward with balanced reform of the 1872 Mining Act, reform which will allow this key industry to continue to profitably pursue mining, but which, at the same time, balances it with the interests of the environment, the taxpayers, and a whole other range of uses of public land.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield 4½ minutes to the gentleman from Ohio [Mr. REGULA], a very valuable member of the Committee on Appropriations and a great help on this legislation.

Mr. REGULA. Mr. Chairman, I think we ought to get some facts in this issue. First of all, we are the custodians of about 800 million acres of America, the Federal lands that are owned by the U.S. Government, and we have a responsibility to manage this resource not only for today, but for tomorrow and for future generations. These lands are precious and become even more so.

The question today is how do we effectively deal with the issue of mining. Certainly we have had amendments to the 1872 act, and that is why it is fitting to consider again some amendments that should be made in light of present-day conditions.

One of the things that troubles me as the ranking member on the Interior Appropriations Subcommittee is this fact. In 1991 we approrpiated $6 million to buy mining claims in Denali National Park. In 1992 we appropriated $3 million to buy additional mining claims. In 1993 we appropriated another $3 million. This figures out to $8,571 per acre for land that the U.S. Government conveyed for $2.50 an acre.

Something is wrong when we do that type of management of these resources. What we are trying to address in this legislation is a way to ensure that the taxpayer gets value received.

The bill that passed the House from the Interior Appropriations Subcommittee had a moratorium on any patents being granted that I placed in the bill. Unfortunately the Senate insisted that this provision come out of the bill.

We need to reform the law to prevent this happening in the future.

Clearly the patent provisions in the 1872 mining law are not consistent with current Federal land management policies in that they allow patented mining claims to pass into private ownership, which removes these lands from multiple-use management, impedes effective multiple-use management of adjacent public lands and does not permit the government to receive a fair return on the land or minerals. BLM estimates that 3 million acres of Federal lands have been virtually given away to private ownership through this 120-year-old statute.

Another problem is reclamation. As has been pointed out before, every State has a different set of laws. Certainly we have the Federal act that applies to certain minerals, but not to the hard rock. This bill attempts to address the problem of restoring these lands for useful purposes. Keep in mind that these lands are already in the Federal domain, and we have an obligation to the owners, the people of the United States, to restore them to the condition they were in before mining.

To give an example of the problem, 50 mine sites have been placed on EPA's superfund list and will cost the taxpayer $11 billion to clean up something that we gave away. We need to address that kind of a problem. This bill takes a step in the right direction.

The United States is the only major country that does not require royalties and require reclamation. Canada, Australia, and South Africa are examples of countries that charge royalties for hard-rock mineral mining, but not the United States. Likewise these nations retain title to the land, therefore ownership reverts to the people when mining is completed.

I think it is important that we take a new look at this. We have removed coal, sand, gravel, stone, oil and gas, from the 1872 act. Now I think it is time to examine the question of hard-rock minerals to ensure that we do not convey away lands for $2.50 an acre that we are going to buy back as we are doing in the Interior appropriations bill for $8,571 an acre in Denali National Park.

I am a proponent of multiple use, and I think there is a proper place for it. But what we are talking about today is a proper management tool to ensure reclamation, to ensure fair value to the taxpayers of these United States, the people that own these lands, and to ensure that we can recover the hard-rock minerals, but in a useful way.

By enacting this long overdue reform measure we will bring the hard-rock mining industry into the 20th century and allow the Federal land management agencies to evaluate this use of the public lands fairly against other uses and receive a fair return for allowing mineral exploration on public lands.

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wyoming.

□ 1630

Mr. THOMAS of Wyoming. I guess I am curious. I understand the gentleman's concern, and I do not disagree with it at all. But I am interested in why, when there was an opportunity in the Interior bill to do this, a bill that would have been signed, the gentleman did not support that but rather would come to talk about a bill that will not get through the Congress.

Mr. REGULA. What was in the Senate Interior appropriations bill on mining is different from what we are talking about today, and we do not have enough time to get into the differences. But in any event it did not have the elements that we need to address; namely, reclamation, fair market value for patents, royalty payments and so on. This is not a perfect bill. I do not claim that it is. However, I think it is important that this body that manages the Federal lands on behalf of the people of these United States, pass amendments to the Mining Act of 1872 that insure fairness to the people of this Nation.

Mr. THOMAS of Wyoming. I thank the gentleman.

The Interior bill was not perfect either, but you had a chance to do something that you wanted; here, you have no chance and you and I know that.

Mr. REGULA. You know, the westerners in the other body are difficult to deal with on the mining issues.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I rise in strong opposition to this measure to amend the mining law of 1872.

Unlike others who have spoken previously, I must state at the outset that my objections to this measure are not based primarily on process. It is clear to anyone who has followed this initiative that the gentleman from West Virginia has worked very long and hard on this bill, although the procedure of discharging it from subcommittee was unusual.

I commend him for the extensive data gathering and hearing process that he has undertaken.

Likewise, I have no quarrel with his overall objectives to amend certain provisions of law regarding how hardrock mining on public lands is carried out.

Nearly everyone from the Interior Committee on both sides of the aisle who spoke on this measure during full committee consideration agreed that fixes were required.

My quarrel today with this bill is with the substance of it, because I am convinced that it will result in shutting down many mines across this country and putting thousands of people out of work, the fact that there is no objective analysis of the economic consequences of this bill further underscores my concern.

I believe that because shutting down the mining industry is clearly the objective of the extreme environmental groups who are the primary proponents of this measure.

Mr. Chairman, just like many other bills which have emerged from the Interior Committee in the 102d Congress, this bill puts growth in the economy and people last.

I truly believe that we can have both environmental protection and economic growth, but we cannot have both environmental extremism as practiced by the Interior Committee in the 102d Congress and economic growth.

The Interior Committee majority believes that in order to protect the California Desert, you must lock up over 8 million acres in wilderness and parks.

The Interior Committee majority believes that we should spend over $900 million in Federal funds to save about 4,000 acres of redwood trees, the most protected commercial tree species in the world.

The Interior Committee majority believes that we should lock up over 8 million acres of timber in the Pacific Northwest and close down entire towns in order to save the spotted owl.

With this bill the Interior Committee majority is saying the way to solve existing problems with the mining industry is to close it down.

Many people argue that just because the mining law is 120 years old, it must be obsolete; I would remind my colleagues that 1872 was also the year in which we designated Yellowstone National Park and I don't believe anyone is arguing that park is obsolete just because it is 120 years old.

The mining law has been amended over 40 times, many times to address environmental concerns; additionally, all of the Federal environmental protection laws apply to mining operations on Federal lands.

Mr. Chairman, I agree with those who argue for changes in the patenting procedures, holding fees, and reclamation requirements.

I also agree that provisions dealing with financial return to the Federal Government for the privilege of extracting Federal minerals need to be established.

I would hope that after the rhetoric of today subsides, those persons from both sides would be willing to sit down and jointly develop some of these needed reforms so that this Congress can spend its time debating this issue next time productively rather than waste its time on a bill which is headed nowhere.

Mr. JOHNSON of South Dakota. Mr. Chairman, I yield 3½ minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the chairman here, and although I have opposed everything he has wanted to do with this act in committee, and if I have the opportunity I will oppose some of what he wants to do in this act here on the floor, I commend him for trying to bring this 120-year-old law up to date, and in this general effort I lend him my support.

Mr. Chairman, I understand and support the need to reform the mining law of this Nation. The mining law was passed during the Ulysses Grant administration in order to provide a rudimentary, fair system of facilitating development of the West's mineral estate. It was developed to protect the rights of those who went out on the public land, found a valuable mineral deposit, and proceeded to mine and profit from that deposit.

The 1872 law accomplished these goals. During the last 120 years an enormous wealth of minerals was developed from the public domain. Many thousands of acres were transferred into private ownership at $2.50 an acre under the land patenting process, enabling, in many cases, individuals to obtain public land at fire sale prices and use that land either for mining or for any other purpose they so chose. Over the last century hundreds of mines were developed with no regard for the fundamental environmental protections we require today, and at most of those the miner finished his work and then walked away, leaving our generations with an environmental cleanup task of mind boggling dimensions. And these mineral resources were given away, with not a dime of these enormous profits going to the American people who owned the resources.

As written in 1872, and as it has gone unchanged in 120 years, the law sanctions mining as the highest and best use of public land, and it requires that the right to mine ultimately supercedes all of the other values which may be present on the land. Clearly, Mr. Chairman, the law's relevance in today's world must be considered suspect.

Consider the Sweetgrass Hills of northern Montana, one of the most sacred places to the native Americans of the northern Great Plains, and a place that is deeply, profoundly loved by the farmers and ranchers who've lived for generations in their shadow. The hills are now the subject of an EIS for a major hard rock exploration project, involving extensive roading and trenching through one portion of the area. Yet under the current law there is no circumstance in which the BLM could deny this mining company's permit to explore for minerals. Again, Mr. Chairman, we need to have this discussion.

There are things in this legislation that are good for Montana and for the West. I would compliment the chairman of the Mining Subcommittee, and his staff, for their good work in devising minimum standards of reclamation to apply in all States. Montana leads the Nation, as I've said, in the establishment of mining reclamation standards. There is a good reason for that, Mr. Chairman. Montana paid a price for a century of unregulated mining, and so in recent years my State has said enough is enough, we will no longer allow unrestrained, environmentally unregulated mining in our State.

This legislation sets up a process to reclaim abandoned mines. The Montana reclamation office tells me that while we've spent $30 million to reclaim abandoned mines, we have a billion dollars of work left to be done. This is slightly less than one-half of the total hard rock reclamation need of the entire Nation, and I tell my colleagues that we Montanans are very serious about cleaning up the tens of thousands of acres of lands and miles of streams that are polluted by past mining abuses. This effort would create many good paying jobs in my State and we should get on with the abandoned mine reclamation effort.

Mr. Chairman, mining reform, not necessarily this bill, is terribly important both to the protection of the environment and to how we will allow responsible mineral development to go forward in this country. I have serious concerns about certain provisions in the legislation and I am hopeful we will correct those in our work today. But it has taken us since the Grant administration to revisit this law here on the floor of the House, and so I support this effort to change the mining law to reflect the changed world we now live in.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. I thank the gentlewoman for yielding.

Mr. Chairman, I rise to speak against the bill, H.R. 918.

The issue is something that keeps coming back to us year after year like a stray dog.

For the third time in 6 years the House is trying to gut the general mining law of 1872, largely to make an election year splash and to please those who think the mining industry is raping the land for a pittance.

Sure, some change may be appropriate; sure, the 1872 law is not perfect, and I think that is shown by the fact that we have amended it so many times over the years. And this year we had a chance to do something really meaningful, but instead we come here at this 11th hour to discuss something that is going nowhere and that fails on all counts.

□ 1640

The Senate has indicated it has no intention of reconsidering this measure at this late date. Even if by some wild stroke of fortune this bill were to reach the President's desk, he has indicated he would veto it in the form in which it is now.

Critics of the general mining law had their chance for real reform in the Senate. There, the mining industry worked with the Senate to reform the fee-on patent, insure mine reclamation, stop the use of mining patents to claim public lands for other purposes, and many other things; but none of this is in this bill. We are back to the same measure that had 1 day of hearings over here and will do little but to shut down mining on public land and generate attorneys' fees.

This is a cynical measure that plays with the feelings of those who like to see reform.

Mr. Chairman, I urge defeat of this bill.

Mr. JOHNSON of South Dakota. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, we hear a lot from the other side about how the industry wrote a great reform bill over in the Senate and this is not real reform.

Well, this bill was not written by the industry and the special interests that are involved. This was written in great part by people who represent Western States, more than half owned by the Federal Government, and have some concern about the long-term viability of those lands. I will have a lot to say later in this debate about some amendments, but I just want to relate one story now. It is about the Oregon Dunes National Recreation Area.

In 1972 we adopted legislation and made that into a wonderful recreation area. Millions of Americans have visited that area, but now there are 780 acres of it that are set off from public access by a family from Washington State who filed a claim on that precious sand, something that we should certainly not allow people to take private lands for, take public land into private ownership for. They get 780 acres of the Dunes National Recreation Area for $1,950, plus a lot of attorneys fees under existing law.

Now, those same people, the Forest Service said, "You can't mine it under Oregon's land-use law. How about an exchange?"

"Oh," they said, "we would be interested in an exchange."

The Forest Service went out and located a number of parcels that were suitable for exchange. Do you know what those people did? They filed new claims on every single one.

So they said to the Forest Service, "You don't have anything to trade us. We got claims on that land."

Now they want a little bit of cash, $12 million for their $1,950 purchase of our precious Dunes National Recreation Area.

That is not an abuse, my colleagues on the other side of the aisle tell me. That is the wild West. That is keeping America strong. That is industrial development.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman may state his parliamentary inquiry.

Mr. MARLENEE. Mr. Chairman, I am a member of the Subcommittee on Forests, Family Farms and Energy, of the Committee on Agriculture. I am the second ranking member on the subcommittee.

We were allotted some time for this legislation. Is that time still available, and how much time is there?

The CHAIRMAN (Mr. MFUME). The time is still available. The Chair was under the impression that the gentleman from Missouri [Mr. COLEMAN] was controlling the time.

Mr. MARLENEE. Mr. Chairman, I will claim control of the time.

Mr. COLEMAN of Missouri. Mr. Chairman, if I may be recognized, we have 10 minutes. I would allow the gentleman from Montana [Mr. MARLENEE] to control the remaining 10 minutes of our time from the Republican side on the Agriculture Committee.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I might consume, and I thank the ranking member of the full committee for allowing me this time.

Mr. Chairman, I would like to comment on the remarks of my colleague, the gentleman from Oregon, his eloquent, if somewhat heated and somewhat excitable debate about the surface and the property that has been forfeited by the taxpayers and the people of the United States of America.

The answer is very simple. The President and the administration and the Senate side, the other body, had sent over here some amendments that would have allowed for the fix of any perceived difficulties that did exist, and the chairman of the committee said these really were just, if I may characterize it, a show and they really did nothing; but they would have allowed for the payment of the surface market value of those claims that were filed.

So I want to correct the misconception of the gentleman from Oregon.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, sometimes we just do not seem to learn. In October 1990, Congress adopted a tax measure designed to reduce the deficit. We loaded up a tax on people building boats and luxury cars, figuring that we would get additional revenue to the Government. We find out now that people are building less boats and luxury cars in America.

The proponents of this bill tell us that if we have an 8 percent royalty tax on the value of minerals produced annually, estimated at $1.4 billion, that will produce $80 million to the Federal Treasury.

What they have failed to take into account is that with the reduction of mineral production caused by this royalty, it is estimated that there will be a loss of corporate income taxes to the Federal Government of $70 million and a loss of personal income taxes paid to the Federal Government of $160 million, meaning the adoption of this measure in the form that is before the House, with an 8-percent royalty on the value of minerals extracted from Federal lands, is going to result in a loss of revenue to the Federal Treasury of the U.S. Government of $80 million a year.

Now, this to me, if the reason for this bill is to correct a deficiency in the law that was adopted in 1982, would at least strike from this bill this provision that gives an additional tax on those seeking to produce a mineral that the country needs.

I look at this as a means of decreasing employment of people in this country, decreasing mineral production, and that is not the direction I think we should go.

Yesterday, I noticed that there was a Montana wilderness bill, mostly supported by my friends on this side of the aisle. We find that bill will lock up 2 to 3 trillion cubic feet of natural gas badly needed by the energy base of this country.

Mr. Chairman, I do not think this is the direction in which the country should go.

Mr. MARLENEE. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I appreciate the gentleman yielding me this time.

First of all, I rise in opposition to the bill.

I would like to chat about it a bit. Actually, Wyoming is not as affected by this as we are by many other kinds of minerals, but I think it is the wrong direction to go. I think there need to be some changes in the law. Some of those need to be statutory changes, some of which we have had an opportunity to do, others can be done administratively.

We hear a lot of talk about how easy it is to transfer this land into ownership. I would like to take this $20 and say to my friend, the gentleman from West Virginia, I would like to have him take this and go out and patent 8 acres of Federal land.

The fact is that it costs tens of thousands, maybe millions of dollars to find the kind of minerals that make it possible to patent the land. So I would like to see that done very readily.

I think sometimes in the course of this, we have sort of forgotten the notion of what was involved here in the effort under the mining bill. It is always talked about as being so old and never changed. Obviously, it has been changed.

The most important part, of course, is that mining is covered under the environmental laws in this country, under the Clean Air Act, the Clean Water Act, the Threatened Endangered Species Act, the Archaeological Resources Protection Act, and in my State particularly, very stringent State laws.

It was designed for free access to public domain to explore for locatable minerals in lands that have not been withdrawn.

There is somehow a notion that people are running into Teton Park or Yellowstone National Park and making claims. Not so. Fifty percent of our State is in public ownership. It is not Teton Park.

As a matter of fact, most of it are lands that were left after access to homesteading, lands that were residual lands. The lands that were set aside for a reservation can be kept from mining simply by having them withdrawn, administratively or by law.

□ 1650

The other purpose, of course, was to initiate, to have self-initiating under this law whether or not the BLM or the Forest Service agreed before one could look for minerals. It was self-initiating, very important principle that is still there. Certainly secure tenure needs to be there. The notion of patenting does not have to be. One does not have to patent, nor do they have to offer patents on the surface. One can go into it with ownership in minerals without having a patent on the surface.

We have heard a lot of things here that really are not so. We have heard an awful lot about some awful aberrational examples. They should be changed, and I am for that. But to say one has to suggest that we take away the principles that were involved in the basic mining law to help for the economy of States where 50 to 87 percent of the States in Federal ownership I think is the very wrong direction.

Mr. JOHNSON of South Dakota. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I support the bill, and I have an amendment. The amendment is straightforward. It says:

What are the percentages of ownership of these hardrock mining claims on Federal land by foreign interests?

Let me say that again. I want the support on both sides of the aisle because I predict the next President will conduct someday a press conference on the east lawn of the White House in a rice paddy. Domino's Pizza will be delivering with a ricksha. That is because we are auctioning and selling the whole dam country off, and of the top gold mines in America, my colleagues, 18 of them are owned by foreign interests who have more than 40 percent ownership in the top 18 gold mines in America. What the hell do we have left? Hamburgers?

Mr. Chairman, I want my amendment accepted. I do not know all the ramifications of this bill. I have heard about the bowels of the Earth testimony. All I know is this:

I have confidence in the chairman from West Virginia, and I know he is a tenacious fighter for American jobs, and I think it is time we find out who owns America's minerals and valuables under the earth and who can bring them out.

So, Mr. Chairman, I am hoping the gentleman from Montana [Mr. MARLENEE] will support the gentleman from Ohio, and the gentlewoman from Nevada, because some of these mining claims are in fact in their States.

So, I appreciate the opportunity to have the time, and I would appreciate the support of the chairman.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I find it very interesting, the latest delivery on the floor of the House by my colleague, the gentleman from Ohio [Mr. TRAFICANT]. I think what I heard him say is, "Take your chips and go home. We don't want you investing in America."

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I did not say that.

Mr. MARLENEE. "We don't want you creating jobs in America"; I think that is what I heard, and I wonder if my colleague, the gentleman from Ohio [Mr. TRAFICANT], understands that the typical ounce of gold production, who owns the companies that produce it? Fifty-eight percent U.S. ownership of production. Sixteen percent British ownership of production. Sixteen percent Canadian ownership of production. Ten percent the rest of the world.

Mr. Chairman, that hardly sounds like an invasion in America. It sounds more like an investment to create jobs, to create economic activity, to create a tax base that supports the schools and communities.

Mrs. VUCANOVICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to H.R. 918. As I said during debate on the rule, this bill is clearly aimed at promoting disincentives for investment in mining in America. That is why I have referred to it may times as the Latin American Mineral Exploration Incentives Act. I firmly believe H.R. 918 is a recipe for continued migration of mining exploration capital to foreign shores in search of investments in mineral prospects that those governments will allow to be mined.

I do not exaggerate, Mr. Chairman, when I say that H.R. 918 is a bill that would kill the goose that laid the golden egg. If my congressional district were an independent nation, it would be the third or fourth largest gold-producing country in the world. And if H.R. 918 somehow became law, we would want to be an independent nation.

There are so many provisions in the substitute that provide opportunity for the Federal Government or antimining citizens to "just say no" to a proposed operation that no rational person will expend his or her time, energy, and funds in the very risky business of mineral exploration and development.

The current mining law has fundamental concepts that are not just 120 years old, as is the 1872 act that this bill seeks to dispose with. No, the idea that one who explores for valuable mineral deposits must be given the right to mine his or her discoveries is at least 500 years old. Our country tried other systems in the first half of the 19th century to foster development of the old Lead Belt of Missouri and the lead, zinc, and iron deposits of the Upper Mississippi region, but they did not work, and the laws were repealed.

By contrast the mining law system of location and patent of valuable minerals on the public lands has withstood the test of time. Yes, it has been amended on many occasions to change the scope of minerals it covers and the States to which it applies, but the fundamental guarantees of access and right to mine have remained intact. It is these concepts which the bill would give lip service to but in fact would deny. Let me be clear, Mr. Chairman, the current law's guarantees do not come without conditions. Miners must comply with environmental statutes just as everyone else must. The mining law of 1872 does not apply its own environmental standards, but it does not immunize miners from existing laws, State or Federal.

My point, Mr. Chairman, is that miners today are willing to invest in the search for metals and nonmetals on the public lands because their tenure is secure. If a deposit is sufficiently valuable to pay the cost of its extraction and processing in an environmentally sound manner then the Federal land managing agency must allow its development, albeit conditions to prevent unnecessary or undue degradation of the public lands are imposed. In other words, discretion to "just say no" is limited to the Congress placing the lands off limits through wilderness legislation and the like—which we do with unrelenting abandon—or to the land manager denying plans because environmental thresholds would be exceeded.

In contrast, H.R. 918 would build in the discretion to say no for any reason—often after extensive data gathering efforts have already expended much of the proponents capital. Incredibly, Mr. Chairman, substitute to H.R. 918 passed by the Interior Committee would have extended the provisions of title II to privately owned mineral estates. There were field hearings in the West on the original bill, but never did the iron ore miners of Minnesota and Michigan believe that a substitute would apply to them. Nor did zinc owners in Tennessee, such as the ALBERT GORE family, nor lead miners in Missouri and clay mine operators in Georgia, and so forth.

Now the subcommittee chairman may allege that the new substitute fixes this private property concern, but I'm not so sure. That's because the bill defines the term "locatable mineral" to mean minerals not subject to a list of leasing acts and the Materials Act. For example, lead deposits in southeast Missouri on acquired Federal lands is not disposed of under any of the listed statutes in title I. Rather, it is leased under authority of the Weeks Act of 1911, as amended. Thus, it is a locatable mineral for the purposes of H.R. 918. Likewise, privately owned mineral rights are not disposed of under any of the listed acts, hence one may argue that the permitting provisions of this bill apply to them as well.

I know this may sound like a tortured interpretation to some Members, but let's examine the viewpoint of the sponsor of this substitute. Chairman RAHALL comes from coal mining country and in that business we have a nationwide law applying to all classes of ownership. It is SMCRA, the act of August 3, 1977, wherein Congress set Federal rules for coal mining reclamation and specifically declined to do so for hard rock minerals.

Instead, that Congress asked the National Academy to do a study of the need for and feasibility of nationwide hard rock mining reduction. That report, the so-called COSMAR study firmly stated that rigid Federal rules were ill-advised and would likely make hard rock mining unprofitable, harming an important sector of our economy.

Now, I believe we are seeing "a shot across the bow" on revisiting the issue of nationwide regulation of mining by the Federal Government. And this is being done in a legislative vehicle that was a public lands bill originally. Perhaps it has been fixed in this substitute, perhaps not. I don't think that the sponsor knows for sure, or else he would have included the proper citation for disposition of hard rock minerals on acquired land national forests.

From the "Dear Colleague" letters we have all circulated in the past days, the average Member may think that the royalty issue is key to this bill. But, Mr. Chairman, it really is not. The critical issue in H.R. 918 is the loss of secure tenure to existing claims, and the inability to gain secure tenure to new claims located under the act.

I believe that existing claimants would have a strong case at the court of claims in seeking a takings awards if they become unable to mine their deposits discovered under the old right to mine laws because the bill makes their proposed unsuitable or off-limits for any other reason. This is the crux of the debate—pure and simple, refined to its essence. Shall we bar the prospector and miner from the environmentally conditioned right to mine they have today and substitute the judgment of nonelected Government officials, driven by citizen suit provisions, to just say no to miners despite the remediation measures required by law.

Mr. Chairman, in my view, the answer is easy: Vote "no" to the radical reforms of H.R. 918 and continued to let responsible miners and prospectors have access to the public land minerals necessary to our Nation's security and desired by all our constituents.

The Mining Subcommittee was discharged of its responsibilities on H.R. 918 because a majority of its members did not agree with the chairman that this bill, in its original form or the radically different substitute before us today, served the Nation well.

Mr. Chairman, before I yield back the balance of my time, I'd like to make an historical observation. The 42d Congress passed the act of May 10, 1872, the general mining law which is under attack here today, just 2 months after taking the step to create the world's first national park, Yellowstone. I think the Members of the 42d Congress were a pretty smart bunch to have passed both those acts.

The champion of the mining law bill in that Congress was Senator William Morris Stewart of Virginia City, NV, not far from my home of Reno. His chief adversary was the chairman of the House Public Lands Committee, a gentleman from Ohio, who had insisted that the public mineral lands be disposed of at auction. Obviously, he lost that battle. Probably, because his colleagues decided that Western Members knew better about public lands issue than did a midwesterner. I have a sense of deja vu, here, Mr. Chairman. And like my predecessor from Nevada, Bill Stewart, westerners will prevail again this Congress, no matter what the results of the vote on H.R. 918, because the other body won't accept the exodus of mining jobs that this bill would bring. Its dead. I yield back the balance of my time.

□ 1700

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume in order to engage in a colloquy with the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mr. Chairman, I would ask the gentlewoman, you represent the State of Nevada. What is the largest mining State in the United States of America?

Mrs. VUCANOVICH. Mr. Chairman, if the gentleman will yield, Nevada.

Mr. MARLENEE. Nevada. And the gentlewoman represents the committee in what capacity?

Mrs. VUCANOVICH. Mr. Chairman, I am the ranking Republican on the Subcommittee on Mining of the Committee on Interior and Insular Affairs.

Mr. MARLENEE. How many times has the mining law been amended since its inception?

Mrs. VUCANOVICH. Well over 100 times. I think it is probably 150, 160 times.

Mr. MARLENEE. There have been that many amendments to the mining law?

Mrs. VUCANOVICH. There have been.

Mr. MARLENEE. So that mining law has been perfected a number of times throughout the years?

Mrs. VUCANOVICH. Yes.

Mr. MARLENEE. As changing conditions required it?

Mrs. VUCANOVICH. That is correct.

Mr. MARLENEE. Mr. Chairman, I would ask how much of the exploration budget at the present time is being spent overseas?

Mrs. VUCANOVICH. Probably about 50 percent.

Mr. MARLENEE. About 50 percent. In other words, we are losing in this Nation right now about 50 percent of the budgets that could be utilized in mining, is that correct?

Mrs. VUCANOVICH. That is correct.

Mr. MARLENEE. Mr. Chairman, a further question for the gentlewoman from Nevada: Can the gentlewoman give me some kind of an estimate on the amount of profit in a mine, such as a gold mine?

Mrs. VUCANOVICH. I will give the gentleman an estimate. Probably 5 percent.

Mr. MARLENEE. Mr. Chairman, this is a very important colloquy I am having with the ranking member of the subcommittee. This legislation does impact the State of Montana tremendously. It impacts the State of Nevada even more than it does the State of Montana, and we have a ranking member who understands what she is talking about, and we have a lot of Members down here in the well who have no concept of what this legislation will do to the United States of America. It will destroy the mining industry.

Mr. Chairman, let us take the Stillwater Mine. The Stillwater Mine that the gentleman from West Virginia [Mr. RAHALL] has referred to holds $32 billion in platinum. This is one of the only platinum mines in the world for that strategic mineral outside of the Soviet Union and South Africa; $32 billion in platinum, and they are in the red. In other words, to mine 32 billion dollars' worth of ore, it will take over $32 billion in costs. This is without the imposition of a Federal royalty which H.R. 918 would impose.

Mr. Chairman, let us suppose that the 5 percent is the profit on a lot of mines, and we impose that 8 percent royalty that is in H.R. 918. What does that do to the rest of the industry and what kind of an impact does that have on the Stillwater Mine?

Mr. Chairman, I would ask the gentlewoman from Nevada [Mrs. VUCANOVICH], in Nevada how many people are employed in the mining industry?

Mrs. VUCANOVICH. Mr. Chairman, if the gentleman will yield, probably 40,000 to 50,000 people.

Mr. MARLENEE. Forty to fifty thousand people. We have somewhere between 8,000 and 10,000 people who would be driven out of work should this legislation pass.

Mr. Chairman, let me ask the gentlewoman a further question. Did not the Senate address this legislation?

Mrs. VUCANOVICH. They did. That is correct.

Mr. MARLENEE. Was it sent over so we could consider it?

Mrs. VUCANOVICH. Yes, I guess it was. I have not seen it.

Mr. MARLENEE. Did that legislation include a provision that would allow for the payment of surface value?

Mrs. VUCANOVICH. Yes, that is correct, it did.

Mr. MARLENEE. Was that refused by the subcommittee chairman?

Mrs. VUCANOVICH. Mr. Chairman, we have not gone to conference on that. It was the Reid-Domenici amendment and the Reid-Bumpers amendment, two amendments, and the President would have signed it with those two amendments in there.

Mr. MARLENEE. Mr. Chairman, I thank the gentlewoman from Nevada [Mrs. VUCANOVICH] for engaging in a colloquy with me.

Mr. Chairman, I rise in the strongest opposition possible to H.R. 918. This is, indeed, the Overseas Investment Incentive Act. Moreover, it will destroy our ability to secure the strategic minerals and the wealth necessary to keep this Nation going in the direction of national and international leadership.

Mr. Chairman, I would plead with my colleagues to vote against this particular legislation.

Mr. Chairman, I rise in strong opposition to H.R. 918. I stated during debate on the rule, that this bill should be named the Overseas Investment Incentive Act because that is exactly what we will be doing if we pass this bill. Talk about sending trade overseas this bill will accomplish that in a heartbeat. Most of the industry operating within our borders today already have shifted about 50 percent of their exploration budgets to offshore locations like South America, and the former Soviet Union, and—guess what—those countries like that just fine. They think the American greenback dollar is a good thing to have for their Governments, and their workers.

This bill is an absolute worse nightmare for the families that depend upon the mining industry for their livelihood, for the local governments that depend upon the mining industry to help fund part of, if not most all of, the local tax-based budgets for things like hospitals, ambulances, police and fire protection, schools and libraries. Why is it that some in this body just do not get it when they are advised that this bill will severely cripple an industry that this country so desperately needs. Why is it in these hard economic times are we willing to consider putting so many people out of work for the interests of so few. The real injustice here is that the Mining Subcommittee chairman had a solution handed to him that would have addressed all of the real concerns about mining, and failed to take them. Those solutions were sent to this body in the form of amendments to the Interior spending bill, they would have required payment of fair market value for surface estates when patenting claims, this would have killed the argument that the other side likes to use about $2.50 an acre land deals, one I might add the environmentalist groups have twisted and turned inside out so many different ways, just so they could stab the mining industry in the back with it, knowing all along that almost all of what they were saying were blatant lies, the amendments also would have provided for the reversion of land not used in mining back to the United States, this would have killed the argument the proponents of this bill like to bash the mining industry with about ski lodges and luxurious mountain view cabins and homes on mining claims, and these amendments would have statutorily required full bonding on all mining operations, and you know what, this would have taken the wind out of the sails of the argument that the mining industry will not, and does not, want to reclaim land disturbed during mining operations. I stated last night that these were all reforms that the President would have signed into law. The opponents of mining in America today want to destroy the confidence of the public in our professional land managers to care for our valuable lands, and perpetrate the myth that the existing laws simply will not protect the land. Well guess what, the 1872 mining law has been amended 36 times. That's right, 36 times. Almost every known environmental law passed by this body has been made a part of the 1872 mining law, and guess who helped draft most, if not all of those environmental laws, why the very environmentalist organizations that are now saying that the 1872 mining law does not protect the environment. Somebody is spreading a lot of bull around here, and I for one don't think it's the mining industry.

Some around here would tell you that we simply must have a royalty on the minerals extracted. Well let me tell you that the mine workers who pay 28 to 32 percent of their income are paying for the privilege of working in that industry. How about all those local taxes being collected on the industry assets, the taxes on the extracted ore bodies.

You know we might need to remind ourselves that back in the early and mid-1980's when the U.S. gold industry was taking off, foreigners were a major source of venture capital. The U.S. mining industry was hard hit by the recession in the early 1980's, and conventional financing was hard to find. A second factor was that much of the technical expertise needed in precious metals mining was employed outside of the United States primarily in Canada, and needed to be imported to start up the U.S. industry.

Do we want to believe that people in an unemployment line is a form of royalty collection. Well I guess in some ways it is, because we take from the U.S. Treasury to pay for the unemployment benefits of those displaced workers. Most of the mining operation in existence today within our borders are very marginal at best. That means that when we place a royalty on those operations we just jeopardized the continued existence of those mines, and the workers they employ, and the tax base of local, and State governments they pay into.

In closing I say that it is apparent to me that the extremist environmentalists, and some in this House want the miners out of the mines, out of the mountains, and out of work. I ask my colleagues to vote no on H.R. 918 and defeat this bill.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield the remainder of my time to the distinguished gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs and a western Member of this body, in addition to the other westerners that we heard from in support of this issue.

The CHAIRMAN. The gentleman from California [Mr. MILLER] is recognized for 4 minutes to close debate.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the issues that are contained in the debate over the mining law of 1872 are not eastern issues or westerns issues; they are national issues. They are about the responsibility of the Congress of the United States for the stewardship of the public lands, for the lands that we lease for mining in this instance, but in other instances lands that we lease to the timber industry and lands that we lease to people to graze cattle.

Mr. Chairman, what are our obligations? One hundred twenty years ago we had one set of obligations and one nation. Today, 120 years later, we have a different set of obligations and a different nation. My colleagues will recognize this question from their townhall meetings because it may be asked more often than any other question: Why do not you people run this Government like a business?

□ 1710

And there is a lot of hemming and hawing, but a good example why we do not run it like a business is because of the law of 1872.

We cannot get fair value for our lands because of this law. We cannot get rents like any other business person would get for their land because of this law. We cannot share in the profits of our tenents, as we might be able to do as any other owner would with a lease, because of this law. We cannot protect our lands in the name of the people of the United States because of this law.

We cannot get those lands reclaimed where a person who is using them is abusing them because of this law. We cannot protect people downstream, offsite, where mines are dug into the sides of mountains and leach pollutants and toxics into the wonderful streams of this Nation because of this law. That is why we cannot run this Government like a business with respect to mining.

We have an obligation that goes beyond the West and the East, beyond Idaho and Wyoming and California. It is an obligation to each and every taxpayer of this Nation.

This law is about those taxpayers and their right to have an accounting for the resources that they own. There are those who do not like the fact that the Federal Government owns the land, but that Federal Government is the people of this Nation, the people own those lands. And they are entitled to fair prices, to market prices, to a fair return on those lands. They are entitled to pass them on to the next generation of their children and grandchildren in better shape than we found them. That is the obligation.

This legislation is about those rights and those obligations. One hundred and twenty years ago, we were hungry to get people from the East into the West. We were hungry to open up the economic potential of the West, and today we have 11 billion dollars' worth of scars on the landscape of this Nation that the taxpayers are being asked to clean up.

We think we ought to have a little help from the people that took out the billions of dollars of gold and hard metals. We think we ought to have a little help. They made a little money along the way; we made none. We would like to have a little help cleaning up this Nation.

This is not about the West or the East or about those guys who identify with miners and somehow if a person comes from some other place, they cannot. It is about my State and my colleague's States. It is about this place from coast to coast, from north to south. It is about our future. It is about our responsibilities.

My friends like to say very often that they like the multiple use of lands. I believe in that. These lands are for multiple uses and purposes for all Americans, not just for backpackers or miners but everybody in between. But those lands, my colleagues, carry multiple responsibilities, responsibilities to the Treasury and to the taxpayers, responsibilities to the environment, responsibilities to future generations.

There is nothing in this legislation that diminishes the ability of the mining industry to thrive and to prosper and to profit in the United States of America. All of their competitors in the rest of the world are operating under laws that are far more progressive and fair to the taxpayers of those nations than the one we have today.

The time has come. The gentleman from Montana [Mr. WILLIAMS] said it correctly, it is the birthday, 120th birthday. Let us do it right and let us reform this law.

Mr. RHODES. Mr. Chairman, I rise in opposition to H.R. 918 and in support of more responsible mining law reform. The bill before us, among its many other flaws, virtually destroys the self-initiation and location development principles on which the mining law is based, and which are important aspects of why and how hard rock mining differs from other extractive mining under the mineral leasing laws.

The Congress had an opportunity during the conference on the fiscal 1993 Interior appropriations bill to adopt the so-called Reid-Domenici amendment which would have written into law meaningful and responsible changes to the 1872 mining law. However, the House conferees rejected the Senate language. It was that legislation that had the best chance of being signed into law. This bill, in this form, will not pass the Congress and will not be signed into law.

In summary, the Senate amendment included requirements for fair-market-value payment for the patent of the surface estate, reclamation of mined lands, and reversion to the Federal Government if any activity other than mining occurs on patented land. These provisions would have responded in a positive and constructive manner to any real or perceived concerns about the mining law and its implementation and enforcement.

Finally, the bill before us today also includes new and expanded water language about which the Arizona Department of Water Resources has expressed concern regarding Federal intervention into State water allocation and adjudication processes. This issue certainly was not part of the hearings on the original H.R. 918.

Mr. Chairman, the mining industry is important to Arizona in terms of the economic stability of rural Arizona and revenues for the State. The mining industry also is crucial to the jobs and incomes for over 13,000 taxpaying citizens and their families in Arizona. During 1991, the copper industry alone paid more than $100 million in State and local taxes, and purchased more than 953 million dollars' worth of goods and supplies from small and large businesses within the State. Phelps Dodge alone produced about one-third of all copper mined in the United States last year. The copper produced in all mines in Arizona amounted to 62 percent of all domestic copper production in 1991. The value of all hard rock minerals mined in Arizona in 1991 was $2.6 billion, according to the Bureau of Mines.

The mining industry is important to the economy of Arizona, important to the jobs of thousands of Arizona workers and their families, and—to a major extent—important to the domestic production of nonfuel minerals in America.

I urge my colleagues to reject this legislation.

Mr. DORGAN of North Dakota. Mr. Chairman, today, I rise in support of H.R. 918, the Mineral Exploration and Development Act of 1992. As chairman of the Democratic caucus task force on Government waste, I want to stress that this bill is consistent with task force report findings calling for reform of this law.

Even opponents of this bill admit there are flagrant abuses of the current hard rock mining law. There is no defensible way to explain to taxpayers that, over the last two decades, the Federal Government has received $4,500 for land with an estimated value of $37 million, according to the GAO. There is no justification for selling public land to private patent holders for $42,500 that they then sold to an oil company for $37 million a short time later, as happened in one recent case.

This bill will address some of these shortcomings and bring this law into conformance with modern Federal land policy and public values. H.R. 918 will only apply standards similar to those that the coal and other mining industries already comply with. I urge my colleagues to support this bill.

Mr. VENTO. Mr. Chairman, I am an original cosponsor of H.R. 918, and I strongly support its passage today.

The Congress has been far too slow to move toward a comprehensive reform of the mining law of 1872. Over and over, it has been demonstrated that basic changes in this law—a surviving relic of another era of public land policy—are needed to protect the public interest.

More than 70 years ago, by enacting the Mineral Leasing Act of 1920, Congress instituted a leasing system for coal, oil, and other minerals whose development was not suitably regulated by the 1872 mining law. But even then, more should have been done.

In 1970, the Public Land Law Review Commission called for remedying the mining law's remaining deficiencies and weaknesses.

In 1976, Congress passed the Federal Land Policy and Management Act, or FLPMA, which was largely based on the Land Law Review Commission's recommendations.

FLPMA did make improvements in the hard rock mining law—for example, by mandating recordation of claims, to eliminate stale or abandoned claims that clouded the status of large parts of the public lands—but still, more remained to be done.

In particular, for sound management of the public lands, we need to close the gap between the mining law, with its principle of encouraging unrestricted prospecting and the unconfined staking of claims, and the basic land use planning principles of FLPMA and the National Forest Management Act.

The Interior Committee bill would close this gap by requiring that BLM and the Forest Service incorporate decisions about the suitability of particular lands for mining activities into their land-planning processes, either when initial plans are being prepared or through amendments to existing plans.

I believe that these provisions are in the best interests not only of other users of the public lands, but of the mining industry as well—because they will provide greater certainty about where mining can appropriately occur, and under what conditions. Uncertainty is the enemy of investment and development, and this feature of the bill will reduce that uncertainty.

Linking suitability determinations to land use planning thus would reduce or eliminate the need for ad hoc legislative actions to prevent mineral entry in places where it could not be reconciled with sound management—such as the Cave Creek Area in Arizona, for which special withdrawal legislation, sponsored by the gentleman from Arizona [Mr. KOLBE], passed earlier this year.

Mr. Chairman, H.R. 918 as reported by our committee is a very good bill. Chairman MILLER has demonstrated great leadership on this issue, and the gentleman from West Virginia [Mr. RAHALL] deserves the thanks of the House for his persistence and hard work on this issue. His efforts are an example of the legislative process at its very best.

I urge the House to seize this opportunity to replace the archaic mining law of 1872 with a modern mining law of 1992 by passing this very important bill.

Mr. SYNAR. Mr. Chairman, I rise today in support of H.R. 918, the Mineral Exploration and Development Act of 1992. This measure is the first comprehensive reform of the archaic 1872 mining law since it was signed by President Ulysses S. Grant 120 years ago.

H.R. 918 is a good start on long overdue reforms.

Each year, about 4 billion dollars' worth of hard rock minerals are taken from the public lands and not one cent of royalties are paid to the taxpayers. More remarkably, for the enormously hard rock minerals—gold, silver, uranium, copper, lead, cobalt, platinum, palladium, and many others—there is no royalty at all for production from Federal lands.

Mr. Chairman, under the 1872 mining law, a miner can stake a claim and hold it for no more than the cost of the annual assessment work—a pro forma requirement for $100 of work a year. When that miner produces minerals from these public lands, the profits belong to the miner. The taxpayers receive nothing. A miner can also receive a land patent to gain ownership of the land for only $2.50 to $5 an acre.

Over 1.2 million claims under the 1872 Mining Act extend over more than 24 million acres of Federal lands and more than 2,000 of those claims lie within our national parks.

Mr. Chairman, Congress must stop this loss of taxpayer assets and to provide for a more equitable distribution of our precious and strategic minerals.

Here is why we must reform our mineral laws. Today, the Department of the Interior is poised to transfer 2,000 acres of the Custer National Forest in Montana to the Stillwater Mining Co., jointly owned by Manville Corp. and Chevron. The total payment for these lands will be about $10,810, but the company expects to extract as much as 32 billion dollar's worth of platinum and palladium from the site. So, the taxpayers will get $1 for every $3 million in strategic minerals extracted from public lands.

Such fees hardly provide an equitable return to the taxpayers from an industry which produces $25 to $50 billion in raw material each year. The Office of Technology Assessment has conservatively estimated the annual nonfuel hard rock minerals production to be $12 to $25 billion per year.

But Stillwater is just the tip of the iceberg. In the past, pursuant to an unappealed lower court decision, the Federal Government was directed to title 524 mining claims covering almost 82,000 acres of land and containing 76 billion barrels of shale oil. The maximum revenue to be derived by the Government will total about $205,000—$2.50 per acre. According to a 1990 estimate by this committee's investigative staff, the total revenue that the Federal Government will forego from royalties and bonus bids as a result of this action could total as much as $210 billion. The Federal Government is currently processing 623 mining claims covering another 100,000 acres of land also in Colorado containing in excess of 31 billion barrels of shale oil. Unless Congress takes vigorous action to protect the taxpayers' financial interest in these claims, revenue ranging from $13.9 to $85 billion may be lost.

Mr. Chairman, if the Congress agrees to establish a minimum royalty of 8 percent for public lands mineral production—a figure similar to the private lands rate—which would be commensurate with the existing base royalty for oil and gas production from offshore leases of public lands, the royalty would produce $250 million in new revenues each year. If the royalties are increased to 12.5 percent, as I believe they should be, then Federal mineral royalties will produce about $375 million in new revenues each year.

The absurd loss of the taxpayers' mineral wealth must be stopped. H.R. 918 will begin that process.

Revising the existing mineral giveaways is not the only motivation for reforming this ancient mining law, however. The environmental benefits of this measure make changes an absolute necessity.

Mr. Chairman, title II of H.R. 918 provides needed reform of the current mining regulatory program to ensure that hard rock mining sites on public lands are reclaimed.

This Nation is already faced with a tragic legacy of past environmental abuses caused by hard rock mining. Consider the sobering facts:

Forty-seven mining sites are now listed as Superfund sites on the national priorities list;

The Western Governors Association estimates that it will cost $2.8 billion to clean up abandoned hard rock mines in 12 Western States;

The largest Superfund site in the United States is an old mining and processing facility along the Clark Fork River in Montana.

Some of those contaminated lands are unpatented Federal mining claims, and the taxpayers are being held liable for cleanup cost.

Congress needs to make sure that today's mining operations are not going to become tomorrow's Superfund sites. To do so, we need to assure the taxpayers that the environmental costs of mining will be paid by the mining industry and not left behind for the taxpayers to pick up.

H.R. 918 requires cleanup of hard rock mining sites, and gives the Federal Government the authority to enforce reasonable and responsible reclamation requirements. In fact, title II establishes reclamation standards for all hard rock mining on public lands. Those standards are needed to fill the gaps in current State mining reclamation programs, and will ensure that all mining on public lands is conducted in an environmentally and fiscally sound manner.

Mr. Chairman, it's time for a change. It's time to stop Uncle Sucker from giving away taxpayer assets. It's time to repeal the 1872 Mining Act and to start running the Government for the benefit of the taxpayers.

It is time to enact H.R. 918. It will be good for both the taxpayers and the environment.

Mr. EMERSON. Mr. Chairman, I rise in strong opposition to H.R. 918, the so-called Mineral Exploration and Development Act of 1992. This legislation would not only cripple the hard rock mining industry throughout the United States, but would devastate small, rural communities that rely on mining tax revenues and the hundreds of hard-working men and women who depend on mining for their livelihoods.

Once again, special interest preservationist elements are attempting to dictate to Congress their policies of locking up the land to prevent any development whatsoever. By putting small mining interests out of business through exorbitant exploration fees, we are effectively locking up public lands in this country. Recent studies from the Department of the Interior indicate that this proposal would cost as many as 30,000 jobs and as much as $230 million per year in lost Federal revenues and increased spending. Instead of adding money to the Federal Treasury, this legislation would cost this country further jobs and take money out of the Treasury.

Mr. Chairman, the Eighth District of Missouri produces over 90 percent of the lead mined in this country. In the area known as the Viburnum Lead Belt, the mining industry and those affiliated with it have witnessed recently a decrease in production and layoffs due to a tight economy. On behalf of the over 5,000 men and women who make their living from mining and related industries in the State of Missouri, the majority of them being in my district, I urge the House to reject this burdensome, overregulatory piece of legislation.

Mr. CAMPBELL of California. Mr. Speaker, I want to offer my justification for my votes on the amendments and final passage for H.R. 918.

It is clear that the 1872 Mining Act needs to be updated. To make patents for mining on Federal lands available for $2.50 per acre does not account for modern economics, nor the very real environmental costs associated with mining. Clearly, these external costs should not be borne by the public, which bears the cost of cleanup and the burden of a degraded resource.

However, the appropriate charge for extracting minerals from Government lands should bear some relationship to the cost of restoring those lands. The best way to do this is to engage in a competitive bid for mineral rights. By requiring the bidder to engage in reclamation and restoration, the Federal Government would ensure that these external costs are borne by the activities with which they are associated. By having this obligation fixed and determined up front, proper regulation would assure that ventures which are not economical are not commenced. Once the external costs of restoring the environment have been internalized, the Government, like any responsible owner of a resource, should be given the discretion to negotiate royalties on a case-by-case basis.

A gross revenues tax would poorly approximate the true cost of environmental clean-up. Some mines do little damage to the environment, but extract extremely valuable ore, for example. For others, even a 12.5-percent tax on gross receipts might provide woefully inadequate funds to do clean-up. I disfavor a gross receipts tax for that reason. Once we abandon the antiquated patent system, the Federal Government can set an appropriate fee as part of the auction process.

But existing claims now being worked under patents already granted do not permit that solution. The 5 percent net revenues tax would provide some money for environmental cleanup of these mines. Once again, it may not be an accurate measure; but, unlike the gross receipts tax, it is only paid if a mining company has some profit. Thus, it has less risk of diminishing employment than a gross receipts tax; but it must apply to existing claims or its purpose is essentially empty. Future claims can be handled by the auction process.

As a result of this thinking, I have voted against the amendment to make the net receipt tax prospective only, and against the amendments to make a gross receipt tax higher, and in favor of the underlying bill.

The CHAIRMAN. All time for general debate has expired.

Mrs. VUCANOVICH. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 466]

ANSWERED "PRESENT"—386

Abercrombie
Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barrett
Barton
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chapman
Clinger
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman

Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Long
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Mrazek
Murphy
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 1736

The CHAIRMAN. Three hundred eight-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 5962 is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Mineral Exploration and Development Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT
Sec. 101. Definitions, references and coverage
Sec. 102. Lands open to location; rights under this Act.
Sec. 103. Location of mining claims.
Sec. 104. Claim maintenance requirements.
Sec. 105. Penalties.
Sec. 106. Preemption.
Sec. 107. Limitation on patent issuance.
Sec. 108. Multiple mineral development and surface resources.
Sec. 109. Mineral materials.
TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT
Sec. 201. Surface management.
Sec. 202. Inspection and enforcement.
Sec. 203. State law and regulation.
Sec. 204. Unsuitability review.
Sec. 205. Lands not open to location.
TITLE III—ABANDONED MINERALS MINE RECLAMATION FUND
Sec. 301. Abandoned Minerals Mine Reclamation Fund.
Sec. 302. Conforming amendments.
TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS
Sec. 401. Policy functions.
Sec. 402. User fees.
Sec. 403. Regulations; effective dates.
Sec. 404. Transitional rules; mining claims and mill sites.
Sec. 405. Transitional rules; surface management requirements.
Sec. 406. Basis for contest.
Sec. 407. Savings clause claims.
Sec. 408. Severability.
Sec. 409. Purchasing power adjustment.
Sec. 410. Royalty.
Sec. 411. Savings clause.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

SEC. 101. DEFINITIONS, REFERENCES, AND COVERAGE.

(a) DEFINITIONS.—As used in this Act:

(1) The term "applicant" means any person applying for a plan of operations under this Act or a modification to or a renewal of a plan of operations under this Act.

(2) The term "claim holder" means the holder of a mining claim located or converted under this Act. Such term may include an agent of a claim holder.

(3) The term "diligence year" means the annual period commencing on the first day of the first month following the date a mining claim is located under this Act and each annual period thereafter, except as provided under section 404(b)(2).

(4) The term "land use plans" means those plans required under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or the land management plans for National Forest System units required under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), whichever is applicable.

(5) The term "legal subdivisions" means an aliquot quarter quarter section of land as established by the official records of the public land survey system, or a single lot as established by the official records of the public land survey system if the pertinent section is irregular and contains fractional lots, as the case may be.

(6) The term "locatable mineral" means any mineral not subject to disposition under any of the following:

(A) the Mineral Leasing Act (30 U.S.C. 181 and following);

(B) the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following);

(C) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following); or

(D) the Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 and following).

(7) The term "mineral activities" means any activity for, related to or incidental to mineral exploration, mining, beneficiation and processing activities for any locatable mineral, including access. When used with respect to this term—

(A) the term "exploration" means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade and value;

(B) the term "mining" means the processes employed for the extraction of a locatable mineral from the earth;

(C) the term "beneficiation" means the crushing and grinding of locatable mineral ore and such processes are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques; and

(D) the term "processing" means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including but not limited to, smelting and electrolytic refining.

(8) The term "mining claim" means a claim for the purposes of mineral activities.

(9) The term "National Conservation System unit" means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or a National Conservation Area, National Recreation Area, or a National Forest Monument.

(10) The term "operator" means any person, partnership or corporation with a plan of operations approved under this Act.

(11) The term "Secretary" means, unless otherwise provided in this Act—

(A) the Secretary of the Interior for the purposes of title I and title III;

(B) the Secretary of the Interior with respect to land under the jurisdiction of such Secretary and all other lands subject to this Act (except for lands under the jurisdiction of the Secretary of Agriculture) for the purposes of title II; and

(C) the Secretary of Agriculture with respect to lands under the jurisdiction of the Secretary of Agriculture for the purposes of title II.

(12) The term "substantial legal and financial commitments" means significant investments that have been made to develop mining claims under the general mining laws such as: long-term contracts for minerals produced; processing, beneficiation, or ex-

traction facilities and transportation infrastructure; or other capital-intensive activities. Costs of acquiring the mining claim or claims, or the right to mine alone without other significant investments as detailed above, are not sufficient to constitute substantial legal and financial commitments.

(13) The term "surface management requirements" means the requirements and standards of section 201, section 203 and section 204 of this Act, and such other standards as are established by the Secretary governing mineral activities.

(b) REFERENCES.—(1) Any reference in this Act to the term "general mining laws" is a reference to those Acts which generally comprise 30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162.

(2) Any reference in this Act to the "Act of July 23, 1955", is a reference to the Act of July 23, 1955, entitled "An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes." (30 U.S.C. 601 and following).

(c) COVERAGE.—This Act shall apply only to mineral activities and reclamation on lands and interests in land which are open to location as provided in this Act.

SEC. 102. LANDS OPEN TO LOCATION; RIGHTS UNDER THIS ACT.

(a) OPEN LANDS.—Mining claims may be located under this Act on lands and interests in lands owned by the United States to the extent that—

(1) such lands and interests were open to the location of mining claims under the general mining laws on the date of enactment of this Act;

(2) such lands and interests are opened to the location of mining claims by reason of section 204(f) or section 205 of this Act; and

(3) such lands and interests are opened to the location of mining claims after the date of enactment of this Act by reason of any administrative action or statute.

(b) RIGHTS.—The holder of a mining claim located or converted under this Act and maintained in compliance with this Act shall have the exclusive right of possession and use of the claimed land for mineral activities, including the right of ingress and egress to such claimed lands for such activities, subject to the rights of the United States under section 108 and title II.

SEC. 103. LOCATION OF MINING CLAIMS.

(a) GENERAL RULE.—A person may locate a mining claim covering lands open to the location of mining claims by posting a notice of location, containing the person's name and address, the time of location (which shall be the date and hour of location and posting), and a legal description of the claim. The notice of location shall be posted on a conspicuous, durable monument erected as near as practicable to the northeast corner of the mining claim. No person who is not a citizen, or a corporation organized under the laws of the United States or of any State or the District of Columbia may locate or hold a claim under this Act.

(b) USE OF PUBLIC LAND SURVEY.—Except as provided in subsection (c), each mining claim located under this Act shall (1) be located in accordance with the public land survey system, and (2) conform to the legal subdivisions thereof. Except as provided in subsection (c), the legal description of the mining claim shall be based on the public land survey system and its legal subdivisions.

(c) EXCEPTIONS.—(1) If only a protracted survey exists for the public lands concerned, each of the following shall apply in lieu of subsection (b):

(A) The legal description of the mining claim shall be based on the protracted survey and the mining claim shall be located as near as practicable in conformance with a protracted legal subdivision.

(B) The mining claim shall be monumented on the ground by the erection of a conspicuous durable monument at each corner of the claim.

(C) The legal description of the mining claim shall include a reference to any existing survey monument, or where no such monument can be found within a reasonable distance, to a permanent natural object.

(2) If no survey exists for the public lands concerned, each of the following shall apply in lieu of subsection (b):

(A) The mining claim shall be a regular square, with each side laid out in cardinal directions, 40 acres in size.

(B) The claim shall be monumented on the ground by the erection of a conspicuous durable monument at each corner of the claim.

(C) The legal description of the mining claim shall be expressed in metes and bounds and shall include a reference to any existing survey monument, or where no such monument can be found within a reasonable distance, to a permanent natural object. Such description shall be of sufficient accuracy and completeness to permit recording of the claim upon the public land records and to permit the Secretary and other parties to find the claim upon the ground.

(3) In the case of a conflict between the boundaries of a mining claim as monumented on the ground and the description of such claim in the notice of location referred to in subsection (a), the notice of location shall be determinative.

(d) FILING WITH SECRETARY.—(1) Within 30 days after the location of a mining claim pursuant to this section, a copy of the notice of location referred to in subsection (a) shall be filed with the Secretary in an office designated by the Secretary.

(2) Whenever the Secretary receives a copy of a notice of location of a mining claim under this Act, the Secretary shall assign a serial number to the mining claim, and immediately return a copy of the notice of location to the locator of the claim, together with a certificate setting forth the serial number, a description of the claim, and the claim maintenance requirements of section 104. The Secretary shall enter the claim on the public land records.

(e) LANDS COVERED BY CLAIM.—A mining claim located under this Act shall include all lands and interests in lands open to location within the boundaries of the claim, subject to any prior mining claim referenced under subsections (c) and (d) of section 404.

(f) DATE OF LOCATION.—A mining claim located under this Act shall be effective based upon the time of location.

(g) CONFLICTING LOCATIONS.—Any conflicts between the holders of mining claims located or converted under this Act relating to relative superiority under the provisions of this Act may be resolved in adjudication proceedings before the Secretary. Such adjudication shall be determined on the record after opportunity for hearing. It shall be incumbent upon the holder of a mining claim asserting superior rights in such proceedings to demonstrate to the Secretary that such person was the senior locator, or if such person is the junior locator, that prior to the location of the claim by such locator—

(1) the senior locator failed to file a copy of the notice of location within the time provided under subsection (d);

(2) the amount of rental paid by the senior locator at the time of filing the instrument referred to in subsection 104(d)(1) was less than the amount required to be paid by such locator; or

(3) the senior locator did not make the diligent development expenditures reported on the most recent affidavit filed with the instrument referred to in subsection 104(d)(1), or such expenditures did not comply with the requirements of subsection 104(b).

(h) EXTENT OF MINERAL DEPOSIT.—The boundaries of a mining claim located under this Act shall extend vertically downward.

SEC. 104. CLAIM MAINTENANCE REQUIREMENTS.

(a) IN GENERAL.—(1) Except as provided under subsection (b), in order to maintain a mining claim under this Act a claim holder shall pay an annual rental fee. The rental fee shall be paid on the basis of all land within the boundaries of a mining claim (as described in notice of location filed under section 103(d)) at a rate established by the Secretary of not less than—

(A) $5 per acre in each of the first through fifth diligence years following location of the claim;

(B) $10 per acre in each of the sixth through tenth diligence years following location of the claim;

(C) $15 per acre in each of the eleventh through fifteenth diligence years following location of the claim;

(D) $20 per acre in each of the sixteenth through twentieth diligence years following location of the claim; and

(E) $25 per acre in the twenty-first diligence year following location of the claim, and each diligence year thereafter.

(2) The rental fee shall be due and payable at the time the claim holder files the instrument required under subsection (d)(1).

(3) The Secretary shall deposit all moneys received from rental fees collected under this subsection into the Fund referred to in title III.

(b) DILIGENT DEVELOPMENT EXPENDITURES.—(1) A claim holder may elect to reduce the amount of the rental fee required under subsection (a) by the amount of diligent development expenditures made for mineral activities on or to the benefit of a mining claim during the same diligence year to which the rental fee would otherwise apply, except that in no event shall such reduction cause less than an annual rental fee of $2.50 per acre of all land within the boundaries of a mining claim (as described in notice of location filed under section 103(d)) to be paid. Such expenditures made for mineral activities on or to the benefit of any one claim, or more than one claim in a group of contiguous claims held by the same claim holder, may be deemed to have been performed for the benefit of the entire group of contiguous claims so long as the sum total of the expenditures equals the total amount of expenditures that would have been made if such expenditures had been made on or to the benefit of each individual claim in the group.

(2) Diligent development expenditures shall include those made for any of the following:

(A) Investigations and surveys, including geotechnical, geological, geophysical or geochemical surveys.

(B) Bulk mineral sampling and testing.

(C) Drilling.

(D) Environmental and engineering studies.

(E) The reclamation and restoration of land disturbed by mineral activities during exploration.

(F) Such other activities that constituted assessment work under the general mining laws prior to the date of enactment of this Act.

(G) Such other mineral activities as the Secretary may, by rule, establish.

(3) In the event a claim holder elects to reduce the amount of the rental fee under paragraph (1), such claim holder shall file an affidavit under this paragraph at the time such claim holder files the instrument required under subsection (d)(1). The affidavit shall contain a detailed description of the value and nature of all diligent development expenditures made under this subsection and shall be of sufficient detail as to permit validation by the Secretary of the expenditure amounts and beneficial nature of the expenditures.

(4) A claim holder shall maintain documentary proof of diligent development expenditures reported on the affidavit referred to in paragraph (3) for a period of 5 years after the diligence year to which such expenditures apply. Such documentary proof shall be made available at the request of the Secretary for the purpose of the validation referred to in paragraph (3) and the audit referred to in subsection (f).

(c) MINIMUM RENTAL.—(1) A claim holder shall only be required to pay a minimum annual rental fee of $2.50 per acre of all land within the boundaries of a mining claim (as described in notice of location filed under section 103(d)) under any of the following circumstances:

(A) If a claim holder demonstrates to the Secretary that such claim holder is prevented from making diligent development expenditures under subsection (b) by reason of—

(i) any judicial proceeding or administrative action; or

(ii) the fact that the mining claim or group of contiguous claims is surrounded by lands over which a right-of-way for the performance of such requirement has been denied, is in litigation, or is in the process of acquisition under State law, or that other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of contiguous claims or to gain access to the boundaries thereof or to conduct mineral activities thereon;

pursuant to such rules as the Secretary may prescribe governing the length and termination of the minimum rental requirement.

(B) By reason of section 5 of Public Law 94-429, commonly known as the Mining in the Parks Act, for any claim subject to such section after the conversion of such claim under section 404.

(C) By reason of such other laws that heretofore removed the applicability of the assessment work requirement of the general mining laws for any claim subject to such laws after the conversion of such claim under section 404.

(2) The rental fee shall be due and payable at the time the claim holder files the instrument required under subsection (d)(1). Included with such instrument shall be a statement setting forth the reasons why the claim holder is only required to pay the minimum rental.

(3) The Secretary shall deposit all moneys received from rental fees collected under this subsection into the Fund referred to in title III.

(d) INSTRUMENT.—(1) In order to maintain a mining claim under this Act, a claim holder shall, on or before the date which is the last day of the third calendar month after the anniversary date of each diligence year for such claim, file an instrument with the Secretary containing the name and address of the claim holder and the serial number assigned to the claim pursuant to section 103(d). The instrument shall be accompanied by, as the case may be, the following—

(A) the rental fee required for the applicable diligence year referred to in subsection (a)(1);

(B) the amount of rental fee required due to the reduction of such fee by diligent development expenditures under subsection (b)(1), and the affidavit referred to in subsection (b)(3); or

(C) the minimum rental fee referred to in subsection (c)(1) and the statement referred to in subsection (c)(2).

(2) If, in any diligence year, a claim holder fails to file the instrument referred to in paragraph (1) within the period referred to in such paragraph or fails, in any respect, to comply with the requirements of paragraph (1), the Secretary shall immediately provide notice thereof to the claim holder and after 30 days from the date of such notice the claim shall be deemed forfeited and such claim shall be null and void, except as provided under subsection (e). Such notice shall be sent to the claim holder by registered or certified mail to the address provided by such claim holder in the notice of location referred to in section 103(a) or on the last instrument referred to in subsection (d)(1) filed by such claim holder, whichever is most recent. In the event such notice is returned as undelivered, the Secretary shall be deemed to have fulfilled the notice requirements of this paragraph.

(e) FAILURE TO COMPLY.—(1) No claim may be deemed forfeited and declared null and void by the Secretary due to a failure to comply with the requirements referred to in subsection (d) if the claim holder corrects such failure to the satisfaction of the Secretary within 10 days after the date such claim holder was required to file the instrument referred to in subsection (d)(1).

(2) No claim may be deemed forfeited and declared null and void by the Secretary due to a failure to comply with the requirements referred to in subsection (d) if, within 10 days after date of the notice referred to in subsection (d)(2), the claim holder corrects such failure to the satisfaction of the Secretary, and if the Secretary determines that such failure was justifiable or not due to a lack of reasonable diligence on the part of the claim holder, or that such failure was inadvertent.

(f) AUDITS.—The Secretary is authorized to conduct such audits of claim holders as he deems necessary for the purpose of ensuring compliance with the requirements of this section. For purposes of performing such audits, the Secretary shall, at reasonable times and upon request, have access to, and may copy, all books, papers and other documents that relate to compliance with this section of any person subject to the provisions of this section.

(g) DEFERMENT, WAIVER, OR REDUCTION.—(1) If upon certification by a claim holder who meets the eligibility criteria of paragraph (2) that either the diligent development expenditure requirement or the minimum rental requirement, as the case may be, of this section are presenting an unnecessary and undue hardship on such claim holder's ability to make bona fide efforts to prospect, explore, or produce minerals from a mining claim or group of contiguous mining claims held by such claim holder, and the Secretary concurs with such certification, the Secretary is authorized to defer, waive, or reduce the diligence and minimum rental requirements for such claim or claims for a period determined by the Secretary whenever in his judgment it is necessary to do so in order to promote development.

(2) A claim holder may be eligible under paragraph (1) if such claim holder—

(A) is the holder of not more than 5 mining claims under this Act, but in no event shall such claims exceed 200 acres; and

(B) is not an affiliate of any claim holder who is the holder of more than 5 claims (or 200 acres) under this Act. For purposes of the preceding sentence, the term "affiliate", when used with respect to such claim holder, means any person which controls, is controlled by, or is under common control with, such claim holder. The term includes any subsidiary of the claim holder.

SEC. 105. PENALTIES.

(a) VIOLATION.—Any claim holder who—

(1) knowingly or willfully posts on a mining claim or files a notice of location with the Secretary under section 103 that contains false, inaccurate or misleading statements;

(2) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading information on diligent development expenditures on the affidavit referred to in section 104(b)(3); or

(3) fails or refuses to permit an audit pursuant to section 104(f);

shall be liable for a penalty of not more than $5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments.

(b) REVIEW.—No civil penalty under this section shall be assessed until the claim holder charged with the violation has been given the opportunity for a hearing on the record under section 202(f).

SEC. 106. PREEMPTION.

The requirements of this title shall preempt any conflicting requirements of any State, or political subdivision thereof relating to the location and maintenance of mining claims as provided for by this Act. The filing requirements of section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744) shall not apply with respect to any mining claim located or converted under this Act.

SEC. 107. LIMITATION ON PATENT ISSUANCE.

(a) MINING CLAIMS.—After February 6, 1991, no patent shall be issued by the United States for any mining claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned—

(1) a patent application was filed with the Secretary on or before February 6, 1991; and

(2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims were fully complied with by that date.

If the Secretary makes the determinations referred to in paragraphs (1) and (2) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(b) MILL SITES.—After February 6, 1991, no patent shall be issued by the United States for any mill site claim located under the general mining laws unless the Secretary of the Interior determines that for the mill site concerned—

(1) a patent application for such land was filed with the Secretary on or before February 6, 1991; and

(2) all requirements applicable to such patent application were fully complied with by that date.

If the Secretary makes the determinations referred to in paragraphs (1) and (2) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 108. MULTIPLE MINERAL DEVELOPMENT AND SURFACE RESOURCES.

(a) IN GENERAL.—The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), commonly known as the Multiple Minerals Development Act, and the provisions of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), shall apply to all mining claims located or converted under this Act.

(b) ENFORCEMENT.—The Secretary of the Interior, or the Secretary of Agriculture, as the case may be, shall take such actions as may be necessary to ensure the compliance by claim holders with section 4 of the Act of July 23, 1955 (30 U.S.C. 612).

SEC. 109. MINERAL MATERIALS.

(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:

(1) Insert "(a)" before the first sentence.

(2) Strike "or cinders" and insert in lieu thereof "cinders, or clay".

(3) Add the following new subsection at the end thereof:

"(b)(1) Subject to valid existing rights, after the date of enactment of the Mineral Exploration and Development Act of 1992, all deposits of mineral materials referred to in subsection (a), including the block pumice referred to in such subsection, shall only be subject to disposal under the terms and conditions of the Materials Act of 1947.

"(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of enactment of the Mineral Exploration and Development Act of 1992, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of the Mineral Exploration and Development Act of 1992 and that such claim continues to be valid.".

(b) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), is amended as follows:

(1) In subsection (b) insert "and mineral material" after "vegetative".

(2) In subsection (c) insert "and mineral material" after "vegetative".

(c) CONFORMING AMENDMENT.—Section 1 of the Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by striking "common varieties of" in the first sentence.

(d) SHORT TITLES.—

(1) SURFACE RESOURCES.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section:

"SEC. 8. This Act may be cited as the 'Surface Resources Act of 1955'.".

(2) MINERAL MATERIALS.—The Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by inserting after section 4 the following new section:

"SEC. 5. This Act may be cited as the 'Materials Act of 1947'.".

(e) REPEAL.—(1) The Act of August 4, 1892 (27 Stat. 348) commonly known as the Building Stone Act is hereby repealed.

(2) The Act of January 31, 1901 (30 U.S.C. 162) commonly known as the Saline Placer Act is hereby repealed.

TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

SEC. 201. SURFACE MANAGEMENT.

(a) IN GENERAL.—Notwithstanding the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976, and in accordance with this title and other applicable law, the Secretary shall require that mineral activities and reclamation be conducted so as to minimize adverse impacts to the environment.

(b) PLANS OF OPERATION.—(1) Except as provided under paragraph (2), no person may engage in mineral activities that may cause a disturbance of surface resources unless such person has filed a plan of operations with, and received approval of such plan of operations, from the Secretary.

(2)(A) A plan of operations may not be required for mineral activities related to exploration that cause a negligible disturbance of surface resources not involving the use of mechanized earth moving equipment, suction dredging, explosives, the use of motor vehicles in areas closed to off-road vehicles, the construction of roads, drill pads, or the use of toxic or hazardous materials.

(B) A plan of operations may not be required for mineral activities related to exploration that, after notice to the Secretary, involve only a minimal and readily reclaimable disturbance of surface resources related to and including initial test drilling not involving the construction of access roads, except activities under notice shall not commence until an adequate financial guarantee is established for such activities pursuant to subsection (l).

(c) CONTENTS OF PLANS.—Each proposed plan of operations shall include a mining permit application and a reclamation plan.

(d) MINING PERMIT APPLICATION REQUIREMENTS.—The mining permit referred to in subsection (c) shall include such terms and conditions as prescribed by the Secretary, and each of the following:

(1) The name and mailing address of—

(A) the applicant for the mining permit;

(B) the operator if different than the applicant;

(C) each claim holder of the lands subject to the plan of operations if different than the applicant;

(D) any subsidiary, affiliate or person controlled by or under common control with the applicant, or the operator or each claim holder, if different than the applicant; and

(E) the owner or owners of any land, or interests in any such land, not subject to this Act, within or adjacent to the proposed mineral activities.

(2) A statement of any plans of operation held by the applicant, operator or each claim holder if different than the applicant, or any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant.

(3) A statement of whether the applicant, operator or each claim holder if different than the applicant, and any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant has an outstanding violation of this Act, any surface management requirements, or applicable air and water quality laws and regulations and if so, a brief explanation of the facts involved, including identification of the site and the nature of the violation.

(4) A description of the type and method of mineral activities proposed, the engineering techniques proposed to be used and the equipment proposed to be used.

(5) The anticipated starting and termination dates of each phase of the mineral activities proposed.

(6) A map, to an appropriate scale, clearly showing the land to be affected by the proposed mineral activities.

(7) A description of the quantity and quality of surface and ground water resources within and along the boundaries of, and adjacent to, the area subject to mineral activities based on 12 months of pre-disturbance monitoring.

(8) A description of the biological resources found in or adjacent to the area subject to mineral activities, including vegetation, fish and wildlife, riparian and wetland habitats.

(9) A description of the monitoring systems to be used to detect and regulate the effects of mineral activities and reclamation on the site and surrounding environment, including but not limited to, groundwater, surface water, air and soils.

(10) Accident contingency plans that include, but are not limited to, immediate response strategies, corrective measures to mitigate impacts to fish and wildlife, ground and surface waters, notification procedures and waste handling and toxic material neutralization.

(11) Any measures to comply with any conditions on minerals activities and reclamation that may be required in the applicable land use plan, including any condition stipulated pursuant to section 204(d)(1)(B).

(12) A description of measures planned to exclude fish and wildlife resources from the area subject to mineral activities by covering, containment, or fencing of open waters, beneficiation, and processing materials; or maintenance of all facilities in a condition that is not harmful to fish and wildlife.

(13) Such environmental baseline data as the Secretary, by rule, shall require sufficient to validate the determinations required for plan approval under this Act.

(e) RECLAMATION PLAN APPLICATION REQUIREMENTS.—The reclamation plan referred to in subsection (c) shall include such terms and conditions as prescribed by the Secretary, and each of the following:

(1) A description of the condition of the land subject to the mining permit prior to the commencement of any mineral activities.

(2) A description of reclamation measures proposed pursuant to the requirements of subsections (m) and (n).

(3) The engineering techniques to be used in reclamation and the equipment proposed to be used.

(4) The anticipated starting and termination dates of each phase of the reclamation proposed.

(5) A description of the proposed condition of the land following the completion of reclamation.

(6) A description of the maintenance measures that will be necessary to meet the surface management requirements of this Act, such as, but not limited to, drainage water treatment facilities, or liner maintenance and control.

(7) The consideration which has been given to making the condition of the land after the completion of mineral activities and final reclamation consistent with the applicable land use plan.

(f) PUBLIC PARTICIPATION.—(1) Concurrent with submittal of a plan of operations, or a renewal application for a plan of operations, the applicant shall publish a notice in a newspaper of local circulation for 4 consecutive weeks that shall include: the name of the applicant, the location of the proposed mineral activities, the type and expected duration of the proposed mineral activities, and the intended use of the land after the completion of mineral activities and reclamation. The Secretary shall also notify in writing other Federal, State and local government agencies that regulate mineral activities or land planning decisions in the area subject to mineral activities.

(2) Copies of the complete proposed plan of operations shall be made available for public review for 30 days at the office of the responsible Federal surface management agency located nearest to the location of the proposed mineral activities, and at the county courthouse of the county in which the mineral activities are proposed to be located, prior to final decision by the Secretary. During this period, any person and the authorized representative of a Federal, State or local governmental agency shall have the right to file written comments relating to the approval or disapproval of the plan of operations. The Secretary shall immediately make such comments available to the applicant.

(3) Any person that is or may be adversely affected by the proposed mineral activities may request, after filing written comments pursuant to paragraph (2), a public hearing to be held in the county in which the mineral activities are proposed. If a hearing is to be held, notice of such hearing shall be published in a newspaper of local circulation for 2 weeks prior to the hearing date.

(g) PLAN APPROVAL.—(1) After providing notice and opportunity for public comment and hearing, the Secretary may approve, require modifications to, or deny a proposed plan of operations, except as provided in section 405. To approve a plan of operations, the Secretary shall make each of the following determinations:

(A) The mining permit application and reclamation plan are complete and accurate.

(B) The applicant has demonstrated that reclamation as required by this Act can be accomplished under the reclamation plan and would have a high probability of success based on an analysis of such reclamation measures in areas of similar geochemistry, topography and hydrology.

(C) The proposed mineral activities, reclamation and condition of the land after the completion of mineral activities and final reclamation would be consistent with the land use plan applicable to the area subject to mineral activities.

(D) The area subject to the proposed plan of operations is not included within an area designated unsuitable under section 204 for the types of mineral activities proposed.

(E) The applicant has demonstrated that the plan of operations will be in compliance with the requirements of all other applicable Federal requirements, and any State requirements referred to under subsection 203(b).

(2) Final approval of a plan of operations under this subsection shall be conditioned upon compliance with subsection (l) and, based on information supplied by the applicant, a determination of the probable hydrologic consequences of the proposed mineral activities and reclamation.

(3)(A) A plan of operations under this section shall not be approved if the applicant, operator, or any claim holder if different than the applicant, or any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant, is currently in violation of this Act, any surface management requirement or of any applicable air and water quality laws and regulations.

(B) The Secretary shall suspend an approved plan of operations if the Secretary determines that any of the entities described in section 201(d)(1) were in violation of the surface management requirements at the time the plan of operations was approved.

(C) A plan of operations referred to in this subsection shall not be approved or reinstated, as the case may be, until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the Secretary; except that no proposed plan of operations, after opportunity for a hearing, shall be approved for any applicant, operator or each claim holder if different than the applicant with a demonstrated pattern of willful violations of the surface management requirements of such nature and duration and with such resulting irreparable damage to the environment as to clearly indicate an intent not to comply with the surface management requirements.

(h) TERM OF PERMIT; RENEWAL.—(1) The approval of a plan of operations shall be for a stated term. The term shall be no greater than that necessary to accomplish the proposed operations, and in no case for more than 10 years, unless the applicant demonstrates that a specified longer term is reasonably needed to obtain financing for equipment and the opening of the operation.

(2) Failure by the operator to commence mineral activities within one year of the date scheduled in an approved plan of operations shall be deemed to require a modification of the plan.

(3) A plan of operations shall carry with it the right of successive renewal upon expiration only with respect to operations on areas within the boundaries of the existing plan of operations. An application for renewal of such plan of operations shall be approved unless the Secretary determines, in writing, any of the following:

(A) The terms and conditions of the existing plan of operations are not being met.

(B) Mineral activities and reclamation activities as approved under the plan of operations are not in compliance with the surface management requirements of this Act.

(C) The operator has not demonstrated that the financial guarantee would continue to apply in full force and effect for the renewal term.

(D) Any additional revised or updated information required by the Secretary has not been provided.

(E) The applicant has not demonstrated that the plan of operations will be in compliance with the requirements of all other applicable Federal requirements, and any State requirements referred to under subsection 203(b).

(4) A renewal of a plan of operations shall be for a term not to exceed the period of the original plan as provided in paragraph (1). Application for plan renewal shall be made at least 120 days prior to the expiration of an approved plan.

(i) PLAN MODIFICATION.—(1) Except as provided under section 405, during the term of a plan of operations the operator may submit an application to modify the plan. To approve a proposed modification to a plan of operations the Secretary shall make the determinations set forth under subsection (g)(1), except as provided under section 405(c). The Secretary shall establish guidelines regarding the extent to which requirements for plans of operations under this section shall apply to applications to modify a plan of operations based on whether such modifications are deemed significant or minor; except that: (A) any significant modifications shall at a minimum be subject to subsection (f), and (B) any modification proposing to extend the area covered by the plan of operations (except for incidental boundary revisions) must be made by application for a new plan of operations.

(2) The Secretary may, upon a review of a plan of operations, require reasonable modification to such plan upon a determination that the requirements of this Act cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to notice and hearing requirements established by the Secretary.

(j) TEMPORARY CESSATION OF OPERATIONS.—(1) Before temporarily ceasing mineral activities or reclamation for a period of 180 days or more under an approved plan of operations or portions thereof, an operator shall first submit a complete application for temporary cessation of operations to the Secretary for approval.

(2) The application for approval of temporary cessation of operations shall include such terms and conditions as prescribed by the Secretary, including but not limited to the steps that shall be taken during the cessation of operations period to minimize impacts on the environment. After receipt of a complete application for temporary cessation of operations the Secretary shall conduct an inspection of the area for which temporary cessation of operations has been requested.

(3) To approve an application for temporary cessation of operations, the Secretary shall make each of the following determinations:

(A) The methods for securing surface facilities and restricting access to the permit area, or relevant portions thereof, shall effectively ensure against hazards to the health and safety of the public and fish and wildlife.

(B) Reclamation is contemporaneous with mineral activities as required under the approved reclamation plan, except in those areas specifically designated in the application for temporary cessation of operations for which a delay in meeting such standards is necessary to facilitate the resumption of operations.

(C) The amount of financial assurance filed with the plan of operations is sufficient to assure completion of the reclamation plan in the event of forfeiture.

(D) Any outstanding notices of violation and cessation orders incurred in connection with the plan of operations for which temporary cessation is being requested are either stayed pursuant to an administrative or judicial appeal proceeding or are in the process of being abated to the satisfaction of the Secretary.

(k) REVIEW.—Any decision made by the Secretary under subsections (g), (h), (i), (j) or (l) shall be subject to review under section 202(f).

(l) BONDS.—(1) Before any plan of operations is approved pursuant to this Act, or any mineral activities are conducted pursuant to subsection (b)(2), the operator shall file with the Secretary financial assurance payable to the United States and conditional upon faithful performance of all requirements of this Act. The financial assurance shall be provided in the form of a surety bond, trust fund, cash or equivalent. The amount of the financial assurance shall be sufficient to assure the completion of reclamation satisfying the requirements of this Act if the work had to be performed by the Secretary in the event of forfeiture, and the calculation shall take into account the maximum level of financial exposure which shall arise during the mineral activity.

(2) The financial assurance shall be held for the duration of the mineral activities and for an additional period to cover the operator's responsibility for revegetation under subsection (n)(6)(B).

(3) The amount of the financial assurance and the terms of the acceptance of the assurance shall be adjusted by the Secretary from time to time as the area requiring coverage is increased or decreased, or where the costs of reclamation or treatment change, but the financial assurance must otherwise be in compliance with this section. The Secretary shall specify periodic times, or set a schedule, for reevaluating or adjusting the amount of financial assurance.

(4) Upon request, and after notice and opportunity for public comment, the Secretary may release in whole or in part the financial assurance if the Secretary determines each of the following:

(A) Reclamation covered by the financial assurance has been accomplished as required by this Act.

(B) The operator has declared that the terms and conditions of any other applicable Federal requirements, and State requirements pursuant to subsection 203(b), have been fulfilled.

(5) The release referred to in paragraph (4) shall be according to the following schedule:

(A) After the operator has completed the backfilling, regrading and drainage control of an area subject to mineral activities and covered by the financial assurance, and has commenced revegetation on the regraded areas subject to mineral activities in accordance with the approved plan of operations, 50 percent of the total financial assurance secured for the area subject to mineral activities may be released.

(B) After the operator has completed successfully all mineral activities and reclamation activities and all requirements of the plan of operations and the reclamation plan and all the requirements of this Act have in fact been fully met, the remaining portion of the financial assurance may be released.

(6) During the period following release of the financial assurance as specified in paragraph (5)(A), until the remaining portion of the financial assurance is released as provided in paragraph (5)(B), the operator shall be required to meet all applicable standards of this Act and the plan of operations and the reclamation plan.

(7) Where any discharge from the area subject to mineral activities requires treatment in order to meet the applicable effluent limitations, the treatment shall be monitored during the conduct of mineral activities and reclamation and shall be fully covered by financial assurance and no financial assurance or portion thereof for the plan of operations shall be released until the operator has met all applicable effluent limitations and water quality standards for one full year without treatment.

(8) Jurisdiction under this Act shall terminate upon release of the final bond. If the Secretary determines, after final bond release, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the plan of operations or the surface management requirements of this Act were not fulfilled in fact at the time of release, the Secretary shall reassert jurisdiction and all applicable surface management and enforcement provisions shall apply for correction of the condition.

(m) RECLAMATION.—(1) Except as provided under paragraphs (5) and (7) of subsection (n), lands subject to mineral activities shall be restored to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance, or other beneficial uses, provided such other uses are not inconsistent with applicable land use plans.

(2) All required reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities and shall use the best technology currently available.

(3) Except as provided under paragraphs (5) and (7) of subsection (n), the surface area disturbed by mineral activities shall be backfilled, graded and contoured to its natural topography.

(n) RECLAMATION STANDARDS.—The Secretary shall establish reclamation standards which shall include, but not necessarily be limited to, provisions to require each of the following:

(1) TOPSOIL.—(A) Topsoil removed from lands subject to mineral activities shall be segregated from other spoil material and protected for later use in reclamation. If such topsoil is not replaced on a backfill area within a time-frame short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be used so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a useable condition for sustaining vegetation when restored during reclamation.

(B) In the event the topsoil from lands subject to mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands subject to the mineral activities are available that shall support vegetation, the best available growth medium shall be removed, segregated and preserved in a like manner as under subparagraph (A) for sustaining vegetation when restored during reclamation.

(2) STABILIZATION.—All surface areas subject to mineral activities, including spoil material piles, waste material piles, ore piles, subgrade ore piles, and open or partially backfilled mine pits which meet the requirements of paragraph (5) shall be stabilized and protected during mineral activities and reclamation so as to effectively control erosion and minimize attendant air and water pollution.

(3) EROSION.—Facilities such as but not limited to basins, ditches, streambank stabilization, diversions or other measures, shall be designed, constructed and maintained where necessary to control erosion and drainage of the area subject to mineral activities, including spoil material piles and waste material piles prior to the use of such material to comply with the requirements of subsection (m)(3) and for the purposes of paragraph (7), and including ore piles and subgrade ore piles.

(4) HYDROLOGIC BALANCE.—(A) Mineral activities shall be conducted to minimize disturbances to the prevailing hydrologic balance of the area subject to mineral activities and adjacent areas and to the quality and quantity of water in surface and ground water systems, including streamflow, in the area subject to mineral activities and adjacent areas.

(B) Mineral activities shall prevent the generation of acid or toxic drainage during the mineral activities and reclamation, to the extent possible using the best available demonstrated control technology; and the operator shall prevent the contamination of surface and ground water with acid or other toxic mine drainage and shall prevent or remove water from contact with acid or toxic producing deposits.

(C) Reclamation shall, to the extent possible, also include restoration of the recharge capacity of the area subject to mineral activities to approximate premining condition.

(D) Where surface or underground water sources used for domestic or agricultural use have been diminished, contaminated or interrupted as a proximate result of mineral activities, such water resource shall be restored or replaced.

(5) PIT BACKFILLING/GRADING VARIANCE.—(A) The requirement of subsection (m)(3) shall not apply with respect to an open mine pit if the Secretary finds that such open pit or partially backfilled pit would not pose a threat to the public health or safety or have an adverse effect on the environment in terms of surface or groundwater pollution.

(B) In instances where complete backfilling of an open pit is not required, the pit shall be graded to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(6) REVEGETATION.—(A) Except in such instances where the complete backfill of an open mine pit is not required under paragraph (5), the area subject to mineral activities, including any excess spoil material pile and excess waste pile, shall be revegetated in order to establish a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area subject to mineral activities, capable of self-regeneration and plant succession and at least equal in extent of cover to the natural revegetation of the surrounding area.

(B) In order to insure compliance with subparagraph (A), the period for determining successful revegetation shall be for a period of 5 full years after the last year of augmented seeding, fertilizing, irrigation or other work, except that such period shall be 10 full years where the annual average precipitation is 26 inches or less.

(7) EXCESS SPOIL AND WASTE.—(A) Excess spoil material and excess waste material shall be transported and placed in approved areas, in a controlled manner in such a way so as to assure long-term mass stability and to prevent mass movement. In addition to the measures described under paragraph (3), internal drainage systems shall be employed, as may be required, to control erosion and drainage. The design of such excess spoil material piles and excess waste material piles shall be certified by a qualified professional engineer.

(B) Excess spoil material piles and excess waste material piles shall be graded and contoured to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(8) SEALING.—All drill holes, and openings on the surface associated with underground mineral activities, shall be sealed when no longer needed for the conduct of mineral activities to ensure protection of the public, fish and wildlife and the environment.

(9) STRUCTURES.—All buildings, structures or equipment constructed, used or improved during mineral activities shall be removed, unless the Secretary determines that the buildings, structures or equipment shall be of beneficial use in accomplishing the post-mining uses or for environmental monitoring.

(10) FISH AND WILDLIFE.—All fish and wildlife habitat in areas subject to mineral activities shall be restored in a manner commensurate with or superior to habitat conditions which existed prior to the mineral activities, including such conditions as may be prescribed by the Director, United States Fish and Wildlife Service.

(o) DEFINITIONS.—As used in subsections (m) and (n):

(1) The term "best technology currently available" means equipment, devices, systems, methods, or techniques which are currently available anywhere even if not in routine use in mineral activities. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, scheduling of activities and design of sedimentation ponds. Within the constraints of the surface management requirements of this Act, the Secretary shall have the discretion to determine the best technology currently available on a case-by-case basis.

(2) The term "best available demonstrated control technology" means equipment, devices, systems, methods, or techniques which have demonstrated engineering and economic feasibility and practicality in preventing disturbances to hydrologic balance during mineral activities and reclamation. Such techniques will have shown to be effective and practical methods of acid and other mine water pollution elimination or control, and other pollution affecting water quality. The "best available demonstrated control technology" will not generally be in routine use in mineral activities. Within the constraints of the surface management requirements of this Act, the Secretary shall have the discretion to determine the best available demonstrated control technology on a case-by-case basis.

(3) The term "spoil material" means the overburden, or non-mineralized material of any nature, consolidated or unconsolidated, that overlies a deposit of any locatable mineral that is removed in gaining access to, and extracting, any locatable mineral, or any such material disturbed during the conduct of mineral activities.

(4) The term "waste material" means the material resulting from mineral activities involving beneficiation, including but not limited to tailings, and such material resulting from mineral activities involving processing, to the extent such material is not subject to subtitle C of the Resource Conservation and Recovery Act of 1976 or the Uranium Mill Tailings Radiation Control Act.

(5) The term "ore piles" means ore stockpiled for beneficiation prior to the completion of mineral activities and reclamation.

(6) The term "subgrade ore" means ore that is too low in grade to be of economic value at the time of extraction but which could reasonably be economical in the foreseeable future.

(7) The term "excess spoil" means that spoil material that may be excess of the amount necessary to comply with the requirements of subsection (m)(3).

(8) The term "excess waste" means that waste material that may be excess of the amount necessary to comply with the requirements of subsection (m)(3).

SEC. 202. INSPECTION AND ENFORCEMENT.

(a) INSPECTIONS.—(1) The Secretary shall make such inspections of mineral activities so as to ensure compliance with the surface management requirements. The Secretary shall establish a frequency of inspections for mineral activities conducted under an approved plan of operations, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter or two complete inspections annually for a plan of operations for which the Secretary approves an application under section 201(j).

(2)(A) Any person who has reason to believe they are or may be adversely affected by mineral activities due to any violation of the surface management requirements may request an inspection. The Secretary shall determine within 10 days of receipt of the request whether the request states a reason to believe that a violation exists, except in the event the person alleges and provides reason to believe that an imminent danger as provided by subsection (b)(2) exists the 10 day period shall be waived and the inspection conducted immediately. When an inspection is conducted under this paragraph, the Secretary shall notify the person filing the complaint and such person shall be allowed to accompany the inspector during the inspection.

(B) The Secretary shall, by regulation, establish procedures for the review of any decision by his authorized representative not to inspect or by a refusal by such representative to ensure remedial actions are taken with respect to any alleged violation. The Secretary shall furnish such persons requesting the review a written statement of the reasons for the Secretary's final disposition of the case.

(b) ENFORCEMENT.—(1) If the Secretary or authorized representative determines, on the basis of an inspection that an operator, or any person conducting mineral activities under section 201(b)(2), is in violation of any surface management requirement, the Secretary or authorized representative shall issue a notice of violation to the operator or person describing the violation and the corrective measures to be taken. The Secretary or authorized representative shall provide such operator or person with a reasonable period of time to abate the violation. If, upon the expiration of time provided for such abatement, the Secretary or authorized representative finds that the violation has not been abated he shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

(2) If the Secretary or authorized representative determines, on the basis of an inspection, that any condition or practice exists, or that an operator, or any person conducting mineral activities under section 201(b)(2), is in violation of the surface management requirements, and such condition, practice or violation is causing, or can reasonably be expected to cause—

(A) an imminent danger to the health or safety of the public; or

(B) significant, imminent environmental harm to land, air or water resources;

the Secretary or authorized representative shall immediately order a cessation of mineral activities or the portion thereof relevant to the condition, practice or violation.

(3)(A) A cessation order by the Secretary or authorized representative pursuant to paragraphs (1) or (2) shall remain in effect until the Secretary or authorized representative determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Secretary or authorized representative. In any such order, the Secretary or authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order. The Secretary shall require appropriate financial assurances to ensure that the abatement obligations are met.

(B) Any notice or order issued pursuant to paragraphs (1) or (2) may be modified, vacated or terminated by the Secretary or authorized representative. An operator, or person conducting mineral activities under section 201(b)(2), issued any such notice or order shall be entitled to a hearing on the record pursuant to subsection (f).

(4) If, after 30 days of the date of the order referred to in paragraph (3)(A) the required abatement has not occurred the Secretary shall take such alternative enforcement action against the responsible parties as will most likely bring about abatement in the most expeditious manner possible. Such alternative enforcement action shall include, but is not necessarily limited to, seeking appropriate injunctive relief to bring about abatement.

(5) In the event an operator, or person conducting mineral activities under section 201(b)(2), is unable to abate a violation or defaults on the terms of the plan of operation the Secretary shall forfeit the financial assurance for the plan of operations if necessary to ensure abatement and reclamation under this Act.

(6) The Secretary shall not forfeit the financial assurance while a review is pending pursuant to subsections (f) and (g).

(c) COMPLIANCE.—(1) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, in the district court of the United States for the district in which the mineral activities are located whenever an operator, or person conducting mineral activities under section 201(b)(2):

(A) violates, fails or refuses to comply with any order issued by the Secretary under subsection (b); or

(B) interferes with, hinders or delays the Secretary in carrying out an inspection under subsection (a).

Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under clause (A) shall continue in effect until the completion or final termination of all proceedings for review of such order under subsections (f) and (g), unless the district court granting such relief sets it aside or modifies it.

(2) Notwithstanding any other provision of law, the Secretary shall utilize enforcement personnel from the Office of Surface Mining Reclamation and Enforcement to augment personnel of the Bureau of Land Management and the Forest Service to ensure compliance with the surface management requirements, and inspection requirements of subsection (a). The Bureau of Land Management and the Forest Service shall each enter into a memorandum of understanding with the Office of Surface Mining Reclamation and Enforcement for this purpose.

(d) PENALTIES.—(1) Any operator, or person conducting mineral activities under section 201(b)(2), who fails to comply with the surface management requirements shall be liable for a penalty of not more than $5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. No civil penalty under this subsection shall be assessed until the operator charged with the violation has been given the opportunity for a hearing under subsection (f).

(2) An operator, or person conducting mineral activities under section 201(b)(2), who fails to correct a violation for which a cessation order has been issued under subsection (b) within the period permitted for its correction shall be assessed a civil penalty of not less than $1,000 per violation for each day during which such failure continues, but in no event shall such assessment exceed a 30-day period.

(3) Whenever a corporation is in violation of the surface management requirements or fails or refuses to comply with an order issued under subsection (b), any director, officer or agent of such corporation who knowingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same penalties that may be imposed upon an operator under paragraph (1).

(e) CITIZEN SUITS—(1) Except as provided under paragraph (2), any person having an interest which is or may be adversely affected may commence a civil action on his or her own behalf to compel compliance—

(A) against the Secretary where there is alleged a violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or terms and conditions of any plan of operations approved pursuant to this Act;

(B) against any other person alleged to be in violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or terms and conditions of any plan of operations approved pursuant to this Act;

(C) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act or any regulation promulgated pursuant to this Act which is not within the discretion of the Secretary; or

(D) against the Secretary where it is alleged that the Secretary acts arbitrarily or capriciously or in a manner inconsistent with this Act or any regulation promulgated pursuant to this Act. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties.

(2) No action may be commenced except as follows:

(A) Under paragraph (1)(A) prior to 60 days after the plaintiff has given notice in writing of such alleged violation to the Secretary, or to the person alleged to be in violation; except no action may be commenced against any person alleged to be in violation if the Secretary has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the provisions of this title (but in any such action in a court of the United States the person making the allegation may intervene as a matter of right).

(B) Under paragraph (1)(B) prior to 60 days after the plaintiff has given notice in writing of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the environment or to the health or safety of the public or would immediately affect a legal interest of the plaintiff.

(3) Venue of all actions brought under this subsection shall be determined in accordance with title 28 U.S.C. 1391(a).

(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) may award costs of litigation (including attorney and expert witness fees) to any party whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief, including relief against the Secretary.

(f) REVIEW BY SECRETARY.—(1)(A) Any operator, or person conducting mineral activities under section 201(b)(2), issued a notice of violation or cessation order under subsection (b), or any person having an interest which is or may be adversely affected by such decisions, notice or order, may apply to the Secretary for review of the notice or order within 30 days of receipt thereof, or as the case may be, within 30 days of such notice or order being modified, vacated or terminated.

(B) Any operator, or person conducting mineral activities under section 201(b)(2), who is subject to a penalty under subsection (d) or section 105 may apply to the Secretary for review of the assessment within 30 days of notification of such penalty.

(C) Any person having an interest which is or may be adversely affected by a decision made by the Secretary under subsections (g), (h), (i), (j) and (l) of section 201, or subsection 202(a)(2), or subsection 204(g), may apply to the Secretary for review of the decision within 30 days after it is made.

(2) The Secretary shall provide an opportunity for a public hearing at the request of any party. Any hearing conducted pursuant to this subsection shall be on record and shall be subject to section 554 of title 5 of the United States Code. The filing of an application for review under this subsection shall not operate as a stay of any order or notice issued under subsection (b).

(3) Following the hearing referred to in paragraph (2), if requested, but in any event the Secretary shall make findings of fact and shall issue a written decision incorporating therein an order vacating, affirming, modifying or terminating the notice, order or decision, or with respect to an assessment, the amount of penalty that is warranted. Where the application for review concerns a cessation order issued under subsection (b), the Secretary shall issue the written decision within 30 days of the receipt of the application for review, unless temporary relief has been granted by the Secretary under paragraph (4).

(4) Pending completion of any proceedings under this subsection, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any order issued under subsection (b) together with a detailed statement giving reasons for such relief. The Secretary shall expeditiously issue an order or decision granting or denying such relief. The Secretary may grant such relief under such conditions as he may prescribe only if such relief shall not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air or water resources.

(5) The availability of review under this subsection shall not be construed to limit the operation of rights established under subsection (e).

(g) JUDICIAL REVIEW.—(1) Any action by the Secretary in promulgating regulations to implement this Act, or any other actions constituting rulemaking by the Secretary to implement this Act, shall be subject to judicial review in the United States District Court for the District of Columbia. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed in the United States District Court for the District of Columbia within 60 days from the date of such action, or after such date if the petition is based solely on grounds arising after the sixtieth day. Any such petition may be made by any person who commented or otherwise participated in the rulemaking or who may be adversely affected by the action of the Secretary.

(2) Final agency action under this Act, including such final action on those matters described under subsection (f), shall be subject to judicial review in accordance with paragraph (4) and pursuant to 28 U.S.C. 1391(a) of the United States Code on or before 60 days from the date of such final action.

(3) The availability of judicial review established in this subsection shall not be construed to limit the operations of rights established under subsection (e).

(4) The court shall hear any petition or complaint filed under this subsection solely on the record made before the Secretary. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(5) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order or decision of the Secretary.

(h) PROCEEDINGS.—Whenever a proceeding occurs under subsections (f) or (g), at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary or the court to have been reasonably incurred by such person for or in connection with participation in such proceedings, including any judicial review of the proceeding, may be assessed against either party as the court, resulting from judicial review or the Secretary, resulting from administrative proceedings, deems proper.

SEC. 203. STATE LAW AND REGULATION.

(a) STATE LAW.—(1) Any reclamation standard or requirement in State law or regulation that meets or exceeds the requirements of subsections (m) and (n) of section 201 shall not be construed to be inconsistent with any such standard.

(2) Any bonding standard or requirement in State law or regulation that meets or exceeds the requirements of section 201(l) shall not be construed to be inconsistent with such requirements.

(3) Any inspection standard or requirement in State law or regulation that meets or exceeds the requirements of section 202 shall not be construed to be inconsistent with such requirements.

(b) APPLICABILITY OF OTHER STATE REQUIREMENTS.—(1) Nothing in this Act shall be construed as affecting any air or water quality standard or requirement of any State law or regulation which may be applicable to mineral activities on lands subject to this Act.

(2) Nothing in this Act shall be construed as affecting in any way the right of any per-

son to enforce or protect, under applicable law, such person's interest in water resources affected by mineral activities.

(c) COOPERATIVE AGREEMENTS.—(1) Any State may enter into a cooperative agreement with the Secretary for the purposes of applying such standards and requirements referred to in subsection (a) and subsection (b) to mineral activities on lands subject to this Act.

(2) The Secretary may enter into a cooperative agreement with any State for the purpose of providing a common regulatory framework for surface management requirements applicable to mineral activities under plans of operations that shall encompass lands under the jurisdiction of a State in addition to lands subject to this Act.

(3) The Secretary shall not enter into a cooperative agreement with any State under this section until after notice in the Federal Register and opportunity for public comment.

(d) PRIOR AGREEMENTS.—Any cooperative agreement or such other understanding between the Secretary and any State, or political subdivision thereof, relating to the surface management of mineral activities on lands subject to this Act that was in existence on the date of enactment of this Act may only continue in force until the effective date of this Act, after which time the terms and conditions of any such agreement or understanding shall only be applicable to plans of operations approved by the Secretary prior to the effective date of this Act except as provided under section 405.

(e) DELEGATION.—The Secretary shall not delegate to any State, or political subdivision thereof, the Secretary's authorities, duties and obligations under this Act, including with respect to any cooperative agreements entered into under this section.

SEC. 204. UNSUITABILITY REVIEW.

(a) IN GENERAL.—The Secretary of the Interior in preparing land use plans under the Federal Land Policy and Management Act of 1976, and the Secretary of Agriculture in preparing land use plans under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, shall each conduct a review of lands that are subject to this Act in order to determine whether there are any areas which are unsuitable for all or certain types of mineral activities pursuant to the standards set forth under subsection (e). In the event such a determination is made, the review shall be included in the applicable land use plan.

(b) SPECIFIC AREAS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture, on the basis of any information available, shall each publish a notice in the Federal Register identifying and listing the lands subject to this Act which are or may be determined to be unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). After opportunity for public comment and proposals for modifications to such listing, but not later than the effective date of this Act, each Secretary shall begin to review the lands identified pursuant to this subsection to determine whether such lands are unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e).

(c) LAND USE PLANS.—(1) At such time as the Secretary revises or amends a land use plan pursuant to provisions of law other than this Act, the Secretary shall identify lands determined to be unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). The Secretary shall incorporate such determinations in the applicable land use plans.

(2) If lands covered by a proposed plan of operations have not been reviewed pursuant to this section at the time of submission of a plan of operations, the Secretary shall, prior to the consideration of the proposed plan of operations, review the areas that would be affected by the proposed mineral activities to determine whether the area is unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). The Secretary shall use such review in the next revision or amendment to the applicable land use plan to the extent necessary to reflect the unsuitability of such lands for all or certain types of mineral activities according to the standards set forth in subsection (e).

(3) This section does not require land use plans to be amended until such plans are adopted, revised, or amended pursuant to provisions of law other than this Act.

(d) EFFECT OF DETERMINATION.—(1) If the Secretary determines an area to be unsuitable under this section for all or certain types of mineral activities, he shall do one of the following:

(A) In any instance where a determination is made that an area is unsuitable for all types of mineral activities, the Secretary of the Interior, with the consent of the Secretary of Agriculture for lands under the jurisdiction of the Secretary of Agriculture, shall withdraw such area pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

(B) In any instance where a determination is made that an area is unsuitable for certain types of mineral activities, the Secretary shall take appropriate steps to limit or prohibit such types of mineral activities.

(2) Nothing in this section may be construed as affecting lands where mineral activities under approved plans of operations or under notice (as provided for in the regulations of the Secretary of the Interior in effect prior to the effective date of this Act relating to operations that cause a cumulative disturbance of 5 acres or less) were being conducted on the effective date of this Act, except as provided under subsection (g).

(3) Nothing in this section may be construed as prohibiting mineral activities not subject to paragraph (2) where substantial legal and financial commitments in such mineral activities were in existence on the effective date of this Act, but nothing in this section may be construed as limiting any existing authority of the Secretary to regulate such activities.

(4) An unsuitability determination under this section shall not prevent the types of mineral activities referred to in section 201(b)(2)(A), but nothing in this section shall be construed as authorizing such activities in areas withdrawn pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

(e) REVIEW STANDARDS.—(1) An area containing lands that are subject to this Act shall be determined to be unsuitable for all or certain types of mineral activities if the Secretary determines, after notice and opportunity for public comment, that reclamation pursuant to the standards set forth in subsections (m) and (n) of section 201 would not be technologically and economically feasible for any such mineral activities in such area and where—

(A) such mineral activities would substantially impair water quality or supplies within the area subject to the mining plan or adjacent lands, such as impacts on aquifers and aquifer recharge areas;

(B) such mineral activities would occur on areas of unstable geology that could if undertaken substantially endanger life and property;

(C) such mineral activities would adversely affect publicly-owned places which are listed on or are eligible for listing on the National Register of Historic Places, unless the Secretary and the State approve all or certain mineral activities, in which case the area shall not be determined to be unsuitable for such approved mineral activities;

(D) such mineral activities would cause loss of or damage to riparian areas;

(E) such mineral activities would impair the productivity of the land subject to such mineral activities;

(F) such mineral activities would adversely affect candidate species for threatened and endangered species status; or

(G) such mineral activities would adversely affect lands designated as National Wildlife Refuges.

(2) An area may be determined to be unsuitable for all or certain mineral activities if the Secretary, after notice and opportunity for public comment, determines that reclamation pursuant to the standards set forth in subsections (m) and (n) of section 201 would not be technologically and economically feasible for any such mineral activities in such area and where—

(A) such mineral activities could result in significant damage to important historic, cultural, scientific and aesthetic values or to natural systems;

(B) such mineral activities could adversely affect lands of outstanding aesthetic qualities and scenic Federal lands designated as Class I under section 162 of the Clean Air Act (42 U.S.C. 7401 and following);

(C) such mineral activities could adversely affect lands which are high priority habitat for migratory bird species or other important fish and wildlife species as determined by the Secretary in consultation with the Director of the United States Fish and Wildlife Service and the appropriate agency head for the State in which the lands are located;

(D) such mineral activities could adversely affect lands which include wetlands if mineral activities would result in loss of wetland values;

(E) such mineral activities could adversely affect National Conservation System units; or

(F) such mineral activities could adversely affect lands containing other resource values as the Secretary may consider.

(f) WITHDRAWAL REVIEW.—In conjunction with conducting an unsuitability review under this section, the Secretary shall review all administrative withdrawals of land from the location of mining claims to determine whether the revocation or modification of such withdrawal for the purpose of allowing such lands to be opened to the location of mining claims under this Act would be appropriate as a result of any of the following:

(1) The imposition of any conditions referred to in subsection (d)(1)(B).

(2) The surface management requirements of section 201.

(3) The limitation of section 107.

(g) CITIZEN PETITION.—(1) In any instance where a land use plan has not been amended or completed to reflect the review referred to in subsection (a), any person having an interest that may be adversely affected by potential mineral activities on lands subject to this Act covered by such plan shall have the right to petition the Secretary to determine such lands to be unsuitable for all or certain types of mineral activities. Such petition shall contain allegations of fact with respect to potential mineral activities and with respect to the unsuitability of such lands for all or certain mineral activities according to the standards set forth in subsection (e) with supporting evidence that would tend to establish the allegations.

(2) Petitions received prior to the date of the submission of a proposed plan of operations under this Act, shall stay consideration of the proposed plan of operations pending review of the petition.

(3) Within 4 months after receipt of a petition to determine lands to be unsuitable for all or certain types of mining in areas where a land use plan has not been amended or completed to reflect the review referred to in subsection (a), the Secretary shall hold a public hearing on the petition in the locality of the area in question. After a petition has been filed and prior to the public hearing, any person may support or oppose the determination sought by the petition by filing written allegations of facts and supporting evidence.

(4) Within 60 days after a public hearing held pursuant to paragraph (3), the Secretary shall issue a written decision regarding the petition which shall state the reasons for granting or denying the requested determination.

(5) Reviews conducted pursuant to this subsection shall be consistent with paragraphs (3) and (4) of subsection (d) and with subsection (e).

SEC. 205. LANDS NOT OPEN TO LOCATION.

(a) LANDS.—Subject to valid existing rights, each of the following shall not be open to the location of mining claims under this Act on the date of enactment of this Act:

(1) Lands recommended for wilderness designation by the agency managing the surface, pending a final determination by the Congress of the status of such lands.

(2) Lands being managed by the Bureau of Land Management as wilderness study areas on the date of enactment of this Act except where the location of mining claims is specifically allowed to continue by the statute designating the study area, pending a final determination by the Congress of the status of such lands.

(3) Lands within Wild and Scenic River System and lands under study for inclusion in such system, pending a final determination by the Congress of the status of such lands.

(4) Lands identified by the Bureau of Land Management as Areas of Critical Environmental Concern.

(5) Lands identified by the Secretary of Agriculture as Research Natural Areas.

(6) Lands designated by the Fish and Wildlife Service as critical habitat for threatened or endangered species.

(7) Lands administered by the Fish and Wildlife Service.

(8) Lands which the Secretary shall designate for withdrawal under authority of other law, including lands which the Secretary of Agriculture may propose for withdrawal by the Secretary of the Interior under authority of other law.

(b) DEFINITION.—As used in this section, the term "valid existing rights" means that a mining claim located on lands referred to in subsection (a) was properly located and maintained under the general mining laws prior to the date of enactment of this Act, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

TITLE III—ABANDONED MINERALS MINE RECLAMATION FUND

SEC. 301. ABANDONED MINERALS MINE RECLAMATION FUND.

(a) NEW SUBTITLE.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by inserting:

"Subtitle A—Abandoned Coal Mine
Reclamation Fund"

immediately before section 401 and by adding the following new subtitle at the end thereof:

"Subtitle B—Abandoned Minerals Mine
Reclamation Fund

"SEC. 421. ABANDONED MINERALS MINE RECLAMATION.

"(a) ESTABLISHMENT.—(1) There is established on the books of the Treasury of the United States a trust fund to be known as the Abandoned Minerals Mine Reclamation Fund (hereinafter in this subtitle referred to as the 'Fund'). The Fund shall be administered by the Secretary of the Interior acting through the Director, Office of Surface Mining Reclamation and Enforcement.

"(2) The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the Fund is not, in his judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the Fund.

"(b) AMOUNTS.—The following amounts shall be credited to the Fund for the purposes of this Act:

"(1) All moneys received from the collection of rental fees under section 104 of the Mineral Exploration and Development Act of 1991.

"(2) Amounts collected pursuant to sections 105 and 202(d) of the Mineral Exploration and Development Act of 1991.

"(3) All moneys received from the disposal of mineral materials pursuant to section 3 of the Materials Act of 1947 (30 U.S.C. 603) to the extent such moneys are not specifically dedicated to other purposes under other authority of law.

"(4) Donations by persons, corporations, associations, and foundations for the purposes of this subtitle.

"(5) Amounts referred to in section 410(e)(1).

"SEC. 422. USE AND OBJECTIVES OF THE FUND.

"(a) IN GENERAL.—The Secretary is authorized to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past mineral (other than coal and fluid minerals) and mineral material mining, including but not limited to, any of the following:

"(1) Reclamation and restoration of abandoned surface mined areas.

"(2) Reclamation and restoration of abandoned milling and processing areas.

"(3) Sealing and filling abandoned deep mine entries.

"(4) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

"(5) Prevention, abatement, treatment and control of water pollution created by abandoned mine drainage.

"(6) Control of surface subsidence due to abandoned deep mines.

"(7) Such expenses as may be necessary to accomplish the purposes of this subtitle.

"(b) PRIORITIES.—Expenditure of moneys from the Fund shall reflect the following priorities in the order stated:

"(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past minerals and mineral materials mining practices.

"(2) The protection of public health, safety, and general welfare from the adverse effects of past minerals and mineral materials mining practices.

"(3) The restoration of land and water resources previously degraded by the adverse effects of past minerals and mineral materials mining practices.

"SEC. 423. ELIGIBLE AREAS.

"(a) ELIGIBILITY.—Lands and waters eligible for reclamation expenditures under this Act shall be those within the boundaries of States that have lands subject to the Mineral Exploration and Development Act of 1992 and the Materials Act of 1947—

"(1) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this subtitle; and

"(2) for which there is no continuing reclamation responsibility under State or Federal laws; and

"(3) for which it can be established that such lands do not contain minerals which could economically be extracted through the reprocessing or remining of such lands, unless such consideration are in conflict with the priorities set forth under paragraphs (1) and (2) of section 422(b).

In determining the eligibility under this subsection of Federal lands and waters under the jurisdiction of the Forest Service or Bureau of Land Management in lieu of the date referred to in paragraph (1), the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

"(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The provisions of section 411(d) of the Surface Mining Control and Reclamation Act of 1977 shall apply to expenditures made from the Fund established under this subtitle in the same manner and to the same extent as such provisions apply to expenditures made under subtitle A.

"SEC. 424. FUND ALLOCATION AND EXPENDITURES.

"(a) ALLOCATIONS.—(1) Moneys available for expenditure from the Fund shall be allocated on an annual basis by the Secretary in the form of grants to eligible States, or in the form of expenditures under subsection (b), to accomplish the purposes of this subtitle.

"(2) The Secretary shall distribute moneys from the Fund based on the greatest need for such moneys pursuant to the priorities stated in section 422(b). In determining the greatest need for the distribution of moneys from the Fund to eligible States, the Secretary shall give priority to those eligible States which do not receive grants under subtitle A.

"(b) DIRECT FEDERAL EXPENDITURES.—Where a State is not eligible, or in instances where the Secretary determines that the purposes of this subtitle may best be accomplished otherwise, moneys available from the Fund may be expended directly by the Director, Office of Surface Mining Reclamation and Enforcement. The director may also make such money available through grants made to the Director of the Bureau of Land Management, the Chief of the United States Forest Service, the Director of the National Park Service, and any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program, or through cooperative agreements between eligible States and the entities referred to in this subsection.

"SEC. 425. STATE RECLAMATION PROGRAMS.

"(a) ELIGIBLE STATES.—For the purpose of section 424(a), 'eligible States' are those States for which the Secretary determines meets each of the following requirements:

"(1) Within the State there are mined lands, waters, and facilities eligible for reclamation pursuant to section 423.

"(2) The State has developed an inventory of such areas following the priorities established under section 422(b).

"(3) The State has established, and the Secretary has approved, a State abandoned minerals and mineral materials mine reclamation program for the purpose of receiving and administering grants under this subtitle. Any State with an approved abandoned mine reclamation program pursuant to section 405 shall be deemed to have met the requirements of this paragraph.

"(b) MONITORING.—The Secretary shall monitor the expenditure of State grants to ensure they are being utilized to accomplish the purposes of this subtitle.

"(c) SUPPLEMENTAL GRANTS.—In the case of any State with an approved abandoned mine reclamation program pursuant to section 405, grants to such State made pursuant to this subtitle may be made as a supplement to grants received by such State pursuant to section 402(g)(1).

"(d) STATE PROGRAMS.—(1) The Secretary shall approve any State abandoned minerals mine reclamation program submitted to the Secretary by a State under this subtitle if the Secretary finds that the State has the ability and necessary State legislation to implement such program and that the program complies with the provisions of this subtitle and the regulations of the Secretary under this subtitle.

"(2) No State, or a contractor for such State engaged in approved reclamation work under this subtitle, or a public entity referred to in section 424(b), shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State abandoned minerals mine reclamation program under this section. This paragraph shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

"SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

"Amounts credited to the Fund are authorized to be appropriated for the purpose of this subtitle without fiscal year limitation."

SEC. 302. CONFORMING AMENDMENTS.

(a) CONFORMING CHANGE.—All references to "this title" in sections 401 through 414 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) are amended to read "this subtitle".

(b) TABLE OF CONTENTS.—The table of contents for title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) is amended as follows:

(1) Insert the following immediately before the item relating to section 401:

"Subtitle A—Abandoned Coal Mine Reclamation Fund".

(2) Add the following at the end thereof:

"Subtitle B—Abandoned Minerals Mine Reclamation Fund

"Sec. 421. Abandoned minerals mine reclamation.
"Sec. 422. Use and objectives of the fund.
"Sec. 423. Eligible areas.
"Sec. 424. Fund allocation and expenditures.
"Sec. 425. State reclamation programs.
"Sec. 426. Authorization of appropriations.".

TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 401. POLICY FUNCTIONS.

(a) MINERALS POLICY.—The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended by adding at the end thereof the following: "It shall also be the responsibility of the Secretary of Agriculture to carry out the policy provisions of paragraphs (1) and (2) of this Act.".

(b) MINERAL DATA.—Section 5(e)(3) of the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1604) is amended by inserting before the period the following: ", except that for National Forest System lands the Secretary of Agriculture shall promptly initiate actions to improve the availability and analysis of mineral data in Federal land use decision making".

SEC. 402. USER FEES.

The Secretaries of Interior and Agriculture are authorized to establish and collect from persons subject to the requirements of this Act such user fees as may be necessary to reimburse the United States for a portion of the expenses incurred in administering such requirements. Fees may be assessed and collected under this section only in such manner as may reasonably be expected to result in an aggregate amount of the fees collected during any fiscal year which does not exceed the aggregate amount of administrative expenses referred to in this section.

SEC. 403. REGULATIONS; EFFECTIVE DATES.

(a) EFFECTIVE DATE.—This Act shall take effect 1 year after the date of enactment of this Act, except as otherwise provided in this Act.

(b) REGULATIONS.—(1) The Secretary of the Interior shall issue final regulations to implement title I, such requirements of section 402 and 409 as may be applicable to such title, title III and sections 404, 406 and 407 not later than the effective date of this Act specified in subsection (a).

(2) The Secretary of the Interior and the Secretary of Agriculture shall each issue final regulations to implement their respective responsibilities under title II, such requirements of section 402 as may be applicable to such title, and sections 405 and 409 not later than the effective date of this Act referred to in subsection (a). The Secretary of the Interior and the Secretary of Agriculture shall coordinate the promulgation of such regulations.

(3) Failure to promulgate the regulations specified in this subsection by the effective date of this Act by reason of any appeal or judicial review shall not delay the effective date of this Act as specified in subsection (a).

(b) NOTICE.—Within 60 days after the publication of regulations referred to in subsection (b)(1), the Secretary of the Interior shall give notice to holders of mining claims and mill sites maintained under the general mining laws as to the requirements of section 404. Procedures for providing such notice shall be established as part of the regulations.

(c) NEW MINING CLAIMS.—Notwithstanding any other provision of law, after the effective date of this Act, a mining claim for a locatable mineral on lands subject to this Act—

(1) may be located only in accordance with this Act,

(2) may be maintained only as provided in this Act, and

(3) shall be subject to the requirements of this Act.

SEC. 404. TRANSITIONAL RULES; MINING CLAIMS AND MILL SITES.

(a) CLAIMS UNDER THE GENERAL MINING LAWS.—

(1) CONVERTED MINING CLAIMS.—Notwithstanding any other provision of law, within the 3-year period after the effective date of this Act, the holder of any unpatented mining claim which was located under the general mining laws before the effective date of this Act may elect to convert the claim under this paragraph by filing an election to do so with the Secretary of the Interior that references the Bureau of Land Management serial number of that claim in the office designated by such Secretary. The provisions of title I (other than subsections (a), (b), (c), (d)(1), (f), and (h) of section 103) shall apply to any such claim, effective upon the making of such election, and the filing of such election shall constitute notice to the Secretary for purposes of section 103(d)(2). Once a mining claim has been converted, there shall be no distinction made as to whether such claim was originally located as a lode or placer claim.

(2) UNCONVERTED MINING CLAIMS.—Notwithstanding any other provision of law, any claim referred to in paragraph (1) that has not converted within the 3-year period referred to in such paragraph shall be deemed forfeited and declared null and void.

(3) CONVERTED MILL SITE CLAIMS.—Notwithstanding any other provision of law, within the 3-year period after the effective date of this Act, the holder of any unpatented mill site which was located under the general mining laws before the effective date of this Act may elect to convert the site under this paragraph by filing an election to do so with the Secretary of the Interior that references the Bureau of Land Management serial number of that mill site in the office designated by such Secretary. The provisions of title I (other than subsections (a), (b), (c), (d)(1), and (f) of section 103) shall apply to any such claim, effective upon the making of such election, and the filing of such election shall constitute notice to the Secretary for purposes of section 103(d)(2). A mill site converted under this paragraph shall be deemed a mining claim under this Act.

(4) UNCONVERTED MILL SITE CLAIMS.—Notwithstanding any other provision of law, any mill site referred to in paragraph (3) that has not converted within the 3-year period referred to in such paragraph shall be deemed forfeited and declared null and void.

(5) TUNNEL SITES.—Any tunnel site located under the general mining laws on or before the effective date of this Act shall not be recognized as valid unless converted pursuant to paragraph (1). No tunnel sites may be located under the general mining laws after the effective date of this Act.

(b) SPECIAL APPLICATION OF REQUIREMENTS.—For mining claims and mill sites converted under this section each of the following shall apply:

(1) For the purposes of complying with the requirements of section 103(d)(2), whenever the Secretary receives an election under paragraphs (1) or (3) of subsection (a), as the

case may be, he shall provide the certificate referenced in section 103(d)(2) to the holder of the mining claim or mill site.

(2) The first diligence year applicable to mining claims and mill sites converted under this section shall commence on the first day of the first month following the date the holder of such claim or mill site files an election to convert with the Secretary under paragraphs (1) or (3) of subsection (a), as the case may be, and subsequent diligence years shall commence on the first day of that month each year thereafter.

(3) For the purposes of determining the boundaries of a mining claim to which the rental requirements of section 104 apply for a mining claim or mill site converted under this section, the rental fee shall be paid on the basis of land within the boundaries of the converted mining claim or mill site as described in the notice of location or certificate of location filed under section 314 of the Federal Land Policy and Management Act of 1976.

(c) PRECONVERSION.—Any unpatented mining claim or mill site located under the general mining laws shall be deemed to be a prior claim for the purposes of section 103(e) during the 3-year period referred to in subsections (a)(1) or (a)(3).

(d) POSTCONVERSION.—Any unpatented mining claim or mill site located under the general mining laws shall be deemed to be a prior claim for the purposes of section 103(e) if converted pursuant to subsections (a)(1) or (a)(3).

(e) DISPOSITION OF LAND.—In the event a mining claim is located under this Act for lands encumbered by a prior mining claim or mill site located under the general mining laws, such lands shall become part of the claim located under this Act if the claim or mill site located under the general mining laws is declared null and void under this section or otherwise becomes null and void thereafter.

(f) PREACT CONFLICTS.—(1) Any conflicts in existence on or before the date of enactment of this Act between holders of mining claims located under the general mining laws may be resolved in accordance with applicable laws governing such conflicts in effect on the date of enactment of this Act in a court with proper jurisdiction.

(2) Any conflicts not relating to matters provided for under section 103(g) between the holders of a mining claim located under this Act and a mining claim or mill located under the general mining laws arising either before or after the conversion of any such claim or site under this section shall be resolved in a court with proper jurisdiction.

SEC. 405. TRANSITIONAL RULES; SURFACE MANAGEMENT REQUIREMENTS.

(a) NEW CLAIMS.—Notwithstanding any other provision of law, any mining claim for a locatable mineral on lands subject to this Act located after the date of enactment of this Act, but prior to the effective date of this Act, shall be subject to such surface management requirements as may be applicable to the mining claim in effect prior to the date of enactment of this Act until the effective date of this Act, at which time such claim shall be subject to the requirements of title II.

(b) PREEXISTING CLAIMS.—Notwithstanding any other provision of law, any unpatented mining claim or mill site located under the general mining laws shall be subject to the requirements of title II as follows:

(1) In the event a plan of operations had not been approved for mineral activities on any such claim or site prior to the effective date of this Act, the claim or site shall be subject to the requirements of title II upon the effective date of this Act.

(2) In the event a plan of operations had been approved for mineral activities on any such claim or site prior to the effective date of this Act, such plan of operations shall continue in force for a period of 5 years after the effective date of this Act, after which time the requirements of title II shall apply, except as provided under subsection (c), subject to the limitations of section 204(d)(2). In order to meet the requirements of section 201, the person conducting mineral activities under such plan of operations shall apply for a modification under section 201(i). During such 5-year period the provisions of section 202 shall apply on the basis of the surface management requirements applicable to such plans of operations prior to the effective date of this Act.

(3) In the event a notice had been filed with the authorized officer in the applicable district office of the Bureau of Land Management (as provided for in the regulations of the Secretary of the Interior in effect prior to the date of enactment of this Act relating to operations that cause a cumulative disturbance of 5 acres or less) prior to the date of enactment of this Act, mineral activities may continue under such notice for a period of 2 years after the effective date of this Act, after which time the requirements of title II shall apply, except as provided under subsection (c), subject to the limitations of section 204(d)(2). In order to meet the requirements of section 201, the person conducting mineral activities under such notice must apply for a modification under section 201(i) unless such mineral activities are conducted pursuant to section 201(b)(2). During such 2-year period the provisions of section 202 shall apply on the basis of the surface management requirements applicable to such notices prior to the effective date of this Act.

(4) In the event a notice (as described in paragraph (3)) had not been filed with the authorized officer in the applicable district office of the Bureau of Land Management prior to the date of enactment of this Act, the claim or site shall be subject to the surface management requirements in effect prior to the effective date of this Act at which time such claims shall be subject to the requirements of title II.

(c) VARIANCE.—(1) A plan modification submitted pursuant to subsections (b)(2) and (b)(3) may include a request for a variance to any of the requirements of subsections (m) or (n) of section 201. All other mineral activities proposed under the plan modification shall be consistent with the requirement for best technology currently available as defined in section 201(o).

(2) When considering a variance request, the Secretary shall take into account the distinct circumstances of each operation under plans approved and notices submitted prior to the effective date of this Act. A variance shall be approved only if substantial legal and financial commitments have been made and the operation is fully engaged prior to the effective date of this Act.

(3) To approve a variance in a plan modification submitted pursuant to subsections (b)(2) and (b)(3), the Secretary shall make each of the following determinations:

(A) The mine permit and reclamation plan are otherwise complete and accurate.

(B) The applicant has substantially complied with Federal and State requirements in effect prior to the effective date of this Act.

(C) The applicant has demonstrated that future mineral activities, except those identified in the variance, can be successfully accomplished using the best technology currently available.

(D) The applicant has demonstrated that the plan modification will be in compliance with other Federal requirements, and State specifications required pursuant to section 203(b).

(4) The Secretary shall, by rule, develop alternative standards for reclamation activities which may be granted a variance under this subsection.

(5) The variance shall contain such terms and conditions as prescribed by the Secretary, including but not limited to a stated term as provided under section 201(h).

SEC. 406. BASIS FOR CONTEST.

(a) DISCOVERY.—(1) After the effective date of this Act, a mining claim may not be contested or challenged on the basis of discovery under the general mining laws, except as follows:

(A) Any claim located on or before the effective date of this Act may be contested by the United States on the basis of discovery under the general mining laws as in effect prior to the effective date of this Act if such claim is located within units of the National Park System, National Wildlife Refuge System, National Wilderness Preservation System, Wild and Scenic Rivers System, National Trails System, or National Recreation Areas designated by an Act of Congress, or within an area referred to in section 205 pending a final determination referenced in such section.

(B) Any mining claim located on or before the effective date of this Act may be contested by the United States on the basis of discovery under the general mining laws as in effect prior to the effective date of this Act if such claim was located for a mineral material that purportedly has a property giving it distinct and special value within the meaning of section 3(a) of the Act of July 23, 1955, or if such claim was located for a mineral that was not locatable under the general mining laws on or before the effective date of this Act.

(2) The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may initiate contest proceedings against those mining claims referred to in paragraph (1) at any time, except that nothing in this subsection may be construed as requiring the Secretary to inquire into or contest the validity of a mining claim for the purpose of the conversion referred to in section 404.

(3) Nothing in this subsection may be construed as limiting any contest proceedings initiated by the United States under this subsection on issues other than discovery.

SEC. 407. SAVINGS CLAUSE CLAIMS.

(a) Notwithstanding any other provision of law, except as provided under subsection (b), an unpatented mining claim referred to in section 37 of the Mineral Leasing Act (30 U.S.C. 193) may not be converted under section 404 until the Secretary of the Interior determines the claim was valid on the date of enactment of the Mineral Leasing Act and has been maintained in compliance with the general mining laws.

(b) Immediately after the date of enactment of this Act, the Secretary of the Interior shall initiate contest proceedings challenging the validity of all unpatented claims referred to in subsection (a), including those claims for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

(c) No claim referred to in subsection (a) shall be declared null and void under section

404 during the period such claim is subject to a proceeding under subsection (b). If, as a result of such proceeding, a claim is determined valid, the holder of such claim may comply with the requirements of section 404(a)(1), except that the 3-year period referred to in such section shall commence with the date of the completion of the contest proceeding.

SEC. 408. SEVERABILITY.

If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 409. PURCHASING POWER ADJUSTMENT.

The Secretary shall adjust all rental rates, penalty amounts, and other dollar amounts established in this Act for changes in the purchasing power of the dollar every 10 years following the date of enactment of this Act, employing the Consumer Price Index for all-urban consumers published by the Department of Labor as the basis for adjustment, and rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890).

SEC. 410. ROYALTY.

(a) RESERVATION OF ROYALTY.—Production of locatable minerals (including associated minerals) from any mining claim located under this Act, or mineral concentrates derived from locatable minerals produced from any mining claim located under this Act, as the case may be, shall be subject to a royalty of not less than 8 percent of the gross income from the production of such locatable minerals or concentrates, as the case may be.

(b) ROYALTY PAYMENTS.—Royalty payments shall be made to the United States not later than 30 days after the end of the month in which the product is produced and placed in its first marketable condition, consistent with prevailing practices in the industry.

(c) REPORTING REQUIREMENTS.—All persons holding claims under this Act shall be required to provide such information as determined necessary by the Secretary to ensure compliance with this section, including, but not limited to, quarterly reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating to the quantity, quality, and amount of all minerals extracted from the mining claim.

(d) AUDITS.—The Secretary is authorized to conduct such audits of all persons holding claims under this Act as he deems necessary for the purposes of ensuring compliance with the requirements of this section.

(e) DISPOSITION OF RECEIPTS.—All receipts from royalties collected pursuant to this section shall be distributed as follows—

(1) 50 percent shall be deposited into the Fund referred to in title III;

(2) 25 percent collected in any State shall be paid to the State in the same manner as are payments to States under section 35 of the Mineral Leasing Act; and

(3) 25 percent shall be deposited into the Treasury of the United States.

(f) COMPLIANCE.—Any person holding claims under this Act who knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading information required by this section, or fails or refuses to submit such information, shall be subject to the enforcement provisions of section 202 of this Act and forfeiture of the claim.

(g) REGULATIONS.—The Secretary shall promulgate regulations to establish gross income for royalty purposes under subsection (a) and to ensure compliance with this section.

(h) REPORT.—The Secretary shall submit to the Congress an annual report on the implementation of this section. The information to be included in the report shall include, but not be limited to, aggregate and State-by-State production data, and projections of mid-term and long-term hard rock mineral production and trends on public lands.

SEC. 411. SAVINGS CLAUSE.

(a) SPECIAL APPLICATION OF MINING LAWS.—Nothing in this Act shall be construed as repealing or modifying any Federal law, regulation, order or land use plan, in effect prior to the effective date of this Act that prohibits or restricts the application of the general mining laws, including such laws that provide for special management criteria for operations under the general mining laws as in effect prior to the effective date of this Act, to the extent such laws provide environmental protection greater than required under this title.

(b) OTHER FEDERAL LAWS.—Nothing in this Act shall be construed as superseding, modifying, amending or repealing any provision of Federal law not expressly superseded, modified, amended or repealed by this Act, including but not necessarily limited to, all of the following laws—

(1) the Clean Water Act (33 U.S.C. 1251 and following);

(2) the Clean Air Act (42 U.S.C. 7401 and following);

(3) title IX of the Public Health Service Act (the Safe Drinking Water Act (42 U.S.C. 300f and following);

(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 and following);

(5) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following);

(6) the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(7) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. 7901 to 7942);

(8) the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 and following);

(9) the Solid Waste Disposal Act (42 U.S.C. 6901 and following);

(10) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following);

(11) the Act commonly known as the False Claims Act (31 U.S.C. 3729 to 3731);

(12) the National Historic Preservation Act (16 U. S. C. 470 and following);

(13) the Migratory Bird Treaty Act (16 U.S.C. 706 and following); and

(14) the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

(c) PROTECTION OF CONSERVATION AREAS.—In order to protect the resources and values of Denali National Park and Preserve, and all other National Conservation System units, the Secretary of the Interior or other appropriate Secretary shall utilize authority under this Act and other applicable law to the fullest extent necessary to prevent mineral activities within the boundaries of such units that could have an adverse impact on the resources or values of such units.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute shall be considered for amendment under the 5-minute rule for a period not to exceed 4 hours.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DEFAZIO: Page 100, in lines 14 and 16 after "located" insert "or converted".

Page 100, line 17, strike "royalty of not less than 8 percent" and insert "royalty of not less than 12 and one-half percent".

Mr. DEFAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Mr. Chairman, this evening I am going to offer an amendment that would increase the royalty provisions in this bill from 8 to 12½ percent. That would be the same royalty that is charged against coal, oil, and gas that are produced on Federal lands. The royalties from this amendment would amount to as much as $400 million each year.

Under the terms of this bill, one-half would go into an abandoned mine reclamation fund to help clean up the estimated $11 billion worth of cleanup work on Federal land polluted and disturbed by hard rock mining activities. One-quarter of the money would go into the Federal Treasury, and one-quarter would go to the States as impact assistance for hard rock mining activities.

□ 1740

Every year between $1.2 and $4 billion worth of valuable minerals are removed from Federal lands in the West, free of charge. The same mining companies that gnash their teeth about paying a reasonable share to the American taxpayer for extraction from Federal lands, routinely pay as much as 15 percent to private landowners when they mine on private land and they make a healthy profit. They pay royalties to every State in the Western Unites States when they extract minerals from State lands and they make a healthy profit. They pay royalties when they mine in foreign nations like Canada, South Africa, and Australia, and they make a very healthy profit.

Yet our colleagues, particularly on the other side of the aisle, will tell us that a royalty of even 8 percent will kill the mining industry. The gentlewoman from Nevada would have us believe that any royalty would kill the industry in their State and yet they charge a royalty on their State land, and we just cannot do it on Federal lands.

The same companies that supposedly would be wiped out by a Federal royalty pay 10, 12, or 15 percent royalties to private owners in Nevada and yet they cannot pay a penny to the Federal Government and the taxpayers of the United States because that would wipe them out.

They mine on State lands in Utah and they pay the State between 4 and 10 percent. California a minimum of 10 percent; Montana between 5 and 8 percent; yet we heard a great deal from the gentleman from Montana about how this would put the industry out of business.

Somehow the States can charge royalties but not the Federal Government.

State taxpayers can get a return for the depletion of their resources but not Federal taxpayers. A recent study by the Taxpayers Assets Group looked at 35 large western mining operations and found profits between 26 and 47 percent. Certainly these companies can afford a 12½-percent royalty.

They also get very generous tax breaks. The depletion allowance, CBO and OMB estimate that that comes to about $300 million a year of tax subsidy for depletion of resources on which they do not have to pay a royalty.

Here is a chart showing the top 10 mines in the Western United States. The No. 3 mine on here, Jerritt Canyon is owned 70 percent by a company based on the tax haven of Luxembourg. Its owners are not paying any taxes there. They do not even know who the owners are. They could be Kuwaiti, Saudi, or any other nationality. It is a secret and privately held corporation.

This mine has an estimated reserve of 55 million ounces, which in today's prices is worth about $19 billion and the Federal taxpayers and Federal Treasury will receive no royalty from the extraction and depletion of these. In fact we will pay a subsidy to that company to deplete those minerals on our public lands.

Move down the list to No. 10, Mesquite, CA, and 100 percent owned by Hanson PLC, a British company, gold reserves of 100 million ounces. That is about $35 billion at today's prices. The gentleman from Montana would have them pay surface value for the use of that land, a few hundred thousand dollars or maybe as much as $1 million. The only problem is the gold they will extract will be forever gone and most likely be removed from this Nation and is worth $35 billion with no return to the Federal Treasury or the Federal taxpayers. A 12½-percent royalty on this one mine owned by the British would bring $4.3 billion into the Federal Treasury.

End the giveaway; run the Government like a business, and enact this increase in the royalty.

Mrs. VUCANOVICH. Mr. Chairman, I rise to strike the last word and rise in opposition to the amendment.

Mr. Chairman, I would like to point out to the gentleman from Oregon [Mr. DEFAZIO] that our competitors in Canada, Mexico, and Australia do not levy a Federal royalty on the gross value of ore. Mexico just recently dropped its royalty provision on September 25, 1992.

You know a net royalty, commonly known as a net proceeds tax as proposed by Mr. OWENS—he has not done that yet—but the one by Mr. DEFAZIO, is basically an income tax surcharge. Those costs attributable to mining and milling are deducted before the 5-percent royalty or the tax rate is applied. Theoretically a net proceeds tax should cause little contraction of the economic interests activity being taxed because only the last 5 percent of profit is being skimmed, quoting, from the Miner. As the ores become lower graded and therefore less profitable, the tax bite diminishes as well.

So, you know, a major issue in H.R. 918 is whether or not the royalties should be imposed on all existing unpatented mining claims or only those staked after the bill is enacted.

I strongly argue against retroactive application of the royalty. In other words if a royalty is to be applied, only new claims should bear that burden.

Retroactive application of the royalty poses a serious takings question. The key words in such cases have made them aggrieved parties—made reasonable investment expectations that have been overturned by Government action. We believe that these amendments would put the existing miners in that category.

Mr. Chairman, I noted that a number of the mines that Mr. DEFAZIO mentioned are located in Nevada and I wonder if the gentleman from Oregon [Mr. DEFAZIO] would answer a question for me.

Does the gentleman know how many employees these mines have in Nevada? One of them is in California but the rest of them all seem to be in Nevada.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from Oregon.

Mr. DEFAZIO. I thank the gentlewoman for yielding. I did not hear the question. Would the gentlewoman repeat the question.

Mrs. VUCANOVICH. I notice a number of the mines that the gentleman has listed are in Nevada with one exception in California, I believe. Does the gentleman know how many employees there are that these mines employ?

Mr. DEFAZIO. Foreign employees or Americans?

Mrs. VUCANOVICH. I am talking about American employees. They are in Nevada, not in any foreign country.

Mr. DEFAZIO. Well, I just wonder because I have visited mines in my State where I met foreign nationals who were operating the mines.

Mrs. VUCANOVICH. That is very unusual. In any event I am asking the gentleman about Nevada. I do see one listed in California, maybe two.

Mr. DEFAZIO. I will try to answer the question.

The argument I understand the gentlewoman would make would be that the mines would close. However, could the gentlewoman tell me how mines can operate and pay a royalty to the State of Nevada but they cannot afford to pay a royalty to the Federal Government?

Mrs. VUCANOVICH. They are not royalties, they are net proceeds paid to the State of Nevada.

Mr. DEFAZIO. Could we then perhaps agree on net proceeds to the Federal Government in a similar way?

Mrs. VUCANOVICH. I am sorry I did not understand the gentleman. When we get to that amendment we are going to support it.

Mr. DEFAZIO. I would be pleased to get some return for the Federal taxpayer.

Mrs. VUCANOVICH. Mr. Chairman, I yield back the balance of my time.

Mr. HOAGLAND. Mr. Chairman, move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I am pleased to offer today with my colleague, the gentleman from Oregon [Mr. DEFAZIO], this amendment to the bill.

This bill was first signed into law 120 years ago by President Grant and has not been changed since. This amendment that we are cosponsoring would raise the royalty fee in the bill from 8 percent to 12½ percent for hardrock mining on Federal lands. Now it would require, in other words, companies that mine for minerals like gold and silver and zinc and copper and platinum, to pay more for the privilege of extracting and selling resources from our 432 million acres of public lands.

□ 1750

Now, let me remind all of you that as much as $4 billion worth of hard-rock minerals are extracted from Federal lands each year.

Now, as the gentlewoman from Nevada has indicated, this also has a retroactive effect, but by retroactive effect all we mean is that it applies to existing claims, not that it applies to minerals previously extracted, but only to existing claims, as well as new claims.

Now, this is a very important amendment. You may ask yourselves why 12½ percent instead of 8 percent. That is a legitimate question.

Let me give you five reasons as to why 12½ percent is more appropriate than 8 percent.

First of all, as the gentleman from Oregon [Mr. DEFAZIO] indicated, 12½ percent is close to what other minerals extractors are paying for other minerals. For instance, an oil and gas extractor from public lands pays 12½ percent.

Coal, for surface coal, 12½ percent; underground coal, 8 percent.

For a number of minerals in other situations, 12½ percent is the standard.

Arugment No. 2. Let us talk about market value for just a moment. How do we assess what the market will bear? One way of assessing what the market will bear is look what the royalty fee is on private land.

Let us take one example here, the mine at the top of the chart of the gentleman from Oregon [Mr. DEFAZIO]. It is owned 45 percent by a British company, the Newmont Mine, the largest gold producer in the United States, Newmont Corp., I should say, pays an 18-percent royalty on this mine right here that is largely on private lands. So at least in that case, the market has established the 18-percent royalty fee.

Also, if we look at the fees charged on State and railroad lands, we will see they are near 10 percent.

Any of you who have served in a State legislator know that the fee assessed by a State government is not really going to be the full value.

Now, reason No. 3. We have a substantial backlog of restoration costs. The inspector general of the Department of the Interior tells us, as the gentleman from Oregon [Mr. DEFAZIO] indicated, an $11 billion backup setting aside coal lands, an $11 billion backup of the cost to restore land from previous mining activities.

Half of the funds, as the gentleman from Oregon [Mr. DEFAZIO] indicated will go into the fund for restoration of Federal lands and a quarter of this revenue will go into funds for restoration of State lands.

Reason No. 4. This amendment will generate an additional $125 million for State and Federal Governments to share, three-quarters to the Federal, one-quarter to the State; so by raising the royalty to 12½ percent, we are generating an additional $125 million a year.

Now, fourth, these companies currently, again as the gentleman from Oregon [Mr. DEFAZIO] has pointed out, benefit from several Federal tax breaks designed to encourage exploration and production, and these tax breaks are in the form of gross depletion, accelerated depletion and expensing mine exploration development operating costs. Again these are by companies that have substantial foreign ownership, as this chart here indicates.

So let me just say in conclusion that up to $4 billion a year in gold, silver, and other hard-rock valuable resources are taken out of public lands every year with virtually nothing going to the Federal taxpayer. As expected, it has been estimated there remains in public lands in extractable form $65 billion worth of hard-rock minerals, $65 billion remain.

I say those are public lands owned by the taxpayer, and let us increase the royalty on those from 8 to 12½ percent. That is the royalty standard elsewhere on private lands. The percentage is frequently higher. It is a good and a fair amendment for the taxpayers, and I call for its adoption.

Mr. OWENS of Utah. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment.

I have some grave concerns about this bill reaching the realities of America's mineral industry, particularly as regards royalty and the relatively small level of profits of America's hardrock mineral industry.

I think this amendment as offered is too high. If it fails, Mr. Chairman, I will offer an amendment to provide for a 5-percent net royalty amendment here.

When Chairman RAHALL introduced this bill, no royalty provision was included in the bill. Consequently, the imposition of royalties received little attention during the lengthy hearings held by the Mining Subcommittee on H.R. 918.

The testimony that did address this issue demonstrates that even an 8-percent gross royalty, which is that currently in the bill which this amendment would increase up to 12½ percent, even an 8-percent gross royalty would have a crippling impact on the mining industry, with small miners being hurt most of all.

In testimony before the Mining Subcommittee last year, the chairman of the Colorado Mining Association, Adolph Mitterer, testified that imposing even a 5-percent royalty on the gross value of mineral production would seriously impair the financial results of larger companies and the smaller companies "would be devastated."

Mr. Mitterer also submitted to the subcommittee records of four typical mining companies to support his testimony.

With no consideration of these consequences and with virtually no debate, an 8-percent gross royalty was tacked on to H.R. 918 before it was reported out of the Interior Committee. This amendment was added by the narrowest of margins, 23 to 21, despite the opposition of the chairman of the Mining Subcommittee.

Now the gentleman from Oregon [Mr. DEFAZIO] is proposing to raise the royalty rate up to 12½ percent of gross income, taunting this amendment as a painless way to raise additional revenue for the Federal Treasury; but if even a 5-percent gross royalty would devastate the smaller miners, what will happen to them if the 8-percent royalty imposed by H.R. 918 is enacted into law?

Still worse, what will happen if it goes up to 12.5 percent as is currently before the Committee of the Whole?

Mr. Chairman, there is no pot of gold at the end of the rainbow. We are mining a lot of it, but it is not that profitable.

The DEFAZIO amendment will not yield the promised windfall for the taxpayer and it will cause considerable pain for many Americans working as hardrock miners who will be put out of a job if excessive royalties are imposed.

Before we start counting the projected revenues that an 8- or 12.5-percent gross royalty is supposed to yield, we need to look closely at the impact of these royalty rates on the mining industry. Because the royalty on gross income would be assessed before expenses are deducted, miners who show any gross profit would have to pay a royalty, even if their net income is zero or if they are actually losing money. With the added burden that an 8-percent royalty imposes, miners who are barely scraping by will go out of business and the loss of jobs will be further exacerbated under a 12.5-percent gross royalty.

There is convincing evidence, Mr. Chairman, that smaller mining operators cannot survive under an 8-percent gross royalty, let alone a 12.5-percent gross rate, and if the smaller operators go out of business there will be a ripple effect in the entire industry.

Because it is the smaller operators, not the major mining corporations, who discover most of the new mineral deposits, the reduction in exploration by small miners will eventually lead to less mineral development and less employment by the bigger companies.

A high royalty rate on gross income will be extremely burdensome even for the largest mining corporations. Only about half of those mining companies are currently turning any net profit and even the profitable ones are struggling in a world market where gold prices are now at the lowest level in 6 years.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I just would like the gentleman to discuss the Utah royalty of 4 to 10 percent.

Mr. OWENS of Utah. I appreciate the gentleman bringing that up. I meant to correct him at the time.

I am informed by the Utah State Division of Natural Resources that it is a flat 4 percent. I think it was 8 that the gentleman discussed.

Mr. DEFAZIO. It is 4 percent of net or gross?

Mr. OWENS of Utah. It is 4 percent of net. It is basically what I proposed.

Mr. DEFAZIO. How does the State protect itself against vertically integrated firms that say, "Well, gee, we don't make a penny mining this stuff. We just make all the money at the smelter."

Mr. OWENS of Utah. Well, there are some provisions similar to those which the gentleman added in committee, for which I commend the gentleman, and which will currently protect I think against the kind of vertical integration abuses which I think the gentleman is concerned about.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. Yes, I yield to my colleague, the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, does the gentleman from Utah still intend to offer a royalty amendment at 5 percent?

Mr. OWENS of Utah. Yes; I do. It is 5 percent of net. I will do that if the current amendment fails.

Mr. WILLIAMS. I would encourage my colleagues to vote against the gentleman from Oregon [Mr. DEFAZIO] and support the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I appreciate my friend's recommendation.

☐ 1800

Mr. THOMAS of Wyoming. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

I want to talk a little bit about communities, and about people, and about jobs. Our friend from Oregon is usually on the floor talking about how bad the economy is, what we need to do for jobs for people who are unemployed and presents an opportunity here to have more unemployed so that we can have more social engineering to take care of them.

I say to the gentleman, "It's a little different when you work in the West. You know there are public lands in my State, 50 percent. Nevada, which has been mentioned most often here, 68 percent. And these Federal lands are not under the control of the private enterprise system, they are not under the control of the communities, but the communities are expected to provide service, provide schools and want to, communities are expected to provide the support for health care, and hospitals and ambulances, and the counties do all these things. We need jobs there. We need an incentive for these kinds of things to happen."

Mr. Chairman, there have been comparisons made here between the royalties to the Federal Government and royalties to private landowners. Let me suggest to my colleagues that private landowners only have one opportunity to have any income from a lease. The Federal Government has several. They have income taxes from the miners. They have avoided the loss of unemployed miners. There is quite a difference, as usual, when we compare what the gentleman talks about with a State with no Federal lands to those that have a great deal of Federal lands.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, just to keep the record straight, the State of Oregon is 49 percent, maybe 1 percent less than the gentleman's. I am very sensitive to these issues.

Mr. THOMAS of Wyoming. Then the gentleman should become more in touch with his State, and he would find there are some problems here that——

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield since he has personally insulted me?

Mr. THOMAS of Wyoming. No, I do not yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I demand that the gentleman's words be taken down.

The CHAIRMAN. Words will be taken down.

Mr. DEFAZIO. Mr. Chairman, the Parliamentarian advises me that the gentleman's ill-advised and intemperate remarks are not out of order, so we will let the gentleman proceed on the diatribe.

Mr. THOMAS of Wyoming. Mr. Chairman, I certainly had no intention of insulting the gentleman from Oregon [Mr. DEFAZIO]. I am saying when you have a different involvement in your State, you have to talk a little bit about the kinds of things that impact your State, and they impact us a great deal. We talk about resources being made available. The States have ad valorem tax, the States have sales tax, the Federal Government has Federal income tax, the corporations pay tax.

Mr. Chairman, we have a little trouble around here, it seems to me, zeroing in on what cause this system to work.

This system works because there are incentives to make a profit. There are incentives to go out and search for minerals. There are incentives to make the great investments that are involved here. One just does not go out and take $20 and get 80 acres for nothing without putting in millions of dollars of investment, and that is what we are talking about here, is providing investments.

I get a little weary, frankly, of talking about the trouble with the economy when we know what makes this kind of economy work: our incentives. And that is what we are talking about here, and these kinds of things take it away and make sure we do not have economic activity.

Mr. JONTZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support this amendment which I am pleased to cosponsor with the gentleman from Oregon [Mr. DEFAZIO], and would ask the gentleman if he would engage in a short colloquy.

If I understand this amendment correctly, a certain portion of the royalties which will be collected will go for the purpose of reclamation. Would the gentleman explain the details of how this will work?

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I appreciate the gentleman's question. Since there is an issue here of fiscal concern; that is, there are $11 billion of cleanup costs required by past poor mining practices on public lands, half of the money from this royalty would go to that. The gentlemen have come before us in the well, who I am sure are great fiscal conservatives and all support the balanced budget amendment. I would like to see where they are going to find that money. This bill will produce the money to clean up those polluted lands that are in my State and his State.

Mr. JONTZ. So about how much each year, if I could ask the gentleman to proceed further, about how much money would be raised each year from this royalty for the purposes of reclaiming lands?

Mr. DEFAZIO. Well, of the $400 million estimate, half would be $200 million a year.

Mr. JONTZ. So, this $100 million a year would be used to employ people in reclaiming the lands.

Mr. DEFAZIO. It would be an intensive activity, cleaning up the lands. I assume it would be somewhat labor intensive.

Mr. JONTZ. And without the royalties, where would the money come from to employ people to clean up these environmental problems?

Mr. DEFAZIO. Well, either this administration will continue to ignore the problem, or we will have to, as the gentleman knows, cut some other program or increase the deficit to pay for the cleanup. This would have the responsible industry pay for part of the cleanup.

Mr. JONTZ. Reclaiming my time, Mr. Chairman, I want to emphasize this point:

Right now we have no source of funds to employ people in these States to clean up the environmental damages which have occurred. With this amendment we will have a very substantial source of revenue which will be used to employ individuals to clean up the scars that have been left on the landscape, to clean up the pollution problems which exist, to improve the use of the land which will then be possible for future economic activity.

I have here a scoping study done by the Western Governors Association mine waste task force, 1991, which surveys 11 Western States and shows a total of some $2.6 billion of work that needs to be done today to restore these lands, to recover the damage that has been done, and this involves jobs. We are talking about money to employ people in the Western States which are now paying a cost economically for having these scars on the landscape, and, when it comes to talking about jobs, I want to make it clear to this body that, if we do not pass an amendment to collect royalties, there will be no money to employ these people. There will be no money to provide for the recovery of these areas. There will be no money to provide for the rehabilitation of the landscape so that future economic activities can occur in these communities. Minerals can be extracted only once, and then, if something is not done to bring the land back to health, we are not going to see those areas potentially used for recreation, or tourism, or agriculture or any other potential use.

So, Mr. Chairman, I want to commend the gentleman from Oregon [Mr. DeFazio] for bringing us an amendment which is a pro-jobs amendment, and I also want to emphasize this point:

No one else out there makes minerals available without collecting some sort of rent or royalty. Do my colleagues think the States involved do not collect some kind of tax, or rent, or royalty? No, they all do. Do my colleagues think any Indian tribes out there let people come in and mine and they do not collect some sort of royalty? Of course they have something that they collect. And do my colleagues think that private parties out there do not collect something when a company comes in and mines lands? Of course they collect.

There is only one person, one entity out there, who is not collecting, and that is the U.S. taxpayer. Let me repeat that. The U.S. taxpayer is the only one who is not getting a fair rent or royalty for the use of this public resource.

Mr. Chairman, this to me seems to be a win/win proposition. We can collect something for the Treasury of the United States to deal with the budget deficit, to make sure the public receives fair compensation for the extraction of public resources, and at the same time we can create jobs by employing people in these communities. We are not talking about employing people in San Francisco or New York. We are talking bout employing people in these communities to repair the landscape, to restore the damage that has been done, and to provide for an economic future for these communities.

That is why the amendment offered by the gentleman from Oregon [Mr. DeFazio] is an excellent amendment. I am pleased to cosponsor the amendment.

□1810

Mr. RAHALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly oppose the amendment of the gentleman from Oregon [Mr. DeFazio], and rise in opposition to it.

Mr. Chairman, I wish at the outset to commend the gentleman from Oregon [Mr. DeFazio] for the diligence and hard work the gentleman has put into developing this legislation and his efforts to see greater fiscal responsibility in a manner by which the Government assures we receive as high a return as possible for the mining of hard rock minerals on our public lands.

Mr. Chairman, it was, after all, the gentleman's 80-percent royalty on gross proceeds that is in the current bill and which I do not support.

I would also say, as I have said on many occasions, that I support the concept of a production royalty on hard rock minerals produced from the public domain if one can be devised that is fair and can be administered by the executive branch.

As custodians of our mineral resources, the Government must be assured that its financial return compensates adequately for the use and exploitation of the resources.

Conversely, however, the royalty must provide an acceptable rate of return on investment.

So as much as I support the concept of a royalty, I am concerned that the amendment of the gentleman from Oregon [Mr. DeFazio] would impose a royalty which would overburden the industry.

Mr. Chairman, the pending bill does propose an 8-percent royalty. At a later time, when the gentleman from Utah [Mr. Owens] offers his 5-percent net royalty, I will be rising in support of that particular amendment. I feel that offering a royalty on net proceeds is actually taking the money out of profits, and that is something in my opinion that is much more assured than passing a royalty based upon gross proceeds.

When gross proceeds are taken into consideration you are not assured, in my opinion, as much of a proceed to the Treasury as you are when you are taking it out of those making a profit. Those that are making a profit can guarantee more return to our Treasury than the questionable return from a gross royalty.

Mr. Chairman, so while there are very good reasons for assuring a fair return for the exploration of our Nation's hard rock minerals by imposing a royalty, I cannot support the amendment of the gentleman from Oregon [Mr. DeFazio].

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. DeFazio].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. VUCANOVICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 237, not voting 34, as follows:

[Roll No. 467]

AYES—161

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Blackwell
Boehlert
Bonior
Boucher
Brooks
Brown
Bruce
Bryant
Carr
Clay
Collins (IL)
Collins (MI)
Conyers
Cox (IL)
Coyne
DeFazio
DeLauro
Dellums
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Engel
Evans
Fascell
Fish
Flake
Foglietta
Frank (MA)
Frost
Gejdenson
Gilman
Glickman
Goodling
Green
Hall (OH)
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hughes
Jacobs
Johnston
Jontz
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
Leach
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowey (NY)
Luken
Markey
Matsui
Mavroules
McCurdy
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moody
Moran
Morella
Murphy
Nagle
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Pallone
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (MN)
Porter
Price
Ramstad
Rangel
Ravenel
Reed
Rinaldo
Ros-Lehtinen
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schumer
Serrano
Sharp
Shays
Sikorski
Slattery
Slaughter
Smith (FL)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Synar
Tallon
Torricelli
Unsoeld
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weldon
Wheat
Wolpe
Wyden
Yates
Zimmer

NOES—237

Allard
Allen
Anderson
Andrews (TX)
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Borski
Brewster
Broomfield
Browder
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Chapman
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
Dickinson
Dicks
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Ewing
Fawell
Fazio
Fields
Ford (MI)
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Gonzalez
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hefley
Henry
Herger
Hobson
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hunter
Hutto
Hyde
Inhofe
James
Jefferson
Jenkins

Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones
Kanjorski
Kaptur
Kasich
Kolbe
Kolter
Kyl
Lagomarsino
LaRocco
Laughlin
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Machtley
Manton
Marlenee
Martin
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McEwen
McGrath
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison
Murtha
Myers
Natcher
Nichols
Nowak
Nussle
Oakar
Olin
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pastor
Paxon
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Poshard
Pursell
Quillen
Rahall
Ray
Regula
Rhodes
Richardson
Ridge
Riggs
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Rowland
Santorum
Sarpalius
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Whitten
Williams
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff

NOT VOTING—34

Alexander
Annunzio
Anthony
Barnard
Boxer
Cardin
Carper
Chandler
Clement
Coleman (TX)
Dwyer
Espy
Feighan
Ford (TN)
Hayes (LA)
Holloway
Huckaby
Ireland
Lipinski
Lowery (CA)
McCrery
McDade
Mrazek
Owens (NY)
Panetta
Roe
Roukema
Savage
Saxton
Schulze
Staggers
Torres
Towns
Traxler

□ 1832

Messrs. DICKINSON, COBLE, ENGLISH, and ROEMER changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

MOTION TO RISE OFFERED BY MRS. VUCANOVICH

Mrs. VUCANOVICH. Mr. Chairman, I have a privileged motion at the desk.

The Clerk will report the motion.

The Clerk read as follows:

Mrs. VUCANOVICH moves that the committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentlewoman from Nevada [Mrs. VUCANOVICH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. VUCANOVICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 257, not voting 41, as follows:

[Roll No. 468]

AYES—134

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Camp
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hopkins
Horton
Houghton
Hubbard
Hunter
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Klug
Kolbe
Kyl
Lagomarsino
LaRocco
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Marlenee
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Pastor
Paxon
Pursell
Quillen
Rhodes
Ridge
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weldon
Whitten
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—257

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Carper
Carr
Chapman
Clay
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Hoyer
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Pallone
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ray
Reed
Regula
Richardson
Ritter
Roemer
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NOT VOTING—41

Alexander
Annunzio
Applegate
Barnard
Boxer
Cardin
Chandler
Clement
Coleman (TX)
Coughlin
Dannemeyer
Downey
Dwyer
Edwards (OK)
Frank (MA)
Hatcher
Hayes (LA)
Holloway
Huckaby
Ireland
Kolter
Lipinski
Lowery (CA)
Martin
Mavroules
McCrery
McDade
Moody
Owens (NY)
Panetta
Ravenel
Roe
Savage
Saxton
Schulze
Staggers
Thomas (GA)
Towns
Traxler
Valentine
Weber

□ 1850

Mr. LEACH and Mr. ORTON changed their vote from "aye" to "no."

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. OWENS of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OWENS of Utah: Page 100, in lines 14 and 16 after "located" insert "or converted".

Page 100, line 17, strike "royalty of not less than 8 percent" and all that follows down through line 19 and insert "royalty of not less than 5 percent of the net income from mining on such claim.".

Page 102, strike lines 4 through 7 and insert:

"(g) REGULATIONS.—The Secretary shall promulgate regulations to ensure compliance with this section and regulations establishing the methods for computing net income from mining for purposes of subsection (a). Rentals paid under section 104 shall be deductible in determining net income from mining for such purposes.".

Mr. OWENS of Utah (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. OWENS of Utah. Mr. Chairman, as I indicated during the debate on the amendment just defeated, I now have an amendment which would change H.R. 918's royalty provision from an 8-percent royalty on gross income to a 5-percent royalty on net income. It will protect the mining industry from unfair and unrealistic requirements. I urge Members to consider it very carefully. My amendment directs the Secretaries of the Interior and Agriculture Departments to develop regulations for computing net income and provides that rental fees paid pursuant to section 104 of the bill will be deductible in determining net income.

My amendment will protect the viability of America's mining industry. It will save jobs in that industry by establishing a royalty that miners can afford to pay and still stay in business. And it will provide a fair return to the taxpayers. The royalty rate assessed under my amendment is in line with what the Federal Government, the States, and private sector are currently charging elsewhere. The United States charges approximately 5-percent royalty for hard-rock minerals extracted from lands regulated under mineral leasing acts. So my amendment will make the royalty assessed on Federal BLM and Forest Service public lands consistent with current Federal policy. My amendment is also consistent with royalties that Utah and most other Western States charge on lands which they own.

In Utah the State charges a royalty of 4 percent on the value of minerals mined on State lands after deducting direct processing costs.

The State of Nevada also charges royalties based on net proceeds using a sliding scale from 2 percent up to a top rate of 5 percent. And the royalty established by my amendment will be approximately the same rate that private parties pay for the right to mine on privately owned lands. Data compiled from Nevada State tax records shows an average private royalty rate of about 5 percent. Just recently, Newmont Mining Corp. signed an agreement to acquire from Atlas Corp. the rights to two gold mining properties, one located in Idaho and the other in Oregon. This agreement requires Newmont to pay Atlas a royalty rate of 5 percent.

The second reason for changing from an 8-percent royalty on gross income to a 5-percent royalty on net income is that the higher rate may actually yield less revenue for the Federal Treasury. The smaller operators who are put out of business by the 8-percent royalty will not be paying any royalty and they will not be paying Federal income or payroll taxes either.

By contrast, the royalty imposed on the net income would only be imposed on mine operators who actually are making money and can afford to pay a royalty.

The imposition of a 5-percent net royalty will not drive miners out of business. They will continue their operations and continue to pay both income taxes and royalties to the Federal Treasury.

By changing from a royalty on gross income to a net royalty, this amendment will preserve jobs in the mining industry and provide a fair return to the taxpayers. By helping to keep smaller operators in business, it may actually provide greater revenue than would an 8-percent gross royalty.

For these reasons I urge my colleagues to support this amendment.

Mr. JONTZ. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to the gentleman.

Mr. JONTZ. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the concern of the gentleman from Utah in offering this amendment. I wonder if the gentleman might clarify this point: What does the gentleman estimate the revenue would be that would be raised by a 5-percent royalty on net?

Mr. OWENS of Utah. I am sorry, I say to my friend from Indiana, I do not have that. I have the comparative argument, which I just made to the House, but not the other figures.

Mr. JONTZ. So the revenue that would be determined would probably depend on how effective these various foreign-owned corporations are in juggling their books so that it appears there is no revenue actually being made? These foreign corporations are very effective now in terms of——

The CHAIRMAN. The time of the gentleman from Utah has expired.

(By unanimous consent, Mr. OWENS of Utah was allowed to proceed for 1 additional minute.)

Mr. OWENS of Utah. I say to my colleague on the Committee on Interior that our colleague from Oregon offered an amendment to the bill which is now in the bill which would make auditing imperative or possible where there is question that perhaps books, as the gentleman says, have been juggled. And it would provide severe penalties in the case of noncompliance with the regulations sent down by the Secretaries of Interior and Agriculture pursuant to this act.

So I think the protection is there.

Mr. JONTZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must rise in opposition to this amendment. The choice we have before us now is whether we will maintain this bill as it was intended to come out of the committee, as an 8-percent gross royalty, or whether we will amend the bill with the Owens amendment to replace that with a 5-percent net royalty.

I appreciate the effort that is made in the language that the gentleman from Utah speaks to, to properly audit revenues so that the Government gets its fair share. Quite honestly, I do not believe this will be done or can be done. These foreign-owned corporations will be just as successful in juggling the books in order to avoid paying the royalty as what they are now with regard to their tax liabilities.

I would ask the gentleman from Utah if he can tell us what do the companies pay now with regard to Utah's royalty? What does Utah collect? Not in terms of percentage, but in terms of dollars.

Mr. OWENS of Utah. The mineral industry in this country being what it is, it is not a lot of money. I do not have the exact amount. It is 4 percent, as the gentleman knows——

Mr. JONTZ. Reclaiming my time, the gentleman cannot tell us what revenue is collected, because I doubt it is very much at all. I think that is exactly what we are going to see happen with regard to the Federal Treasury.

Mr. OWENS of Utah. Will the gentleman yield?

Mr. JONTZ. I would be glad to yield to the gentleman from Utah.

□ 1900

Mr. OWENS of Utah. Mr. Chairman, the gentleman makes my point, which is that the mineral industry in this country is in very serious straits, and they are not making much profit. My concern is, of course, by assessing an 8-percent gross profit on gross income, that in essence you will put many companies out of business. There are data which would make that argument more forcefully.

Mr. JONTZ. With regard to private interests, do most private parties collect royalties based on net or gross?

Mr. OWENS of Utah. It is my understanding it is net.

Mr. JONTZ. I would be very skeptical that that is true. If you are using a private resource, I cannot imagine that the party that owned the resource would say to the mineral company, "Well, you only have to pay me if you make money."

If I were in business renting an office building, do you think the landlord would say to me, "Well, you don't have to pay me if you are not making any money." Of course not. That is not the way a contractural relationship works with regard to private parties at all.

So Mr. Chairman, I would suggest that the impact of the amendment that we have before us would be for the Federal Government in practical terms to collect no revenue at all.

I think that we have two questions that must be addressed when it comes to royalties.

No. 1, is the taxpayer of the United States getting fair compensation? I believe that with the passage of the Owens amendment, we would have no guarantee that the taxpayers are receiving fair compensation for use of public resources, because our experience indicates that we just have no certainty of collecting those revenues.

The second question is, how will we be assured of adequate revenues to do the reclamation work that needs to be done that would be the case were we to move this bill forward with the provisions as they were intended in committee.

We know that the task ahead of us in terms of reclamation is a multi-billion-dollar task. These are jobs that we will be creating in these communities to restore the land, to repair the damage that has been done, and we have no assurance from the gentleman from Utah, no matter how well-intended he may be, that we are going to collect any revenue for that purpose.

Mr. OWENS of Utah. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I am glad to yield to the gentleman from Utah.

Mr. OWENS of Utah. Mr. Chairman, I give the gentleman the same good intention as my friend, the gentleman from Indiana. He cannot guarantee that an 8-percent gross royalty will return any revenue to the Treasury.

If I may in responding to the question say that the Newmont Mining Co. recently signed an agreement with the Atlas Corp. giving over the rights to two gold mining properties, one located in Idaho and the other in Oregon. The agreement requires Newmont to pay Atlas a royalty rate of 5 percent of net. This in argument that it is a net, rather than a gross royalty, which is common on private lands.

Mr. JONTZ. Reclaiming my time, Mr. Chairman, one wonders why all these multinational corporations are here in the United States mining on the public lands if they are not making money. Is this a charity that these companies are engaged in, to come here and employ the people of our Nation? Is it from the generosity of their hearts that they are coming here? I do not know, but it seems to me that to be assured that we are collecting fair revenue, we should defeat the Owens amendment and move forward with the bill as was intended as it came out of committee.

AMENDMENT OFFERED BY MRS. VUCANOVICH TO THE AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mrs. VUCANOVICH. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mrs. VUCANOVICH to the amendment offered by Mr. OWENS of Utah: Strike the first two lines of the Owens amendment which read: Page 100, in lines 14 and 16 after "located" insert "or converted.".

Mrs. VUCANOVICH. Mr. Chairman, I oppose the Owens amendment, reluctantly, because it would be applied to existing unpatented mining claims. The net proceeds feature of it is much more palatable than is the gross royalty now in the bill. However, the bill currently does not impose the royalty on anything but new claims located under the act. Since very few new claims are likely to get through the maze of unsuitability determinations and other provisions, it is unlikely there will be ore mined to pay the tax upon. The Owens amendment unfortunately would reach back and impose the 5-percent net tax on claims now grandfathered. This is unacceptable to me because these miners made decisions based upon the rules in place, that this amendment would turn upside-down.

I therefore offer, or will offer at the appropriate time, an amendment to the amendment by Mr. OWENS that will delete the "or converted" language from the Owens amendment. The basic premise of prospective royalty only will be preserved by my amendment.

I urge adoption of my amendment.

Mr. OWENS of Utah. Mr. Chairman, I rise in opposition to the amendment just offered to the amendment.

As I understand the amendment which the gentlewoman from Nevada [Mrs. VUCANOVICH] has just offered, all existing claims—if I may have the gentlewoman's attention.

Mrs. VUCANOVICH. Mr. Chairman, I am sorry. I did not hear the gentleman.

Mr. OWENS of Utah. My understanding is that the gentlewoman's amendment, which I had not heard of earlier, would exempt all existing claims from paying any royalties.

Mrs. VUCANOVICH. Mr. Chairman, if the gentleman will yield, that is what the current bill does.

Mr. OWENS of Utah. Well, the current bill has an 8 percent gross royalty in it which would require hereafter that all mining claims pay 8 percent of gross.

Mrs. VUCANOVICH. That is the proposed bill, but that is not in the present law.

Mr. OWENS of Utah. The current bill before the House has 8 percent in it.

Mrs. VUCANOVICH. That is correct.

Mr. OWENS of Utah. And my amendment, as the gentlewoman knows, would strike the 8 percent of gross royalty and substitute a 5 percent of net.

Mrs. VUCANOVICH. That is true.

Mr. OWENS of Utah. The gentlewoman's amendment would knock out the 5 percent of net of all existing claims, is that correct?

Mrs. VUCANOVICH. No, no. It just simply makes it from this point on, but would not grandfather the claims that were in there before, the proceeds that were in there before. It would grandfather existing claims.

Mr. OWENS of Utah. So that all existing claims are guaranteed hereafter, they would have no payment of royalties.

Mrs. VUCANOVICH. That is correct.

Mr. OWENS of Utah. Mr. Chairman, I feel very strongly that there is a balance in this legislation which ought to be reached which protects not only the mining industry, which is a very vital industry, but protects the taxpayers as well.

I do believe that to access a 5-percent royalty on profits, net profits, is at least fair to the mining companies.

My colleagues have argued and others will argue that it ought to be 8 percent of gross. My analysis of the mining industry is that would drive many people out of business; but to say that they should pay no royalty at all I think staggers my imagination, staggers my sense of fairness on the return to the taxpayers.

If they are profitable, Mr. Chairman, they should pay a royalty, but if they are not profitable, they should not pay a royalty.

Mr. JONTZ. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to my colleague, the gentleman from Indiana.

Mr. JONTZ. Mr. Chairman, let me ask the gentleman this. Why would anyone have a new claim if they were going to pay a royalty, when someone who already had a claim was not going to pay a royalty?

It seems to me that if the gentlewoman's amendment is adopted, the consequence of it will be to prevent exactly what she wants to have happen, which is to have new claims filed. So in essence, you would not have a level playing field. You would have the people who had a current claim without any obligation to pay a royalty and only the people with the new claim would be paying the royalty. Surely that would have an incumbering impact in terms of whether any new claims would be filed. I would think that would be the case, would the gentleman agree?

Mr. OWENS of Utah. I agree with that. I think to say that the taxpayers, even though these companies are profitable, they owe no royalty at all, I think is contrary to every concept of fiscal responsibility. If they are not profitable, they should not be required to pay royalties. The gentlewoman and I agree with that. If they are profitable, a 5 percent of profits royalty is a very minimal payment, and I submit that is a fair payment.

Mrs. VUCANOVICH. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. Yes, I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. Mr. Chairman, H.R. 918 now grandfather's existing claims, and the CBO agreed with this analysis, so the gentleman is changing the rules that are now grandfathered in.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN (Mr. MFUME). The gentleman will state his inquiry.

Mr. SOLOMON. Mr. Chairman, are we under the 5-minute rule?

The CHAIRMAN. Yes, we are.

Mr. SOLOMON. Well, Mr. Chairman, who has the time?

The CHAIRMAN. The gentleman from Utah has the time.

Mr. SOLOMON. When will his time expire?

The CHAIRMAN. In 30 seconds.

Mr. RAHALL. Mr. Chairman, I move to strike the last word. I oppose the amendment of the gentlewoman from Nevada.

As I understand it, it is prospective in nature. It would say basically that all new claims that have been staked after this bill is enacted will get a free ride. I think that is totally unacceptable and I would oppose the gentlewoman's amendment.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am getting a little exercised here. It is 7 o'clock at night, after 7 o'clock.

The Senate went home last night. We have been in session since 2 o'clock this afternoon. Many of us came here, I happen to be on the Rules Committee and we have been working since earlier today.

We have accomplished about 15 minutes of real true work on this floor when we took 15 minutes to enact the legislative branch appropriations bill.

☐ 1910

Now I do not know why we are being kept here tonight. It is all very interesting to listen to this subject matter. But this bill is going absolutely no place. It probably would not even pass this House, would not come to a final vote. It certainly would not pass the Senate. We could have gone home last night, spent the day, Sunday, back in our districts with our families. Instead of that we have accomplished 15 minutes of work here today.

Now I do not know where the Democratic leadership is, but, if there is an energy bill out there, or a tax bill, I would like to see the Democratic leadership come to this floor and tell us what we are going to do for the rest of the night. I think this is an imposition upon every Member of this House. We want to know what is going on.

Mr. Chairman, I yield back the balance of my time, but I expect some answers out here soon.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Nevada [Mrs. VUCANOVICH] to the amendment offered by the gentleman from Utah [Mr. OWENS].

Mr. Chairman and members of the committee, I would hope that we would not support this amendment. I think it is inconsistent with the policy that we have and, as recently as what the Senate appropriations action that took place in the last couple of days when they considered changing and addressing the problems of royalties and the mininig law in their bill, they, too, stuck with the notion of gross revenues with respect to mineral extraction.

It is what we do in coal and oil. It is recognized. Others have tired to move to a net system and, in fact, found out under the net system that there were no royalties to collect. States have used the gross royalty system, found it compatible, and I think that the system that has been put in place by the committee, the amendment that was put in there, the 8 percent that is now in the committee bill, addresses this issue in a very fair and a just fashion.

We all can appreciate two words I have never really come to appreciate: nonprofit corporations and net, net when it comes to the ability to assess whether or not royalties can be determined because, as we have seen now with multinational corporations, they are able to move income up and down the stream of production, and in the case of foreign corporations we have a terrible situation in this country where foreign corporations are now able to move revenues, not only up and down the stream within the corporation, but within their companies and are shielding huge amounts of revenues from the IRS in this country and depriving this country of their fair share of revenues and, therefore, taxes have to be raised higher on individuals in this country.

So, Mr. Chairman, I would hope that we would not accept this amendment, that we would stick with the committee bill that is based upon the studies that have been done in tyring to develop the system to collect the royalties for which the taxpayers of this country are due for the rent on the lands that are leased to the private corporations for the development of those resources, and I appreciate what the gentleman is trying to do, but I think it is misguided, and I would hope we would stick with the committee bill.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. Mr. Chairman, I would just like to make it clear that the statement made by the gentleman from West Virginia [Mr. RAHALL] was incorrect. New claims would pay the 5 percent net proceeds tax that the amendment offered by the gentleman from Utah [Mr. OWENS] would impose on all claims. It is a basic fairness issue. Grandfather existing claims, just as H.R. 918 would do if not amended by Mr. OWENS. That was a misunderstanding, I think, from what the gentleman from West Virginia [Mr. RAHALL] said.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nevada [Mrs. VUCANOVICH] to the amendment offered by the gentleman from Utah [Mr. OWENS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. VUCANOVICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 254, not voting 42, as follows:

[Roll No. 469]

AYES—136

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CO)
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilman
Gingrich
Goodling
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Kolbe
Kyl
Lagomarsino
LaRocco
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Miller (OH)
Molinari
Montgomery
Moorhead
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Paxon
Petri
Porter
Quillen
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Roth
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Yates
Young (AK)
Young (FL)
Zeliff

NOES—254

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Carper
Carr
Chapman
Clay
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)

Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Glickman
Gonzalez
Gordon
Goss
Green
Guarini
Hamilton
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hughes
Jacobs
Jefferson
Jones
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (UT)
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Roemer
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Zimmer

NOT VOTING—42

Alexander
Annunzio
Barnard
Boxer
Broomfield
Cardin
Chandler
Clement
Coleman (TX)
Dannemeyer
Dwyer
Edwards (OK)
Hall (OH)
Hatcher
Hayes (LA)
Holloway
Huckaby
Ireland
Jenkins
Lehman (FL)
Lent
Lipinski
Martin
McCrery
McDade
McHugh
Michel
Owens (NY)
Panetta
Pursell
Roe
Rose
Savage
Saxton
Scheuer
Solarz
Staggers
Torres
Towns
Traxler
Weber
Whitten

□ 1936

Mr. NOWAK changed his vote from "aye" to "no."

Messrs. GRANDY, STALLINGS, NUSSLE, and LAROCCO changed their vote from "no" to "aye."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. PANETTA. Mr. Speaker, I was unable to be present for the following votes due to my presence at previous commitments in my district. Had I been present, I would have voted as follows:

Legislative branch appropriations conference report (H.R. 5427):

Rollcall No. 463, on agreeing to the conference report, "yea."

Motion to adjourn:

Rollcall No. 464, on agreeing to the Vucanovich motion to adjourn rather than consider the mining law reform bill, H.R. 918, "nay."

Mining law reform, H.R. 918:

Rollcall No. 465, on agreeing to the rule providing for consideration of H.R. 918, House Resolution 574, "aye."

Rollcall No. 467, the DeFazio amendment that sought to raise the royalty on new and existing mining claims imposed on hardrock minerals mined on Federal public lands from 8 percent of gross income to 12.5 percent of gross income, "aye."

Rollcall No. 468, the Vucanovich motion that the committee rise rather than continue consideration of H.R. 918, "no."

Rollcall No. 469, the Vucanovich amendment to the pending Owens of Utah amendment that sought to exempt all existing mine claims from the royalty changes proposed by the Owens amendment, "no."

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to proceed out of order for 1 minute.)

Mr. GINGRICH. Mr. Chairman, I ask unanimous consent to speak out of order to receive word on the schedule from the distinguished majority leader.

I yield to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

This vote that was just taken is the last vote for the evening. We will take up unanimous consent requests. There will be a rule on the Hawaiian Health Service, but the vote will be rolled, if there is a vote. And there are suspensions that will be considered and debated tonight, but the votes will be postponed until tomorrow. So the last vote tonight has already been held.

Tomorrow the House will be in at 10 a.m. and we, obviously, have a number of conference reports that yet have to be done. The energy bill will, we understand, be ready tomorrow morning. The tax bill, we understand, will be ready. The Department of Defense appropriation, the Foreign Ops appropriation.

Then there are some other either conference reports that have to be considered, one on housing, Export Administration, jobs through exports, reclamation projects, anti-autotheft bill, and then there may be finishing the mining bill that was up tonight.

The cable override also needs to be completed.

Mr. GINGRICH. Mr. Speaker, Members basically, except those who have actually legislative business tonight, should be free from here on and then in the morning, as I understand, the Committee on Rules will go in at 9 for those Members that have business there. Otherwise we will start at 10 and probably be here until sometime reasonably late.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, I would suggest Members bring sleeping bags.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I did not quite hear. Is there just one rule that is going to be considered tonight and, if so, the vote would be rolled till tomorrow, too?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, that is correct.

Mr. SOLOMON. Mr. Speaker, the native Hawaiian Health Care?

Mr. GEPHARDT. That is correct.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, there is another rule on Dayton Aviation.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, I am sorry, yes.

Mr. VENTO. I think that we should consider that and roll the vote, if it is possible, on that. Would that be possible?

Mr. GEPHARDT. Mr. Speaker, we will take it up. No vote.

Mr. SOLOMON. Then there are two on rules that will be taken up tonight?

Mr. GEPHARDT. Mr. Speaker, that is correct. I stand corrected.

Mr. SOLOMON. I thank the gentleman.

□ 1940

Mr. GINGRICH. Mr. Speaker, one last thing, just as he was asking on our side. Is it the gentleman's guess that the energy bill will come first or fairly early in that cycle, or does he think we will go first with some appropriation bills?

Mr. GEPHARDT. If the gentleman will continue to yield, we will be meeting at 9 in the Committee on Rules to take up the rule, and we will come out with it as fast as we can. It could be the first conference report that we have.

Mr. GINGRICH. I thank the gentleman.

Mr. RAHALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. RAY] having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 918) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes, had come to no resolution thereon.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS WITH RESPECT TO ANY APPROPRIATION BILLS

Mr. GEPHARDT. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 560) warning certain enrollment requirements with respect to any appropriation bill for the remainder of the 102d Congress, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the joint resolutions.

The Clerk read the joint resolution as follows:

H.J. RES. 560

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise, of the enrollment of any appropriation bill of the One Hundred Second Congress hereafter to be presented to the President. Such an enrollment shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment. As used in this resolution, the term "appropriation bill" means a bill or joint resolution making or continuing appropriations for the fiscal year ending September 30, 1993.

The SPEAKER pro tempore (Mr. RAY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUR OF MEETING ON MONDAY, OCTOBER 5, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 o'clock a.m. on Monday, October 5, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ORDER OF BUSINESS

Mr. MOORHEAD. Mr. Speaker, the Republican delegation from California has been trying to arrange a time for a special order for our four departing Members. Because there are a lot of Members involved, we would like to have a time certain when we could have that.

I ask unanimous consent that our special order tonight would come just before the special order that the gentleman from California [Mr. DORNAN] has on the schedule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROGRAMS FOR AWARDS TO FEDERAL EMPLOYEES FOR SUPERIOR ACCOMPLISHMENTS

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2263) to amend title V, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments: Strike out all the enacting clause and insert:

SECTION 1. AWARDS FOR COST SAVINGS DISCLOSURES.

(a) REPEAL OF LIMITATION.—Section 4514 of title 5, United States Code, is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by striking out the item relating to section 4514.

(c) AUTHORITY TO MAKE AWARDS.—Awards may be made under subchapter II of chapter 45 of title 5, United States Code, on and after the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend chapter 45 of title 5, United States Code, to authorize awards for cost savings disclosures.".

Mr. SIKORSKI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do so to allow the gentleman from Minnesota [Mr. SIKORSKI] an opportunity to give a brief explanation of this bill.

Mr. SIKORSKI. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Minnesota.

Mr. SIKORSKI. Mr. Speaker, I thank the gentlewoman for yielding.

The Senate amendment on which we are asking unanimous consent that the bill, H.R. 2263, be amended makes permanent the Cost Savings Disclosure Awards Program, but deletes all of the reforms to the Superior Accomplishments Awards Program. This legislation was passed overwhelmingly by the House several months ago. The chief author, the gentleman from Ohio [Mr. KASICH], the gentlewoman from Maryland [Mrs. MORELLA], and many others have worked very hard on this legislation to reward whistleblowers for disclosing fraud and waste in the Government.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection, and urge my colleagues to support this measure.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill, H.R. 2263, and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

SUPPORTING PLANTING OF REDWOOD TREES FROM CALIFORNIA IN SPAIN IN COMMEMORATION OF QUINCENTENARY OF THE CHRISTOPHER COLUMBUS VOYAGE

Mr. PASTOR. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the joint resolution (H.J. Res. 529) supporting the planting of 500 redwood trees from California in Spain in commemoration of the quincentenary of the voyage of Christopher Columbus and designating the trees as a gift to the people of Spain, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, but I want to give the opportunity to the sponsor of the bill to explain the measure.

Mr. PASTOR. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Arizona.

Mr. PASTOR. Mr. Speaker, this resolution has the support of 220 Members. I urge its passage.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PASTOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FARM CREDIT BANKS AND ASSOCIATIONS SAFETY AND SOUNDNESS ACT OF 1992

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 6125) to enhance the financial safety and soundness of the banks and associations of the Farm Credit System, and for other purposes, and I ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. COLEMAN of Missouri. Mr. Speaker, reserving the right to object, I do not anticipate objecting, but as I understand the chairman's procedures tonight, he is going to ask unanimous consent for five bills that have passed this body already, sometimes twice, in order to facilitate procedures so that the other body might be able to entertain them before we adjourn. I will not raise the objection on every one, I will reserve that, but I would ask the chairman of the committee, is that what we are doing here, as to his unanimous consent on this, and on four others thereafter?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, the gentleman has accurately described the situation. We have five bills that we have passed in the House, and in order to facilitate the passage in the Senate, because of technicalities, we are in fact forced to pass them again in the House.

Mr. WHITTEN. Mr. Speaker, I want to add my appreciation to Mr. ESPY, Chairman DE LA GARZA, and all the others who have worked so hard to resolve the differences on this bill. Since the Farm Credit Land Bank of Jackson went into receivership, it has been difficult for the borrowers of the Alabama, Mississippi, and Louisiana area.

While the compromise reached is not everything that either side wanted, I believe it is as good as we could have hoped. It appears to provide the farmers and borrowers of the Mississippi, Alabama, and Louisiana production credit associations the opportunity to have some say in the organization of their bank.

Again, I say thanks to Mr. ESPY, whose leadership on this issue was instrumental in reaching a conclusion on this difficult bill.

Mr. COLEMAN of Missouri. Mr. Speaker, with that explanation I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TAYLOR of Mississippi. Mr. Speaker, I rise to comment on the Farm Credit Banks and Associations Safety and Soundness Act of 1992, H.R. 6125, which has now been approved by the House as a compromise measure and awaits final action in the other body. In doing so, I commend the two gentlemen from Mississippi, Mr. ESPY, a distinguished member of the Agriculture Committee, and Mr. WHITTEN, the distinguished chairman of the Appropriations Committee, for all their constructive efforts in seeking to bring about a fair resolution of the fifth farm credit district controversy.

Both have worked long and hard over many months to achieve an outcome that will best protect the interests of farmers in Alabama, Mississippi, and Louisiana—the three States served by the Federal Intermediate Credit Bank of Jackson and its PCA's.

There is no question but the solution presented in H.R. 6125 is a better result for farmer borrowers in these three States than would have been the cast under the original section 401 of the earlier bill, H.R. 3298. Indeed, it was strong concern over that particular provision which led this House to defeat H.R. 3298 on suspension last year.

The fundamental question here have always been the same: How do we ensure that the local farmers who own these institutions are given a say in making structural decisions for the future, and what can we do to make it possible for them to have the same opportunities available to borrowers in other farm credit system districts—for example, in being able to offer one-stop credit at the local level if the borrowers favor it.

The compromise reached, as I understand it, addresses those key concerns. It is not perfect. But it does allow the stockholders of the FICB of Jackson to pursue a voluntary merger with the bank of their choice, free of unwarranted interference by the Farm Credit Administration. If after 1 year such efforts are not successful, the bill then provides an additional 6 months for an impartial arbitrator to negotiate the terms of a merger with the Farm Credit Bank of Texas. The arbitration process would also sanction a referendum to determine whether the borrowers wish to have their associations reorganized as ACA's capable of serving both short- and long-term credit needs.

Again, Mr. Speaker, I want especially to recognize my colleagues, Mr. ESPY and Mr. WHITTEN, for the leadership he has shown in meeting this very difficult challenge. Without his persistence and deft handling of the complex issues involved here, it would not be possible to enact this legislation this year.

The Clerk read the bill, as follows:

H.R. 6125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Credit Banks and Associations Safety and Soundness Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Farm Credit Act of 1971.

TITLE I—IMPROVEMENTS TO FARM CREDIT SYSTEM SAFETY AND SOUNDNESS

Sec. 101. Definition of permanent capital.
Sec. 102. Qualifications of Farm Credit Administration Board members.

TITLE II—FARM CREDIT SYSTEM INSURANCE CORPORATION

Sec. 201. Farm Credit System Insurance Corporation.
Sec. 202. Statutory successor to Assistance Board agreements.
Sec. 203. Use of Farm Credit Administration personnel.
Sec. 204. GAO reports on risk-based insurance premiums, access to association capital, supplemental premiums, and consolidation.

TITLE III—REPAYMENT OF FARM CREDIT SYSTEM DEBT OBLIGATIONS

Sec. 301. Capital preservation.
Sec. 302. Preferred stock.
Sec. 303. Systemwide repayment obligation.
Sec. 304. Repayment of Treasury-paid interest
Sec. 305. Transfer of obligations from associations to banks; other matters.
Sec. 306. Defaults.
Sec. 307. Authority of Financial Assistance Corporation.
Sec. 308. Technical amendments.

TITLE IV—CLARIFICATION OF CERTAIN AUTHORITIES

Sec. 401. Clarification of the status and powers of certain institutions of the Farm Credit System.

TITLE V—MISCELLANEOUS

Sec. 501. Valuation reserves of production credit associations.
Sec. 502. Risk management participation authority.
Sec. 503. Equity voting for one director of each bank for cooperatives.
Sec. 504. Technical amendment.
Sec. 505. Expansion of water and sewer lending authority of banks for cooperatives.
Sec. 506. Eligibility to borrow from a bank for cooperatives.
Sec. 507. Non-voting representative on board of Funding Corporation.
Sec. 508. Repeal of prohibition against guarantee of certain instruments of indebtedness.
Sec. 509. Compensation of bank directors.
Sec. 510. Clarification of treatment of Farm Credit Administration operating expenses.
Sec. 511. Approval of competitive charters.
Sec. 512. Examinations.
Sec. 513. Authority to examine System institutions.

Sec. 514. Financial disclosure and conflict of interest reporting by directors, officers, and employees of Farm Credit System institutions.
Sec. 515. One-time EFAP assistance.
Sec. 516. Technical corrections.

SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), except to the extent otherwise provided.

TITLE I—IMPROVEMENTS TO FARM CREDIT SYSTEM SAFETY AND SOUNDNESS

SEC. 101. DEFINITION OF PERMANENT CAPITAL.

Paragraph (1) of section 4.3A(a) (12 U.S.C. 2154a(a)(1)) is amended to read as follows:

"(1) PERMANENT CAPITAL.—The term 'permanent capital' means—

"(A) current year retained earnings;

"(B) allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

"(C) all surplus (less allowances for losses);

"(D) stock issued by a System institution, except—

"(i) stock that may be retired by the holder of the stock on repayment of the holder's loan, or otherwise at the option or request of the holder; or

"(ii) stock that is protected under section 4.9A or is otherwise not at risk; and

"(E) any other debt or equity instruments or other accounts that the Farm Credit Administration determines appropriate to be considered permanent capital.".

SEC. 102. QUALIFICATIONS OF FARM CREDIT ADMINISTRATION BOARD MEMBERS.

Section 5.8 (12 U.S.C. 2242) is amended by adding at the end the following new subsection:

"(e) The President shall appoint members of the Board who—

"(1) are experienced or knowledgeable in agricultural economics and financial reporting and disclosure;

"(2) are experienced or knowledgeable in the regulation of financial entities; or

"(3) have a strong financial, legal, or regulatory background.".

TITLE II—FARM CREDIT SYSTEM INSURANCE CORPORATION

SEC. 201. FARM CREDIT SYSTEM INSURANCE CORPORATION.

(a) IN GENERAL.—Section 5.53 (12 U.S.C. 2277a-2) is amended to read as follows:

"SEC. 5.53. BOARD OF DIRECTORS.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The management of the Corporation shall be vested in a Board of Directors (referred to in this section as the 'Board'). The Board shall establish policies for the Corporation. The Board shall provide for the performance of all the powers and duties vested in the Corporation.

"(2) APPOINTMENT.—The Board shall consist of three members, who shall be citizens of the United States and broadly representative of the public interest. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party.

"(3) CHAIRPERSON.—Of the persons appointed to the Board, one shall be designated by the President to serve as Chairperson of the Board for the duration of the term of the member.

"(4) POSTEMPLOYMENT PROHIBITION.—A member of the Board shall be ineligible during the time the member is in office and for 2 years thereafter to hold any office, position, or employment in any institution of the Farm Credit System.

"(b) TERM OF OFFICE.—

"(1) IN GENERAL.—The term of office of each member of the Board shall be 6 years, except that the terms of the two members, other than the Chairperson, first appointed under subsection (a) shall expire, one on the expiration of 2 years after the date of appointment, and one on the expiration of 4 years after the date of appointment.

"(2) SUCCESSION.—Members of the Board shall not be appointed to succeed themselves, except that the members first appointed under subsection (a) for a term of less than 6 years may be reappointed for a full 6-year term and members appointed to fill unexpired terms of 3 years or less may be reappointed for a full 6-year term.

"(3) VACANCIES.—Any vacancy shall be filled for the unexpired term on like appointment. Any member of the Board shall continue to serve as a member after the expiration of the term of the member until a successor has been appointed and qualified.

"(c) ORGANIZATION.—

"(1) OATH.—Each member of the Board, within 15 days after notice of appointment, shall subscribe to the oath of office.

"(2) QUORUM.—The Board may transact business if a vacancy exists, if a quorum is present. A quorum shall consist of two members of the Board.

"(3) MEETING.—The Board shall hold meetings at such times and places as the Board may fix and determine. The meetings shall be held on the call of the Chairperson or any two Board members.

"(4) RULES; RECORDS.—The Board shall adopt such rules as the Board considers appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.

"(d) COMPENSATION.—

"(1) IN GENERAL.—The members of the Board shall devote their full time and attention to the business of the Board.

"(2) CHAIRPERSON.—The Chairperson of the Board shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(3) OTHER MEMBERS.—Each of the other members of the Board shall receive compensation at the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(4) EXPENSES.—Each member of the Board shall be reimbursed for necessary travel, subsistence, and other expenses in the discharge of the official duties of the member without regard to other laws with respect to allowance for travel and subsistence of officers and employees of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) CHAIRPERSON.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Chairperson, Board of Directors of the Farm Credit System Insurance Corporation.".

(2) MEMBERS.—Section 5315 of such title is amended by adding at the end the following new item:

"Members, Board of Directors of the Farm Credit System Insurance Corporation.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall become effective on January 1, 1996.

(2) TRANSITIONAL PROVISION.—The Board of Directors of the Farm Credit System Insurance Corporation as established by section 5.53 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-2) (as it existed before the amendments made by subsection (a) of this section) shall continue in existence and continue to manage the Farm Credit System Insurance Corporation until at least two members are appointed by the President, by and with the advice and consent of the Senate, to the new Board established by section 5.53 of such Act (as amended by subsection (a) of this section).

SEC. 202. STATUTORY SUCCESSOR TO ASSISTANCE BOARD AGREEMENTS.

(a) IN GENERAL.—Section 5.58(2) (12 U.S.C. 2277a-7(2)) is amended by adding at the end the following new sentence: "The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying the institutions as eligible to issue preferred stock pursuant to title VI on the termination of the Assistance Board on the date provided in section 6.12.".

(b) CONFORMING AMENDMENTS.—Section 5.35(4) (12 U.S.C. 2271(4)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) after December 31, 1992, mean any significant noncompliance by a System institution (as determined by the Farm Credit Administration, in consultation with the Farm Credit System Insurance Corporation) with any term or condition imposed on the institution by the Farm Credit System Assistance Board under section 6.6 or by the Farm Credit System Insurance Corporation under section 5.61.".

SEC. 203. USE OF FARM CREDIT ADMINISTRATION PERSONNEL.

Section 5.59(a) (12 U.S.C. 2277a-8(a)) is amended by adding at the end the following new paragraph:

"(5) USE OF FARM CREDIT ADMINISTRATION PERSONNEL.—To the extent practicable, the Corporation shall use the personnel and resources of the Farm Credit Administration to minimize duplication of effort and to reduce costs.".

SEC. 204. GAO REPORTS ON RISK-BASED INSURANCE PREMIUMS, ACCESS TO ASSOCIATION CAPITAL, SUPPLEMENTAL PREMIUMS, AND CONSOLIDATION.

(a) IN GENERAL.—The Comptroller General of the United States shall investigate, review, and evaluate the feasibility and appropriateness, and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the advantages and disadvantages of providing the Farm Credit System Insurance Corporation with—

(1) the authority to directly or indirectly assess associations to ensure that all System capital is available to prevent losses to investors, including a study of—

(A) the effects of direct assessments by the Insurance Corporation on associations, including interest rate charges to borrowers;

(B) the effects of requiring that banks pass along the cost of insurance premiums to owner associations and other financing institutions having a discount relationship with the bank;

(C) the effects of requiring owner associations to purchase stock in the district bank, if needed, to prevent a bank from having to return to the Insurance Corporation for financial assistance once the assistance has been given;

(D) the effects of the purchase of stock from funds of the association (through funds obtained from other than the district bank) or allowing the bank to increase the direct line of credit to the association in order to fund the purchase; and

(E) the effect that authorizing the Insurance Corporation to assess the association could have on the association's incentives for building capital;

(2) the authority to collect supplemental insurance premiums under certain circumstances, including a study of—

(A) the possibility of the Insurance Fund being depleted more rapidly than it could be replenished under the current premium structure;

(B) the effects of the depletion under alternate economic scenarios and the probability of the occurrence of each of those scenarios;

(C) the effects on capital accumulation and interest rates of levying a supplemental premium; and

(D) limitations on any authority to levy supplemental premiums and the underlying basis for the limitations; and

(3) the authority to establish an insurance premium rate structure that would take into account, on an institution-by-institution basis, asset quality risk, interest rate risk, earnings, and capital.

(b) REPORT ON CONSOLIDATION.—

(1) IN GENERAL.—The Comptroller General of the United States shall evaluate and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on whether there are likely to be benefits to farmer and rancher borrowers of the Farm Credit System institutions of merging the 10 district Farm Credit Banks (and the Federal Intermediate Credit Bank of Jackson) into fewer regional Farm Credit Banks.

(2) FACTORS.—In preparing the report, the Comptroller General shall consider—

(A) the potential reduction in services to farmers and ranchers;

(B) the potential benefits of jointly providing services to farmers and ranchers among these proposed regional districts;

(C) any economy of scale effects on a district-by-district basis;

(D) the potential impact on the cooperative nature of the Farm Credit System;

(E) the potential impact on bank and association relationships; and

(F) the potential impact on System-wide bond issuances.

(c) POTENTIAL SAVINGS.—The Comptroller General of the United States shall evaluate and report to the appropriate committees of Congress on the potential savings to the Farm Credit System and its shareholders that might occur if System institutions and the Farm Credit Administration were required to comply with General Services Administration standards for office space, furniture, and equipment.

(d) DEADLINE.—The reports required under this section shall be provided to Congress not later than 12 months after the date of enactment of this Act.

TITLE III—REPAYMENT OF FARM CREDIT SYSTEM DEBT OBLIGATIONS

SEC. 301. CAPITAL PRESERVATION.

Section 6.9(e)(3) (12 U.S.C. 2278a-9(e)(3)) is amended—

(1) by striking subparagraph (C) and inserting the following new subparagraph:

"(C) PAYMENT OF PRINCIPAL.—

"(i) IN GENERAL.—After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this Act shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of the obligation. Each bank shall pay a proportion of the principal equal to—

"(I) the average accruing loan volume of the bank for the preceding 15 years; divided by

"(II) the average accruing loan volume of all banks of the System for the same period.

"(ii) BANKS LEAVING SYSTEM.—Any bank leaving the Farm Credit System pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System.

"(iii) BANKS UNDERGOING LIQUIDATION.—With respect to any bank undergoing liquidation under this Act, a liability to the Financial Assistance Corporation in the amount of the payment required under this subparagraph (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of the bank.

"(iv) OBLIGATIONS OF OTHER BANKS.—The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.";

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) ANNUAL PAYMENTS.—

"(i) IN GENERAL.—In order to provide for the orderly funding and discharge over time of the obligation of each System bank to the Financial Assistance Corporation under subparagraph (C), each System bank shall enter into or continue in effect an agreement with the Financial Assistance Corporation under which the bank will make annual annuity-type payments to the Financial Assistance Corporation, beginning no later than December 31, 1992 (except for any bank that did not meet its interim capital requirement on December 31, 1990, in which case the bank shall begin making the payments no later than December 31, 1993) in amounts designed to accumulate, in total, including earnings on the amounts, to 90 percent of the bank's ultimate obligation. The Financial Assistance Corporation shall partially discharge the bank from its obligation under subparagraph (C) to the extent of each such payment and the earnings on the payment as earned.

"(ii) CAPITAL REQUIREMENTS.—The agreement shall not require payments to be made to the extent that making a particular payment or part of a payment would cause the bank to fail to satisfy applicable regulatory permanent capital requirements, but shall provide for recalculation of subsequent payments accordingly.

"(iii) INVESTMENT; AVAILABILITY.—The funds received by the Financial Assistance Corporation pursuant to the agreements shall be invested in eligible investments as defined in section 6.25(a)(1). The funds and the earnings on the funds shall be available only for the payment of the principal of the bonds issued by the Financial Assistance Corporation under this subsection."; and

(4) in subparagraph (E) (as redesignated by paragraph (2)), by inserting before the period at the end the following: ", nor shall the obligation to make future annuity payments to the Financial Assistance Corporation under subparagraph (D) be considered a liability of any System bank".

SEC. 302. PREFERRED STOCK.

Subparagraph (B) of section 6.26(d)(1) (12 U.S.C. 2278b-6(d)(1)(B)) is amended to read as follows:

"(B) PAYMENTS BY INSTITUTIONS.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 6.27(a) with respect to the obligation (or the successor to the institution) shall pay to the Financial Assistance Corporation, before the maturity date of the obligation, an amount equal to the par value of the stock outstanding for the institution.

"(ii) ANNUAL APPROPRIATION.—Except as provided in clause (iii), each year beginning in 1992, as soon as practicable following the end of the prior year, each such institution (except institutions in receivership and institutions that have previously redeemed their preferred stock) shall appropriate from its earnings in the prior year to an appropriated unallocated surplus account with respect to preferred stock, the sum of—

"(I) the greater of—

"(aa) such amount as the institution may be required to appropriate under any assistance agreement the institution has with the Farm Credit System Assistance Board or the Farm Credit System Insurance Corporation; or

"(bb) the amount that, if appropriated to the account in equal amounts in each year thereafter until the maturity of the obligation referred to in subparagraph (A), would cause the amount in the account to equal the par value of the preferred stock issued by the institution with respect to the obligation; plus

"(II) any amount that had been appropriated to the account in a previous year but had thereafter been offset by losses.

"(iii) LIMITATION.—An annual appropriation shall not be made to the extent that the appropriation would exceed the institution's net income (as determined pursuant to generally accepted accounting principles) in that year or to the extent that the appropriation would cause the institution's preferred stock to be impaired.

"(iv) USE.—The amount in the appropriated unallocated surplus account shall be unavailable to pay dividends or other allocations or distributions to shareholders or holders of participation certificates. The account shall be senior to all other unallocated surplus accounts but junior to all preferred and common stock for purposes of the application of operating losses.

"(v) PREFERRED STOCK.—The appropriations of surplus by an institution shall not affect the treatment of its preferred stock (and of the appropriated unallocated surplus) as equity for purposes of regulatory permanent capital requirements.".

SEC. 303. SYSTEMWIDE REPAYMENT OBLIGATION.

Subparagraph (C) of section 6.26(d)(1) (12 U.S.C. 2278b-6(d)(1)(C)) is amended to read as follows:

"(C) SYSTEMWIDE REPAYMENT.—

"(i) IN GENERAL.—In order to enable the Financial Assistance Corporation to repay the obligations issued to provide assistance under subsections (c) and (e) of section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) and section 4.9A(c) of this Act, or issued to provide funds to cover the expenses of the Assistance Board or the Financial Assistance Corporation under sections 6.7(a) and 6.24, respectively, of this Act, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the obligation equal to—

"(I) the average accruing retail loan volume of the bank and its affiliated associations for the preceding 15 years; divided by

"(II) the average accruing retail loan volume of all such banks and their affiliated associations for the same period.

"(ii) EXPENSE ITEM.—The annual increase in the present value of the estimated obligation of each bank to the Financial Assistance Corporation under this subparagraph shall be recorded each year as an expense item, in accordance with generally accepted accounting principles, on the books of the bank.

"(iii) PASS THROUGH.—A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the amount necessary to satisfy the payment requirement to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding 15 years, except that the bank shall remain primarily liable for the amount.

"(iv) BANKS LEAVING SYSTEM.—Any bank leaving the Farm Credit System pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation. The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

"(v) ASSOCIATIONS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any association leaving the Farm Credit System pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the present value of the future payment obligation of its supervising bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.".

SEC. 304. REPAYMENT OF TREASURY-PAID INTEREST

(a) IN GENERAL.—Paragraph (5) of section 6.26(c) (12 U.S.C. 2278b-6(c)(5)) is amended to read as follows:

"(5) REPAYMENT OF TREASURY-PAID INTEREST.—

"(A) IN GENERAL.—On the maturity date of the last-maturing debt obligation issued under subsection (a), the Financial Assistance Corporation shall repay to the Secretary of the Treasury the total amount of any annual interest charges on the debt obligations that Farm Credit System institutions (other than the Financial Assistance Corporation) have not previously paid, and the Financial Assistance Corporation shall not be required to pay any additional interest charges on the payments.

"(B) ASSESSMENT.—In order to provide for the orderly funding by the banks of the System of the repayment by the Financial Assistance Corporation to the Secretary of the Treasury, the Financial Assistance Corporation shall assess each System bank, on or about December 31 of each year beginning in 1992, and each System bank shall promptly pay to the Financial Assistance Corporation, an annual annuity type payment in an amount designed to accumulate, in total, including earnings thereon, the amount of the bank's ultimate obligation (as determined by the Corporation on a fair and equitable basis), and no greater than .0006 nor less than .0004 times the bank's and its affiliated associations' average accruing retail loan volume for the preceding year, subject to—

"(i) upward or downward adjustment, as appropriate, by the Financial Assistance Corporation during each of the last 5 years prior to the date the Financial Assistance Corporation is obligated to make the repayment, in order to ensure that the Financial Assistance Corporation will have the amount of funds needed to make the repayment on the due date; and

"(ii) reduction or termination in any year when the funds paid to the Financial Assistance Corporation, including any anticipated future earnings on the funds, are sufficient to make the repayment on the due date.

"(C) INVESTMENT OF FUNDS.—The Financial Assistance Corporation shall invest funds derived from the investment in eligible investments as defined in section 6.25(a)(1). The funds and the earnings on the funds shall be available only for the repayment to the Secretary of the Treasury provided for in subparagraph (A).

"(D) PASS THROUGH.—A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the assessments to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding year, but the bank shall remain primarily liable for the amounts.

"(E) LIABILITY.—

"(i) BANKS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any bank terminating System status pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of all future such assessments against the bank had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date the bank was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation.

"(ii) NO ANTICIPATORY REDUCTIONS IN OTHER OBLIGATIONS.—The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation.

"(iii) REFUND OF RECOVERIES.—The Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

"(F) ASSOCIATIONS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any association terminating System status pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the estimated present value of all future such assessments against the bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.

"(G) CAPITAL REQUIREMENTS.—

"(i) IN GENERAL.—Until the date that is 5 years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.

"(ii) DURING THE FINAL 5 YEARS PRIOR TO REPAYMENT.—During the—

"(I) period beginning 5 years, and ending 4 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 60 percent;

"(II) period beginning 4 years, and ending 3 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 30 percent; and

"(III) period beginning 3 years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 0 percent,

of all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and of any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.".

(b) CONFORMING AMENDMENT.—Section 6.28 (12 U.S.C. 2278b–8) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 305. TRANSFER OF OBLIGATIONS FROM ASSOCIATIONS TO BANKS; OTHER MATTERS.

Section 6.26 (12 U.S.C. 2278b–6) is amended—

(1) in subsection (c)—

(A) in the subparagraph heading of paragraph (2)(B), by striking "INSTITUTIONS" and inserting "BANKS";

(B) by striking "institutions" each place it appears in paragraphs (2)(B), (3), and (4) and inserting "banks"; and

(C) in paragraph (2), by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) ALLOCATION.—During each year of the second 5-year period, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the interest due from System banks under this paragraph equal to—

"(i) the amount of the average accruing retail loan volume of the bank and its affiliated associations for the preceding year; divided by

"(ii) the total average accruing retail loan volume of all such banks and their affiliated associations for the preceding year.";

(2) in subsection (d)(1)—

(A) by striking subparagraph (D); and

(B) by redesignating subparagraph (E) as subparagraph (D); and

(3) by adding at the end the following new subsection:

"(e) ADMINISTRATION.—

"(1) DEFINITION OF RETAIL LOAN VOLUME.—As used in this section, the term 'retail loan volume' means all loans (as defined in accordance with generally accepted accounting principles) by a System bank or association, excluding loans by such a bank or association to another System institution.

"(2) CALCULATION OF AVERAGE ANNUAL LOAN VOLUMES.—For purposes of this section and section 6.9, average annual loan volumes shall be calculated using month-end balances.

"(3) EXCLUSION OF BANKS UNDERGOING LIQUIDATION.—For purposes of this section and section 6.9, the term 'bank' shall not include a bank that had entered liquidation prior to the date of enactment of this subsection.".

SEC. 306. DEFAULTS.

Section 6.26(d) (12 U.S.C. 2278b–6(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking the heading and inserting the following: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(ii) in clause (i)—

(I) by inserting after "subsection (a)," the following: "on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B),";

(II) by striking "of the interest" both places it appears; and

(III) by striking "institution" each place it appears and inserting "bank";

(iii) in clause (ii)—

(I) by striking "of interest";

(II) by striking "institution" and inserting "bank"; and

(III) by striking "such uncollected interest" and inserting "any uncollected amount";

(iv) in clause (iii), by striking "added" and all that follows through the period at the end and inserting "allocated to other System banks in accordance with the allocation mechanism applicable under this Act to the particular defaulted obligation.";

(B) in subparagraph (B), by striking the subparagraph heading and inserting the following new heading: "PRINCIPAL OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK.—"; and

(C) in subparagraph (C)—

(i) in the heading, by striking "INSTITUTIONS" and inserting "BANKS";

(ii) by striking "institution" and inserting "bank";

(iii) by striking "institutions" both places it appears and inserting "banks"; and

(iv) by striking "the amount of any interest" and inserting "any amounts"; and

(2) in paragraph (4)—

(A) in subparagraph (A), by inserting "or section 6.9(e)(3)(A)" after "subsection (a)";

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking the clause heading and inserting the following new heading: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(II) by inserting after "subsection (c)," the following: "on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B),"; and

(III) by striking "institution" each place it appears and inserting "bank"; and

(ii) in clause (ii), by striking the clause heading and inserting the following new heading: "PRINCIPAL OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK.—".

SEC. 307. AUTHORITY OF FINANCIAL ASSISTANCE CORPORATION.

(a) PURPOSE.—Section 6.21 (12 U.S.C. 2278b–1) is amended by inserting before the period at the end the following: "and to assist, pursuant to section 6.9(e) and subsections (c) through (g) of section 6.26, in the repayment by System institutions to those persons who provided funds in connection with the program".

(b) TERMINATION.—Section 6.31(a) (12 U.S.C. 2278b–11(a)) is amended by striking "terminate on" and inserting the following: "terminate on the complete discharge by the Financial Assistance Corporation of its responsibilities under section 6.9(e) and subsections (c) through (g) of section 6.26 with regard to repayments by System institutions, but in no event later than 2 years following".

SEC. 308. TECHNICAL AMENDMENTS.

(a) TECHNICAL AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Section 204(3) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (P.L. 102–237; 105 Stat. 1855) is amended by striking "in section 1221(1)(D) (16 U.S.C. 3821(1)(D))" and inserting "in section 1221(a)(1)(D) (16 U.S.C. 3821(a)(1)(D))".

(b) TECHNICAL AMENDMENTS TO THE FARM CREDIT ACT OF 1971.—

(1) Section 8.3(c)(13) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–3(c)(13)) is amended by striking "8.11(g)" and inserting "8.11(e)".

(2) Section 8.11(a)(1)(B)(ii) of such Act (12 U.S.C. 2279aa–11(a)(1)(B)(ii)) is amended by striking "the date of enactment of this section" and inserting "December 13, 1991".

(3) Section 8.32 of such Act (12 U.S.C. 2279bb–1) is amended—

(A) in each of subsections (a), (b)(1)(D), and (b)(2), by striking "the date of the enactment of this section" each place the term appears and inserting "December 13, 1991"; and

(B) in subsection (b)(1)(E), by striking "the date of the enactment of such Act" and inserting "December 13, 1991".

TITLE IV—CLARIFICATION OF CERTAIN AUTHORITIES

SEC. 401. CLARIFICATION OF THE STATUS AND POWERS OF CERTAIN INSTITUTIONS OF THE FARM CREDIT SYSTEM.

(a) CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.—Section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) is amended by adding at the end the following new subsection:

"(e) CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.—

"(1) NEGOTIATED MERGER.—

"(A) REQUIREMENT.—

"(i) IN GENERAL.—Not later than June 30, 1993, except as provided in subparagraph (C), the Federal Intermediate Credit Bank of Jackson (as chartered on the date of enactment of this subsection) shall merge with a Farm Credit Bank pursuant to the procedures prescribed by section 7.12 of the Farm Credit Act of 1971 (12 U.S.C. 2279f).

"(ii) MERGER OF ENTIRE BANK.—Notwithstanding subparagraph (B), or any other provision of law, the Farm Credit Administration shall approve a merger of the Federal Intermediate Credit Bank of Jackson only if the Bank (as chartered on the date of enactment of this subsection, except as provided in subparagraph (B)(ii)(II)(bb)) merges in its entirety with a Farm Credit Bank.

"(iii) LIMITED LENDING AUTHORITY.—Notwithstanding any provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), the Farm Credit Bank resulting from a merger under this subsection shall have only the lending authorities in the States of Alabama, Louisiana, and Mississippi that the constituent banks exercised in such States immediately prior to the merger, except as may be provided in section 5.17(a)(2) of such Act (12 U.S.C. 2252(a)(2)).

"(B) OPERATING AND MERGER AUTHORITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Federal Intermediate Credit Bank of Jackson may operate subject to such provisions of part A of title II of the Farm Credit Act of 1971 (as in effect immediately before the amendment made by section 401 took effect) and such provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) (as in effect after the amendment), as the Farm Credit Administration deems appropriate to carry out the purposes of this subsection and such Act. This subparagraph shall take effect as if it had become law at the same time as the amendment made by section 401 and shall remain in effect until the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

"(ii) LIMITATION ON OPERATING AUTHORITY.—

"(I) IN GENERAL.—Notwithstanding clause (i) and subparagraph (A)(ii), the authority of the Federal Intermediate Credit Bank of Jackson to operate as provided under clause (i) shall expire, and the Farm Credit Administration shall revoke the Bank's charter, immediately on the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

"(II) DISTRICT BOUNDARY MODIFICATION.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of

Jackson shall not include the authority for the Bank to modify, nor shall the Farm Credit Administration approve such a modification to, the boundaries of the Fifth Farm Credit District to reaffiliate any portion of the District with another Farm Credit Bank, except—

"(aa) in the case of the merger of the entire Bank as an entity with a Farm Credit Bank such that the entire chartered territory of the Federal Intermediate Credit Bank of Jackson (except as provided in item (bb)) is merged with the Farm Credit Bank; and

"(bb) in the case of the reaffiliation of the Northwest Louisiana Production Credit Association with another farm credit district pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations under such Act.

"(iii) LIMITATION ON AUTHORITY TO MERGE.—

"(I) IN GENERAL.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank as provided under clause (i) shall expire, and the Farm Credit Administration shall revoke the Bank's charter, immediately on the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

"(II) BANK INTEGRITY.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank shall be limited to a merger of the Federal Intermediate Credit Bank of Jackson (as chartered on the date of enactment of this subsection to include the territory in the States of Alabama, Louisiana, and Mississippi, except as provided in clause (ii)(II)(bb)) as a whole entity such that the entire chartered territory of the Federal Intermediate Credit Bank of Jackson is merged with the Farm Credit Bank.

"(III) LIMITATION.—Beginning on the date of an order issued by the Farm Credit Administration under subparagraph (D), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank shall be limited to the arbitrated merger provided for in paragraph (2).

"(C) EXTENSION.—

"(i) LETTER OF INTENT.—If no later than June 30, 1993, the Federal Intermediate Credit Bank of Jackson delivers to the Farm Credit Administration a letter of intent to merge with a Farm Credit Bank, summarizing the terms and conditions of the merger (including, but not limited to, board composition, capital structure, exchange, or transfer of equities, and termination) signed by the chief executive officer and the members of the boards of directors of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank, the Farm Credit Administration shall, on its determination that the letter of intent represents a bona fide good faith agreement in principle between the two banks to merge, and that there is at least a reasonable prospect that the merger will be completed in an expeditious manner, grant a one-time extension, until a date certain not later than October 31, 1993, of the requirement under subparagraph (A). Any extension provided under this subparagraph may be conditioned on such terms and conditions as the Farm Credit Administration determines necessary to ensure that the merger described in the letter of intent is completed by the closing date of the extension.

"(ii) COMPLIANCE.—If the Farm Credit Administration grants an extension under clause (i), it shall issue an order under subparagraph (D) immediately if—

"(I) the Federal Intermediate Credit Bank of Jackson, or the Farm Credit Bank that is a signatory to the letter of intent under clause (i), provides written notification to the Farm Credit Administration that the bank does not intend to complete the merger described in the letter of intent;

"(II) the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is not complying with any term or condition on which an extension under clause (i) was conditioned; or

"(III) the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is not pursuing in good faith the merger provided for in the letter of intent.

If the Farm Credit Administration issues an order under subparagraph (D) pursuant to this clause, the Federal Intermediate Credit Bank of Jackson shall be deemed to have failed to comply with the requirements of subparagraph (A).

"(D) FAILURE TO MERGE; ISSUANCE OF ORDER.—If the Federal Intermediate Credit Bank of Jackson fails to comply, or notifies the Farm Credit Administration in writing that it does not intend to comply, with the requirements of subparagraph (A), the Farm Credit Administration shall, within 5 days after the date specified in subparagraph (A), or such other date specified by the Farm Credit Administration under subparagraph (C), issue, notwithstanding any other provision of law, an order requiring the Federal Intermediate Credit Bank of Jackson to merge with the Farm Credit Bank of Texas in accordance with paragraph (2).

"(2) ARBITRATED MERGER.—

"(A) IN GENERAL.—Not later than 30 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), an arbitrator (or panel of arbitrators) shall be named by the American Arbitration Association in accordance with the Commercial Arbitration Rules of the American Arbitration Association to serve as the arbitrator referred to in this paragraph.

"(B) DUTIES.—The arbitrator shall determine the terms and conditions of the merger required under an order issued under paragraph (1)(D), such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders and borrowers of the associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. The arbitrator shall have the authority to hire staff and secure the services of consultants as necessary to discharge the duties of the arbitrator under this paragraph.

"(C) EXPENSES.—Notwithstanding any other provision of law, the compensation and expenses of the arbitrator, the fees and expenses of the American Arbitration Association, and any expenses associated with the referendum required under subparagraph (F) shall be paid from the Farm Credit Assistance Fund established under section 6.25 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-5).

"(D) DEVELOPMENT OF MERGER PLANS.—

"(i) IN GENERAL.—Not later than 100 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the arbitrator shall develop and submit for certification to the Farm Credit Administration a plan specifying the terms and conditions of the merger of the two banks required under this paragraph, such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders or farmer-borrowers of the associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. In devising the plan, the arbitrator shall, to the extent practicable, achieve the following objectives:

"(I) Implementation of the preferences expressed by the affected and interested parties in submissions under clause (ii).

"(II) Valuation of assets fairly, equitably, and consistently for all parties involved.

"(III) Establishment of capitalization and funding terms in a manner that treats farmer-borrowers and stockholders in the two involved farm credit districts equitably and takes account of risk.

"(IV) Ensure the viability of the resulting Farm Credit Bank and associations of the bank and the ability of the resulting bank and associations of the bank to lend to eligible borrowers at reasonable and competitive rates of interest.

"(ii) SUBMISSION OF VIEWS AND INFORMATION.—The arbitrator shall receive from affected and interested parties written submissions, in accordance with fair and reasonable procedures established by the arbitrator, regarding the terms and conditions of an appropriate plan for the merger of the two banks required under this paragraph. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations shall make available all books, records, financial information, and other material that the arbitrator determines is necessary to the development of the plan or the fulfillment of any other requirement under this paragraph. A copy of any submission or information provided to the arbitrator by any party under this paragraph shall be furnished to the Federal Intermediate Credit Bank of Jackson or the Farm Credit Bank of Texas on the written request of the bank and at the bank's expense. The arbitrator shall provide both banks with a reasonable opportunity to review and respond to any submission or information provided by any party.

"(iii) CONTENT OF PLAN; FARM CREDIT BANK.—The plan developed and submitted under clause (i) shall include provisions regarding the following matters:

"(I) The initial composition, following the merger, of the board of directors of the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(II) The valuation, for purposes of the merger, of the assets and liabilities of the merging banks.

"(III) The terms and conditions on which the shares of capital stock of the Federal Intermediate Credit Bank of Jackson and, if necessary, the Farm Credit Bank of Texas, will be converted into shares of the resulting Farm Credit Bank.

"(IV) The capital structure and capitalization levels of the resulting Farm Credit Bank and the affiliated associations of the Farm Credit Bank in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(V) The terms of financing agreements between any production credit associations or agricultural credit associations described in clause (iv), and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(VI) Any other terms and conditions or other matters that the arbitrator considers necessary.

"(iv) CONTENT OF PLAN; AGRICULTURAL CREDIT ASSOCIATIONS.—If the arbitrator determines that the chartering of agricultural credit associations in the States of Alabama, Louisiana, and Mississippi will be in the best interests of the farmers, ranchers, and aquatic producers eligible to borrow from Farm Credit System associations, the plan required under this subparagraph shall also include, based on submissions from the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas, provisions for the establishment of agricultural credit associations to operate in the States, subject to approval in the referendum under subparagraph (F). Such provisions shall include provisions regarding the following matters:

"(I) A proposal for the establishment of an agricultural credit association in each of the geographic areas specified in subparagraph (F)(iii) (the charters of which, if validly issued under subparagraph (G)(i) pursuant to approval in the referendum under subparagraph (F), shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(II) The initial composition, if the proposal for the establishment of agricultural credit associations is approved, of the board of directors of each such agricultural credit association (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(III) The valuation, for purposes of the proposed merger of the production credit association and the Federal land bank association in each of the geographic areas specified in subparagraph (F)(iii), of the assets and liabilities of the associations.

"(IV) The terms and conditions on which the shares of capital stock of any associations that may merge under the plan to form agricultural credit associations will be converted into shares of the resulting agricultural credit associations.

"(V) The capital structure and capitalization levels of the resulting Farm Credit Bank and such affiliated associations of the Farm Credit Bank in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which capital structure and capitalization levels shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(VI) The terms of financing agreements between any agricultural credit associations and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(VII) Any other terms and conditions or other matters that the arbitrator considers necessary.

"(v) CONSULTATION WITH INSURANCE CORPORATION.—The arbitrator shall consult with the Farm Credit System Insurance Corporation regarding the valuation of the assets and liabilities under the plan of merger, the capitalization of the Farm Credit System institutions resulting under the plan, and any other matters relevant to the assistance to be provided by the Insurance Corporation to facilitate the merger under subparagraph (H).

"(E) CERTIFICATION OF PLAN.—Not later than 30 days after the receipt of the plan developed by the arbitrator, the Farm Credit Administration shall—

"(i) certify; or

"(ii) recommend to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify,

that the resulting bank and any resulting associations are proposed to be organized in such a fashion that they will, on implementation of the plan, operate in compliance with applicable laws and regulations. The arbitrator and the Farm Credit Administration shall work cooperatively to ensure the expeditious issuance of the certification. If the Farm Credit Administration recommends to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify the plan, the arbitrator shall, not later than 15 days after receipt of the recommended revisions, incorporate the revisions into the plan as the arbitrator deems appropriate to secure the certification.

"(F) REFERENDUM ON ASSOCIATION STRUCTURE.—

"(i) IN GENERAL.—Not later than 170 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the American Arbitration Association shall conduct, and compile and forward to the Farm Credit Administration the results of, a vote of current farmer-borrowers of the production credit associations and the Federal land bank associations in the States of Alabama, Louisiana, and Mississippi, in accordance with the Election Rules of the American Arbitration Association, to determine whether the farmer-borrowers of each association in the geographic areas described in clause (iii) prefer to have credit delivered—

"(I) in the case of production credit association farmer-borrowers, through a production credit association or through an agricultural credit association as proposed in the plan; and

"(II) in the case of Federal land bank association farmer-borrowers, through a Federal land bank association or through an agricultural credit association as proposed in the plan.

Each farmer-borrower shall be entitled to one vote. The arbitrator shall establish record dates and other procedures for conducting the referendum. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations shall cooperate in the conduct of the referendum, as determined necessary by the Arbitrator.

"(ii) DISCLOSURE.—The arbitrator shall send to farmer-borrowers eligible to vote under this subparagraph, with their ballot, a statement describing the potential consequences to the farmer-borrowers, and to the associations from which they borrow, of voting to charter an agricultural credit association and setting forth factors that farmer-borrowers should consider relevant to the choice between credit delivery through the current association structure and the chartering of an agricultural credit association. The arbitrator shall develop the disclosure materials in cooperation with the Farm Credit Administration and ensure that the materials are not inconsistent with applicable laws and regulations.

"(iii) TABULATION OF RESULTS.—The results of the vote under this subparagraph shall be compiled separately for production credit association farmer-borrowers and Federal land bank association farmer-borrowers in each of the following seven geographic areas:

"(I) The area served by the Federal Land Bank Association of South Mississippi.

"(II) The area served by the Federal Land Bank Association of North Mississippi.

"(III) The area served by the Federal Land Bank Association of South Alabama.

"(IV) The area served by the Federal Land Bank Association of North Alabama.

"(V) The area served by the Federal Land Bank Association of South Louisiana.

"(VI) The area served by both the Federal Land Bank Association of North Louisiana and the First South Production Credit Association.

"(VII) The area served by both the Federal Land Bank Association of North Louisiana and the Northwest Louisiana Production Credit Association.

"(iv) PUBLICATION OF RESULTS.—The results of the vote under this subparagraph, as tabulated by the American Arbitration Association, shall be made promptly available to the public in a manner determined appropriate by the Farm Credit Administration.

"(G) IMPLEMENTATION.—Not later than 10 days after the date of the receipt of the results of the referendum conducted under subparagraph (F), the Farm Credit Administration shall issue such charters or charter amendments and take such other regulatory actions as may be necessary to implement the merger or mergers as provided for under the certified plan. In this regard, the Farm Credit Administration shall—

"(i) issue a charter or charter amendment and take any such other regulatory actions as may be necessary to provide for the establishment of an agricultural credit association in each of the geographic areas described in subparagraph (F)(iii) where a majority of the farmer-borrowers of both the production credit association and the Federal land bank association voted under subparagraph (F)(i) that they preferred to have credit delivered through an agricultural credit association (which charter shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations); and

"(ii) not issue a charter or charter amendment or take any such other regulatory action to provide for the establishment of an agricultural credit association in any of the geographic areas described in subparagraph (F)(iii) where less than a majority of the farmer-borrowers of the production credit association or the Federal land bank association voted in the referendum under subparagraph (F)(i) that they preferred to have credit delivered through an agricultural credit association (provided that the charter of any remaining association in such geographic area shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(H) FACILITATION.—

"(i) IN GENERAL.—Beginning on the date of the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the Farm Credit System Insurance Corporation shall expend amounts from the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the plan.

"(ii) MAINTENANCE OF BOOK VALUE.—Assistance provided by the Corporation under this subparagraph shall be in amounts not to exceed that required to maintain book value per share of stockholders' equity at the same value reflected on the most recent audited financial statements of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas prior to or effective with the date of the merger.

"(iii) OTHER ASSISTANCE.—Until the expiration of 5 years from the effective date of a merger authorized by this subsection, or the final resolution of any litigation against the Federal Intermediate Credit Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection, whichever is later, the Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to the merger, or any successor to the association, to pay when due any obligation of principal or interest owed by the association or its successor to the resulting bank.

"(iv) TERMS AND CONDITIONS.—Assistance provided by the Corporation under this subparagraph shall be on such terms and conditions as the Corporation deems appropriate to facilitate the merger.

"(I) SAFETY AND SOUNDNESS.—

"(i) IN GENERAL.—Except as provided in clause (ii), if at any time prior to the completion of the merger required under this subsection the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is being operated in an unsafe or unsound manner (as determined in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)), the Farm Credit Administration, after consultation with the respective boards of directors of the affected banks and taking into consideration the purposes of this subsection, may require the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank, subject to such terms and conditions as the Farm Credit Administration may prescribe. The Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed under this subparagraph, including the provision of assistance as provided in section 5.61(a)(2)(A)(iii) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)(2)(A)(iii)), on such terms and conditions as the Corporation deems appropriate.

"(ii) ARBITRATED MERGER.—If at any time after the Farm Credit Administration issues an order under paragraph (1)(D), but prior to the completion of the merger required under this subsection, the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is being operated in an unsafe or unsound manner (as determined in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)), the Farm Credit Administration shall, after consultation with the boards of directors of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas, take such action as it deems necessary pursuant to the authorities provided under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) to return the operation of the Federal Intermediate Credit Bank of Jackson to a safe and sound condition, pending the completion of the merger under paragraph (2).

"(J) MERGER PLAN FOR AGRICULTURAL CREDIT ASSOCIATIONS.—In any of the States of Alabama, Louisiana, or Mississippi where all of the associations are chartered as agricultural credit associations, the boards of directors of each such association in each State are encouraged to submit to the farmer-borrowers of each such association for their approval a plan for merging the associations into one statewide agricultural credit association, in accordance with the applicable provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

"(K) DEFINITIONS.—As used in this paragraph:

"(i) AGRICULTURAL CREDIT ASSOCIATION.—The term 'agricultural credit association' means an association having the same authorities, attributes, and obligations as, and for all purposes an agricultural credit association resulting from the implementation of the plan under this paragraph shall be deemed to be, an association resulting from the merger of a production credit association and a Federal land bank association under section 7.8 of the Farm Credit Act of 1971 (12 U.S.C. 2279c–1).

"(ii) FARMER-BORROWER.—The term 'farmer-borrower' means a borrower from a Farm Credit System association in the State of Alabama, Louisiana, or Mississippi who holds voting stock, or is eligible to hold voting stock, in the association or a stockholder in any such association.

"(3) REVIEW.—

"(A) IN GENERAL.—Actions and determinations of the arbitrator, the Farm Credit Administration, or the Farm Credit System Insurance Corporation pursuant to this subsection shall not be subject to judicial review except as provided in this paragraph, nor shall they be subject to the requirements of subchapter II of chapter 5 or chapter 7 of title 5, United States Code.

"(B) AGENCY DETERMINATIONS.—

"(i) IN GENERAL.—Any petition for review of a determination or other action of the Farm Credit Administration or the Farm Credit System Insurance Corporation under this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit not later than 10 days after the determination, or the petition shall be barred. The court shall have exclusive jurisdiction to determine the proceeding in accordance with standard procedures as supplemented by procedures hereinafter provided and no other district court or court of appeals of the United States shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this subsection. The review of any determination or action of the Farm Credit Administration or the Farm Credit System Insurance Corporation under this subsection shall be based on the examination of all of the information before the Farm Credit Administration or the Farm Credit System Insurance Corporation, as the case may be, at the time the determination was made. The court reviewing the determination or action shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(ii) PROCEDURES.—Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding that set page limits on briefs and time limits for filing briefs and motions and other actions that are shorter than the limits specified in the Federal Rules of Civil or Appellate Procedure.

"(iii) EXPEDITED REVIEW.—Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge not later than 50 days from the date the challenge is brought unless the court determines that a longer period of time is required to satisfy the requirements of the Constitution.

"(C) ARBITRATOR DETERMINATIONS.—

"(i) IN GENERAL.—Except as otherwise provided in this paragraph, any petition for review of a determination or other action of the arbitrator named under paragraph (2) shall be filed in accordance with the United States Arbitration Act (9 U.S.C. 1 et seq.). Such Act shall apply to the arbitration conducted pursuant to paragraph (2) to the same extent as if the arbitration were established in a contract evidencing a transaction in commerce between the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas.

"(ii) PROCEDURES.—Notwithstanding the United States Arbitration Act (9 U.S.C. 1 et seq.), any petition for review of a determination or other action of the arbitrator under this subsection shall be filed not later than 10 days after the determination, or the petition shall be barred. The court specified under such Act shall have exclusive jurisdiction to determine the proceeding in accordance with the applicable procedures under such Act, as supplemented by procedures hereinafter provided, and no other district court shall have jurisdiction over any such challenge in any such proceeding. Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding that set page limits on briefs and time limits for filing briefs and motions and other actions that are shorter than the limits specified in the United States Arbitration Act or the Federal Rules of Civil or Appellate Procedure.

"(iii) EXPEDITED REVIEW.—Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge as soon as possible in accordance with the United States Arbitration Act (9 U.S.C. 1 et seq.), or not later than 30 days from the date the challenge is brought, whichever is sooner, unless the court determines that a longer period of time is required to satisfy the requirements of the Constitution.".

(b) LONG-TERM LENDING AUTHORITY OF THE FARM CREDIT BANK OF TEXAS WITH RESPECT TO THE STATES OF ALABAMA, LOUISIANA, AND MISSISSIPPI.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Farm Credit Bank of Texas may act in accordance with the exclusive charter of the bank, as amended by the Farm Credit Administration on February 7, 1989, and effective February 9, 1989 (except to the extent that the charter may be further amended by the Farm Credit Administration in accordance with its general authorities under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), subject to such limitations on the issuance of competitive charters as may be provided in section 5.17 of such Act (12 U.S.C. 2252)).

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such paragraph had become law on February 7, 1989.

(c) DENIAL OF COMPETITIVE CHARTERS.—Section 5.17(a)(2) (12 U.S.C. 2252(a)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following new subparagraphs:

"(B) The Farm Credit Administration shall not issue a charter to, or approve an amendment to the charter of, any institution of the Farm Credit System to operate under title I or II that would authorize the institution to exercise lending authority, whether directly or indirectly as an agent of a Farm Credit Bank, in a territory in which the charter of another such institution authorizes the other institution to exercise like authority, whether directly or indirectly as an agent of a Farm Credit Bank, except with the approval of—

"(i) in a case affecting only the charter of one or more associations—

"(I) a majority of the shareholders (present and voting or voting by proxy) of each of the associations that would have like lending authority (whether directly or indirectly as an agent of a Farm Credit Bank) in any of that territory if the charter action were taken; and

"(II) a majority of the board of directors of the Farm Credit Bank with which the affected associations are affiliated; or

"(ii) in a case affecting the charter of one or more banks—

"(I) a majority of the shareholders (present and voting or voting by proxy) of the affiliated associations of each of the banks that would have like lending authority in any of that territory if the charter action were taken;

"(II) a majority of the shareholders (present and voting or voting by proxy) of each of the banks that would have like lending authority in any of that territory if the charter action were taken; and

"(III) a majority vote of the boards of directors of each of the banks that would have like lending authority in any of that territory if the charter action were taken.

"(C) Subparagraph (B) shall apply only in those geographic areas where, due to the failure of a Federal intermediate credit bank to merge in accordance with section 410(a) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note), the Federal intermediate credit bank or its successor is chartered to provide short- and intermediate-term credit, and a neighboring Farm Credit Bank that is not the successor to the Federal intermediate credit bank is chartered to provide long-term credit, in the same geographic territory.".

TITLE V—MISCELLANEOUS

SEC. 501. VALUATION RESERVES OF PRODUCTION CREDIT ASSOCIATIONS.

Subsection (b) of section 2.3 (12 U.S.C. 2074(b)) is amended to read as follows:

"(b) Application of Earnings.—At the end of each fiscal year, each production credit association shall apply the amount of the earnings of the association for the fiscal year in excess of the operating expenses of the association (including provision for valuation reserves against loan assets in accordance with generally accepted accounting principles)—

"(1) first, to the restoration of the impairment (if any) of capital; and

"(2) second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.".

SEC. 502. RISK MANAGEMENT PARTICIPATION AUTHORITY.

Section 3.1(11) (12 U.S.C. 2122(11)) is amended—

(1) by inserting "(A)" after "(11)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) Participate in any loan of a type otherwise authorized under this title that is made to a similar entity by any institution in the business of extending credit, including purchases of participations in loans to finance international trade transactions involving the sale of agricultural commodities or the products thereof, except that—

"(I) a bank for cooperatives may not participate in a loan—

"(aa) if the participation would cause the total amount of all loan participations by the bank under this subparagraph involving a single credit risk to exceed 10 percent of the bank's total capital; or

"(bb) if the participation by the bank will itself equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by the other banks for cooperatives under this subparagraph, will cause the cumulative amount of the participations by all banks for cooperatives in the loan to equal or exceed 50 percent of the principal of the loan;

"(II) a bank for cooperatives may not participate in a loan to a similar entity under this subparagraph if the similar entity has a loan or loan commitment outstanding with a Farm Credit Bank or an association chartered under this Act, unless agreed to by the Bank or association; and

"(III) the cumulative amount of participations that a bank for cooperatives may have outstanding under this subparagraph at any time may not exceed 15 percent of the bank's total assets.

"(ii) As used in this subparagraph, the term 'similar entity' means an entity that, while not eligible for a loan under section 3.8, is functionally similar to an entity eligible for a loan under section 3.8 in that it derives a majority of its income from, or has a majority of its assets invested in, the conduct of activities functionally similar to those conducted by the entity.

"(iii) With respect to similar entities that are eligible to borrow from a Farm Credit Bank or association under title I or II, the authority of a bank for cooperatives to participate in loans to the entities under this subparagraph shall be subject to the prior approval of the Farm Credit Bank or Banks in whose chartered territory the entity is eligible to borrow. The approval may be granted on an annual basis and under such terms and conditions as may be agreed on between the bank for cooperatives and the Farm Credit Bank or Banks that serve the territory.".

SEC. 503. EQUITY VOTING FOR ONE DIRECTOR OF EACH BANK FOR COOPERATIVES.

Section 3.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2123(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) If approved by the stockholders through a bylaw amendment, the nomination and election of one member from a bank for cooperatives (other than the National Bank for Cooperatives) shall be carried out with each voting stockholder of a bank for cooperatives having one vote, plus a number of votes (or fractional part thereof) equal to—

"(i) the number of stockholders eligible to vote; multiplied by

"(ii) the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the bank of all stockholders held by the individual voting stockholder at the close of the immediately preceding fiscal year of the bank.

"(B) The total number of votes under this paragraph shall be the number of voting stockholders of a bank for cooperatives multiplied by two.".

SEC. 504. TECHNICAL AMENDMENT.

The first sentence of section 3.7(a) (12 U.S.C. 2128(a)) is amended by inserting "at any time (whether or not they have a loan from the bank outstanding)" after "technical and financial assistance".

SEC. 505. EXPANSION OF WATER AND SEWER LENDING AUTHORITY OF BANKS FOR COOPERATIVES.

Section 3.7(f) (12 U.S.C. 2128(f)) is amended—

(1) by striking "the installation, expansion, or improvement of" and inserting "installing, maintaining, expanding, improving, or operating"; and

(2) by striking "to extend" and inserting "extending".

SEC. 506. ELIGIBILITY TO BORROW FROM A BANK FOR COOPERATIVES.

Section 3.8(b)(1) (12 U.S.C. 2129(b)(1)) is amended by adding at the end the following new subparagraph:

"(E) Any creditworthy private entity that satisfies the requirements for a service cooperative under paragraphs (1), (2), and (4) of subsection (a) and subsidiaries of the entity, if the entity is organized to benefit agriculture in furtherance of the welfare of its farmer-members and is operated on a not-for-profit basis.".

SEC. 507. NON-VOTING REPRESENTATIVE ON BOARD OF FUNDING CORPORATION.

Paragraph (2) of section 4.9(d) (12 U.S.C. 2160(d)(2)) is amended to read as follows:

"(2) Non-voting representatives.—

"(A) Assistance board.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a non-voting representative to the board of directors of the Corporation.

"(B) Meetings.—The person designated by the Assistance Board under subparagraph (A) may attend and participate in all deliberations of the board of directors of the Corporation.

"(C) Termination of assistance board.—After termination of the Assistance Board, neither the Assistance Board nor its successor, the Farm Credit System Insurance Corporation, shall have any representation on the board of directors of the Corporation.".

SEC. 508. REPEAL OF PROHIBITION AGAINST GUARANTEE OF CERTAIN INSTRUMENTS OF INDEBTEDNESS.

Section 4.16 (12 U.S.C. 2204) is repealed.

SEC. 509. COMPENSATION OF BANK DIRECTORS.

Section 4.21 (12 U.S.C. 2209) is amended to read as follows:

"SEC. 4.21. COMPENSATION OF BANK DIRECTORS.

"(a) In General.—The Farm Credit Administration shall monitor the compensation of members of the board of directors of a System bank received as compensation for serving as a director of the bank to ensure that the amount of the compensation does not exceed a level of $20,000 per year, as adjusted to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, unless the Farm Credit Administration determines that such level adversely affects the safety and soundness of the bank.

"(b) Waiver.—The Farm Credit Administration may waive the limitation prescribed in subsection (a) under exceptional circumstances, as determined in accordance with regulations promulgated by the Farm Credit Administration.".

SEC. 510. CLARIFICATION OF TREATMENT OF FARM CREDIT ADMINISTRATION OPERATING EXPENSES.

Section 5.15(b)(1) (12 U.S.C. 2250(b)(1)) is amended—

(1) by inserting ", for purposes of sequestration," after "regard"; and

(2) by striking "or any other law".

SEC. 511. APPROVAL OF COMPETITIVE CHARTERS.

Section 5.17(a) (12 U.S.C. 2252(a)) is amended by adding at the end the following new paragraphs:

"(13)(A) Subject to subparagraph (B), the Farm Credit Administration may approve an amendment to the charter of any institution of the Farm Credit System operating under title I or II, which would authorize the institution to exercise lending authority in any territory—

"(i) in the geographic area served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association's territory as of the date of the reassignment); and

"(ii) in which the charter of an institution that is not seeking the charter amendment authorizes the institution to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter amendment under subparagraph (A) only on the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority of the stockholders of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

"(14)(A) Subject to subparagraph (B), the Farm Credit Administration may approve a request to charter an association of the Farm Credit System to operate under title II where the proposed charter—

"(i) will include any of the geographic area included in the territory served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association's territory as of the date of the reassignment); and

"(ii) will authorize the association to exercise lending authority in any territory in the geographic area in which the charter of an association that is not requesting the charter authorizes the association to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter request under subparagraph (A) only on the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder's meeting; and

"(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).".

SEC. 512. EXAMINATIONS.

The third sentence of section 5.19(a) (12 U.S.C. 2254(a)) is amended by striking "shall include" and inserting "may include, if appropriate".

SEC. 513. AUTHORITY TO EXAMINE SYSTEM INSTITUTIONS.

(a) AUTHORITY OF FARM CREDIT SYSTEM INSURANCE CORPORATION.—Section 5.59 (12 U.S.C. 2277a–8) is amended—

(1) in the section heading, by striking "**insured system banks**" and inserting "**system institutions**"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) EXAMINATION OF SYSTEM INSTITUTIONS.—

"(1) EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—If the Board of Directors considers it necessary to examine an insured System bank, a production credit association, an association making direct loans under the authority provided under section 7.6, or any System institution in receivership, the Board may, using Farm Credit Administration examiners, conduct the examination using reports and other information on the System institution prepared or held by the Farm Credit Administration.

"(B) REQUEST FOR ADDITIONAL EXAMINATION OR OTHER INFORMATION.—If the Board determines that such reports or information are not adequate to enable the Corporation to carry out the duties of the Corporation under this subsection, the Board shall request the Farm Credit Administration to examine or to obtain other information from or about the System institution and provide to the Corporation the resulting examination report or such other information.

"(2) APPOINTMENT OF EXAMINERS.—If the Farm Credit Administration informs the Corporation that the Farm Credit Administration is unable to comply with a request made under paragraph (1)(B) with respect to a System institution, the Board may appoint examiners to examine the institution.

"(3) POWERS AND REPORT.—Each examiner appointed under paragraph (2) shall make such examination of the affairs of the System institution as the Board may direct, and shall make a full and detailed report of the examination to the Corporation.

"(4) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors of the Corporation shall appoint claim agents who may investigate and examine all claims for insured obligations.".

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—Section 5.19 (12 U.S.C. 2254) is amended by adding at the end the following new subsection:

"(d) On receipt of a request made under section 5.59(b)(1)(B) with respect to a System institution, the Farm Credit Administration shall—

"(1) furnish for the confidential use of the Farm Credit System Insurance Corporation reports of examination of the institution and other reports or information on the institution; and

"(2)(A) examine, or obtain other information on, the institution and furnish for the confidential use of the Farm Credit System Insurance Corporation the report of the examination and such other information; or

"(B) if the Farm Credit Administration Board determines that compliance with the request would substantially impair the ability of the Farm Credit Administration to carry out the other duties and responsibilities of the Farm Credit Administration under this Act, notify the Board of Directors of the Farm Credit System Insurance Corporation that the Farm Credit Administration will be unable to comply with the request.".

SEC. 514. FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST REPORTING BY DIRECTORS, OFFICERS, AND EMPLOYEES OF FARM CREDIT SYSTEM INSTITUTIONS.

(a) FINDINGS.—Congress finds that—

(1) the disclosure of the compensation paid to, loans made to, and transactions made with a Farm Credit System institution by, directors and senior officers of the institution provides the stockholders of the institutions with information necessary to better manage the institutions, provides the Farm Credit Administration with information necessary to efficiently and effectively regulate the institutions, and enhances the financial integrity of the Farm Credit System by making the information available to potential investors;

(2) the reporting of potential conflicts of interest by directors, officers, and employees of institutions of the Farm Credit System benefits the stockholders of the institutions, helps to ensure the financial viability of the institutions, provides information valuable to the Farm Credit Administration in periodic examinations of the institutions, and therefore enhances the safety and soundness of the Farm Credit System; and

(3) the directors, officers, or employees of some Farm Credit System institutions may not be subject to the regulations of the Farm Credit Administration requiring the disclosure of the financial information and the reporting of the potential conflicts of interest.

(b) PURPOSE.—It is the purpose of this section to ensure that the information reported by the directors, officers, and employees of Farm Credit System institutions under regulations of the Farm Credit Administration requiring the disclosure of financial information and the reporting of potential conflicts of interest—

(1) provides the stockholders of all Farm Credit System institutions with information to assist the stockholders in making informed decisions regarding the operation of the institutions;

(2) provides investors and potential investors with information necessary to assist them in making investment decisions regarding Farm Credit System obligations or institutions; and

(3) provides the Farm Credit Administration with information necessary to allow the Farm Credit Administration to effectively and efficiently examine and regulate all Farm Credit System institutions and thus enhance the safety and soundness of the Farm Credit System.

(c) REVIEW.—Not later than 120 days after the date of enactment of this Act, the Farm Credit Administration shall complete a review of the current regulations of the Farm Credit Administration regarding the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of Farm Credit System institutions. Consistent with the purpose of this section as provided in subsection (b), the review shall address whether the regulations—

(1) are adequate to fulfill the purpose of this section and such other purposes as the Farm Credit Administration determines to be consistent with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and other applicable law, and to be otherwise necessary or appropriate;

(2) currently require the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of all Farm Credit System institutions; and

(3) currently require the disclosure or reporting of the information by all of the appropriate directors, officers, or employees of Farm Credit System institutions.

(d) IMPLEMENTATION.—Not later than 360 days after the date of enactment of this Act, the Farm Credit Administration shall amend its current financial disclosure and conflict of interest regulations as the Administration determines necessary to carry out the purpose of this section and to address any deficiencies in the regulations that the Farm Credit Administration determines necessary pursuant to the review conducted under subsection (c).

SEC. 515. ONE-TIME EFAP ASSISTANCE.

(a) Use of Account.—The Secretary of Agriculture shall use the account in which funds appropriated under section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) are credited or deposited, or another account established for the use of the Secretary of Agriculture, for the purpose of purchasing, processing and distributing additional commodities for the emergency food assistance program established under such Act (7 U.S.C. 612c note) as required by this section.

(b) Use of Receipts.—

(1) In general.—Not later than 10 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(A) calculate the estimated present value of the future receipts available to the Federal Government, under procedures or definitions established in the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), as a result of enactment of this Act and the amendments made by this Act; and

(B) advise the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the dollar amount of that value.

(2) Credit.—Not later than 20 days after the date of enactment of this Act, an amount equal to the dollar amount of that value shall be credited to, or deposited in, the account referred to in subsection (a) by the Secretary of the Treasury.

(c) Required Purchase of Commodities by the Secretary of Agriculture.—

(1) In general.—The Secretary of Agriculture shall—

(A) use all of the funds provided to the Secretary under subsection (a) to purchase, process, and distribute additional commodities for the emergency food assistance program; and

(B) allot the additional commodities to States in accordance with the application of the allocation formula established in section 214(f) of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) to the total value of the additional commodities.

(2) Types and varieties.—The additional commodities shall be of the types and varieties required under section 214(d) of such Act.

(3) Reallocation.—The additional commodities may be reallocated under procedures established by the Secretary of Agriculture in accordance with section 214(g) of such Act.

(d) Entitlement to Receive Commodities.—Each State shall be entitled to receive during fiscal year 1993 its allotment of the additional commodities purchased by the Secretary of Agriculture under this section.

(e) Termination of Authority.—The authority provided to carry out this section shall terminate on September 30, 1993.

SEC. 516. TECHNICAL CORRECTIONS.

(a) Correction of Reference to Section 1236 of the Food Security Act of 1985.—The matter under the heading "construction and anadromous fish" of title I of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512; 104 Stat. 1918) is amended by striking "title 16 U.S.C. section 3832(a)(6)" and inserting "section 1232(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(6))".

(b) Section 1245(b) of the Food Security Act of 1985.—

(1) Correction.—Section 1245(b) of the Food Security Act of 1985 (16 U.S.C. 3845(b)) is amended by striking "(A) through (G)" and inserting "A through G".

(2) Effective date.—The amendment made by paragraph (1) shall take effect immediately after section 1443 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3602) took effect.

(c) Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act.—

(1) Correction.—Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii), and by redesignating clauses (iii) through (viii) as clauses (ii) through (vii), respectively.

(2) Effective date.—The amendments made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1865) took effect.

(d) Section 310B(c) of the Consolidated Farm and Rural Development Act.—Section 310B(c) (7 U.S.C. 1932(c)) is amended by striking "business enterprises," and inserting "business enterprises or the creation, expansion, and operation of rural distance learning networks or rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancement to adult students,".

(e) Section 310D(a) of the Consolidated Farm and Rural Development Act.—

(1) Correction.—Section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking "304(d)(1)" and inserting "304(a)(1)".

(2) Effective date.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1865) took effect.

(f) Section 312(a) of the Consolidated Farm and Rural Development Act.—

(1) Replacement of unexecutable amendment made by the food, agriculture, conservation, and trade act of 1990.—

(A) Correction.—Subsection (b) of section 1818 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3830) is amended to read as follows:

"(b) Operating Loan Purposes.—The first sentence of section 312(a) (7 U.S.C. 1942(a)) is amended—

"(1) by striking 'and' at the end of clause (11); and

"(2) by inserting ', and (13) borrower training under section 359' before the period at the end.".

(B) Effective date.—The amendment made by subparagraph (A) shall take effect as if included in the Food, Agriculture, Conservation, and Trade Act of 1990 at the time such Act became law.

(2) Repeal of unexecutable amendment made by the food, agriculture, conservation, and trade act amendments of 1991.—Subsection (b) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1866) is repealed. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) shall be applied and administered as if such subsection had never become law.

(g) Amendments to Section 331E of the Consolidated Farm and Rural Development Act.—

(1) Correction.—Section 331E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981e) is amended—

(A) in subsection (a), by striking "Disaster Relief Act of 1974" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(B) in subsection (b), by inserting "Robert T. Stafford" before "Disaster Relief".

(2) Effective date.—The amendments made by paragraph (1) of this subsection shall take effect immediately after section 501(d) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1866) took effect.

(h) Section 335(e)(1)(A)(i) of the Consolidated Farm and Rural Development Act.—

(1) Corrections to amendment made by the food, agriculture, conservation, and trade act amendments of 1991.—Section 501(f)(1) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1867) is amended—

(A) by inserting "the first place such term appears" before "and all that follows"; and

(B) by striking "borrower-owner (as defined in subparagraph (F)" and inserting "the borrower-owner (as defined in subparagraph (F))".

(2) Effective date.—The amendments made by paragraph (1) of this subsection shall take effect immediately after section 501(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 took effect.

(i) Section 352(a) of the Consolidated Farm and Rural Development Act.—Section 352(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(a)) is amended by redesignating the second paragraph (4) as paragraph (5).

(j) Section 352(b)(2) of the Consolidated Farm and Rural Development Act.—

(1) Correction.—Section 352(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(b)(2)) is amended by striking "borrower's" and inserting "borrower-owner's".

(2) Effective date.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by section 501(f) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1867) took effect.

(k) Section 702(h)(2) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991.—Section 702(h)(2) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1881) is amended by inserting "section" before "2388(h)(3)".

(l) Section 306C(b)(1) of the Consolidated Farm and Rural Development Act.—Section 306C(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c(b)(1)) is amended by striking "or connecting such systems to the residences of such individuals" and inserting ", connecting the systems to the residences of the individuals, or installing plumbing and fixtures within the residences of the individuals to facilitate the use of the water supply and waste disposal systems".

(m) Section 306C of the Consolidated Farm and Rural Development Act.—Section 306C of the Consolidated Farm and

Rural Development Act (7 U.S.C. 1926c) is amended by adding at the end the following new subsection:

"(f) REGULATIONS.—Not later than 30 days after the date of enactment of this subsection, the Secretary shall issue interim final regulations, with a request for public comments, implementing this section.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR PERMISSION TO CONSIDER CERTAIN BILLS EN BLOC

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of H.R. 6129, H.R. 6128, H.R. 6127, and H.R. 6124, and that they may be considered en bloc.

The SPEAKER pro tempore. The Chair would insist that the gentleman do them one at a time.

□ 1950

AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 6129) to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. RAY). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Credit Improvement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Consolidated Farm and Rural Development Act.
Sec. 3. Limitation on aggregate indebtedness.
Sec. 4. Interest rate for loans sold into secondary market; guaranteed loan fees.
Sec. 5. Federal-State beginning farmer partnership.
Sec. 6. Grants for private business enterprises.
Sec. 7. Down payment loan program.
Sec. 8. Special assistance to certain qualified beginning farmers and ranchers.
Sec. 9. Graduation of borrowers with operating loans or guarantees to private commercial credit.
Sec. 10. Consideration of borrowers for loan service programs.
Sec. 11. Time period within which county committee is required to meet to consider applications for farm ownership and operating loans and guarantees and beginning farmer plans.
Sec. 12. Increase in period during which county committee loan eligibility certification continues in effect.
Sec. 13. Processing of applications for farm operating loans.
Sec. 14. Graduation of seasoned direct loan borrowers to the loan guarantee program.
Sec. 15. Simplified application for guaranteed loans of $50,000 or less.
Sec. 16. Inventory lease or lease with option to purchase.
Sec. 17. Transfer of Indian lands pledged as collateral for FmHA loans.
Sec. 18. Debt service margin requirements; certified lenders program.
Sec. 19. Definition of qualified beginning farmer or rancher.
Sec. 20. Targeting of funds.
Sec. 21. Equal access to FmHA assistance by gender.
Sec. 22. State mediation programs.
Sec. 23. Regulations.
Sec. 24. Technical amendment.

SEC. 2. REFERENCES TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except to the extent otherwise specifically provided.

SEC. 3. LIMITATION ON AGGREGATE INDEBTEDNESS.

Section 305 (7 U.S.C. 1925) is amended by striking "and 310D of this title" and inserting "310D, and 310E".

SEC. 4. INTEREST RATE FOR LOANS SOLD INTO SECONDARY MARKET; GUARANTEED LOAN FEES.

Section 309(h) (7 U.S.C. 1929(h)) is amended—

(1) in inserting "(1)" after "(h)"; and

(2) by adding at the end the following new paragraphs:

"(2) The interest rate payable by a borrower on the portion of a guaranteed loan that is sold by a lender to the secondary market under this title may be lower than the interest rate charged on the portion retained by the lender, but shall not exceed the average interest rate charged by the lender on loans made to farm and ranch borrowers.

"(3) With regard to any loan guarantee on a loan made by a commercial or cooperative lender related to a loan made by the Secretary under section 310E—

"(A) the Secretary shall not charge a fee to any person (including a lender); and

"(B) a lender may charge a loan origination and servicing fee in an amount not to exceed 1 percent of the amount of the loan.".

SEC. 5. FEDERAL-STATE BEGINNING FARMER PARTNERSHIP.

(a) COORDINATION OF ASSISTANCE FOR QUALIFIED BEGINNING FARMERS AND RANCHERS.—Section 309 (7 U.S.C. 1929) is amended by adding at the end the following new subsection:

"(i)(1) Not later than 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to qualified beginning farmers and ranchers in the State, the Secretary and the State shall conclude a joint memorandum of understanding that shall govern the coordination of the provision of the financial assistance by the State and the Secretary.

"(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide a qualified beginning farmer or rancher with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds provide the farmer or rancher with a down payment loan under section 310E or a guarantee of the financing provided by the State program, or both.

"(3) The Secretary shall not charge any person (including a lender) any fee with respect to the provision of any guarantee under this subsection.

"(4) The Secretary shall notify each State of the provisions of this subsection.

"(5) As used in paragraph (1), the term 'State beginning farmer program' means any program that is—

"(A) carried out by, or under contract with, a State; and

"(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.".

(b) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT; PURPOSE.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall establish an advisory committee, to be known as the "Advisory Committee on Beginning Farmers and Ranchers", which shall provide advice to the Secretary on—

(A) the development of the program of coordinated assistance to qualified beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section);

(B) methods of maximizing the number of new farming and ranching opportunities created through the program;

(C) methods of encouraging States to participate in the program;

(D) the administration of the program; and

(E) other methods of creating new farming or ranching opportunities.

(2) MEMBERSHIP.—The Secretary shall appoint the members of the Advisory Committee. The Advisory Committee shall include representatives from the following:

(A) The Farmers Home Administration.

(B) State beginning farmer programs (as defined in section 309(i)(5) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section)).

(C) Commercial lenders.

(D) Private nonprofit organizations with active beginning farmer or rancher programs.

(E) The Cooperative Extension Service.

(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

(G) Other entities or persons providing lending or technical assistance for qualified beginning farmers or ranchers.

SEC. 6. GRANTS FOR PRIVATE BUSINESS ENTERPRISES.

Section 310B(c) (7 U.S.C. 1932(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may make grants to qualified nonprofit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. Assistance provided under this paragraph may include on-site technical assistance to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas, the development of training materials, and the provision of necessary training assistance to local officials and agencies in rural areas.".

SEC. 7. DOWN PAYMENT LOAN PROGRAM.

(a) IN GENERAL.—Subtitle A (7 U.S.C. 1922 et seq.) is amended by adding at the end the following new section:

"SEC. 310E. DOWN PAYMENT LOAN PROGRAM.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—Notwithstanding any other section of this subtitle, the Secretary shall establish, within the farm ownership loan program established under this subtitle, a program under which loans shall be made under this section to qualified beginning farmers and ranchers for down payments on farm ownership loans.

"(2) ADMINISTRATION.—The Secretary shall be the primary coordinator of credit supervision for the down payment loan program established under this section, in consultation with the commercial or cooperative lender and, if applicable, the contracting credit counseling service selected under section 360(c).

"(b) LOAN TERMS.—

"(1) PRINCIPAL.—Each loan made under this section shall be in an amount equal to 30 percent of the purchase price or appraisal value, whichever is lower, of the farm or ranch to be acquired, unless the borrower requests a lesser amount.

"(2) INTEREST RATE.—The interest rate on any loan made by the Secretary under this section shall be 4 percent.

"(3) DURATION.—Each loan under this section shall be made for a period of 10 years or less, at the option of the borrower.

"(4) REPAYMENT.—Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

"(5) NATURE OF RETAINED SECURITY INTEREST.—The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section that shall—

"(A) be secured by the farm or ranch;

"(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person (including a lender) from whom the borrower obtained a loan used to acquire the farm or ranch; and

"(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

"(c) LIMITATIONS.—

"(1) BORROWERS REQUIRED TO MAKE MINIMUM DOWN PAYMENT.—The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 10 percent of the purchase price of the farm or ranch.

"(2) MAXIMUM PRICE OF PROPERTY TO BE ACQUIRED.—The Secretary shall not make a loan under this section with respect to a farm or ranch for which the purchase price or appraisal value, whichever is lower, exceeds $250,000.

"(3) PROHIBITED TYPES OF FINANCING.—The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with other financing that contains any of the following conditions:

"(A) The financing is to be amortized over a period of less than 30 years.

"(B) A balloon payment will be due on the financing during the 10-year period beginning on the date the loan is to be made by the Secretary.

"(d) ADMINISTRATION.—In carrying out this section, the Secretary shall, to the maximum extent practicable—

"(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subtitle;

"(2) make efforts to widely publicize the availability of loans under this section among—

"(A) potentially eligible recipients of the loans;

"(B) retiring farmers and ranchers; and

"(C) applicants for farm ownership loans under this subtitle;

"(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to qualified beginning farmers and ranchers by providing seller financing; and

"(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers and ranchers.".

(b) AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.—Subtitle A (7 U.S.C. 1922 et seq.) (as amended by subsection (a) of this section) is further amended by adding at the end the following new section:

"SEC. 310F. AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN QUALIFIED BEGINNING FARMERS AND RANCHERS.

"(a) ASSISTANCE PROHIBITED FOR A LIMITED PERIOD.—Except as otherwise provided in this section, if the Secretary approves the application of a qualified beginning farmer or rancher (referred to in this section as the 'applicant') for assistance under section 318, the Secretary shall not make a loan under this subtitle to the applicant or provide a guarantee under section 309(h) with respect to any farm real estate loan made to the applicant.

"(b) AVAILABILITY OF DOWN PAYMENT LOANS.—After the applicable period, the Secretary may make an insured loan under this subtitle, or a down payment loan under section 310E, to an applicant if—

"(1) throughout the applicable period, the applicant conducted an operation for which assistance is provided under section 318 in accordance with the plan for special assistance; and

"(2) the applicant is otherwise eligible for the loan.

"(c) AVAILABILITY OF LOAN GUARANTEES.—After the applicable period, the Secretary may guarantee under section 309(h) the repayment of a commercial or cooperative loan made to an applicant referred to in subsection (a) if—

"(1) throughout the applicable period, the applicant conducted the operation for which assistance is provided under section 318 in accordance with the plan for special assistance; and

"(2) the applicant is otherwise eligible for the loan guarantee.

"(d) APPLICABLE PERIOD DEFINED.—As used in this section, the term 'applicable period' means the first 5 years for which an applicant has operated a farm or ranch, including the period of time the applicant is provided assistance under section 318.".

SEC. 8. SPECIAL ASSISTANCE TO CERTAIN QUALIFIED BEGINNING FARMERS AND RANCHERS.

Subtitle B (7 U.S.C. 1941 et seq.) is amended by adding at the end the following new section:

"SEC. 318. SPECIAL ASSISTANCE TO CERTAIN QUALIFIED BEGINNING FARMERS AND RANCHERS.

"(a) IN GENERAL.—The Secretary shall provide special assistance in accordance with this section to enable a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years (referred to in this section as the 'applicant'), to conduct viable farming or ranching operations.

"(b) SUBMISSION OF PLAN OF FARM OPERATION.—An applicant who desires to apply for special assistance under this section shall submit a plan, in coordination with activities conducted under sections 359, 360, 361, and 362, that—

"(1) describes, for each of the first 5 years for which assistance under this section is sought for the operation—

"(A) how the operation is to be conducted;

"(B) the types and quantities of commodities to be produced by the operation;

"(C) the production methods and practices to be employed by the operation;

"(D) the conservation measures to be taken in the operation;

"(E) the equipment needed to conduct the operation (including any expected replacements for the equipment) and, with respect to each item of needed equipment, whether the applicant owns, leases, or otherwise has access to the item, or proposes to purchase, lease, or otherwise gain access to the item;

"(F) the expected income and expenses of the operation;

"(G) the expected credit needs of the operation, including the types and amounts of assistance to be sought under this section; and

"(H) the site or sites at which the operation is (or is to be) located; and

"(2) projects the financial status of the operation after assistance under this section has been provided for a period of not more than 10 years, consistent with section 319, as is necessary for the operation to become financially viable without further assistance from the Secretary, including specific goals that the applicant projects to meet in order to progress toward graduation as expeditiously as possible.

"(c) DETERMINATIONS BY THE COUNTY COMMITTEE; APPROVAL OF PLAN.—The county committee shall approve a plan submitted by an applicant in accordance with subsection (b) if the county committee determines that—

"(1) the applicant has not operated a farm or ranch, or has operated a farm or ranch for not more than 5 years;

"(2) during the 5-year period ending with the submission of the plan, the applicant has had sufficient education and experience to indicate that the applicant is able to conduct a successful farming or ranching operation, as the case may be;

"(3) the applicant owns, leases, or has a commitment to have leased to the applicant the site or sites of the operation;

"(4) there is, or will be, available to the applicant equipment sufficient to conduct the operation in accordance with the plan;

"(5) the applicant agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require; and

"(6) the applicant is otherwise eligible for assistance under this title.

"(d) DETERMINATION BY THE SECRETARY; APPROVAL OF APPLICATION FOR ASSISTANCE.—

The Secretary shall approve an application for assistance under this section for an operation described in a plan approved by a county committee under this section if the Secretary determines that—

"(1) the operation would generate income sufficient to cover the expenses of the operation, debt service, and adequate living expenses of the applicant, to the extent that other income would not cover the living expenses, if the operation received assistance under this section as provided for in the plan; and

"(2) during the commitment period established in accordance with subsection (e)(1), the operation will be financially viable without further assistance from the Secretary and the identified goals are reasonable and practicable.

"(e) PROVISION OF ASSISTANCE.—

"(1) DETERMINATION OF COMMITMENT PERIOD.—

"(A) INITIAL DETERMINATION.—In approving an application under subsection (d), the Secretary shall, subject to subparagraph (C), determine the period during which assistance under this section is to be provided for the operation described in the application (referred to in this subsection as the 'commitment period').

"(B) AUTHORITY TO EXTEND PERIOD; NO AUTHORITY TO REDUCE PERIOD.—At any time, the Secretary may, subject to subparagraph (C) and subsections (f) and (g), extend the duration of the commitment period. The Secretary shall not reduce the duration of the commitment period.

"(C) LIMITATIONS.—

"(i) IN GENERAL.—The duration of any commitment period (including any extensions of the period) shall not exceed 10 years and shall be consistent with section 319.

"(ii) ELIGIBILITY FOR INSURED OPERATING LOANS.—During the commitment period, an applicant shall not be eligible to receive an insured operating loan under this section after the date that is 8 years after the date on which the applicant first receives assistance under this section.

"(2) OPERATING LOANS; LOAN GUARANTEES.—

"(A) IN GENERAL.—To the extent that an applicant whose application is approved under subsection (d) is unable to obtain sufficient credit from commercial or cooperative lenders to finance the operation described in the application at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is (or is to be) located, for loans for similar purposes and periods of time), the Secretary shall, subject to the availability of funds and to subsections (f) and (g) and consistent with sections 360 and 362, make a conditional commitment to the applicant for each of the years of the commitment period—

"(i) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest;

"(ii)(I) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest and an interest subsidy payment in the amount necessary to ensure that the applicant qualifies for such a loan but not more than the amount of interest assistance allowed by section 351; or

"(II) if during any of the first 4 years for which assistance is provided under this section the Secretary determines that the applicant will not qualify for a loan described in subclause (I), an interest subsidy payment sufficient to ensure that the effective rate of interest payable by the applicant on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans made under this subtitle that are of comparable size and maturity; or

"(iii) to make an insured loan under this subtitle to the applicant, in the amount specified in the plan contained in the application, at an interest rate that is no higher than the interest rate charged to regular borrowers and no lower than the interest rate charged to low income, limited resource borrowers under this subtitle.

"(3) LOANS OR GUARANTEES FOR NEW OR IMPROVED EQUIPMENT.—The Secretary shall make a commitment to any applicant whose application is approved under subsection (d) to provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance the acquisition, improvement, or repair of equipment needed in the operation described in the application if the plan contained in the application provides for the commitment, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purposes at reasonable rates and terms (taking into consideration prevailing private and cooperative rates and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

"(4) PRIORITY IN PURCHASE OF INVENTORY EQUIPMENT; LOANS OR GUARANTEES FOR THE PURCHASES IN CERTAIN CASES.—During the commitment period, the Secretary shall—

"(A) accord the applicant whose application is approved under subsection (d) priority for the purchase of equipment in the inventory of the Farmers Home Administration necessary for the success of the operation described in the application; and

"(B) provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance the purchases if the plan contained in the application provides for the assistance, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purpose at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

"(5) OTHER KINDS OF ASSISTANCE.—During the commitment period, the Farmers Home Administration, the Extension Service, the Soil Conservation Service, and the other entities of the Department of Agriculture shall provide the applicant with such other assistance and information as may be needed in developing and implementing the operation described in the application.

"(6) FEES.—

"(A) SECRETARY.—The Secretary shall not charge a fee to any person (including a lender) in connection with any loan guarantee provided in accordance with this section.

"(B) LENDER.—A lender may charge a loan origination and servicing fee in connection with a loan or loan guarantee provided in accordance with this section in an amount not to exceed 1 percent of the amount of the loan.

"(f) ANNUAL PLAN REVISIONS REQUIRED AS CONDITION OF CONTINUED ASSISTANCE.—The Secretary shall not provide assistance under this section for an operation for any particular year after the first year for which the assistance is provided, unless—

"(1) not later than 60 days before the assistance is to be first provided for the particular year, the plan describing the operation has been revised, pursuant to section 360, based on the experience of the year preceding the particular year, to provide the information required by subsection (b) for the 5-year period beginning with the particular year (or, if shorter, the period beginning with the particular year and ending with the year in which the plan projects the operation as becoming financially viable); and

"(2) the Secretary has approved the revised plan.

"(g) EFFECTS OF AVOIDABLE FAILURE TO ACHIEVE GOALS.—

"(1) TERMINATION OF COMMITMENTS.—The Secretary shall revoke commitment for assistance made to an applicant under this section if the operation of the applicant fails, for 2 consecutive years, to meet the goals specified in the plan, unless the failure has not materially reduced the likelihood of the operation becoming financially viable and is due to circumstances beyond the control of the applicant.

"(2) SUSPENSION OF ELIGIBILITY FOR ASSISTANCE.—During the 3-year period that begins with the date a commitment made to an applicant is revoked under paragraph (1), the applicant shall not be eligible for assistance under this section.".

SEC. 9. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.

Subtitle B (7 U.S.C. 1941 et seq.) (as amended by section 8 of this Act) is further amended by adding at the end the following new section:

"SEC. 319. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.

"(a) GRADUATION PLAN.—The Secretary shall establish a plan, in coordination with activities under sections 359, 360, 361, and 362, to encourage each borrower with an outstanding loan under this subtitle or with respect to whom there is an outstanding guarantee under this subtitle to graduate to private commercial or other sources of credit.

"(b) LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR ASSISTANCE UNDER THIS SUBTITLE.—Notwithstanding any other provision of this subtitle:

"(1) GENERAL RULE.—Except as provided in paragraph (2), the Secretary shall not—

"(A) make a loan to a borrower under this subtitle for any year after the 10th year for which such a loan is made to the borrower; or

"(B) guarantee for any year a loan made to a borrower for a purpose specified in this subtitle, after the 15th year for which loans under this subtitle are made to, or such a guarantee is provided with respect to, the borrower.

"(2) TRANSITION RULE.—If, as of the date of enactment of this section, the Secretary has made a loan to a borrower under this subtitle for 5 or more years, or has provided a guarantee for 10 or more years with respect to one or more loans made to the borrower for a purpose specified in this subtitle, the Secretary shall not make a loan to the borrower under this subtitle, or provide such a guarantee with respect to a loan made to the borrower for a purpose specified in this subtitle, after the 5th year occurring after the date of enactment for which a loan is made under this subtitle to, or such a guarantee is provided with respect to, the borrower.".

SEC. 10. CONSIDERATION OF BORROWERS FOR LOAN SERVICE PROGRAMS.

The first sentence of section 331D(e) (7 U.S.C. 1981d(e)) is amended by inserting after "not later than 60 days after receipt of the notice required in this section" the following: "or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period".

SEC. 11. TIME PERIOD WITHIN WHICH COUNTY COMMITTEE IS REQUIRED TO MEET TO CONSIDER APPLICATIONS FOR FARM OWNERSHIP AND OPERATING LOANS AND GUARANTEES AND BEGINNING FARMER PLANS.

Section 332 (7 U.S.C. 1982) is amended—

(1) in subsection (c), by striking "The committee" and inserting "Subject to subsection (e), the committee"; and

(2) by adding at the end the following new subsection:

"(e) The county committee shall meet to consider approval of an application received by the committee for a loan under this title, a guarantee under section 309(h), or a plan of farm operation under section 318, not later than—

"(1) 5 days after receipt of the application if at the time of the receipt there is at least one other such application or plan pending; or

"(2) 15 days after receipt of the application if at the time of the receipt there are no other such applications or plans pending.".

SEC. 12. INCREASE IN PERIOD DURING WHICH COUNTY COMMITTEE LOAN ELIGIBILITY CERTIFICATION CONTINUES IN EFFECT.

Section 333(2)(A)(iii) (7 U.S.C. 1983(2)(A)(iii)) is amended by striking "2 years" and inserting "5 years".

SEC. 13. PROCESSING OF APPLICATIONS FOR FARM OPERATING LOANS.

Section 333A(a)(2) (7 U.S.C. 1983a(a)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by inserting "(other than under subtitle B)" after "under this title"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Not later than 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subtitle B, the Secretary shall notify the applicant of any information required before a decision may be made on the application. On receipt of an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

"(ii) Not later than 15 calendar days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Secretary with the requested information.

"(iii) If, not later than 20 calendar days after the date a request is made pursuant to clause (i) with respect to an application, the Secretary has not received the information requested, the Secretary shall notify the applicant and the district office of the Farmers Home Administration, in writing, of the outstanding information.

"(iv) A county office shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 days after receipt, and the reasons the application is pending.

"(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application not later than 15 days after the date of the receipt of the notice.

"(vi) The district office shall report to the State office of the Farmers Home Administration on each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 days after receipt by the county committee, and the reasons the application is pending.

"(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subtitle B on which final action had not been taken within 60 calendar days after receipt by the Secretary, and the reasons final action had not been taken.".

SEC. 14. GRADUATION OF SEASONED DIRECT LOAN BORROWERS TO THE LOAN GUARANTEE PROGRAM.

Section 333A (7 U.S.C. 1983a) is amended by adding at the end the following new subsection:

"(f)(1) As used in this subsection:

"(A) The term 'approved lender' means a lender approved prior to the date of enactment of this subsection by the Secretary under the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations (as in effect on January 1, 1991), or a lender certified under section 114.

"(B) The term 'seasoned direct loan borrower' means a borrower receiving a direct loan under this title who has been classified as 'commercial' or 'standard' under subpart W of part 2006 of the Instruction Manual (as in effect on January 1, 1991).

"(2) The Secretary, or a contracting third party, shall annually review under section 360 the loans of each seasoned loan borrower. If, based on the review, it is determined that a borrower would be able to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender at reasonable rates and terms for loans for similar purposes and periods of time, the Secretary shall assist the borrower in applying for the commercial or cooperative loan.

"(3) In accordance with section 362, the Secretary shall prepare a prospectus on each seasoned direct loan borrower determined eligible to obtain a guaranteed loan. The prospectus shall contain a description of the amounts of loan guarantee and interest assistance that the Secretary will provide to the seasoned direct loan borrower to enable the seasoned direct loan borrower to carry out a financially viable farming plan if a guaranteed loan is made.

"(4) With the approval of the borrower, the Secretary shall provide the prospectus of the seasoned direct loan borrower to each approved lender whose lending area includes the location of the seasoned direct loan borrower. If the Secretary receives an offer from an approved lender to extend credit to the seasoned direct loan borrower under terms and conditions contained in the prospectus, the seasoned direct loan borrower shall not be eligible for an insured loan from the Secretary under subtitle A or B, except as otherwise provided in this subsection.

"(5) If the Secretary is unable to provide loan guarantees and, if necessary, interest assistance to the seasoned direct loan borrower under this subsection in amounts sufficient to enable the seasoned direct loan borrower to borrow from commercial sources the amount required to carry out a financially viable farming plan, or if the Secretary does not receive an offer from an approved lender to extend credit to a seasoned direct loan borrower under the terms and conditions contained in the prospectus, the Secretary shall make an insured loan to the seasoned direct loan borrower under subtitle A or B, whichever is applicable.

"(6) To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions as provided for under section 351.".

SEC. 15. SIMPLIFIED APPLICATION FOR GUARANTEED LOANS OF $50,000 OR LESS.

Section 333A (7 U.S.C. 1983a) (as amended by section 14 of this Act) is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall provide to lenders a short, simplified application form for guarantees under this title of loans the principal amount of which is $50,000 or less.

"(2) In developing the application, the Secretary shall—

"(A) consult with commercial and cooperative lenders; and

"(B) ensure that—

"(i) the form can be completed manually or electronically, at the option of the lender;

"(ii) the form minimizes the documentation required to accompany the form;

"(iii) the cost of completing and processing the form is minimal; and

"(iv) the form can be completed and processed in an expeditious manner.".

SEC. 16. INVENTORY LEASE OR LEASE WITH OPTION TO PURCHASE.

The fourth sentence of section 335(c)(1) (7 U.S.C. 1985(c)(1)) is amended—

(1) by inserting "(A)" after "shall be"; and

(2) by inserting before the period at the end the following: "or (B) leased to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration or the Rural Development Administration under an annual lease or a lease with an option to purchase, with a preference for sale".

SEC. 17. TRANSFER OF INDIAN LANDS PLEDGED AS COLLATERAL FOR FMHA LOANS.

Section 335(e)(1) (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (D)(i), by striking "If" and inserting "Except as provided in subparagraph (G), if"; and

(2) by adding at the end the following new subparagraph:

"(G)(i) If—

"(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

"(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

"(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this title; and

"(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this title to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title,

the Secretary shall dispose of or administer the property only as provided in subparagraph (D), as modified by this subparagraph.

"(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

"(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

"(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

"(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this title to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

"(I) the provisions of subparagraphs (C)(i), (C)(ii), and (D), this subparagraph, and subsection (g)(6);

"(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, that—

"(aa) the Secretary may foreclose on the property;

"(bb) in the event of foreclosure, the property will be offered for sale;

"(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property or the outstanding principal and interest of the loan, whichever is higher;

"(dd) the property may be purchased by another party; and

"(ee) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this title; and

"(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this title.

"(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

"(II) If a hazardous substance (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that it is in the best interests of the Federal Government.

"(v) If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

"(I) the sale;

"(II) the fair market value of the property; and

"(III) the requirements of this subparagraph.

"(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

"(aa) the fair market value of the property; or

"(bb) the outstanding principal and interest of the loan.

"(II) If a hazardous substance (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal Government.".

SEC. 18. DEBT SERVICE MARGIN REQUIREMENTS; CERTIFIED LENDERS PROGRAM.

Section 339 (7 U.S.C. 1989) is amended—

(1) by striking "SEC. 339. The" and inserting the following:

"SEC. 339. RULES AND REGULATIONS.

"(a) IN GENERAL.—The"; and

(2) by adding at the end the following new subsections:

"(b) DEBT SERVICE MARGIN REQUIREMENTS.—Notwithstanding subsection (a), in providing farmer program loan guarantees under this title, the Secretary shall consider the income of the borrower adequate if the income is equal to or greater than the income necessary—

"(1) to make principal and interest payments on all debt obligations of the borrower, in a timely manner;

"(2) to cover the necessary living expenses of the family of the borrower; and

"(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1), including expenses of replacing capital items (determined after taking into account depreciation of the items).

"(c) CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall guarantee loans for any purpose specified in subtitle B that are made by lending institutions certified by the Secretary.

"(2) CERTIFICATION REQUIREMENTS.—The Secretary shall certify a lending institution that meets such criteria as the Secretary may prescribe in regulations, including the ability of the institution to properly make, service, and liquidate the loans of the institution.

"(3) CONDITION OF CERTIFICATION.—As a condition of the certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection, using standards that are not less stringent than generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each certified lender to ensure that the conditions of the certification are being met.

"(4) EFFECT OF CERTIFICATION.—Notwithstanding any other provision of law:

"(A) The Secretary shall guarantee 80 percent of a loan made under this subsection by a certified lending institution as described in paragraph (1), subject to county committee certification that the borrower of the loan meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title.

"(B) With respect to loans to be guaranteed by the Secretary under this subsection, the Secretary shall permit certified lending institutions to make appropriate certifications (as provided by regulations issued by the Secretary)—

"(i) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of farm operation; and

"(ii) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

"(C) The Secretary shall approve or disapprove a guarantee not later than 14 calendar days after the date that the lending institution applied to the Secretary for the guarantee. If the Secretary rejects the loan application within the 14-day period, the Secretary shall state, in writing, all of the reasons the application was rejected.

"(5) RELATIONSHIP TO OTHER REQUIREMENTS.—Neither this subsection nor subsection (d) shall affect the responsibility of the Secretary to certify eligibility, review financial information, and otherwise assess an application.

"(d) PREFERRED CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—Commencing not later than two years after the date of enactment of the Agricultural Credit Improvement Act of 1992, the Secretary shall establish a Preferred Certified Lenders Program for lenders who establish their—

"(A) knowledge of, and experience under, the program established under subsection (c):

"(B) knowledge of the regulations concerning the guaranteed loan program; and,

"(C) proficiency related to the certified lender program requirements.

The Secretary shall certify any lending institution as a Preferred Certified Lender that meets such criteria as the Secretary may prescribe by regulation.

"(2) REVOCATION OF DESIGNATION.—The designation of a lender as a Preferred Certified Lender shall be revoked at any time that the Secretary determines that such lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of a Preferred Certified Lender is excessive as compared to other Preferred Certified Lenders, except that such suspension or revocation shall not affect any outstanding guarantee.

"(3) CONDITION OF CERTIFICATION.—As a condition of such preferred certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of such certification are being met.

"(4) EFFECT OF PREFERRED LENDER CERTIFICATION.—Notwithstanding any other provision of law, the Secretary shall—

"(A) guarantee 80 percent of an approved loan made by a certified lending institution as described in this subsection, subject to county committee certification that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title;

"(B) permit certified lending institutions to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to credit worthiness, the closing, monitoring, collection and liquidation of loans, and to accept appropriate certifications, as provided by regulations issued by the Secretary, that the borrower is in compliance with all requirements of law or regulations promulgated by the Secretary; and

"(C) be deemed to have guaranteed 80 percent of a loan made by a preferred certified lending institution as described in paragraph (1), if the Secretary fails to approve or reject the application of such institution within 14 calendar days after the date that the lending institution presented the application to the Secretary. If the Secretary rejects the application within the 14-day period, the Secretary shall state, in writing, the reasons the application was rejected.".

SEC. 19. DEFINITION OF QUALIFIED BEGINNING FARMER OR RANCHER.

Section 343(a) (7 U.S.C. 1991(a)) is amended—

(1) by striking "this title (1) the term" and all that follows through "fish farming," at the end of paragraph (1) and inserting "this title:

"(1) The term 'farmer' includes a person who is engaged in, or who, with assistance afforded under this title, intends to engage in, fish farming.";

(2) by indenting, and aligning the margins of, paragraphs (2) through (10) so as to align with paragraph (1) (as amended by paragraph (1));

(3) by striking "the" the first place it appears in each of such paragraphs and inserting "The";

(4) by striking the comma at the end of each of paragraphs (2) through (8) and inserting a period;

(5) by striking ", and" at the end of paragraph (9) and inserting a period; and

(6) by adding at the end the following new paragraph:

"(11) The term 'qualified beginning farmer or rancher' means an applicant—

"(A) who is eligible for assistance under this title;

"(B) who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years;

"(C) in the case of a cooperative, corporation, partnership, or joint operation, who has members, stockholders, partners, or joint operators who are all related to one another by blood or marriage;

"(D)(i) in the case of an owner and operator of a farm or ranch, who—

"(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant—

"(aa) materially and substantially participates in the operation of the farm or ranch; and

"(bb) provides substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

"(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, has members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

"(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers; and

"(ii) in the case of an applicant seeking to own and operate a farm or ranch, who—

"(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant, will—

"(aa) materially and substantially participate in the operation of the farm or ranch; and

"(bb) provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

"(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, will have members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

"(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers;

"(E) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

"(F) who does not own land or who, directly or through interests in family farm corporations, owns land, the aggregate acreage of which does not exceed 15 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the farm or ranch operations of the applicant are located, as reported in the most recent census of agriculture taken under section 142 of title 13, United States Code; and

"(G) who demonstrates that the available resources of the applicant and spouse (if any) of the applicant are not sufficient to enable the applicant to continue farming or ranching on a viable scale.".

SEC. 20. TARGETING OF FUNDS.

(a) FARM OPERATING LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b) (7 U.S.C. 1994(b)) is amended by adding at the end the following new paragraph:

"(5)(A) In expending funds available for insured operating loans under subtitle B, including loans made under section 318—

"(i) during the first 6 months of fiscal year 1994, the Secretary shall reserve not less than 30 percent of the funds available for the fiscal year to make insured operating loans to qualified beginning farmers or ranchers;

"(ii) during the first 6 months of each of fiscal years 1995 and 1996, the Secretary shall reserve not less than 40 percent of the funds available for the fiscal year to make insured operating loans to qualified beginning farmers or ranchers; and

"(iii) during the first 6 months of each of fiscal years 1997 and thereafter, the Secretary may reserve not more than 50 percent of the funds available for the fiscal year to make insured operating loans to qualified beginning farmers or ranchers.

"(B) In each fiscal year described in subparagraph (A), with regard to the funds not reserved under subparagraph (A), a qualified beginning farmer or rancher may apply for insured operating loans, but shall not receive any preference as a result of status as a qualified beginning farmer or rancher.".

(b) PORTIONS OF FARM OWNERSHIP LOAN GUARANTEE FUNDS TARGETED TO BEGINNING FARMERS OR RANCHERS.—Section 346(b)(2) (7 U.S.C. 1994(b)(2)) is amended by adding at the end the following new sentence:

"Not less than 25 percent of the amounts appropriated for guarantees of farm ownership loans for each of the fiscal years 1994, 1995, 1996, and 1997 shall be reserved by the Secretary during the first 6 months of the respective fiscal year for guarantees of farm ownership loans to beginning farmers or ranchers.".

(c) FARM OWNERSHIP LOANS.—

(1) PERCENTAGE OF INSURED FARM OWNERSHIP LOAN FUNDS RESERVED FOR BEGINNING FARMERS OR RANCHERS.—Section 346(b)(3) is amended by adding at the end the following new subparagraph:

"(D) To the extent that it is not inconsistent with an exercise of authority under section 355, in expending funds available for insured farm ownership loans—

"(i) during fiscal year 1994, the Secretary shall reserve not less than 55 percent of the funds available for the fiscal year to make insured farm ownership loans to qualified beginning farmers or ranchers;

"(ii) during fiscal year 1995, the Secretary shall reserve not more than 65 percent of the funds available for the fiscal year to make insured farm ownership loans to qualified beginning farmers or ranchers; and

"(iii) during each of fiscal years 1996 and thereafter, the Secretary may reserve not less than 65 percent and not more than 70 percent of the funds available for the fiscal year to make insured farm ownership loans to qualified beginning farmers or ranchers.".

(2) FUNDS RESERVED FOR DOWN PAYMENT LOAN PROGRAM.—Section 346(b)(3) (as amended by paragraph (1) of this subsection) is further amended by adding at the end the following new subparagraph:

"(E) To the extent that it is not inconsistent with an exercise of authority under section 355, the Secretary shall reserve not less than 60 percent of the amounts reserved for qualified beginning farmers or ranchers under subparagraph (D) for any fiscal year for down payment loans under section 310E.".

(3) CERTAIN UNOBLIGATED DOWN PAYMENT LOAN PROGRAM FUNDS AVAILABLE FOR ANY TYPE OF INSURED FARM OWNERSHIP LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b)(3) (as amended by paragraph (2) of this subsection) is further amended by adding at the end the following new subparagraph:

"(F) To the extent that it is not inconsistent with an exercise of authority under section 355, to the maximum extent practicable, any funds reserved for down payment loans under section 310E for a fiscal year by reason of subparagraph (E) that are not obligated by the end of the second quarter of the fiscal year shall be available during the third quarter of the fiscal year for any type of insured farm ownership loans to beginning farmers and ranchers.".

(d) INTEREST RATE ASSISTANCE PROGRAM.—Section 346(b)(3) (as amended by subsection (c)(3) of this section) is further amended by adding at the end the following new subparagraph:

"(G) Not less than 40 percent of the amounts available for the interest rate reduction program under section 351 shall be reserved for the first 6 months of each fiscal year for assistance to beginning farmers or ranchers.".

(e) DOWN PAYMENT LOAN PROGRAM.—Section 346(b) (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(6) Notwithstanding any other provision of this title, at the end of the third quarter of each fiscal year, the Secretary shall transfer, and use to carry out section 310E, 75 percent of the amount that would otherwise be available for guaranteed operating loans.".

SEC. 21. EQUAL ACCESS TO FMHA ASSISTANCE BY GENDER.

(a) TARGET PARTICIPATION RATES.—Section 355(a) (7 U.S.C. 2003(a)) is amended—

(1) in paragraph (2), by striking "In establishing" and inserting "Except as provided in paragraph (3), in establishing"; and

(2) by adding at the end the following new paragraph:

"(3) GENDER.—With respect to gender, target participation rates shall take into consideration the number of current and potential socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in the State.".

(b) TARGETING OF LOANS TO MEMBERS OF GROUPS WHOSE MEMBERS HAVE BEEN SUBJECTED TO GENDER PREJUDICE.—Section 355(e)(1) (7 U.S.C. 2003(e)(1)) is amended by striking "or ethnic" and inserting ", ethnic, or gender".

(c) RECORDKEEPING OF LOANS BY BORROWER'S GENDER.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end the following new section:

"SEC. 369. RECORDKEEPING OF LOANS BY BORROWER'S GENDER.

"The Secretary shall classify, by gender, records of applicants for loans and loan guarantees under this title.".

SEC. 22. STATE MEDIATION PROGRAMS.

Section 502 of the Agricultural Credit Act of 1987 (7 U.S.C. 5102) is amended—

(1) in subsection (b)(1), by striking "50" and inserting "70"; and

(2) in subsection (c), by inserting "with respect to which the amount was paid" before the period.

SEC. 23. REGULATIONS.

(a) INTERIM REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue such interim regulations as are necessary to implement this Act and the amendments made by this Act.

(b) FINAL REGULATIONS.—Not later than October 1, 1993, the Secretary of Agriculture shall issue such final regulations as are necessary to implement this Act and the amendments made by this Act.

SEC. 24. TECHNICAL AMENDMENT.

Section 306C(a)(2) is amended to read as follows:

"(2) CERTAIN AREAS TARGETED.—

"(A) IN GENERAL.—Loans and grants under paragraph (1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

"(i) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

"(ii) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), loans and grants under paragraph (1) may also be made if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a rural area that was recognized as a colonia as of October 1, 1989.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

UNITED STATES WAREHOUSE ACT AMENDMENTS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 6128) to amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF ELECTRONIC COTTON WAREHOUSE RECEIPTS.

Section 17(c) of the United States Warehouse Act (7 U.S.C. 259(c)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "The Secretary" and inserting "Notwithstanding any other provision of Federal or State law, the Secretary";

(B) by inserting after "licensed under this Act" the following: "or in any other warehouse"; and

(C) by striking "under section 18" and inserting "(i) under section 18 in the case of a warehouse licensed under this Act or (ii) under any applicable State law in the case of a warehouse not licensed under this Act";

(2) in paragraph (2)—

(A) by striking "provision of law—" and inserting "provision of Federal or State law:";

(B) in subparagraph (A)—

(i) by striking "the record" and inserting "The record";

(ii) by striking "ownership" both places it appears and inserting "possessory";

(iii) by striking "of this Act" and inserting "of this Act or State law"; and

(iv) by striking "; and" and inserting a period; and

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) Any person designated as a holder of an electronic warehouse receipt authorized under this subsection and subsection (d) shall, for the purpose of perfecting the security interest of the person under Federal or State law with respect to the cotton covered by the warehouse receipt, be considered to be in possession of the warehouse receipt. If more than one security interest exists in the cotton reflected on the electronic warehouse receipt, the priority of the security interests shall be determined by the applicable Federal or State law. This subsection is applicable to electronic cotton warehouse receipts and any other security interests covering cotton stored in a cotton warehouse, regardless of whether the warehouse is licensed under this Act."; and

(3) in paragraph (3)—

(A) by striking "licensed under this Act" and inserting "covered under this subsection"; and

(B) by striking "owner" and inserting "holder".

SEC. 2. EXPEDITED ACTION ON MARKETING ORDERS.

Section 8c(1) of the Agricultural Adjustment Act (7 U.S.C. 608c(1)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following new sentences: "In carrying out this section, the Secretary shall complete all informal rulemaking actions necessary to respond to recommendations submitted by administrative committees for such orders as expeditiously as possible, but not more than 45 days (to the extent practicable) after submission of the committee recommendations. The Secretary shall establish time frames for each office and agency within the Department of Agriculture to consider the committee recommendations.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERISHABLE AGRICULTURAL COMMODITIES ACT AMENDMENTS OF 1992

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 6127) to amend the Perishable Agricultural Commodities Act, 1930, to prescribe conditions under which a transferee shall be deemed to have received trust assets with notice of the breach of the trust, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Perishable Agricultural Commodities Act Amendments of 1992".

SEC. 2. RECEIPT OF TRUST ASSETS WITH NOTICE OF BREACH OF TRUSTS.

Section 5(c)(2) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following new subparagraphs:

"(B) A transferee shall be deemed to have received trust assets with notice of the breach of the trust when a commission merchant, dealer, or broker transfers trust assets in breach of the trust—

"(i) as payment on a loan that is used for produce business operations, as defined by the Secretary; or

"(ii) as payment on a loan used for nonproduce business operations if the payment is not a normal, scheduled payment made in the ordinary course of business, as defined by the Secretary.

"(C) A transferee shall be deemed to have received trust assets without notice of the breach of the trust when a commission merchant, dealer, or broker transfers trust assets in breach of the trust as payment on a loan for nonproduce business operations, if the payment is a normal, scheduled payment made in the ordinary course of business, as defined by the Secretary, unless the transferee knew or should have known of the breach of the trust.".

SEC. 3. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Secretary shall issue such regulations as are necessary to carry out the amendments made by section 2.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990 AMENDMENTS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 6124) to amend the Food, Agriculture, Conservation, and Trade Act of 1990, to improve health care services and educational services through telecommunications, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS.

(a) Programs for Consortia in Qualified Local Exchange Service Areas.—Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended by adding at the end the following new section:

"SEC. 2335A. SPECIAL HEALTH CARE AND DISTANCE LEARNING PROGRAM FOR QUALIFIED SERVICE AREAS.

"(a) Development of Consortia.—The Administrator shall encourage the development of consortia to provide health care services or educational services through telecommunications in rural areas of a qualified local exchange carrier service area. Each consortium shall be composed of—

"(1) a tertiary care facility, rural referral center, medical teaching institution, or educational institution accredited by the State;

"(2) any number of institutions that provide health care services or educational services; and

"(3) not less that three rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities, or not less than three educational institutions accredited by the State.

"(b) Special Program for Qualified Local Exchange Carrier Service Areas.—

"(1) Regulations and special program.—Through regulations issued not later than 190 days after the date of enactment of this section, the Administrator shall establish a program under which qualified consortia described in subsection (a) located within qualified local exchange carrier service areas may apply to the Administrator for grants to support the costs of activities involved in the sending and receiving of information that will improve the delivery of health care services or educational services through telecommunications in rural areas.

"(2) Selection of grantees.—The Administrator shall—

"(A) establish application procedures;

"(B) review the applications submitted under this subsection in a timely manner; and

"C) make grants in accordance with this subsection and with regulations issued by the Administrator.

"(3) Priorities.—

"(A) In general.—Priority for grants under this subsection shall be accorded applicants whose applications and plans demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in the application and the plan of the applicant;

"(ii) the greatest likelihood of improving health care services or educational services in the rural areas;

"(iii) coordination between local exchange carriers to carry out activities as described in the application; and

"(iv) unconditional financial support from each affected local community.

"(B) Geographic diversity.—In awarding grants, the Administrator shall seek to achieve geographic diversity among the grantees.

"(4) Maximum amount of grant.—The amount of each grant awarded under this subsection shall not exceed $1,500,000.

"(5) Distribution of grants.—Grants to a qualified consortium under this subsection shall be disbursed over a period of not more than 3 years.

"(6) Use of funds.—

"(A) In general.—Grants under this subsection may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(i) in the case of grants to improve health care services—

"(I) consultations between health care providers;

"(II) transmitting and analyzing x-rays, lab slides, and other images;

"(III) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(IV) developing innovative health professions education programs;

"(ii) in the case of grants to improve educational services—

"(I) developing innovative education programs and expanding curriculum offerings;

"(II) providing continuing education to all members of the community;

"(III) providing means for libraries of educational institutions or public libraries to share resources;

"(IV) providing the public with access to State and national data bases;

"(V) conducting town meetings; and

"(VI) covering meetings of agencies of State government, and

"(iii) in all cases—

"(I) transmitting financial information; and

"(II) such other related activities as the Administrator considers to be consistent with the purposes of this section.

"(7) Limitation on acquisition of interactive telecommunications equipment.—Not more than 40 percent of the amount of any grant made under this subsection may be used to acquire interactive telecommunications end user equipment.

"(8) Limitation on use of consultants.—Not more than 5 percent of the amount of any grant made under this subsection may be used to employ or contract with any consultant or similar person.

"(9) Prohibitions.—Grants made under this subsection may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications services for hire.

"(c) Expedited Telephone Loans.—Local exchange carriers located in a qualified local exchange carrier service area shall be eligible to apply for expedited loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). The Administrator shall respond to a completed application for such a loan no later than 45 days after receipt. The Administrator shall notify the applicant in writing of its decision regarding each such application.

"(d) Definition.—As used in this section, the term 'qualified local exchange carrier service area' means the service area of a local telephone exchange carrier in which the local exchange carrier has a plan approved by the Administrator for upgrading and modernizing the rural telecommunications infrastructure of the service area. The plan shall—

"(1) provide for eliminating party line service within the local exchange carrier service area and for other improvements and modernization in rural telephone service;

"(2) provide for the enhancement of the availability of educational opportunities or the availability of improved medical care through telecommunications;

"(3) encourage and improve the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas; and

"(4) provide for the achievement of the goals described in subparagraphs (A) through (C) not later than 10 years after the approval of the plan.".

(b) Extension of Chapter 1.—Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), including the amendments made by this section, shall be effective until September 30, 1997.

(c) Allocation of Funds.—Section 2335(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa-4) is amended by adding at the end the following new paragraph:

"(8) Use of appropriated funds.—

"(A) In general.—Subject to subparagraph (B), the Administrator shall make available—

"(i) 50 percent of the funds made available pursuant to paragraph (3) for grants for end users that are consortia participating in the special program established under section 2335A; and

"(ii) 50 percent of the funds made available pursuant to paragraph (3) to provide funds for the programs, and end users participating in the programs, authorized by sections 2331 through 2335.

"(B) Release of funds.—Not earlier than April 1 and not later than May 1 of each year, the Administrator shall make such funds described in subparagraph (A) as remain unobligated, available for any purpose described in subparagraph (A).".

(d) Effect of Amendments.—The amendments made by this section shall not apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) or require the revision of any regulation proposed to carry out such subtitle during fiscal year 1993.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6125, H.R. 6129, H.R. 6128, H.R. 6127, and H.R. 6124, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF S. 2681, NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 593 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 593

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (S. 2681) relating to Native Hawaiian Health Care, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed two hours. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution. The amendment in the nature of a substitute shall be considered as read. Points of order against the amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 593 is the rule providing for the consideration of S. 2681, Native Hawaiian Health Care Amendments of 1992.

This is an open rule providing 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

The rule makes in order as the original text, for the purpose of amendment, the amendment in the nature of a substitute printed in the report to accompany the rule. Clause 7 of rule XVI, which prohibits nongermane amendments, is waived against the substitute.

Mr. Speaker, because of the severe time constraints we are operating under, the rule limits to 2 hours the time for consideration of the bill for amendment. However, any Member may offer any germane amendment.

Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, S. 2681 reauthorizes, through fiscal year 2000, the Native Hawaiian Care Improvement Act, which was enacted to respond to the special health care needs of native Hawaiians. The act, which passed in 1988 and expires this year, created a health care system based on the native organizational structure, with island-specific plans to deliver primary health care for a population with alarmingly high rates of death and disease.

Mr. Speaker, to repeat, House Resolution 593 is an open rule. I urge the adoption of the resolution so that we may proceed to the consideration of S. 2681.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 593, the rule for consideration of S. 2681, the Native Hawaiian Health Care Act.

The distinguished gentleman from California [Mr. BEILENSON] has explained this rule. It is a modified open rule, with a 2-hour limit on the time for amendments.

I commend the chairman of the Rules Committee, Mr. MOAKLEY, and the ranking member, Mr. SOLOMON of New York, for bringing an essentially open rule to the House floor, even at this late hour of the session.

While the minority has had concerns throughout the past months with time limits on the amendment process, in this case, 2 hours should provide the House an ample opportunity to fully debate and consider whatever disagreements there are within the bill. As we all know, an open rule is simply the best process for crafting a final product that can attract a majority of the House, and be signed into law.

Mr. Speaker, the Native Hawaiian Health Care Act reauthorizes through fiscal year 2000 a number of programs to improve the health of native Hawaiians, and funds health care centers and medical school scholarships for native Hawaiians.

Some Members have raised concerns that this bill is unnecessary because ample Federal health programs exist to address the Hawaiian health problems specifically targeted by this bill. Considering the overall level of Federal spending, they have argued that we simply can't afford, and don't need, to fund special programs for health services in Hawaii alone.

The administration does not object to passage of S. 2681 as long as it includes an amendment to ensure that no person is discriminated against in any of the programs on the basis of race, color, or national origin.

Mr. Speaker, this bill failed to pass under suspension of the rules last week. Considering the level of concern and opposition to the bill, it should not have been considered under suspension of the rules—a process that severely limits debate and prohibits amendments. The Rules Committee has made correctly provided an open rule for its full consideration and I urge swift passage of the rule so that we can move to the bill's prompt consideration.

Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, we have no requests for time, I yield back the balance of our time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR CALL OF PRIVATE CALENDAR ON TODAY

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be considered today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PRIVATE CALENDAR

The SPEAKER pro tempore. The Clerk will call the first bill on the Private Calendar.

WILLIE D. HARRIS

The Clerk called the bill (H.R. 760) to permit Willie D. Harris to present a claim against the United States in the manner provided for in chapter 171 of title 28, United States Code, and for other purposes.

Mr. SENSENBRENNER. Mr, Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LUIS FERNANDO BERNATE CHRISTOPHER

The Clerk called the bill (H.R. 1100) for the relief of Luis Fernando Bernate Christopher.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. SENSENBRENNER. Mr. Speaker, I object.

Mr. COBLE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

HOWARD W. WAITE

The Clerk, called the bill (H.R. 1123) for the relief of Howard W. Waite.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. SENSENBRENNER. Mr. Speaker, I object.

Mr. COBLE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

EARL B. CHAPPELL, JR.

The Clerk called the bill (H.R. 1280) for the relief of Earl B. Chappell, Jr.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. SENSENBRENNER. Mr. Speaker, I object.

Mr. COBLE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

WILLIAM A. KUBRICK

The Clerk called the bill (H.R. 2345) for the relief of William A. Kubrick.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

"MARIPOSA;" "BLITHE SPIRIT," "BLUEJACKET," AND "JUBILEE"; "A WEIGH OF LIFE;" "REDDY JANE;" "SEA HORSE;" "WILD GOOSE;" "THE DAY DREAM;" "NORTH ATLANTIC;" "TOUGH OF CLASS;" "LIQUID GOLD;" "DELPHINUS II;" "CAMINANTE;" "FOUR B'S;" "HIGH CALIBRE;" FIFTY-FIFTY" "HAZANA;" "SOUTHERN YANKEE;" BARGE MM "262;" AND "MISS JOAN"

Mr. BOUCHER. Mr. Speaker, pursuant to a request by the Committee on Merchant Marine and Fisheries, I ask unanimous consent that Private Calendar Nos. 35 through 53 Bill Nos. H.R. 4802, H.R. 4987, H.R. 5094, H.R. 5128, H.R. 5148, H.R. 5163, H.R. 5197, H.R. 5190, H.R. 5226, H.R. 5227, H.R. 5228, H.R. 5358, H.R. 5410, H.R. 5425, H.R. 4719, H.R. 4469, H.R. 4191, H.R. 3086, and H.R. 3005, be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

FLORENCE ADEBOYEKU

The Clerk read the bill (H.R. 3336) for the relief of Florence Adeboyeku.

There being no objection, the Clerk read the bill as follows:

H.R. 3336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE STATUS FOR FLORENCE ADEBOYEKU.

(a) IN GENERAL.—Subject to subsection (b), for the purposes of the Immigration and Nationality Act, Florence Adeboyeku shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall only apply if she applies to the Attorney General for permanent residence status under such subsection within two years after the date of the enactment of this Act.

With the following committee amendment in the nature of a substitute:

Strike out all after the enacting clause and insert:

SECTION 1. PERMANENT RESIDENT STATUS FOR FLORENCE ADEBOYEKU

(a) IN GENERAL.—Subject to subsection (b), for the purposes of section 204 of the Immigration and Nationality Act, Florence Adeboyeku shall be considered to be an immediate relative within the meaning of section 201(b) of such Act upon the filing of a petition under section 204 of such Act.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if Florence Adeboyeku files such petition on her own behalf within two years after the date of enactment of this Act.

(c) ADJUSTMENT OF STATUS.—Florence Adeboyeku shall be considered to have been lawfully admitted to the United States and, notwithstanding section 245(c) of the Immigration and Nationality Act, shall be eligible for processing under section 245 of such Act upon approval of the petition filed under subsection (a).

(d) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Florence Adeboyeku shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CRAIG B. SORENSEN AND NITA M. SORENSEN

The Clerk called the bill (H.R. 5164) for the relief of Craig B. Sorensen and Nita M. Sorensen.

There being no objection, the Clerk read the bill as follows:

H.R. 5164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF TIME LIMITATION.

(a) IN GENERAL.—The time limitation set forth in the item relating to "DEPARTMENT OF AGRICULTURE—FOREST SERVICE—SETTLEMENT OF CLAIMS, FOREST SERVICE" in Public Law 101-302 (104 Stat. 230) shall not apply to a claim against the United States filed by Craig B. Sorensen and Nita M. Sorensen of Salt Lake City, Utah, for damages resulting from the Clover-Mist Fire.

(b) DEADLINE.—Subsection (a) shall apply only if Craig B. Sorensen and Nita M. Sorensen submit a claim pursuant to such subsection within the six-month period beginning on the date of the enactment of this Act.

With the following committee amendment in the nature of a substitute:

Strike all after the enacting clause and insert the following:

Notwithstanding the time limitation set forth in the item relating to "DEPARTMENT OF AGRICULTURE—FOREST SERVICE—SETTLEMENT OF CLAIMS, FOREST SERVICE" in Public Law 101-302 (104 Stat. 230), the claim against the United States filed by Craig B. Sorensen, and Nita M. Sorensen of Salt Lake City, Utah, for damages resulting from the Clover-Mist Fire, dated March 17, 1989, but not received by the Forest Service until September of 1990, shall be considered to have been timely filed.

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 2000

HEIRS AND ASSIGNS OF HATTIE DAVIS ROGERS OF THE NEZ PERCE INDIAN RESERVATION, ID

The Clerk called the bill (H.R. 5359) for the relief of the heirs and assigns of Hattie Davis Rogers of the Nez Perce Indian Reservation, ID.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore (Mr. RAY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

KRISHANTHI SAVA KOPP

The Clerk called the bill (H.R. 5749) for the relief of Krishanthi Sava Kopp.

There being no objection, the Clerk read the bill as follows:

H.R. 5749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CITIZENSHIP FOR KRISHANTHI SAVA KOPP.

(a) IN GENERAL. Subject to subsection (b), Krishanthi Sava Kopp may be naturalized and issued a certificate of naturalization as a citizen of the United States by taking the oath required by section 337 of the Immigration and Nationality Act in the manner prescribed by such section.

(b) DEADLINE FOR APPLICATION. Subsection (a) shall apply only if Krishanthi Sava Kopp applies to take the oath referred to in such subsection by submitting the required form within the 2-year period beginning on the date of the enactment of this Act.

With the following committee amendment in the nature of a substitute:

SECTION 1. CITIZENSHIP FOR KRISHANTHI SAVA KOPP.

(a) IN GENERAL.—Notwithstanding any other provisions of law, and subject to subsection (b), Krishanthi Sava Kopp may be naturalized and issued a certificate of naturalization as a citizen of the United States by taking the oath required by section 337 of the Immigration and Nationality Act in the manner prescribed by such section.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if Krishanthi Sava Kopp applies to take the oath referred to in such subsection by submitting the required form within the 2-year period beginning on the date of the enactment of this Act.

(c) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Krishanthi Sava Kopp shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNA C. MASSARI

The Clerk called the bill (H.R. 5923) for the relief of Anna C. Massari.

There being no objection, the Clerk read the bill as follows:

H.R. 5923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF TIME LIMITATIONS.

(a) IN GENERAL.—The time limitations set forth in section 3702(b) of title 31, United States Code, shall not apply with respect to a claim for the disbursement of pay due by the Department of the Navy to Anna C. Massari, as represented by payroll checks that were issued to, but not negotiated by, Anna C. Massari prior to March 31, 1991.

(b) DEADLINE.—Subsection (a) shall apply only if Anna C. Massari or her authorized representatives submits a claim pursuant to such subsection before the expiration of the 6-month period beginning on the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

House Resolution 568

Resolved, That the bill (H.R. 5953) entitled "A bill for the relief of Donald W. Sneeden, Mary S. Sneeden, and Henry C. Best", now pending in the House of Representatives, together with all accompanying papers, is referred to the chief judge of the United States Claims Court pursuant to section 1492 of title 28, United States Code, for proceedings in accordance with section 2509 of such title.

DONALD W. SNEEDEN, MARY S. SNEEDEN, AND HENRY C. BEST

The Clerk called the resolution (H. Res. 568) referring the bill (H.R. 5953) for the relief of Donald W. Sneeden, Mary S. Sneeden, and Henry C. Best, to the chief judge of the U.S. Claims Court.

There being no objection, the Clerk read the resolution, as follows:

With the following committee amendments:

Page 1, line 1, strike "5953" and insert "6012".

Page 1, line 1, insert "(a)" after "That".

Page 1, add the following after line 8:

(b) In conducting its proceedings concerning H.R. 6012 in accordance with section 2509 of title 28, United States Code, the United States Claims Court may recommend the payment of money under the bill, notwithstanding provisions in an agreement dated June 5, 1986, between the United States and the contractor, J. Lawson Jones Construction Co., Inc., on behalf of its subcontractor, Lincoln Construction Company, Inc., that the contractor agreed to release the Government from all claims arising out of the contract dispute and that the agreement constituted a full accord and satisfaction of all the contractors' claims against the United States. In determining whether such provisions in the agreement should bar the award of any additional money, the Claims Court shall determine whether the United States acted in bad faith in settling the claim, knowing that at the time of the settlement negotiations Lincoln Construction Company, Inc., because of its obligations to pay debts pursuant to a bankruptcy proceeding, was constrained to accept even an unreasonable settlement offer.

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendments were agreed to.

The resolution was agreed to.

The title of the resolution was amended so as to read: "Resolution referring the bill (H.R. 6012) for the relief of Donald W. Sneeden, Mary S. Sneeden, and Henry C. Best, to the chief judge of the United States Court.".

A motion to reconsider was laid on the table.

CHRISTY CARL HALLIEN

The Clerk called the Senate bill (S. 1181) for the relief of Christy Carl Hallien of Arlington, Texas.

The being no objection, the Clerk read the Senate bill as follows:

S. 1181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF FROM LIABILITY.

(a) RELIEF.—Christy Carl Hallien of Arlington, Texas, is relieved of all liability for repayment to the United States of the sum of $11,865.13, plus accrued interest. This sum represents part of the amount that Christy Carl Hallien owes to the Department of Defense for payments that he received from the Department of Defense for travel and relocation expenses arising from his relocation from Burlington, Vermont, to accept employment with the Department of Defense in Arlington, Texas, in October 1983.

(b) BASIS FOR RELIEF.—The basis for granting this relief is that an agent of the Department of Defense erroneously informed Christy Carl Hallien that he was entitled to reimbursement of all travel and relocation expenses incurred relating to his relocation from Vermont to Texas.

SEC. 2. LIMITATION OF ATTORNEYS' OR AGENTS' FEES.

Not more than 10 percent of the amount referred to in section 1 shall be paid to any agent or attorney of Christy Carl Hallien for any service rendered in connection with the relief provided by this Act. Violation of this section is a misdemeanor punishable by a fine of not more than $1,000.

Passed the Senate September 17 (legislative day, September 8), 1992.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2321, DAYTON AVIATION HERITAGE PRESERVATION ACT OF 1992

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 596, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 596

Resolved, That upon the adoption of this resolution the bill (H.R. 2321) to establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendments thereto be, and the same are hereby, agreed to.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. HALL) is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN] for purposes of debate only. Pending that, I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 596 is a rule providing for the consideration of the Dayton Aviation Heritage Preservation Act of 1992. This resolution provides that upon its adoption, H.R. 2321 and the Senate amendments will be taken from the Speaker's table and the House will be considered to have agreed to the Senate amendments.

This resolution, Mr. Speaker, will enable the House to agree to the Senate passed amendments to legislation establishing the Dayton Aviation National Historical Park. This is a noncontroversial piece of legislation which overwhelmingly passed the House under Suspension of the Rules on March 4, 1992. On October 1, 1992, the Senate passed the bill with technical and conforming amendments, including an amendment to cap spending at $200,000 for the development and management of certain properties within the Park.

The purpose of H.R. 2321 is to preserve and protect the historical sites in Dayton, Ohio, that are connected with the Wright brothers or that were instrumental in the invention and development of the airplane.

The bill establishes the Dayton Aviation Heritage National Historical Park as a unit of the National Park System consisting of five properties: the Wright Cycle Co. building, the Hoover Block, the 1905 Wright Flyer including Wright Hall, and Huffman Prairie Flying Field, and the Paul Laurence Dunbar home. Four of these sites are National Historic Landmarks, the highest designation of national historical significance offered by the National Park Service.

The bill also establishes the Dayton Aviation Heritage Commission to assist Federal, State, and local authorities and the private sector in preserving and managing historic sites in the Miami Valley associated with the Wright brothers, aviation, or Paul Laurence Dunbar. The bill requires 50 percent non-Federal matching funds for the operation of the Commission and places a cap of $350,000 on annual appropriations.

More major events occurred in aviation history in Dayton, OH, than any other single place in the world. It was in the city and surrounding areas where Orville and Wilbur Wright grew up, developed the technology for controlled and powered flight, constructed the world's first airplane, constructed and flew the world's first practical airplane, and established the world's first permanent flying school.

Not only was Dayton the birthplace of aviation technology, but later events in Dayton led to the creation of the aerospace industry and commercial aviation. Following from the work of the Wright brothers, aviation pioneers in the Dayton area made numerous critical advances in the early development of aeronautics and promotion of flight. These included the manufacture of the world's first mass-produced airplane, the origination of the world's first commercial airplane flight, and the invention of the modern freefall parachute, radio beacon navigation, guided missile, and crop-duster airplane.

The Dayton Aviation Heritage National Historical Park was conceived to preserve the aviation treasures in the Dayton area and share with the rest of the Nation our historic heritage. The park will tap the preservation expertise and park management experience of the National Park Service to tell the story of Dayton's contributions to aviation history. By becoming part of the National Park Service, Dayton would join the ranks of the most important historic shrines in the Nation.

The Dayton Aviation Heritage Commission, also created by this bill, will help restore and coordinate the historical aviation sites throughout the Dayton area that were involved with the development of flight. The commission will work with resources that are not included in the park, but that tell the story of Dayton's contributions to the development of aviation technology and industry. The commission is intended to act as a partnership between the Federal, State, and local governments as well as the private sector.

I want to note that the Senate amendment gives the Air Force the final authority on decisions that affect Huffman Prairie Flying Field. It is important for this authority to be retained. The field is a part of Wright-Patterson Air Force Base, a major installation with a key role in our national defense. The Senate amendment insures that the Air Force will have the ability to make decisions concerning the historic field consistent with the mission of the Air Force base.

There are numerous benefits to the Nation in establishing the Dayton Aviation Heritage National Historical Park. It will help teach future generations about our historical aviation heritage. At a time when the U.S. seems to be falling behind in research and development, it is important to be reminded that some of the world's greatest technological advances did occur here. Because of the link with Paul Laurence Dunbar, the creation of the park will bring attention to the work of this important black poet and it will offer a message of unity between the races.

The park is supported by a broad coalition of civic, cultural, and historical organizations in Dayton. Support is coordinated through the 2003 Fund Committee, U.S. District Judge Walter H. Rice, chairman; J. Bradford Tillson, vice chairman; Gerald S. Sharkey, secretary; and Madeline J. Iseli-Smith, executive director. The creation of this park would not be possible without their dedication and tireless work.

Mr. Speaker, given the serious time constraints currently facing the House, this resolution will allow us to expeditiously finish this issue and send the legislation to the President. The Rules Committee passed this resolution by voice vote and I urge my colleagues to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution through which the House will agree to the Senate Amendments to H.R. 2321, and will permit us to sent this measure creating the Dayton Aviation Heritage National Park to the President.

Mr. Speaker, I thank the chairman of the Rules Committee, the gentleman from Massachusetts Mr. MOAKLEY, and the distinguished ranking Republican Member of the committee Mr. SOLOMON, for reporting this resolution which will move this bill along.

My good friend and colleague from Dayton, Mr. HALL is to be commended for his tireless efforts in bringing this national park to fruition. Along with the third member of the Dayton Area congressional delegation, DAVE HOBSON, we are proud to be able to bring this bill to the floor a final time before the close of the 102d Congress.

Many Americans are not aware of it, but the airplane was born in Dayton, Oh. Indeed, the Wright Brothers are one of the great examples of the many American inventors and entrepreneurs who pushed this country to technological and industrial superiority in the 20th century.

The Wright Brothers were from Dayton. They owned and operated a bicycle shop in Dayton, and they did the vast majority of the development and testing of their airplanes in Dayton.

Among the five historical sites that will be incorporated into this national park, are the Wright Brothers Home, the Wright Brothers Bicycle Shop, and Huffman Field where they did much of their flight testing.

The national park will not be located in some far off wilderness corner of our Nation, but instead is right within the Dayton metropolitan area. It is also not limited to the notion of a national park as pristine open spaces. Instead the park will serve as a living example of the great technological strides that America made at the turn of this century—a harbinger of what has become the American century.

It is my hope, and I know Mr. HALL and Mr. HOBSON share it, that millions of Americans from around the country, but especially children, will be able to stop and learn about the Wright Brothers at this national park as they pass through Dayton in the coming years.

They can learn about the invention of the airplane—an industry in which the United States is still the world leader—but hopefully the experience can also kindle the dreams, and spark the fire of discovery and invention, that led to the bold discoveries of the Wright Brothers.

There is no reason to believe that the 21st century will not also be the American century. The Wright Brothers were born from American freedom, and the boundless energy of a continent bent on doing bigger and better things. If America remains the most free country in the world, and if the energy and enthusiasm of our children are pushed toward discovery and success, then 21st century Wright Brothers will appear in Dayton, and elsewhere.

Mr. Speaker, the House passed H.R. 2321 under suspension of the rules last March, and the Senate added two modifying amendments. The first limits Federal expenditures on the park, in particular for the two non-Federal properties. The second ensures that the Secretary of Air force will make decisions regarding the use of Huffman Field, the Wright Brothers testing ground, as it is located on a portion of Wright-Patterson Air Force Base.

Mr. Speaker, this bill has undergone substantial review, and where needed, revision. The chairman of the Interior Subcommittee on National Parks and Public Lands, Mr. VENTO of Minnesota, came before the Rules Committee in support of this resolution. As he stated, this bill is reasonable in scope, responsible in cost, and consistent with the precedents for park establishment.

As a member of the Dayton congressional delegation, I urge my colleagues to support this. I congratulate Mr. HALL and Mr. HOBSON for their fine work in bringing this part to fruition.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have only one person who wants to speak, and that is the gentleman from Minnesota [Mr. VENTO] who has probably played, of all the people in the House of Representatives, the major part in making this bill a reality. As you know, he is chairman of the subcommittee of jurisdiction.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, this bill has really been explained by the sponsor of the measure and the proponent of the rule, the gentleman from Ohio [Mr. HALL].

Mr. Speaker, I congratulate the gentleman from Ohio [Mr. HALL]. I think most of us recognize there is a lot of work that went into developing the type of support in Dayton, OH, that exists for this because of a commission or a group that was set up and did the study work. TONY HALL cooperated with that group, and I think they put forth a very sound idea and concept.

We were happy to try to craft it within the concept of our National Parks System. Mr. Speaker, the one thing I point out to Members is that very often, when we are placing a unit of the National Park System, it represents some conflict in our history, the Civil War, other types of events that occurred. Very often, they do not contain the type of social history, the type of inventiveness and other qualities that I think define us as Americans.

□ 2010

Certainly the events that took place in Dayton, OH, around the turn of the century at a modest bicycle shop on Hawthorne St. I think really epitomize the type of spirit and character of the American people.

In this measure today we have an opportunity to try and preserve some of that resource, some of the original fabric and some of the other monuments and homes around Dayton, OH, which really make it our capital of aviation, our capital of flight, really not just national, but internationally.

I thought it was interesting on the hearing on this measure that we had one of the grandsons of the Wright Brothers testifying in support of the measure.

I think it demonstrates again the type of continuity that we have in our communities and the type of cultural resource that needs to be preserved that is being preserved and would be preserved in the adoption of the rule today and sending to the President this very important bill.

So I want to commend the gentleman from Ohio [Mr. HALL] and the Ohio delegation, the gentleman from Ohio [Mr. HOBSON] who worked so hard on this measure. They deserve a lot of credit. I think it is to the credit of our Park Service.

Mr. Speaker, I rise in support of House Resolution 596, a rule which would take from the Speaker's desk the bill H.R. 2321 with the Senate amendments and concur in the Senate amendments.

H.R. 2321 would establish the Dayton Aviation Heritage National Historical Park in Dayton, OH. This bill was introduced by Representatives TONY HALL and DAVID HOBSON along with a number of Representatives from the State of Ohio. It passed the House on March 4, 1992. Subsequently, the Senate considered H.R. 2321 on October 1, 1992, and has now returned the bill to the House with several minor amendments.

Although many Americans know about the Wright Brothers' flight over the beaches of Kitty Hawk, few are familiar with the important role played by the city of Dayton, OH, in aviation history. Dayton is where Wilbur and Orville Wright grew up, developed the technology for the first airplane, constructed and flew the world's first practical and maneuverable airplane and established the world's first permanent flying school.

The purpose of H.R. 2321, as amended, is to preserve, enhance, and interpret the historic structures and artifacts in the Dayton area associated with the Wright Brothers and the development of aviation. The park will consist of four sites: the Wright Cycle Co. and Hoover Block, the Huffman Prairie Flying Field, the Wright Flyer III, and the Paul Lawrence Dunbar House. All of these sites have been designated as national historic landmarks, and together they tell the story of the invention of the airplane and the importance of the Dayton environment to that process.

This bill has undergone careful review and substantial revision in its path through the House and Senate. The Senate amendments put a cap on the amount of Federal funds which could be spent on the two non-Federal properties in the park and clarified the authority of the Secretary of Defense to make decisions concerning the properties under its jurisdiction in the park. These amendments are acceptable.

Mr. Speaker, the invention of the airplane is one of the most significant events of this century. Fortunately a number of structures and artifacts related to this invention remain intact in the Dayton area. The bill before us would preserve those structures and sites for the benefit of present and future generations. The bill as amended is reasonable in scope, responsible in cost, and consistent with precedents for park establishment. It has strong bipartisan support and I urge Members to support the rule so that we can send this bill to the President.

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not know what the future may hold, but it has been my privilege to serve with the gentleman from Montgomery County, OH, for the past 10 or 12 years and to represent a portion of that county.

I am privileged to say as a member of the Rules Committee serving with the gentleman from Ohio [Mr. HALL], there is no one for whom I have greater affection or respect, and I am privileged to bring this final rule of the year to the floor with him and wish him the best in this difficult time in which his son is out at the National Institutes of Health recovering from leukemia.

The gentleman from Ohio is an outstanding legislator, an outstanding Member of Congress, and a distinguished American.

I wish him well on this bill.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate those kind words. I appreciate the support of the gentleman from Ohio [Mr. MCEWEN] and the gentleman from Ohio [Mr. HOBSON]. They made it possible, along with the gentleman from Minnesota [Mr. VENTO].

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RAY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Monday, October 5, 1992.

HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 2152) to enhance the effectiveness of the United Nations International driftnet fishery conservation program with a Senate amendment to the House amendments to the Senate amendment.

The Clerk read as follows:

Senate amendments to House amendments to Senate amendment:

In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44–225, 45–197, and most recently 46–215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46–215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46–215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46–215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days,

shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation

included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V—FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(a) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.";

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C.

801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 2152, legislation to ensure that deadly large-scale drift nets will never again be used to ravage the oceans and that repeals the Coast Guard user fee on recreational boats.

Mr. Speaker, by now my colleagues are all too familiar with the destruction caused by large-scale drift nets—nets ranging up to 40 miles in length—that hang in the water like walls of death, drifting with the current and tides and killing virtually everything that comes in contact with them. For example, the drift net fishery in the North Pacific alone kills tens of thousands of marine mammals, turtles, seabirds, and U.S. salmon and trout each year.

As a result of the Drift Net Act of 1987, legislation I sponsored to rid the ocean of drift nets, we now have reliable scientific data that document the devastation of this fishery. With the enactment of H.R. 2152, we will mark the end of a battle we began over 5 years ago to stop the use of these nets. But this is not just our battle; it is a fight which has spread from the Congress, to the executive branch, to the environmental and fishing communities, and to the United Nations. Last December, 30 nations joined the United States in sponsoring a U.N. resolution calling for a global moratorium on all large-scale drift net fishing by December 31, 1992, and this bill will bolster the efforts of the United Nations to ensure that all nations comply with the moratorium.

Specifically, title I of the bill will deny U.S. port privileges to any foreign drift net fishing vessel and require the President to embargo all fish, fish products, and sport fishing equipment from countries that do not comply with the U.N. deadline. It also authorizes the President to use his discretionary embargo authority under the Pell amendment against those countries that continue to ignore the U.N. deadline.

This bill also marks a very important milestone in our efforts to protect our fragile marine environment. For the first time, we are legislating mandatory trade sanctions against those countries that violate an international fishery conservation agreement, and we are including provisions that will strengthen the President's leverage in international negotiations on fisheries and wildlife matters.

Title II of the bill repeals the user fee tax for recreational boaters that was enacted 2 years ago. Mr. Speaker, this tax was imposed by the Omnibus Budget Reconciliation Act of 1990; against our committee's wishes. According to OMB predictions, the fee was supposed to raise $262 million. Instead it has raised only $47 million.

When the user fee was first proposed by the Reagan administration, they argued that those who benefit from the Coast Guard—in this case recreational boaters—should pay for those benefits. The truth, Mr. Speaker, is that the Coast Guard does not get one penny of the moneys collected, and they end up actually incurring costs for administering this looney scheme.

Mr. Speaker, the user fee was a mistake 10 years ago when it was proposed by the Reagan/Bush administration; it was a mistake 2 years ago when it was enacted; and it is a mistake now. I urge my colleagues to sink this fee by supporting H.R. 2152.

Finally, I would like to thank my colleagues on the Ways and Means Committee, Mr. GIBBONS and Mr. ROSTENKOWSKI, for all their help and cooperation in bringing this bill to the floor today.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2152. This bill establishes a program to enforce the U.N. resolutions banning the use of large-scale drift net fishing on the high seas. The mandatory sanctions contained in this bill against countries that do not stop drift net fishing by the end of the year will put an end to the unacceptable practice of drift net fishing.

I am especially pleased that we are considering this bill because it contains a repeal of the Coast Guard recreational boat tax. I introduced H.R. 534, a bill to repeal the boat tax, on January 15, 1991. Today, that bill has 278 cosponsors. With the help of those Members, including the leadership of the Merchant Marine and Fisheries Committee, we overcame significant budgetary and political obstacles that prevented the House and Senate from passing a repeal of the boat tax. Over a year ago, the House voted 412 to 6 on a Sense of the Congress resolution to repeal the recreational boat tax. Today the House will live up to its commitment to recreational boaters and send the repeal of the recreational boat tax to the President for his signature.

Mr. Speaker, I hope that the Federal Maritime Commission will aggressively implement the Automated Tariff Filing and Information System [ATFI] fee and meet the offsetting receipts goals set by the Congressional Budget Office and the Office of Management and Budget. I believe that if the requirements of this bill are properly implemented, the ATFI retrieval system will become an asset to the merchant marine community and enhance international commerce. Unlimited access to ATFI, combined with all the enhancement capabilities of the ATFI software, will benefit the entire international trade community.

I urge my colleagues to support this bill.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I strongly support H.R. 2152 and urge its adoption by the House.

This is a strong environmental bill that received unanimous approval from the House the first time it was passed. It is the product of decades of hard work by Alaskans who have felt the devastation caused by high seas drift net vessels. Passage of this bill will put the last nail in the coffin of the foreign drift net fleet, which has been responsible for destroying our salmon, our birds, and our marine mammals.

In addition to these attributes, H.R. 2152 also includes my language expanding the Pell amendment. This language will give our President a stronger hand in dealing with nations that violate international conservation agreements.

Furthermore, this bill puts the brakes on the rapidly growing foreign trawl fleet that harvests pollock in the donut hole in the Bering Sea. By acting now to limit that fishery, we will avoid future conservation problems.

Finally, this bill repeals the boat user tax, which has caused problems for many of our citizens.

Mr. Speaker, I want to compliment my colleague GERRY STUDDS for his work in conserving our marine resources, and my colleague BOB DAVIS for his fight to repeal the boat user tax. Most of all, I want to compliment the thousands of Alaskan fishermen who fought so hard, for so long, to sink the foreign drift net fleet. We've won at last.

Mr. DAVIS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], who has worked very hard on this measure.

Mr. GOSS. Mr. Speaker, I thank the gentleman for yielding me this time.

I just wanted to get up and celebrate the closing chapter of what I hope is going to be the closing chapter in this long history. It started in this Chamber a couple years ago in the middle of the night, and I hope we are going to get it taken care of here before the middle of the night.

I want to urge support of my colleagues for this.

I want to directly commend the ingenuity of the chairman, the gentleman from Massachusetts, and the ranking member, the gentleman from Michigan, who persisted and hung in there.

I think we are going to get a good piece of legislation here. I know the people of the United States are going to notice this and be happy when it is completed.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I rise today in support of H.R. 2152, a bill to enhance the effectivness of the U.N. International Drift Net Fishery Conservation Program.

For several years the United States has endeavored to protect marine mammals and threatened and endangered species from large-scale destruction such as that caused by drift nets. Indeed, for too many years, driftnetters have been allowed to fish the seas, decimating populations of marine mammals, seabirds, sea turtles and nontarget fish populations, in addition to seriously overfishing target species. Lost or discarded drift nets roam the seas unabated causing widespread destruction of marine life.

H.R. 2152 encourages full implementation of the United Nations resolution to end large-scale drift net fishing on the high seas by prohibiting fishing vessels of nations that engaged in drift net fishing from entering U.S. ports, and imposing certain import sanctions against countries whose vessels violate the moratorium.

The bill also expands the authority of the President to impose import restrictions on any product of a nation which conducts fishery practices or engages in trade that diminish the effectiveness of international programs for fishery conservation or the protection of endangered or threatened species.

Mr. Speaker, I am particularly pleased that this bill includes a provision to phase out the recreational vessel fee. Since its implementation in 1990 with passage of the Omnibus Budget Reconciliation Act, it has been clear that the Congress is unanimously agreed that this unjust fee should be eliminated.

The recreational vessel user fees were implemented under the guise of covering the cost of certain indirect Coast Guard services, such as aids to navigation and search and rescue. However, the fees are deposited directly into the general fund and do not guarantee a single service from the Coast Guard.

Furthermore, this fee has wasted scarce Coast Guard services, burdened millions of boat owners, and generated a small percentage of the revenues it projected to raise. This tax unjustly targets an already heavily taxed segment of our population. Indeed, recreational boaters already pay approximately $175 million into the Wallop-Breaux fund, through taxes and fees on fishing equipment, motorboat fuel, and imported watercraft.

Mr. Speaker, I strongly support the provisions of the drift net bill and the phase out of the boat user fees. The time for this bill is long overdue and I urge my colleagues' support for its passage.

Mr. DAVIS. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the repeal of the boat user fee. San Diego is a coastal district. If we want to tax the rich, the boat users are not the rich. They are really hurting.

Mr. Speaker, I rise in support of this measure.

Mr. DAVIS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I rise in strong support of H.R. 2152 on both the driftnet and the lifting of the fees from the boaters. They have really been very adamant in my district about getting them up.

Mr. STUDDS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I rise in strong support of this measure.

Mr. Speaker, it is with great pleasure and pride that I rise in support of HR 2252. Provisions of this bill to repeal the Coast Guard user fee and to provide enforcement tools to ensure an end to large scale driftnet fishing represent bipartisan efforts of our Merchant Marine and Fisheries Committee and I want to commend its leadership for their efforts.

Mr. Speaker, this is a good bill and I urge my colleagues to send it on to the President who, with just one stroke of the pen, can repeal the boat tax and ensure our seas are going to be free from these curtains of death.

Mr. DAVIS. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the notion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and concur in the Senate amendment to the House amendments to the Senate amendment.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendments to the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment just considered and concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

INTERMODAL SAFE CONTAINER TRANSPORTATION ACT OF 1992

Mr. MINETA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3598) to amend title 59, United States Code, to provide for verification of weights, and for other purposes, as amended.

The Clerk read as follows:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Safe Container Transportation Act of 1992".

SEC. 2. CERTIFICATION OF WEIGHTS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 508. Certification of weights and description

"(a) NOTIFICATION AND CERTIFICATION.—

"(1) PRIOR NOTIFICATION.—Before the time any person tenders to an initial carrier any loaded container or trailer for intermodal transportation having a projected gross cargo weight (inclusive of packing material and pallets) of more than 10,000 pounds, such person shall give such carrier written notification of such gross cargo weight and a reasonable description of the contents of the container or trailer. The notification may be transmitted electronically.

"(2) CERTIFICATION.—At or before the time of tendering to an initial carrier for intermodal transportation of a container or trailer to which paragraph (1) applies or of a loaded container or trailer having an actual gross cargo weight (inclusive of packing material and pallets) of more than 10,000 pounds, the person tendering the container or trailer shall certify to the carrier in writing the actual gross cargo weight and a reasonable description of the contents of the container or trailer.

"(3) VIOLATION.—After the date on which the Secretary of Transportation issues final regulations to enforce this section, it shall be a violation of this section for any person tendering a loaded container or trailer to fail to comply with paragraph (1) or (2) or to provide false or erroneous information in a written certification required by paragraph (2).

"(4) LIMITATION ON APPLICABILITY.—For purposes of this section, a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, and terminal operator shall not be considered to be a person tendering a loaded container or trailer to an initial carrier, unless the carrier, agent, broker, customs broker, freight forwarder, warehouseman, or terminal operator assumes legal responsibility for the loading of property into the container or trailer.

"(b) FORWARDING INFORMATION TO SUBSEQUENT CARRIERS.—

"(1) IN GENERAL.—It shall be a violation of this section for a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, or terminal operator to fail to forward the certification of actual gross cargo weight and reasonable description of the contents of a loaded container or trailer provided under subsection (a)(2) to a subsequent carrier transporting the container or trailer in intermodal transportation.

"(2) LIMITATION ON INTERPRETATION OF CARRIER FORWARDING INFORMATION.—The forwarding of information under paragraph (1) by a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, or terminal operator shall not constitute, or in any way be construed as, a verification or affirmation by the carrier, agent, broker, customs broker, freight forwarder, warehouseman, or terminal operator of the accuracy or completeness of such information.

"(c) UNLAWFUL COERCION.—It shall be unlawful—

"(1) for any person to coerce or attempt to coerce a person participating in intermodal transportation to transport a loaded container or trailer having an actual gross cargo weight of more than 10,000 pounds (inclusive of packing materials and pallets) before the certification required by subsection (a)(2) has been provided; and

"(2) for any person, knowing that the weight of the loaded container or trailer or the weight of the tractor-trailer combination carrying the container or trailer in intermodal transportation is in excess of that permitted by applicable State law, to coerce or attempt to coerce any carrier—

"(A) to transport the container or trailer; or

"(B) to operate the tractor-trailer combination;

in violation of such law.

"(d) DUTY OF MOTOR CARRIER.—It shall be unlawful for a motor carrier (as such term is defined in section 10102 of this title) to provide transportation of a loaded container or trailer to which subsection (a)(2) applies prior to receiving the certification required by subsection (a)(2).

"(e) LIMITATION ON APPLICABILITY TO CARRIERS.—The provisions of subsections (a) and (c) shall not apply to a carrier when the carrier is transferring a loaded container or trailer to other carriers in the course of intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the initial carrier.

"(f) STATE ENFORCEMENT.—A State is authorized to enact legislation to enable the State or a political subdivision of the State—

"(1) to assess fines and penalties for violations of State highway weight laws and regulations by a tractor-trailer combination carrying a loaded container or trailer for which a certification is required under subsection (a)(2) against the person tendering to the initial carrier the loaded container or trailer; and

"(2) to impound the container or trailer until such fines and penalties have been paid by the owners or beneficial owners of the contents of the container or trailer or the person tendering the loaded container or trailer to the initial carrier;

in any case in which the fines or penalties result from providing false or erroneous information in a written certification in violation of subsection (a)(3).

"(g) LIENS.—

"(1) IN GENERAL.—If a carrier or person involved in the intermodal transportation of a loaded container or trailer for which a certification is required under subsection (a)(2) must under State law post bond or pay any fines, penalties, costs, expenses, or interest resulting from providing false or erroneous information in a written certification with respect to the container or trailer or the contents thereof to the initial carrier in violation of subsection (a)(3), the carrier or other person shall have a lien against such contents equivalent to the amount of such bond or fines, penalties, costs, expenses, or interest incurred by the carrier or other person until the carrier or other person has received a payment of such amount from the owner or beneficial owner of the contents or from the person responsible for making the certification.

"(2) LIMITATIONS.—

"(A) LIMITATION ON DISPOSITION OF CONTENTS.—A lien under this subsection shall not authorize a carrier or other person to sell or otherwise dispose of the contents of a loaded container or trailer until the person who tendered the container or trailer to the initial carrier is given a reasonable opportunity to determine responsibility for the bond or fines, penalties, costs, expenses, or interest.

"(B) TREATMENT OF CERTAIN OWNERS AND BENEFICIAL OWNERS.—For purposes of this subsection, an owner or beneficial owner of the contents of a container or trailer or a person tendering a container or trailer to the initial carrier shall not be treated as a carrier or person involved in the intermodal transportation of the container or trailer.

"(C) LIMITATION ON APPLICABILITY.—The provisions of this subsection and subsection (f)(2) shall not apply to a container or trailer the contents of which are perishable agricultural commodities (as such term is defined in the Perishable Agricultural Commodities Act, 1930).

"(h) LIMITATION ON STATUTORY CONSTRUCTION.—This section shall not be construed as creating any obligation or responsibility for the person tendering the loaded container or trailer to the initial carrier to ensure that the initial carrier or any other carrier involved in the intermodal transportation will comply with any State statutes or regulations prescribing weight limitations for highway transportation, beyond the requirements set forth in this section.".

(b) ENFORCEMENT.—Section 521(b)(2)(A) of such title is amended by inserting "or which is a violation of section 508 of this title" after "Act of 1984".

(c) DEFINITIONS.—Section 501(a) of such title is amended by adding at the end the following new paragraphs:

"(4) 'beneficial owner' means a person who does not have title to property but has ownership rights in the property. For purposes of this paragraph, a trustee of property in transit from an overseas point of origin who is domiciled in or is doing business in the United States shall be treated as a beneficial owner of such property. A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, or terminal operator providing or arranging for any portion of intermodal transportation of property shall in no case be a beneficial owner of such property, for purposes of this paragraph, solely by reason of providing or arranging for such transportation.

"(5) 'carrier' means—

"(A) a motor carrier, water carrier, and rail carrier (as such terms are defined in section 10102 of this title), and

"(B) an ocean common carrier (as such term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)),

providing transportation of property in commerce.

"(6) 'container' has the meaning given the term 'freight container' by the International Standards Organization in Series 1, Freight Containers, 3rd Edition (reference number IS0668-1979(E)), including successive revisions thereto, and similar containers that are used in providing transportation in interstate commerce.

"(7) 'initial carrier' means the first carrier transporting a loaded container or trailer in intermodal transportation.

"(8) 'intermodal transportation' means successive carriage of a loaded container or trailer from an origin point to a destination point by more than one mode of transportation in interstate or foreign commerce. Such term shall include carriage by more than one mode of transportation in interstate or foreign commerce both under a single bill of lading and under separate bills of lading.

"(9) 'trailer' means a nonpower, cargo carrying, trailing unit which is designed for use in combination with a truck tractor.".

(d) REGULATIONS.—The Secretary shall initiate a proceeding to issue regulations to enforce section 508 of title 49, United States Code, within 180 days after the date of the enactment of this Act and shall issue final regulations within 270 days after such date of enactment. The Secretary may establish, by regulation, exemptions to such regulations that are in the public interest and consistent with the purposes of this Act.

(e) CONFORMING AMENDMENT TO CHAPTER ANALYSIS.—The analysis for subchapter I of chapter 105 of title 49, United States Code, is amended by adding at the end the following new item:

"508. Certification of weights and description.".

SEC. 3. DATA COLLECTION NEEDS.

(a) STUDY.—The Secretary of Transportation shall conduct a study for the purpose of—

(1) assessing—

(A) existing data and data collection needs with respect to the movement in intermodal transportation of loaded containers and trailers (including containers and trailers containing perishable agricultural commodities) in violation of section 508 of title 49, United States Code, and State highway motor vehicle weight laws;

(B) the legal and practical impediments to the collection of such data; and

(C) how these intermodal movements compare with other overweight domestic highway freight movements; and

(2) providing legislative and other recommendations for improving the collection of such data.

(b) CONSULTATION.—In carrying out the study under this section, the Secretary of Transportation shall consult with the States and shippers, carriers, port authorities, and other persons involved in the intermodal transportation of loaded containers and trailers.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Public Works and Transportation, the Committee on Energy and Commerce, and the Committee on Merchant Marine and Fisheries of the House of Representatives and to the appropriate committees of the Senate a report on the results of the study conducted under this section, together with the recommendations referred to in subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MINETA] will be recognized for 20 minutes and the gentlewoman from Maryland [Mrs. BENTLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

□ 2020

Mr. MINETA. Mr. Speaker, first of all, let me commend my esteemed colleague, the gentlewoman from Maryland [Mrs. BENTLEY] for introducing H.R. 3598 last October. This legislation will begin the process of addressing the problem of overweight containers and trailers in intermodal transportation.

I also want to thank Chairman DINGELL of the Energy and Commerce Committee, who shares jurisdiction on this legislation, for his assistance in drafting this amendment. I am attaching a copy of a letter under his signature in which he confirms his agreement to the amendments.

I also want to acknowledge the jurisdiction of the Merchant Marine and Fisheries Committee in this legislation and thank acting Chairman STUDDS of that committee for his support for this legislation and his assistance in bringing it to the floor.

The amendment I am offering has made minor and technical changes to H.R. 3598 to respond to the suggestions of a broad coalition of shippers, carriers, and others involved in the intermodal transportation of containers and trailers.

Overweight intermodal shipments are a national problem. The issue of intermodal containers and trailers used to transport cargo by ship, rail and highway through U.S. ports has increased dramatically over the last 30 years. Just how revolutionary a method of handling freight transportation intermodal shipments has become is demonstrated by the fact that in 1967, 20 percent of the cargo handled in the port of New York was containerized. That figure now approaches 90 percent.

The cargo shipped in intermodal containers or trailers may meet the weight limitations of the container, the ship, the crane and the rail car on its trip and yet exceed weight limitations when transported by truck on the public highways. As many as one-third of these containers may contain loads that, when carried by a highway vehicle, are in violation of State weight laws and pose serious road damage and safety problems with their movements.

Currently, truckers are held responsible for operating overweight vehicles and fined for violating State weight limitations. Yet, they are generally in the middle or at the end of the intermodal transportation chain and have no control over the loading of overweight containers.

A March 1989 Federal Highway Administration analysis of U.S. ports shipping records for a 12-day period indicated that one out of three containers had cargoes at weights that could cause the truck transporting it to violate vehicle weight laws.

If enacted, H.R. 3598 will make it a requirement for a shipper to provide a carrier involved in intermodal transportation with a written certification of the gross cargo weight and a reasonable description of the contents of the cargo, which must be passed on to each subsequent person in the intermodal chain.

If a carrier receives a fine or penalty for violation of State weight laws as a result of a false or erroneous certification, he is entitled to a lien against the person responsible for the certification. However, the contents of the container or trailer may not be sold to pay for the penalties until the person responsible for the certification is able to determine who should reimburse the carrier.

Perishable agricultural commodities are exempted from the lien and impoundment requirements.

Mr. Speaker, H.R. 3598 represents an important first step in getting a handle on the growing problem of overweight containers and trailers on our Nation's highways. We need to take this step now to preserve port access highways for our Nation's future economic growth and to safeguard the driving public from the safety risks posed by transporting overweight containers and trailers on our Nation's highways.

I urge the adoption of H.R. 3598, the Intermodal Safe Container Transportation Act of 1992. I will be submitting under general leave a more detailed explanation of the amendment and relevant letters of jurisdiction. Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, in response to the suggestions of a broad coalition of shippers, carriers, and others involved in the intermodal transportation of loaded containers and trailers, the Committee on Public Works and Transportation has made minor and technical changes to H.R. 3598, the Intermodal Safe Container Transportation Act of 1992. The committee has focused on intermodal transportation in this legislation not to disadvantage this valuable segment of the transportation industry, but because we recognize its growing importance to the Nation's economic competitiveness in the global marketplace. The committee also views this legislation as a logical first step in dealing with the overall problem of transportation of overweight containers and trailers.

Since 1988, truckers engaged in intermodal transportation have argued for stronger Federal and State laws to address the steady growth in overweight container and trailer traffic, plaguing our ports and connecting highways. Containers that may be legally and safely loaded for water or rail transportation can, nonetheless, be unsafe or violate State highway weight limitations when they are loaded on a tractor-trailer combination vehicle. In fact, studies reveal that approximately 33 percent of all 20- and 40-foot containers moving through U.S. ports carried cargo loads that would likely cause the vehicles carrying these containers to violate State highway weight limits if loaded on trucks.

Overweight containers and trailers pose problems for our Nation's transportation infrastructure and for the safety of the traveling public. Even small increases in truck axle loads can produce exponential increases in the rate of pavement deterioration on our highways. In addition, extremely heavy containers can decrease a truck's braking capacity and increase the stress on its mechanical parts and tires. This could result in tire failure or loss of steering control.

Currently, truckers are held responsible for operating overweight vehicles and fined for violating State weight limitations. Yet, they are generally in the middle or at the end of the intermodal transportation chain and have no control over the loading of the containers. This legislation, therefore, takes a different approach to assigning responsibility for overweight containers and trailers, but it is not the committee's intent, in any way, to relieve truckers from their responsibility to comply with State highway weight laws.

The committee's bill recognizes that it is the person who obtains intermodal transportation for a loaded container or trailer of more than 10,000 pounds who has control over the loading of the container or trailer. The bill, therefore, requires the person who tenders a loaded container or trailer to the initial carrier to provide the carrier with advance written notification and certification of the projected and actual gross cargo weight and a reasonable description of the contents. Failure to provide the advance notification or certification constitutes a violation of the law. It is also a violation to provide false or erroneous information in the certification. It is not the committee's intent to burden shippers with unnecessary new requirements, but rather to establish reasonable procedures to address the growing problem of overweight containers and trailers.

The bill makes other persons in the intermodal transportation chain responsible for passing on to subsequent carriers the written certification of the actual gross cargo weight of the container or trailer and the reasonable description of its contents. These persons may include carriers, agents of carriers, brokers, customs brokers, freight forwarders, warehousemen, and terminal operators.

The bill also makes it unlawful for a person to coerce or attempt to coerce an intermodal transportation provider to transport a loaded container or trailer without first providing a written certification of the weight and contents of the container or trailer or knowing that the loaded container or trailer is overweight. The bill further makes it unlawful for a motor carrier to transport a loaded container or trailer without first receiving the written certification.

To strengthen enforcement of state highway weight laws, the bill authorizes States to enact laws to assess fines and penalties and to impound overweight containers and trailers in any case in which the fines or penalties were assessed because false or erroneous information was provided in the certification. Fines and penalties are to be assessed against the person responsible for making the certification. Carriers are granted a lien against the cargo, sufficient to cover the amount of bond or fines, penalties, costs, expenses or interest incurred by the carrier or other person for the highway weight law violation, until the carrier or other person is reimbursed by the cargo's owner or beneficial owner or the person responsible for making the certification. Perishable agricultural commodities are exempted from the lien and impoundment requirements because they are fragile and a total loss to the owner could result if their delivery is delayed.

This bill authorizes the Secretary of Transportation to develop regulations to implement this legislation, and it affords the Secretary the flexibility to make exceptions in the public interest and consistent with the purposes of this act. The Secretary may, for example, except from the lien and impound requirements, other perishable commodities where the circumstances clearly merit it. This would not apply to seasonable commodities which are not perishable nor to other commodities like beer which have frequently been identified as present in overweight shipments and are not considered perishable. The committee intends the Secretary to consult extensively with State weight enforcement officials in developing its implementing regulations. In cases where overweight containers and trailers contain mixed loads or where false or erroneous information has been provided in the certification, the committee considers consultation with State enforcement officials to be particularly important.

Finally, the bill authorizes a 2-year study to assess existing data and future data collection needs regarding the intermodal transportation of loaded containers and trailers that violate section 508 of title 49, United States Code, and State highway weight laws, and the legal and practical impediments to collecting the data. The study will also address how these intermodal movements compare with other overweight domestic highway freight movements and provide legislative and other recommendations for improving data collection on overweight container and trailer traffic. It is to be conducted by the Secretary of Transportation in consultation with the States, shippers, carriers, port authorities, and other persons involved in intermodal transportation.

This legislation is noncontroversial. It is the product of a consensus, forged through months of negotiation with representatives of the many interests involved in the intermodal transportation of loaded containers and trailers. It is an important first step in getting a handle on the growing problem of overweight containers and trailers on our Nation's highways. We need to take this step now to preserve precious port access highways for our Nation's future economic growth and to safeguard the driving public from the safety risks posed by intermodal transportation of overweight containers and trailers.

Mr. Speaker, I urge support for the bill and am attaching hereto an exchange of letters with the Committee on Energy and Commerce and Committee on Merchant Marine and Fisheries acknowledging jurisdiction over this subject matter.

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, October 3, 1992.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing with regard to H.R. 3598, the "Intermodal Safe Container Transportation Act of 1992", as amended.

On October 22, 1991, this legislation was jointly referred to the Committee on Public Works and Transportation and the Committee on Energy and Commerce. Following hearings on the bill, our respective staffs have developed a compromise proposal in the form of an amendment in the nature of a substitute to the bill. On behalf of our Committee, I recognize your Committee's jurisdiction over this important proposed substitute and would respectfully request that the Committee on Energy and Commerce agree to allow H.R. 3598, as amended, to be scheduled for the suspension calendar.

In addition, I would be happy to include our exchange of letters in the record during debate on this bill, and I want to extend my sincere appreciation for the cooperation you and your staff have accorded us on this matter.

With all good wishes.

Sincerely,

ROBERT A. ROE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 3, 1992.

Hon. ROBERT A. ROE,
Chairman, Committee on Public Works and Transportation, Washington, DC.

DEAR MR. CHAIRMAN: I am writing with respect to your letter requesting our agreement to the placement of H.R. 3598, the Intermodal Safe Container Act of 1992, as amended pursuant to the joint efforts of our two Committees, on the suspension calendar.

Our Committee has reviewed the amendment in the nature of a substitute and appreciate the inclusion of provisions that we recommended therein. In view of the need for prompt floor action on the amended bill, I have no objection to its consideration on the suspension calendar. This decision, of course, should in no manner be construed as a waiver of our Committee's jurisdiction over the subject matter of H.R. 3598 or of our Committee's right to be named as conferees in any subsequent conference or to be fully included in any further discussions with the Senate in the absence of any formal conference.

I appreciate the cooperative manner in which our Committee staffs have worked on this matter and would appreciate your inclusion of our correspondence in the record.

Sincerely,

JOHN D. DINGELL,
Chairman.

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, DC, October 3, 1992.

Hon. ROBERT A. ROE,
Chairman, Committee on Public Works and Transportation, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Energy and Commerce and the Committee on Public Works and Transportation are in the process of bringing to the House H.R. 3598, the Intermodal Safe Container Transportation Act of 1991, a bill to provide for the verification of weights of loaded containers. I have reviewed the joint draft proposal of the amendment in the nature of a substitute (dated October 2, 1992/6:58 p.m.). Although I have no substantive objections to the proposed substitute amendment, it contains matters within the jurisdiction of the Committee on Merchant Marine and Fisheries, and I request that the Committee on Energy and Commerce and Public Works and Transportation recognize the jurisdictional interest of my Committee over this legislation.

H.R. 3598 is an important and sound piece of legislation that will substantially improve our transportation infrastructure. The proposed substitute would remedy the damage caused to our highways by the carriage of overweight containers. These overweight shipping containers pose a serious safety hazard to the motoring public and accelerate the deterioration of our Nation's highways.

This bill affects all aspects of the intermodal chain of transportation, from delivery to receipt. The Shipping Acts of 1916 and 1984 and the Intercoastal Shipping Act of 1933 regulate oceanborne common carriage in our international, domestic, and intercoastal trades. Rule X, clause 1(n) of the Rules of the House of Representatives gives the Committee on Merchant Marine and Fisheries jurisdiction over the regulation of common carriers by water (vessels in the intermodal transportation system).

The proposed amendment in the nature of a substitute would require shippers to certify containers of over 10,000 pounds. The shipper would be required to tender the certificate to the initial carrier; in turn, each subsequent carrier would be required to forward the certificate. Failure to forward the required certificate would subject ocean common carriers to penalty. The amendment in the nature of a substitute uses the Shipping Act, 1984 definition for the term "ocean common carrier". Additionally, the proposed substitute would require the Secretary of Transportation to conduct a study assessing data and data collection needs with respect to the movement in intermodal transportation of loaded containers. The results of that study are to be transmitted to my Committee.

Mr. Chairman, I support this legislation and do not wish to impede its progress. However, because it contains matters that affect ocean shipping, a matter within the jurisdiction of the Committee on Merchant Marine and Fisheries, I ask that you include a copy of this letter as part of the general debate on H.R. 3598.

With kind regards.

Sincerely,

GERRY E. STUDDS,
Acting Chairman.

Mr. Speaker, I reserve the balance of my time.

Mrs. BENTLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from New Jersey [Mr. ROE], chairman of the Committee on Public Works and Transportation, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT], our ranking minority member, for their leadership in bringing this legislation to the floor. Both of them will be sorely missed in the 103d Congress. I also want to thank the gentleman from California [Mr. MINETA], chairman of the Surface Transportation Subcommittee, who has just given an excellent background on the needs for this legislation, and also the gentleman from Pennsylvania [Mr. SHUSTER], the subcommittee's ranking minority member, for their hard work and assistance in moving H.R. 3598 through the committee and bringing my legislation to the floor today.

Following the April 2d subcommittee hearing on this legislative measure, both Chairman MINETA and Mr. SHUSTER proved to be invaluable in the lengthy meetings and negotiations held to resolve the concerns of various entities potentially impacted by this legislation.

I especially want to thank both the subcommittee's majority and minority staffs for their diligence in addressing the expressions of concern raised by the National Industrial Transportation League, the National Custom House and Freight Forwarders Association, and others. Through their fine work and the committee's and subcommittee's leadership, today we have before us what should be a noncontroversial bill.

I also want to thank the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Michigan [Mr. DAVIS] of the Committee on Merchant Marine and Fisheries and the late Chairman Walter Jones, as well as the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT] of the Committee on Energy and Commerce, for their cooperation on this bill.

Mr. Speaker, H.R. 3598 is a legislative effort to encourage compliance with U.S. highway gross vehicle weight limitations, thus making our highways safer for all who travel on them and lessen the wear and tear on our roads and bridges.

It places the burden of responsibility of verifying the weights of intermodal containers, and providing the documentation regarding the gross weight, on the party who first tenders the cargo shipped intermodally—that could be the shipper, a motor carrier who loads a consolidated shipment, or anyone else who plays that role.

This legislation does not relieve motor carriers of their obligation to comply with State weight laws and regulations, nor does it require shippers to monitor the equipment or vehicle loading of the motor carrier.

I want to stress that the aim of this legislation is to ensure that intermodal shipments are handled properly, not to place an additional burden on intermodal shipments. This legislation provides the Department of Transportation with sufficient latitude to develop workable regulations.

We believe that the Transportation Department should consult with State weight enforcement officials in the implementation of this act, especially in developing procedures to determine where violations result from a false or erroneous weight certification.

Two other areas deserve careful examination by the Department. Perishable agricultural commodities are exempt from certain enforcement mechanisms of the bill.

The Department should evaluate whether other kinds of perishable items should have similar treatment, while taking care that commodities that haven't typically caused highway weight violations are adequately covered by the regulations.

The Department also should give careful consideration to the appropriate treatment of the contents of containers with mixed ownership in cases of impoundment or application of liens.

Mr. Speaker, although we are facing the 11th hour, hopefully, we will be able to get this most important piece of legislation not only through the House of Representatives, but through the Congress.

If we are able to accomplish that goal, Mr. Speaker, then we, rightfully, can boast that we played a critical role in improving safety on the Nation's highways and ease their wear and tear.

Mr. Speaker, I reserve the balance of my time.

Mr. MINETA. Mr. Speaker, I yield 1 minute to our very fine colleague, the gentleman from Kentucky [Mr. MAZZOLI].

☐ 2030

Mr. MAZZOLI. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I would ask the gentleman from California [Mr. MINETA], in the city of Louisville, the county of Jefferson, there are proposals for the storage, the handling, and possibly the eventual burning of hazardous wastes, including material that could be carcinogenic.

I would ask my friend from California, does this bill before the House have anything to do with identification and perhaps publicizing the nature of the cargo to local authorities, perhaps fire departments, emergency medical units?

Mr. MINETA. Mr. Speaker, if the gentleman will yield, this legislation does not.

Mr. MAZZOLI. Mr. Speaker, I would ask the chairman, is there legislation at all?

Mr. MINETA. Mr. Speaker, the Congress has in the past passed legislation dealing with the transportation of hazardous materials. That is under the jurisdiction of the Department of Transportation. Within the Department of Transportation there is an agency or administration called Research and Special Programs Administration, and it is with RSPA that they administer the Transportation of Hazardous Materials Act.

Mr. MAZZOLI. Mr. Speaker, I would ask the chairman, just very briefly, would it typically then be the responsibility of the carrier to somehow make notice as it enters a State or locality of what it is carrying or what the tank or carrier is?

Mr. MINETA. Mr. Speaker, the requirements are laid out in the act, as well as a community right to know provision.

Mr. MAZZOLI. Mr. Speaker, I appreciate that and thank the chairman. The gentleman from California [Mr. MINETA] and I have been friends a long time. I am very proud of the leadership of the gentleman from California on all manner of surface transportation and appreciate him responding to my questions.

Mr. ROE. Mr. Speaker, I wish to express my support for the amendment in the nature of a substitute to H.R. 3598, the Intermodal Safe Container Transportation Act of 1992, which is needed to make the intermodal transportation system of the 1990's and the 21st century operate more efficiently.

I offer my compliments to our subcommittee chairman, NORMAN Y. MINETA of California, and the ranking Republican member, BUD SHUSTER of Pennsylvania, for their work on this bill. I also want to commend the original author of this legislation, the gentlewoman from Maryland, Congresswoman HELEN DELICH BENTLEY, for taking the initiative to address the growing problem of overweight containers and trailers in intermodal transportation.

This legislation represents a consensus among the major participants in the intermodal transportation chain—shippers, truckers, ports, steamship companies, agricultural interests, customs brokers, freight forwarders, warehousemen, and terminal operators. In response to their suggestions, the Committee on Public Works and Transportation has made minor and technical changes to the Congresswoman's legislation while maintaining the original framework of her bill.

The transportation of overweight containers and trailers in violation of highway weight laws is a widespread and growing problem. Overweight containers are a safety threat on the Nation's highway and they cause serious damage to our road system.

We have focused on this problem of intermodal transportation because it is so important to the Nation's future competitiveness in the global economy. The committee regards intermodal transportation as crucial and the goal of the bill is to make our entire transportation system work more effectively.

For the last 4 years, truckers engaged in intermodal transportation have expressed an urgent need for stronger Federal and State laws to stem the growth in overweight container and trailer traffic. Truckers are on the receiving end as containers are transported and they are well aware that the use of these overweight containers and trailers accelerate damage to our Nation's highways and increase the risks to the traveling public.

To discourage the use of overweight containers and trailers, H.R. 3598 requires the shippers or persons obtaining intermodal transportation for a container or trailer of more than 10,000 pounds to provide the carrier with advance written notification and certification of its projected and actual gross cargo weight and a reasonable description of its contents. Failure to provide the written certification, or providing a false certification, is a violation of the law.

The bill makes the shipper responsible for providing accurate advance information on the container or trailer's weight, but carriers transporting the cargo are in no way relieved from the responsibility to comply with State highway weight laws. The bill makes the other participants in the intermodal transportation network responsible for passing on to subsequent carriers the written certification of the container or trailer's actual gross cargo weight and the description of its contents.

"This legislation makes it unlawful to coerce an intermodal transportation provider to transport a loaded container or trailer without first providing a written certification of its weight and contents or to transport a container which exceeds State weight laws on its own or when loaded on a tractor-trailer. It is also unlawful for a carrier to transport loaded container without the required weight and content certification.

"To strengthen enforcement, the bill authorizes States to enact legislation to assess penalties and to impound overweight containers and trailers. Penalties are assessed against the owner or beneficial owner of the trailer or container contents.

Carriers who are fined for transporting overweight containers or trailers are granted a lien against the cargo proceeds until they are reimbursed by the cargo owner. Perishable agricultural products are exempted from the lien and impoundment requirements because delays in delivery could result in a total loss to the owner.

The bill also authorizes a 2-year study to assess existing data and data collection needs to provide us with better information on the transportation of overweight intermodal containers and trailers. The study will include an examination of the legal and practical impediments to collecting the data and a comparison of overweight intermodal movements with other overweight domestic highway freight movements. It will also provide legislative and other recommendations for improving data collection on overweight containers and trailer traffic.

The Intermodal Safe Container Transportation Act of 1992 represents an important step in recognizing that intermodal transportation is significant for the economic and competitive future of our Nation. By enacting this legislation, the use of overweight containers will be discouraged, port access highways will be better reserved and the safety of the traveling public enhanced.

I urge support of H.R. 3598, the Intermodal Safe Container Transportation Act of 1992.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of this important intermodal transportation bill. I want to thank Chairman ROE, Chairman MINETA, and Mr. SHUSTER for bringing this legislation to the floor today. I particularly want to thank Mrs. BENTLEY for her tenacity in pursuing a remedy to the overweight container problem. She introduced H.R. 3598 last fall, and when the issue could not be addressed in the surface transportation legislation, continued her efforts to see that it received the attention it deserved.

I also wish to thank Chairman STUDDS and Mr. DAVIS of the Merchant Marine and Fisheries Committee, as well as Chairman DINGELL and Mr. LENT of the Energy and Commerce Committee for their cooperation on this bill.

The smooth integration of different modes of transportation is a theme we promote in the Public Works and Transportation Committee. H.R. 3598 is an important step toward that goal. The transportation of containers that violate highway weight laws causes excess wear on our highways and threatens safety as well. This bill will require the different modes to share information so that trucking companies are not put in a position where they are pressured to haul overweight containers.

Specifically, shippers must provide a certification of a container's actual weight when tendering it to the first carrier in the intermodal transportation chain. This certification must be passed along as carriers transfer the cargo from mode to mode. At any point of truck transportation, the trucking company can determine whether the container is within the limits of highway weight laws and provide proper equipment for transporting the load.

It seems a simple thing—to know how much the container weighs. But truckers do not have this information now. After waiting for hours in line at a port, even if they suspect a container is too heavy for their equipment, they have nothing in writing to serve as a basis for rejecting the load.

A unique group of carrier and shipper representatives deserves recognition for its persistence and cooperative spirit in striving for this legislation. Truckers, steamships, railroads, ports, and shippers pulled together to resolve this problem to everyone's satisfaction. They were very helpful to the committee and I want to thank them today for their support of this legislation.

Again, this is a bill which will reduce highway wear, mitigate a threat to safety, and has the strong backing of the industries which must abide by it. I urge my colleagues to support H.R. 3598.

Mr. STUDDS. Mr. Speaker, H.R. 3598 is an important and sound piece of legislation that will substantially improve our transportation infrastructure. The substitute proposed by the Committee on Public Works and Transportation and the Committee on Energy and Commerce would remedy the damage caused to our highways by the carriage of overweight containers. These overweight shipping containers pose a serious safety hazard to the motoring public and accelerate the deterioration of our Nation's highways.

This bill affects all aspects of the intermodal chain of transportation, from delivery to receipt. The Shipping Acts of 1916 and 1984 and the Intercoastal Shipping Act of 1933 regulate oceanborne common carriage in our international, domestic, and intercoastal trades. House rules give the Committee on Merchant Marine and Fisheries jurisdiction over the regulation of common carriers by water; consequently, my panel has a keen interest in legislation affecting vessels in the intermodal transportation system.

The proposed amendment in the nature of a substitute would require shippers to certify containers of over 10,000 pounds. The shippers would be required to tender the certificate to the initial carrier; in turn, each subsequent carrier would be required to forward the certificate. Failure to forward the required certificate would subject ocean common carriers to penalty. The amendment in the nature of a substitute uses the Shipping Act, 1984 definition for the term "ocean common carrier." Additionally, the proposed substitute would require the Secretary of Transportation to conduct a study assessing data and data collection needs with respect to the movements in intermodal transportation of loaded containers. The results of that study are to be transmitted to my committee.

I appreciate this opportunity to comment on the bill's application to ocean shipping.

Mr. SHUSTER. Mr. Speaker, I rise in support of the Intermodal Safe Container Transportation Act.

This goal of this bill is to reduce a problem that has plagued shipments that travel by more than one transportation mode. The highway leg of container shipments that also move by rail or ship—where there are no weight caps—frequently places a burden on motor carriers, who must abide by highway weight laws.

Almost every container load travels over the road at least once during shipment, and with the proper information, motor carriers can haul containers safely and minimize road wear.

This bill will require shippers to notify carriers of actual container weights so that motor carriers can provide the proper chassis and other equipment to haul the freight without violating highway weight limits.

Shippers must also provide a description of the contents of the container. This description should be specific enough to identify the cargo in case special loading practices should be used, but it does not require an itemized inventory of the contents.

It should be stressed that our intent is to overcome an obstacle to efficient intermodal transportation, not to hamper intermodal shipments. The Department of Transportation will have considerable flexibility in shaping regulations in keeping with this objective.

This bill sets a new precedent in cooperation among the modes. Representatives of shippers, motor carriers, railroads, steamship companies, and port authorities have carefully evaluated the best way to reduce the overweight container problem. They strongly support the measures contained in H.R. 3598, and I urge my colleagues to lend it their support as well.

Mrs. BENTLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RAY). The question is one the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and pass the bill, H.R. 3598, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ASIAN/PACIFIC-AMERICAN HERITAGE MONTH

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5572) to designate May of each year as "Asian/Pacific-American Heritage Month."

The Clerk read as follows:

H.R. 5572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) on May 7, 1843, the 1st Japanese immigrants came to the United States;

(2) on May 10, 1869, Golden Spike Day, the 1st transcontinental railroad in the United States was completed with significant contributions from Chinese pioneers;

(3) in 1979, at Congress' direction, the President proclaimed the week beginning on May 4, 1979, as Asian/Pacific American Heritage Week, providing an opportunity for the people of the United States to recognize the history, concerns, contributions, and achievements of Asian and Pacific Americans;

(4) in 1990, 1991 and 1992, Congress designated and the President proclaimed the month of May as Asian/Pacific American Heritage Month;

(5) nearly 8,000,000 people in the United States can trace their roots to Asia and the islands of the Pacific; and

(6) Asian and Pacific Americans have contributed significantly to the development of the arts, sciences, government, military, commerce, and education in the United States.

SEC. 2. ANNUAL COMMEMORATION.

(a) DESIGNATION.—May of each year is designated as "Asian/Pacific American Heritage Month".

(b) FEDERAL PROCLAMATION.—The President is authorized and requested to issue annually a proclamation calling on the people of the United States to observe the month designated in subsection (a) with appropriate programs, ceremonies and activities.

(c) STATE PROCLAMATIONS.—The chief executive officer of each State is requested to issue annually a proclamation calling on the people of the State to observe the month designated in subsection (a) with appropriate programs, ceremonies and activities.

(d) DEFINITION.—For purposes of subsection (c), the term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House legislation to designate May of each year as "Asian/Pacific-American Heritage Month."

H.R. 5572 is the product of many years of work by the distinguished dean of the New York delegation, FRANK HORTON. Congressman HORTON is retiring at the end of this Congress, after 30 years of service in this body.

So, first, I want to use this opportunity to extend my best wishes to FRANK and his family, and to recognize his enormous contributions to this institution and to the American people.

FRANK, we are grateful for your leadership and guidance over these many years. You have consistently placed principle and fairness over partisan concerns. You have been a conciliator in the true sense of the word. Your skills as a legislator will be missed.

Mr. Speaker, H.R. 5572 would designate an annual public observance in recognition of the fastest growing segment of our population, Asian-Americans.

Since 1978, when Congress first considered legislation to recognize the contributions of Asian-Americans, the number of Americans of Asian and Pacific Islander heritage has more than doubled, to nearly 8 million.

This population is also enormously diverse, with many ethnic backgrounds of differing language and culture. Some Asian groups have been in the United States for several generations; others are more recent immigrants.

The longstanding policy of the Committee on Post Office and Civil Service governing commemorative legislation prohibits recurring annual commemoratives. Over the years, the committee has diligently enforced that provision of the policy.

However, in a few instances, and after careful review beyond our usual standard for commemoratives, the committee has approved exceptions to the policy.

Those exceptions were granted in cases where the committee determined that the subject matter was of extraordinary national significance and where circumstances clearly supported a waiver from the stated policy.

Applying that strict standard, the committee found a clear basis for approving an exception to the policy for H.R. 5572.

The subject matter of the bill is of extraordinary national significance in light of the substantial demographic change sweeping the country. The United States truly continues to be a nation of immigrants, and the diversity of the population continues to contribute to the strength and progress of the Nation.

The committee also considered the existence of similar annual periods of public observance in recognition of other numerically large racial minority groups.

In 1968, Congress enacted legislation designating "National Hispanic Heritage Week." That act was later amended to extend the recognition to a month, from September 15 to October 15 of each year.

In addition, the President annually designates February as "Black History Month."

Accordingly, Mr. Speaker, I urge my colleagues to support this effort by the gentleman from New York.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I am honored to be the primary sponsor of H.R. 5572. As the gentleman from Ohio [Mr. SAWYER] explained, this bill would designate the month of May of each year as Asian/Pacific American Heritage Month.

In addition to the annual designation of the month, my legislation would request that the President and the Governor of each State annually issue a proclamation calling on the people of the United States to observe the month designated with appropriate programs, ceremonies and activities.

I want to thank the chairman, and the ranking minority member of the Post Office and Civil Service Committee, Mr. CLAY and Mr. GILMAN, for their strong support for my legislation to designate May of each year as Asian/Pacific American Heritage Month. I also want to express my appreciation to the chairman of the Subcommittee on Census and Population, Representative TOM SAWYER of Ohio, and also the ranking minority member of the subcommittee, Representative TOM RIDGE of Pennsylvania, for their assistance in bringing this measure to the floor in an expedited fashion.

On June 30, 1977, I had the unique honor and pleasure of introducing House Joint Resolution 540 and later House Joint Resolution 1007 which for the first time in this Nation's history, asked the Congress and the people of the United States to set aside a period in May as Asian/Pacific American Heritage Week. I should add that I feel a great deal of satisfaction in the dramatic growth of organizations dedicated to attracting attention to the problems and issues confronting Asian-Americans. Virtually all of these organizations have been formed as a result of the original legislation in 1977.

Asian-Americans are now the fastest growing minority group in America. Nearly 8 million Americans can trace their roots to Asia and the islands of the Pacific.

I am joined in this action by my distinguished colleague from California, Mr. NORMAN MINETA, who was also the original sponsor with me in 1977. Mr. MINETA has been one of the strongest supporters in my effort to achieve recognition for Asian/Pacific Americans. Joining with us in support of this measure are Mr. MATSUI of California, Mr. FALEOMAVAEGA of American Samoa, Ms. MOLINARI of New York, Mrs. MINK of Hawaii, Mr. BLAZ of Guam, and Mr. ABERCROMBIE of Hawaii.

More than 15 years ago a woman came to my office and told my administrative assistant, Ruby Moy, and me a very compelling and persuasive story. Today, I would like to share the origin of this landmark legislation.

The celebration of Asian-Pacific American Heritage Month has a very deep and personal meaning for Jeanie Jew and her family. Their story began sometime in the 1800's when a young man, M.Y. Lee left Canton, China to find a better life in America. Mr. Lee was one of the first Chinese pioneers to help build the transcontinental railroad. He later became a prominent California businessman. When the Chinese were having difficulties in Oregon, Mr. Lee traveled to Oregon and was killed during that period of unrest. It was a time of anti-Chinese and anti-Asian sentiment. The revelations about Mr. Lee and the story of Asian Americans led this one woman to believe that not only should Asians understand their own heritage, but that all Americans must know about the contributions and histories of the Asian-Pacific American experience in the United States. Jeanie Jew, the creator of the idea for a heritage month is the granddaughter of M.Y. Lee, the early pioneer.

The original resolution designated the week beginning May 4 as Asian-Pacific American Heritage Week because that week included two significant occasions in the proud history of Asian Americans. May 10, 1809, or Golden Spike Day was the day on which the transcontinental railroad was completed, largely by Chinese-American pioneers. May 7, 1843, marks the date of the first arrival of the Japanese in the United States. Both dates will fittingly be included in Asian-Pacific American Heritage Month.

I want to commend the two women who made this event possible, Ruby Moy and Jeanie Jew. Mrs. Jew turned a personal tragedy in her family history into a positive force.

Asian-Pacific American Heritage Month will now be observed by all Americans. I also want to thank Ruby Moy, my administrative assistant, for her efforts to pass this legislation. She holds the highest professional position to a Member of Congress, and is a second generation Asian-American.

In 1977, Mrs. Jew and Ms. Moy cofunded the congressional Asian-Pacific staff caucus, an organization which collectively worked for the establishment of the first heritage proclamation and supports yearly efforts to perpetuate its recognition. The caucus, a group of professional staff members of Asian descent, periodically discusses and reviews legislation and issues of concern to Asian-Pacific Americans.

I take a great deal of pride in my involvement with the Asian-American community. Asian and Pacific Americans have contributed significantly to the development of the arts, sciences, government, military, commerce, and education in the United States.

I hope my colleagues will join me in supporting this resolution and in recognizing the history and contributions of Asian-Pacific Americans, particularly during Asian-Pacific American Heritage Month. Immediately following my statement, I am including a letter I recently received from Mrs. Jeanie Jew for insertion in the RECORD.

SPRINGFIELD, VA, *October 4, 1992.*

Hon. FRANK HORTON,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN HORTON: I was deeply saddened to learn of your announcement to retire from the U.S. House of Representatives. Your departure is not only a loss for New York State and the Congress, but especially for a community of nearly 8 million people across the United States—the Asian/Pacific American. When the gavel signifies the end of the 102nd Congress, our voices will be silent for a time—out of respect—because a great person, the distinguished gentleman from the 29th Congressional District of New York, is leaving the Chamber. You have been our Champion.

For more than a decade, as the chief sponsor with your good friend and colleague, Congressman Norman Y. Mineta of California, you have introduced every bill and resolution establishing Asian/Pacific American Heritage Week and Month. Since its first observance, the celebration in May has become the single most significant event for Asian and Pacific Islanders and all Americans to learn more about our concerns, contributions, achievements and history in the U.S. Your legislative efforts on behalf of Asian Americans will be the benchmark for others to follow. The passage of H.R. 5572 is not only a tribute to the many people and communities directly involved, but particularly to you and the U.S. Congress for effective leadership—and the formal recognition of the Asian/Pacific American role in America's past, present and future.

My special thanks to your office, professional staff members, and especially to Ruby G. Moy, your Chief of Staff and Administrative Assistant, for her outstanding efforts and commitment to this landmark legislation.

Robert joins me in expressing our heartfelt appreciation and in wishing you and Nancy the very best.

Sincerely,

JEANIE F. JEW.

□ 2040

Mr. SAWYER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. CLAY], chairman of the full Committee on Post Office and Civil Service, without whose leadership this timely consideration would not be possible.

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of this bill, which is sponsored by my good friend and colleague, the gentleman from New York [Mr. HORTON].

Mr. Speaker, it is a fitting tribute to the gentleman from New York that we pass this measure in recognition of his great efforts in behalf of the Asian-Pacific American community.

I would like to take this opportunity to pay special tribute to my friend and respected colleague, the gentleman from New York [Mr. HORTON].

Several months ago, FRANK stood in the well of this House and announced that he would not seek reelection, that he would retire at the conclusion of this year after some 30 years in this House.

I, like many of our colleagues, was stunned and saddened by the announcement. The citizens of New York State will lose a great servant. The Chamber will lose a great legislator. The Federal and postal workers will lose a great champion and, of course, the Nation will lose a great statesman.

I will lose not only a comrade on the legislative battlefield but, most of all, I will lose a longtime companion and ally.

During this Congress, Mr. Speaker, we have become almost complacent over the decisions of colleagues to leave this body. I will miss many of them as time goes by. I miss those who have left before us and those who are about to go. I know one man that I will miss. I'll miss the pat of his large hand on my back, followed by the bellow of that Cajun rolling voice and the citation of some obscure baseball stats on heroes past and present. Too many times the American public watches us on TV as we battle in the legislative rhetoric like characters in a show. What they sometimes forget is that we are real live humans with hearts, souls and feelings, just like them.

FRANK, I'll miss you, but always know that you'll never be forgotten as a great legislator and statesman. I wish you and Nancy all the joy and happiness that God can spare.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from Missouri for his very fine remarks. I have enjoyed working with him and this committee particularly. I have the greatest regard for his leadership and his dedication. He is a very fine Member of Congress, and the people in his district certainly respect him. They have sent him back many, many times.

But more importantly, he is the voice of the Congress in representing the Federal employees. And I think one of the most important pieces of legislation that I have ever sponsored has been the effort that he and I have been engaged in to try to repeal the Hatch Act so that the fellow Americans who work for the Federal Government can be American citizens just like the rest of us. Because today they are not.

And the Clay-Horton bill, to repeal the Hatch Act, is still pending. I do not think it will be acted on in this Congress, but I am going to leave it up to his leadership to see that it gets enacted in the near future.

They are the only class of people in America that do not have the responsibilities that the rest of Americans have. They cannot participate in the political process like everyone else can. And until that Hatch Act, which is over 50 years of age, is repealed, those people are going to continue to be second-class citizens.

I would certainly hope that in the next Congress that that can be attended to. I have enjoyed my work in the House. It is a great institution. I am proud of it. I am proud of the opportunity that I have had to serve here and particularly to serve on the Committee on the Post Office and Civil Service.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, I certainly appreciate the kind remarks. I can assure the gentleman that if I am reelected in November, one of the first pieces of legislation that will go on the President's desk, hopefully a President who is committed to freeing the Federal employees from the present bondage that they serve under, not being able to participate fully in the political process, will sign the bill.

Mr. HORTON. Win one for the Gipper. That is me.

Mr. SAWYER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MINETA], a leader whose commitment on behalf of the measure before us is unsurpassed on our side of the aisle.

□ 2050

Mr. MINETA. Mr. Speaker, I thank my very distinguished friend, the gentleman from Ohio, for yielding me this time.

Mr. Speaker, I rise today in strong support of H.R. 5572, legislation to permanently designate the month of May as Asian-Pacific American Heritage Month.

Along with my distinguished friend and colleague from New York, Congressman FRANK HORTON, I am very proud to be a cosponsor of this important legislation. I wish to thank FRANK for all of his efforts and interest in issues involving the Asian-Pacific American community.

H.R. 5572 will build on the work FRANK began in 1979, when the Congress first recognized Asian-Pacific American Heritage Week.

In 1988, this was expanded to a month-long observance, and the legislation before us today will make the designation of May as Asian-Pacific American Heritage Month a permanent one.

The observance of Heritage Month each year has become an important celebration for all Americans of Asian and Pacific Islands ancestry. Around the country, community organizations take advantage of the opportunity it presents to educate our fellow Americans about our communities, our contributions, and our history in America.

I am very proud that today the House is recognizing the importance of this annual celebration by bringing H.R. 5572 to the floor, and I urge my colleagues to join me in voting to approve the bill.

As I said earlier, Mr. Speaker, I am proud to be an original cosponsor of H.R. 5572.

But the fact that this legislation is before us today is truly a tribute to the gentleman from New York [Mr. HORTON].

This is a year in which many of our colleagues have announced their retirements, Mr. Speaker. But I can think of no departure from this House that saddens me more than FRANK HORTON's.

As an Asian-Pacific American, I can say truthfully that our communities have never had a greater friend in the Congress than FRANK HORTON. Throughout his career in the House, his has been a voice for justice and equality—for us and for all Americans.

It has been a great honor for me to work with FRANK, his administrative assistant, Ruby Moy, Jeanie Jew. They have been true friends, and I know my colleagues join me in wishing FRANK well in his retirement. He will surely be missed in this institution, he will be missed by this gentleman from California and Mr. HORTON will be especially missed by the Asian-Pacific American community.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this occasion to thank personally the gentleman from California, NORM MINETA, not only for his comments here tonight and for the comments that he has made, but for his support for this legislation.

I also want to take this occasion to thank him and congratulate him on his leadership of H.R. 442, which was to correct a terrible injustice that was done during World War II.

As I have said several times on this floor during the course of debate on that particular legislation, I happened to be serving with the U.S. Army in Italy when the 442d, which was composed of Asian-Pacific Americans descent of Japanese, landed in Italy. I was there and I greeted them. I watched the course of action and watched them in action, and they were one of the most heroic organizations in the U.S. Army. Many of them died, many of them received medals, and that community was one of the most highly decorated units in the U.S. Army during World War II. It was very appropriate that that bill be designated 442.

I want to take this occasion personally to thank the gentleman from California [Mr. MINETA] and his efforts there. That, combined with what we are doing here, and what has resulted as a result of this legislation, I think has brought the Asian-Pacific community together. Today they are making even more contributions than they have ever made, and now they are getting the recognition that they should have.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

I do so only to associate myself with the remarks of the gentleman from New York [Mr. HORTON] with regard to our mutual friend, the gentleman from California [Mr. MINETA]. His leadership on a whole range of Asian and Pacific Islander issues has been exemplary, but I want to take a moment to offer personal thanks for his guidance and assistance in the course of the last several years as we have sought to bring about the full enumeration of that community in our country in all of its diversity, recognizing that, as is the case with so many Americans, they are not of one blood by any means, but rather, come to this country bound together with one belief that all of us together comprise a single nation.

On behalf of that leadership and help I offer personal thanks.

Mr. MATSUI. Mr. Speaker, I rise today in strong support of H.R. 5572, a bill which would designate May of each year as "Asian-Pacific American Heritage Month." As an original cosponsor of this legislation, I believe it is important that this legislation becomes law so all Americans can recognize the achievements of Asian-Pacific Americans, and can understand and appreciate the role of Asian-Americans and Pacific-Americans in the our Nation's history as well as in America's future.

Asian-Pacific Americans owe a great deal to the first generation that struggled to make a life for themselves and their families here in the United States. As a relatively recent group of newcomers to this country, we have the blessing of being closer in touch with our roots. Not only can we celebrate our customs and traditions, we can count the generations of our families going back centuries, and also remember the stories of our families' struggles and accomplishments.

Asian-Pacific Americans have a proud, rich, and diverse history. Our antecedents were pioneers who traveled far to improve the lives of themselves and their families, and helped our Nation achieve its greatness. Our pioneer ancestors made innumerable and immeasurable sacrifices to provide an opportunity for their descendants to succeed in schooling and careers.

We should take great pride as a nation in the history of Asian-Pacific Americans. But we must also realize that the mentality that led that generation to survive in America is keeping second, third, and fourth generation Asian-Americans from reaching their full potential. Our parents, grandparents, and great-grandparents had a survivalist mentality: they wanted to succeed, but they did not want to rock the boat. They did not want to draw attention to themselves or cause problems by attempting to reform society. And perhaps they were not in a position at that time to do so.

But times have changed, and the Asian-Pacific American community can make a difference. Each Asian-Pacific American has a responsibility to provide leadership for the community. I exhort Asian-Pacific Americans across this great land to look beyond yourselves and your immediate family, and I urge you to see what you can contribute to this country. Asian-Pacific Americans must overcome our ancestors' survivalist mentality and be aggressive in taking on challenges. Clearly, we are up against many obstacles: language barriers, stereotypes, and anti-Asian bigotry. But Asian-Pacific Americans must overcome their apathy in their community and in politics if we are to be fully united with the mainstream of America.

I applaud the accomplishments of Asian-Pacific Americans in many diverse fields. Asian-Pacific Americans display professionalism, courage, and leadership in such diverse fields as education, athletics, science, engineering, the arts, medicine, the law, and the small business. Asian-Pacific Americans demonstrate daily to the world that we can be leaders in any field. We must continue to strive for excellence: to make ourselves, and our community, be the best. Let there be no doubt that this in turn will help make our country strong. Asian-Pacific Americans have an indomitable spirit to work and build, our future promises to be as rich and accomplished as our past.

Mr. GILMAN. I rise today in strong support of H.R. 5572 and I would like to commend my good friend and colleague from New York, FRANK HORTON, for introducing this legislation. I would also like to take this opportunity to thank the chairman of the House Post Office and Civil Service Committee, my good friend BILL CLAY, for his expedient handling of this measure. H.R. 5572 would designate the month of May each year as "Asian-Pacific American Heritage Month."

Mr. Speaker, the chairman and the ranking member of the subcommittee on Census and Population, TOM RIDGE, should be complimented for recommending that an exception to committee policy be granted in this Bill's case and for supporting this legislation in full committee.

Asian-Pacific Americans are the fastest growing segment of our country's population. A newly released profile by the Census Bureau estimates the Asian-Pacific American population to be approximately 7 million, or about 3 percent of our Nation's total population. The survey further showed that most Asian-Pacific Americans are concentrated in the western region of the United States with 94 percent living in our metropolitan areas. My own congressional district in New York has seen a large growth in its Asian-Pacific American population. Asian-Pacific Americans have contributed significantly to our country's culture, society, and economy, and have played an important role in the history of our country.

Mr. Speaker, as an original cosponsor of H.R. 5572, I am pleased to join with and again commend the chief sponsor of this legislation, FRANK HORTON, who has championed many worthy causes for the Asian-Pacific American Community.

Accordingly, Mr. Speaker, I urge my colleagues to join me in supporting H.R. 5572, and to congratulate the gentleman from New York, FRANK HORTON, on his upcoming retirement. FRANK HORTON has served with distinction in this body for the past 30 years. He should be commended for his arduous work on behalf of the American Postal worker and other Federal employees, the Federal Government, and indeed all Americans. Mr. Speaker, FRANK HORTON's presence and counsel in this body will be sorely missed.

Mr. SAWYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RAY). The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the bill, H.R. 5572.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

JOHN J. WILLIAMS POST OFFICE BUILDING

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2834) to designate the U.S. Post Office Building located at 100 Main Street, Millsboro, DE, as the "John J. Williams Post Office Building."

The Clerk read as follows:

S. 2834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF UNITED STATES POST OFFICE. BUILDING LOCATED AT 100 MAIN STREET, MILLSBORO, DELAWARE.

The U.S. Post Office Building located at 100 Main Street, Millsboro, Delaware is designated as the "John J. Williams Post Office Building". Any reference to such building in any law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "John J. Williams Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2834 to designate the U.S. Post Office Building located at 100 Main Street, Millsboro, DE, as the "John J. Williams Post Office Building."

John J. Williams honorably served in the U.S. Senate for 24 years from 1946 until 1970. He was an expert in budget and tax issues and was able to master these issues with only a high school education. He also was widely respected for his honesty and integrity—some referred to him as the watchdog of the Nation and the conscience of the Senate. After his death in 1988, Senators from both parties went to the Senate floor to remember him. It is truly fitting to name this Post Office in Millsboro, DE, after Senator John Williams.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I want to thank the chairman of the Committee on Post Office and Civil Service, the gentleman from Missouri [Mr. CLAY] and the chairman of the Subcommittee on Postal Operations and Services, the gentleman from Indiana [Mr. McCLOSKEY], for their assistance in bringing this measure to the floor prior to the adjournment of the 102d Congress.

Mr. Speaker, I particularly want to thank the gentleman from Indiana [Mr. McCLOSKEY] for his leadership. He served as the chairman of the Subcommittee on Postal Operations and Services of the Committee on Post Office and Civil Service, and I have had the privilege of serving on that subcommittee for the time that I have been on the Committee on Post Office and Civil Service. I have served under his leadership. I just want to commend him for his leadership. He took over from our dear departed colleague, Mickey Leland, who was killed, as we all know, in a terrible airplane accident in Ethiopia when he was over on a mercy mission. The gentleman from Indiana has performed the functions of that subcommittee I think in great fashion.

□ 2100

That is a very important subcommittee of the Post Office and Civil Service Committee, and especially looking at all of the postal operations. And I have enjoyed my time serving on that, and particularly under his leadership. And I particularly thank him for bringing this bill today.

This bill, as the gentleman from Indiana stated, would name the postal facility located at 100 Main Street in Millsboro, DE, as the John J. Williams Post Office Building. S. 2834 was introduced by Senator BILL ROTH of Delaware who serves as the ranking minority member of the Senate Government Affairs Committee in the Senate, of course.

John Williams was born on a farm in Sussex County, DE, in 1904 and attended public schools before moving to Millsboro in 1922. John was engaged in the grain business prior to his running for public office.

He served as a Senator for 24 years from the State of Delaware. He was elected to the U.S. Senate in 1946, and during those 24 years John Williams earned a national reputation for honesty and integrity and such nicknames as "the conscience of the Senate," and, "watchdog of the Nation." Members of both parties gathered when he died in 1988 to recall his many accomplishments, and I hope this measure will help to remind us of the great work of this fine American from Delaware.

I served in the Congress during the time he was in the Senate, and I personally can speak for his integrity, and his honesty, and the manner in which he was regarded by the people in Delaware and in the Senate.

Mr. Speaker, again, I urge my colleagues to support the passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume to make a few additional comments.

I would like to associate myself with all of the true and good things that were said earlier tonight about our departing colleague, Mr. HORTON. It is truly a matter of great sadness and loss that I realize that regardless of the dynamics of my particular election campaign that we will not have FRANK with us next year. I can truly say that in the time I have been here he has been among the several Members that I respect the most. As BILL CLAY has said, he has massive courage, he has been a statesman, a friend, a standup fighter for the concerns of Federal employees, and I think Americans everywhere, and from the bottom of my heart I say he is obviously a bipartisan statesman. And except for the luck of whatever, he could have been Speaker of the House in either party. And I truly hope that he goes on to even better things and greater service.

I would also be remiss if I did not note that this is one of the last times while he is here on the House floor that I will have a chance to say thank you for all of the services and friendship of another great Member of the Post Office and Civil Service Committee who is also leaving us, CHARLES HAYES, the chairman of the Subcommittee on Postal Personnel and Modernization. CHARLES needs no introduction anywhere, particularly in this Chamber. But his compassion has been massive, his goodwill is legendary, and his courage and integrity and concern for people will be remembered for a long time to come. It is a most tragic and grievous loss for this Chamber. I hope somehow the dynamics of public life will bring CHARLES HAYES back into the realm of public service. But there is no better hearted Member.

Mr. MAZZOLI. Mr. Speaker, will my friend yield?

Mr. McCLOSKEY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank my friend from across the river in Indiana for yielding, and salute him for his excellent work on the bill. And I join for just a moment in paying tribute to our friend, FRANK HORTON.

I have never had the pleasure of serving with FRANK on a committee, but I can say as one who has walked back and forth many a year with FRANK to the floor, visited with him in the subways, and in the halls of this place, and here on the floor, I can say that not only his legislative acumen, but his decency as a person shines, and I just want to thank him for being a friend, and wish him and his wife much health and happiness in the years ahead. And I hope the gentleman will come back and visit with us.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I released my time, but I would like to thank the gentleman from Kentucky for his very kind remarks. I have enjoyed serving with him. He is a very distinguished member of the Judiciary Committee, and highly regarded in the House. I do appreciate the very kind remarks that he has made.

I would like to also join in commending the gentleman from Illinois [Mr. HAYES]. He is a close personal friend of mine. As a matter of fact, he and I were out in St. Louis, MO, for the Letter Carriers Convention. I spoke just before him. And I announced that as part of my background that I was born in Cuero, TX. And after I had finished my speech, somebody got up and recommended to the convention that they make Mr. HAYES and me honorary members, which I understand was the first time that that has ever been moved. But it was done, they accepted us, and I am honored to be an honorary member of the National Association of Letter Carriers, and especially along with my good friend from Illinois, Mr. HAYES.

I am also especially glad of that because my wife's father is a retired letter carrier, so that has another significance to it.

I thank the gentleman for yielding, and again, congratulations to you, Charlie Hayes, for the great contribution you have made. I am going to miss you too.

Mr. HAYES. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Illinois.

Mr. HAYES of Illinois. Mr. Speaker, I just want to take a moment to thank the gentleman, and the subcommittee chairman, and Mr. Horton for the kind words they said about me. But not being one of the advocates of special orders and for conservation of time, I want to say thanks, and leave it at that. And I will still be active after I get back to Chicago.

Mr. MAZZOLI. Mr. Speaker, will the gentleman from Indiana yield again while my friend from Illinois is still on the floor?

Mr. McCLOSKEY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I wanted to actually extend congratulations to my friend [Mr. Hayes] who will be leaving us, for a job well done.

But I do have a question for you, Charlie. Are you going to have a designated shouter or a designated hollerer?

Mr. HAYES of Illinois. If the gentleman will yield, I have made a couple of recordings on "regular order," and I am told that they will be played on occasion. And I thank the gentleman very much.

Mr. MAZZOLI. For those who have observed the proceedings, and may not have seen but have heard a sonorous basso profundo that emanates from the back of the Chamber once in a while when the clock shows 000, and somebody wants to get business going and shouts, "Regular order, regular order," it was Charlie Hayes. And I will remember you forever because of that, Charlie.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from Missouri, the distinguished chairman of our full committee, Bill Clay and the gentleman from Indiana, Frank McCloskey, the chairman of our Subcommittee on Postal Operations and Services, Frank McCloskey, for bringing this measure before the House in such a timely fashion so that we might have the opportunity to act on it before we adjourn the 102d Congress.

John Williams was elected to the U.S. Senate in 1946 and served the State of Delaware in that body for 24 years. During that time he earned a national reputation for honesty and integrity and such designations as the "conscience of the Senate" and the "watchdog of the Nation".

When he died in 1988 Members of both parties gathered to recall his many good works and I would like to think this measure will assist in reminding us all of this fine American in the years to come.

I thank the chairman for the opportunity to urge all of my colleagues to join in passing S. 2834 and honoring former Senator Williams' memory in this manner.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCloskey] that the House suspend the rules and pass the Senate bill, S. 2834.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on S. 2834, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 4250, AMTRAK AUTHORIZATION AND DEVELOPMENT ACT

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see Proceedings of the House of Saturday, October 3, 1992, at page 31236.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. Swift] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. Ritter] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. Swift].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the conference report presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers the conference report on H.R. 4250, a bill to reauthorize Amtrak. I would like to commend the excellent work of the ranking member of the full committee [Mr. Lent] and the ranking member of the subcommittee [Mr. Ritter] in helping develop H.R. 4250. I would also like to commend the good work of our colleagues in the other body in bringing this bill to a successful resolution. All their efforts on this bill will ensure Amtrak's ability to continue as a vital cog in the Nation's transportation system.

Amtrak today is a far cry from the rag-tag railroad scraped together by Congress during the Nixon administration. Since 1981, Amtrak has improved its revenue-to-cost ratio from 0.48 to 0.79 and its passenger miles traveled by 27 percent. At 79-percent cost-coverage, Amtrak is the most efficient passenger rail system in the world. To spur this improvement, Congress has provided investment at critical times. In return, the public has received rail service as an important link in the national transportation system.

H.R. 4250 seeks to help Amtrak to continue improving itself. The bill rests on sound business principles: You must have money to make money. Amtrak can continue improving, and even reach operational self-sufficiency, but only with significant capital investment. To wit, a report released by my committee February 19, 1992 by the U.S. Department of Transportation found that Amtrak could increase revenues substantially by purchasing new equipment, adding capacity, and marketing routes more aggressively.

H.R. 4250 authorizes capital grants that will be used to continue the acquisition of new rolling stock for Amtrak service nationwide, and to develop high-speed operations in the Northeast. In addition, the bill authorizes operating assistance in fiscal years 1993 and 1994 for Amtrak to maintain its existing route structure.

The bill provides incentives for both Amtrak and States to initiate new passenger rail service where economically justified. It sets aside up to 15 percent of the capital authorizations for corridor improvement, and roughly 8 percent of the operating authorization for new and existing 403(b) service. In taking these steps, H.R. 4250 envisions constructive partnerships for the provision of rail service that will return tangible benefits to communities in every region of the country.

I want to conclude today by making a few remarks about rail in general. Passenger rail in this country is undergoing a renaissance. Congestion in highways and airports has policymakers around the country looking for ways to provide new capacity. Transit funding for commuter rail is on the increase. Cities seeking to comply with the Clean Air Act are turning to rail as a clean mode. People are coming back to the rails like never before. This dynamic is reflected in the growing level of support for Amtrak in Congress; in fact, this conference agreement encompasses concepts supported by members who until recently opposed the very existence of Amtrak.

This conference report makes the culmination of a thoughtful, bipartisan, constructive authorizing process. I urge my colleagues' strong support for the agreement. It will be good for our transportation system, good for economic development throughout the country, good for the environment, and good for the transportation consumer.

□ 2110

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend Mr. DINGELL, our committee chairman; Mr. LENT, our ranking Republican member; and Mr. SWIFT, our subcommittee chairman for their tireless efforts to produce this very important bipartisan legislation and in helping to reach a sound agreement with the other body.

After 21 years of Amtrak service, the Nation is beginning to appreciate much more profoundly how much we need a balanced national transportation policy of trains, planes, and automobiles. This is especially true in an era when we are concerned with dependence on foreign energy sources and with the effect of our transport activities on the environment.

As we also contend with ever-increasing congestion at our airports and on our highways, we need to focus new attention in our national policies on rail travel, the most energy-efficient and environmentally benign form of passenger transport.

The improvements we help fund for Amtrak are but a small fraction of the cost for new multibillion-dollar airports and highways. A new airport in Boston, for example, could cost well over $10 billion; but 20 percent of existing traffic in Boston is going to or from New York, which can be served by improved rail service at a tiny fraction of the cost of a new airport.

After 21 years of service, Amtrak has proven its worth and is well on its way to achieving its declared goal of operational self-sufficiency by the end of this decade. Amtrak has already improved its revenue-to-cost ratio from only 48 percent in 1981 to 79 percent in 1991.

To achieve self-sustaining status, however, Amtrak must have adequate capital for vital matters such as rolling stock and right-of-way improvements. But unfortunately, Amtrak is suffering the effects of virtual capital starvation in the 1980's, with locomotives and equipment being pressed beyond normal service lifetimes. The capital shortage has also prevented Amtrak from expanding service in areas where demand clearly justifies doing so.

The legislation approved in today's conference report provides a basic charter for Amtrak's further growth and improvement in the 1990's. It directs Amtrak's efforts into important new initiatives such as the incremental improvement of potential high-speed rail corridors in all regions of the country, not just the Northeast corridor. The bill, for the first time in Amtrak's history, allocates capital and operating funds as discrete categories in the authorization. The bill also identifies State-Federal joint funding of expanded passenger service as an important part of Amtrak's future growth.

I strongly support this bipartisan legislation as reflected in the conference report, and I urge the prompt approval of the report.

Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield 3 minutes to a member of the committee, the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding this time to me.

Mr. Speaker, this legislation also includes provisions that will improve railroad grade crossing safety and save lives. Improving safety of railroad grade crossings has been a top priority of the Federal Government, State governments, and the railroads for many years. This legislation will increase grade crossing safety by requiring all locomotives to be equipped with devices that significantly increase the visibility of the locomotives to vehicular traffic. Under this legislation, railroads would be encouraged to begin immediate installation of equipment such as ditch lights that make the trains more visible to other traffic. At the same time, the Federal Railway Administration would study the types of devices available to determine which devices are most effective. The FRA would then issue regulations specifying the type of additional lighting and devices that railroads must use on their locomotives. All locomotives would then be required to install the most effective lights and devices as their locomotives are overhauled.

My distinguished colleagues, the gentlewoman from Kansas, Senator KASSEBAUM, and the gentleman from Kansas, Congressman DAN GLICKMAN, provided much of the driving force behind these lifesaving provisions, and I commend them for their leadership.

I am pleased to have served on the conference, and I am pleased the conferees were able to craft a proposal that will result in immediate increased safety at grade crossings and would assure that the most effective lighting equipment is standard on all railroad locomotives. Again, I commend the gentleman from Washington, Chairman SWIFT, and the ranking minority member, the gentleman from Pennsylvania, Mr. RITTER, for their leadership in the conference. I think this is outstanding legislation and deserving of everyone's support, and I urge immediate approval thereof.

Mr. RITTER. Mr. Speaker, I yield 7 minutes to the distinguished gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend our committee chairman, Mr. DINGELL; our Transportation Subcommittee chairman, Mr. SWIFT; and our subcommittee's ranking member, Mr. RITTER, all of whom have been wonderful colleagues and friends over two years, for their fine work on the original legislation and on this sound and constructive conference agreement with the other body.

This will be the last time, Mr. Speaker, that I will have an opportunity to point out as a Member of this body the vital role that Amtrak plays in a balanced national transportation network. Amtrak began operating just a few months after I was first elected to Congress. At that time, it seemed to many people that Amtrak was likely to be a fleeting endeavor, because it was taking over an operation that the freight railroads could not sustain.

Over the intervening years, the success of Amtrak in the Northeast corridor and on its cross-country routes has been a showcase for the potential of passenger rail service in the United States.

Now, many other regions beyond the Northeast are coming to recognize the vital role of passenger rail service, especially as the compliance demands of the Clean Air Act loom large.

This environmentally sound and energy-efficient form of transportation simply must be a part of any balanced transportation policy. The legislation approved in the conference report establishes a charter for Amtrak's continuing climb toward its declared goal of operational self-sufficiency.

Through the able leadership of Graham Claytor, Amtrak has already greatly reduced its reliance on Federal support. Its revenue-to-cost ratio was only 48 percent in 1981, but had risen to 79 percent in 1991. This legislation will help Amtrak to move forward in many important areas—notably the continuing incremental improvements toward true high-speed rail service in the Northeast and elsewhere.

In this regard, we have referred in the conference report to the importance of efforts to move forward with the procurement and testing of suitable lightweight locomotives for high-speed passenger corridors. One such corridor—the empire corridor between Albany and New York City—offers an ideal site for operational testing of such locomotives in passenger service. Approximately $170 million in State funds have been invested over the years in upgrading this corridor to 100-mile-per-hour-plus standards. It also offers the potential for a direct connection and eventual through service to the huge passenger rail market on Long Island. With all of these attributes. I hope it will be seriously considered when test corridors are selected for new lightweight Amtrak locomotives.

State-Federal cooperation also figures prominently in this bill, particularly in helping expand Amtrak service to new routes.

Finally, Mr. Speaker, the conference report accepts in revised form a Senate amendment to the Federal Railroad Safety Act, concerning improvements to locomotives to make them more visible and conspicuous as they approach grade crossings. Through diligent bipartisan work with the Senate, and with vital technical assistance from the Federal Railroad Administration, we have fashioned what I believe to be a sound and balanced approach to the question of additional lighting and so-called conspicuity measures on the Nation's locomotive fleets. I want to note in particular that the provision represents a sound combination of prompt action to install interim lighting measures and gain operational experience, with a longer-term effort by the Federal Railroad Administration to use actual operating data and experience in its rulemaking to select final locomotive conspicuity standards. We have striven to preserve maximum flexibility for FRA in fashioning the final standards, both to reflect the results of research and operational experience with interim measures and to tailor the final regulations to the practical needs of the railroad industry.

I want to note in this regard that the adoption of interim measures by individual railroads remains a fundamentally voluntary program. The principal purpose of assuring that several different forms of lighting are in service on an interim basis is to give FRA a broad sample of operational data and experience on the relative effectiveness of these measures.

Of course, one also needs some locomotives not equipped with such measures, in order to have a benchmark for judging contemporaneous accident experience. Therefore, we would not expect the complete conversion of entire fleets to one of the interim measures prior to FRA's issuance of final standards. At the same time, it is only logical that railroads who voluntarily install one of these interim measures on a limited number of locomotives should not be penalized—under negligence law or otherwise—for helping to create a sound base of operational data. Only after FRA itself has evaluated the data and conducted the rulemaking proceeding can the railroads be held to a single standard. Until then, no one—railroad or otherwise—knows or can reasonably be expected to know, which of the interim measures, if any, provides a demonstrable improvement in grade-crossing safety.

I strongly support this sound legislation, and I urge the prompt approval of the conference report.

□ 2120

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I want to commend the gentleman from New York for being able to pronounce the word "conspicuity." I am told that we have searched the dictionaries and cannot find one that contains it, so we are not only writing a piece of good law, but we are adding to the English language.

In a more serious vein, Mr. Speaker, this is not the last time the gentleman is going to appear on the floor. It may be the last time that I will have an opportunity on the floor to note that he is planning to retire.

I think that in a particularly contentious time in our country's history and in a contentious time of a Presidential election, we tend to think more of our partisan differences than of the similarities we have. A legislative body cannot work on contest alone. The people's work requires both sides to be able to find ways of satisfying the legitimate concerns and values and principles they hold, while at the same time finding means by which they can make the agreements necessary to move legislation along.

It takes two to do that, and I have certainly found with many of my Republican friends, in fact I think you will find that in this institution we do more of that in legislation across the board than we do the great clashes of philosophy that do occur, appropriately occur, on the floor; but sometimes I am afraid the American people in seeing those great clashes overlook the vast majority of the time in which we work things out.

The gentleman from New York [Mr. LENT] has been an extraordinarily good colleague in this regard. If he cannot agree, he will fight, and when he does, he fights fair. If he can agree, he puts full effort into the agreement, bringing together a solution that will give good policy for the American public.

Mr. Speaker, I, for one, am going to miss him greatly when he leaves.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I am happy to yield to the gentleman from Pennsylvania [Mr. RITTER], the ranking member of the subcommittee.

Mr. RITTER. Mr. Speaker, the gentleman has said it quite eloquently.

The gentleman from New York, Mr. NORM LENT, is my mentor on the committee. He has been the leader of our minority. He is not only a fine member of that committee, but personally he stands, I think, for the best things that you want an American citizen to be.

We even excuse him for coming up with this word conspicuity tonight on the floor; but then again, you can learn something every day from NORM LENT. He is that kind of a guy.

We do deal with some of the toughest, some of the most complex politically charged issues on the Energy and Commerce Committee, and we battle hard. We have to win, and if we cannot win, we aim to get the best deal we can.

I think that personifies NORM LENT. He is an excellent negotiator. He is a conciliator, He is tough as nails when he makes up his mind.

We are all going to miss him. We are going to miss him a lot on the Energy and Commerce Committee, and we are going to miss him a lot in this House.

I think the American people are going to miss the gentleman from New York [Mr. LENT], not just his constituents, but the kind of principle, the kind of intelligence, the kind of ability to make the best deal possible so that things happen, so that legislation moves, so that we have progress.

□ 2130

Mr. Speaker, the American people are going to miss the gentleman from New York [Mr. LENT].

Mr. SWIFT. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] for yielding to me, and let me just be very brief in saying also to the gentleman from New York [Mr. LENT], our good friend, that, NORM, I want you to know that I am going to miss you. I think that your contribution on the Energy and Commerce Committee has been incredible over the last few years, and you know, in the time that I've had a chance to work with you, I've discovered you to be, not only a very bright, hard-working, honest member of the committee, but, more important in the days of enormous complexity in dealing with the problems that we have to face, I've found you to be someone who is very practical and deeply committed to trying to make this very complex institution work and respond to the needs of your constituents and to respond to the needs of this great country of ours. NORM, I hate to see you leave. I'm a Democrat, you're a Republican, but I hate to see you leave. You're going to be missed on the committee, and you're going to be missed in this body, and Linda and I just wish you all of God's best in the days ahead in whatever you pursue, and I know that you have a lot of friends around here, too.

Mr. SWIFT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I want to join in on all the words of praise that have been said here tonight about the gentleman from New York [Mr. LENT]. These were from three members of the Committee on Energy and Commerce. The gentleman served as the ranking member, although he did not sit in that position, on the Committee on Merchant Marine and Fisheries, of which I am a member, and there, too, he was a very, very important person, and a person who was very dedicated to the merchant marine and the maritime industry, and he gave his best all the time. We all will miss him very much, and we join in wishing him Godspeed.

I say to the gentleman, Thank you for being such a super guy, NORMAN.

Mr. SWIFT. Mr. Speaker, I thank the gentleman from Kentucky [Mr. MAZZOLI], to whom I am about to yield, for his patience. He wishes to speak to the attributes of the legislation, and we have been speaking to the attributes of the gentleman from New York [Mr. LENT]. He may even have a comment on that.

Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, our chairman, the gentleman from Washington [Mr. SWIFT], is prescient because actually I did have a comment to make about my friend, the gentleman from New York [Mr. LENT]. The gentleman and I actually came to Congress together, and so, when Mr. LENT a few minutes ago said he was here when Amtrak began, I was also here when Amtrak began because he and I began our service together. I say to the gentleman, NORM, I extend my best wishes to you and join in every one of the accolades you have received from your colleagues tonight for having done an excellent job here as a legislator, and we wish you much health and happiness ahead.

Mr. Speaker, in addition, I thank the chairman, the gentleman from Washington [Mr. SWIFT], and his ranking member, the gentleman from Pennsylvania [Mr. RITTER], the full committee chairman, the gentleman from Michigan [Mr. DINGELL], and of course the gentleman from New York [Mr. LENT], the full committee ranking member, for their work on Amtrak.

I would just ask one brief question, and certainly I am strongly a supporter of this bill, but am I correct that retained in the conference report are separate accounts, separate money, that would deal perhaps with communities like mine in Louisville in Jefferson County, KY, that seek new rail service?

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, I am very pleased to say that we have in fact retained that. It was something that I thought was terribly important. If Amtrak becomes perceived as merely a regional railroad, it cannot get the broad support that it needs to provide nationwide service. It also cannot achieve operational efficiency if it does not provide nationwide service.

So, it is terribly important that rural areas like the gentleman's and like mine can also anticipate, as the system expands, that they, too, are going to benefit from Amtrak service.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] very much.

If I understand correctly, then something like $7.5 million is in fiscal year 1993, and I believe it is $9.5 million in fiscal year 1994.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, it is not only something like that, it is precisely that figure.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] and I thank his staff, with one minor correction. Mine is not a rural area even though Kentucky is a rural State. Mine happens to be the one area that is very much urban, and, therefore, we are extremely interested in what is being done both because of intercity as well as intracity.

I certainly rise in very strong support, Mr. Speaker, of the gentleman's bill. I would say without the gentleman's support over these more recent years chances are we might not have an Amtrak because I know there have been several years in a row in which there have been recommendations from administrations that this program just be ended. Thankfully the gentleman from Washington [Mr. SWIFT] and members of his committee on the other side of the aisle were stalwart in making sure that we did have money for Amtrak, and so now, as the gentleman said in his remarks, we have an Amtrak actually flourishing, and burgeoning and becoming a major part of our balanced national transportation system because of its energy-efficiency and because of its environmental soundness.

I speak as one, Mr. Speaker, who, as a newly minted lawyer joined the law department of the Louisville & Nashville Railroad Co., which is no longer in existence. The Louisville & Nashville Railroad Co. is no longer in existence. It is part of the greater system called CSX. But in Louisville there are still a great many of us who think both nostalgically and, I think, quite practically about railroads. We know that railroads can in this Nation of ours connect cities and move people rapidly again in an environmentally safe, energy-efficient manner, and in the intracity section the so-called light rail can move people back and forth within our community, give people access to jobs.

Mr. Speaker, in 1990 in Louisville we created a railroad study task force which is trying to prepare Louisville for moving into this new system in which we could be part of the Amtrak system. The members of the Louisville Railroad Study Task Force are Louisville Alderman Tom Owens, Mr. Charles Castner, Mr. Owen Hardy, and Mr. Les Shivley.

I might say also, Mr. Speaker, that as recently as last night, rather coincidentally when the gentleman from Kentucky was actually in the Chair, H.R. 4250 came up, the bill that came out of the subcommittee of the gentleman from Massachusetts [Mr. FRANK] dealing with the railroad compact, the interstate compact in which six States, Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida, now have Federal permission to engage in activities together that might yield some sort of a transportation system by rail from Chicago through to Jacksonville, FL.

So, Mr. Speaker, I salute the gentleman from Washington [Mr. SWIFT] again for his very strong support of Amtrak and his very strong support for rail, and I rise in support of his bill and hope that it receives the unanimous support of the House.

Mr. SWIFT. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I simply would like to join in extending hearty congratulations to the gentleman from New York [Mr. LENT], my friend, who is retiring.

Mr. Speaker, I have never served on a committee with him, but, by virtue of serving on the Committee on Rules, I almost feel that I have because he has had a pattern of bringing, so many great, and sometimes not so great, pieces of legislation before our Committee on Rules, and I will miss his very cheery, shining performances before our committee, and I wish him well as he leaves this House.

Mr. RITTER. Mr. Speaker, I would just take this last opportunity to say adieu to our good buddy from Long Island, NY, Mr. LENT.

Mr. Speaker, I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, may I ask how much time I have remaining?

The SPEAKER pro tempore. (Mr. RAY). The gentleman from Washington [Mr. SWIFT] has 1½ minutes remaining.

Mr. SWIFT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I am glad that I have no more time than that because I do not want to prolong this. But there is one other thing that should be noted, and that is that Graham Glaytor, the head of Amtrak, is also going to retire this year. He is proof that at the age of 80 that vision does not belong exclusively to the young. He has guided Amtrak to a nationwide vision that is going to make it economically more viable, is going to make it play a bigger role in solving the transportation problems of this country more than anybody ever expected.

☐ 2140

I think that most of us on the committee who have worked with him, those of us who have seen what he has done in the administration to make Amtrak what it is today, want to thank him for his wonderful service to Amtrak, to this Government, and to this country.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding. I was not aware of that fact. Indeed, Graham Glaytor has been Mr. Amtrak, and he has provided the leadership to bring Amtrak back. He has done a superb job in working with people from both sides of the aisle in understanding the railroad business. He has always been available to provide information and give both sides of the story a real honest evaluation of the problems and the opportunities.

Mr. Speaker, we are going to miss him. He is also a stalwart American.

Mr. SWIFT. Mr. Speaker, reclaiming my time, this is not official, but we are not premature either.

Mr. RITTER. Mr. Speaker, I ask unanimous consent to reclaim the time yielded back.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RITTER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I just would like to add my personal plaudit to Graham Claytor, whether he is or is not going to retire, and I hope he is not. Certainly after 10 years he has done a truly outstanding job in improving the performance and the record of Amtrak, and I think this Nation owes him a great deal.

Mr. Speaker, I feel a little embarrassed retiring at 61 when Graham stayed until he was 80. I did not know he was that old. He seems like a much younger man. But he really has been an outstanding public servant.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the conference report accompanying H.R. 4250, the Amtrak Authorization and Development Act.

I first wish to commend the author of the House bill, the gentleman from Washington, who so ably chairs our Subcommittee on Transportation and Hazardous Materials, for his strong leadership in bringing this measure to fruition. I also wish to commend the ranking Republican of the subcommittee, the gentleman from Pennsylvania, for his strong support and significant contributions to this important legislation. Finally, I wish to convey my deep respect and warm affection for my good friend and distinguished colleague, the gentleman from New York, who serves as the ranking Republican of our committee, and to recognize him for his great abilities, his good judgment, his good humor, and his untiring efforts in the many, many legislative accomplishments we have shared through the years. I count as one of these accomplishments the bipartisan legislation we have enacted time after time during the past decade to keep Amtrak running. This accomplishment has been of particular importance in light of the administration's unyielding determination to cut all Federal assistance to Amtrak. Without the leadership of Representative LENT and many others in this body, Amtrak would have become a thing of the past and would not have made the progress it has been able to attain.

I also wish to commend the conferees from the other body, my good friend Senator HOLLINGS, chairman of the Committee on Commerce, Science, and Transportation, Senator EXON, chairman of the Subcommittee, and Surface Transportation, and Senator DANFORTH, the ranking Republican on the Committee on Commerce, Science, and Transportation, for their hard work and willingness to compromise on various matters contained in the conference report. Our committees have worked well together in the past on a variety of matters and I particularly appreciate their efforts with respect to this important legislation.

There are a few signs that the administration's position toward Amtrak may have shifted somewhat during the past months. While the President's most recent budget is woefully inadequate to provide Amtrak with needed capital, it at least recognizes that some funding for Amtrak is justified. Similarly, Secretary of Transportation Card appears, at a minimum, to be willing to reexamine the administration's historic policies regarding Amtrak and, hopefully, is prepared to recommend dramatic changes in these policies to enable Amtrak to be what it should and can be. As well, the Office of Management and Budget has in no manner suggested that a veto by the President—as occurred 2 years ago—will be recommended. While these relatively modest indications do not rise to the level of support for Amtrak that the vast majority of Members of Congress have demonstrated repeatedly—reflecting, in my judgment, the views of most Americans—they have been duly noted. As always, I stand ready and willing to work with the administration to ensure in the future that Amtrak will be a first-class citizen that serves the American public, its workers, and numerous national policies.

Last fall, the Congress enacted the Intermodal Surface Transportation Efficiency Act [ISTEA]. In signing the legislation, President Bush joined a nearly unanimous chorus of voices from the Congress to praise the attributes of what many considered to be a landmark accomplishment. In signing the measure, the President embraced the legislation, saying that it "will build roads, fix bridges, improve mass transit and create new jobs." In fact, at the same time, President Bush underscored that the legislation will "support more than 600,000 jobs in this fiscal year." The bill provides more than $150 billion for highways and mass transit over the next 6 years, creating a new 155,000-mile National Highway System that will be eligible to receive the bulk of the Federal funds authorized therein. Indeed, there were many in the Congress who would have supported even higher levels of funding for the programs and projects addressed in the legislation. In fact, during the House debate on the 1993 transportation appropriations bill (H.R. 5518) 2 months ago, an amendment was offered and approved that would shift significant expenditures from foreign operations to certain transportation accounts. While I supported the amendment, I noted with great disappointment that not one penny of the additional funds would be used to supplement Amtrak appropriations. Proponents of the provision, echoing the love-in accompanying passage of the ISTEA, claimed that the amendment would create "roughly 150,000 jobs" and would fulfill the promise Congress made to the American people in ISTEA that we will address the Nation's highway and other transportation needs.

I actively supported enactment of ISTEA. I therefore find it to be inconsistent, illogical, and incomprehensible that any other supporter of the legislation would object in any manner to provisions of the conference report before us today, particularly given the relatively meager aspects of the financial implications of the legislation. The authorization levels in this bill are but a drop in the bucket compared to the billions of dollars that Members of Congress and the President supported in ISTEA. We consistently support the expenditure of billions of Federal dollars for highways, airports, and mass transit. But every time that we bring an Amtrak bill to the floor, it is all too predictable that there is substantial opposition to its modest funding levels. In doing so, we ensure only that Amtrak can at best limp along as a second-class operation. We ensure that the traveling public, Amtrak's employees, and public policies—including furtherance of environmental laws and policies and support for an integrated and healthy national transportation system—are disserved. Our support for Amtrak, when compared to historic and continued investment levels for passenger rail in other developed countries, is nearly laughable. Those who vote against Amtrak funding turn around and scratch their heads and wonder why the French, German, British, and Japanese rail systems are able to outperform Amtrak without understanding the financial commitment made to passenger rail service in these and other countries. There are those who hail the thousands of jobs that will be created in improving the highway and transit system as the result of huge Federal financial assistance, yet they ignore the needs of the 24,000 men and women who work for Amtrak when they vote against minimal Federal funding for the railroad.

I continue to believe that a national passenger rail system is critical to the well-being of the Nation. Our committee report accompanying the House bill outlines the environmental, energy, transportation, and other national policies that a healthy Amtrak operation furthers—including mitigation of congested highways and airways, decreased air pollution, better integration of all transportation modes, enhanced safety for the traveling public, and increased usage of an underutilized infrastructure—as well as describing the basic economic dilemma Amtrak faces. A severe lack of capital—epitomized by the fact that Amtrak inherited a fleet of already-dilapidated passenger cars from privately owned railroads more than two decades ago when Congress perceived the need to establish a national passenger rail company—not only inhibits further productivity and efficiency gains but jeopardizes Amtrak's current performance by increasing operating expenses and related maintenance costs and decreasing the quality of service, thus resulting in a large current capital deficit of $500 million. The lack of capital also threatens the safe operation of Amtrak trains. Despite the severe funding cuts in Federal assistance Amtrak has experienced during the past decade, it has shown a remarkable ability to improve its revenue-to-cost ratio, from only 48 percent in 1981 to about 80 percent in the last few years. However, this steady improvement indicator has leveled out since 1990 and further improvements will not be achievable without capital investment in new equipment, plant modernization, and track upgrading.

The conference report accompanying H.R. 4250 targets Amtrak's current needs while looking ahead to future systemwide improvements and innovations. The conference agreement provides a much-needed shot in the arm in the area of capital assistance that will allow Amtrak to purchase new equipment and improve its track and plant. The legislation also authorizes needed funds for the Northeast corridor, including an emphasis on the need for the elimination of grade crossings, and directs Amtrak to plan and implement major improvements between New York and Boston. The conference report reflects the view that Amtrak's investment in the Northeast corridor must be preserved and enhanced. Studies and marketing analyses indicate the unequivocal benefits that will be achieved if further improvements are made to the Northeast corridor, including Amtrak's ability to improve its revenues as evidenced by Amtrak's historic performance between Washington, DC and New York. The conference report also directs Amtrak to expend funds to develop new routes throughout the Nation, including projects between densely populated areas, as well as long distance rail passenger corridor development.

I also take this opportunity to emphasize Amtrak's critical role in establishing high speed rail corridors throughout the country. Today, Amtrak owns and operates the Nation's only high speed rail operation between Washington and New York. The success of this premiere operation has been demonstrated amply, with Amtrak enjoying the position today as the largest single carrier of passengers on the corridor, including both surface transportation and air modes. The need for similar operations throughout the country was recognized in certain provisions of the ISTEA legislation, developed by our committee, where the Secretary of Transportation has been directed to select five high-speed rail corridors that will be eligible for Federal funds to eliminate hazards of grade crossings. I firmly believe that this approach makes abundant sense by building on the existing rail infrastructure and utilizing existing technologies and equipment, while allowing for future innovations and improvements. It is my understanding that the designation of these corridors will be announced by Secretary Card within the next few days. This modest first step for high-speed rail development is long overdue and needs to be taken as soon as possible. The bill we are considering today goes hand in hand with the development of high-speed rail activities and will serve to benefit passengers and communities throughout the country.

In closing, I wish to commend the efforts of the President of Amtrak, Mr. Graham Claytor. When Mr. Claytor assumed the reins of Amtrak over a decade ago, after an already distinguished career in public service and the rail industry, Amtrak was in dire straits. In spite of declining Federal funding and intense opposition to Amtrak by the administration, Graham Claytor has made significant and lasting improvements to our national passenger railroad system. His dedication and persistence have been without parallel.

I also wish to commend the Administrator of the Federal Railroad Administration, Gil Carmichael, for his leadership in the area of passenger rail service. Mr. Carmichael, who assumed the reins of the FRA in 1989, consistently has displayed his dedication to enhancing and restoring rail passenger operations throughout the country. Mr. Carmichael's approach in such matters is both realistic and visionary. He and I, along with our respective staffs, have developed an excellent working relationship on many matters of mutual concern. I particularly wish to congratulate Administrator Carmichael for the manner in which he has supported improvements to Amtrak's operations. Without his leadership, the legislation would have been much more difficult. Mr. Carmichael's staff, including his chief of staff, Betty Munro, and Special Assistant Mark Yachmetz, have provided excellent technical advice and assistance to both committees of jurisdiction and their time and efforts have greatly assisted us in this important matter.

Mr. Speaker, I strongly urge all Members to support this conference report and yield back the balance of my time.

Mr. RITTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. President, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RAY). The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and agree to the conference report on the bill, H.R. 4250.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

LOUISIANA LAND CONVEYANCE; CAVE CREEK CANYON PROTECTION ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3100) to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes, as amended.

The Clerk read as follows:

S. 3100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. TRANSFER OF LANDS.

(a) DIRECTIVE.—Subject to the limitations set forth in this section, the Secretary of the Interior (hereafter in this title "the Secretary") is directed to convey by quitclaim deed, without monetary consideration, all right, title, and interest of the United States in certain lands in Cameron Parish, Louisiana, as described in section 102, to the West Cameron Port Commission for use as a public port facility or for other public purposes.

(b) RESERVATION OF MINERALS.—The United States hereby excepts and reserves from the provisions of subsection (a) all minerals underlying the lands described in section 102.

(c) REVERSION.—If after the conveyance required by subsection (a) the lands described in section 102 cease to be used by the West Cameron Port Authority for a public port facility or for other public purposes, all right, title, and interest conveyed pursuant to subsection (a) shall revert to the United States, together with all improvements on such lands.

(d) ENCUMBRANCES.—(1) The Secretary shall not convey any right, title, or interest held by the United States on the date of enactment of this Act in or to the following encumbrances on the property identified as subparcel H on the map referred to in section 102—

(A) a revocable permit (number 08-430 P 59) granted to the United States Army, to install and maintain an automatic tide gauge for recording storm and hurricane tides; and

(B) height restrictions in relation to the radio beacon tower located in the area identified as subparcel G on such map.

(2) The Secretary of the Interior, after consultation with the Commandant of the Coast Guard, may include in the instrument of conveyance to the Port Commission any other restrictions the Secretary determines necessary for the benefit of the Coast Guard, including but not limited to restrictions on the height of structures and requirements to shield seaward-facing lights.

SEC. 102. LAND DESCRIPTION.

The lands to be conveyed pursuant to this title comprise approximately 162 acres of Federal lands located within the irregular section 32, township 15 south, range 10 west, Louisiana Meridian, as generally depicted on the map entitled "Cameron Parish Land Conveyance" dated September, 1992.

TITLE II—BODIE BOWL, CALIFORNIA

SECTION 201. SHORT TITLE.

This title may be cited as the "Bodie Protection Act of 1992".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the historic Bodie gold mining district in the State of California is the site of the largest and best preserved authentic ghost town in the western United States;

(2) the Bodie Bowl area contains important natural, historical, and aesthetic resources;

(3) Bodie was designated a National Historical Landmark in 1961 and a California State Historical Park in 1962, is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey;

(4) nearly 200,000 persons visit Bodie each year, providing the local economy with important annual tourism revenues;

(5) the town of Bodie is threatened by proposals to explore and extract minerals: min-

ing in the Bodie Bowl area may have adverse physical and aesthetic impacts on Bodie's historical integrity, cultural values, and ghost-town character as well as on its recreational values and the area's flora and fauna;

(6) the California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghost-town character, ambience, historic buildings, and scenic attributes of the town of Bodie and nearby areas;

(7) the California State Legislature also requested the Secretary, if necessary to protect the Bodie Bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent;

(8) the National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area; and

(9) it is necessary and appropriate to provide that all Federal lands within the Bodie Bowl area are not subject to location, entry, and patent under the mining laws of the United States, subject to valid existing rights, and to direct the Secretary to consult with the Governor of the State of California before approving any mining activity plan within the Bodie Bowl.

SEC. 203. DEFINITIONS.

For purposes of this Act:

(1) The term "Bodie Bowl" means the Federal lands and interests in lands within the area generally depicted on the map referred to in section 204(a).

(2) The term "mining" means any activity involving mineral prospecting, exploration, extraction, milling, beneficiation, processing, and reclamation.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 204. APPLICABILITY OF MINERAL MINING, LEASING AND DISPOSAL LAWS.

(a) RESTRICTION.—Subject to valid existing rights, after the date of enactment of this Act Federal lands and interests in lands within the area generally depicted on the map entitled "Bodie Bowl" and dated June 12, 1992, shall not be—

(1) open to the location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), for lands within the Bodie Bowl; and

(3) available for disposal of mineral materials under the Act of July 31, 1947, commonly known a the Materials Act of 1947 (30 U.S.C. 601 and following).

Such map shall be on file and available for public inspection in the Office of the Secretary, and appropriate offices of the Bureau of Land Management and the National Park Service. As soon as practical after the date of enactment of this Act, the Secretary shall publish a legal description of the Bodie Bowl area in the Federal Register.

(b) VALID EXISTING RIGHTS.—As used in this subsection, the term "valid existing rights" in reference to the general mining laws means that a mining claim located on lands within the Bodie Bowl was properly located and maintained under the general mining laws prior to the date of enactment of this Act, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

(c) VALIDITY REVIEW.—The Secretary shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Bodie Bowl. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void, except that the Secretary shall not challenge the validity of any claim located within the Bodie Bowl for the failure to do assessment work for any period after the date of enactment of this Act. The Secretary shall make a determination with respect to the validity of each claim referred to under this subsection within 2 years after the date of enactment of this Act.

(d) LIMITATION ON PATENT ISSUANCE.—

(1) MINING CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mining claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before such date; and

(ii) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, 37) for placer claims were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITE CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mill site claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before March 8, 1992; and

(ii) all requirements applicable to such patent application were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 205 MINERAL ACTIVITIES.

(a) IN GENERAL.—Mineral exploration, mining, beneficiation, and processing activities on unpatented mining claims within the Bodie Bowl shall be subject to such regulations prescribed by the Secretary, in consultation with the Governor of the State of California, as the Secretary deems necessary to ensure that such mineral activities are conducted—

(1) in accordance with the rules and regulations promulgated under Public Law 94-429 (16 U.S.C. 1901 et seq.) as they relate to plan of operations, reclamation requirements, and bonding; and

(2) in a manner that does not cause any adverse effect on the historic, cultural, recreational and natural resource values of the Bodie Bowl area.

(b) RESTORATION OF EFFECTS OF MINING EXPLORATION.—As soon as possible after the date of enactment of this Act, visible evidence or other effects of mining exploration activity within the Bodie Bowl conducted on or after September 1, 1988, shall be reclaimed by the operator in accordance with regulations prescribed pursuant to subsection (a).

(c) ANNUAL EXPENDITURES; FILING.—The requirements for annual expenditures on unpatented mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any such claim located within the Bodie Bowl. In lieu of filing the affidavit of assessment work referred to under section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)(1)), the holder of any unpatented mining or mill site claim located within the Bodie Bowl shall only be required to file the notice of intention to hold the mining claim referred to in such section 314(a)(1).

(d) REGULATIONS.—The Secretary shall promulgate the regulations referred to in this section within 90 days after the date of enactment of this Act. For the purposes of this Act, the Bureau of Land Management shall promulgate and administer the rules and regulations referred to in section 205(a).

SEC. 206 STUDY.

Beginning as soon as possible after the date of enactment of this Act, the Secretary of the Interior, through the Director of the National Park Service, shall review possible actions to preserve the scenic character, historical integrity, cultural and recreational values, flora and fauna, and ghost town characteristics of lands and structures within the Bodie Bowl. No later than 3 years after the date of such enactment, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report that discusses the results of such review and makes recommendations as to which steps (including but not limited to acquisition of lands or valid mining claims) should be undertaken in order to achieve these objectives.

TITLE III—CAVE CREEK CANYON, ARIZONA

SECTION 301. SHORT TITLE.

This title may be cited as the 'Cave Creek Canyon Protection Act of 1992'.

SEC. 302. WITHDRAWAL OF LANDS WITHIN CAVE CREEK CANYON DRAINAGE.

(a) WITHDRAWAL.—(1) Subject to valid existing rights, after the date of enactment of these title lands within the Cave Creek Canyon Drainage are withdrawn from location under the general mining laws, the operation of the mineral and geothermal leasing laws and the mineral material disposal laws.

(2) As used in this subsection, the term 'valid existing rights' in reference to the general mining laws means that a mining claim located on lands within the Cave Creek Canyon Drainage was properly located and maintained under the general mining laws prior to the date of enactment of this Act, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

(b) LIMITATION ON PATENT ISSUANCE.—(1) After the date of enactment of this title no patent shall be issued by the United States for any mining claim located under the general mining laws within the Cave Creek Canyon Drainage unless the Secretary of the Interior determines that, for the claim concerned—

(A) a patent application was filed with the Secretary on or before the date of enactment of this title; and

(B) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims were fully complied with by that date.

If the Secretary makes the determinations referred to in subparagraphs (A) and (B) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITES.—After the date of enactment of this Act no patent shall be issued by the United States for any mill site located under the general mining laws within the Cave Creek Canyon Drainage unless the Secretary of the Interior determines that, for the mill site concerned—

(A) a patent application was filed with the Secretary on or before the date of enactment of this Act; and

(B) all requirements applicable to such patent application were fully complied with by that date.

If the Secretary makes the determinations referred to in subparagraphs (A) and (B) for any mill site, the holder of the mill site shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(c) VALIDITY REVIEW.—The Secretary of the Interior shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Cave Creek Canyon Drainage. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application or a plan of operations have not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

(d) DEFINITION.—For the purposes of this Act, the term 'Cave Creek Canyon Drainage' means lands and interest in lands owned by the United States within the area depicted on the map of record entitled 'Cave Creek Mineral Withdrawal', dated November 1, 1991. The map shall be on file and available for public inspection in the offices of the Forest Service, Department of Agriculture.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. DREIER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 3100.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 3100, as passed by the Senate, provided for conveyance of the surface estate in about 162 acres of land in Cameron Parish, LA, to the West Cameron Port Authority to be used as part of a public port facility.

The land in question is part of the public domain acquired by the United States in 1803 through the Louisiana Purchase. In the past, the Coast Guard was using land in the area, but most of that use ended a decade ago, and the Coast Guard has a continuing need for only about 3 acres.

For some time, the Coast Guard has been in the process of transferring responsibility for these lands back to the Bureau of Land Management, or BLM, but that process has been slow at best.

Meanwhile, the port authority has approached BLM, seeking to obtain use of the lands for construction of a water-industry docking facility, public roads, warehouses, and other facilities associated with a public port.

These proposed uses are not readily accommodated under existing provisions of law for making public lands available to local governments for public purposes. The purpose of S. 3100 is to facilitate transfer of the affected lands to the port authority. Under the bill, the United States will retain all minerals in the lands, and if the lands are not used for public purposes, title will revert to the United States.

The bill before the House also includes, as title II, provisions for the protection of the Bodie Bowl, an historic area in California, and, as title III, similar provisions for the protection of the Cave Creek Canyon area of the Coronado National Forest, in Arizona. These titles are identical to H.R. 4370, introduced by Mr. LEHMAN of California, and H.R. 2790, by Mr. KOLBE of Arizona. These bills were reported by the Interior Committee and have already been passed by the House.

The background of the provisions of title II, relating to the Bodie Bowl, are explained in the Interior Committee's report on H.R. 4370, House Report 102–642, part 1 and 2. The provisions of title III, relating to the Cave Creek Canyon area, are explained in the report on H.R. 2790, House Report 102–334.

The Senate has not acted on either of these House-passed bills, Mr. Speaker, so we are acting to include them as part of the Senate-passed S. 3100, to facilitate final action in these last days of this session.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. MILLER. Mr. Speaker, I support S. 3100 to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA. Title II is identical to H.R. 4370, the Bodie Protection Act, which passed the House earlier this year.

Congressman RICHARD LEHMAN and I introduced the Bodie Protection Act, in response to legislation adopted by the California State Legislature in September 1990. The State-passed resolution asked the Congress to withdraw the Federal lands adjacent to the Bodie State Historic Park from the mineral leasing laws, in order to protect Bodie's natural, historic, and aesthetic values.

Located at an elevation of 8,400 feet, Bodie State Park represents the best preserved Western ghost town. Many of the buildings, along with the furniture, books, and other belongings left by miners from the 19th-century, remain at the park today. More than 200,000 visitors come to see the ghost town at Bodie each year.

Yet, ironically Bodie is threatened by mining, the activity that made Bodie famous. Galactic Resources, a Canadian company, began exploration activities in 1988 in an area outside and east of the Bodie State Historic Park. In response to the renewed mining interest at Bodie, the Interior Department designated Bodie a priority 1 national historic landmark. According to the Interior Department's 1991 report, "mining would alter and irreparably harm the integrity of the Bodie district."

Under the Bodie Protection Act, valid existing rights are protected. However, new mining claims are prohibited within the Bodie Bowl in order to protect the ghost town's natural and historic resources.

Major environmental and historic preservation organizations including the Wilderness Society, Natural Resources Defense Council, and the National Trust for Historic Preservation support this legislation. In addition, the Los Angeles Times, Sacramento Bee, and Sacramento Union have editorialized in favor of protecting Bodie. There also is significant support in the local community near Bodie.

I appreciate Congressman LEHMAN's concern for Bodie, and also commend subcommittee Chairman NICK RAHALL and BRUCE VENTO for their efforts in moving this bill.

I encourage my colleagues to support S. 3100.

Mr. DREIER of California. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 3100, as amended.

The question was taken.

Mr. DREIER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

BROWN VERSUS BOARD OF EDUCATION NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2890) to provide for the establishment of the Brown versus Board of Education National Historic Site in the State of Kansas, and for other purposes, as amended.

The Clerk read as follows:

S. 2890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BROWN V. BOARD OF EDUCATION NATIONAL HISTORIC SITE

SEC. 101. DEFINITIONS.

As used in this title—

(1) the term "Secretary" means the Secretary of the Interior.

(2) The term "historic site" means the Brown v. Board of Education National Historic Site as established in section 103.

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:

(1) The Supreme Court, in 1954, ruled that the earlier 1896 Supreme Court decision in Plessy v. Ferguson that permitted segregation of races in elementary schools violated the fourteenth amendment to the United States Constitution, which guarantees all citizens equal protection under the law.

(2) In the 1954 proceedings, Oliver Brown and twelve other plaintiffs successfully challenged an 1879 Kansas law that had been patterned after the law in question in Plessy v. Ferguson after the Topeka, Kansas, Board of Education refused to enroll Mr. Brown's daughter, Linda.

(3) Sumner Elementary, the all-white school that refused to enroll Linda Brown, and Monroe Elementary, the segregated school she was forced to attend, have subsequently been designated National Historic Landmarks in recognition of their national significance.

(4) Sumner Elementary, an active school, is administered by the Topeka Board of Education; Monroe Elementary, closed in 1975 due to declining enrollment, is privately owned and stands vacant.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the places that contributed materially to the landmark United States Supreme Court decision that brought an end to segregation in public education; and

(2) to interpret the integral role of the Brown v. Board of Education case in the civil rights movement.

(3) to assist in the preservation and interpretation of related resources within the city of Topeka that further the understanding of the civil rights movement.

SEC. 103. ESTABLISHMENT OF THE CIVIL RIGHTS IN EDUCATION: BROWN V. BOARD OF EDUCATION NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is hereby established as a unit of the National Park System the Brown v. Board of Education National Historic Site in the State of Kansas.

(b) DESCRIPTION.—The historic site shall consist of the Monroe Elementary School site in the city of Topeka, Shawnee County, Kansas, as generally depicted on a map entitled "Brown v. Board of Education National Historic Site," numbered Appendix A and dated June 1992. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 104. PROPERTY ACQUISITION.

The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds the real property described in section 103(b). Any property owned by the States of Kansas or any political subdivision thereof may be acquired only by donation. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site: *Provided, however*, That the Secretary may not acquire such personal property without the consent of the owner.

SEC. 105. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this title and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535), and the Act of August 21, 1935 (49 Stat. 666).

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with private as well as public agencies, organizations, and institutions in furtherance of the purposes of this title.

(c) GENERAL MANAGEMENT PLAN.—Within two complete fiscal years after funds are made available, the Secretary shall prepare and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,250,000 to carry out the purposes of this title including land acquisition and initial development.

TITLE II—DRY TORTUGAS NATIONAL PARK

SEC. 201. ESTABLISHMENT OF DRY TORTUGAS NATIONAL PARK.

(a) IN GENERAL.—In order to preserve and protect for the education, inspiration, and enjoyment of present and future generations nationally significant natural, historic, scenic, marine, and scientific values in South Florida, there is hereby established the Dry Tortugas National Park (hereinafter in this title referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the lands, waters, and interests therein generally depicted on the map entitled "Boundary Map, Fort Jefferson National Monument", numbered 364-90,001, and dated April 1980 (which is the map referenced by section 201 of Public Law 96-287). The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) ABOLITION OF MONUMENT.—The Fort Jefferson National Monument is hereby abolished.

SEC. 202. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4).

(b) MANAGEMENT PURPOSES.—The park shall be managed for the following purposes, among others:

(1) To protect and interpret a pristine subtropical marine ecosystem, including an intact coral reef community.

(2) To protect populations of fish and wildlife, including (but not limited to) loggerhead and green sea turtles, sooty terns, frigate birds, and numerous migratory bird species.

(3) To protect the pristine natural environment of the Dry Tortugas group of islands.

(4) To protect, stabilize, restore, and interpret Fort Jefferson, an outstanding example of nineteenth century masonry fortification.

(5) To preserve and protect submerged cultural resources.

(6) In a manner consistent with paragraphs (1) through (5), to provide opportunities for scientific research.

SEC. 203. LAND ACQUISITION AND TRANSFER OF PROPERTY.

(a) IN GENERAL.—Within the boundaries of the park the Secretary may acquire lands and interests in land by donation or exchange. For the purposes of acquiring property by exchange with the State of Florida, the Secretary may, notwithstanding any other provision of law, exchange those Federal lands which were deleted from the park by the boundary modifications enacted by section 201 of the Act of June 28, 1980 (Public Law 96-287), and which are directly adjacent to lands owned by the State of Florida outside of the park, for lands owned by the State of Florida within the park boundary.

(b) UNITED STATES COAST GUARD LANDS.—When all or any substantial portion of lands under the administration of the United States Coast Guard located within the park boundaries, including Loggerhead Key, have been determined by the United States Coast Guard to be excess to its needs, such lands shall be transferred directly to the jurisdiction of the Secretary for the purposes of this title. The United States Coast Guard may reserve the right in such transfer to maintain and utilize the existing lighthouse on Loggerhead Key in a manner consistent with the purposes of the United States Coast Guard and the purposes of this title.

(c) ADMINISTRATIVE SITE.—The Secretary is authorized to lease or to acquire, by purchase, donation, or exchange, and to operate incidental administrative and support facilities in Key West, Florida, for park administration and to further the purposes of this title.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title. Any funds available for the purposes of the monument shall be available for the purposes of the park, and authorizations of funds for the monument shall be available for the park.

TITLE III—NATIONAL PARK SYSTEM ADVISORY COMMITTEES

SEC. 301. NATIONAL PARK SYSTEM ADVISORY COMMITTEES.

(a) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776) are hereby waived with respect to any advisory commission or advisory committee established by law in connection with any national park system unit during the period such advisory commission or advisory committee is authorized by law.

(b) MEMBERS.—In the case of any advisory commission or advisory committee established in connection with any national park system unit, any member of such Commission or Committee may serve after the expiration of his or her term until a successor is appointed.

SEC. 302. MISSISSIPPI NATIONAL RIVER AND RECREATION AREA.

Section 703(i) of the Act of November 18, 1988 entitled "An Act to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes" (Public Law 100-696; 102 Stat. 4602; 16 U.S.C. 460zz-2) is amended by striking "3 years after enactment of this Act" and inserting "3 years after appointment of the full membership of the Commission".

SEC. 303. EXTENSION OF GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMITTEE.

Section 5(g) of the Act approved October 27, 1972 (16 U.S.C. 460bb-4(g)), is amended by striking out "twenty years" and inserting in lieu thereof "thirty years".

TITLE IV—NEW RIVER WILD AND SCENIC STUDY

SEC. 401. DESIGNATION OF NEW RIVER AS A STUDY RIVER.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

"( ) NEW RIVER, WEST VIRGINIA AND VIRGINIA.—The segment defined by public lands commencing at the U.S. Route 460 bridge over the New River in Virginia to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake in West Virginia; by the Secretary of the Interior. Nothing in this Act shall affect or impair the management of the Bluestone project or the authority of any department, agency or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. The study of the river segment identified in this paragraph shall be completed and reported on within one year after the date of enactment of this paragraph.".

TITLE V—BOSTON HARBOR ISLANDS STUDY

SEC. 501. BOSTON HARBOR ISLANDS STUDY.

(a) IN GENERAL.—The Secretary of the Interior shall, within 1 year after the date of the enactment of this title, conduct a study of the Boston Harbor Islands to assess the opportunities for the National Park Service to contribute to State, regional, and local efforts to promote the conservation of the Boston Harbor Islands and their use and enjoyment by the public. In conducting the study, the Secretary shall—

(1) consult closely with and explore means for expanded cooperation with the Massachusetts Department of Environmental Management, the Metropolitan District Commission, and the City of Boston;

(2) evaluate the suitability of establishing the Boston Harbor Islands as a unit of the National Park System;

(3) assess the opportunities for expanded tourism, public education, and visibility by managing the Boston Harbor Islands in conjunction with units of the National Park System in the vicinity, including the Adams National Historic Site in Quincy, Massachusetts; and

(4) evaluate the possibility for developing ferry service and other transportation links among those units to enhance their public use and enjoyment.

(b) REPORT.—The Secretary of the Interior shall submit to the Congress a report on the findings, conclusions, and recommendations of the study under subsection (a), by not later than 1 year after the date of the enactment of this title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [MR. VENTO] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [MR. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 2890.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2890 would provide for the establishment of the Brown versus Board of Education National Historic Site in Topeka KS. The bill would also incorporate several noncontroversial park measures, three of the four which previously passed the House without dissent.

Title I of the bill is similar to legislation introduced in the House by Representative JIM SLATTERY along with Representatives GLICKMAN and MEYERS. I commend Representative SLATTERY for his work on this bill, which has reported out of the Interior Committee earlier this week. S. 2890 was sponsored by Senators DOLE and KASSEBAUM and passed the Senate on October 2d.

In September 1950, Linda Brown was denied admission to the Sumner Elementary School 3 blocks from her home and forced to walk 6 blocks to a bus that took her 17 more blocks to the all-black Monroe Elementary School. Linda's father led 12 of his neighbors to challenge an 1879 Kansas law that allowed segregation in elementary schools. The case went to the Supreme Court which overturned the separate-but-equal doctrine which had been adopted by the Court in its 1896 Plessy versus Ferguson ruling. The Brown versus Board of Education ruling forged a permanent change in this country's educational system and had a major impact on the civil rights movement in the United States.

S. 2890 would establish a national historic site consisting of the Monroe School. This historic resource symbolizes both the harsh reality of discrimination and the promise of equality embodied in the 14th amendment of the Constitution. The National Park Service is in strong support of the proposal and the bill has bipartisan support in the House and Senate.

Title II of this bill contains the text of H.R. 5061 as passed by the House on August 10, 1992, establishing the Day Tortugas National Park in the State of Florida by redesignating the existing Fort Jefferson National Monument.

Title III of this bill contains the Text of H.R. 4085 as passed by the House on July 27, 1992, which places certain conditions on the operation of Federal advisory committees for National Park System Units.

Title IV is identical to H.R. 5021, the bill introduced by our colleague from West Virginia, Mr. RAHALL, that passed the House on August 11. It would require a study of about 19.5 miles of the New River, in Virginia and West Virginia, for possible designation as a component of the National Wild and Scenic Rivers System.

Title V would authorize a study by the National Park Service of the Boston Harbor Islands in the State of Massachusetts. The study would assess opportunities for the National Park Service to contribute to State, regional, and local efforts to promote the conservation of the Boston Harbor Islands and their use and enjoyment by the public.

Mr. Speaker, these are all noncontroversial measures that have broad based support. Action by the House today will expedite their enactment into law. I urge the House to support S. 2890, as amended.

□ 2150

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not serve as a member of the Committee on Interior and Insular Affairs, but I am here on behalf of the distinguished ranking member, the ranking Republican member, the gentleman from Alaska [Mr. YOUNG].

He is very concerned about this. I should say, as my friend, the gentleman from Kansas [Mr. SLATTERY] knows, I am a former resident of the Wheat State and am very strongly supportive of anything that could recognize that very historic case on Kansas versus The Board of Education.

The problem that seems to have developed here is that while my good friend, the gentleman from Minnesota [Mr. VENTO], chairman of the subcommittee, just mentioned this Boston Harbor issue, I understand that the Committee on the Interior and Insular Affairs, when it proposes a study like this that comes before the committee, that the committee has a pattern of going through the hearing process and determining whether or not this is a worthwhile thing to support.

It is my understanding that the subcommittee and the committee have not gone through that process, and so the distinguished ranking Republican of the full committee, the gentleman from Alaska [Mr. YOUNG] has asked me for that reason to stand in opposition to that.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself 1 minute.

I want to keep in mind that anything that comes in here that has not been before the committee should undergo that type of scrutiny. I certainly take the admonishment of the gentleman from Alaska [Mr. YOUNG] very seriously with regard to his concerns that might be brought before me.

Mr. Speaker, I yield 5 minutes to the gentleman from Kansas [Mr. SLATTERY], sponsor of the House-passed measure.

Mr. SLATTERY. Mr. Speaker, I am pleased today to speak in support of a bill which has come to us from the Senate, S. 2890, but which I introduced earlier this year, H.R. 5484, the Brown versus Board of Education National Historic Site Act. This bill would authorize the National Park Service [NPS] to establish a national historic site commemorating civil rights in education, and in particular, highlighting the significance of the 1954 landmark U.S. Supreme Court case, Brown versus Board of Education.

This legislation would establish a national historic site in Topeka, KS, where, in 1954, Rev. Oliver Brown and 12 other plaintiffs successfully challenged an 1879 Kansas law that allowed segregation in elementary schools. In the landmark Brown versus Board of Education case, the Supreme Court ruled that "separate educational facilities are inherently unequal," forging permanent change in the American educational system.

In September 1950, Reverend Brown's daughter, Linda, was denied admission to Sumner Elementary School in Topeka. Although the all-white Sumner School was just 3 blocks from the Brown family home, Linda was forced to walk 6 blocks to catch a bus that took her an additional 17 blocks to the Monroe Elementary School, an all-black school. Instead of walking three blocks to school everyday, Linda Brown was forced to travel almost 3 miles.

Reverend Brown and 12 others challenged the separate-but-equal clause adopted by the Supreme Court in its 1896 Plessy versus Ferguson ruling, a case which involved public transportation facilities.

Led by Chief Justice Earl Warren, the Supreme Court overturned the Plessy decision, determining that separate was not equal and was a violation of the 14th amendment to the U.S. Constitution which guarantees all citizens "equal protection under the law."

Sumner Elementary, which is currently administered by the Topeka Board of Education, was designated a national historic landmark in 1987. The designation was revised in 1991 to include Monroe Elementary School, which was closed in 1975 and remains vacant at this time.

The Monroe Elementary School is a two-story, red-brick building constructed in 1926 situated on a 2-acre lot in a residential section of Topeka. Most of the original wooden doors, floors, and paneling of the school are intact, making it essentially the same today as it was in 1954.

In addition to establishing Monroe Elementary School as part of the Brown versus Board of Education National Historic Site, the bill would interpret the role of the Brown versus Board of Education case in the civil rights movement as well as assist in preserving related resources in Topeka that could lead to a greater understanding of that effort.

I commend my colleagues, Representative DAN GLICKMAN and Representative JAN MEYERS, for joining me as original cosponsors of this bill and wish to acknowledge the Brown Foundation and Cheryl Brown Henderson, sister of Linda Brown, for their work on this project. During the hearing on this bill, Cheryl Brown Henderson presented eloquent testimony in support of the Brown versus Board of Education Historic Site Act. I would like to submit a copy of her testimony so that it may be printed in the RECORD.

I would like to highlight the fact that this legislation represents a true bipartisan and bicameral effort. S. 2890 was introduced by Senators BOB DOLE and NANCY KASSEBAUM. It is supported by the National Park Service and the Interior Department. The administration has endorsed this bill.

I would like to thank Interior Subcommittee Chairman VENTO for his support and especially recognize Representative LEWIS of Georgia, who is a member of the House Interior Committee and a leader in the Congressional Black Caucus, for his support of this bill. He is a respected Member of Congress and is known in his own right as a civil rights leader in this country. I appreciate their support.

Monroe School stands as a physical reminder of one of the most important court cases in our Nation's history. It should be preserved and developed as a monument to progress in the area of civil rights and as a constant reminder of how much remains to be done. I urge favorable action on this bill.

Mr. Speaker, I include for the RECORD the following statement:

STATEMENT OF CHERYL BROWN HENDERSON, PRESIDENT OF THE BROWN FOUNDATION FOR EDUCATIONAL EQUITY, EXCELLENCE AND RESEARCH, SEPTEMBER 25, 1992

On behalf of the Brown Foundation and our coalition of community based organizations in Topeka, Kansas, thank you for the opportunity to present testimony to support the enactment of H.R. 5484.

I am Cheryl Brown Henderson, President of the Brown Foundation for Educational Equity, Excellence and Research. The Brown Foundation was established in 1987 as a living tribute to the plaintiffs and attorneys in the landmark United States Supreme Court decision of May 17, 1954; Brown vs. the Board of Education of Topeka, Kansas. Our organization provides scholarships to future teachers, programs on multicultural awareness and supports educational research. In addition we have the unique distinction of being the sole non-federal agency that provides researchers, educators, museums, etc. with primary source material about the Brown decision. The Foundation currently engages in the interpretation of the Brown decision at the national, state and local levels.

Today I am representing both the Brown Foundation and a coalition of community based organizations in Topeka, Kansas, that have come together in support of the establishment of this national historic site. It is indeed reassuring to have my community behind this effort. We believe that the American people must never be allowed to forget the struggle and sacrifice behind the rights guaranteed by the founding documents of this country.

In the summer of 1951 a young man age 32, was asked by a boyhood friend, a young attorney and a veteran of World War II, if he would participate in a plan conceived by a local civil rights organization to test the constitutionality of the system of racial segregation as it related to public schools in their community. That young man the father of three had one child entering third grade. He had experienced firsthand what it was like to live a stones throw from an elementary school and have to send his child off in another direction because they were African American and his neighborhood school was for whites only. That fall he joined 12 other families in filing a class action suit against the local school board. One year later their case had made its way all the way to the United States Supreme Court and there combined with cases from Delaware, the District of Columbia, South Carolina and Virginia.

Little did that young man know that once the cases were combined they would all become known by the first listed plaintiff, in this case his name Oliver L. Brown. Little did his boyhood friend know that he, Attorney Charles Scott and his partners in the family law firm, would become forever etched in the annals of history. And little did either of them know that the young attorney for the civil rights organization, the National Association for the Advancement of Colored People (NAACP), Thurgood Marshall, would eventually sit on that same Supreme Court he had challenged on their behalf.

Just three short years after that first young man had agreed to his friend's request he had become inextricably linked with one of the most important human rights milestones in United States history. In just 7 short years from 1954 to 1961 he did at the age of 42, taking his quiet fire for doing the right thing and never knowing that no discussion about desegregation or equity or justice goes without mentioning the Brown decision. In ten short years from 1951 to 1961 he left an enduring legacy to the American people.

Today I sit here, one of the three daughters of Oliver Brown. I want it clearly understood that what those young men stood for was not idealism but rather the best tradition of what this country represents to the World. In the study on Brown vs the Board of Education, conducted by the National Park Service, we are reminded that the achievement of Civil Rights for African Americans did not require a change in the Constitution as much as the fulfillment of the original intention of the framers of the 13th, 14th and 15th Amendments to the Constitution.

The National Park Service carefully screens proposals for new park units to assure that the most outstanding resources are added to the National Park System. Toward that end the Park Service is charged with protecting and preserving for the education and enjoyment of the American people those resources associated with events that have had an unparalleled impact on the pattern of United States history. These resources must represent some great ideal of the American people. In the case of Brown vs The Board of Education, the ideal is that of equal protection under the law as afforded by the Fourteenth Amendment of the United States Constitution.

The Sumner Elementary School and Monroe Elementary School symbolize both the harsh reality of discrimination permitted under the doctrine of separate but equal mandated by the Plessy decision in 1896 and the promise of equality embodied in the Fourteenth Amendment of the Constitution that was realized after the Brown decision in 1954.

Today, these schools stand as monuments to generations of Americans who refused to accept the denial of their basic civil rights as guaranteed by the United States Constitution.

The attorneys and plaintiffs in Brown shared the belief that it is the responsibility of each new generation of Americans to interpret the Constitution to see that our basic civil rights are safeguarded and preserved. Just as it is the responsibility of the National Park Service to propose and the Congress of these United States to insure that units added to the National Park System serve to reflect the entire story of this nation's history.

Kansas has played a pivotal role in the civil rights history of these United States. During the era known as bleeding Kansas the defeat of pro slavery factions determined how the rest of the territories entered the union. In 1954 as the Brown decision came out of the United States Supreme Court, Dwight D. Eisenhower of Kansas was President of our country. In 1957 in answer to a refusal to comply with the tenets of the Brown decision President Eisenhower sent troops to Little Rock, Arkansas. Finally, the words that started the chain of events in the Brown decision were written in the United States District Court opinion by Judge Walter Huxman former Governor of Kansas.

The framework for the legislation we are considering today began in 1984 with a Constitutional Theme Study initiated by Former Chief Justice of the United States Supreme Court Warren Burger, to be completed in 1987 as part of the commemoration of the bicentennial of the Constitution. As a result Sumner Elementary School was designated as a National Historic Landmark in 1987 and the Monroe Elementary School building received the same designation in 1991.

This site associated with Brown vs The Board of Education has been studied and found to meet and in many ways exceed all requirements for inclusion in the National Park System.

As a resident of Topeka, as a citizen of Kansas, as a citizen of the United States and as a representative of the Brown Foundation I am proud of the Kansas Congressional Delegation. What Kansas elected officials have demonstrated is a commitment to insuring a more representative National Park System in which Americans of all racial and ethnic backgrounds can take pride. Currently less than five percent of the National Historic Landmarks and National Historic Sites relate directly to the role of African American citizens in shaping the history of these United States. Each of us must be interested in presenting an accurate profile of our Nation's history and the diversity of its people.

I am pleased today to strongly endorse the findings of the National Park Service that Monroe Elementary School is Nationally Significant and qualifies for inclusion in the National Park System. I am pleased to support and urge the passage of the "Civil Rights in Education: Brown vs Board of Education National Historic Site Act of 1992."

Events of 1992 have made it painfully clear that each and every generation must be taught and in some cases reminded of the words of Justice John Marshall Harlan—"Our Constitution is colorblind and neither knows nor tolerates classes among our citizens. In respect to civil rights, all citizens are equal before the law."

In the words of Richard Kluger author of the epic story of Brown vs The Board of Education, the establishment of this new unit of the National Park System would be—"Simple Justice."

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would be remiss if I did not amplify the statement of the gentleman from Kansas [Mr. SLATTERY] about really the eloquent testimony of Cheryl Brown Henderson at the committee hearing. We had a brief hearing on this matter and, clearly, I think most Members in this body remember the tremendous struggle, after the 1954 Supreme Court decision and the changes that it visited upon the educational system in this country.

I must say that the comments of our colleague, the gentleman from Georgia, JOHN LEWIS, who is a member of the Subcommittee on National Parks and Public Lands and, of course, the majority whip in this body gave an electrifying statement at that hearing. I think it really demonstrated the diversity of not just this Congress but the progress that we have made as a nation in terms of dealing and addressing the problems of equal education under the law.

Mr. Speaker, although there were problems that persisted, clearly, from that point forward we have moved in a positive way. And I certainly hope that the establishment of this park, this historic unit, this cultural resource that is in Topeka, KS, will be a reminder, again, of the progress that we have made but yet the challenges that lie ahead with regard to separate but equal education and the problems of education that are being experienced by minorities and by others in this country today in 1992.

□ 2200

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to associate myself with the remarks of my good friend, the gentleman from Kansas [Mr. SLATTERY], and I totally agree with the sponsor of supporting this concept. Clearly tremendous strides were made following that landmark 1954 decision, and I believe that this legislation goes a long way toward recognizing it.

The concern that minority members have has to do with four other bills which are attached to this legislation, and that is the reason, on behalf of Mr. Young, of the gentleman from Montana [Mr. MARLENEE], and of my colleague from California [Mr. LAGOMARSINO], I rise in opposition to this. I am specifically referring to the four bills which have been included: the Dry Tortugas bill, H.R. 5061; the advisory committee of three park areas, H.R. 4085; the New River Wild and Scenic Rivers Study; and, as I mentioned earlier, the study of the Boston Harbor islands. It is for that reason that I am going to urge, on behalf of the minority members of this committee, a no vote on this suspension.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope that the gentleman from California and my colleagues that he represents will very carefully consider their actions in terms of selecting this as a vehicle of their statement of concern. I think that I understand the gentleman's intention and his concern, but I hope that it would not be misunderstood in the lateness of the session and the importance of this particular matter that is before us, which obviously is of a bipartisan nature.

If there was such a great problem with the measures, three of the four bills that were here, they would not have passed without dissent on a voice vote. The New River bill passed by a vote of 350-some to 100 against it; clearly, the Boston Harbor issue, which the gentleman indicated is simply a study; and I note that I have presented this evening about an hour ago a request from some minority Members on a series of issues that they would like considered before we conclude work, and he will endeavor to do so.

I would note that of that, four or five of those measures have not been the subject of a subcommittee hearing. Notwithstanding that, looking at the nature of the proposals, we will endeavor to try to work with our colleagues on the committee.

Unfortunately, the gentleman from California, who is bearing the responsibility of delivering this concern, is one of the principal participants. If the principal participants were here and would talk to Members and communicate, I think it would help.

I would hope the gentleman, while I hope he is bound to ask and request a vote, that he would not set a tenor that need not be set with regard to this, because I think the resolution of issues that he is most concerned about could probably be and will be, I hope, satisfactorily resolved without necessarily visiting upon him the responsibility to oppose something that I think has a great deal of sensitivity, and obviously has broad support from the gentleman from California [Mr. DREIER], and from other Members.

So I would hope that he would keep the option open as to his particular vote, and that he might recommend that to others tomorrow.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding. I appreciate his thoughtful recommendation. He is right, I am not a member of the committee or subcommittee, and I am very supportive of the concept, and recognize the historic site of Kansas versus Board of Education.

The reason that the minority leadership on the gentleman's committee and subcommittee has asked me to rise and request a recorded vote on this issue has to do with the fact that these four additional bills were attached to this measure, and while I greatly respect my friend and his desire to bring about a full, indepth analysis of what it is that is about to happen, if this suspension were to pass, it seems to me that the request that the gentleman has made should have taken place before we take action here in this House.

Mr. VENTO. I thank the gentleman, but I do not ask the permission of my colleagues to bring up measures or to set before them issues. Obviously, we have the rules, we are going to go in the regular order, and I would suggest to the gentleman that he consider the merits of his vote or whatever recommendations he makes on that basis. We are fully prepared to live with the consequences.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Speaker, first of all, I want to say to my good friend who formerly resided in Kansas, and will hopefully some day return to Kansas—

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield, some of my California constituents may hope that, too.

Mr. SLATTERY. Mr. Speaker, if the gentleman will continue to yield, I would say to my friend that I am pleased and delighted to learn that he enthusiastically supports the portion of this legislation that has to do with the Brown versus Board of Education historic site. I would respectfully urge and request the gentleman to think over tonight about his opposition to the balance of this legislation in light of the fact that two of these measures have in fact passed this body without objection unanimously, and another one passed this body overwhelmingly. So it is not like we are trying to tack on some sort of controversial measure and use this as a vehicle to ram it through in the last few minutes. That is not what is going on here.

I just want to make that point clear. I thank my friend for his enthusiastic support of the portion of this bill that I have authored, and I would urge, with all due respect to him, to consider over the evening whether his opposition to the procedure being used to move these other two of three matters that have overwhelming support in this body would justify his vote against the entire measure.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I simply close by saying that as we charge toward adjournment, there are many things on my mind, but I can assure my friend that over the next several hours this evening I will put a great deal of thought into considering whether or not I am able to support this legislation tomorrow.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I am happy to yield to my colleague from Kansas.

Mr. SLATTERY. Mr. Speaker, I am sure the gentleman will do just that. I take the gentleman at his word. I hope tomorrow when we vote I will see a green light up there from the gentleman from California.

Mr. STUDDS. Mr. Speaker, I rise in strong support of this bill, which includes two provisions of great interest in my district.

First, the bill directs the Secretary of the Interior to conduct a study of the Boston Harbor Islands in Massachusetts. These islands are a unique resource whose natural beauty provides an opportunity for solitude and reflection in the very heart of the Boston metropolitan area. The islands are richly endowed with the history of Boston Harbor—since the English settlers began using them in the 1600's for farming, they have been used for trading posts, hospitals, reformatories, poorhouses, and prisons.

Their most important historic role, however, has been in our Nation's military defense; they provided strategic posts during the Revolutionary War and were used for coastal defense during the War of 1812 and the Civil War.

The bill directs the Park Service to assess opportunities to prompt the conservation, use, and enjoyment of the islands through expanded opportunities for tourism and public education. It also directs the Service to evaluate the suitability of establishing the islands as a national park, and of providing ferry service between the islands and the Adams National Historic Site in the city of Quincy.

Second, the bill includes provisions that will allow the unimpeded operation of advisory commissions connected to National Park Service units—including the Cape Cod National Seashore.

Mr. Speaker, I introduced legislation early this year to remedy a problem that had arisen with the Cape Cod Seashore Advisory Commission. In recent years, the Department of the Interior has taken so long to process routine paperwork approving the Commission's charter and appointing new members that the Commission has literally been unable to function for months at a time.

My bill was simple; merely waiving the Federal Advisory Committee Act requirement that the charter be filed and approved every 2 years and permitting any member of the Commission to continue serving after the expiration of his or her term until a successor is appointed.

I am pleased to say that the head of the National Park Service, Mr. James Ridenour, testified in favor of this measure, stating that it would streamline the Commission renewal process and foster continuity and efficiency in Commission activities.

My bill was extended by the Subcommittee on National Parks and Public Lands to cover all advisory committees in the National Park Service system.

In closing, I would like to thank the chairman of the Interior Committee, Mr. MILLER, and the chairman of the Subcommittee on National Parks and Public Lands, Mr. VENTO, for their support for these two provisions.

Mr. DREIER of California. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have great confidence in the cognitive exercise of the work of my colleague from California over the next hours, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RAY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2890, as amended.

The question was taken.

Mr. DREIER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to announce that the following list of suspensions is available in the Cloakroom:

H.R. 3088, DNA Records;

H.R. 6126, Rural Electrification Act;

S. 1704, Housing for Employees of National Parks;

H.R. 1216, Indiana Dunes;

S. 1664, Keweenaw National Historical Park; and

H.R. 4016, Base Closure Conference.

TRIBUTE TO THE HONORABLE CHARLES BENNETT

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUTTO. Mr. Speaker, Congressman CHARLES BENNETT of my State of Florida is one of the greatest statesmen ever to serve in this body. CHARLIE has served in the House of Representatives with distinction for 44 years and it is with a great deal of sadness that we see him leave this body at the end of the 102d Congress. But let me hasten to add that CHARLIE deserves to rest from all of his valiant labors over the years on behalf of our great Nation and the people of Florida.

CHARLIE has served in Congress longer than anyone in Florida's history and I would strongly believe that his record will stand for all time. This outstanding American patriot has served the United States of America as a decorated veteran of World War II even before coming to Congress.

CHARLIE loves the Sunshine State of Florida as much as anyone oculd and he has written five books on the history of Florida. I would like now to strongly suggest to CHARLIE that he write another book—an autobiography of CHARLIE BENNETT. This would provide interesting reading as one could follow the life of one of America's greatest statesmen.

Mr. Speaker, I would at this point like to enter into the record the resolution for the Honorable CHARLES E. BENNETT that was passed unanimously by the House Armed Services Committee on October 2, 1992.

RESOLUTION FOR THE HONORABLE CHARLES E. BENNETT, REPRESENTATIVE IN CONGRESS FROM THE THIRD DISTRICT OF FLORIDA

Whereas you, Congressman Bennett, were elected to the 81st Congress on November 2, 1948, and have been reelected to each succeeding Congress;

Whereas, among the 11,238 men and women who have served in the U.S. Congress since 1789, you rank 15th in continuous service, and among 10,039 men and women who have served in the U.S. House of Representatives since 1789, you rank 9th in continuous service;

Whereas, your longevity incorporates an unsurpassed example of diligence as you have not missed a legislative record vote since June 1951, a period of more than 41 years, during all of which time you have worn leg braces due to a disability resulting from your wartime service;

Whereas, you served, beginning in September 1968, as chairman of the Special Subcommittee on Seapower, that later became known as Legislative Subcommittee No. 3, and since 1973 has been known as the Seapower Subcommittee, and you have been the only chairman the subcommittee ever had;

Whereas, for more than two decades you have been the most influential Member of Congress on naval shipbuilding and naval policy;

Whereas, you also served as chairman of the Special Subcommittee on Real Estate for the 89th through 91st Congress, as chairman of the Special Subcommittee on Air Defense of the Southeast United States in the 91st Congress and the Special Subcommittee on Discharges and Dismissals in the 89th Congress;

Whereas, you introduced the first bill to provide a Code of Ethics for the U.S. House of Representatives and chaired a special House committee that recommended setting up a permanent committee on ethics, and later served as chairman of the Committee on Standards of Official Conduct;

Whereas, you have fought for a higher standard of ethics during all your years in the House and have set an example of uncompromising honesty and integrity;

Whereas, you brought to your service on the committee a singular knowledge of the needs of service personnel, having served as an infantry officer behind enemy lines in the Philippines, leading Philippine Scouts, an assignment for which you volunteered, and which eventually led to your evacuation with a permanent disability;

Whereas, your military honors included the Silver Star, the Bronze Star, the Combat Infantry Badge, the Philippine Legion of Honor and Gold Cross for gallantry in action, and the French Chevalier de la Legion d'Honneur, and election to the Infantry Hall of Fame at Fort Benning, Georgia;

Whereas, you declined to take the military disability retired pay to which you are entitled but directed that it be donated to historical preservation, principally in the State of Florida;

Whereas you are the author of five books, on the history of Florida;

Whereas, with your service in the Florida House of Representatives and your military service, together with your service in the U.S. House of Representatives, you have served your country for more than 50 years; and

Whereas, your wise counsel, your friendship, and your example of fighting for the principles in which you believe, have been of immeasurable benefit to your colleagues and the committee; therefore, be it

Resolved, That we, the Members of the Committee on Armed Services, offer our commendation to you for a career of public service unique in the annals of our country; and be further

Resolved, That the committee thanks you for your leadership and your friendship. We wish you and your family well.

MAZAK COUNTERFEITS BUY AMERICA

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, according to a presentation on TV's "60 Minutes" tonight, a whistleblower, Fred Petticone, and his lawyer, deserve our thanks for not giving up in their fight with Mazak Machine Tools when the company was accused of violating American law.

They allege that Mazak, a Japanese company based in Kentucky, knowingly and by design, cheated on Defense contracts, by recrating machines to make them appear they were made in America though they were manufactured in Japan. Three of Mazak's employees questioned the practice of recrating machines, but were told to be quiet if they valued their jobs.

The 60 minutes story said Fred Petticone took his story to a lawyer and together they fought their way through the Federal Government which did nothing for 4 years. Commerce, Treasury, DOD, and the Department of Justice remained mum on this important issue. Mr. Speaker, when the United States loses machine tool production, we lose our manufacturing base and ability to be competitive in international trade.

I hope more whistleblowers will come forward anytime a company cheats to violate the Buy American Act. This time a private lawyer and her client won one for all of us.

□ 2210

OPPOSE THE BROOKS BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. JAMES] is recognized for 5 minutes.

Mr. JAMES. Mr. Speaker, if H.R. 5096 comes to the floor in the closing days of this Congress, I ask my colleagues to oppose it.

I oppose H.R. 5096 because it violates the Constitution. When I was sworn in as a Member of Congress, I vowed to uphold the Constitution. I cannot in good conscience, vote for a bill which offends the Constitution.

I want to make it clear that I think Congress is responsible to produce legislation that will guide telecommunications policy. Such legislation, however, should encompass the entire telecommunications industry. There is no reason for Congress to embrace a bill that shapes the future of telecommunications, but applies only to seven companies bearing the name "Bell."

This bill violates the Constitution in two respects. First, it violates the principle of separation of powers. Second, it is a bill of attainder. As noted in Nixon versus Administrator of General Services, the bill of attainder clause is a significant element of the separation of powers doctrine. Nixon cites *United States* v. *Brown*, 381 U.S. 437, 445 for the critical proposition that the Legislative Branch is not so well suited as politically independent judges and juries to the task of ruling upon the blameworthiness of, and levying appropriate punishment upon, specific persons.

As we can see by the enormous lobbying resources that have already been expended this year for H.R. 5096, the politics of this issue are extremely powerful. I do not believe that Members who are confronted on the one hand with their district newspaper and thousands of telephone company employees-constituents on the other hand will find it easy to deliberate these issues objectively.

First, H.R. 5096 offends the fundamental principle of separation of powers. Our Constitution requires that Congress make the laws, not adjudicate or execute them. By attempting to codify the modified final judgment [MFJ], the Judiciary Committee has crossed that line and attempts to fill the court's shoes.

The judge in the case involving AT&T and the Bell companies has already made decisions about the Bell's entry into various lines of business. This bill overturns those decisions and usurps the court's authority. It is not our function to intervene in a case the court has adjudicated since the 1984 breakup of AT&T.

Of course, there is nothing wrong with passing a law of general application that would apply to everyone or to a reasonable class.

However, this bill's only purpose is to change the rights of the specific parties in a specific legal action. Put another way, H.R. 5096 does nothing but change a final court ruling—and violate the separation of powers.

Proponents of H.R. 5096 have erroneously cited *Pennsylvania* v. *Wheeling & Belmont Bridge Co.*, 59 U.S. 421 (1855), for the proposition that Congress has the power to alter provisions of an outstanding decree. A closer reading of the case demonstrates that Congress can alter a decree involving public rights, but not private rights.

The case dealt with whether or not Congress could change a court ruling regarding a public bridge, which obviously deals with public rights. The case reads:

> But it is urged, that the act of congress cannot have the effect and operation to annul the judgment of the court already rendered, or the rights determined thereby in favor of the plaintiff. This as a general proposition, is certainly not to be denied, especially as it respects adjudication upon the private rights of parties. When they have passed into judgment the right becomes absolute, and it is the duty of the court to enforce it.
>
> The case before us, however, is distinguishable from this class of cases, so far as it respects that portion of the decree directing the abatement of the bridge. Its interference with the free navigation of the river constituted an obstruction of a public right secured by acts of congress.

This case clearly reinforces the principle that Congress may not annul a court's judgment, especially an adjudication of private rights. No one has suggested that the case between AT&T and the RBOC's is anything but an adjudication of private rights. So, while the case was cited for the exception to the rule for cases involving public rights, it is properly understood as a case that buttresses the time honored principle of separation of powers, as it applies to cases involving private rights.

Second, H.R. 5096 is a bill of attainder, forbidden by the Constitution. Article I of the Constitution, which established Congress's legislative authority, mandates that "no Bill of Attainder * * * shall be passed." A "bill of attainder" describes any law that legislatively inflicts punishment on named groups or on identifiable entity. Accordingly, legislation that singles out companies by name is an impermissible bill of attainder.

H.R. 5096, by naming the seven Bell companies, clearly violates the Constitution's prohibition of bills of attainder. The bill essentially exempts other similarly situated large local exchange carriers in a way that discriminates against only the Bell operating companies. As a result, while other similarly situated companies may enter into manufacturing, information services, and long distance, the seven Bell companies may not.

Proponents of H.R. 5096 have erroneously cited a case—Nixon v. Administrator of General Services—to argue that this bill is not a bill of attainder. A close reading of the case demonstrates that the court supported arguments against a bill of attainder, as shown in *United States* v. *Brown*, 381 U.S. 437. In Brown, the court held that a law making it a crime for a Communist Party member to serve as an officer of a labor union violated the bill of attainder prohibition. The type of law prohibited in Brown is the same kind of law as H.R. 5096. The law in Brown interfered with a select group's employment rights and opportunities. H.R. 5096 similarly interferes with a select group of corporations' rights to enter into certain businesses.

Brown is distinguished from Nixon, because the plaintiff in Nixon argued overbroadly that the Constitution is violated whenever a law imposes an undesirable impact on a class that is too narrowly defined. Nixon states that if a law is simply burdensome, that is not enough to make it a bill of attainder. Nixon was clearly a unique situation. It is absurd to cite this case to argue that a bill of attainder doesn't exist, because the court found the facts of the Nixon case to be at most subjectively burdensome. The court goes on at length in Nixon explaining the peculiarity of these facts.

Nixon can certainly not be cited to argue that specific companies do not have the right to enter into different businesses and it is clear that there is nothing subjective about the consequences of H.R. 5096. It is crystal clear that the direct, objective, and obvious consequences will be that the RBOC's will potentially lose millions of dollars, if H.R. 5096 is passed. No one has the audacity to even suggest otherwise. If H.R. 5096 were found to be constitutional, there would be absolutely nothing left of the Constitution to stop legislation from being passed to correct any court judgment in the land regardless of the private nature of the relief sought.

So, while Nixon is cited by proponents of H.R. 5096, it is in fact a narrow exception to the bill of attainder prohibition. Brown gives the rule, which applies to H.R. 5096 and Nixon states an exception. Proponents of H.R. 5096 have tried to make the exception swallow the rule, when in fact the exception makes the rule stronger, and in effect, reaffirms the rule.

When the Judiciary subcommittee held hearings about the need for comprehensive legislation to curb monopoly abuses, I publicly expressed my concern about legislation that named specific corporate entities. I suggested that this was a violation of the Constitution, and recommended language which would apply to all telecommunication companies that could abuse their monopoly powers.

This bill violates the core principle of separation of powers, and is a bill of attainder. I am left with no other alternative than to vote against a bill I believe to be unconstitutional. Instead, I hope that Congress will address this critical public policy issue with legislation that applies fairly to everyone, not just companies bearing the Bell name.

□ 2220

SPECIAL RECOGNITION TO GREAT ALLIES OF THE UNITED STATES: THE PEOPLE OF THE NETHERLANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, as this session nears an end, I would like to take just a few minutes to commend one of our strongest allies and one that is not often recognized.

I would like to pay tribute to a small country that was a big friend to the United States during the Persian Gulf war—The Netherlands.

During the gulf war The Netherlands provided the U.S. military with the use of their ports in Rotterdam and Amsterdam to ship hundreds of thousands of tanks, armored personnel carriers, attack helicopters, Patriot missiles, and ammunition to the gulf.

In fact, this mission became the largest sealift in U.S. military history, larger than even the invasion of Normandy during World War II.

Dutch military personnel and stevedores worked day and night alongside American soldiers to accomplish this mission, despite arctic cold weather, high winds, rain, and snow.

The Dutch provided around the clock armed security at the port of Rotterdam against constant terrorist threats, as well as food, shelter, and medical care to our soldiers as if they were their own sons and daughters.

On Christmas Eve 1990, when it looked like a bleak Christmas for U.S. soldiers at the port of Rotterdam, the Dutch military surprised our GI's with an American-style ham and turkey Christmas dinner, Christmas carols and words of thanks to the American people for standing up to dictators such as Saddam Hussein.

The Dutch military general in charge of this event refused to accept a thank you because as he said:

> The American people will never owe the Dutch people a thank you because it was America who sent her soldiers to drive the Nazi's out of Holland after five years of brutal occupation.
>
> An occupation which saw many Dutch men, women and even children taken to the sand dunes along the North Sea and killed for being resistors or taken to Nazi concentration camps and executed.
>
> America will always deserve our thanks for saving our country.

A member of my staff, Jim Easton who served in The Netherlands and Saudi Arabia during the Gulf war, has told me what an emotional experience it was for him to walk the same path where the Nazi's forced innocent Dutch men, women, and young children to walk to their death by firing squads in the sand dunes of the North Sea, near The Hague.

Jim tells me every American would have a greater sense of patriotism by visiting this site, memorialized by three simple wooden crosses and a replica of our Liberty Bell.

Mr. Speaker, we do owe the Dutch people a thank you.

The Dutch not only supported America at ports in Holland but also voluntarily sent fighting ships, minehunting vessels, air defense squadrons, medical teams, as well as other units to Saudi Arabia and the gulf region in support of our effort to remove Saddam Hussein from Kuwait.

As if this was not enough for a small country to give, the Dutch also provided $65 million in financial aid along with $6 million to assist refugees from Iraq and Kuwait.

Every year on May 4 at 8 p.m., a bell rings in Holland which calls for a moment of silence by the Dutch people in memory of their fellow citizens who were executed there by the Nazi's.

The next day, May 5, the Dutch annually celebrate the liberation of their country by American soldiers.

In a world where many countries take our money with one hand and slap us with the other, it is nice to know that the Dutch stand as a shining example that friendship is based on helping each other when the cause is right, such as standing up to dictators who invade small countries whether it is The Netherlands or Kuwait.

I say thank you to the Dutch people for your friendship and the risks your military shared with our soldiers to achieve an overwhelming victory in the gulf war.

I simply wanted to do a brief special order to give special recognition to great allies of the United States, the people of The Netherlands.

FRANK ANNUNZIO; MR. ITALIAN-AMERICAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, I wish to pay a special tribute to FRANK ANNUNZIO for his leadership on behalf of the Italian-American community of this Nation. No group in this Nation owes a more enduring debt to FRANK ANNUNZIO than Italian-Americans. His 28-year career in the Congress has made a significant impact in improving the visibility and stature of Italian-Americans.

FRANK ANNUNZIO was a principal founder of the National Italian-American Foundation which today is the national advocacy voice for the more than 20 million Italian-Americans in this Nation. FRANK, throughout the 17 years of the Foundation, has provided it with constant and committed leadership in the development of its scholarship and intern program and has been vitally involved in giving the Foundation a public policy focus. In recognition of his work, FRANK ANNUNZIO was awarded the prestigious NIAF La Guardia Public Service Award in 1983.

FRANK ANNUNZIO was also the founder and has been the strong leader of the Joint Civic Committee for Italian-Americans in his home city of Chicago. The joint committee has been in the vanguard of organizations working to enhance the image of Italian-Americans in the media and their efforts have made a significant difference over the years in this important area.

FRANK ANNUNZIO has also provided critical leadership on behalf of the ongoing Christopher Columbus Quincentenary. In addition to his critical role in the passage of the 1984 resolution designating 1992 as the Columbus Quincentenary Year, he is also responsible for the most substantive legislation passed during this important year. I refer to the bill aptly named the Frank Annunzio Act establishing a Christopher Columbus Fellowship Foundation on behalf of individuals who would work toward making innovative discoveries for the benefit of mankind.

Under this bill, the Treasury will be authorized to mint gold, silver and copper nickel coins in commemoration of the 500th anniversary of the arrival of Columbus in America. This legislation clearly represents what will be the enduring legacy of the Quincentenary and our goal to move to the future by, as FRANK ANNUNZIO himself said "stimulating the intellectual curiosity of its citizens."

FRANK ANNUNZIO has been a champion of many causes in his distinguished careers and many groups from consumers to senior citizens have benefited from his time in the Congress. Yet without question, FRANK ANNUNZIO provided a special brand of leadership for the Italian-American community and for Italy. It should not be forgotten that FRANK ANNUNZIO was in the forefront in the enactment of legislation to provide desperately needed United States economic assistance to Italy in both 1976 and 1980 when Italy was forced to cope with two major earthquakes.

As an Italian-American Member of Congress, I am honored to salute our friend and leader FRANK ANNUNZIO. Over the years, he has provided both inspiration and direction to the Italian-American congressional delegation. I realize that retirement will not change FRANK ANNUNZIO'S advocacy for Italian-Americans as we cannot afford to have his voice quieted. Chairman Frank D. Stella of the National Italian-American Foundation in a May 1991 letter to FRANK ANNUNZIO summed it up best when he said:

> Regrettably * * * I mean regrettably * * * I hate to see you leave the Congress as no one will ever come close to what you have achieved for the benefit of our citizens in this country * * * notwithstanding our own Italian-American community. No one * * * and I mean no one will even come close to your outstanding and dedicated record.

I sum it up by saying that if any person in the United States deserves a certain title, FRANK ANNUNZIO deserves it: "Mr. Italian-American."

INTRODUCTION OF THE INFRASTRUCTURE IMPROVEMENT AND JOB OPPORTUNITIES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HAYES] is recognized for 5 minutes.

Mr. HAYES of Illinois. Mr. Speaker, I rise today to plead and challenge those Members who are returning next year to this body. As many of you know, I will not be returning to Congress in the next session and I leave with a little sadness and some fear. I am saddened because much work remains to be done before we can return this Nation to a innovative and productive country. However, I am fearful that this will not happen because of the direction that this Congress has taken. I realize that there are limits to what we can do in this body, but helping those most in need should be at the top of our priorities.

I constantly hear my colleagues talk about reducing the deficit, but I rarely if ever hear them seriously debate the need to provide employment, real employment for real people who are unemployed. Today our country is undergoing a serious unemployment crisis which clearly constitutes an economic emergency. Just two days ago the unemployment figures were released and it stands at 7.5 percent or about 9.5 million people, and the figure for my constituents is at an even more distressing rate of 14.9 percent. For urban centers the rate is almost double. And with these figures we are rushing to end this session while millions of Americans are wondering where they will get their next meal. So I challenge my colleagues to seriously address the issue of joblessness in this country before we truly see depression era devastation.

I lived through the great Depression of the 1930's, and I remember the high unemployment, the high crime rate. I saw the fear and sadness in my parents eyes, not knowing where we would get our next meal. There was also a feeling of hopelessness and despair, feelings very similar to those people are feeling today. But the real unfortunate reality about this recession is the fact that it may only be the beginning of a long, sad, trend of permanent job losses because of the economic policies of the Reagan-Bush era. While our President has been instituting backwards economic policies, many Americans have lost their jobs permanently to cheap labor abroad, and have ultimately been abandoned and left out in the cold. Now we hear that our own tax dollars are being used to encourage companies to leave the U.S. for cheap labor countries. What can we do? The vehicles await our action, but I am afraid it is too late for the 102d Congress. But my friends, some of you will be returning and can accept this challenge or you can continue to neglect this vital issue.

During the Depression, an array of public works programs were implemented. Some of those programs were the Federal Civil Works Administration projects [CWA] initiated by an Executive order in 1933. This program employed nearly 2 million workers and within 1 year that figure increased to 4.3 million people. There were the Public Works Administration projects that employed even more people to both heavy construction and labor-intensive projects. Additionally, we must not forget the [CCC] Civilian Conservation Corps for the youth. I was a CCC worker and if it were not for that program my family would have had an even harder time feeding all of my eleven sisters and brothers. The 1930's were very desperate times, and it called for a progressive initiative of both Congress and the Administration at that time. Right now, I say that these times are also crying out for some progressive action out of today's Congress.

I introduced a bill in this Congress, the Infrastructure Improvement and Job Opportunities Act. This bill would create employment opportunities at local job projects that renovate the infrastructure of this Nation's roads, bridges, public housing, public schools, and historic sites. Our Nation's infrastructure is decaying and needs improvement. This bill would not only accomplish cleaning up our Nation's cities, it too, provides real training that will later translate into real and permanent jobs.

I know that many of my colleagues all endlessly complain about the cost of a jobs bill and I understand the fiscal restraints which we face. However, I heard no such complaints about the cost of the Persian Gulf war or the cost to bail out the Savings and Loans. We can and must find the necessary financing. The crisis is great and those returning Members have a chance to make a difference. A jobs program is the answer to restore the sense of self worth, pride, and financial security in the attitudes of American citizens, and that is what is expected of this Congress. That is why we were sent here.

My second challenge to you is one that I have been preaching about for years, and that is the idea of privatizing our public schools system under the auspices of parental choice. I have serious concerns about these efforts. Whether we are calling this proposal vouchers, tax credits or choice, I adamantly oppose the concept. You all will likely face this challenge during the reauthorization of the elementary, secondary programs in the next Congress.

I fully believe that parental choice will further disenfranchise poor and minority youth, particularly in inner city and urban areas such as the city of Chicago. In my opinion, the concept of choice will not work in our public education system because it basically defies the longstanding tradition of equitability—providing a public education to all children of this Nation. I believe that the use of choice will certainly allow some children to benefit. However, in a system such as the city of Chicago Public Schools, choice would likely deny the majority of the students, particularly those in need of special assistance, a quality education.

I am certainly receptive to educational reforms that improve our systems, because the real focus of any reform should be the improvement in quality. However, I do not believe that by simply allowing parents to choose where their children attend school will really improve all of public education. We need serious reform and we need to understand that true reform will cost dollars.

Our economy will soon demand a well-educated work force. It will be essential to competing on the world market, and I want this country to be prepared. However, at the same time I want to ensure that every child has access to and receives a quality education. Market place concepts such as parental choice do not belong in the public school arena. Attempting to create competitive public schools through parental choice is not the answer. Instead of trying quick fixes we should give more time and energy toward a more daunting and important challenge: restoring a sense of pride in our schools.

Education and employment are intrinsically tied. We must make certain that our children are educated and we must create job opportunities to maintain a productive and healthy economy.

As we go to our respective districts let us not forget about the homeless, the jobless, and the voiceless. The 103d Congress has a tough time ahead, they must deal with our crumbling health care system and our continued problem of the homeless and unemployment because they are all crucial issues that are intertwined. We must ensure that our children and grandchildren are left with a productive Nation because if we do not we leave a sad and horrible legacy. I have certainly enjoyed my years in the Congress and on that note I thank you, Mr. Speaker.

□ 2230

TRIBUTE TO HONORABLE BEVERLY BYRON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I rise this evening to pay tribute to one of our great Maryland colleagues, who will not be returning with us in the 103d Congress, Congresswoman BEVERLY BYRON.

Mr. Speaker, to the many associates of Congresswoman BEVERLY BYRON, dean of our Maryland delegation, it is, I am sure, always a pleasure to commend her for her dedication to her district and to her State, to her country. But today that pleasure is tinged with sadness because the gentlewoman, BEVERLY, will not be with us in the 103d Congress.

Mr. Speaker, I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank the gentlewoman for yielding.

Mr. Speaker, I made, as a freshman, one of the biggest mistakes of my life when I took on Mrs. BYRON one day and asked her, told her that she should yield to someone who knew something about flying.

I immediately got engaged and treed by Mrs. BYRON, soon to find out that she has not only flown in more aircraft than I have but knows more about military personnel, and was my chairman on the subcommittee. If Mrs. BYRON would change her party, I would endorse her, I think that much of her.

She is one of the most fair people from the other side of the aisle I have ever met. On her Committee on Armed Services, she truly tries to help our American servicemen and women. Mr. Speaker, of a lot of the people who are leaving, I am really sorry to see her go. I would like to pay her the utmost tribute that I could this evening.

Mrs. BENTLEY. My colleague, the gentleman from the great State of Maryland, ranking behind Congresswoman BYRON in our delegation, I yield to him, STENY HOYER.

Mr. HOYER. I thank the gentlewoman for yielding.

Mr. Speaker, we have a very close delegation in Maryland. We have three members of the Republican Party and five Democrats. But when it comes to advocating interests of our State, there are no Democrats and no Republicans; we are eight persons who feel very strongly that we work together to represent our State.

I am particularly pleased to be involved in this special order with my friend, HELEN BENTLEY, with whom I sometimes disagree on issues but who I believe is one of the strongest advocates for the interests of our State that we have, and she is my good friend.

BEVERLY BYRON: BEVERLY BYRON leaves this Congress and the Maryland delegation has a lesser delegation for it. As has been said, she chairs the Subcommittee on Military Personnel and Compensation of the Committee on Armed Services, which reviews 42 percent of the military budget. She was and is the first woman ever to chair a subcommittee of the Committee on Armed Services.

As the gentleman from California [Mr. CUNNINGHAM] has pointed out, she has taken her duties very, very seriously, and she has come by her military knowledge very legitimately.

Her father, as I am sure many know, was one of the top aides for Gen. Dwight David Eisenhower as he commanded the Allied Forces in Europe.

So she was ensconced in military issues as a child. And as she grew and matured, she learned and she brought that expertise to her service on the Military and Personnel Compensation Subcommittee.

Mr. Speaker, I am particularly sad to rise, as Mrs. BENTLEY has indicated, that sadness was very much a part of this special order. I first met BEVERLY BYRON in 1962, some 30 years ago. Her husband, Goodloe, was then the president of the Young Democrats of Maryland. I wrote him a letter, and I said, "Dear Mr. Byron: I would like to get involved in the Young Democrats. How do I do that? I signed "S. Hamilton Hoyer." I was much younger then, and trying to put on airs, obviously.

I got a letter back from Goodloe, BEVERLY'S husband, very graciously saying there was to be a Young Democrats convention at the Washingtonian Hotel. Mrs. BENTLEY knows where that is. It is in the district now of the gentlewoman from Maryland. [Mrs. MORELLA] who is on the floor at this time, our colleague.

So I went to that convention, and I met Goodloe Byron, whom I did not know, who was then a candidate for the House of Delegates in Maryland, and his wife, BEVERLY.

One of the things you quickly came to know was that this was a couple not only deeply in love but with a great partnership, a great interest in public service and in politics.

BEVERLY was, in my opinion, the better of the two politicians. Goodloe was the candidate at that point in time, and Goodloe was successful and was elected to the House of Delegates.

Four years later, having just graduated from Georgetown Law School, I ran for the State senate from Prince Georges County, and Goodloe Byron ran for the State senate from Frederick County. We were both elected. As a matter of fact, we sat across the aisle from one another, Goodloe and I. BEVERLY would, of course, be in Annapolis most of the session because, as I say, very much Goodloe's partner.

Goodloe Byron, although not, in my opinion, the politician that BEVERLY was and is, was certainly the public servant to match any of us in this House. He was a State senator who cared deeply about his district, his beloved Frederick County, and exemplified the most assiduous constituent service that I have ever seen. His constituents loved him. Were he alive today, he would be in Congress today, he was that popular.

He died in October 1978, while jogging. His family had had a history of heart conditions, and Goodloe tried to stay in good shape and was a jogger.

He died jogging.

That was the same year that I lost a race running with Blair Lee for lieutenant governor. Some called me up and said, "Even though you don't live in the district, what about the possibility of us considering you for that vacancy?" I said, "That would be incorrect, it would be silly. BEVERLY BYRON is the person you ought to pick. BEVERLY BYRON is a person who is not only an excellent politician, but more than that, a person who knows western Maryland, cares about its people, has lived its life, knows its troubles, knows its hopes, knows its future, and can serve it best."

As we all know, she was chosen by the Democratic central committee to replace her husband, who had been nominated, of course, for reelection. She ran and was overwhelmingly elected and was sworn in in January 1979.

She is our dean. It is ironic that there are some who talk about term limits. For those of us in Maryland, we realize that in January 1993 there will be no one in the Maryland delegation, no one, who was here in January 1980. We have had 100 percent turnover in that short period of time.

☐ 2240

We lament on both sides of the aisle, obviously, the loss of our dean, BEVERLY BYRON.

Elected in 1978, in 1979 she called me up, knowing full well that I had been stung by my loss and asked me down for lunch.

She said, "You know, you ought to think about running for the House someday." Neither she nor I had any idea that that would be a possibility, because we had one of the most popular Members of Congress serving at that time, Gladys Noon Spellman, but some 2 years later, Gladys Spellman had a cardiac arrest and I ran in a special election and the people of Prince Georges County sent me here to represent them.

I got to know BEVERLY even better, because I worked with her day to day, week to week and month to month. Every day that I worked with her, as I am sure the gentlewoman from Maryland [Mrs. BENTLEY] and the gentlewoman from Maryland [Mrs. MORELLA] and all her colleagues will relate, and as the gentleman from California [Mr. CUNNINGHAM] has said, she grew in respect in our eyes. She grew in affection in our hearts.

She is and has been a person who cares about people, who is honest in her dealings with others, and is tenacious in her advocacy of that in which she believes.

BEVERLY BYRON represents the best of her community.

In her capacity as a member of the Armed Services Committee, BEVERLY BYRON traveled a lot throughout the world. Unfortunately, she was criticized for that in this past campaign.

But that was her responsibility as chair of the Personnel Subcommittee. To know how the young people that we send abroad are treated, to know whether or not they have the ability to defend themselves, to know whether the equipment we purchased for them works, because ultimately their equipment will be responsible for their safety and their effectiveness, so yes, she traveled.

Mr. CUNNINGHAM. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from California.

Mr. CUNNINGHAM. She knew every piece of equipment, how it worked, what to do with it. In many cases she used it herself.

Mr. HOYER. Mr. Speaker, if the gentlewoman will continue to yield, Congresswoman BYRON asked me to go down to Norfolk about 5 or 6 years ago and fly out to the *Kennedy* on a prop driven plane and to land on the *Kennedy* and to spend the afternoon and the evening and the next day observing practice landings, night landings in particular.

You know, some people think this is a soft life, particularly for the admirals that are on these aircraft carriers. I had the opportunity of observing these landings until about 2 a.m. in the morning, and I was getting tired. Mrs. BYRON was going strong and talking about all the different maneuvers that were being made and the planes that were being flown. I left her and went down below. We had pretty good sleeping quarters, because we were sleeping in the admiral's quarters. So I thought this is going to be really nice; so I laid my head down on the bed and was there for about 20 seconds, when boom, 20 seconds later, boom, those planes hit that deck, and I popped up all the time. I quickly learned why BEVERLY BYRON had decided to stay up all morning and watch these landings.

But the gentleman from California is correct. She knew, she knew because that was her responsibility to know. She knew because she knew the relationship between that knowledge and the safety of the young men and women that we ask to defend America's interests and to join with our allies in defending freedom's cause throughout the world. That is why she knew. That is why she traveled.

I had the opportunity of going to the Persian Gulf with BEVERLY BYRON in February 1991, just after our successful effort. As we went around Saudia Arabia and visited with the troops, particularly the enlisted personnel, from the lowest private to the top sergeant, they would relate so well to her and they knew who she was, because the quality of life that they cared about, they knew she was watching over here at home.

And yes, she would talk to the big brass, the generals, and General Schwarzkopf himself, but she could deal easily one on one, no problem at all, but it was with the enlisted personnel that you could tell she really had rapport, because she cared so much about them.

She traveled. She tested. She questioned. She was informed. She was knowledgeable, and at the same time an effective advocate on behalf of her region.

Armed Services was her major focus, but she was also on the Interior Committee.

I said Goodloe Byron died while jogging along the C&O Canal. Goodloe loved western Maryland and BEVERLY did as well. It is a beautiful area of our State. She loved it and she cared for it as a member of the Interior Committee.

Not only did she take care of her people, but she took care of the lands in which they lived and the water which made for such quality of life and recreational opportunities.

Frederick, Carroll, Allegany, Howard Counties and a portion of Montgomery County, that was her district, and she loved it all.

You know, Howard County had the unique distinction for a period of time, probably the only county in America ever represented by three women: Marjorie Holt, BARBARA MIKULSKI, and BEVERLY BYRON. I doubt that there is any county in history that has ever been able to say that we have three Congresswomen representing us in the Congress of the United States, and they were all effective Members of the Congress of the United States. Marjorie Holt has retired. BARBARA MIKULSKI, of course, the first Democrat woman elected to the U.S. Senate without a relative having preceded her.

BEVERLY BYRON now leaves us. I want to thank the gentlewoman from Maryland [Mrs. BENTLEY] for taking this special order.

BEVERLY BYRON is a tough lady, no doubt about that. The gentleman from California [Mr. CUNNINGHAM] found that out.

But she was also a considerate lady. I say was, I ought to say is and I will say is. She is a very savvy Member of this House, but caring, smart, hardworking, effective, able, and the leader of the Maryland delegation.

There are seven of us in the Maryland delegation. I was president of the Maryland Senate; BEN CARDIN was Speaker of the House of Delegates; CONNIE MORELLA was a member of the House of Delegates; Mrs. BENTLEY was the head of the Federal Maritime Commission, the first woman to hold that position, a very high Government official.

We have an able delegation. We think we are a pretty good group of people, but there is not one of the seven who did not know that our leader was BEV BYRON, who coordinated our efforts on behalf of our State and on behalf of the issues about which our people cared.

We will deeply miss BEVERLY BYRON. More importantly, however, than our personal loss is the loss of our State, of her district, of this Congress and of America.

BEVERLY BYRON served her country well.

Mrs. BENTLEY. Very well.

Mr. HOYER. But BEVERLY BYRON is a young woman, make no mistake.

Recently there was a vacancy in the Secretary of the Navy. I called Dick Cheney and Mrs. BENTLEY called Dick Cheney, our colleague who served with us and is now Secretary of Defense, and we said, "You have got some problems in the Navy. We think we have somebody who can help you solve them. Her name is BEVERLY BYRON. She is the sixth ranking member on the Defense Committee. She knows the Navy. She knows the personnel, and she could serve you well."

Now, Sean O'Keefe in my opinion is a very able fellow, and certainly we had no loss when he was selected; but let us, as we say goodbye, as we observe the fact that Mrs. BYRON will not be with us as a colleague in the Congress of the United States, let us not forget that the knowledge of which we speak tonight, the capability and talent of which we speak tonight, is still available to the country.

□ 2250

Mr. Speaker, I will be glad to tell that to President Clinton. I would even be glad to tell it to President Bush. BEVERLY BYRON has a lot of time left to serve our Nation. We wish her good luck. But, in saying goodbye, let us tell her that we expect her back in harness very, very soon.

Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. BENTLEY] for giving me this opportunity to rise in tribute to a beloved friend and colleague, our dean, the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BENTLEY. Mr. Speaker, I thank the distinguished gentleman from Maryland [Mr. HOYER], our very close colleague.

Today, as a matter of fact, and I know the gentleman was there earlier, we dedicated the new veterans hospital in Baltimore, and this was the result of that close cooperation between the Maryland delegation which the gentleman talked about that we all worked so hard on, and BEVERLY was one of those who also worked very hard on it. It was typical of the many things that have happened, and I just want to say that I did not realize that the gentleman had that close association with Goodloe Byron before in the House of Delegates. That was very interesting to me as well.

So tonight, for those who have spoken, I might point out that the gentleman from California [Mr. CUNNINGHAM] was one of those young people when he was in service that the gentleman from Maryland [Mr. HOYER] was talking about when she was traveling as chairman of that subcommittee, and I know that one of those pilots, who appreciated all that she did, he was one of the war aces of the Vietnam war. I think everybody should know that.

Mr. Speaker, I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I would like to expound once again on what the gentleman from Maryland [Mr. HOYER] has said that shows us the courage and the dedication of the young lady that we are discussing. Even after her primary, when she knew that she was not coming back to this House next year, she ventured on those trips still caring about individuals. She visited my district, NAS Miramar, and talked first to naval officers, and she did not limit herself to naval officers because the next group that came in, and I was proud to introduce her at NAS Miramar, she talked to the enlisted troops as well just to find what their feelings were, what they were missing, what they were caring about.

I would also like to associate myself with the remarks of the gentleman from Maryland [Mr. HOYER] concerning that it would not bother me a bit if the young lady was Secretary of the Navy.

Mrs. BENTLEY. Mr. Speaker, the gentlewoman from Maryland [Mrs. MORELLA], who is another part of our delegation, has requested time to speak.

Mrs. MORELLA. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. BENTLEY] for requesting this special order. I certainly associate myself with the comments of my good friend, the gentleman from Maryland [Mr. HOYER], and what he has said, and what the gentlewoman from Maryland [Mrs. BENTLEY] has said about the close-knit Maryland delegation.

Mr. Speaker, we are here to serve Maryland. We may be of different political parties, but we are unified, and we will indeed miss our dean, and we waited around for this special order because it is a tribute for a very special woman, and it is important that we let those who view this and, Mr. Speaker, we let the public know how much she is going to be missed, and how much she has contributed and how much we want her to continue.

Much has already been stated about our colleague, the gentlewoman from Maryland [Mrs. BYRON], the fact that she met her husband when she was in high school, and, as the gentleman from Maryland [Mr. HOYER] mentioned, when he decided to run for the House of Delegates, she said, "Well, if you're going to be in the House of Delegates and run for office, I better become involved," and she did, and she ran his campaigns and did learn all about the intricacies of politics in the State of Maryland.

She is a part of a legacy, part of the Byron dynasty, in terms of her representation in Congress, being the fourth Byron, her father-in-law, her mother-in-law, her husband and then BEVERLY herself. Each was unique, each contributed differently, but each had in common a great understanding of that wonderful part of Maryland and the entire State of Maryland that she represented.

Goodloe was a great outdoors person. BEVERLY was a good outdoors person also. Mention was made that Goodloe died when he was jogging; kind of ironic for the man who loved the C&O Canal, and BEVERLY carried on that tradition, and here in Congress, not only in the Interior Committee has she been involved with legislation to continue that C&O Canal, but also with the National Advisory Commission on which I had the pleasure of serving before I was elected to Congress. It is a beautiful canal, 184 miles of park, canal park, and BEVERLY has been involved with overseeing some of the hikes that they have had, the Douglas hikes on that particular canal.

Actually mention has also been made that in terms of the Armed Forces, because of her background and her interests, she knew so much and, as a woman, I am proud that she was a first as a woman in chairing the committee—the fact that she chaired, the first woman to chair—the Subcommittee on Military Personnel and Compensation, and it has been mentioned that that is like more than 40 percent of the Pentagon budget.

I am very proud of what BEVERLY has done in the area of the environment, and she and I had in common the fact that we both represent Montgomery County. She had such a diverse area that she represented because it was not only that slice of Montgomery County, but she had all of western Maryland, the lakes, the mountains, the rural areas, the mill towns, and then she had Montgomery County which was somewhat different, but she could handle it all, and indeed she did. The geography was great, and her interests and her voting record reflect the understanding of the district that she did represent.

Many times people thought that something BEVERLY wanted to do could not be done, and yet it was done. It was done because of her perseverance and because of her commitment. I will give an example of the fact that she reviewed the national freeway project that is now Interstate 68 which goes from Hancock on the east in Washington County, and it runs approximately 50 miles through Cumberland. It is the opening up of western Maryland, primarily four lanes, and it replaces primarily a two-lane road. It was dedicated, and it was opened, in the fall of 1991. This freeway eases traffic, saves lives, and people said it could not be done. A statement was made that it would never be done in any of the lifetimes of any of us, and yet it has opened and has been dedicated, and it is being used.

BEVERLY was also on the board of directors of the American Hiking Society, and she had introduced several bills which become law which basically helped to establish a national system of hiking and biking trails, including the rails to trails legislation which gave hikers and bikers the first crack at the right of way.

Also BEVERLY is responsible for several bills which were approved over the last decade that improved the working and living conditions for our American service men and women. Mention was made that she was seriously considered for Secretary of the Navy in the recent past, and who knows? Perhaps in the future this will come about.

We will miss BEVERLY. She did help to bring us together as a delegation, a woman very dedicated to her work and a very honest, upstanding woman.

I say to her, "BEVERLY, we will miss you. We know that in some way you will be back to continue to serve our great country and our State of Maryland, and, as Emerson said to Thoreau once, we greet you at the beginning of a new adventure, and we will miss you."

Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. BENTLEY] for this special order.

Mrs. BENTLEY. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] who is from Montgomery County for her words, and I might point out that earlier the gentleman from Maryland [Mr. HOYER] noted that Howard County was represented once by three women from Maryland, and, if my colleagues notice, Mrs. MORELLA, myself and Congresswoman BYRON, again we have three Congresswomen from Maryland. Maryland has been the kindest, or shall I say the smartest, in electing women to the Congress, and we are very, very proud of our State.

□ 2300

Mr. DORNAN of California. Mr. Speaker, I thank the gentlewoman for yielding. So many wonderful things have been said here, I just wanted to add I think one sterling part of this great lady's career. When she got on the Committee on Armed Services she did not just study hard, which she certainly did, and visit all the bases and learn what our young men and women were doing. She actually flew just about every combat aircraft that was out there, including combat helicopters.

I remember when she flew the SR-71. She was, I believe, the first woman to ever do that, maybe the only, which means that BEVERLY BYRON as an outstanding Congresswoman flew three times the speed of sound. That is about the only thing she did beyond this top gun naval aviator here, and at 82,000 feet.

Mr. CUNNINGHAM, have you ever been over 80,000 feet in a jet?

Mr. CUNNINGHAM. I am not crazy.

Mr. DORNAN of California. He is not crazy, he said. BEVERLY BYRON was not crazy, because she went through 4 years of transition training at Deal Air Force Base in California. There are only three Members in this House, and I am one of the lucky ones, that got to fly the SR-71. The other is BOB STUMP on the Committee on Armed Services. He flew the Blackbird.

If you want to see someone who treated BEVERLY BYRON with the utmost respect after his SR-71 ride, you ask BOB STUMP. She did this to understand and to analyze our training, the efficiency of the people in the field, and also it is a great morale booster.

I had the opportunity when I served under BEVERLY on the Personnel Subcommittee of going out in the field with her. I remember a series of hearings about women in combat down at Fort Bragg. We observed how the enlisted ladies did not want to go into combat, but a lot of officer ladies were gung ho and did. BEVERLY made herself as knowledgeable on this issue as any, and I am not going to say which side she came down on, because I came down on the other side.

I want to make a point why I feel very sad why a lot of women in politics around this country failed to rally to her side. She served here as a loyal pro lifer. A lot of us who are close friends separate on this issue. But it is sad that the campaign that was run against her focused on this issue as much as any other. And to tell an excellent Congresswoman, an expert on defense, that somehow or other she was not a proper woman because she was pro life in her stand on this key issue was really I think one of the most tragic defeats in this country this year.

There are very few Members of either gender or any part of the country that are as respected and beloved on both sides of the aisle as BEVERLY BYRON.

I might add, I do not recall if you said it, her son was a B-52 Strategic Air Command pilot. He had transitioned to tankers and flew many, many combat missions out of, I believe Spain, into the Desert Storm desert combat areas, back and forth, supporting all sorts of operations.

That is just a great family. You talked about the generation before. I expect we might see an Air Force B-52 tanker pilot serving in this House someday keeping the name Byron on the rolls of this distinguished Congress.

Mrs. BENTLEY. I thank the gentleman from California [Mr. DORNAN] for those very interesting words about our great friend, BEVERLY BYRON.

Now I want to continue with my discussion and presentation on her.

In the finest sense of the word, BEVERLY BYRON has been a diligent legislator—having served the Nation for 14 years, not only with a staunch integrity, but with a rare cognizance that we also serve history—that what we have been called here to do should never be driven by expediency, but should be considered against a greater measure—the future health and strength of the Nation.

That awareness most likely developed at a very early age when her father, Capt. Harry Butcher, served as the naval aide to General Eisenhower in those critical days of the invasion of Europe. Her marriage into the Byron family of Frederick—a true political dynasty—introduced her to a tradition of political service in a history-bound section of our State. Both her father-in-law and mother-in-law served in the Congress—and her late husband, Goodloe, was elected in 1970. In the family tradition—upon his untimely death, in 1978—Beverly was elected to serve Maryland's Sixth Congressional District.

During the Civil War, many of the names in the Sixth District were written into the history of this Nation with a bloody sword—Frederick, Sharpsburg, the Monocacy, Antietam Creek, South Mountain. An area where the heritage of loyalty and service to country was immortalized by Whittier in his poem "Barbara Frietchie". * * * Remember? "Shoot if you must this old gray head, But spare your country's flag, she said." Had Frederick not stood fast for the Union against Lee's troops, the history of this Nation would most likely have been very different. It is possible, some historians speculate, that there would have been no Gettysburg, that the South would have won.

It should come as no surprise traversing that countryside to see the signs for the National Freedom Highway, Interstate 68, a neglected Federal highway project, resurrected, single handedly, by Congresswoman BYRON to open up the western part of our State with a super highway system. Again, it reminds us of how seminal this region was to the history of this country—parts of the highway trace the old frontier trail over the Appalachians. The town of Boonesboro is in her District also.

BEVERLY BYRON also has been a prime mover in the restoration—the rewatering—of the C&O Canal which traverses much of the Potomac River frontage in the Sixth District.

Needing jobs in western Maryland, she requested a Federal prison be located there. Federal authorities report that because of the preparation and spadework done by the Congresswoman that never has a prison been constructed so quickly, with so little controversy.

Her contributions to the welfare of our Armed Services personnel—as chairman of the Subcommittee on Military Personnel and Compensation—have been recognized in a resolution passed by the Armed Services Committee which I would like to share with you, Mr. Speaker, and our colleagues.

It states:

A RESOLUTION FOR THE HONORABLE BEVERLY B. BYRON, REPRESENTATIVE IN CONGRESS FROM THE 6TH DISTRICT OF MARYLAND

Whereas you, Congressman Byron, were elected to the 96th Congress on November 7, 1978, and have been reelected to each succeeding Congress;

Whereas you, as a mother of three, succeeded your late husband, Goodloe Byron, as Representative from the 6th District of Maryland;

Whereas, your bonds to the military are close to your heart, with a father who served as an aide to General Dwight D. Eisenhower in World War II, a late husband who served as an Army Judge Advocate, and a son who served as an Air Force captain in the Persian Gulf;

Whereas, you have served as chairman of the Subcommittee on Military Personnel and Compensation since 1987;

Whereas, you campaigned to protect the welfare of sailors serving in the Persian Gulf during the reflagging of the oil tankers; to increase the ability of medical care to all beneficiaries; to guarantee affective quality assurance and credentialing progress within the military medical system; to provide opportunities for women in the military; to expose sexual harassment of women in the military and make the services accountable; to create within the military a child-care system that is the pride of the nation; to orchestrate the welfare of the men and women who served the nation in the Persian Gulf, to include pay and benefits while assigned in theater and quality health care after they return home; and

Whereas, above all, you worked to maintain an effective military, populated with quality people to defend our nation in the years ahead; therefore, be it

Resolved, That in recognition of your outstanding service, we, the members of the Committee on Armed Services, offer our commendation and appreciation for a task extremely well done and successfully completed; and be it further

Resolved, That the committee thanks you for your leadership and your friendship. We wish you and your family well.

BEVERLY BYRON's closest colleagues—those who have worked with her and know her best—thus have addressed her contributions to the country.

□ 2310

Mr. HUNTER. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I want to thank the gentlewoman for yielding to me, who is herself a legend in Maryland representation.

Let me just say, she just struck a note when she talked about BEVERLY BYRON because I can remember one night, when we went to see the marines in Beirut who were holed up in that very small piece of real estate in Lebanon, taking mortar rounds and artillery rounds and small arms fire. And the Committee on Armed Services, a number of Members got on a little plane, one that I remember had no windows, and flew all night to get out there and be with those marines.

I will never forget BEVERLY BYRON coming along on the trip and in that little tight plane where we were all wedged in together. I remember the great, late Bill Nichols dragging his false leg that he had acquired in World War II and Sam Stratton who would do anything for national defense, and BILL DICKINSON, who is retiring this year, all of them shoved together in a very small airplane. And BEVERLY BYRON doing situps on the floor of this cargo plane, and we headed for Lebanon.

When we got there and went up to be with the marines, we were there while they were being shelled, with them behind the barricades and the sandbags, and it was there that I saw a dedication in BEVERLY BYRON as well as those other senior colleagues that was incredible.

And with all the criticism that is leveled at Members of Congress and they are portrayed in the national media as being wined and dined on first-class plane flights around the world, I will never forget that contrast of all of those senior Members, including BEVERLY, without an extra square inch of space, going over there on a very uncomfortable flight, many, many hours, living with the Marines, taking a little small arms fire and artillery fire. And LARRY HOPKINS was on that trip too.

And it was on the top of their building. So that we could, because we cared about our people and cared about our personnel. And maybe BEVERLY, more than anybody, cared about people. That was her special part of the Armed Services Committee.

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from California, the distinguished gentleman from California who serves on the Committee on Armed Services, along with the gentlewoman from Maryland, Congresswoman BYRON.

At this point, before I conclude my own remarks, I would like to read some comments from the gentleman from South Carolina, Congressman FLOYD SPENCE, who also is on the Committee on Armed Services, and I will just read part of them.

Mr. SPENCE pointed out that she has served our constituents in Maryland,

> In an exemplary fashion. She has also represented another constituency—the distinguished and courageous men and women of our Armed Forces. As chairman of the Military Personnel and Compensation Subcommittee, she has worked diligently and tirelessly to promote the needs of our military personnel. This has become an especially daunting task in these times of drastic cuts in our Defense budget. BEVERLY and I share a similar philosophy; cuts in our Defense budget affect individuals, families, and communities. And while the cold war may be over, we should not require that our military personnel shoulder the burden of defense cutbacks.

Mr. SPENCE said,

> Additionally, BEVERLY has led legislative initiatives to improve the health care and retirement benefits of our military personnel. One of the first Members to visit the Persian Gulf after the cessation of fighting, she has been fearless and courageous in championing the needs of our brave men and women in combat. Our military personnel have had a dedicated friend and advocate in BEVERLY BYRON, and I know she will be missed.

He concluded with,

> BEVERLY, it has been a pleasure serving with you. The House of Representatives will miss your sense of comity and your keen awareness of the intricacies of defense policy. Your constituents in Maryland will miss a dedicated public servant. I wish you Godspeed and many successes in the years to come.

And the gentlewoman from Tennessee, Congresswoman MARILYN LLOYD, who also serves on the Committee on Armed Services with her, pointed out that BEVERLY is,

> A friend you can talk to, laugh with, and cry with. When I have had tough times, BEVERLY has always been there with a smile or a phone call. She always had the time to be a true friend. I have observed BEVERLY working in her district, serving in Washington and even holding personnel hearings of the Armed Services Committee at the Pacific Islands. Whatever she does, she goes at it with all her heart and will. She has given her district, as well as our country, 100 percent of herself. She is caring, loyal, determined, and effective. The Armed Services Committee has no better supporter than BEVERLY BYRON.

Mr. Speaker, at this point I would personally like to thank her for all of her hard work and leadership in the Maryland delegation. It is the best delegation on the Hill. I am so appreciative of her friendship.

BEVERLY, Bill and I wish you and Kurt much happiness with your children and grandchildren, and I know that you will be available whenever your Maryland or your country needs your sound counsel. As the gentleman from Maryland, Congressman HOYER, said, in the capacity of the Secretary of the Navy or whatever, you will be there.

I know that I will miss her and Maryland will miss her.

Mrs. LLOYD. Mr. Speaker, it is sad indeed to see that many of our colleagues will not be a part of the new Congress that will convene in January.

I have no better friend or colleague than BEVERLY BYRON, She has been a close and dear friend to me since she became a Member of the House of Representatives in 1978. She is a friend you can talk to, laugh with, and cry with. When I have had tough times, BEVERLY has always been there with a smile or a phone call. She always had the time to be a true friend.

I have observed BEVERLY working in her district, serving in Washington and even holding personnel hearings of the Armed Services Committee at the Pacific Islands. Whatever she does, she goes at it with all her heart and will. She has given her district, as well as our country, 100 percent of herself. She is caring, loyal, determined, and effective. The Armed Services Committee has no better supporter than BEVERLY BYRON.

BEVERLY, I wish you and Kirk many more years of happiness, which you well deserve. We will miss you, and I hope that you will continue to contribute your outstanding qualities to public service, or whatever endeavors you may pursue.

Mr. SPENCE. Mr. Speaker, I take this opportunity to join with my colleagues in commemorating the fine and distinguished career of Mrs. BEVERLY BYRON.

While her first introduction to Congress came on the heels of a family tragedy, BEVERLY proved early in her tenure that she was not a novice in the art of politics, and has, since 1978, served her constituents in Maryland in an exemplary fashion.

She has also represented another constituency—the distinguished and courageous men and women of our Armed Forces. As chairman of the Military Personnel and Compensation Subcommittee, she has worked diligently and tirelessly to promote the needs of our military personnel. This has become an especially daunting task in these times of drastic cuts in our defense budget. BEVERLY and I share a similar philosophy; cuts in our defense budget affect individuals, families, and communities. And while the cold war may be over, we should not require that our military personnel shoulder the burden of defense cutbacks.

Additionally, BEVERLY has led legislative initiatives to improve the health care and retirement benefits of our military personnel. One of the first Members to visit the Persian Gulf after the cessation of fighting, she has been fearless and courageous in championing the needs of our brave men and women in combat. Our military personnel have had a dedicated friend and advocate in BEVERLY BYRON, and I know she will be missed.

BEVERLY, it has been a pleasure serving with you. The House of Representatives will miss your sense of comity and your keen awareness of the intricacies of defense policy. Your constituents in Maryland will miss a dedicated public servant. I wish you Godspeed and many successes in the years to come.

Mr. BENNETT. Mr. Speaker, we all doff our hats to Chairperson BEVERLY BYRON, whose Subcommittee on Military Personnel oversees more than 40 percent of the defense budget. She has assured our country the strengths which have now won the cold war. This is a lasting memorial to her achievements and to those who share in this. She will be greatly missed in Congress, but forever honored by her great contributions to our Nation's security; and particularly to the well-being of all service personnel.

Mr. MONTGOMERY. Mr. Speaker, I want to take this time to pay a special tribute to my friend and colleague from Maryland, BEVERLY BYRON. I have enjoyed having the chance to work with BEV on the House Armed Sevices Committee. I also count her as one of my closest friends in the Congress and I have come to know her husband, Kirk and her children over the years as well.

BEV has been an outstanding chairman of the Personnel and Compensation Subcommittee. She has been especially active in seeing that women are treated fairly in the military in the job assignments they are given and has worked to open up more of those assignments to women. Even before the Tailhook incident, BEV had been working on the issue of sexual harassment, trying to eliminate it from the Armed Forces.

She was a co-author of the Montgomery GI Education bill and was a key player in seeing that it was enacted into law. The program now has more than 1 million Americans signed up to receive these educational benefits.

BEV has always been a strong supporter of a strong National Guard and Reserve. From her position as subcommittee chairman, she helped us assure that the strength levels for the Reserve components would remain high, when the Defense Department wanted to cut the National Guard and Reserve to the point that we would have closed one of every three armories in the country.

We will miss BEVERLY'S experience and expertise on these issues in the 103rd Congress. She has made a tremendous contribution in making sure our military remained strong during her tenure in the Congress. I salute BEV for a job well done and wish her all the best in her future endeavors.

Mr. MAVROULES. Mr. Speaker, I rise today to pay tribute to one of the hardest working Members of this House. For 14 years she has labored tirelessly for the good people of Maryland and for this Nation.

In the course of her career BEVERLY has become recognized as an expert on our Nation's defense. I have worked side by side with BEV-

ERLY on the Armed Services Committee for a number of years. I have always admired her perseverance, dedication, and knowledge of national security issues. As we shape and define the role of the United States in the new world order it has been refreshing to work with BEVERLY. Her commitment and experience has been an invaluable asset to the House. I will miss her honesty and integrity.

Mr. Speaker, I know my colleagues join me in wishing BEVERLY, a good friend over the years, all the best in the future. I am saddened by the fact that we are losing one of the effective legislators and public servants of our time.

Mr. BATEMAN. Mr. Speaker, I would like to join my colleagues in paying tribute to the gentlelady from Maryland, BEVERLY BYRON.

As ranking Republican on the Subcommittee on Military Personnel and Compensation, I have worked closely with Representative BYRON over the years in seeing that the men and women who wear the uniform of the U.S. Armed Forces are provided for in peacetime as well as in war. Representative BYRON has been a tireless crusader on behalf of these individuals. Her efforts have helped to ensure that the United States remains strong and resolute in the face of adversity. The country owes her a debt of gratitude.

Just yesterday, the House of Representatives passed the conference report authorizing appropriations for national defense for fiscal year 1993. That report includes a large number of items designed to improve the lives of our military personnel. Representative BYRON has long understood that military preparedness is not just a matter of having aircraft, ships, and tanks standing ready to go, fuel in their tanks and ammunition in their stocks. It is people who ultimately make the difference between victory and defeat in war. BEVERLY BYRON has been instrumental in making certain that the men and women who operate those planes, ships, and tanks are the finest in the world. Their performance in Desert Storm was due in no small part to her efforts.

Mr. Speaker, I rise today in recognition of the vital contribution made toward this country's defense by the departing chairman of the Military Personnel and Compensation Subcommittee. I have enjoyed working with her and will miss her. This institution has been the better for her presence and I wish her well in her future endeavors.

GENERAL LEAVE

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this tribute to the gentlewoman from Maryland [Mrs. BYRON].

The SPEAKER pro tempore [Mr. ESPY]. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

TRIBUTE TO RETIRING REPUBLICAN MEMBERS OF CALIFORNIA DELEGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MOORHEAD] is recognized for 60 minutes.

Mr. MOORHEAD. Mr. Speaker, we rise tonight to pay tribute to four of the finest Members of the House of Representatives from the California Republican delegation who will be leaving the Congress after many years of service: ROBERT (BOB) LAGOMARSINO of the 19th District of California, who lives in Ventura, CA; WILLIAM (BILL) DANNEMEYER of the 39th District of California from Fullerton; BILL LOWERY of the 41st District of California from San Diego; and TOM CAMPBELL from the 12th District of California, who resides at Stanford University.

I have known BOB LAGOMARSINO for over a quarter of a century. BOB was one of the outstanding members of the California State Senate before he came to this House. He was recognized as the legislative conservationist of the year from the California and National Wildlife Federation.

During the days when mostly Democrats were getting that kind of award he was the first recipient of that particular award.

He was a State Senator from 1961 until 1974 and was considered one of the outstanding legislators in the country.

When he came to the House of Representatives in 1974, the latter part of the 93d Congress, he came here to do a job because he is a person that believes totally in America. He is a true patriot.

When he came to the House, when he was not busy on his committees, he sat right back there in the center of this auditorium and listened to debate after debate. And every so often he would get up, come forward and participate in that debate, regardless of what the subject was on, because BOB LAGOMARSINO was interested in America and all of the problems that relate to it.

He served on the Committee on Foreign Affairs and was the ranking member on the Subcommittee on Western Hemisphere Affairs of that committee. He is one of those Members that never missed a vote that he could avoid, and there were very few throughout the 19 years that he was in Congress that he missed.

He was a very devoted family man, his wife, Norma, and his three children, now all of them being adults.

When you went to his district in the Santa Barbara-Ventura District, you could tell the love that his constituents had for him and the tenacious support for him, even after he lost an election this last year, a very expensive contest where he could not come anywhere near close to matching the dollars that his opponent had to spend. Members of his constituency, tenaciously loyal, wanted to run a write-in campaign for him. But in the end he said "No." He did not want to participate in that kind of a campaign. He had done his job. He had worked hard for his constituency.

□ 2320

He loved each and every person in his district, and he wanted to go out with them remembering him as he had been, as a competent, capable public servant who, in everything he did, was for the people that he represented and for the people of the United States. I know of no finer person anywhere than BOB LAGOMARSINO, or one that took his duties to the Congress of the United States and to our people more seriously than he did.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding, and I would like to first extend my hearty congratulations to him for taking out this special order, especially at 11:20 in the evening. I am sorry that more of our colleagues cannot be with us.

Mr. Speaker, as far as BOB LAGOMARSINO is concerned, my friend is absolutely right, that he was an extraordinary individual. There are not a lot of things these days focused on issues that were of most concern to our friend, BOB.

I have had the privilege over the past several years to serve on the Board of the International Republican Institute with BOB. That is an arm of the National Endowment for Democracy, which was formed under the direction of President Ronald Reagan, who, incidentally, has been a constituent of BOB LAGOMARSINO's for years.

BOB is one who tenaciously fought on behalf of the expansion of democracy throughout the world. We are not supposed to talk about our international travels, especially just weeks before an election, but I have to say that BOB LAGOMARSINO is one of the people in this House who regularly was willing to take long flights to some of the most troubled spots in the world as chairman of the International Republican Institute to promote the cause of freedom. I think that needs to be recognized.

While we are all saddened to see him leave the Congress, he can feel extraordinarily good for having done more than his part in the expansion of freedom and democracy throughout the world. I will miss him. I have noticed just in the past several days he follows every single piece of legislation closely. He could probably tell us more about a number of these suspensions that were up this evening and being considered than many Members who were actually here on the floor at the time, so I will miss BOB; the counsel, the advice and recommendations that he has given me on a wide range of issues.

I have had the chance to, over the years, campaign in his behalf. He still won most of those elections, even though I campaigned for him. His constituents in the Santa Barbara-Ventura area have been very, very nice, and as we all know, very supportive of him.

I thank my friend for yielding me this time, and I extend my best regards to Norma and BOB LAGOMARSINO.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank our dean for yielding, and it is a pleasure to be here with him and with the other gentlemen from California, DUKE CUNNINGHAM and DAVID DREIER and FRANK RIGGS and others from our delegation.

I think of BOB LAGOMARSINO country as "Father Junipero country." It is some of the most unique and beautiful in the world. As you travel up that great coastline going up through Ventura and Santa Barbara where the summer sun sets, if you are in the hills, a few miles away in the ocean, it gets a little warm, and then it kind of bakes a little bit. Pretty soon you want to get under the shade of those big giant black oak trees that keep their leaves year-round. It is the country that the Franciscan friars found to be so appealing. It is a beautiful country. It is the country where President Ronald Reagan made his home ultimately and became BOB LAGOMARSINO's constituent.

BOB LAGOMARSINO is a guy who has been in Congress during a very historic time. He has played a role in history, and a very effective role, and he was on the right side and he did the right things. When I came into office, El Salvador and Honduras and Guatemala and Nicaragua were all coming out of situations in which they had been military dictatorships. We were pushing hard for freedom, for democracy, and this new President, Ronald Reagan, said if we would just give them a little shield and protect them, because there were billions of dollars of Soviet military aid flowing into the region, arriving in the form of AK-47's and RPG's and ammunition to go to the Communist guerrilla groups, like the FMLN in El Salvador, and of course, the Ortega regime in Nicaragua, and Ronald Reagan said, "If we just give some help to the side of freedom, whether it is the Contras in Nicaragua or the government in El Salvador," with that struggling democracy under José Napoleon Duarte, then we can build a democracy in those countries.

BOB LAGOMARSINO was a leader on the Committee on Foreign Affairs and on that particular region of the world. He had a very, very excellent understanding of world affairs, and he was part of the movement that allowed us to stand up to the Soviet Union in Europe when they were embracing their SS-20 missiles, and we had to face them down and put in our cruise missiles and our Pershings in order to force them to back off and finally come to the negotiating table. That worked out well also.

BOB LAGOMARSINO'S expertise, which I saw demonstrated many times in meetings at the White House and with the State Department and in statements and speeches on the House floor in persuading colleagues that we were following the right path with respect to Central America, to our own hemisphere, there was nobody with as much expertise or capability as BOB LAGOMARSINO.

He left his mark, I want to say to the dean of our delegation and to all of my colleagues, on this House and on our delegation and on history. He did something that was very, very worthwhile and which will result in millions of people being able to march to the ballot box and decide their future, rather than being controlled by an oppressive government.

BOB LAGOMARSINO made a real difference.

Mr. MOORHEAD. Yes, Mr. Speaker, I certainly agree with the gentleman. BOB LAGOMARSINO, in sitting on the Republican Policy Committee and as secretary of the Republican Conference for the 98th, 99th, and 100th Congress, was one of those people that people listened to. I noticed when he spoke on the floor on foreign policy issues that people on both sides of the aisle listened to his comments, because they knew they were well thought out, they were not extreme in any nature, but they were very determined. They were well considered, and they were comments that usually were backed up by a lot of good information and some deep thought. So we will miss him in that regard.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from San Diego.

Mr. CUNNINGHAM. Mr. Speaker, I thank my colleague from California for yielding, and a little bit about our dean. To be selected dean, we are going to have 52 Members in the State of California next year, and that is more than most of the States all combined. The gentleman from California, to be selected as dean, with the utmost respect, and I want to thank him for calling this special order, I think it takes a shot of leadership.

I would like to say a little bit about our friend, the gentleman from California, BOB LAGOMARSINO. I guess Mr. LAGOMARSINO is the proper way to address the House. I have only known him for a couple of years because I am just a freshman, but I have noticed a couple of things. First of all, he is not a man that would step back when he thought something was right. You could see him on the House floor arguing positions instead of sitting in the back and letting others argue for him.

I do not think I ever knew BOB LAGOMARSINO to not know an issue. Many Members come through those doors and ask, "What is the issue?" A lot of them went right to BOB LAGOMARSINO and he could tell them both sides of the issue, if they were not up to speed. That showed signs of leadership, in my eyes.

I think that when you have someone that the district, even after he lost the race, wanted to run a write-in, the respect for a man that had served them like a father, as sons and daughters, they treated him like a father because he treated his constituents as a father.

Furthermore, if you take a look at BOB LAGOMARSINO, if you had a wingman in combat, he was a guy that was not going to desert you. He would be there. If he told you he was going to be there at your side, he would not depart.

On the other hand, you would not want him as an adversary, because he had strength of character and purpose. He knew his subject matter, and he represented his district well. I would not want to face off against him.

Second, I think that if you take a look at the character of a man that, in a very difficult, tough race for BOB LAGOMARSINO, he had the courage to not go for a write-in when even he may have had some chance to win that, because he knew it would hurt the party. And to me that takes courage, and it takes leadership, and it takes character.

□ 2330

The last thing I would like to say about BOB LAGOMARSINO is something that is very dear to me in my life, he was a fighter of communism, and on the Foreign Affairs Committee he worked diligently in that direction.

I would like to thank the dean of our delegation.

Mr. MOORHEAD. Mr. Speaker, I yield to the gentleman from the north coast of California, Mr. RIGGS.

Mr. RIGGS. Mr. Speaker, I thank our distinguished dean for organizing this special order in tribute to our colleagues who will soon be departing, and who will be sorely missed in this body.

I have never told BOB LAGOMARSINO this, and I think Mr. HUNTER mentioned this a moment ago, how President Reagan became one of Congressman LAGOMARSINO's constituents. But I was one of his constituents back in the late 1970's and the early 1980's when I lived in Santa Barbara as a new, young police officer just starting out in law enforcement.

At that time I very much admired him from afar for providing the sort of independent, ethical and very responsive representation that I think is frankly the trademark of any good Congressman and Member of this body. He is indeed a class act in how he conducts himself in this body, most notably in the immediate aftermath of his bitterly contested and I am sure for BOB and Norma very disappointing primary loss.

He has been a real architect of our foreign policy through the years, and has continued to preside over our foreign policy as a Nation, as we move into the post-cold war era.

I think it was yesterday that we voted on the Soviet aid package, and BOB LAGOMARSINO, moments before I voted, came up to me in the back of the Chamber, and in his usual, soft-spoken and gentle way asked me how I intended to vote. And I said that I intended to vote for that legislation, because I felt it was in the vital security interests of our country. And in his quiet way he said simply, "That is the right vote," and walked away.

That is BOB LAGOMARSINO, the colleague that we remember tonight, and who we will sorely miss come next year, a man whose deeds spoke much louder than his words.

Again I thank the dean for organizing this tribute to a very special person.

Mr. MOORHEAD. I want to move on to the next member of our delegation who is leaving, a very special man indeed, WILLIAM DANNEMEYER from Orange County, Fullerton. He is married, his wife is Evelyn, and they have three children. He was elected to the 96th Congress and reelected in each successive one.

BILL DANNEMEYER is one of those people that felt very, very strongly on issues, and it did not bother him whether he had one person or a million people behind him on a issue. If he felt it was right, he would fight for it, and he would fight for it to the bitter end. Whether you agreed with him or whether you did not agree with him, you had to recognize the bravery and the determination that went along with BILL'S position on issue after issue.

I had the privilege of serving with him on both the Energy and Commerce Committee and on the Judiciary Committee. Lately he left the Judiciary Committee and went to the Budget Committee where he had such strong interest in the budget of the United States, and in balancing the Federal budget, and also in putting the United States on the gold standard if he had been able to do so.

But I do not think many people really saw all of the personal being that was within BILL. I recognized a very special person when his wife, who was so dear to him, got cancer a few years ago. I have never seen a husband more attentive, more concerned, and more dedicated to the welfare of their wife than BILL DANNEMEYER was to his wife, Evelyn. During those troubling days when her life was on the line, and when he might have lost her, he was tender, he was supportive in every single way a man could be supportive to his wife. He loved her dearly and tenderly, as he did his family, and he put her first in his life, where she belonged, and my respect for BILL went up to the sky as I saw the way he treated his wife during those very, very difficult days.

BILL started out as a Democrat. He served in the State legislature as a Democrat for a number of years, and then as he saw the better line of policy that the Republicans had he switched over and became a Republican and served in the legislature again from 1976 to 1977 before coming to Congress as a Republican. And he came back here as a Member of our party.

BILL was a staunch member of the Lutheran Church. He was interested in their schools and served as president of the board of directors of the Orange County Lutheran School.

BILL is involved in his community. He believes in people, and he was very active in everything that went on around him wherever it was, and I am sure that wherever BILL goes he is going to be right in the middle of the battle, because he got in the middle of a Senate race this last year that he knew the odds were against him in. But he fought the good battle, and he brought his message to the people of California. He did his job. He did the job that he saw before him, as he always did. He fought for the things he believed in.

What more could you ask of a person like that?

Mr. Speaker, I yield to the gentleman from West Covina, Mr. DREIER.

Mr. DREIER of California. Mr. Speaker, I thank my very good friend from Glendale for yielding. I would like to join in extending hearty congratulations to BILL DANNEMEYER for his extraordinary service in the House. When I think of BILL DANNEMEYER I am going to constantly remember how this man stood here at one of these microphones insisting that we have a recorded vote on every single appropriations bill, because I think that if BILL DANNEMEYER has been known for anything, he is known for his extraordinary commitment to fiscal responsibility and his desire to cut spending.

When our former colleague, John Rousselot, left this House, John having offered consistently the budgets which would bring about a balanced budget for us, BILL DANNEMEYER picked up that ball and carried it. And he would regularly come before us with the Dannemeyer budget substitute, because he knew that not increasing taxes, but in fact reducing spending is the way that we are going to turn the corner on this fiscal crisis that this country faces.

So I will miss BILL, and I know from having talked with him this afternoon that he is going to remain very active in politics and public policy, and I believe that he still has a great deal to offer. And we will miss him in this House, but we will look forward to many great things from him in the years to come. I thank my friend for yielding.

Mr. MOORHEAD. Our next speaker will be a fellow Member from Orange County, as BILL was, and I certainly want to thank him for allowing us to bring this special order before the special order that the gentleman had already gotten for himself. But BOB DORNAN, thank you very much for that courtesy that you gave to us for permitting our special order to come ahead of yours.

I now yield to the gentleman from Orange County, BOB DORNAN.

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman for his graciousness, and I feel guilty accepting those nice thoughts without telling you there was a slightly alternative motive. The special order that I am going to do tonight with two or three more Members joining us than the four musketeers that have been doing it the last two nights, I believe have built, Mr. Speaker, the largest audience to ever watch special orders in the history of this House. I wanted to bring this message that we will be discussing tonight, our next-to-the-last night in this session, to this large audience at maybe an early hour for the east coast, it is only 8:30 out of California, and 6:30 in Hawaii, but I decided that since this is my own delegation, and here is the other motive, and since one of America's top 10 newspapers has a headline story coming out in about 15 minutes, and I believe there will be delivered here the street copy in the morning of the Washington Times, and it will have a 50-inch column story I am told that is going to have some shocking revelations about a presidential candidate's trip around Europe in the antiwar movement.

☐ 2340

So let me say that it was an easy call, yes, it was an easy call, and what I would like to do is take all four of my colleagues and really concentrate on BILL DANNEMEYER.

As far as our pal, BILL LOWERY, is concerned, I want to associate myself with everything everybody else is going to say here tonight. It has been a delight to serve with him for a decade. I remember when he came to the Rayburn Room as a challenger of Katy, and he has just been a hard worker.

As far as Mr. CAMPBELL, I did not get a chance to get to know him well. He came here and said he was not on a fast track, but he certainly was on a fast track, and we have not heard the last of him. He almost singlehandedly brought back bow ties. I want to associate myself with everything that everybody else is going to say about him.

BOB LAGOMARSINO and I went to Hanoi together. I saw in him the true American patriot asking all the tough questions about the cruel Communist enemies that still subjugate and rip apart the people of North and South Vietnam and Cambodia and Laos. Someone else said before that BOB would take all those tough assignments with all the thoughtless criticism about his job as a senior member of Foreign Affairs to go and assess famine, drought, human rights, Communist persecution everywhere in the world. I used to tell Mr. DREIER that BOB and other responsible Members like himself did not follow the letterhead of expensive jewelry stores and hit London, Paris, Rome, Monaco, Beverly Hills, and sometimes downtown Houston. He went to the tough spots in the world where people were really suffering, and I want to associate myself with all of the remarks of everybody about ROBERTO.

As far as BILL DANNEMEYER is concerned, I have had people say to me around this country, "Is he the most honest man in Congress?" And I would respond, "You asked the question, because you have obviously made that observation." Is he one of the most courageous? I would say I guess he certainly is, because in the Christian community in this country, and Christendom may be dead in America, but there are alive pockets of Christianity everywhere in our 50 States and territories, and I realize that we are in a cultural struggle for the soul of America.

I would make guess that BILL DANNEMEYER is probably the best-known U.S. Congressman among those Christians who are proud to say we are charismatic, we are evangelical, we are fundamentalists, we believe in the Bible as the Word of God, our eye is on Jesus Christ, we are focused, we are trying to protect our kids, we are tying to salvage the innocence of the youth of this country, we are trying to protect our junior high and our high school kids from some of the decadence and immoral forces that the Holy Father talks about ripping apart the whole Western World, and in this period of the collapse of communism, what a tragedy that we see so many young people involved in violence, drugs, brutality, teenage pregnancy, millions of abortions, 26, 27 million abortions since that hated *Roe* v. *Wade* 20 years ago this coming January.

So I am going to miss BILL DANNEMEYER but he is not leaving the scene the national scene or the world scene. He is an accomplished author now. He will have that focus and peace of mind when the bells are not ringing and you are trying to keep up a good attendance record. I think we are going to see maybe more of BILL DANNEMEYER across this country trying to salvage this Nations cultural heritage than we saw of him as an outstanding Member.

So thank you, dean of our delegation, Mr. MOORHEAD, and I want to associate myself with everything every other colleague is going to say about BILL DANNEMEYER.

Mr. MOORHEAD. You know, along the same line that you spoke of, BILL DANNEMEYER was one of those Members of Congress that you could see every Thursday at the House Prayer Group on a regular basis. He was always there, and like many of the others who spoke, FRANK RIGGS and those, he was a resident of Santa Barbara at one time and practiced law there. He was also an outstanding young man of the year of the Fullerton Junior Chamber of Commerce in 1965. So he has a strong background prior to the time that he came to Congress, and certainly he has established a record here that will not be soon forgotten.

I yield to the gentleman from San Diego, the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the dean for yielding to me.

You know, politics, I guess, is kind of the art of knowing when to hold them and knowing when to fold them and from that standpoint, BILL DANNEMEYER was never a very good politician, because he was always a man of total principle, even when it meant going down to defeat on issues that we are now seeing are going to come back to face this Congress again and again, because we have not dealt with these issues as resolutely and steadfastly as BILL DANNEMEYER did.

You know, a lot of folks call BILL DANNEMEYER a right-winger because BILL DANNEMEYER always invoked our Christian heritage when he talked about the debt, when he talk about societal values and moral values, and, you know, the funny thing is if you read the speeches of our Founding Fathers, if you read Thomas Jefferson, as I have recently, and if you read George Washington's statement and treatises and letters and if you read Theodore Roosevelt and Abraham Lincoln, you will find, if BILL DANNEMEYER had lived and been a Member of Congress during those times, he would be just a middle-of-the-roader, because he certainly never invoked divine providence, the words "God and Christian heritage" or any of the other things that he was known for any more than the Founding Fathers did.

But in his day and age, if you took Abraham Lincoln's second inaugural address and put it in the hands of a modern politician and had it read on the House floor, it would immediately invoke cries of "rightwinger, fundamentalist, and out of step and out of the mainstream." and that many be so, but, you know, this Congress needs a compass. It always needs to have people who say and do the right things to bring us back to our heritage and to this idea of democratic government that was put forth by our Founding Fathers.

One thing BILL DANNEMEYER believed in very strongly, and still does, of course, is the idea that the thing that was unique about America that allowed us, that gave us the power to throw off our reins of government run by a monarchy, the King of England, was the idea that our rights came not from other men, not from mayors, not from Congressmen, not from kings, but came from God; and BILL DANNEMEYER believed that very strongly and believed in those inalienable rights given to us by our Creator.

When I think about BILL DANNEMEYER, I think duty, honor, country. Here was a man who served in Washington, DC, a place that is supposed to be the siren always—always have in the air the siren sounds of lobbyists and due persuasion and money and all those things that the media write about—but BILL DANNEMEYER always acted totally fron principle, and he took that principle into his campaign for the U.S. Senate.

I remember personally one time—to go to just a little personal story—when I came into Congress, I was pretty naive about politics, probably no more naive than I still am, and I remember one meeting that I arrived at, and I realized about halfway through the meeting that the real meeting had already been held before the one that was being undertaken with me present, and the upshot of the meeting was that a vote was going to come down against me and against my position, and one by one I heard the people who were all staged and ready to make their little pitches against my particular position, and I heard them give their speeches. it was pretty unanimous. I thought, "My gosh, you are going to have to be a little bit more on your toes." and then from behind me, I heard BILL DANNEMEYER's voice, and BILL DANNEMEYER got up, and without ever even having talked to me before the meeting, gave a stirring defense of my particular position, because he thought it was right, and after BILL gave that great defense, I was voted down, but it made me feel a lot better that here was a guy that did not care if you had the votes on your side. He wanted to do what he thought was right.

I will never forget BILL DANNEMEYER as a guy who spent quite a bit of time in Washington, DC, and whose career, I think, is still far from over, but always followed his moral compass and his principles and left this city with all of his honor totally intact.

I thank the gentleman for yielding.

I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank our dean.

You know, it is amazing to me. Something came out here tonight that I was not aware of. I did not know that our friend BILL DANNEMEYER was a Member of the other body at one time. And what a great Senator he would have made, whether he was on the other side of the aisle or this side, because I think we have many people with BILL DANNEMEYER's position on both sides of the aisle.

But, boy, I tell you one thing, he would have given the liberals fits. And I think if anybody ever thought of a person in Congress with Judeo-Christian values, not only the upbringing but, as our friend from California, Mr. HUNTER, just stated, with principle and conviction, and he did not care if he had all of the Members against what he believed, and he believed he was in the right, he is going to stand up there and fight.

I know his wife Evelyn, and she is a good wingman for him and sits there side by side. We are going to miss both of them.

□ 2350

But he has never been afraid to fight for those rights, and I think if we take a look at what BILL DANNEMEYER has done for this House, the principles that he stood up for, I think Members on both sides of the aisle would laud his dedication, his principled approach to what he does, even though they disagree with him on many occasions. But they respect him because he is a fighter and someone you can believe when he tells you he is going to do something.

I know that for BILL and Evelyn I sorely miss him.

Mr. MOORHEAD. Mr. Speaker, I yield to the gentleman from the north coast of California.

Mr. RIGGS. I thank the dean and am pleased to join with my colleagues and our dean in rising in tribute to BILL DANNEMEYER, who is a true fighter and a champion of the causes that he believes in. You know, I think Mr. CUNNINGHAM probably used the right words to describe BILL DANNEMEYER; that is, "principled" and "conviction." He is someone who is not afraid at any time on any issue to take a firm position and to advocate that position in this body with the Members, whether or not it is a politically popular idea. He is a paragon of fiscal responsibility. A lot of us talk about it, a lot of us even, I suppose, from time to time receive various acknowledgments for "fiscally responsible" voting records. I do not know that those kinds of recognitions are always so well deserved, but in BILL DANNEMEYER's case there is no question but he has a watchdog of the Federal Treasury and of the taxpayers' rights for years and years and years.

I can recall last year BILL DANNEMEYER leading the fight on several spending bills for congressional authorization as well as appropriation bills, attempting to attach to those bills what he called the balanced budget amendment, an amendment offered by Mr. DANNEMEYER, that would simply limit the growth in Federal spending to the rate of inflation. I think the most number of votes we ever received for one of the so-called Dannemeyer balanced budget amendments was 60-odd. But it was a prime example of BILL being willing to stand on this floor and advocate a position he firmly believes in, in the best interest of this country.

Mr. MOORHEAD. If we followed BILL DANNEMEYER's budgets year after year, we would have no trouble with the deficit of the United States.

Mr. RIGGS. Absolutely. The dean makes such a good point.

Mr. Speaker, we can get into pretty arcane stuff at times, it is a lot of financial minutiae, I suppose you could say, but I have had a chance, sitting in my office or even at home, tuning into C-SPAN coverage of the Budget Committee hearings. I have been extraordinarily impressed by the grasp and breadth that Mr. DANNEMEYER has on budgetary issues.

Here is someone who knows of what he speaks when it comes to talking about the particulars of the Federal budget. He is also someone who I think of, and I use this in a very complimentary sense, he is old-fashioned. Mr. HUNTER mentioned that, that there are not too many things that are ambivalent or gray about BILL DANNEMEYER. He is old-fashioned, old-fashioned in a very, very wonderful sense.

In an age of relativism, in an age where frankly ambivalence seems to permeate American society, even on this floor at times, we call into question the Judeo-Christian ethic, we have an ongoing debate about whether or not to interject that ethic into public education by permitting a moment of silent prayer in the public schools. BILL DANNEMEYER always steps out front and takes the position and remains firm in that regard.

So he is someone who is old-fashioned, but old-fashioned in a good sense. The other thing I would like to mention about him is that BILL DANNEMEYER, probably more so than most people in this body, has been a real advocate and protector of private property rights. One thing that really amazed me, coming back here 20 months ago directly from the private sector as a small businessman, was the seemingly ceaseless appetite of the U.S. Congress, the regulatory appetite of the U.S. Congress, just how inhospitable this place could be toward the concerns of American business.

I have watched with dismay, particularly over recent days and weeks as we concluded our business in the 102d Congress a number of sweeping measures that would again seek to abrogate the private property ownership rights of Americans.

BILL DANNEMEYER has been one of the people trying to defend private property rights, trying to defend the rights of people who own property to use and develop that property as they see fit without the unwarranted or intrusive interference by the Federal Government. So I think he needs a salute from us in that respect as well.

Mr. MOORHEAD. I yield to the gentleman from northern California.

Mr. DORNAN of California. Mr. Speaker and Mr. MOORHEAD, someone just called into our Cloakroom and reminded me of something I think this Nation should know about BILL DANNEMEYER. This whole Nation and the whole medical profession across this country owes him a debt of gratitude.

The date is burned in my brain. On September 26, 1985, I had just come back from a special—not a special but a carpetbagging move from west L.A. County to Orange County. I asked for a report on all the speeches on AIDS because it had built during my 2 years of 1983 and 1984. The speeches that were made in the Senate: zero. And in the House of Representatives: zero. I was stunned, not a single Member in either Chamber had spoken about AIDS and it was already 1985.

So I asked the then doctor in command of the Centers for Disease Control to come here and speak to us on September 26 of 1985. We met downstairs. I put a "Dear Colleague" to 438 Members and the delegates from the territories. Six showed up. I remember Congresswoman Bobbi Fiedler sitting there. The talk was kind of tough about rough sex, promiscuity, weird scenes going on in America. Dr. Mason informed all of us that BILL DANNEMEYER a few days before on 9 September 1985, which is Statehood Day in California, had forced the Red Cross and the whole American medical infrastructure to clean up the blood supply by turning down groups that have a high proclivity toward sexual promiscuity from giving blood, whether it involved discrimination or not. In other words, people from these high-sex groups, high-activity, high-risk groups, if they came in and said, "I am celibate," or, "I have a steady partner," and that is it, the Red Cross banks across this country were able to say, "Sorry, we are not able to take your blood no matter what you tell us." BILL DANNEMEYER did that for this Nation on September 9 of 1985, and it has been in effect for 8 years and 1 month—excuse me—7 years and 1 month.

BILL DANNEMEYER has probably saved thousands of lives across the United States of America.

One thing on that cultural war: Last night, on "Saturday Night Live," Shinead O'Connor, a fine citizen from Ireland, got up the first act on "Saturday Night Live"—this is the kind of thing that BILL would alert our country to—and after she sang a song, and not too well, I might add, started shaking. You could see she was up to something. She said, "We must fight evil in this country, we must fight evil, we must stop the evil." She was shaking on the emotional tirade. She pulls out a big picture from behind her, folded up into four parts, and she unfolds it and it is a color picture of John Paul II, the Pope, with his hands raised in a gesture, I guess, and she begins to tear it to shreds on the stage.

So I guess "Saturday Night" is truly "live." The audience did not cheer, thank God, but they did not boo either. They sat their in stunned silence.

That is a kind of an outrage against Christianity or any denomination that BILL DANNEMEYER was the most forthright fighter in this House against. I am really going to miss him.

□ 2400

We have two other very, very capable Congressmen who are retiring from the Congress this year. BILL LOWERY from the 41st District of California came to us in the 97th Congress. His wife, Kathleen, and three small children that they have in the family are very close-knit family and a lovely group of people.

BILL has served on the Appropriations Committee, where he has been invaluable to this State of California in being able to work on projects that are so important to our State.

He has been ranking on the Military Construction Subcommittee and on Interior, VA-HUD and Independent Agencies, and the District of Columbia. On the District of Columbia Committee he served on the subcommittees of the Judiciary and Education where he has been the ranking member.

Previously, prior to coming to Congress, he was selected by the San Diego Jaycees as one of San Diego's most outstanding young men in 1981 and 1982.

He was the founder and chairman of the California Concord group, the San Diego City Council, where he also served as deputy mayor in 1979, and vice chairman of the California Water Foundation.

BILL LOWERY was one of the most important cogs in the formation of the California Institute, where he worked very hard at our request, the request of the delegation, in forming that very important organization which will bring jobs and fairness to the State of California.

Mr. Speaker, I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I thank the gentleman for yielding to me, and again I appreciate all the effort he has put into this special order.

Mr. Speaker, I, too, would like to extend congratulations to our good friend, BILL LOWERY, for his 12 years of service in this House. I know it is 12 years, because he and my other friend from San Diego, DUNCAN HUNTER and I, were members of that class of 1980. There were 33 of us who that year unseated the committee chairman, the subcommittee chairman, even the third ranking leader on the other side of the aisle that year.

Actually, there were five of us from California among the class of 1954; 33 of us unseated incumbents.

Actually, BILL LOWERY was not one of those, but DUNCAN HUNTER and I were.

BILL was fortunate to win an open seat at that point, and my friend, Mr. HUNTER and I, both took on Democrat incumbents that year.

BILL has been a tireless worker on behalf of San Diegans and Californians on the Appropriations Committee, and as the dean has just mentioned, Mr. Speaker, he worked very hard, playing a leadership role in putting together this California Institute.

During the decade of the 1980's, it is no secret that the largest delegation in the entire Congress, the California delegation, has had problems working together. Unlike other States that are represented here, the Democrats and the Republicans have had a tough time getting together. Many of us hope and pray the establishment of the California Institute and the fine leadership of CARLOS MOORHEAD and DON EDWARDS will help to bring us together.

BILL LOWERY worked very hard on behalf of that effort to bring our delegation together. He will not be here as we begin to unite in the 103d Congress, but I know that we all wish BILL and KATIE and their family well as they pursue other endeavors.

I will miss him, and especially he will always be able to remember, having been part of that very historic class of 1980, which I believe did play a major role in improving this country. I look forward to seeing him in bigger and better things, and I thank the dean for yielding to me, Mr. Speaker.

Mr. MOORHEAD. Mr. Speaker, I yield to the gentleman from San Diego [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank the dean for yielding to me.

I joined this body as a freshman in 1990. We had a California delegation, basically the Four Musketeers. We had RON PACKARD, we had DUNCAN HUNTER, myself and BILL LOWERY. There were a lot of different projects that we worked on together. With that Four Musketeer attitude and pulling together, we solved, or at least worked diligently on some programs together, where before we did not have that strength.

San Diego has been going through a pretty tough drought. I know BILL has been working to bring relief for that.

We had a sewer break in California. It might seem simple, but we had a major sewer break in San Diego that threatened many lives in the health problems that it could have brought. BILL worked on the Appropriations Committee, with the help of RON PACKARD and DUNCAN HUNTER, to get the money necessary, not pork barrel money on that one, but just to help. I think it directly saved the health of a lot of San Diegans.

There were a lot of other issues that BILL took the leadership role on and others that he was very helpful on.

I would also like to commend Katie, his wife. I do not think I have met anyone here that I have spoken to that did not know Katie, that respected and loved her for her dedication to Judeo-Christian ideals, to raising her family and as a mother.

BILL, you have quite a fine wingman to support you.

BILL was also the ranking member on Military Construction. Being a military man, back when BILL went into this body, I appreciate the work that he has done for American servicemen in bringing support to San Diego on Military Construction.

I think one of the most important things that BILL has done is to support Jack Kemp in many of his ideas on the VA-HUD Committee, not only for veterans, but HUD, where Jack Kemp is trying to build enterprise zones and HOPE programs and things like that in this country that is in a recession. BILL was very instrumental in that, working with Jack Kemp and many others in the Cabinet. I thank him for that and I thank him for helping us in San Diego.

I know as far as the other Members in the State of California that it has been very difficult. We will have 52 Members representing the State of California. I wish BILL was there in the next Congress to help us. That is going to be a difficult task, but when we have all the problems I think combined with the other States, mass population, we have grown by over 27 percent, that we are going to have a difficult time. I think BILL could be there to help us with that.

I look forward to helping him in the future and I am sure that he will do well, whether he stays out in California or he stays here in Washington, DC.

To BILL and Katie, I send my best and Godspeed.

Mr. MOORHEAD. Mr. Speaker, I yield to the gentleman from San Diego, Mr. DUNCAN HUNTER.

Mr. HUNTER. Mr. Speaker, I thank our dean for yielding to me.

Let me add to my colleague and to DUKE CUNNINGHAM my congratulations to BILL LOWERY for his real depth of service to California and to San Diego.

We just came off this last year a tremendous challenge to San Diego trying to defend our Naval Base against closure. Let me tell you, we worked as a very well-coordinated team keeping those bases open. I was very gratified always, whether we were having a hearing with the Base Closure Committee in San Diego or working in a meeting in a strategy session preparing to defend our bases, I was always gratified to be able to look across the table or side by side and see BILL LOWERY, because BILL has got an intuition for politics, an ability to look over a series of issues and pick the one that is going to be an important one, the one that will give you some leverage and seize on that particular issue and use it. We had in BILL a very skillful legislator.

I looked at our team and we had in BILL a great legislator who had the ability to analyze from a Military Construction point of view and the ability to really communicate with the members of the Base Closing Commission, and we had in DUKE a guy who had flown aircraft and knew how the synergism with which the San Diego Naval Operations and Installations worked together, so that if you would close down a training center and move it to another part of the country, that would be bad, because it would not be next to the fleet. It would not be next to Miramar.

We had in looking at those two gentleman and how they worked side by side to keep our bases open, it was one of the most confident, effective national teams I think that existed in the country last year in regions where you had base closures that were pending. Because of BILL LOWERY's work and because of DUKE's great work, we were able to keep those bases open and that meant literally thousands of jobs for San Diegans.

BILL has worked on a lot of issues. I came in with BILL in 1980. We were elected with the Reagan landslide, along with DAVID DREIER. We had 53 Republican freshmen then, or 54 when MIKE OXLEY came in, and we changed a lot of things. We came in and we passed tax cuts. We passed the Gramm-Latta budget reconciliation measure that cut $140-some billion out of Federal spending. We made a radical change in the way Government does business and we created a high employment rate. We created millions of jobs, and we really presented a new world order, not necessarily one as defined today by the political writers, but one in which the United States asserted its moral influence and its leadership in establishing democracies around the world.

☐ 0010

As I mentioned with BOB LAGOMARSINO, we had at that time Honduras, Guatemala, Salvador, and Nicaragua all trying to develop into democracies. BILL LOWERY was one of the leaders and one of the fighters for a foreign policy that would allow us to send enough military aid to protect those countries, the democratic elements in those countries, from being annihilated while they pushed for democracy in free elections, and he was one of the guys who stood up and voted for a strong military for the United States to have the strategic systems that we needed and the conventional systems we needed.

BILL voted and pushed with me and many Members on the Republican side of the aisle for an 11 percent pay increase in 1981 because we had young men and women in San Diego who literally were being given memorandums from their commanding officers not to be ashamed to take food stamps, and because of the work that BILL and his colleagues did in the early 1980's, we were able to rebuild America's defenses and to do great things with respect to bringing a new world order about.

So, Mr. Speaker, I want to thank BILL for everything that he did and all of the effort and the tireless energy that he put into the legislative process. BILL LOWERY was a hard worker, and he was the kind of guy who would work for hours, and hours, and hours on an issue, and I think many folks in San Diego never really realized how much of an effort he put into the legislative process and all of the thousands of jobs that he created for San Diego.

So, I want to join with the dean of our delegation, the gentleman from California [Mr. MOORHEAD] in wishing BILL and Katie and their three children a continued career because I know he has many great things to give to this country yet.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman.

Because time is very short, I did want to cover our fourth Member who is leaving, who has been with us now only two Congresses, but he came with one of the most brilliant minds of anybody that has yet come to the Congress of the United States.

He went to Harvard Law School where he was the editor of the Harview Review. He was the youngest person ever to become a full professor of law at Stanford University where he taught until 1983 as a full professor where he carried on a class on Sunday morning during the time that he was in the Congress of the United States. Of course he could not get paid on a regular basis for that, but he still believed in the university and in teaching there, and he was able to teach there on a part-time basis, and of course he will be going back there in the wintertime of this year to teach again at Stanford University.

He was a young man who served on the Committee on the Judiciary of the Congress. That is a committee he served on with me where he played a very important role in some of the key issues that came before us. The way he could explain things was evidence that he probably knew more about the basic law of the United States than virtually anyone else in the Congress because that is a subject that he taught and he knew thoroughly from one end to the other, especially things dealing with economic and commercial law.

He served on the Committee on Banking, Finance and Urban Affairs, and really he did an outstanding job for the short time he was here.

He became a candidate for the U.S. Senate, a real struggle that he took on. Many people thought that he would not have a chance when he entered that race, but he came very, very close to winning the Republican nomination for the U.S. Senate and earned respect from people all over the State of California.

Mr. Speaker, I think he has a great future. I wish he could be here with us in the U.S. Congress in the years ahead because I think with his background, and with his knowledge and his brain power he could offer more to us than almost anybody that has come in recent years to the Congress.

Mr. Speaker, I am sad to see all of our four Members leave. They have made a great contribution to the United States of America. They are all patriots, they all believe in America, they fought for the things that they believed in, and they did a magnificent job.

I yield to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. I thank the dean, and I just simply want to say, since I know the gentleman from San Diego also wants to add his comments that I associate myself with the remarks that were made about Mr. LOWERY and wish him and his wife, Katie, the very best in the future. I know that his imprint has been left on this Congress, and we will look forward to working with him in the California Institute, and with respect to Mr. CAMPBELL, in just two short terms he left his stamp on this Congress because of his remarkable legal knowledge. He is, in fact, one of the foremost legal scholars in this country on antitrust matters. I have had the pleasure of working with him in the Committee on Banking, Finance and Urban Affairs and all too often sharing that terrible red eye flight from California back to the Capital, so I have gotten to know him in a personal way, and he is one of the brightest, most articulate and cerebral Members of this body. He will be badly missed here, but he will, no doubt, continue to play an important role in the American politics in the coming years, and he did a wonderful job while he was here continuing a tradition established by the late—not the late, but Pete McCloskey, Ed Zschau, and then TOM CAMPBELL. So, that particular district has been well served through that tradition.

Mr. MOORHEAD. The gentleman from San Diego.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman from California [Mr. MOORHEAD] for yielding.

I have met a lot of people that will say they are smart, but I meet very few people that everybody will say they are smart, and that is TOM CAMPBELL. He almost won a race for the U.S. Senate. It was a very difficult race, and the thing I liked about TOM the most is that sometimes we disagreed on issues, and I would go over to arm wrestle him, but when I always left, he had a way to smooth and smile and fix it so that one thought twice as much of him than when they went over to arm wrestle him, and he has that way about him. I also respect him in a very tenuous, very fire-filled race. The very next morning in the press it came out that TOM CAMPBELL endorses opponent. That takes courage, and it takes character.

I thank the gentleman for yielding, and let me just say also that one of the biggest problems we have in this Nation is our industrial base and the prospects of losing critical technologies in the next century, and in that area, the area of keeping an industrial base, keeping a high-technology base, going where we can have high quality of life, where we can have our semiconductor business strong or we can continue to make machine tools, and have a manufacturing sector, and build our exports and do all the things that we have to do to be a world class nation, nobody had or has in this Congress the background or expertise in what we have to do in respect to antitrust, trade law and some of our internal laws and regulations than TOM CAMPBELL. TOM CAMPBELL is a guy of enormous talent. The Nation still needs him, and I hope that he continues to make himself available, and he had that great touch where, if one had an argument with TOM, he never tried to lord it over them when he very effectively won the argument.

Mr. MOORHEAD. Mr. DREIER.

Mr. DREIER of California. Mr. Speaker, I thank my friend from Glendale for yielding, the distinguished dean, and I simply would like to extend my congratulations to TOM CAMPBELL. I have told him many times, and I have said publicly, TOM is one of the most extraordinary individuals I ever met. He has an incredible mind. He is going to be missed in this House. He has a great sense of humor, too. He ran a valiant campaign for the U.S. Senate, and he has done an awful lot for the Silicon Valley and his constituents, and we will miss the tremendous assets that he brings to the U.S. Congress. His constituents will miss him, the American people will, too, and I thank my dean for allowing me this time, and I thank you, Mr. Speaker, for your forbearance.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] very much, and we all will miss these gentlemen as they depart.

Mr. MICHEL. Mr. Speaker, I want to take this opportunity to join so many of our colleagues in bidding farewell to our good friend and colleague, BOB LAGOMARSINO.

BOB came to the House in 1975 after a distinguished career in local and State politics in California. As third-ranking minority member of the House Foreign Affairs Committee and second-ranking on the Interior and Insular Affairs Committee, BOB has worked for the best interests of his constituents, his State, and our country. He is currently vice chairman for National Parks and Insular Affairs on the Interior Committee, and vice chairman for Western Hemisphere Affairs on the Foreign Affairs Committee. He served three terms as secretary of the House Republican Conference.

I would imagine that it is BOB'S work in foreign affairs that most of our colleagues associate with him. But I also want to emphasize that as cochair of the House task force on POW/MIA's, BOB showed admirable leadership in bringing reason and compassion to a sensitive area that too often has been the subject of highly emotional debates. His quiet, patient approach to problems was an important part of the House's attempt to come to grips with the complex POW/MIA issue.

We wish BOB and Norma all the best, and I'm glad I had this opportunity to pay tribute to another distinguished Member—and good friend—who will be leaving us, BOB LAGOMARSINO.

Mr. BROOMFIELD. Mr. Speaker, one retiring Member who will be sorely missed, not only by his fellow Members of Congress but by freedom-loving people in Nicaragua and El Salvador, is BOB LAGOMARSINO.

BOB is the ranking Republican on the Western Hemisphere Subcommittee, and after years of working together, I can attest to his effectiveness and his courage.

As the subcommittee's top Republican, BOB was at the epicenter of the most controversial foreign policy issue of the 1980's. When so many in the American media, in America's universities, and in America's political establishment seemed captivated by Central America's left, BOB stood with the democratic forces in that area.

I'd like to think that BOB's stand not only took a lot of guts but has been vindicated by subsequent events. Whenever the people of Nicaragua and El Salvador were given the chance to participate in free elections, they overwhelmingly chose the forces of moderate reform over the Marxists.

BOB has also been chairman of the International Republican Institute, which monitors elections in nations without a tradition of democracy, helps build free political institutions, and promotes democratic values throughout the world.

BOB's retirement from Congress is a great setback for American politics and government. BOB has done so much to foster free and uncorrupted democratic institutions in other lands. It's ironic that he should be undone in his own country by someone who perverted the political process for his own ends.

Frankly, over the years, I have been skeptical of measures intended to place limits on a candidate's ability to communicate with the voters. But when a candidate spends $3 million of his own money to buy a seat in Congress, I get worried.

I worry that this great institution will become nothing but a debating society and luncheon club for the idle rich.

Throughout his years in Congress, BOB has been a very special kind of Congressman. He has been as diligent and as conscientious a committee member as you will find.

He has been a fighter for what he believes in, especially for political and economic freedoms for those who have been denied these rights in other parts of the world. He has also been a genial, soft-spoken, hard-working, honest, thoughtful friend. Like many of his fellow Members, I will miss him.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to join my colleagues in paying tribute to Congressman ROBERT LAGOMARSINO, who is leaving the Congress after 18 years of service to his district and the Nation.

Congressman LAGOMARSINO has been a great asset to our Nation as an expert on the important issues of foreign affairs and the environment. As a senior member of the House Foreign Affairs Committee and vice chairman of the Subcommittee on Western Hemisphere Affairs, he has worked long and hard to bring free elections to the emerging democracies of Eastern Europe and Central and South America.

He has done much to preserve the beauty of the environmentally sensitive Santa Barbara area which he has represented so well as a ranking member of the House Interior and Insular Affairs Committee. He will be remembered by future generations for his important role in legislation creating the Channel Islands National Park and preventing oilspills from damaging our coastal areas.

Along with my colleagues, I will certainly miss his advice and counsel. The Congress and the Nation are losing the wisdom of his 34 years of experience in local government, the California State Senate, and the Congress. We hope that you will have a healthy and happy retirement with your wife, Norma, your three children, and four grandchildren.

Mr. CLINGER. Mr. Speaker, among the many who will be leaving Congress this year, none will be missed more than BOB LAGOMARSINO, the gentleman from California. BOB'S expertise on a variety of complex and controversial issues has won him great respect on both sides of the aisle. He is a leading spokesman on the Republican side on defense and intelligence matters. But it is in the foreign affairs field that BOB has won the greatest recognition for his thoughtful and incisive analysis of problems wherever in the world they have arisen during his 20-year tenure in the House.

In particular, he has demonstrated a keen insight into and understanding of the often murky and confused political scene in Central and South America. His steady, consistent, and articulate support of the Contras and opposition to the Sandinistas in Nicaragua was totally vindicated with the fall of Ortega and election of Mrs. Chamorro to the Presidency.

I very much regret that BOB will no longer be with us next year, especially because his leaving was not of his choosing but forced upon him by a wealthy primary opponent who extravagantly financed his own campaign. We can ill afford to lose experienced, thoughtful legislators like BOB LAGOMARSINO, particularly to challengers from our own party.

BOB LAGOMARSINO is a class act who has been a credit to the State of California and this House.

Mr. SENSENBRENNER. Mr. Speaker, Congressman BOB LAGOMARSINO will be stepping down when the 102d Congress concludes, retiring after a distinguished record of public service. I join my colleagues in expressing appreciation for his friendship and hard work.

BOB'S legislative efforts have encompassed concerns from the international to local levels. As the third-ranking Republican on Foreign Affairs, he has been active on foreign policy changes in a changing world order, particularly on international trade. As second-ranking Republican on the Interior and Insular Affairs Committee, BOB has been in the forefront on protecting national parks and national resources. His Santa Barbara district has benefited from his dedication to maintaining the beauty of our natural resources.

For 18 years, BOB conscientiously represented the residents of California's 19th District. But his public service did not just begin in 1974 when he was elected to Congress. It began when he first was elected city councilman and later mayor of Ojai. In 1962 he was elected to the California State Senate where he served until his election to Congress. BOB'S dedication is an example that few can equal and we will all miss him. I wish him success for the future.

Mr. GREEN of New York. Mr. Speaker, I rise today to pay tribute to my good friend and distinguished colleague, BOB LAGOMARSINO, who, at the close of the 102d Congress, is retiring after 18 years of outstanding public service.

I should like to thank our colleague, CARLOS J. MOORHEAD, also of California, for sponsoring tonight's special order in BOB'S honor.

As a result of BOB'S membership on the House Interior and Insular Affairs Committee, I had the privilege of working with him on the Puerto Rican plebiscite issue. While that issue remains unresolved, all those who believe that the people of Puerto Rico are entitled to a vote to determine their own political fate owe BOB a debt of gratitude.

Through great diligence and perseverance, BOB has gained the deserved respect and admiration of all of those who have had the pleasure of working with him. Without a doubt, he serves as a model for all to follow.

At this time, I should like to offer BOB my very best upon his retirement. I know that my colleagues join me in thanking him for his dedication to the State of California and to the Nation.

Mr. REGULA. Mr. Speaker, I am pleased to join a special order for my colleague and friend from California, BOB LAGOMARSINO. BOB has been a first-class Member of this body.

His thoughtful, responsible leadership has served his constituents well while always recognizing the national interest.

I appreciate BOB'S diligent efforts to improve the jewels of America, the national parks. Generations will benefit from his commitment to enhancing the quality of the park experience.

Each of us, through experience, counsel with certain colleagues because we have a confidence in their judgments and look to them for leadership. BOB LAGOMARSINO has been a Member that fills that role for me.

BOB leaves this body with the respect of his colleagues and with the good will of many friends.

Mary joins me in wishing BOB and Norma good health and a life with new challenges.

Mr. GALLO. Mr. Speaker, I want to join with my colleagues today to recognize the many significant accomplishments of our esteemed colleague for 18 years, and a good friend. The gentleman from California, Mr. ROBERT LAGOMARSINO.

As the vice chairman for National Parks and Insular Affairs on the House Interior Committee and the vice chairman for Western Hemisphere Affairs on the Foreign Affairs Committee, BOB has continued to actively support wilderness, wild and scenic river designation for various 19th District locales and has been a steadfast backer of Reagan and Bush administration international policies.

BOB LAGOMARSINO has worked very hard and very successfully to promote and defend issues in the areas of parks, natural resources, and international trade. He was extremely influential in designating the Santa Barbara channel on international shipping maps as an area to be avoided, and regulation of air pollution given off by oil drilling platforms.

I have enjoyed the opportunity to work with BOB and have sought advice on several different issue areas. His hard work and his counsel have always been very respected and appreciated by me and I know by many of our colleagues.

Mr. Speaker, I want to take this opportunity to thank our colleague Mr. MOORHEAD from California for his leadership in organizing this special order.

I join with my colleagues on both sides of the aisle in recognizing the many accomplishments of the gentleman from California [Mr. LAGOMARSINO] and join with them in wishing him all the best.

Mr. MCCANDLESS. Mr. Speaker, it is with a mixture of disbelief and great sadness that I take part in this special order today, to say farewell to our friend and colleague, BOB LAGOMARSINO.

When I first came to this House 10 years ago, wondering why I felt like I had just fallen off the turnip truck, BOB LAGOMARSINO was one of the first Members who came to my rescue. His staff gave my staff the use of phones and copiers during those first confusing weeks when my office consisted of a table in the Longworth Cafeteria—with unlimited use of the pay phone on the wall. BOB was equally generous with his insight and observations about the workings of the House, and I was always grateful for his advice.

BOB was always a calm and reasonable voice in an increasingly combative House. He always took the high road. He was thoughtful and realistic. And he was always a gentleman. He served his growing and changing district with pride and honor, no matter what the difficulties were.

It has been my distinct pleasure to know him, and to work with him for 10 years. He will be sorely missed.

Mrs. MORELLA. Mr. Speaker, I rise to pay tribute to Congressman BOB LAGOMARSINO of California's 19th district. Congressman LAGOMARSINO has a long and distinguished career of public service and his colleagues, as well as his constituents, will miss him.

As the ranking Republican on the House Interior National Parks and Insular Affairs Subcommittee, he has shaped legislation and has been instrumental in preserving parks and natural resources. As the ranking Republican on the Foreign Affairs Subcommittee on Western Hemisphere Affairs, he also has been influential in international trade policy.

Congressman LAGOMARSINO first served as a city councilman and later as mayor of Ojai, CA. In 1961, he was elected to the California State Senate, where he served 12 years. In 1974, he was elected to Congress, where he is completing his 10th term. He has been a hardworking Member of the Republican leadership, having served as Secretary of the House Republican Conference.

I will miss BOB'S conscientious leadership in the House of Representatives, and I wish him success with his future plans.

Mr. ANNUNZIO. Mr. Speaker, I rise to join my colleagues in recognizing Congressman BOB LAGOMARSINO of the 19th District of California for his 20 years of outstanding service to the House of Representatives.

As the second ranking Republican on the Interior and Insular Affairs Committee, he has brought many benefits to his district on the California coast—from providing protection against oil spills and marine disasters to the creation of the Channel Islands National Park in the Santa Barbara Channel.

As the ranking Republican on the Western Hemisphere Affairs Subcommittee, he is an acknowledged expert on international affairs, and has made significant contributions as the Chair of the Republican Institute for International Affairs, as an observer at the Geneva Arms Control Talks, as chairman of the POW/MIA Task Force, and as cochairman of the Congressional Task Force on Afghanistan.

BOB LAGOMARSINO has been visible from both sides of the aisle as an example of dedicated service to his district, his State, and his Nation. He has indeed set an inspiring example for others to follow.

I wish Mr. LAGOMARSINO a happy and healthy retirement, and I congratulate him on his many fine contributions to our country.

Mr. QUILLEN. Mr. Speaker, it is a privilege and honor to rise and salute my friend from California, BOB LAGOMARSINO.

BOB'S 10 terms of service here in the House of Representatives have been exemplary. He has served with distinction on the Foreign Affairs and Interior Committees, and I was honored to work with him in the House Republican leadership during his 6 years as Secretary of the House Republican Conference. He is a tireless legislator who is trusted and respected by Members of both parties.

BOB worked his way up through the political ranks as few others have done. He has served as a city councilman, mayor, State senator, and U.S. Representative. I have admired his leadership on the POW/MIA and Afghanistan issues, to name just two. I am sure that he will continue his important work on behalf of emerging democracies when he leaves this body.

Mr. Speaker, BOB LAGOMARSINO leaves behind an outstanding career of public service. Southern California has been lucky to have him as a Representative, and we in the House have been lucky to have him as a colleague. I admire him and his accomplishments, and I wish him all the best.

Mr. WOLF. Mr. Speaker, I rise today to recognize the service of one of our colleagues, Representative ROBERT LAGOMARSINO, who is leaving the House following the conclusion of the second session of the 102d Congress.

For almost two decades, BOB has represented the Santa Barbara area of California with distinction and integrity. Following a successful career as the mayor of Ojai, CA, BOB came to Washington in 1974, and has worked hard on behalf of his constituents and our Nation. His stellar service on the House Foreign Affairs Committee has helped direct our international policies over the last 20 years. BOB'S strong support of freedom across the world has helped prodemocracy forces in Panama, Kuwait, Afghanistan, and Nicaragua.

BOB has also been active in regard to congressional pay reform, and led efforts to prohibit Congress from raising its pay without a vote, requiring raises to take place after an election, and withhold pay unless Congress passes a budget by October 1. His excellent service will be missed, and I know I speak for many when I thank BOB for his work and wish him well as he begins his retirement.

Mr. PACKARD. Mr. Speaker, I have had the honor of serving in this institution with my colleague, BOB LAGOMARSINO. During that time I have come to know him as a good friend above and beyond our working relationship. He is as fine a man as I have served with, and is without peer as a leader and legislator.

Congressman LAGOMARSINO and I have worked closely on legislation of great importance to California and to the Nation. I have always appreciated and been impressed by his diligent concern for the public interest.

Congressman LAGOMARSINO has always distinguished himself as a conscientious and hardworking Member of this body. He is a diligent lawmaker, a thoughtful statesman, and his diplomacy and leadership have been a real asset to the California delegation, and to this institution.

My admiration for the high ideals that have guided his service in Congress are surpassed only by my high regard for his friendship. I value his friendship, and would like to thank him for the courtesy he has always afforded me, both as colleague and comrade.

As he completes his 10th term in the House, I am sure I express the sentiment of many of my colleagues: I will miss BOB LAGOMARSINO, and most certainly the institution will miss him as well.

Mr. CRANE. Mr. Speaker, it is with sadness that we bid farewell to our friend and colleague, ROBERT LAGOMARSINO, on the eve of his leaving the House of Representatives, ending a congressional career with his service in this 102d Congress.

Like a few others to us, Bob came to this Chamber as a result of a special election. He joined Congress as a Member in March 1974.

As a youngster, he served in the Navy during World War II.

BOB first took over an elective office in the Ojai City Council in 1958. Only 8 months later, he was elected mayor of the community.

He continued a swift political climb by winning a special election to the California Senate in 1961. He served there until the voters sent him to this Chamber in 1974. Among the honors he gained in his time in the California Senate was to be given the Legislative Conservationist of the Year Award by the California and National Wildlife Federation in 1965.

BOB established himself as an expert on foreign relations with his service on the House Foreign Affairs Committee, and is especially well versed in regard to the affairs in the Western Hemisphere as well as in Asian and Pacific matters.

While he is most knowledgeable in this Nation's foreign relations, he has taken a lead in local matters in his California district. He has opposed the offshore drilling which he and his constituents objected to, and, as a member of the House Interior and Insular Affairs Committee, he has battled for such projects as the promotion of the Channel Islands Marine Sanctuary as well as other local environmental causes.

His hard work resulted in his election to a leadership position among House Republicans.

We wish BOB LAGOMARSINO all the best in his retirement years. He will be missed by all of us.

Mr. HORTON. Mr. Speaker, I want to pay tribute to BOB LAGOMARSINO who will be leaving the Congress at the end of the year. BOB LAGOMARSINO has served this Nation with distinction as a Member of this body for 18 years.

BOB LAGOMARSINO has been a leading Republican supporter of environmental issues here in the House. As one who shares his commitment to preserving our natural resources, I want to salute BOB for his tireless efforts on the Interior Committee. His leadership and voice of reason will certainly be missed.

It has long been my philosophy that the Congress is most effective when Members with different views come together to discuss the issues, hash out the differences, and forge public policy that incorporates the best elements of the varying positions. BOB LAGOMARSINO epitomized that process.

My wife, Nancy, joins me in extending our best wishes to BOB LAGOMARSINO and his family. We wish him the best of luck in all of his future endeavors.

Mr. THOMAS of California. Mr. Speaker, I rise tonight to bid a farewell to my good friend and colleague BILL LOWERY, who I have been fortunate to serve with in this institution for the last 12 years.

BILL'S contributions to California and this institution have been invaluable. Congress could use more legislators like BILL—he entered local office in San Diego because he wanted to positively impact his local community—and he is a man who still looks after his constituents back home as top priority as a Congressman. He always has a positive outlook and the ability to envision the future of California as a whole, and has worked hard for the best interests of San Diego and California.

I have been fortunate to be able to work with BILL on a number of California issues, ranging from securing funds for the Manzaner National Historic Site to military construction at Edwards Air Force Base and the Naval Air Weapons Center. He is, without a doubt, one of the most attentive Members of Congress on the Appropriations Committee.

Many in California and in Congress will remember BILL for a long time for his contributions here and back home. We appreciate everything that he has done during his years here and wish him the best of luck in all his future endeavors.

Mr. THOMAS of California. Mr. Speaker, the House of Representatives will soon lose one of its brightest newcomers. TOM CAMPBELL, economist, lawyer, professor, and good friend has left a mark on this institution and on me in just a few short years here.

TOM has brought an accuracy and a practical understanding of international trade and business law with him to Congress. Many Members, like myself, have been fortunate to learn from his expertise. TOM has also played a key role in responding to the plight of business and industry as a member of the Judiciary Committee, and has tried to balance their needs and growth with those of consumers.

Without reservation, I can say that TOM'S contributions to that committee and this institution have been invaluable. He represents the kind of a legislator this body and this country need more of, and I am truly sad to see him leave. He has made a lasting impact on me and many others in the House who have had the pleasure of hearing his comprehensive yet skilled explanations of difficult economic principles, which he has always managed to expound with such ease.

TOM has the compassion and devotion to the principles which he believes in and knows to be right—characteristics of a true Representative, not one who is merely interested in power for power's sake. TOM CAMPBELL entered office because he wanted to make a difference, and indeed he has, not just in the House, but for what he has done for his constituents back home as well.

Many in Congress and in the bay area and Congress will remember TOM through these contributions and for his tireless dedication to public service, whether it be through government, or through passing on his knowledge to others as a teacher. We wish him the best in what will certainly be a long and distinguished career.

Mr. THOMAS of California. Mr. Speaker, today marks the last day this distinguished body will have the opportunity to work with BILL DANNEMEYER, who entered the House the same year that I did, and who has faithfully served this institution for the last 14 years.

BILL knows the meaning of the word patriotism, and chose to serve this country during the Korean war in the fight against the spread of communism. He joined the House after serving in the California State Assembly for several years, and has dedicated his life to public service, continuing on as a Representative for Orange County, where I once was a resident.

BILL has been a real leader in the area of conservativism—particularly in his perfect voting record against wasteful Government spending.

He has worked hard for the interests of his district and for the State of California—from diverse geographical bills he has sponsored, including sensible offshore oil drilling legislation and a reasonable endangered species reauthorization.

Many in California, the House, and this Nation will remember BILL for a long time for his contributions to this body and this country. We wish him the best of luck in all his future endeavors.

Mr. VENTO. Mr. Speaker, I am please to rise and comment on the distinguished career of our colleague, Congressman ROBERT LAGOMARSINO. BOB has served as a ranking member on the Subcommittee on National Parks and Public Lands for the past 8 years that I have had the responsibility of the chairmanship.

Congressman Lagomarsino's contributions have been very significant during these years. While facing administrations that were often reluctant to move aggressively on park-related issues, together we labored to enact literally hundreds of expansions and sound new policies to protect our American heritage.

Bob has been a key supporter of numerous measures before the Subcommittee on National Parks and Public Lands, some close to his home district in California and others halfway around the world. Early in his congressional career, the Channel Islands expansion marked one of Bob's most stunning success. One of my most memorable experiences was visiting this area with Bob and sharing the joy of his work on the site. I also had the pleasure of accompanying Bob to Los Padres National Forest which is a place very near and dear to his heart. I would be remiss if I failed to mention the gracious hospitality shown to be by Bob and his lovely wife, Norma, during that visit to his home district. After seeing the beautiful sunset over the Pacific Ocean outside their doorstep, I would find it difficult to leave such a tranquil and scenic environment.

Congressman Lagomarsino has sustained support for specific projects and measures each year. During this session of Congress he has guided to enactment one of the final chapters of California Wilderness with the Sespe Wilderness measure. A very significant achievement. Before we conclude, hopefully several more projects will be achieved.

Candidly, as a subcommittee chairman, I want to say that I've been guilty too often of taking my colleague for granted. I've counted on his good judgment and patience as I've tried to fulfill the significant legislative responsibilities that we share. Bob has, himself, always given me the benefit of the doubt and his support and help in enlisting support from other members of the committee and Congress.

Sometimes Bob Lagomarsino has had to stand alone. He has often been willing to put politics aside to achieve sound conservation policy. In those instances, he has restored a sense of renewed commitment to good public policy and the subordination of politics as usual. In recent years, this has been more difficult, but hopefully in the future we will witness a renewal of cooperation and collaboration.

Bob Lagomarsino and I have traveled and visited some of the most spectacular natural resources known to mankind including a trip to the Western Pacific to visit American Samoa and the tropical rain forest there for which designation was achieved with Bob's strong support. I could state and discuss literally a hundred measures, including thousands of miles of wild and scenic rivers, millions of acres of wilderness and scores of newly designated parks, on which Bob has joined in helping to enact. He has made his mark on the legislative process which will be reflected for decades to come. In a very real sense, Bob Lagomarsino has helped pass on to future generations of Americans a natural and cultural legacy that will persist long after our careers are a faint memory.

I wish Bob and Norma all the best in their future endeavors and state most emphatically that Bob, my friend and constant hearing companion, will be missed by me and all Americans who care about the environment.

Mr. THOMAS of California. Mr. Speaker, I am sad to watch the retirement of my good friend and colleague Bob Lagomarsino, who has faithfully served this institution for the last 18 years.

As a young man, Bob chose to serve this country in the U.S. Navy during World War II. He carried that public service tradition onward, serving his local community as a member of the Ojai City Council, then as Ojai's mayor, and then at the State level for over a decade in the California State Senate. It is clear that his mission in life was to serve others, and he had performed that task with the utmost dedication.

As a Member of the House of Representatives, Bob has made both local and international contributions. As a member of the House Foreign Affairs Committee, he has worked hard to preserve and encourage international principles of democracy, and as a member of the House Interior Committee, he has worked to protect and foster the local interests of the Santa Barbara and Ventura areas.

I have been fortunate to have been able to work with Congressman Lagomarsino on many issues which affect both our districts, such as the establishment of the Los Padres Wilderness Protection Act. We have also worked together to ensure that California received fair market compensation for its land claims in the Elk Hills Naval Petroleum Reserve, as well as on other issues affecting public lands in California.

Bob has the kind of personal integrity, expertise, and dedication we all hope to have in our public servants. He is highly respected by all his colleagues and his talents will surely be missed.

Many in Congress and in California will remember Bob for a long time for his contributions to this body and this country. We appreciate everything that he has done here during his tenure and wish him the best in the future.

Mr. GALLEGLY. Mr. Speaker, I rise today with pride and sadness to help honor three outstanding members of the California delegation, Tom Campbell, Bill Dannemeyer, and Bill Lowery, who are retiring after many years of service.

These gentlemen have served their constituents and the Congress with dedication and great personal sacrifice. In their own way, each has been a fighter for the causes in which he believed. While they represent different viewpoints, each has represented his own constituents with hard work and pride. Each has exercised leadership in forging policies that have benefited people in their districts as well as all over the United States.

Tom Campbell has been a long time public servant. His experience has served him well as a Congressman. He began his public service in 1977 as a U.S. Supreme Court Clerk for Justice Byron White. From that excellent beginning, he moved on to private law practice and to the White House as a White House fellow and then served on the White House Task Force on Women. This is just a small sampling of the outstanding achievements which led Tom to serve the people of the 12th District of California in the U.S. House of Representatives.

Tom's legislative work has been recognized by the Citizens Against Government Waste, the National Federation of Independent Businesses, the National Taxpayers Union and the U.S. Chamber of Commerce. Tom Campbell was also named "Legislator of the Year" by the California Fraternal Order of Police. His work and service to his constituents and to California will be greatly missed.

Bill Dannemeyer was first elected to serve in the House of Representatives in 1978. Since that time he has been a tireless fighter for the causes in which he believed. As the ranking member of the Subcommittee on Health and the Environment, he has been instrumental in developing public health policy that has benefited untold numbers of Americans.

In addition, Bill has been a strong leader in fiscal matters. He has led the fight for fiscal responsibility and accountability. Bill, along with then-Senator Pete Wilson, advocated a California initiative to propose a constitutional amendment requiring a balanced budget. This is just one example of his life-long dedication to requiring governmental responsibility. He will leave a great void in the fight for a balanced budget.

Bill Lowery is a native San Diegan. He has served his district since 1981. His hard work and service to his constituents is well known. Bill's position as ranking member on the Committee on House Appropriations has benefited the citizens of his district and the State of California. This has meant a better life for hundreds of Californians.

While Bill fought for his constituents, he balanced this with a strong commitment to a balanced budget. He led the fight for a balanced budget amendment and a line item veto for the President. He has long been honored as a watchdog of the Treasury. Bill Lowery has delivered for the people of this country and his presence will be missed.

Mr. Speaker, each of these men represent what makes our country great; dedication, service and sacrifice. Congress will miss their leadership, their skills and their abilities. I ask my colleagues from both sides of the aisle to join me in saluting them for their may accomplishments, and in wishing them great success and many years of health and happiness.

Mr. GALLEGLY. Mr. Speaker, I rise today with pride and sadness to help honor one of the most distinguished Members of this House, as well as one of my best friends, Bob Lagomarsino.

The gentleman from Ventura County has distinguished himself during his 18 years in Congress as one of the most thoughtful and most hard-working Members, and I will miss his counsel greatly.

As it has happened, Bob and I have not only represented the same county, but for the past 4 years we have both served on the same committees, Foreign Affairs and Interior and Insular Affairs. But while I have been gradually climbing the seniority ladder, Bob has been a senior member of both panels, where he has exercised leadership and played a major role in some of the most important issues of our time.

BOB is an expert on international relations. He's the vice chairman of the Subcommittee on Western Hemisphere Affairs, which oversees United States relations with Canada, Latin America, and the Caribbean nations, and is a long-tern member of the Asian and Pacific Affairs Subcommittee, specializing in trade with the Pacific rim nations.

As ranking member on Western Hemisphere, BOB played a key role in some of the most contentious and controversial foreign policy decisions of the past decade—our courageous decision to help freedom-loving people in Central America escape Communist dictatorships. In BOB's district, that was not always the most popular cause, and it would have been politically expedient for him to take a low-profile role. It certainly would have saved him from a lot of attacks from Sandinista sympathizers.

But as he always has, BOB chose to do what he thought was right. He worked long and hard to promote the cause of the Contras in Nicaragua, and to work for an end to the civil war in El Salvador that would prevent a Communist takeover there. And BOB can justly take pride in the fact that our efforts finally forced the Sandinistas to hold free elections—I know they were because I was there as an observer. And much to the consternation of some American liberals who always saw Danny Ortega and company through rose-colored glasses, the Nicaraguan people overwhelmingly rejected the Sandinistas.

BOB also can take a lot of pride in his efforts to bring freedom and democracy to what were, until recently, the captive nations of Eastern Europe. Through his chairmanship of the Republican Institute for International Affairs, a group of prominent national leaders that promote democratic movements in Eastern Europe, Latin America, and around the world, he helped establish and monitor free elections and several emerging democracies, and is even now continuing to work to nurture the fledgling democracy in Russia.

At home, BOB has always been a defender of the environment, although again his efforts have not always been appreciated by absolutists on this issue. Nevertheless, he can look back on many accomplishments, including the creation of Channel Islands National Park, the Channel Islands Marine Sanctuary, and most recently designation the Sespe Creek Wilderness Area to preserve one of the last truly wild streams in southern California.

But perhaps most important, BOB can be proud of the thousands of constituents he has helped over the years, because constituent service was always his top priority. The letters of thanks from seniors, veterans, and the many people he and his staff helped get their problems resolved are far more satisfying than anything I or my colleagues will say today.

Mr. Speaker, this House will be a poorer place without BOB LAGOMARSINO, and I ask my colleagues from both sides of the aisle to join me in saluting him for his many accomplishments, and in wishing him and Norma many years of health and happiness.

Mr. DOOLITTLE. Mr. Speaker, I rise tonight to pay tribute to four outstanding public servants, leaders and fellow Members of the California congressional delegation who will be retiring at the end of this term. TOM CAMPBELL, BILL DANNEMEYER, BOB LAGOMARSINO, and BILL LOWERY are all men I am proud to call friends, and each has left his mark on this House.

Just as he preceded me in the House, BOB LAGOMARSINO predated me in the California State Senate, where he acquitted himself with great success. While it was a loss to the California legislature when BOB was elected to Congress in a special election in the 93d Congress, our State certainly has continued to benefit from his leadership at the Federal level. BOB'S contributions to successful foreign policy and to emerging democracies around the world are widely acclaimed. He truly has played a critical role in history, and his expertise will be missed.

BILL DANNEMEYER and I always have seen eye to eye philosophically and we have worked together on numerous occasions to promote conservative causes. BILL stands second to none when it comes to fighting for fiscal responsibility. The Dannemeyer budget substitute, regularly presented to the House, repeatedly demonstrated BILL'S commitment to budgetary balance achieved without tax increases. BILL made all of use accountable, and certainly he has never been afraid to speak his mind. His outspoken commitment to family values is one I applaud enthusiastically, and is an example I wish others would emulate. BILL knows that responsible leadership cannot depend on popularity. His guidance and knowledge have been effective, and he will long be remembered and respected.

BILL LOWERY has devoted his 12 years in the House to the good of his district in San Diego, to his State and to the Nation. His service on the Appropriations Committee has been marked by hard work, strong leadership and sound fiscal thinking. Perhaps his greatest legacy to our State is reflected in the realization of the California Institute. Few worked harder than BILL LOWERY to make that institute a reality, and I regret that he will not be here to observe the fruits of his labors next year. BILL also has played an important role in the critical area of military base closings, demonstrating skill, diplomacy, and negotiating strength. He, too, will be missed.

Finally, TOM CAMPBELL has contributed immensely to the good of California and the Nation, especially in the area of competitiveness and export strength. His knowledge of trade, antitrust and domestic law which affects successful competitiveness is perhaps unrivaled. TOM'S keen understanding of what it takes to maintain a strong industrial base through new technologies, encouraged entrepreneurship and responsible trade policies will be sorely missed. On a more personal level, I share the observation of many of my colleagues concerning TOM'S uncanny ability to defuse adversarial situations and bring about conciliation. He has worked diligently and effectively on behalf of the people of his district.

To all four of my friends and colleagues and to their families, I say thank you for giving so much of yourselves, for caring so much for your Nation, and for a job well done.

Mr. PANETTA. Mr. Speaker, I rise today to say goodbye and pay tribute to my good neighbor to the south, Congressman ROBERT J. LAGOMARSINO. Since my election to the House in 1976, BOB has represented the neighboring counties to the south of my district, Santa Barbara and Ventura Counties. This has given us the occasion to work together on a number of initiatives affecting the two beautiful areas we both represent. In particular, BOB and I worked long and hard on legislation to provide additional Federal protections to California's Los Padres National Forest.

This legislation, the Condor Range and Rivers Protection Act, was enacted into law earlier this year after many years of effort. Los Padres wilderness legislation passed the House on a number of occasions—only to die each year in the Senate. Earlier this Congress, BOB played facilitator by bringing together all of the Members and interests affected by the legislation and having them reach an agreement on areas to be protected in the Los Padres bill. It was a daunting task, requiring much effort, patience and diligence on behalf of BOB, myself, and our two Senators. Nevertheless, I am gratified to report that we were successful in enacting this legislation and that these areas are now protected.

The Los Padres National Forest is one of the most ecologically significant resources of central California. The part of the forest in my congressional district encompasses Big Sur—one of our Nation's greatest treasures. The forest is also home to many rare and endangered species such as the bald eagle, peregrine falcon, and the California condor, and offers outstanding recreational opportunities for the residents of California as well. The lands and rivers protected under the Los Padres bill represent some of the most beautiful and ecologically sensitive areas within the State of California. Thanks to BOB LAGOMARSINO'S leadership on this issue, these areas now have the protection they deserve.

The Los Padres Condor Range and River Protection Act is only one example of the great contributions BOB LAGOMARSINO has made to California and the Nation as a whole. I salute my friend to the south and wish him all the best.

GENERAL LEAVE

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent that all Members of the California delegation and other Members may have 5 legislative days in which to add their comments.

The SPEAKER pro tempore (Mr. ESPY). Is there objection to the request of the gentleman from California?

There was no objection.

☐ 0020

ORDER OF BUSINESS

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent to proceed out of order with my special order.

The SPEAKER pro tempore (Mr. ESPY). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

NATIONAL ENERGY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 1 hour.

Mr. ALEXANDER. Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER]. I would explain they are electing Members of Congress younger these days, and I have the youngest delegate to the Democratic National Convention here, my son Alex.

Mr. HUNTER. Mr. Speaker, let me just say it appears that the gentleman has his priorities entirely in order. I just want to say to BILL ALEXANDER, who is leaving this Congress that he has been a friend, he is a guy with a great sense of humor, a little different philosophy than I have, and also a great second or third cousin who works in our office, Melinda Patterson. We have spent many, many hours not only in Bible study together at times but also talking about politics and philosophy.

It is going to be a real loss to this side of the aisle for Mr. ALEXANDER to be leaving this House.

Mr. ALEXANDER. I thank the gentleman very much. There is so much to do around here, I hardly feel like I am leaving. In fact, I am not very good at saying goodbye. I just feel like I am graduating, going on to something across the street. If my Governor is elected, that might be exactly what I will do.

Mr. HUNTER. We are going to be talking about that a little later on.

Mr. ALEXANDER. I am glad you let me go ahead of you.

Mr. Speaker, for two decades I have worked to establish a national energy policy. The *Comprehensive National Energy Policy Act* that Congress is enacting tomorrow marks the successful completion of a grand undertaking which will change the direction of the Nation. This bill is one of the defining acts of the 20th century. This national energy policy offers the prospect of providing the United States with cleaner energy that is more compatible with the planet and less dependent on foreign supply.

There is overwhelming evidence that the effects of having no energy policy have been economically debilitating to our Nation.

First of all, we have become more and more dependent on foreign oil. Imports from other countries supply more than 50 percent of the United States' annual energy needs. The percentage of our Nation's energy requirements met by foreign imports has risen from 28 percent in 1982 to 52 percent in 1991. The U.S. economy is dangerously dependent upon the vissitudes of foreign oil supply.

This energy dependence has come at an enormous economic cost to the United States. A current report from the Library of Congress research service estimates that, based on Information Agency energy figures, the cost to the United States over the next 10 years will be about 750 billion in 1990 dollars and will increase to about $1 trillion in 1990 dollars during the decade from 2000 to 2010. One trillion dollars in one decade is a heavy burden to the economy.

Dependence on imports leaves us vulnerable to suppliers from politically unstable regions like the Middle East where 2 years ago we were forced to fight a war in order to protect the oil supply at an enormous cost to the United States.

To illustrate one aspect of this cost I reference the General Accounting Office study that was conducted at my request in August 1991. The resulting report shows that assistance provided to the Persian Gulf from 1980 to 1990 was approximately $420 billion and imports totalled 140 billion gallons. Therefore the additional cost to consumers of each gallon of imported gasoline was about $3 per gallon.

A price of $3 per gallon of gasoline was spent by the U.S. Government to protect this country's interest in oil imports. Our country cannot afford to pay this price.

I would like to insert a summary of the before-mentioned GAO report in the RECORD:

[General Accounting Office: Report to Hon. Bill Alexander, House of Representatives, August 1991].

SOUTHWEST ASIA: COST OF PROTECTING U.S. INTERESTS

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION

Hon. BILL ALEXANDER,
House of Representatives.

DEAR MR. ALEXANDER: As you requested, we obtained information on the cost of activities related to the protection of U.S. interests in the Southwest Asia area.[1] Specifically, this report provides cost information on (1) U.S. military programs and activities in the region, (2) bilateral military and economic assistance to countries of strategic importance in the area, (3) multilateral economic assistance to countries in the Middle East, and (4) bilateral and multilateral nonmilitary assistance to any petroleum-producing country for activities related to petroleum exploration, production, and distribution. Cost data in this report cover fiscal years 1980 through 1990 to the extent such figures were available.

RESULTS IN BRIEF

The Department of Defense (DOD) estimates that it spent $21.4 billion during fiscal years 1980 through 1990 for military programs and activities directly related to Southwest Asia-specific missions. These programs and activities include such items as military construction, equipment prepositioning, and Central Command headquarters. In addition, DOD estimates it spent $5.8 billion for other programs and activities that were primarily Southwest Asia-oriented. Besides these expenditures, DOD estimates it invested about $272.6 billion in programs that, although motivated by requirements outside of Southwest Asia, have proven to be useful in meeting contingencies in this region. These costs are mostly related to forces available to the U.S. Central Command. All these areas exclude the incremental costs[2] incurred during specific military operations such as Operation Earnest Will—reflagging of the Kuwaiti oil tankers—and Operations Desert Shield and Desert Storm. DOD estimated the incremental cost of Operation Earnest Will at $240 million.[3] For Operations Desert Shield and Desert Storm, the Office of Management and Budget estimated the incremental cost to be about $61 billion.[4] However, the United States is still receiving contributions from its allies, which it expects will cover most of the incremental cost to the United States. Appendix I provides more detailed information on military costs.

During fiscal years 1980 through 1990, the United States provided $30.8 billion in foreign military assistance and $28 billion under its economic assistance programs to countries of strategic importance in Southwest Asia.[5] About 91 percent of this assistance was provided to Israel and Egypt to support longstanding U.S. objectives in the region. Appendix II provides more detailed information on the levels of bilateral military and economic assistance.

International organizations and multilateral development banks provided about $6.6 billion in loans and grants from 1980 through 1990 to countries in the Middle East. Although the United States has provided a significant amount of bilateral energy assistance to the region, principally Egypt, it has not provided bilateral assistance for activities related to petroleum exploration, production, and distribution. Assistance for petroleum exploration, production, and distribution has been provided by multilateral development banks, mostly by the World Bank Group. During fiscal years 1980 through 1990, the World Bank provides about $3.8 billion in loans and financing throughout the world for this purpose. Appendixes III and IV provide more information on the levels of multilateral assistance and for petroleum exploration, production, and distribution.

DOMESTIC GASOLINE CONSUMPTION

[in millions]

Year	barrels/ day	Gallons/ day	Gallons/year
1980	6,579	276,000	100,740,000
1981	6,588	277,000	101,105,000
1982	6,539	275,000	100,375,000
1983	6,622	278,000	101,470,000
1984	6,693	281,000	102,565,000
1985	6,831	287,000	104,755,000
1986	7,034	295,000	107,675,000
1987	7,206	303,000	110,595,000

---

[1] For purposes of this report, only those countries in Southwest Asia that throughout the 1980s and early 1990s were considered of strategic importance to the United States are included. These are oil-producing countries in the Middle East, particularly those located in the Persian Gulf area, as well as non-oil producers bordering strategic transiting points and key regional allies.

[2] Incremental costs are over and above the costs of normal military operations.

[3] *Burden Sharing: Allied Protection of Ships in the Persian Gulf in 1987 and 1988* (GAO/NSIAD-90-282BR, Sept. 6, 1990).

[4] We are, however, questioning this estimate and are currently examining the cost and funding requirements of Operations Desert Shield and Desert Storm and allied contributions. We have also testified on these issues. See *Cost and Financing of Operation Desert Shield* (GAO/T-NSIAD-91-03, Jan. 4, 1991), *The Administration's Proposal for Financing Operations Desert Shield and Desert Storm* (GAO-T-NSIAD-91-09, Feb. 27, 1991), and *Cost of Operation Desert Storm and Allied Contributions* (GAO-T-NSIAD-91-34, May 15, 1991).

[5] U.S. foreign military and economic assistance refer to the range of U.S. government programs through which the United States aids other nations to defend and preserve their own national security and encourage economic development and reform. These programs are undertaken in support of U.S. political and foreign policy objectives.

DOMESTIC GASOLINE CONSUMPTION—Continued

[in millions]

Year	barrels/ day	Gallons/ day	Gallons/year
1988	7,336	308,000	112,420,000
1989	7,328	308,000	112,420,000
1990	7,235	304,000	110,960,000

Approximate total consumption, 1980–1990: 1,165,000,000,000 gallons [Data provided by Energy Information Administratin].

The Congressional Research Service advises that from 1980 to 1990, imports from the Persian Gulf region comprised approximately 12 percent of total gasoline consumption—about 140,000,000,000 gallons.

Real cost of a gallon of gasoline

GAO reports the following costs for protecting foreign oil supplies during the years 1980–1990:

Military activities (SW Asia-dedicated)	$21,400,000,000
Military activities (SW Asia-oriented)	5,800,000,000
Other contingencies and mobility programs	272,600,000,000
Kuwaiti reflagging operation	240,000,000
Operations Desert Shield and Storm	61,000,000,000
Military assistance to strategic SW Asia countries	30,800,000,000
Economic assistance to strategic SW Asia countries	28,000,000,000
Multilateral financial aid (U.N. and World Bank)	6,626,000,000
U.S. aid for energy activities	130,000,000
Multilateral aid for energy activities (World Bank)	466,000,000
Total	427,062,000,000
Total, excluding multilateral aid	419,970,000,000

If assistance provided to the Persian Gulf region from 1980 to 1990 was approximately $420 billion, and imports totaled 140 billion gallons, the additional cost of imported gasoline that consumers don't see at the pump is about $3 per gallon!

Please call me on (202) 275-4128 if you or your staff have any questions. The major contributors to this report were Stewart L. Tomlinson, Assistant Director, and Elena L. Boshier, Evaluator-in-Charge.

Sincerely yours,

JOSEPH E. KELLEY,
Director, Security and International Relations Issues.

Another cost of depending on petroleum products is more and more evident as it takes its toll on human and animal health. Studies and reports indicate that ill effects on the human body can be caused by air pollution brought about by auto emissions from cars that run on gasoline. Recent Environmental Protection Agency studies attribute about one-half of the several hundred air-quality-related cancer deaths per year to toxic air pollutants from gasoline vapors and vehicle exhaust.

Also, the cost to plant life from damaging auto emissions is increasing and is becoming more noticeable.

In a recent U.S. Department of Agriculture report entitled "Agriculture and the Environment," Walter Heck, a USDA specialist states,

> We used to think air pollution was just a city problem. Now, we know that pollutants can be transported hundreds of miles and can be found in elevated concentrations in rural and forested areas. Some of the most important crops sensitive to pollution are soybeans, cotton, peanuts, tobacco, clover, alfalfa, and potatoes.

We must, for the economic wellbeing, the security, and the health of the United States, lessen our dependence on foreign oil.

This energy bill includes a 30-percent displacement goal of foreign oil that means a 50-percent reduction in oil imports in the next 20 years.

The energy bill offers the prospect of saving $500 billion in the decade from 2000 to 2010 which could then be reinvested in our economy creating up to 750,000 jobs.

This energy bill sets a goal to create a new rich market for farm fuel and other alternative fuels produced in many different regions of this country. This bill offers the United States the prospect of an economic development opportunity larger than any other in the history of this Republic. In the words of George Bernard Shaw, "* * * all progress is initiated by challenging current conceptions, and executed by supplanting existing institutions."

With up to a 50-percent reduction in foreign oil imports, one can envision a massive shift of wealth from the oil fields of the Middle East to the grain fields of the mid-South.

There are many opportunities for the production of alternative fuels from a variety of domestic sources. Examples of alternative energy fuels are ethanol, methanol, liquid petroleum gas, compressed natural gas, coal gasification, solar power, and hydrogen.

Sometimes we forget that gasoline is processed solar energy that plants collected when the Earth was younger. As the fossil fuels that collected and stored energy in various forms like petroleum are used up, automotive vehicles must begin to get their solar energy from other sources that are more directly linked to the Sun. Plants are the most abundant collectors of solar energy. Plants provide a renewable supply of cellulose feedstock, called biomass, which can be converted into automotive fuels that burn cleaner in engines. Biofuels pollute less and add no heat retaining gases to the atmosphere, now fast becoming a global greenhouse.

When I was a young boy my father owned and operated Lefty's Flying Horse—now Mobil—service station on the Arkansas-Missouri State line just north of Blytheville, AR. Ethyl gasoline—gasohol—was sold at premium prices because of its high performance and clean burn.

Later, as a teenager, I would experiment with alcohol blended with various petroleum products to make automotive fuels. The fact is well-established that oxygenating additives are efficient octane boosters. Ethanol, methanol, and ethers are universally used in the transportation fuel industry today to enhance combustion efficiency to provide better engine performance.

The efficient cost of producing alternative fuels—ethanol, methanol, and others—is the most difficult problem to overcome. One exciting project is underway to produce alternative fuels that are cost-competitive with petroleum products.

The United States-Brazil demonstration project has been established to convert cheap biomass in the form of agricultural waste to ethanol.

The United States-Brazil project combines the advanced technology developed in Brazil over the last two decades with United States research on enzymatic conversion that is most impressive.

The technology developed in Brazil has enabled it to become the leading ethanol producer in the world. About 93 percent of the automobiles in Brazil are run on ethanol, referred to as alcool by the Brazilians.

The U.S. research utilizes enzymes to break down cellulose into a starch emulsion. This becomes sugar which, when combined with yeast, can be distilled into ethanol. The goal of the project is to produce ethanol from biomass at a cost of 60 cents per gallon.

When I first took the oath of office to become a Member of Congress I asked myself "How can I best serve the First Congressional District?" My answer was to use whatever power I possessed to aggressively improve the quality of life for the people I represent. I vowed not to wait for external powers to do the work I was responsible for.

My single regret in 24 years of service in Congress is that we failed to bring this project to Arkansas. Since 1973, I have been promoting the concept of alcohol fuels as an alternative to gasoline. In 1985, I negotiated an agreement with Brazil that could have made Arkansas a world leader in alternative energy. Understandably, this concept was opposed by a skeptical and parochial press. From this experience, I have learned that it takes about 20 years for a new idea to be understood and accepted by the general public. On this issue, the problem of understanding has been compounded by a disinformation campaign funded by big oil.

The energy bill before us authorizes up to $205 million for research and development for alternative fuels research. This is an increase of about $75 million over last year's goals. I worked hard for this increase.

In the district I represent, Arkansas State University is conducting research to discover plants that have high energy content. Agricultural crops like corn, soybeans, grape, milo, and indigenous plants like switchgrass and swamp weeds can be used to produce energy domestically.

The money authorized by this Energy bill could provide opportunities for enhanced research activities by Arkansas State University and others to further efforts such as the United States-Brazil project and to speed along the cause of finding additional plants that can readily be converted to alternative fuels.

Furthermore, Arkansas State University stands ready to accommodate an expansion of the United States-Brazil efforts to include agricultural waste products which are in abundance annually. High yields of rice straw, soybean trash, corn hulls, and wheat stubble all have potential to be turned into fuel.

I have been working for many years toward the establishment of a comprehensive energy policy for the United States. We must now finally seize the opportunity to make the most of available domestic sources of energy and to discover new ones. We must decrease our dependence on foreign oil, protect the health of our citizens, and stop exporting our wealth and jobs to pay for what we can provide for ourselves without the additional costs associated with imports. Daniel Webster has reminded us that we should:

> * * * [D]evelop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also, in our day and generation, may not perform something worthy to be remembered.

We must support the Comprehensive National Energy Policy Act. For me and the Nation, it's a dream come true.

□ 0030

A CONTINUED LOOK AT THE RECORD OF GOV. BILL CLINTON

The SPEAKER pro tempore (Mr. ESPY). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. For those people who follow the electronic record of this House that has become as important and even more widely studied than the CONGRESSIONAL RECORD that sits beneath every seat of this great Chamber, there are 338 of us, if you include the delegates for our Territories, there are over 600 seats in the Chamber to allow the Chairman of the Joint Chiefs and our military officers to come and hear, the entire U.S. Supreme Court, all the Cabinet, the entire Diplomatic Corps during those very historical and sometimes fascinating, exciting messages from the President about the state of our Union and our relationship with the rest of the world.

□ 0040

This CONGRESSIONAL RECORD is sent to most libraries in America, and it is important, but I believe not too many years after I have left this Chamber that there is going to be a color record. There will be charts and graphs allowed to be put in, and they will be in color, just as we see the technology advancing in computers.

I believe some day, of course, we will have a more professional camera coverage of this Chamber. Not that our men do not work hard downstairs, with our six automated cameras, but the rules, I believe, are restrictive and insulting, and try to create the impression that there is an empty Chamber. We are not allowed to refer to specific people in the Chamber, but some people have driven from other parts of the country to be in the Chamber because they feel what I have been attempting to do since the 216th anniversary of Nathan Hale last September 22 to this day, particularly the 8 or 9 hours of special orders, some of them a little earlier than this, two or three the last few nights about this exact time, that this is raw history and that it involves the greatest office in the history of mankind, the Presidency of the United States of America, the third largest nation in the world in population, one of the greatest in geographical coverage, given our spread from the Island of Guam on the other side of the date of the date line to the furthest reaches of Maine and the furthest reaches of the Virgin Islands.

We are a factor in the world geographically and people-wise, but what makes the United States an historical marvel is, we are the freest land that has ever lived. I have said over these past few nights, which I will not repeat tonight, that to this Congressman, the Presidency of the United States is as close as we can get to a spiritual Office in the secular world. It is a role model beyond description. When somebody attains that office, there is a certain, it is not mystical, but it has a political aura to it that people look toward the President of the United States to solve problems that are beyond him. Certainly the whole world, wherever I have traveled, looks toward the President of the United States or his pictures as a beacon for freedom and a bastion of defense of human rights.

Joining me on the floor are the four musketeers, the three that were with me last night and several nights past, DUNCAN HUNTER, an infantry combat lieutenant and paratrooper from Vietnam service and a member of the Committee on Armed Services, a very senior Member now, came with President Reagan in that great year of 1980 and has done stalwart work; SAM JOHNSON, served for years and years in Austin, TX, in his State legislative body, came here in a special election about a year and a half ago, Mr. JOHNSON, call sign "Tiger," 65 missions in Korea, shot down on his 25th mission in Vietnam, was the 69th person shot down.

Mr. JOHNSON of Texas. Mr. Speaker, if the gentleman will yield, 69th captured.

Mr. DORNAN of California. Many shot down that gave their life for their country. That number built up to 590 prisoners, including 24 in the South; 7 years a captive, 4 years, almost 4 years in solitary confinement, 1 of the 11 very special heroes that were put in a special horrendous solitary confinement captivity that they, with bravado, and typical American elan and spirit, named "Alcatraz." A man who could have been a prisoner, right in front of me, the gentleman from San Diego, CA, DUKE CUNNINGHAM, RANDALL CUNNINGHAM. He rose to the highest respect in his profession, not only as the Navy's only ace from Vietnam but an instructor, God forbid, of future aces, head of the Top Gun squadron, the aggressor squadron, and that in all the Navy is called Top Gun.

One little footnote I did not mention the other night, Mr. CUNNINGHAM, is that Tom Cruise considered you a role model for the film, that slightly glamorized your wonderful life, a little more than slightly, and it was too bad when he played Ron Kovic, who almost ran against you; a full tour of 13 months and went back for another tour, and halfway through got shot through his spine right near the DMZ in a firefight; that when poor Ron Kovic rejected all of that zeal and patriotism in his youth and went kind of over to the other side, somehow or other he got Tom Cruise to say that you were no longer his role model in politics. I don't know where poor Cruise ended up.

Mr. CUNNINGHAM. Will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman to clarify that, if I got that mixed up.

Mr. CUNNINGHAM. I thank the gentleman for yielding.

Tom Cruise did play the part of Ron Kovic, a marine that lost his legs in Vietnam.

Mr. DORNAN of California. The use of his legs.

Mr. CUNNINGHAM. Lost the use of his legs, that is correct. There was another Marine that was born on the 5th of July, Dr. Tim Lee, who was a minister, but he conducted himself in a very strong manner.

I think when he plays a part in a movie he becomes that part of that movie, and I think he believed desperately, and I disagree with Ron Kovic, of course, you know that, but I think Tom believes in the parts he plays and he gets wrapped up in those roles as well. I am sure he had good reason for doing what he did, even though I disagree with him.

Mr. DORNAN of California. Did he send you a telegram or something and say, "I no longer share your values" or something? He sent it through his agent?

Mr. CUNNINGHAM. I had worked with Tom in the movie, and I thought that he would support me. He sent a telegram that says, "I no longer," actually it was his lawyer. When I talked to Tom, Mr. Cruise, right here on the floor when he was here at the arts caucus, he said he knew nothing of the letter.

Mr. DORNAN of California. If you gentlemen will excuse me, I want to defer to a colleague who has joined us from the other Sunshine State, Florida, who came into the Union a little bit ahead of us, and it is Mr. CRAIG JAMES, who came here as a citizen politician for 4 years and is retiring at his own will; outstanding trial lawyer in the great State of Florida, has pleaded cases before the Supreme Court that have become landmark cases, and he came across an article in the Village Voice.

I asked him, because he is a trial lawyer, to read this. Then, because he is strongly for President Bush, to kind of ask us some tough questions about the case that is being made here as to why Mr. Clinton has many questions to answer, many about his trip to Moscow and some other trips that we have found out tonight, found out during the day.

The story is breaking so fast that it is hard to keep up with, and I understand that it is going to be a national story, a headline story, and the AP finally moved a story, so all those people writing and calling us that say, "My local paper will not cover it until Associated Press does," Associated Press is going to move the story.

I would say to the gentleman, Mr. JAMES, I am sorry that you are not staying with us longer than 4 years. You have been a delight to serve with, a tiger in this well, and with that keen legal mind of yours as a defense attorney for how many years?

Mr. JAMES. If the gentleman will yield, 22 years; and it is the supreme court of the State of Florida. Not yet have I had the honor of arguing before this court.

Mr. DORNAN of California. They have a goal to shoot for, then.

Mr. JAMES. We discussed an article earlier that did appear on March 3, 1992, and we discussed the propriety of reading it, but I think it is totally appropriate to read the article. I want the opportunity to hear your comment on the article as it relates to the ideology of would be, of Governor Clinton, how he would function as a President considering what his friends say about him.

Mr. DORNAN of California. And the appointments he might make.

Mr. JAMES. The appointments he might make, but what is the liberal press saying about him? What specifically has the Village Voice said.

We have discussed it and you agreed it would be appropriate for me to read it. I want to have you comment on it. It is a rather lengthy article. If it will not take up too much time, I will read the article and have you comment on it.

This is all quotes. These are not my words, and I am not editorializing at all.

Mr. DORNAN of California. This is all the Village Voice?

Mr. JAMES. All the Village Voice.

"Bill Clinton is our Gorbachev," says one of the candidate's most liberal campaign aides. "He knows what he has to say to get elected, but you have to trust his basic instincts. Even when he joined up with the DLC (the conservative Democratic Leadership Conference) he did so to move it toward more liberal positions." That Clinton is not only acceptable to liberals but is himself a "progressive" candidate is a notion shared by an impressive national network of '60s and '70s activists who themselves come from progressive, even radical backgrounds. Clinton is supported by Ruth Messinger, who not only is Manhattan borough president but also a member of Democratic Socialists of America. His New York State campaign chair, Democratic wheel Harold Ickes, was one of Jesse Jackson's top advisors in the 1988 race. His media advisor, Frank Greer, ran Red Harris's populist presidential campaign in 1976. His pollster, Stanley Greenberg, worked with progressive Democrats on South Africa and Nicaragua issues. His general counsel is David Ifshin, former president of the National Student Association, who 20 years ago shared a pension with me in Allende's Chile before travelling off with Phil Ochs to get arrested in Uruguay.

And then there's that odd group of what you might call Former '60s Student Body Presidents Who Opposed the War that constitutes the Clinton brain trust. Robert Reich, former Dartmouth student body president, and Ira Magaziner, who presided over the once-rad students of Brown, are among Clinton's closest economic theorists. And then there's Derek Shearer, another Oxford chap and a former Yale student body president, former pal of Tom Hayden, co-author of the book Economic Democracy, and ideological guiding light of the so-called People's Republic of Santa Monica—the "radical" municipal government that flourished in the LA suburb in the early 1980s (Shearer is married to the former Santa Monica mayor, Ruth Goldway). Indeed, Shearer, who co-chairs the LA Clinton campaign is responsible for recruiting a long list of progressives into the Clinton fold. But, under the influence of (E.J.) Dionne, who Shearer cited several times in a 30-minute interview, the whole notion of progressivism has taken a crash diet.

"I support Clinton because he is the most progressive," Shearer told me. "And it's time we grew up and realized we are all too old for symbolic candidacies. We have to redefine the meaning of what it means to be progressive in a less ideological way. Clinton believes that government involvement can actively change people's lives for better. And so do I. What I tell the special-interest groups on the liberal side—labor, women's groups, and so on—is that in a Clinton administration you are going to have a seat at the table. You may not get everything you want, but you'll have an opportunity to rethink just what it is you want with some very smart and committed people."

And left-of-center support for Clinton is bound to build if he maintains his momentum toward the party nomination. "We're looking at a turning point in American politics," says Anne Lewis, former Democratic Party consultant to Jesse Jackson. "And the liberal wing of our party is responding, thank God. The old dividing line in the party was really around military and foreign-policy issues. But with the Cold War over, it's a mistake to assume the same old divisions. As a liberal, what is it that I can see in Bill Clinton's record as a governor that I would object to? Very little"

□ 0050

Now let me repeat, that was an article from the Village Voice of March 3, 1992. None of those were my words. I know it was hard to tell.

But obviously, obviously the Village Voice is saying he is as liberal as you can possibly be. And they try to convince their leadership that he is liberal by naming all of his associates, his advisers that are well-known to be liberals. And that gives me some great concern. And I do not think the American public understands that.

I know there are many liberals out there, but let us not allow the label of moderate to be attached to him, because I think that is inappropriate.

Mr. DORNAN of California. When I looked at the article, Mr. JAMES, you said you were going to read it. I only had looked at about the first three pages. That is a litany of a lot of the hardcore radical leftwing names in this country who I think are going to pop up all over the Clinton administration.

What has emerged in my investigation over the last 2 weeks to prepare for these special orders is that he has postured as a moderate, that he was a Eugene McCarthy and then a George McGovern supporter, a radical organizer of demonstrations coordinated between the United States and Europe. All of these demonstrations we have been mentioning over the past almost 2 weeks. I did not realize that the October 15 and November 16 dates in his letter about what he did in London were the exact dates of massive demonstrations in this country, one of the biggest ever in the history of our Nation. The papers say over a half million people. Some proabortion demonstrations claimed to be that large, but I went to one of these as a reporter, and they were probably the largest ever, double the Martin Luther King march that I attended as a participant, not as a reporter.

I think what has happened here is a young man who is a leftwing radical wanted to run in his home base State, which is a conservative Southern State. He led the first race in the State, and won attorney general in 1976, won the Governor's race in 1978, lost it in 1980, and then won it back 10 years ago, and he has learned to speak conservativese and moderatese as one radio announcer Rush Limbaugh, says, every day to the Nation, and that it is all smoke and mirrors, and he is a wolf in sheep's clothing, not a moderate.

And no matter how many times Sam Donaldson shoves it in our faces, it is just not true.

I yield to Mr. JOHNSON of Texas.

Mr. JOHNSON of Texas. You know, when I was in a Vietnam prison camp they used to tell us that they were orchestrating these demonstrations themselves. I never believed them.

Mr. DORNAN of California. Your prison guards would?

Mr. JOHNSON of Texas. No, the Vietnamese through the Soviet Union and contacts in the United States. Now, I do not know whether there is any truth in that or not. But I know that in the case of Mr. Clinton, when he went to the Soviet Union, Moscow, during the time that these demonstrations were occurring, there are experts who are quoted in a story that it is highly unlikely that Clinton took a vacation in the height of winter. You have said that yourself. Extremely expensive and during politically volatile times. And he said, "I did not travel with the group," and yet we listed all of these people that were friends of his that were liberals. If he did not travel with the group, and if he did travel alone, he would have had to have an invitation from the Communist Party at that time in order to go at all, because nobody got in there any other way.

So that would have been the first in history if he had been there as a visitor. But the quote from one of these stories says, "Obviously if indeed Clinton did travel alone, it would be obvious he was likely being recruited by the KGB. He fit the profile for an agent of influence."

Mr. DORNAN of California. That is a serious charge, and we are not making that charge. But we are trying to analyze this in a fair and an objective way, because I do not believe he went as a tourist. I just cannot buy that.

I saw DAVID DREIER of California come down the aisle. Is that the Monday edition?

Mr. JOHNSON of Texas. Let me tell you, my staff assistant, Ken Hodges, just happened to be at the newspaper headquarters of one of the top 10 newspapers in the country, and this paper has just come out. This is an advanced copy, but it will be out in the morning. Its headline says, "Clinton Toured Moscow at War's Peak." And the whole story goes on to investigate his travel records, which were altered, and other things.

Mr. DORNAN of California. I yield to the gentleman from San Diego.

Mr. CUNNINGHAM. I just read this thing, and I thank the gentleman for yielding. We have been asking ourselves questions on why was Mr. Clinton in Moscow. This statement is by Jerry Setter, and it is the Washington Times, dated October 5, today. "Six weeks after he organized a massive antiwar U.S. protest in London, Bill Clinton quietly turned up in the Soviet Union for a visit during the dead of winter, and in the height of the Vietnam War." He had been on all of these antiwar protests, and he goes directly to Moscow.

Now a spokesman for Governor Clinton says he was there on vacation as a student from Oxford, in the dead of winter, after all of these antiwar demonstrations. We knew just last night of what his itinerary was up to that point.

□ 0100

Mr. Speaker, I would ask my friend from California, what do we know further after the Moscow trip?

Mr. DORNAN of California. Here is what we learned today, and I want to bring Mr. JAMES back into this, and Mr. DREIER is reading the paper for the first time, maybe some questions will come to his mind. Look, there were rumors on the House floor today that the majority wanted to censure me, censure me, not for the whole series but specifically because I read from Time magazine that Governor Clinton had dangerous talents. It was in reference to his way with women. They are angered that the British papers are calling him the Love Guv.

Here is what we found out today before the paper came out: Remember last night when we left off, we only could nail him as being in Oslo and being in Moscow? And I said probably it is going to turn out Sweden, because of some of the big demonstrations in October-November 1969.

Well, here is where he has been, and I was correct to surmise Sweden. I was correct. How about Denmark? So maybe it went Denmark, Oslo, Norway, Copenhagen, Denmark, Oslo, Norway, Stockholm, Sweden, and here is a new one, Helsinki, Finland.

How many nights have I stood here and said, Mr. Speaker, did he go by train or did he fly in by Aeroflot at 26 degrees below zero? Well, we finally got the word. That line, remember, in the article, gentleman, that he liked the black bread and liked riding trains? He rode the train from Helsinki. Now, this one little surmise: He probably rode the train from Oslo to Stockholm to Helsinki.

If he went into Russia from Helsinki, and I have done that by train and plane, he probably went through Leningrad. So I will bet that if we asked him, "Did you go to Leningrad," we are going to get a "yes." "What did you do in Leningrad?"

Here is the one that shocks me: I found out today he was in Czechoslovakia. I remember when Tom Hayden went to Czechoslovakia 2 years before this, and I never forgave him for this, because he never apologized for it, and Hayden is one of his friends in this article that Mr. JAMES read.

Hayden stood in Bratislava 2 years after you were shot down, SAM, I mean, Mr. JOHNSON, and said to a youth gathering of Communists, and there were some American students there, and this was when Clinton would have been a senior at Georgetown, so he had not entered this reputable crowd, and Tom Hayden said in Bratislava, Czechoslovakia, to a massive crowd, "I am a Viet Cong. We are all Viet Communists." He has never apologized for that. Fonda has given us a half apology right after she divorced him, but never Hayden. Hayden is going to the State senate in California in violation of the California State Constitution.

Mr. JAMES. Will the gentleman yield? I do not think the public realizes he is often referred to as a Rhodes scholar, but I do not think the public realizes that this Rhodes scholar never graduated from Oxford. We are not sure, or maybe you could shed some light on it. What did he do at Oxford? He did not get a degree. Could we determine if he ever took a class, or was he always on the train to Russia? I mean, I cannot say where he was. Can you, or do any of us know?

Mr. DORNAN of California. Yes, Mr. CUNNINGHAM knows, Mr. JAMES. Did you bring the book? I had the book. It is in the Cloakroom, I think. But do you have the Xerox from his book out of his own mouth, his words about not having a degree?

Mr. CUNNINGHAM. Yes. I thank the gentleman for yielding. From his own book called "The Life and Career of Bill Clinton," by Charles F. Allen, in this book, Governor Clinton himself says he regrets not finishing a degree at Oxford, and as a Rhodes scholar, he quit, and at Oxford he quit.

I had a call from a young lady yesterday that said the New York Times was going to print an article that BOB DORNAN was lying about Clinton finishing Oxford, and said that he did finish it. Right here, out of Governor Clinton's own mouth, in his own book, he says that he did not finish Oxford, and then in the next line he tries to apologize, or not to apologize, but makes a faulty statement in which he, I guess, is telling why, that he did not finish because of the Vietnam war, making an excuse for it.

Mr. DORNAN of California. Did one of you have the advance page that was Xeroxed to all of our offices anonymously from somebody probably at Newsweek of the Monday issue of Newsweek that is being delivered in the dead of night to all newsstands around the world? Does any one of you have that issue, the Newsweek article?

Mr. JAMES. If the gentleman will yield, I think this is the article that you are talking about. The same substance of it appears in the Washington Times, which makes the allegations, not the allegations, but suggests that there is a problem clearly with Bill Clinton's passport file at the State Department. That is what you are referring to? It brings up a serious issue, because apparently two pages were allegedly torn out of it when, under the Freedom of Information Act, several news publications demanded it. They got to the State Department, and found out the pages are missing. The hypothesis could be that perhaps one of his sympathizers or empathizers or supporters tore out pages that may otherwise be incriminating. The other theory being who knows, maybe it was the other side, a Republican, that tore it out, to make it look bad. But the point being is, I think, from the article that there is a big question. The FBI is investigating.

Mr. DORNAN of California. Mr. JAMES, does that page out of Newsweek have a page number on it?

Mr. JAMES. I do not see a number on this photostat copy, because I was looking for that earlier. I do not see it. Maybe you could find it.

Mr. DORNAN of California. Mr. JOHNSON says it is page 8. That is the October 12 issue, if it is coming out tomorrow, because they always date a week ahead, so they can go get Newsweek, get the Washington Times, or send to some relative in this area to get a copy. I think your mike is out, Mr. CUNNINGHAM. Grab one of the Democrat leadership mikes. Ironic touch.

I think what is happening here is all the questions we have been asking for days we now have some answers to. For example, I asked last night for about the umpteenth time who was the young student from Mississippi, a conscientious objector, that Bill Clinton claims was his best piece of writing at Oxford to get this man out of the draft? Well, that man's name is Parrish, Paul Parrish. He is a waiter in San Francisco. I do not know if his politics have changed, but we found out who he is. Maybe he has kept that letter in his scrapbook. I would like to see what Mr. Clinton says is his greatest piece of writing.

Now, the gentleman we discussed last night that some of you, that you as a prisoner, took exception to and that General Schwarzkopf really nailed on John McLaughlin's "One on One" show this morning, the man that Clinton described as the greatest American he ever knew, we have found out who that was. He said he was a draft resister. That was a man whose name I have never mentioned on this floor, although I knew it, Frank Aller. Frank Aller was the one who slept on the floor with Strobe Talbott and with Bill Clinton, because Bill Clinton is not registered at Oxford. He is not on the Oxford registry his second year, so he not only did not graduate or take exams at the end of the year, and it is a 2-year honor system, he never even registered at the school. So why should we assume he went to class? Why can we not surmise that he went back there, took the money, did not do the work, and did nothing but organize these demonstrations, and then make this grand tour, meeting with all of these American-hating radical leftists? At Oslo, the book that he is in, "Peace Eyes," which is named after Clinton's eyes seeing peace workers all around the world, he supposedly met with a hundred deserters, American deserters, who threw the uniform off, and worked their way maybe through Communist countries like Rangoon. We know that there was one route, if you defected on the battlefield. Hanoi got you up the trail, out from Hanoi, Rangoon, Moscow, into Sweden, and defected you or infiltrated you back into the United States. So this grand tour now adds Czechoslovakia.

This is stunning.

The gentleman from Texas, what are some of the letters coming to you? What are your calls like? My phone is still ringing off the hook 6 nights in a row.

Mr. JOHNSON of Texas. Yes; yes. It is ringing so much that our staff cannot catch them all, and we had a veteran from Tennessee telling us that if Mr. Clinton was elected President he was sending in all of his war medals, back, and he had a whole list of them, and I know "DUKE," Mr. CUNNINGHAM, has said the same thing.

But, you know, I am appalled, because I think it is just another chapter of deception and deceit that has characterized Mr. Clinton's life. I think we all join together in asking what in the world is going on, come clean, you know. Why did you go over there? What happened while you were there? Who paid your way? Would you not like to know some of those answers?

Mr. HUNTER. Will the gentleman yield?

Mr. DORNAN of California. That may be happening this very day. Finally one of the men who attacked me in print in the Washington Post here said, "When DORNAN speaks, nobody listens," and, well, Mr. Clinton is listening now, because his staff was briefed by him answering a series of questions that were faxed to him from some papers, I think including the Washington Times before this story came out that will be in tomorrow's story, and Clinton said he may or may not go to that meeting.

Let me finish that one thought about this greatest man he ever knew. His name is Frank Aller. He was already a fugitive from justice in this country under warrant over at Oxford. That is why he never registered either. He finally went home a year later, turned himself in to the Federal Government. They released him on his own recognizance, and he committed suicide.

General Schwarzkopf did not know this morning that the man he was discussing anonymously that he found disgusting and offensive, that, with all the young men he saw die on the battlefield and the young women under his command that died under that Scud missile, that this man held up by Clinton as the greatest man he ever knew was Frank Aller, and his floor roommate floating around Oxford that committed suicide within a year.

Yes, Mr. HUNTER.

Mr. HUNTER. A couple of questions have come up that I think are very, very important questions. Incidentally, while we have been talking, I have walked back through this very historic building.

Mr. DORNAN of California. Why do you not hand me that paper? I have yet to see it.

Mr. HUNTER. We are going to give you this paper. Maybe, SAM, you can show this to our colleague, BOB DORNAN.

You know, I just went down to the picture that is painted by John Trumbull of George Washington resigning his commission. I think it is important to reestablish why we are here tonight. We are here because we are about to do, or the American people are about to engage in something that is very serious.

☐ 0110

And that is electing not only a man who was going to be a leader with respect to the economy and domestic operations of this country, the Presidency of the United States but we are also about ready to elect a Commander in Chief. I just wanted to read to the gentleman from California [Mr. DORNAN] the standard that we are measuring Bill Clinton against. This is on December 23, 1783.

Anyone who comes to this great national capital, a few feet from where we are standing, just past the desk where Abraham Lincoln held forth in the old Congress, you can see that picture commissioned and painted by John Trumbull of George Washington resigning his commission.

When he resigned it, he stated these words: "Having now finished the work assigned me, I retire from the great theater of action and, bidding an affectionate farewell to this august body, under whose orders I have so long acted, I offer my commission and take my leave of all the employments of public life."

And he was answered: "Having defended the standard of liberty in the New World, having taught a lesson to those who inflict and to those who feel oppression, you retire from the great theater of action with the blessings of your fellow citizens, but the glories of your virtues will not terminate with your military command but will continue to animate remotest ages."

That was dated December 23, 1783. How could those people and George Washington himself have realized that here several hundreds years later that standard that he set as Commander in Chief of the Armed Forces of the United States would be one that would be utilized by the American people as a measuring standard for another candidate for that position, Bill Clinton, someone who has been found, to put it mildly, weighed in the balance and found wanting.

I think this Moscow trip just raises incredible questions. The weak answer from the Clinton campaign, that he was on a tourist trip in Moscow in the dead of winter when the wind chill factor is about 20 degrees below zero——

Mr. DORNAN of California. With 26 degrees below zero, the wind chill factor is about 40 below.

Mr. HUNTER. The wind chill factor of about 20 degrees below. This was the winter that destroyed Napoleon, and Bill Clinton set out to tour Moscow in the dead of winter? You know, according to his campaign, he just bumped into all kinds of people.

Let me just say, Mr. CUNNINGHAM, there are some real war heroes in here, and this gentleman is certainly not one of them. And please do not refer to me as anybody but a guy who showed up in Vietnam.

When Mr. CUNNINGHAM was flying over North Vietnam and SAM JOHNSON was flying over North Vietnam, Moscow was not only the place that sent the materiel and the weapons to shoot down and kill American pilots, but they also were operating those weapons for the North Vietnamese. It was not exclusively North Korean gunners who were operating those SAM sites.

So Mr. Clinton did something I think would have brought, in the days of George Washington, certainly a charge of treason. Today he is running for President of the United States and Commander in Chief of the Armed Forces.

Mr. DORNAN of California. Mr. JOHNSON, let me be sure to come back to Mr. CUNNINGHAM to explain how they trained the topgun pilots in the Air Force, and they do this against the Sino-Soviet-trained threat, that it is the training out of Moscow that he trained his young naval pilots against, not some North Vietnamese threat.

Mr. JOHNSON of Texas. Absolutely. You know, Mr. HUNTER was talking about our war over there. At that particular time that he went over there, we had already lost 40,000 Americans. They quote here in this article, I just came across it:

> Angelo Codevilla, a former Senate Intelligence official, said all travel by foreigners at that time was tightly controlled by the Communist Party organs. The Soviet Government in those days did not look at foreign travel as a casual thing. Travel in the Soviet Union was highly organized.

Western travelers were screened from reality and treated well as part of a systematic propaganda program. In totalitarian society the art of such impression management reached its fullest fruition. That is thought control, is what we call it. This is what the North Vietnamese tried to do to us. It gives you a disarming sense of obligation.

Mr. Clinton was over there. They were not bribed, but they could not help feeling that it was not nice to turn around and be harshly critical of those who showered them with kindness, who took such good care of them.

Mr. Clinton's visit, you mentioned it a while ago and we never go out with it, really, came on the heels of the 1968 Soviet invasion of Czechoslovakia, when most Western governments were condemning the first use of the so-called Brezhnev doctrine of preventing democratic reform in pro-Soviet governments.

So he was involved with them in some way. It also in here annotates that he was there a week.

Mr. HUNTER. Of course, the gentleman had credentials. Mr. Clinton had credentials to go to the Soviet Union. Mr. JOHNSON is absolutely right. He earned those credentials with the communists in Moscow by demonstrating against the United States of America in Great Britain and Oslo, Norway, and delivering coffins to our embassy and showing that he did not support the United States of America. That is how he earned those credentials. Not just anybody could go to the Soviet Union in those times.

Mr. DORNAN of California. Let me ask Mr. JAMES one thing here because he may have to go in a few minutes. You have done more trial work than anybody I have ever known as close as I have gotten to you in my life. I am trying to listen to you gentlemen. I am going to miss something here because I am trying to read this paper too. It is fascinating. The second column at the top, under the headline, "Clinton Toured Moscow," it says the Democratic Presidential candidate refused to be interviewed on the subject of his travels throughout the Soviet Union. Now that means Czechoslovakia. But instead relayed his answer through Ms. Myers. DeeDee Myers was in about the 3rd grade when he was doing this.

Now, when you have a client, as a defense trial lawyer, he is totally innocent and he or she is normal and articulate, do you always let an innocent person speak for themselves?

Mr. JAMES. If you want to find out the facts, you obviously have to talk to the source. It is not perfectly analogous, as you know, depending on the technical problem involved. But generally speaking, if you do not put your—my theory has always been that if you do not put your client on the stand and, in effect, Clinton is not going on the stand, you are willing to accept as 85 percent risk that your client is going to jail. Or higher. You look at the cases where people try that, you do not find many acquittals. It happens occasionally, but very rarely. So I assume that Clinton is willing to accept the trial in absentia, so to speak, by the jury of the American public. But if you get nothing else out of these facts that you all have brought out, no conviction, let us say, let us say the American people cannot convict him in their mind of improper conduct, I am sure some of them can, of improper conduct in relationship to being a patriot or a proper candidate—I am not talking about the specifics of the crime—but if nothing else, I think the American people should be aware and believe that he is far left of Dukakis, if you go back through the history of what he has done. The very important message—the Village Voice tells you that. They say this man is as left as he can be. He fooled you, though, with his charm and southern drawl. You assume someone with a southern drawl cannot be nearly as liberal as someone from one of the Northeastern States. But he is more liberal.

Look at the history. "Do not let me hear what he says, let us see what he does."

When he does speak so loudly I cannot hear what he says. What he has done in the last 25 years demonstrates by his friendships, his associations, and positions in the last 25 years how left he really is. That is what that article is about. It is saying, "Don't worry about Clinton, he is just trying to get elected, he is doing all these things on the liberal ledger like no one else has."

Those are his friends talking, that was not me speaking but his friends. What you have got to know is the man is going to go with the extreme liberal side of the agenda. We all have the $13 trillion debt Congressman BURTON talks about; if nothing else, you can be sure of that. We will not have $360 billion in debt; if he happens to be President, it will be 600 billion, then it will be $800 billion. It was only $400 billion in 1970 for the entire debt that this Nation had. He will have twice that, is my prediction.

☐ 0137

By the second year, he will have twice the deficit in a given year than we had in 1970, which was only $400 billion for the 200 years.

Mr. DORNAN of California. We are employees of the people. The gentleman is going back to the employer class, so keep track of us, keep doing this good work.

Mr. Speaker, I would like to ask the gentleman from California [Mr. CUNNINGHAM], when he went down to see the majority leader when the rumors were going around that they were going to suppress all these special orders to get at us, that means no tribute to the Californians, no tribute to BEVERLY BYRON, no opportunity for the retiring gentleman from Arkansas to show his beautiful young new son of Arkansas, just briefly, because if I am being threatened with censure, because

I was here when one of our Members seduced a page and he got censured. I was here when a man ran a full-service prostitution bihetero-homo out of his apartment and then was fixing tickets and he was reduced from expulsion to censure to a reprimand, so they were threatening me with more than that gentleman got, when one of the people in San Diego created heinous sexual harassment of the staff, he was moved down to something brandnew called a letter of reproval.

But they were going to censure me or suggesting it and then they were going to suppress these special orders. What happened when the gentleman went to see the majority leader? I do not want to have to go through this tomorrow night being censured.

Mr. CUNNINGHAM. First of all, the majority leader was very cordial.

Mr. DORNAN of California. He always is.

Mr. CUNNINGHAM. He was not aware of the attempt to suppress these, but he would talk to the individual who came into our cloakroom and said that he would.

He agreed that we would be allowed to put forth our special order tonight for 2 hours.

The majority leader did everything that we had asked of him, but they were in fact going to try to suppress us this evening.

I would also like to read one of these letters and tell you why this is important to me. I think it is important, to protest against a war if you believe in it and if you have not burned your draft card or you have not run away after you were drafted to another country like Canada, if you just protest against a war, I will fight to the death for the right to do that, because that is what this country is made up of; but we step across the line. In this article, the more I read it there are two things, Mr. Speaker, that I would ask the Chair to do. I ask, Mr. Speaker, first that you see the movie "Hanoi Hilton."

Second, I would ask that you read the Washington Times, because when you read it you get madder and madder.

Here is a letter I received just today on the fax machine. The phones were so busy people started faxing these things:

> I was drafted in 1967 and won a Distinguished Flying Cross in Vietnam. When I returned home, I was cursed and spat upon.

The same liberals that Mr. JAMES just got through talking about now appear to be pointed and poised to place a draft dodger into the Presidency. The same liberals.

In this article in the Washington Times it says that he, Governor Clinton, also was one of 40 student leaders from throughout the United States who attended a closed door meeting early in 1969, and that is key, at Martha's Vineyard in Massachusetts at which antiwar strategy was discussed.

In an earlier section it says from 1969 through February 1970, we lost over 1,200 Americans, and down below it says:

> The Vietnam War Memorial Committee which sponsored and coordinated anti-war, anti-American demonstrations throughout this country and Europe, there is no doubt, absolutely no doubt why Governor Clinton went to the Soviet Union after he organized these anti-war protests, not only organized them, but was a founding member of all the protects in this country, was invited by the Soviet Union.

Why is this key? Because in January 1970, this Member was flying over North Vietnam. Those same weapons, those same missiles, the same pilots in some cases by Russians that trained the Vietnamese, and the missiles, the SA-2's that came from the Soviet Union that shot down myself and the Triple-A anti-aircraft that shot down Mr. JOHNSON was being used.

There is Governor Clinton with, and in the Soviet Union during this time.

Now, I wrote a book, and I refuse to talk about it because I do not want it to appear that I am trying to push a book, but in 1973 when I just came back from Vietnam, I told in that book my disgust, absolute disgust of the Tom Hayden's, of the Jane Fonda's, of the Ramsey Clark's, of the Jerry Brown's, and the people that got us killed in Vietnam and now they are just about to put Governor Clinton in the same category and ask him to be President of this country. I cannot take that.

Mr. DORNAN of California. Here is something, reclaiming my time, that I personally resent.

AP ran what I thought was a pretty sleazy story a few weeks back, when a gentleman objected to my calling Mr. Clinton a draft dodger from this well and the papers all reported it erroneously that he stood in front of me because my time was up. That is not true. I still had 20 seconds to speak on a 1-minute speech in the morning, when he began to come over here and he arrived in front of me screaming, I mean screaming "regular order" as the gavel came down.

Now, I said, "What is your problem?" From this very lecturn this far is his face. I could have touched it.

Then I backed up. I had not seen the gentleman in weeks. He had been through serious heart surgery, which I had not known. So I thought, boy, what has happened to him? He looks terrible.

So I gave him a wide berth, circled around and went up that aisle. He followed me, and with 10 people from the Rules Committee, staff, and members waiting to talk to me, I said, "You're stuck with your candidate and his heavy baggage." And I mentioned adultery, womanizing, and draft dodging, and he went to AP and they ran a story that I called him an SOB.

By the time they got through, I was saying SOB, the words from this mike, and that I pushed him.

I went up to AP in the corner here and said, "How could you run that?"

And they went back to him and he said, "No, he never pushed me."

Rather than saying I never touched him, they said I nudged him. This is AP. They were doing a story every hour.

Finally, the ante was being upped and this colleague of ours upped the SOB to three times, added GD, the words, and upped that to three.

So now we have six offenses, and he found one witness, a press man sitting about 80 feet away up there and my back was to him, one SOB out of six charges, and I had people sign, Pages and others, that I had done nothing.

Now, I am kind of watching AP. We wanted them to be honest, being asked all over the country.

Get this. AP reporter comes to me. I know him. Pretty good man, initials A.F.

And he say, "Are you claiming he was toured around by the KGB in limousines?"

I said, no, it was one of many surmises between all this, trying to nudge them to give us answers.

A week or 10 days ago when this started, 12 days ago, I asked if he rode on the Peace Train to Paris. I did not charge it. I asked him.

Turns out he went alone. Angelo Codevilla says anybody going alone, it would cost him $500 a day, even if they got in.

Now, Rhodes Scholars, according to the five who got their degrees in the Senate and the one in this Chamber who got his degree, they were generously paid. they said, "We all had excess money."

I said, "How much did you get?"

They said, "Probably about $3,500."

In then dollars, that would be like about $18,000 now.

So maybe he had the money. He was not taking exams or studying. There are no exams. Maybe he had the money.

But now look what AP does to me today. Thank God it is run.

They say:

> Rep. Robert Dornan's unsubstantiated claim that Bill Clinton traveled to Moscow as a guest of the KGB was dismissed as a bizarre fantasy by a Clinton advisor.

I did not make it a claim.

Then they hedge:

> Dornan acknowledged he was surmising such a connection.

No, I was asking, what did he do? How many other capitals did he go to?

So now I can tell AP from this very morning interview where I straightened it out, and they still printed it wrong. I am adding Denmark, Czechoslovakia, Helsinki, Leningrad, Stockholm, Sweden, and this man is silent on all of it.

So I tell AP, "Get it straight."

It says in the interview in the Washington Post that DORNAN alleged the KGB drove him about. I did not.

I told the Washington Post reporter in the story where they quoted against me, a quitter from this Chamber, a loser from this Chamber and a person who was censured or reprimanded in this Chamber for fixing tickets and for having prostitution run out of his apartment.

Do not bring quitting and losers and perversion against me in this town and then expect people not to be livid that, are ignoring the facts.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding to me.

I think there are a couple of very important points here that the gentleman brought out.

First, most American people until the gentleman did this and worked on this expose, did not know that Mr. Clinton went to Moscow during the height of the Vietnam war shortly after he had been protesting against the United States of America in Great Britan and in Norway. People did not know this and Mr. Clinton certainly did not bring it up himself and none of his people brought it up. That was the last thing they wanted to mention.

Now, they said he went as a tourist, but he went in the dead of winter when it was at least 20 degrees below zero with wind chill. You cannot find a day in February or January or December or even late November in Moscow when it is not extremely cold; so during this very, very cold period of time, he obviously was not out sightseeing. He was people seeing.

The appropriate question to ask Mr. Clinton is, during this time when the Soviet Union was engaged in not only sending war materiel to the North Vietnamese and the Vietcong in a way in which they had killed 40,000 Americans and were to some degree participating in the manning of SAM missile sites, like the ones that shot down Mr. CUNNINGHAM and Mr. JOHNSON in that period, I ask, who did you go see in Moscow?

□ 0130

He did not go to see flowers, and dogwoods and cherry trees because it was 20 degrees below zero.

Mr. DORNAN of California. And he did not organize demonstrations with a 40 degree wind chill. He did something.

Mr. HUNTER. And I think the American people have the right to know what people Mr. Clinton made appointments with at this time when the Soviets were killing American soldiers and what did he talk to them about. That is a legitimate question that every American has a right to ask Mr. Clinton, and I have seen this statement by his campaign that says he is going to remain, quote, mum on this issue.

Mr. Speaker, I do not think the American people are going to accept mum, especially the families of people who were killed in Vietnam.

Mr. DORNAN of California. Is the gentleman getting any negative calls, and, if so, Mr. HUNTER, what are they like?

Mr. HUNTER. Certainly I am getting a lot of calls, and I have not—to date I have gotten hundreds of calls. I have not received one call in which anybody tries to defend Mr. Clinton for his activities that have been described by the gentleman from California [Mr. DORNAN], the gentleman from Texas [Mr. JOHNSON], a former POW, and by the gentleman from California [Mr. CUNNINGHAM] here on the House floor.

Nobody is proud. Even the people who are supporting to this point Mr. Clinton for the Presidency are not proud of what he did, and the young men and women, the people in hardhats who have been getting up at these rock festivals and country music festivals and having a good time with Mr. Clinton, those people are not happy. They are not calling in to defend him, and I think the message that is going out to those people, to the grassroots American people, blue collar people, is:

"This guy will party with you, but he's not going to go to war with you."

Now, to their dismay, they found out not only was he not going to war with them, but he was, in fact, going over to the people who were killing Americans, and that is the Communist leadership in the Soviet Union that all the historians now say were running the war against America during this period of time. Forty thousand Americans had been killed, and he was meeting with somebody over there, and I think he has got a duty to tell them who he met with.

Mr. DORNAN of California. Mr. Speaker, let me ask the gentleman from Texas [Mr. JOHNSON] a question.

Are you getting any negative calls or letters from Texas? Any?

Mr. JOHNSON of Texas. None.

Mr. DORNAN of California. I have gotten three. They were pretty reasonable. Embarrassed, they said. They want change.

I want change, I don't hate Mr. Bush, I can't figure out any of this. But can't we forget the past?

That is the extent of the negative calls I have gotten, and one threatened the Cloakroom that I was going to cause Mr. Clinton to be assassinated, which is pretty heavy-handed, and it sounded like it came from inside the Chamber, from the other Cloakroom.

But the gentleman was a prisoner for 7 years. I asked him: When you were a prisoner for 7 years, when you were alone eating dishwater and an occasional eyeball or a piece of fat off of a pig while they were eating better food in front of you, was there any doubt in your mind, in spite of the patch the Army guys wore that showed the sort of truth piercing the wall of China, and everybody who is a historian acknowledge that patch was wrong. China played a role in the antiaircraft defense, but Russia, the Soviet empire, the Evil Empire, ran that war. Was there any doubt in your mind that the Soviet Union ran that war? Logistically and training-wise?

Mr. JOHNSON of Texas. There was absolutely none that they were supplying, and, as the gentleman knows, I remember when they started firing all their missiles at our B-52's, which they shot down a bunch of——

Mr. DORNAN of California. Seventeen.

Mr. JOHNSON of Texas. Yes, we watched them. They ran out of missiles in the Soviet Union, as I recall. They would not give them any more, so they had to be careful about how they fired them out of there.

Mr. DORNAN of California. You know what? When the people say we lost the war, I just have to go over what the gentleman just said. At the end they were salvoing their missiles; in other words, just squirting them up in the air hoping they would hit one of these giant five-man crews, six-man crews, eight-engine bombers. These bombers, 17 of them, three crashed back in Thailand on the way home. Fourteen right over their targets. When they have salvoed all their missiles, the war was over, and the Soviet Union realized that this was—and people call it Christmas bombs. We did not bomb on Christmas Day. It was 18 days of bombing from the 11th to the 29th, and the war was over the 27th of January, and Nixon says to this day, "If I had done that 3 days—3 years earlier, we would have probably ended the war then, maybe with better results, maybe with no Watergate," and, if he had done it then, we would not have had another 7,000 people die in combat.

Mr. CUNNNGHAM. I would like to make a comment on that same issue, that we had a mission over Hanoi and had over 300 SAM missiles fired at us. After President Nixon mined the harbor, we went back over the same area, so we lauded President Nixon's mining of the harbors because for us, the people that had to fly over those sites, it meant survivability.

I have a letter here. It says although he did not request it, I plan to pass out 1,000 flyers in shopping centers around Sacramento today at 6 p.m. I am proud and impressed with what you are doing and want to do my part. this is no longer a political issue, but a patriotic issue.

The lady also states in here she was impressed when Governor Clinton said that he was not happy with having to eat black bread in Moscow, and then the gentleman from Texas [Mr. JOHNSON] who was a prisoner since 1965, a prisoner from 1965, and Clinton in Moscow in 1970, SAM JOHNSON made the statement, "I wish I had a piece of black bread to eat at that time."

I would also like to tell why this is important to me, and in this same article are these facts. The young lady, Becky Cardin, asked me to go back and relate the same story that I did about the prisoner of war that knitted an American flag on the inside of his shirt. He was brutally beaten, and then left to die, and crawled back and started taking bits of that American flag and reknitting an American flag, and I will not do that. I do not think I can get through it, just like I did not last time.

But there is something else that I think is important: The same day that I was shot down Commander Blackburn was the XO of VF–92. He was shot down with his back seater named Steve Rudloff. Steve came back with the rest of the prisoners, but Commander Blackburn did not. Commander Blackburn works at Powaway Honda, and he used to call and say, "DUKE, can you tell me about my dad?" Same question, same answers, but he wanted to know about his father.

Now about 2 years ago, 2½ years ago, they brought his father's remains back. Now his son did not want to see his father come back like that, but it was like a 1,000-pound weight has been lifted off that kid's back, and, when we have men that were in my opinion directly responsible for these people losing their lives, for the antiwar protests, and I mentioned the other night when Jane Fonda and Tom Hayden were there we were not able to hit those SAM sites, and they were able to reload those SAM sites, and our guys got killed going in and hitting those same SAM sites. So, I directly attribute those lives lost to Tom Hayden and Jane Fonda and to when Bill Clinton goes to Moscow at the same time that this Member is getting shot at over North Vietnam. That becomes very, very personal, and again this is not because it is political for me. It is something I wrote about in 1973, and it is well documented, and I would like to yield back.

Mr. DORNAN of California. Well, as my colleagues know, there is a mistake. These are fine young reporters, but they will make mistakes.

In this top column on page 8 of the Washington Times it says, "Clinton Visit Fit Kremlin's Tailored for Tourist Model," and at the beginning of the second column it says heavy bombing of North Vietnam was also under way. That is not so. They only bombed 1 month with B–52's, December 1972.

Mr. CUNNINGHAM. Will the gentleman yield just for a short period of time?

I think it is important because again why we are here is the American people do not have the facts. Here they are in the Washington Times, after the gentleman from California, after tireless hours, has brought this forth. The gentleman from Maine that is also sitting here again tonight shepherded through our special order.

Mr. DORNAN of California. The gentleman from the State of Washington.

Mr. CUNNINGHAM. Excuse me, the gentleman from Washington, and in Oliver Stone's view of what the American fighting man was doing he mentioned they were cutting off their fingers, and shooting themselves in the foot to protest. I think that is an insult to the men and the women that fought valiantly in Vietnam and especially to those members whose names are on the Wall, and the Clinton campaign and the other side of the aisle that wants to see Governor Clinton as President, it is upsetting them, and rightfully so. I would be upset because the true facts, the documented facts, are here, and they are going to attempt to say that this is a charade.

☐ 0140

But it is all documented, and here it is in the Washington Times.

Mr. DORNAN of California. I discovered another fact this morning that is worth mentioning. Eugene McCarthy, who conducted himself honorably in his war opposition—yes, Mr. Speaker?

The SPEAKER pro tempore (Mr. ESPY). The time of the gentleman has expired.

PARLIAMENTARY INQUIRY

Mr. JOHNSON of Texas. Mr. Speaker, in view of the fact that we were kind of in agreement here on additional time, I respectfully ask unanimous consent to address the House for—and I will negotiate the time with you—since we asked for 2 hours earlier, I think we can get by with 15 minutes more.

Mr. DORNAN of California. I think so.

The SPEAKER pro tempore. The Chair has been attempting to extend time to the Members which has been agreed to under a previous order of the House. That being the case, the time of the gentleman from California [Mr. DORNAN] has expired. The Chair would then attempt to go down the list of names of Members who have already been extended time.

PARLIAMENTARY INQUIRY

Mr. CUNNINGHAM. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CUNNINGHAM. This Member approached the senior Member on the other side of the aisle and made a deal with him that we would get 2 consecutive hours, because the idea was we were not going to spend all night here. The word of the majority leader, we were supposed to complete 2 hours.

We are not asking for the 2 hours, but 1 hour and 15 minutes. This same Member went to the head of the Committee on Rules, Mr. SOLOMON, and told him and he gave him his word also that we would be allowed to proceed if we did not do an all-nighter. That was the agreement.

Now, we realize that the membership is tired here and we are willing to cut that hour to 15 more minutes. I think under that agreement that we should be allowed to proceed with the 15 minutes.

The SPEAKER pro tempore. Let the Chair first ask is there objection to the request of the gentleman from Texas that he be allowed 15 minutes more under the previous special order?

Mr. McDERMOTT. Mr. Speaker, reserving the right to object, the question I think needs to be answered by the Chair, what is the regular order?

The SPEAKER pro tempore. The regular order is that the Chair will read in sequence the names of the Members who have been allowed under previous order 60 minutes for special order time.

Mr. DORNAN of California. Mr. Speaker, is Mr. HUNTER on that list?

The SPEAKER pro tempore. The Chair will state to the gentleman that the name of the gentleman from California [Mr. HUNTER] is on the list which falls after the time allowed for the gentleman from Washington [Mr. McDERMOTT].

Mr. DORNAN of California. What I was suggesting is, if the gentleman from California [Mr. HUNTER] would be willing to waive his 1 hour completely, the gentleman from Texas [Mr. JOHNSON] would not wait until the end of all special orders for another hour. If the gentleman from Washington [Mr. McDERMOTT] will let us finish in just 15 minutes, then he could take an hour or whatever he wanted. Is that amenable to all parties?

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas [Mr. JOHNSON]?

Mr. McDERMOTT. Mr. Speaker, do I understand that the offer is the gentleman from California [Mr. HUNTER] will not take his hour, he will take 15 minutes and that will be the end?

Mr. DORNAN of California. That is it.

Mr. McDERMOTT. I withdraw my objection.

WAR AND POLITICS

The SPEAKER pro tempore. The gentleman from Texas [Mr. JOHNSON] is recognized for 15 minutes.

Mr. JOHNSON of Texas. I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I just have two more facts out of the myriad facts I have been trying to get in here, mostly questions.

Eugene McCarthy, the Senator from the great State of Minnesota, served 10 years in this Chamber honorably and 12 years in the U.S. Senate. He voted for the Tonkin Gulf resolution and felt the war was going nowhere. He understood as a Roman Catholic the Catholics were in great jeopardy, about 10 or 20 percent of the people in Vietnam, but turned against the best and brightest of his own party, threw up his hands, and said, "We just have to pull out. There seems to be no political plan under my party to win this."

When Mr. Nixon prevailed over the former Vice President, prevailed over another honorable Democrat, Mr. Humphrey, who had been a loyal Democrat to President Johnson and described most negotiations as letting the fox into the chicken coop, and was a hard anti-Communist on this, when Mr. Nixon prevailed he had been in office 9 months when these massive demonstrations started in this country.

Mr. Clinton was here organizing them. He belonged to something called the Group of 68, which met up at Martha's Vineyard. This is all going to come out. He said in an article read to me from Arkansas that he only went to two demonstrations to hear speeches and never did anything to be ashamed of, and that was it.

Wrong. He was up to his neck with this Group of 68, meaning the class of 1968 of Oxford scholars, and he was organizing all over the world, it appears, at least Europe, the Continent, England, and here, and coordinating his events here and then traveling over to Great Britain to coordinate them in Grosvenor Square.

We see the letters turning up in letters to the editor describing these as some of the most ugly anti-American demonstrations ever in Grosvenor Square, made extremely offensively ugly by American privileged students over there.

Eugene McCarthy arrived in Moscow—listen to this—on the 11th of January, 1970.

Now, I am not claiming and I do not want AP to report that or the Washington Post. I am asking Bill Clinton, who was for Mr. McCarthy when he was a student at Georgetown before he was for Mr. McGovern, did he leave Moscow within hours before the arrival of Senator Eugene McCarthy, who had less than 1 year to serve in office? I am just asking. Or would he have stayed a few more days, on what money, housed by whom, being supplied transportation by whom?

Remember I said the other night, ride the subway? I said that before I said he might have been in limousines. Did he stay to meet Eugene McCarthy?

I will give one warning to Mr. Clinton and his camp, Mr. Speaker, through the chair. Senator Eugene McCarthy is well and will tell the truth, as he always has.

So let me turn it back to Mr. JOHNSON and my two gentlemen. I am through tonight. I will finish tomorrow night.

Please, gentlemen, wrap it up.

Mr. HUNTER. I thank the gentleman for yielding. I just want to make a short summary of my thoughts about this.

I think that if you were a private, a nurse, a corporal, a sergeant, an officer, or had anybody who served in the Armed Forces of the United States in your family during the Vietnam war or during other wars, you are about to engage in a very, very serious decision in the Presidential election of November 2, which is just a few weeks away.

If we elect Bill Clinton, a man who went to Moscow while the Communist leaders in Moscow were aiding, in fact running the war effort against Americans, and had killed 40,000 Americans in Vietnam, then the status of veterans will never again mean what it has meant for over 200 years since the man who was there on the wall, George Washington, became our first Commander in Chief.

I guess what I am saying to my friend from Orange County and my friend, the great SAM JOHNSON, the POW from Texas, and DUKE CUNNINGHAM, my seat mate in San Diego, is to ask the American people to think very long and very deep about this, and ask a very legitimate question of Mr. Clinton, who does not want to talk about who he met with in the dead of winter when he went to Moscow while they were killing Americans in Vietnam. Who did you meet with? Did you meet with leaders of the Communist party? And what did you talk about.

I thank the gentleman for yielding to me, and I would like to ask my friend from San Diego, Mr. CUNNINGHAM, what his thoughts are.

Mr. CUNNINGHAM. It is a matter of credibility. Governor Clinton has stated that he did not have any antiwar protests, or did not complete any. I would also like, Mr. Speaker, to enter into the RECORD all of the words concerning Mr. Clinton in the Times article dated October 5, 1992. I would like to read this, because this is an issue of credibility.

> Mr. Clinton has said and told Arkansas voters for nearly a decade that while he was opposed to the Vietnam War, he was only an observer in antiwar protests during his days at Georgetown University in Washington and at Oxford. He said he never did anything with regard to antiwar demonstrations for which he would be ashamed. A variety of sources now reveal that Mr. Clinton was actively involved in the protest movement as both a participant and as an organizer in at least three countries, the United States, Great Britain, and another.

Now, here is a man that is running for President of the United States and once again has been caught in—I cannot use the word, so I believe, Mr. Speaker, the correct way is to say an untruth.

□ 0150

It is right here in this document, and what will he do in the future if he is the President of the United States with the same type of untruths? Can we allow a man with this kind of a record as President of the United States? God help us.

Mr. DORNAN of California. Mr. CUNNINGHAM, turn over to him the reins of the Government, putting aside a man who brought together 28 nations in unbelievable and universally acclaimed coalition to free a small Nation of Kuwait, and there are going to be problems coming up before us, given the state of the world, starvation in many areas, AIDS going to kill 100 million people in Africa. We need someone with a steady hand, a person of character and principle.

Mr. JOHNSON of Texas. Mr. Speaker, there is a letter here from a LTC Robert Keleher from Springfield, VA, which says, Governor Clinton stated he went to England in 1969 to organize demonstrations. He was stationed in London then and witnessed those demonstrations. One unusually large one disturbed him greatly because of the egregious conduct of some of his fellow citizens. A sea of angry people gathered in Grosvenor Square in front of our Embassy, "vitriolic speeches, soiled flags and effigies."

Now, that is not American. And I read further in another article that the bobbies over there kept their decorum and handled the situation absolutely straight up, without ever raising an arm against any of them. I am afraid they might not have been treated as well in this country, but he says,

> It was especially hard to suffer the slander about our country and the noble members of our armed forces. The odious activities by my countrymen that day seemed to approach equivalence with the constitutional definition of treason. Today it is possible to believe that Mr. Clinton had something to do with organizing that demonstration.

I think that it is time to help Americans assess the trustworthiness of this man. "His jousting with the Selective Service System, however shameful, is not as important as this aspect of his character. For those who would discount the relevance of his behavior in 1969 to his character today, I say, 'The child is father of the man,' the source of which will be known by any Oxonian. Once we were scorned and thought loathsome by Mr. Clinton. Now we are courted and asked to help him become our Commander in Chief." This gentleman says no.

Mr. DORNAN of California. That is a military veteran?

Mr. JOHNSON of Texas. Speaking about the times over there and how much our country was helping us to come back home, especially as I lay in solitary confinement, I remember a psalm that says, "Then I lay down and slept in peace and woke up safely for the Lord was watching over me." And I have to tell you, I think the Lord is watching over America and I hope all Americans will take a look at this election objectively and dig deep into what the backgrounds of all the candidates are and vote accordingly.

Mr. CUNNINGHAM. Mr. Speaker, I would ask you to take a look at those that would argue against what my friend from California is doing and look at the facts themselves and make the judgment.

Last night it said that we are not the sole proprietors of what went on over there, and I agree. And I would ask you and the American people to take a look at the facts, as they are presented, documented facts, and make up your own decision.

Mr. Speaker, I include for the RECORD copies of articles from the Washington Times.

CLINTON TOURED MOSCOW AT WAR'S PEAK

(By Jerry Seper and George Archibald)

Six weeks after he helped organize a massive anti-war, anti-U.S. protest in London, Bill Clinton quietly turned up in the Soviet Union for a visit during the dead of winter and at the height of the Vietnam War.

The unusual trip, according to Clinton campaign officials, occurred while Mr. Clinton was on vacation from Oxford University, which he was attending on a Rhodes Scholarship, and included a week's stay in Moscow as a tourist.

Clinton campaign spokeswoman Dee Dee Myers, responding yesterday to a series of questions from The Washington Times, declined to identify whom Mr. Clinton met with while visiting Moscow other than to say, "He bumped into all kinds of people . . . but he did not do any anti-war organizing while there."

The Democratic presidential candidate refused to be interviewed on the subject of his travels through the Soviet Union but instead relayed his answers through Miss Myers.

Rep. Robert K. Dornan and three of his Republican colleagues have sharply criticized the Moscow trip during eight nights of speeches on the empty House floor that were televised nationwide on C-SPAN, saying there are many "unanswered questions" about why, when and where Mr. Clinton went.

The conservative California Republican has suggested that the former anti-war activist and draft evader may have been duped by Soviet intelligence officials.

The Bush administration has been silent on the Dornan challenge, which reportedly has drawn nightly television audiences of about a million people, and has prompted at least one placard at a Clinton campaign stop and countless calls to Capitol Hill, the media and talk radio shows.

Yesterday, however, Bush/Quayle '92 campaign spokeswoman Torie Clarke said: "It is yet another chapter of deception and deceit that has characterized his life. We would join in the chorus of people asking Bill Clinton to come clean on his draft status and anti-war activities."

Despite Mr. Clinton's claims to the contrary, recent statements, newly discovered letters and accounts by longtime friends and associates show that he was actively involved in the anti-war movement as both a participant and an organizer in at least three countries.

Asked if public knowledge of Mr. Clinton's anti-war activities would hurt him at the polls, Miss Myers said yesterday she didn't know. "There hasn't been a national candidate who grew up in that generation until Bill Clinton, so we're seeing it played out for the first time," she said.

"The Republicans want to refight the Vietnam War because they think it's a way to grab that wedge issue back with the American people, and it's our strong sense that they want to move beyond the Vietnam War and the shallow rhetoric," Miss Myers said.

The spotlight on the candidate's trip to Moscow, she said, is a "smear campaign pure and simple. . . . It has nothing to do with the real issues in the campaign."

According to Miss Myers, Mr. Clinton toured Europe during a vacation from Oxford. She said he rode alone by train from Helsinki, Finland, and went through Leningrad before arriving in Moscow on New Year's Eve 1969.

Moscow was the only Soviet city Mr. Clinton spent time in, and he visited the usual tourist attractions, Miss Myers said. "He was a tourist. He was a student traveling on a break. He paid for it himself," she said.

"He had a 40-day break in the winter of 1969–1970," Miss Myers said. "In that period, he took a trip through northern Germany, Scandinavia, and Soviet Union—Moscow actually—and then went to Prague."

Former U.S., Soviet and British intelligence officials who worked during the period in question said in interviews that Mr. Clinton's explanation raised questions in their minds.

A British Soviet specialist who advises defense and intelligence agencies in England and the United States and the Soviets made solo trips to Moscow by foreigners prohibitively expensive by requiring visitors to stay at first class hotels and hire KGB-controlled Intourist guides so they could be closely supervised.

Angelo Codevilla, an intelligence specialist with the Hoover Institution at Stanford and former Republican Senate Intelligence Committee staff member, said foreign visitors in 1969 and 1970 were under close scrutiny by KGB security police.

"If Bill Clinton's travel was not supervised and arranged by the Communist Party of the Soviet Union, his was the only one," Mr. Codevilla said.

He said all travelers were treated as part of a major government propaganda effort, and Intourist, the Soviet travel agency, made sure that visits would "somehow benefit the Communist Party."

A top official in Britain's MI5 intelligence at the time said Mr. Clinton "fit the profile perfectly" of someone the Soviets might want to cultivate and recruit as an "agent of influence."

"He was articulate, attractive, popular, an American Rhodes scholar opposed to the war—just the person the Soviets went for," said the official.

A former Soviet official who took part in efforts to influence Western public opinion against the Vietnam War said liberal anti-war activists, such as Mr. Clinton, would have been of great interest to Moscow.

Through various "friendship committees" and fraternal groups, the Communist Party tried to lure liberal Westerners to the country who could be used knowingly or unknowingly in anti-Vietnam War propaganda efforts, said the former official, who declined to be named.

Paul Mercer, author of "Peace of the Dead," which documents Soviet ties to British and European peace organizations in the 1970s and 1980s, echoed this assessment.

"He might have been relatively innocent, opposed to the war, but because he was a Rhodes scholar at Oxford, they [the Soviets] might have been trying to cultivate him," Mr. Mercer said.

The Times has been unable to determine thus far whether information about Mr. Clinton's visit is contained in recently opened Soviet archives.

In a June 12, 1989, article in the Arkansas Gazette, Mr. Clinton first acknowledged he had visited the Soviet Union "in the early '70s" and described the period as a time of "good relations between our two countries."

Rep. Sam Johnson, Texas Republican, remembers the time differently. A POW in Hanoi during Mr. Clinton's visit to Moscow, he said the Soviet Union was actively supplying the North Vietnamese with weaponry and training.

He and Reps. Randy "Duke" Cunningham and Duncan Hunter, both California Republicans, have joined Mr. Dornan on the House floor calling for further explanations by Mr. Clinton of the Moscow trip and his anti-war activities.

Mr. Clinton was studying for a bachelor of philosophy in politics at Oxford at the time but never got his degree because he did not sit for exams or write a required 30,000-word thesis after being at the university for two years, according to Georgina Ferry, the university's press spokeswoman.

Oxford officials have clamped a lid of secrecy on Mr. Clinton's academic and travel records, including information about his trips to other countries and cities. Miss Ferry said the records are confidential.

Mr. Clinton has told Arkansas voters for nearly a decade that while he was opposed to the Vietnam War, he was only an observer in anti-war protests during his days at Georgetown University in Washington and at Oxford.

He told the (Little Rock) Arkansas Gazette in October 1978, for example, that he attended only two protest marches and did so only to listen to the speeches. He said he never did anything with regard to anti-war demonstrations for which he would be "ashamed."

A variety of sources now reveal that Mr. Clinton was actively involved in the protest movement as both a participant and an organizer in at least three countries—the United States, Great Britain and Norway.

He also was one of 40 student leaders from throughout the United States who attended a closed-door meeting in early-1969 in Martha's Vineyard, Mass., during which anti-war strategy was discussed and nationwide marches and protests were planned.

The Massachusetts meeting is described in a new pro-Clinton book, "Bill Clinton: The Inside Story," by Robert E. Levin, a Wall Street investment broker and author who concluded in the book that Mr. Clinton "has what it takes" to be president.

Mr. Levin said Mr. Clinton attended the weekend retreat shortly after he had begun to actively participate in the anti-war movement—"even helping to organize rallies and protests."

Federal authorities said it was the Massachusetts meeting that led to the creation of the Vietnam Moratorium Committee, which sponsored the coordinated anti-war and anti-American demonstrations throughout this country and Europe.

The Moratorium Committee, along with the New Mobilization Committee to End the War in Vietnam, were the major coordinators of the nation's largest anti-war demonstration in Washington on Nov. 15, 1969.

The Moratorium Committee also was the primary organizer of Oct. 15, 1969, marches in the District, Illinois, Michigan, Indiana, California, New Jersey, New York, South Dakota, Kentucky, Massachusetts, Wisconsin, Connecticut, Pennsylvania, Minnestoa, Maine, Louisiana, Tennessee and Florida.

Hanoi radio publicly praised the October marches, saying the protests reflected the American people's desire to "save their sons from a useless death in Vietnam."

Mr. Clinton had returned to Oxford in the fall of 1969 and did not attend the November Washington protest.

But David Mixner, a founder of the Moratorium Committee, has credited Mr. Clinton with helping to put the protest together and has recognized him as a major player in the protest movement.

In the book "Bill Clinton: The Inside Story," Mr. Mixner is quoted as saying Mr. Clinton "volunteered his time and efforts to assist us in preparing for" the Washington protest and in anti-war protests in "hundreds of cities and towns around the country."

It was Mr. Clinton and others who organized a March of Death on the U.S. Embassy in London in November 1969. During that march, about 1,200 protestors demonstrated against the war at the U.S. Embassy and later held a torchlight vigil. Many of the protestors wore black robes and painted their faces white.

The London demonstration was praised by the New China News Agency, the official North Vietnamese newspaper Nhan Dan and the then-Soviet Communist Party newspaper Pravda.

"He [Mr. Clinton] didn't break the law, but he was pushing the police and the legalities as far as he could," said the Rev. Richard McSorley, head of the Center for Peace Studies at Georgetown University. "He was one of the main organizers of the American Embassy protest in 1969."

Literature announcing the march and inviting attendance said Vietnamese citizens were being "massacred" by U.S. troops and that the Communist Provisional Revolutionary Government was the "legitimate government of South Vietnam." It described U.S. policy in Vietnam as "bankrupt."

During the London demonstration, Father McSorley said Mr. Clinton joined protestors carrying a coffin with a cardboard effigy containing the name of a dead American soldier. Later, when U.S. officials refused to receive the coffin, he said it was Mr. Clinton who negotiated with police to persuade them to get it inside the embassy compound.

In his 1969 book "Peace eyes," Father McSorley also described their trip to Oslo, Norway, saying the two visited with conscientious objectors and attended a prayer service the day after the London demonstration. he said he and Mr. Clinton also met leaders of the International Peace Bureau and the Campaign for Nuclear Disarmament. Both organizations had officers at the time who also served with the World Peace Council.

Federal authorities have said the World Peace Council's principal activity in 1969 and 1970 was to organize worldwide propaganda campaigns, coordinated on a regional basis by national peace committees. The British Peace Council is a subsidiary of the World Peace Council.

According to a 1980 report by the Senate Permanent Select Committee on Intelligence, the World Peace Council was a communist KGB front organization that had received about $50 million from the Soviet union to support Soviet national defense and international military objectives. One of its major goals, according to the report, was to support worldwide anti-Vietnam War campaigns.

Mr. JOHNSON of Texas. Mr. Speaker, God bless America.

CONFERENCE REPORT ON H.R. 5368

Mr. OBEY submitted the following conference report and statement on the bill (H.R. 5368) making appropriations for the Foreign Operations, Export Financing, and Related Programs for the fiscal year ending September 30, 1993, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-1011)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5368) making appropriations for the Foreign Operations, Export Financing, and Related Programs for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 15, 34, 44, 50, 54, 62, 64, 71, 73, 76, 77, 81, 93, 94, 96, 97, 98, 99, 100, 104, 105, 121, 125, 150, 151, 155, 161, 162, 163, 166, and 170.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 7, 17, 19, 20, 23, 24, 25, 26, 27, 32, 35, 36, 40, 45, 46, 48, 49, 52, 53, 58, 59, 60, 63, 65, 70, 74, 75, 80, 82, 85, 88, 89, 90, 91, 92, 103, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 117, 119, 120, 122, 124, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 169, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environmental Facility (GEF), $30,000,000, to remain available until expended: Provided, That such funds shall be available to the Facility by the Secretary of the Treasury if the Secretary determines (and so reports to the Committees on Appropriations) that the Facility has: (1) established clear procedures ensuring public availability of documentary information on all Facility projects and associated projects of the Facility implementing agencies; (2) established clear procedures ensuring that affected peoples in recipient countries are consulted on all aspects of identification, preparation, and implementation of Facility projects; and (3) the Facility governance process will provide for contributor country oversight of individual projects in the work program, and specific provisions will be established for the participation of nongovernmental organizations in all phases of the project cycle, including identification, appraisal, implementation, and evaluation: Provided further, That in the event the Secretary of the Treasury has not made such determinations by September 30, 1993, funds appropriated under this heading for the GEF shall be transferred to the Agency for International Development and used for activities associated with the GEF and the Global Warming Initiative.

The Secretary of the Treasury is authorized to contribute on behalf of the United States $50,000,000 to the Global Environment Facility of the International Bank for Reconstruction and Development.

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, insert: *: Provided further, That in order to pay for the subscription authorized in section 14 of the International Finance Corporation Act, there are authorized to be appropriated, without fiscal year limitation, an additional $200,000,000 for payment by the Secretary of the Treasury*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$90,000,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *: Provided, That the Secretary of the Treasury shall use the voice and vote of the United States in the Donors Committee to seek that one-third of the total amount contributed by donors to the Fund be used for the Human Resources Facility of the Fund: Provided further, That the Secretary of the Treasury shall use the voice and vote of the United States in the Donors Committee to require that, to be eligible for disbursements of assistance from the Fund, a country must have a government that is democratically elected, does not harbor or sponsor international terrorists, cooperates with the United States in narcotics matters, and is not engaged in a consistent pattern of gross violations of human rights by its instrumentalities including its military and security forces: Provided further, That the Secretary of the Treasury shall instruct the United States Executive Director to the Inter-American Development Bank to vote against funding for any project of the Multilateral Investment Fund if such project is likely to cause a loss of jobs within the United States*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert: *: Provided further, That for payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $12,500,000, to remain available until expended: Provided further, That in order to pay for the increase in the United States subscription to the Bank provided for in section 30 of the Asian Development Bank Act, there are authorized to be appropriated, without fiscal year limitation, an additional $212,000,000 for payment by the Secretary of the Treasury*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

Delete the matter stricken and on page 6, line 9 of the House engrossed bill, H.R. 5368, delete "$75,000,000" and insert in lieu thereof: *$62,500,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows;

Delete the matter stricken by said amendment and on page 6, line 22 of the House engrossed bill, H.R. 5368, strike "$186,984,240" and insert in lieu thereof: *$278,518,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said, amendment, insert: : *Provided, That in order to pay for the United States contribution provided for in section 216 of the African Development Bank Act, there are authorized to be appropriated, without fiscal year limitation, an additional $270,000,000 for payment by the Secretary of the Treasury*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

Restor the matter stricken by said amendment, amended as follows:

In lieu of "$68,986,000" named in said amendment, insert: *$60,000,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of "$160,966,000" named in said amendment, insert: *$140,000,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

INTERNATIONAL MONETARY FUND

There is appropriated for an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 8,608.5 million Special Drawing Rights, to remain available until expended and, among other uses, such funds may be used to promote efforts by the International Monetary Fund to support monetary stability in member countries through the instrumentality of currency boards.

And the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *of which not less than $2,500,000 shall be made available for the AIDS Program from within funds made available to the United Nations Development Program;*

And on page 8, line 1, of the House engrossed bill, H.R. 5368, after the word "Program" delete the semicolon ; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$34,000,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(h) not less than $20,000,000 shall be made available for the International Student Exchange Program (for the Cooperative Association of States for Scholarships, and the East Central European Scholarship Program), of which $3,000,000 shall be available, notwithstanding any other provision of law, for students from Poland, Hungary, and Czechoslovakia;

And the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

After the words "Bosnia-Hercegovina" named in said amendment, insert: , *Croatia*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$800,000 only shall*

And on page 14, line 8 of the House engrossed bill, H.R. 5368, delete: "up to"; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

Delete the matter proposed by said amendment and on page 14, line 11, of the House engrossed bill, H.R. 5368, delete all after "such office" down to and including "United Nations" on page 15, line 22.

And the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$3,500,000 only of the funds appropriated under this heading shall*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *: Provided further, That up to $15,000,000 of the funds appropriated under this heading shall be transferred to "International Organizations and Programs" and shall be made available only for the International Fund for Agricultural Development's Special Programs for Sub-Saharan African Countries Affected by Drought and Desertification: Provided further, That such funds shall be transferred and made available pursuant to the previous proviso only if, by June 30, 1994, contributions by donors (including the proposed United States contribution) are sufficient to allow the agreement on the second replenishment of the Special Programme to come into force: Provided further, That up to $5,000,000 of the funds appropriated under this heading may be made available for rural electrification in Sub-Saharan Africa*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That not less than $25,000,000 of the funds appropriated under this heading shall be made available for Somalia: Provided further, That funds appropriated under this heading may be used for other activities for sub-Saharan Africa consistent with the purposes of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 in the event that such funds are no longer needed for disaster relief, rehabilitation, and reconstruction purposes: Provided further, That in the event that circumstances make unlikely the effective use of any of the funds earmarked under this heading for Somalia, such funds may be used for assistance for other sub-Saharan African countries for any of the purposes contained in this paragraph*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert:

ASSISTANCE FOR DISPLACED BURMESE

Of the funds appropriated under the heading "Economic Support Fund", not less than $1,000,000 shall be made available, notwithstanding any other provision of law, for assistance for Burmese, including students, who are displaced as a result of civil conflict and who are living in Burma or Thailand.

And the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$1,000,000 shall be available for Appropriate Technology International: Provided,*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$4,057,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of "$118,574,000" named in said amendment, insert: *$81,319,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$30,000,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$48,965,000*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$39,316,000*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of "$95,000,000" named in said amendment, insert: *$150,000,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of "$100,000,000" named in said amendment, insert: *$50,000,000* ; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,670,000,000* ; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, that not less than the equivalent of $15,000,000 of local currencies generated by programs under this heading for Egypt shall be made available for projects and programs which promote the preservation and restoration of Egyptian antiquities* ; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That not less than $20,000,000 of the funds appropriated under this heading shall be made available for Morocco and not less than $125,000,000 of the funds appropriated under this heading shall be made available for Turkey* ; and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $400,000,000, to remain available until expended, which shall be available, notwithstanding any other provision of law, for economic assistance for Eastern Europe and the Baltic States.

(b) In the allocation of funds appropriated under this heading, and in coordination with host country governments, priority shall be given to the following sectors: (1) private sector development, including support for Enterprise Funds, (2) technical assistance and training, (3) domestic pluralism and the rule of law, (4) environment and energy, (5) agriculture and agribusiness, (6) housing, with an emphasis on technical assistance and training for the development of market-oriented housing policies.

(c) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(d) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(e) By January 15, 1993, the President shall submit a report to the Committees on Appropriations containing the amount of funds obligated and expended for each project and sub-project funded from amounts appropriated for Eastern Europe and the Baltic States under this heading: Provided, That an update of this report shall be submitted by the President by August 15, 1993, to the Committee on Appropriations.

(f) In order to promote the effectiveness of assistance made available under this heading, to improve program and project planning, coordination, and implementation, and to ensure that the assistance priorities of the host countries of Eastern Europe and the Baltic States are given appropriate consideration in the formulation and implementation of assistance activities funded under this heading—

(1) under the general direction of the President's Coordinator for United States Assistance to Eastern Europe and under the guidance of the Ambassador in each respective country in Eastern Europe and the Baltic States, the principal officer of the Agency for International Development (AID) in each such country—

(A) shall have primary responsibility, to the maximum extent practicable, for the day-to-day implementation of the assistance program and for identifying and making recommendations for potential AID programs and projects in such country including, to the extent practicable, the authority to concur in planning documents, project and program proposals, significant contract documents and contractor selection;

(B) shall identify and make recommendations for potential AID programs and projects to the maximum extent practicable in consultation with host country government representatives, and shall ensure the appropriate involvement of such officials in the implementation of AID programs and projects;

(C) shall be responsible for coordinating the implementation in the field of the overall activities of all United States Government agencies in Eastern Europe and the Baltic States carrying out assistance programs and projects using funds appropriated under this heading;

(2) not later than December 1, 1992, the Agency for International Development shall issue such delegations of authority or other internal guidance in order to give effect to the provisions contained in paragraph (1) of this subsection;

(3) of the funds appropriated under this heading, not less than 65 percent shall be made available for country-specific activities within bilateral, regional or multilateral programs, except as provided through the regular notification procedures of the Committees on Appropriations. The Agency for International Development shall consult periodically with the Committees on Appropriations concerning the availability of funds for countries in Eastern Europe and the Baltic States. The Agency for International Development Congressional Presentation Document for fiscal year 1994 shall include projected or estimated resources planned for Eastern Europe and the Baltic States on a country-by-country and on a regional basis, to the extent known at the time such document is prepared. Amounts planned or projected for regional programs should not exceed 50 percent of the entire program for Eastern Europe and the Baltic States.

And the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment,

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) FUNDING.—For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for economic assistance for the new independent states of the former Soviet Union, $417,000,000, to remain available until expended.

(b) TYPES OF ASSISTANCE.—

(1) Of the funds appropriated under this heading, not less than $50,000,000 shall be made available for scholarship programs bringing people of the new independent states of the former Soviet Union to the United States for a broad spectrum of study, training, exchange, internship and similar programs.

(2) Of the funds appropriated under this heading, not less than 75 percent shall be made available for activities consistent with the purposes of sections 103 through 106 of the Foreign Assistance Act of 1961.

(3) Funds appropriated under this heading shall be used for the establishment of a comprehensive program for enhancing environmental management and sustainable economic development in the new independent states of the former Soviet Union. This program should emphasize the active participation of local scientific expertise, nongovernmental organizations, and the public and should include—

(A) environmental monitoring and protection,

(B) establishment of appropriate environmental institutions and infrastructure,

(C) programs to enhance energy conservation and efficiency, and

(D) nuclear safety and other appropriate initiatives consistent with this paragraph.

In the process of assisting the new independent states of the former Soviet Union in the transition to market economies, United States Government agencies shall promote the utilization of national income accounts, as defined in title I, chapter IV, section 401 of Public Law 101–45, which measure gross sustainable production in order to more accurately account for the deterioration of environmental resources.

(4) Of the funds appropriated under this heading, up to $12,000,000 may be made available for American Agribusiness Centers in the new independent states of the former Soviet Union.

(c) PRIOR NOTIFICATION.—None of the funds appropriated under this heading shall be obligated or expended except through the regular notification procedures of the Committees on Appropriations. None of the funds appropriated in this Act or in prior Acts making available funds for foreign operations, export financing and related programs may be obligated or expended for planning for or for the establishment of new U.S. Government-sponsored foundations, centers or other entities or for any activity related to the selection or appointment of their respective Boards of Directors except through the regular notification procedures of the Committees on Appropriations.

(d) REPORTS.—The President shall submit a report to the Committees on Appropriations containing the amount of funds obligated and expended for each project and subproject funded from amounts appropriated under this heading for the new independent states of the former Soviet Union. The report required by this subsection shall be submitted to the Committees on Appropriations no later than January 1, 1993, and an update of this report shall be submitted by the President to those Committees no later than July 1, 1993.

(e) RESTRICTION ON ASSISTANCE.—None of the funds appropriated or otherwise made available by this Act for Russia (other than funds to carry out humanitarian assistance) under the heading "Assistance for the New Independent

States of the Former Soviet Union" may be provided by the Government of the United States for the Government of Russia until the President of the United States provides to the Congress a report on the progress being made toward the withdrawal of the armed forces of Russia and the Commonwealth of Independent States from the territories of Lithuania, Latvia, and Estonia and on the status of negotiations regarding the establishment of a timetable for total withdrawal: Provided, That no more than fifty percent of the funds provided by this Act for Russia (other than funds to carry out humanitarian assistance) under the heading "Assistance for the New Independent States of the Former Soviet Union" shall be made available unless the President certifies to the Congress by June 1, 1993 that the Government of Russia and the Governments of Lithuania, Latvia, and Estonia have made substantial progress toward establishing a timetable for the withdrawal of the armed forces of Russia and the Commonwealth of Independent States from Lithuania, Latvia and Estonia or that substantial withdrawal has occurred: Provided further, That if the President has been unable to make the certification required by June 1, 1993, then no such assistance under this heading may be obligated until such time as the President makes the required certification, after which date any assistance remaining unobligated may be made available: Provided further, That notwithstanding the previous proviso, if after one year from the date of enactment of this Act, the Government of Russia has not withdrawn all of the armed forces of Russia and the Commonwealth of Independent States from Lithuania, Latvia and Estonia, or has not completed negotiated agreements including a timetable for withdrawal with each of those governments, no further obligations of funds provided in this Act for Russia under the heading "Assistance for the New Independent States of the Former Soviet Union" shall occur.

And the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That when determined by the President of the African Development Foundation to be necessary, and subject to such security investigations as the President of the Foundation may determine to be appropriate, the Foundation may employ persons who are not citizens of the United States without regard to statutory provisions prohibiting payment of compensation to persons who are not citizens of the United States: Provided further, That this provision shall pertain only to individuals under negotiated contracts with the Foundation as of the date of the enactment of this Act;* and the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$9,800,000;* and the Senate agree to the same.

Amendment Numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That not less than $35,000,000 shall be available for refugees in Bosnia, Croatia, and Solvenia: Provided further, That in the event that circumstances make unlikely the effective use of any of the funds earmarked under this heading for Bosnia, Croatia, and Slovenia, such funds may be used for assistance for any purposes of this heading;* and the Senate agree to the same.

Amended number 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That not less than $40,000,000 of the funds provided under this paragraph shall be available for Morocco: Provided further, That funds made available under this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act;* and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$149,000,000: Provided, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $855,000,000: Provided further, That funds appropriated under this heading shall be made available for Greece, Portugal, and Turkey only on a loan basis, and the principal amount of direct loans for each country shall not exceed the following; $315,000,000 only for Greece, $90,000,000 only for Portugal, and $450,000,000 only for Turkey: Provided further, That direct loans subsidized under this paragraph may be made available at concessional rates of interest: Provided further, That the concessional rate of interest on Foreign Military Financing Program loans shall be not less than 5 per centum per year;* and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$300,000,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$225,000,000*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *Provided, That the Special Defense Acquisition Fund may be reimbursed for the value of any transfers of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert: *$15,500,000,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *in this Act or during the current fiscal year*, and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

Retain the matter proposed in said amendment, amended as follows:

After the words "issued during 1991." in subsection (e)(2)(B) in said amendment, insert:

(C) Funds provided for El Salvador under the heading "Economic Support Fund" may be used for law enforcement assistance in a manner consistent with the Salvadoran Peace Accords, notwithstanding section 660 of the Foreign Assistance Act of 1961.

And after the words "United States assistance" in subsection (f)(1) in said amendment, insert: under this Act; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

ENVIRONMENT

SEC. 532. (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to continue to promote vigorously the environmental and energy initiatives established in section 533(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513). The Secretary of the Treasury, in cooperation with the Secretary of State, shall also undertake direct, bilateral discussions with appropriate officials of the governments of the member nations of the Organization for Economic Cooperation and Development with a goal of building greater international support for the environmental goals established in subsection (d) of this section. The Secretary of the Treasury shall submit a report to the Committees on Appropriations by March 1, 1993, which describes the progress of these bilateral discussions.

(b) The Secretary of the Treasury shall, not later than March 1, 1993, submit a report to the Congress containing the same information as requested in section 533(b) of Public Law 101–513.

(c)(1) In furtherance of the policies contained in section 533(a) of Public Law 101–513 and section 1308 of the International Development and Finance Act of 1989 (Public Law 101–240), and as a basis for measuring more effectively progress by the MDBs toward improved environmental performance, the Secretary of the Treasury shall instruct the United States Executive Directors of the MDBs to encourage each MDB, at a minimum, to meet the benchmarks established in paragraph (2) in the areas of sustainable energy development, forest conservation, forced displacement of populations, and environmental impact assessment. On March 1, 1993 and March 1, 1994, the Secretary of the Treasury shall submit a report to the Congress describing in detail the progress being made by the MDBs in meeting these benchmarks.

(2) For the purposes of paragraph (1), benchmarks are as follows:

(A) In the area of sustainable energy development—

(i) all loans in the energy sector should be based on, or support development of, "least-cost" integrated resource plans. Such plans

shall include analyses of possible end-use energy efficiency measures and nonconventional renewable energy options, and such plans shall reflect the quantifiable environmental costs of proposed energy developments;

(ii) a substantial portion of loans and grants in the energy, industry, and transportation sectors shall be devoted to end-use energy efficiency improvements and nonconventional renewable energy development; and

(iii) all organizational units within the MDBs should create staff positions in a management role in end-use efficiency and renewable energy, which positions shall be staffed by individuals with professional experience in program design and management and educational degrees in relevant technical disciplines.

(B) In the area of forest conservation—

(i) forestry loans should not support commercial logging in relatively undisturbed primary forests, nor should loans result in any significant loss of tropical forests;

(ii) forestry loans should not be disbursed until legal, economic, land tenure, and other policy conditions needed to ensure sustainability are in place;

(iii) loans should not support mineral, petroleum, or other industrial development in, or construction or upgrading of roads through, relatively undisturbed primary forests unless adequate safeguards and monitoring systems, developed in consultation with local populations, are already in place to prevent degradation of the surrounding forests;

(iv) loans should be consistent with and support the needs and rights of indigenous peoples and other long-term forest inhabitants and should not be made to countries which have shown an unwillingness to resolve fairly the territorial claims of such people; and

(v) support for protection of biological diversity, in close consultation with local communities, should be increased to account for a larger proportion of MDB lending.

(C) In the area of forced displacement of populations—

(i) the World Bank, Inter-American Development Bank, and Asian Development Bank should maintain a listing, available to the Secretary of the Treasury, of all ongoing projects involving forced displacement of populations, including the number of people displaced and a report on the status of the implementation of their resettlement policy guidelines for each such project, and obtain agreements with borrowers to ensure that all ongoing projects involving forced displacement will be in full compliance with their resettlement policy guidelines by mid-1993; and

(ii) the African Development Bank should adopt and implement policy guidelines on forced displacement similar to such guidelines of the other MDBs.

(D) In the area of procedures for environmental impact assessment (EIA)—

(i) each MDB should require that draft and final EIA reports be made available to the public in borrowing and donor countries and that the public be offered timely opportunities for comment on the EIA process, including initial scoping sessions, review of EIA categories assigned to individual projects, and opportunities to comment on draft and final EIA reports;

(ii) each MDB should apply EIA requirements to all sector loans and develop and apply the methodology for environmental assessment of structural adjustment loans;

(iii) each MDB should require that the EIA process include analyses of the potential impacts of proposed projects on the global environment; and

(iv) each MDB should require the head of the appropriate environmental unit, rather than project officers, determine the appropriate type of environmental analysis required under the bank's EIA procedures.

(d) The Administrator of the Agency for International Development shall instruct all Agency missions and bureaus to continue to implement all elements of the "Global Warming Initiative" as defined in, and which may continue under, the authorities of sections 533(c) (1) through (4) of Public Law 101-513. The Initiative shall continue to emphasize the need to reduce emissions of greenhouse gases through strategies consistent with continued economic development, such as forest conservation, end-use energy efficiency, least-cost energy planning, and renewable energy development. The Administrator shall direct Agency mission directors to incorporate these strategies in their country programs.

(e) Of the funds appropriated by this Act under the headings in title II of this Act under "Agency for International Development", not less than $650,000,000 shall be made available for environment and energy activities, including funds earmarked under section 533 of this Act, including the following—

(1) Not less than $20,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for biological diversity activities, of which: $5,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act; $1,500,000 shall be for the National Science Foundation's international biological diversity program; $750,000 shall be for the Neotropical Bird Conservation Initiative of the National Fish and Wildlife Foundation; and up to $2,000,000 shall be for Project Noah;

(2) Not less than $15,000,000 of the funds appropriated for the Development Assistance Fund and to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available to support replicable renewable energy projects, and the Agency for International Development shall initiate at least five significant new activities in renewable energy during fiscal year 1993;

(3) Not less than $7,000,000 of the funds appropriated for the Development Assistance Fund and to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for assistance in support of elephant conservation and preservation;

(4) Not less than $25,000,000 of the funds appropriated for the Development Assistance Fund shall be made available for the Office of Energy of the Agency for International Development; and

(5) Up to $50,000,000 of the funds appropriated to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be made available to carry out the "Forests for the Future Initiative" and to achieve a Global Forest Agreement.

(f) Of the funds appropriated by this Act to carry out the provisions of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, the Agency for International Development should, to the extent feasible and inclusive of funds earmarked under subsection (e) of this section, target assistance for the following activities:

(1) $50,000,000 for projects associated with the Global Environment Facility;

(2) a total of $10,000,000 for CORECT, the Environmental Technology Export Council, and the International Fund for Renewable Energy Efficiency; and

(3) $55,000,000 for activities consistent with the Global Warming Initiative.

(g) Funds appropriated by this Act or any subsequent Act for the Development Assistance Fund and the Development Fund for Africa may be used for expenses (including related support costs) relating to the environment and energy sectors, of individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warming Initiative" described in this subsection.

(h) Of the funds appropriated by this Act to carry out the provisions of section 23 of the Arms Export Control Act, not less than $15,000,000 shall be made available to countries in Africa for programs which support conservation and biological diversity.

And the Senate agree to the same.

Amendment number 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

ASSISTANCE FOR CAMBODIA

SEC. 559. (a) ACTS OF GENOCIDE IN CAMBODIA.—As a party to the Genocide Convention, the United States reaffirms that genocide is a crime under international law which it undertakes to prevent and punish, and calls upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide in Cambodia.

(b) HUMANITARIAN AND DEVELOPMENT ASSISTANCE FOR CAMBODIA.—

(1) ASSISTANCE.—Except as provided in paragraph (2), not less than $20,000,000 of the funds appropriated for fiscal year 1993 for development assistance and economic support fund assistance shall be made available, only through international relief agencies, United States private and voluntary organizations, and United Nations agencies, for humanitarian and development assistance exclusively for Cambodian civilians and in accordance with the priority needs identified by the Agency for International Development's Report to Congress on Cambodia's Humanitarian and Development Assistance Priorities (transmitted pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991), notwithstanding any other provision of law.

(2) DEFINITION.—For purposes of this section, the term "humanitarian assistance" includes food, potable water, clothing, medicine, and other humanitarian assistance, including training and equipment for the surveying and removal of explosive mines, but such term does not include (A) the provision of any weapons, weapon systems, or ammunition, or (B) the provision to Cambodian military units of any other equipment, vehicles, or material.

(c) TERMINATION OF ASSISTANCE.—The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(d) ONSITE ASSESSMENT OF NEEDS FOR ASSISTANCE.—Not later than 120 days after the date of enactment of this Act, the President shall conduct an onsite assessment on a multilateral basis in cooperation with the United Nations, or on an independent basis, within Cambodia (including Phnom Penh) to determine the requirements for the development of social economic and social infrastructure and for the eradication of explosive mines.

(e) REPORT REGARDING THE KHMER ROUGE.—Not later then May 1, 1993, the President shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report describing all violations of the United Nations peace agreement by the Khmer Rouge since July 1, 1992, and United

States responses to those violations. Such report shall be submitted in both classified and unclassified form.

(f) APPLICABILITY OF EXISTING LAW.—

(1) TRADE RESTRICTIONS.—Funds shall be made available under this section notwithstanding any law or regulation prohibiting trade with Cambodia or any national of Cambodia.

(2) REPROGRAMMING NOTIFICATIONS.—Funds shall be made available under this section subject to the provisions of section 522 of this Act.

(3) PROHIBITIONS.—Any funds made available under this section shall be subject to the prohibitions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985.

(g) TERMINATION OF ASSISTANCE.—The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

And the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

Retain the matter inserted, amended as follows:

After the words "assistance under" named in subsection (b) in said amendment, insert: *Titles I and II of*, and after the words "Assistance Act of 1954" named in said amendment, insert: *: Provided, That none of the funds appropriated to carry out Title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations*; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or*; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *575A*; and the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

Delete "subsection (a).''." at the end of the proposed amendment and insert in lieu thereof: *subsection (a).*"

"(c) If an Enterprise for the Americas Multilateral Investment Fund is established pursuant to this section, the Secretary of the Treasury shall instruct the United States representative to the Fund not to vote in favor of any action proposed to be taken by the Fund which may have a significant adverse effect on the environment unless an assessment of the impact of the action on the environment has been available for at least 120 days before the vote.".

And the Senate agree to the same.

Amendment numbered 149:

That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

CAPITAL PROJECT AND CASH PAYMENT ASSISTANCE

SEC. 595. (a) ALLOCATION OF FUNDS.—(1) Of the funds appropriated by this Act under the headings "Economic Support Fund" (excluding funds earmarked for Israel), "Philippines Assistance", "Assistance for Eastern Europe and the Baltic States", and "Assistance for the New Independent States of the Former Soviet Union", an amount substantially equal to 10 percent of the aggregate amount appropriated under such headings shall be made available for developmentally-sound and sustainable capital projects and investment activities as defined in subsection (d).

(2) Funds made available under subsection (a)(1) for capital projects in excess of $15,000,000 shall be subject to the regular notification procedures of the Committees on Appropriations.

(b) STUDY OF CASH PAYMENT ASSISTANCE.——

(1) SCOPE. The Comptroller General of the United States shall conduct a study of cash payment assistance. Such study shall include the amounts of assistance provided under this Act as cash payment assistance, the purpose and recipients of cash payment Assistance, the extent to which commodity or capital financing were explored in lieu of such cash assistance to achieve the purpose, an analysis of the purposes of cash payment assistance, accountability for and monitoring of how such assistance is used by recipients the feasibility of separate accounting procedures for countries that use cash payments for the purchase of United States goods and services or he repayment of debt owed to the United States Government, and the degree to which recipients of cash payment assistance are required to and in fact use such assistance to purchase United States goods and services.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report setting forth the findings of the study conducted under paragraph (1).

(C) EXPORT-IMPORT BANK "WAR CHEST" AUTHORITY.—If the amounts appropriated or otherwise provided by this Act for purposes of section 15(e)(1) of the Export-Import Bank Act of 1945 are not totally used by the end of fiscal year 1993, then, at the close of such fiscal year the Chairman of the Export-Import Bank of the United States shall submit to the Congress a report stating—

(1) the reasons for the Bank's decision not to use these funds for those purposes; and

(2) the amount of sales or bids lost because of the Bank's decision not to use these funds.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "capital projects and investment activities" may include projects and activities involving (1) the construction, expansion, operation, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related technical assistance, training, engineering, and other services, (2) procurement of equipment, including related technical assistance, training, and other assistance to support sustained use of such equipment, (3) feasibility studies or similar engineering and economic services, and (4) facilitation of United States private investment in developmentally-sound and sustainable activities;

(2) the term "cash payment assistance" means foreign assistance made through cash payments;

(3) the term developmentally-sound and sustainable" means a project or activity that is—

(A) environmentally sustainable;

(B) within the financial capacity of the government or recipient of the assistance to maintain from its own financial resources; and

(C) responsive to a significant development priority initiated by the country to which assistance is being provided.

And the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

MIDDLE EAST ENVIRONMENTAL DEFENSE NETWORK

(PROJECT EDEN)

SEC. 596. The Agency for International Development, in cooperation with other federal agencies, shall study the feasibility of Project EDEN and make recommendations on how it might be implemented.

And the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

BUY AMERICA PROCUREMENT REQUIREMENTS

SEC. 597. Section 604(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) LIMITATIONS ON PROCUREMENT OUTSIDE THE UNITED STATES.—Funds made available for assistance under this Act may be used by the President for procurement—

"(A) only in the United States, the recipient country, or developing countries; or

"(B) in any other country but only if—

"(i) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in subparagraph (A); or

"(ii) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

"(I) to meet unforeseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in subparagraph (A); or

"(II) to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

"(2) For purposes of this subsection, the term 'developing countries' shall not include advanced developing countries.".

And the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows: In lieu of the first section number named in said amendment, insert: *598*, and delete the word "Senate" in two places in the proposed amendment and insert in lieu thereof: *Congress*, and

After the words "confidence-building measure;" named in (b)(2)(A) of said amendment, insert:

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;, and delete "(B)" named in said amendment and insert in lieu thereof: *(C)*, and delete "(C)" named in said amendment and insert in lieu thereof: *(D)*; and the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

IMPACT ON JOBS IN THE UNITED STATES

SEC. 599. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country.

And the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "SEC. 599D. Humanitarian Assistance for Armenia.—" named in said amendment, insert:

HUMANITARIAN ASSISTANCE FOR ARMENIA

SEC. 599A.

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

REPORT ON RUSSIAN MILITARY EXPORTS

SEC. 599B. (a) REPORT.—Beginning 120 days after the date of enactment of this Act and 180 days thereafter, the President shall report to the appropriate congressional committees that the United States has entered into serious and substantive discussions with Russia to reduce exports of sophisticated conventional weapons to Iran and to prevent sales to Iran of any destabilizing numbers and types of such weapons.

(b) PROHIBITION.—Beginning 120 days after the date of enactment of this Act none of the funds made available under this Act may be made available for United States assistance (other than humanitarian assistance) for Russia unless the report required under subsection (a) has been made, or the provision of assistance is determined to be in the national interest.

(c) DEFINITIONS.—As used in this section—

(1) the term "appropriate congressional committees" means the Committees on Appropriations, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

(2) the term "humanitarian assistance" includes food, clothing and medicine.

And the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "SEC. 599F." named in said amendment, insert:

PROHIBITION ON AIRCRAFT TRANSFER TO GUATEMALA

SEC. 599C.; and the Senate agree to the same.

Amendment numbered 160:

That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "Sec. 599G. Authority to Assist Bosnia-Hercegovina." named in said amendment, insert:

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

SEC. 599D.; and the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of SEC. 599K." named in said amendment, insert:

AID BUDGET SUBMISSION

SEC. 599E.; and the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "599L." named in said amendment, insert: *599F.*

And in lieu of "not less than $5,000,000 shall" named in said amendment, insert: *up to $5,000,000 may*; and the Senate agree to the same.

Amendment numbered 167:

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "SEC. 599N." named in said amendment, insert:

RESTRICTIONS ON ASSISTANCE TO MOROCCO

SEC. 599G.; and the Senate agree to the same.

Amendment numbered 168:

That the House recede from its disagreement to the amendment of the Senate numbered 168, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

PROHIBITION OF IMET FOR INDONESIA

SEC. 599H. Funds appropriated by this Act may not be used for assistance under the heading "International Military Education and Training" for Indonesia.

And the Senate agree to the same.

DAVID R. OBEY,
SIDNEY R. YATES
(except No. 101—military assistance),
MATTHEW F. MCHUGH,
WILLIAM LEHMAN,
CHARLES WILSON,
LAWRENCE J. SMITH,
PETER J. VISCLOSKY,
BILL ALEXANDER,
JAMIE L. WHITTEN,
MICKEY EDWARDS
(except for amendment No. 78),
BILL GREEN,
BOB LIVINGSTON
(except for amendment No. 78),
JOSEPH M. MCDADE
(except for amendment No. 78),
Managers on the Part of the House.

PATRICK J. LEAHY,
DANIEL K. INOUYE,
J. BENNETT JOHNSTON,
DENNIS DECONCINI,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
ROBERT C. BYRD,
BOB KASTEN,
MARK O. HATFIELD,
ALFONSE D'AMATO,
ARLEN SPECTER,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5368) making appropriations for Foreign Operations, Export Financing, and Related Programs for the fiscal year ending September 30, 1993, and for other purposes submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Amendment No. 1: Inserts language proposed by the Senate which appropriates $30,000,000 for the Global Environment Facility and conditions such assistance to the Facility upon determination by the Secretary of the Treasury that the Facility has established clear procedures for ensuring public availability of project-related information and that affected peoples are consulted. The language also provides that if the determinations cannot be made by September 30, 1993, the funds shall be transferred to the Agency for International Development for similar types of activities associated with the Global Environment Facility and the Global Warming Initiative. Inserts language which requires that the Secretary, prior to making the funds available to the Facility, determine that the Facility governance process will provide for oversight by contributor countries and for participation of nongovernmental organizations in all phases of the project cycle. Inserts language which authorizes a $50,000,000 contribution to the Global Environment Facility.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

Amendment No. 2: Deletes House language making funds appropriated for the International Finance Corporation subject to authorization and inserts language authorizing a contribution of an additional $200,000,000.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

Amendment No. 3: Inserts the word "Multilateral" in the title as proposed by the Senate.

Amendment No. 4: Inserts the word "Multilateral" in the text as proposed by the Senate.

Amendment No. 5: Inserts $90,000,000 for a contribution to the Multilateral Investment Fund administered by the Inter-American Development Bank instead of $75,000,000 as proposed by the House and $100,000,000 as proposed by the Senate.

Amendment No. 6: Deletes House language making the funds subject to authorization and deletes Senate language concerning the Multilateral Investment Fund. Authorization for the Fund is provided in Amendment No. 148. Deletes House language withholding availability of funds for the Fund until the Secretary of Treasury determines and reports to the Committees that not less than one-third of the total sum contributed to the Fund will be used for the Human Resources Facility of the Fund. Inserts Senate language requiring the Secretary of the Treasury to use the voice and vote of the United States in the Donors Committee to seek one-third of contributed funds to be used for the Human Resources Facility. Inserts language requiring the Secretary of the Treasury to use the voice and vote of the United States in the Donors Committee to require that project funding only occur in countries which have democratically elected governments, do not harbor international terrorists, cooperate with the United States in narcotics matters and are not engaged in a consistent pattern of gross violations of human rights. Inserts language which provides that the Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to vote against funding for any project if it is likely to cause a loss of jobs within the United States.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

Amendment No. 7: Inserts the phrase "to remain available until expended" as proposed by the Senate.

Amendment No. 8: Deletes House language making the funds for the Bank subject to authorization and inserts language which authorizes $212,000,000 for the Bank. Appropriates an additional sum of $12,500,000 for the paid-in share portion of the United States share of the increase in the capital stock of the Bank.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

Amendment No. 9: Appropriates $62,500,000 for the Fund instead of $75,000,000 as proposed by the House and the Senate. Deletes House language making the funds for the Fund subject to authorization.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Amendment No. 10: Permits subscription to the callable capital portion of the United States share of increases in the capital stock of the Asian Development Bank totalling $278,518,000, instead of $186,984,240 as proposed by the House and the Senate. Deletes House language making the callable capital subscriptions subject to authorization.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

Amendment No. 11: Deletes House language making the monies provided for the Fund subject to authorization and inserts authorization of $270,000,000 for the Fund.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Amendment No. 12: Appropriates $60,000,000 for the paid-in capital of the Bank instead of $68,986,000 proposed by the House. The Senate included no funds for the European Bank for Reconstruction and Development.

The conferees agree that several common criticisms of the bank have validity—that the pace of lending has been slow, that despite the Bank's private enterprise charge early lending favors the state sector, that the Bank needs to assist small businesses and start up companies, that a number of the early loans have gone to large multi-national corporations which have ready access to the international financial markets, and that the Bank has paid too little attention to addressing acute environmental problems. The conferees believe the Bank needs to address these matters.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Amendment No. 13: Provides $140,000,000 for subscription to callable capital stock in the European Bank instead of $160,966,000 as proposed by the House. The Senate included no callable capital subscriptions for the Bank.

INTERNATIONAL MONETARY FUND

Amendment No. 14: Appropriates the dollar equivalent of 8,608.5 million in Special Drawing Rights for the United States contribution to the Fund as proposed by the Senate, and deletes legislative language proposed by the Senate.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Amendment No. 15: Appropriates $310,000,000 for International Organizations and Programs as proposed by the House instead of $312,500,000 as proposed by the Senate.

Amendment No. 16: Provides not less than $2,500,000 for the AIDS Program of the United Nations Development Program from within funds made available to the UNDP instead of in addition to funds made available to the UNDP as proposed by the Senate.

TITLE II—BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE FUND

Amendment No. 17: Appropriates $1,037,480,000 as proposed by the Senate instead of $1,013,480,000 as proposed by the House for the Development Assistance Fund.

AIDS PREVENTION AND CONTROL PROGRAM

Amendment No. 18: Earmarks $34,000,000 within the AIDS Prevention and Control Program for the World Health Organization for its use in financing the Global Program on AIDS, including activities implemented by the Pan American Health Organization instead of $39,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

VITAMIN A DEFICIENCY PROGRAM

Amendment No. 19: Earmarks $25,000,000 for the Vitamin A Deficiency Program and activities relating to iodine deficiency and other micro-nutrients as proposed by the Senate, instead of $20,000,000 as proposed by the House.

RUSSIAN, EURASIAN AND EASTERN EUROPEAN RESEARCH

Amendment No. 20: Deletes provision proposed by the House earmarking $5,000,000 in development assistance related to Russian, Eurasian and Eastern European Research. The conferees have included a $5,000,000 earmark for this program under amendment number 147.

INTERNATIONAL STUDENT EXCHANGE PROGRAM

Amendment No. 21: Earmarks $20,000,000 for the International Student Exchange Program, of which $3,000,000 is for students from Poland, Hungary and Czechoslovakia. The Senate proposed an earmark of $23,000,000. The House had no similar language.

ASSISTANCE FOR BOSNIA—HERCEGOVINA, CROATIA AND KOSOVO

Amendment No. 22: Earmarks $20,000,000 for donations of fuel, construction materials, portable heating, dairy products, wheat and other urgently needed food for the peoples of Bosnia—Hercegovina, Croatia and Kosovo. Not less than $5,000,000 of the funds earmarked are for Kosovo. The conferees added Croatia to the areas included in the original Senate amendment. The House had no similar provision.

CANCER SCREENING PROGRAM

Amendment No. 23: Provides up to $10,000,000 as proposed by the Senate for preventive cancer services to include breast and prostate cancer screening. The House had no similar provision.

BASIC EDUCATION

Amendment No. 24: Inserts Senate language adding secondary education to the programs proposed by the House to be included under the earmark for basic education activities.

Amendment No. 25: Deletes language proposed by the House which included activities in support of early childhood and primary education under the programs to be included under the earmark for basic education activities.

POPULATION, DEVELOPMENT ASSISTANCE

Amendment No. 26: Appropriates $350,000,000 for Population, Development Assistance, as proposed by the Senate instead of $330,000,000 as proposed by the House.

Amendment No. 27: Inserts language proposed by the Senate requiring the submission of a report by the Agency for International Development on the Agency's strategy for having a global impact on the international population problem.

Amendment No. 28: Earmarks $800,000 only for the administration and planning of family planning assistance programs in addition to operating expense funds otherwise allocated for this purpose. The Senate had earmarked not less than $800,000 for these programs and the House had proposed up to $500,000.

Amendment No. 29: Deletes Senate language that stated that in determining eligibility for assistance from funds appropriated under Population, Development Assistance, the Agency for International Development is not to subject non-governmental and multilateral organizations to requirements more restrictive than requirements applicable to foreign governments for such assistance. The amendment also deletes language proposed by the House and the Senate earmarking not less than $20,000,000 for the United Nations Population Fund.

DEVELOPMENT FUND FOR AFRICA

Amendment No. 30: Earmarks $3,500,000 only in funds under the Development Fund for Africa to be used for administrative and planning costs associated with programs under the Development Fund in addition to operating expense funds otherwise allocated to AID's Bureau for Africa. The Senate proposed an earmark of not less than $3,500,000 and the House proposed providing up to $2,000,000 for administrative and planning costs.

Amendment No. 31: Deletes House and Senate language and inserts new language which provides that up to $15,000,000 may be transferred from the Development Fund for Africa to the International Organizations and Programs account to be used only for the International Fund for Agricultural Development's Special Programme for sub-Saharan African Countries Affected by Drought and Desertification and provides that up to $5,000,000 may be made available for rural electrification in sub-Saharan Africa. The Senate proposed a provision providing up to $10,000,000 for the IFAD transfer. The House proposed an earmark of not less than $10,000,000 for the transfer. The Senate had included the funding for the rural electrification program as part of Amendment Number 102.

SUB-SAHARAN AFRICA DISASTER ASSISTANCE

Amendment No. 32: Appropriates $100,000,000 as proposed by the Senate instead of $80,000,000 as proposed by the House.

Amendment No. 33: Earmarks $25,000,000 in sub-Sahara disaster assistance funds for Somalia as proposed by the Senate. The conferees also agree to include a provision in the earmark which allows for the use of funds in the earmark in other sub-Saharan African countries if the funds cannot be used for disaster relief, rehabilitation, and reconstruction purposes in Somalia.

HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN

Amendment No. 34: Restores language stricken by the Senate which earmarks $5,000,000 for humanitarian assistance through international relief agencies and United States private and voluntary organizations for children within Cambodia. The Senate included the earmark as part of Amendment Number 116.

ASSISTANCE FOR VICTIMS OF WAR

Amendment No. 35: Deletes House language on assistance to the blind.

Amendment No. 36: Inserts Senate language on assistance to the blind.

ASSISTANCE FOR DISPLACED BURMESE

Amendment No. 37: Deletes language as proposed by the House and inserts new language earmarking $1,000,000 within the Economic Support Fund account for assistance for Burmese, including students, who are displaced as a result of civil conflict and who are living in Burma or Thailand. The House earmarked $1,000,000 in development assistance for Burmese students. The Senate included an earmark of $1,000,000 in funds from the Economic Support Fund for displaced Burmese, including students, as part of Amendment Number 62.

APPROPRIATE TECHNOLOGY

Amendment No. 38: Earmarks $1,000,000 for Appropriate Technology International as proposed by the Senate instead of $2,000,000 as proposed by the House. The conferees agree to delete language proposed by the Senate related to percentages for project agreements and limitations on the use of funds. In fiscal year 1991, Congress earmarked a $1,000,000 fund for use by Appropriate Technology International to leverage additional resources from other donor organizations in support of its important technology and small enterprise development work. Thus far, in the aggregate, ATI has been able to leverage more than $10 for every $1 that Congress set aside for this fund. The managers commend ATI for its initial success in leveraging additional resources and have approved an additional $1,000,000 for this special leveraging fund.

The conferees intend that AID will make these additional funds available to ATI promptly, and that ATI will continue to leverage at least $10 for every $1 that the Congress is providing. The continued success of ATI in leveraging additional resources will be an important factor in determining whether the Committees recommend leveraging funds in the future.

The conferees also expect AID to comply with past Congressional directives to restore the $150,000 withheld by AID from cooperative agreement funds owed ATI in fiscal year 1991.

PRIVATE SECTOR LOANS PROGRAM ACCOUNT

Amendment No. 39: Appropriates $4,057,000 for the Private Sector Loans Program Account instead of $2,553,000 as proposed by the House or $5,665,000 as proposed by the Senate.

Amendment No. 40: Inserts language proposed by the Senate correcting a section reference.

Amendment No. 41: Provides a limitation of $81,319,000 on the principal amount of direct loans and total loan principal which may be guaranteed under the Private Sector Loans Program. The Senate had proposed a limitation of $118,574,000. The House bill contained no limitation provision.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

Amendment No. 42: Appropriates $28,571,000 for American Schools and Hospitals Abroad instead of $28,571,000 as proposed by the House and $35,000,000 as proposed by the Senate. The $30,000,000 recommended by the conferees is the amount requested by the Administration.

INTERNATIONAL DISASTER ASSISTANCE

Amendment No. 43: Appropriates $48,965,000 for International Disaster Assistance instead of $68,965,000 as proposed by the House and $40,000,000 as proposed by the Senate. The conference agreement also provides $100,000,000 in disaster assistance for sub-Sahara Africa, making a total of $148,965,000 available between the two disasters assistance accounts, an increase of more than $108,000,000 above the Administration's request. The conferees agree that, based on the drought and famine conditions in sub-Sahara Africa, needs in the Balkians and other disasters around the world, substantial funding will be required this year to meet disaster-related problems.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Amendment No. 44: Appropriates $512,000,000 as proposed by the House instead of $510,800,000 as proposed by the Senate.

Amendment No. 45: Inserts language proposed by the Senate requiring that at least one professional from the Agency for International Development be based at the Consulate General in Jerusalem and at least one professional at the United States Embassy in Tel Aviv.

Amendment No. 46: Deletes language proposed by the House requiring a notification on each capital project in excess of $5,000,000. The notification requirement was changed in Amendment Number 149 to each project exceeding an aggregate of $15,000,000.

OVERSEAS DEPENDENT SCHOOLS

The conferees are concerned that the Agency for International Development has reduced its payments to the overseas dependents school program. AID is encouraged to pay its appropriate share of program costs and to assure that sufficient payments are made to meet the needs of the children of AID employees.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

Amendment No. 47: Appropriates $39,316,000 for Operating Expenses of the Agency for International Development Office of Inspector General instead of $37,181,000 as proposed by the House and $41,456,000 as proposed by the Senate.

Amendment No. 48: Deletes House language which would allow for up to three percent of AID operating expenses to be transferred to the Operating Expenses account of the AID Inspector General.

Amendment No. 49: Inserts Senate language specifying that the Agency for International Development Inspector General, with concurrence of other agencies, will be in charge of all Inspector General activities in Eastern Europe and the former Soviet Union, and earmarking not less then $600,000 from the account for Assistance for the New Independent States of the Former Soviet Union to be used for additional operating expenses.

HOUSING GUARANTY PROGRAM ACCOUNT

Amendment No. 50: Appropriates $16,407,000 for subsidy costs for the Housing Guaranty Program as proposed by the House instead of $15,000,000 as proposed by the Senate.

Amendment No. 51: Provides a limitation of $150,000,000 on the amount of total loan principal that may be guaranteed by the Housing Guaranty Program instead of a limitation of $95,000,000 as proposed by the Senate. The House did not include a Housing Guaranty Program limitation.

Amendment No. 52: Appropriates $8,407,000 for administrative expenses for the Housing Guaranty Program as proposed by the Senate, instead of $7,000,000 as proposed by the House.

Amendment No. 53: Inserts Senate language waiving authorization requirements concerning commitments to guarantee loans under the Housing Guaranty Program.

Amendment No. 54: Restores language stricken by the Senate which requires notification to the Committees on Appropriations for funds obligated under the Housing Guaranty Program.

DEBT RESTRUCTURING UNDER THE ENTERPRISE FOR THE AMERICAS INITIATIVE

Amendment No. 55: Appropriates $50,000,000 for the costs of debt restructuring under the Enterprise for the Americas Initiative. The Senate proposed $100,000,000 for the debt restructuring program. The House provided no funding for the program.

ECONOMIC SUPPORT FUND

Amendment No. 56: Appropriates $2,670,000,000 for the Economic Support Fund instead of $2,739,000,000 as proposed by the House and $2,526,086,000 as proposed by the Senate.

EGYPT

Amendment No. 57: Inserts new language providing not less than the equivalent of $15,000,000 of local currencies generated by programs under the Economic Support Fund for Egypt be made available for projects and programs which promote the preservation and restoration of Egyptian antiquities.

Egypt's cultural heritage, one of the richest and most important in the world's history, is seriously endangered by pollution, decay, and the simple passage of time. The conferees have not included specific bill language as to whether or not the local currencies that have been earmarked should be set aside as a special account, or merged with existing local currency accounts controlled by the Embassy in Cairo for the same general purpose. The conferees recommend that decision be left, after full consultation with the Government of Egypt, in the hands of the Administration. The conferees expect the Administration to fully consult with the Committees on Appropriations as programs are developed utilizing the funds that have been made available.

Amendment No. 58: Strikes language proposed by the House requiring notification concerning the cash transfer to the Government of Egypt. The conferees agree to delete this language because the notification to the Committees on Appropriations for cash transfer assistance to Egypt is already required under Section 572 of the General Provisions.

EL SALVADOR REPORT

Amendment No. 59: Strikes language proposed by the House concerning the withholding of funds for the El Salvador Special Investigative Unit until a report had been sent by the Secretary of State. The conferees note that the required report has been received and therefore the provision withholding funds is no longer necessary. However, the Committees on Appropriations will continue to monitor the Special Investigative Unit.

CYPRUS

Amendment No. 60: Deletes language proposed by the House and inserts Senate language requiring that funds earmarked for Cyprus must be used for scholarships, bicommunal projects, and measures aimed at the reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus. The House had restricted the use of such funds for scholarships or for bicommunal projects.

The conference agreement provides $15,000,000 in Economic Support Funds for Cyprus for scholarships, bicommunal projects and measures aimed at the reunification of Cyprus. The conferees believe this assistance should be provided for projects which are truly bicommunal and which are designed to promote cooperation and peace between the two communities on Cyprus.

MOROCCO AND TURKEY

Amendment No. 61: Earmarks $20,000,000 in Economic Support Funds for Morocco and $125,000,000 for Turkey. The Senate proposed an earmark of $25,000,000 for Morocco and no earmark for Turkey. The House did not include earmarks for either Morocco or Turkey.

ASSISTANCE FOR BURMESE

Amendment No. 62: Deletes language proposed by the Senate earmarking $1,000,000 in assistance for Burmese, including students. The conferees have included a $1,000,000 earmark for Burmese, including students, under Amendment Number 37.

SOUTH PACIFIC TUNA TREATY

Amendment No. 63: Inserts language proposed by the Senate requiring that $14,000,000 in the Economic Support Fund be made available for the South Pacific Tuna Treaty if the extension of the South Pacific Tuna Treaty is signed by September 30, 1993.

INTERNATIONAL FUND FOR IRELAND

Amendment No. 64: Restores language stricken by the Senate which appropriates $19,704,000 for the International Fund for Ireland.

PHILIPPINES ASSISTANCE—MULTILATERAL ASSISTANCE INITIATIVE

Amendment No. 65: Inserts language proposed by the Senate which permit up to a total of $40,000,000 of development assistance and the Economic Support Fund to be transferred for the Multilateral Assistance Initiative for the Philippines. The language also requires that funds that are transferred have to be used in accord with the original purposes for which they were appropriated, and further requires notification to the Committees on Appropriations.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

Amendment No. 66: Appropriates $400,000,000 for Eastern Europe and the Baltic States as proposed by the House and the Senate. Deletes language as proposed by the House and Senate. Inserts language aimed at improving management of this assistance program and its sensitivity to country priorities, and at delegating authorities more broadly, while maintaining flexibility and a blended regional and country character for the program.

The conferees agree to provide $400,000,000 for assistance programs for Eastern Europe and the Baltic States. The conferees have included language permitting the use of Enterprise Fund interest income for program purposes and requiring expenditure at the minimum rate necessary for timely payment. The conferees have included language stating these funds shall be considered as economic assistance for administrative purposes. The conferees have included language requiring semiannual program reports.

The conferees have included language listing United States priorities as follows:

(1) private sector development, including support for Enterprise Funds, and with emphasis on technical assistance and training for development of market-oriented policies, restructuring and creation of financial institutions (such as stock markets, insurance companies, and banks), creation and management of private business organizations, and privatization of state enterprises;

(2) technical assistance and training, including such activities as support for the development of democratic trade unions, scholarship programs, medical assistance, and curriculum reform;

(3) democratic pluralism and the rule of law, including support, on a nonpartisan basis, for public administration, reform of legal codes and systems, development of free and independent media, and activities to strengthen the legislatures of Eastern European countries and the Baltic States;

(4) environment and energy, with emphasis on assistance in developing host country environmental policies and programs, and encouraging and providing incentives for end-use energy resources, and further activities including training, technical assistance for related energy and environmental investment or regulation, local production of environmental or energy-related equipment, promotion of United States technologies, and dealing with health problems directly associated with pollution;

(5) agriculture and agribusiness, with an emphasis on technical assistance and training for the development of market-oriented policies, agricultural financial institutions and marketing systems, agribusiness organizations, and the privatization of state agricultural organizations; and

(6) housing, with an emphasis on technical assistance and training for the development of market-oriented housing policies, including the privatization of state-owned housing and the promotion of private housing construction.

The conferees are concerned about poor management and poor coordination of the United States foreign assistance programs in Eastern Europe and the Baltic States. The conferees are reluctant to insist in law on particular organizational structures or on particular staffing levels; however,the conferees agree that massive improvement is needed in the management and coordination of these programs and in their responsiveness to host government priorities. The conferees have included language making the principle Agency for International Development officer in each country primarily responsible for coordination of all foreign assistance activities in that country, and for implementation, oversight and planning. The conferees have included language requiring that, no later than December 1, 1992, AID shall issue appropriate delegation of authority and other appropriate internal guidance for the principal AID officer in each Eastern European and Baltic State and that such delegation should include reasonable concurrence procedures necessary in order to avoid planning and contracting in Washington for specific activities without the concurrence of the people in the field who have more intimate knowledge of the particular country and the performance of existing programs, projects and activities.

The conferees agree that the employees of the Agency for International Development and other United States government agencies in Eastern Europe and the Baltic States shall coordinate the development and implementation of their respective assistance programs with appropriate designated foreign officials with responsibility for international assistance programs. Such coordination shall reflect the purposes and priorities of United States assistance, shall carefully consider host country programs and priorities for the uses of the United States assistance, and shall have as its purpose both the facilitation of United States program planning and the limiting of fluctuation in assistance levels which are not related to a country's performance or to new requirements which emerge in the region. United States assistance programs should be coordinated and implemented to the maximum extent feasible in accordance with host country priorities and programs where such priorities and programs are not inconsistent with United States priorities. Nothing under this heading shall be interpreted to limit the ability of United States officials from providing assistance to a broad spectrum of local programs.

The conferees have included language stating that 65 percent of appropriated funds shall be for country-specific activities or such activities within regional and multilateral projects. Exceptions to this restriction are allowed only through the notification process. Language has also been included which requires that the fiscal year 1994 AID Congressional Presentation Document publish planned or projected funds on a country-by-country and on a regional basis with not more than 50 percent of the funds planned or projected for regional programs. The conferees intend to maintain flexibility in the use of these funds so that the Administration will have the ability to respond to new opportunities as they arise. Planned or projected amounts contained in the Congressional Presentation Document should not be viewed as fixed funding commitments to the individual countries.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

Amendment No. 67: Deletes language as proposed by the House and language proposed by the Senate and inserts language which appropriates $417,000,000 for the new independent states (NIS) of the former Soviet Union and inserts language addressing types of assistance for the NIS, requiring prior notification on obligations, requiring semi-annual reporting, providing up to $12,000,000 for American Agri-business Centers, earmarking $50,000,000 for a broad spectrum of scholarship and exchange programs, and limiting assistance to Russia according to progress toward setting a negotiated timetable for troop withdrawal from the Baltics.

The conferees have included language providing that 75 percent of these funds shall be available for the purposes of sections 103 through 106 of the Foreign Assistance Act of 1961. In setting this requirement the conferees agree that this action conforms to the type of activities envisioned in the authorizing legislation.

The conferees note that Washington State University and its consortium partners have combined with Russian firms and government officials to create a Russian-American technical and economic development consortium. The consortium plans to use its resources to transform the existing Biological Research Center in Pushchino, Russia into a land-grant university. The center will train Russian farmers, conduct research, commercialize new technology and support joint ventures between Russian and United States businesses. The United States will benefit from collaborative research, assist the private sector in creating profitable partnerships with Russia, and contribute to the economic stability of the southern Moscow region by improving agricultural practices. The conferees urge AID to consider supporting the consortium's efforts.

The conferees support the promotion of free enterprise in the former Soviet Union. The conferees recommend that the Agency for International Development provide funding to support the efforts of Junior Achievement-Russia to conduct free enterprise education in the Russian public school system.

With regard to the funds appropriated for scholarships, exchanges and other such activities for the NIS, the conferees strongly encourage that not less than 40 percent of the available slots shall go for women.

With regard to the funds appropriated for scholarships, exchanges and other such activities for the NIS, the conferees note that there are many organizations with established programs and demonstrated competence. In the area of secondary school exchanges, the Close-up Foundation which includes a visit to Washington D.C. to observe the institutions of government and to interact with government officials is a logical potential recipient of funding. In awarding funds for graduate training activities, the administration should consider organizations with extensive experience in the processing, logistics, and placements of such individuals. The International Research and Exchanges Board (IREX), with nearly 25 years of experience in this type of activity, is a logical potential recipient of graduate training funds. The Academy for Intercultural Training (AIT) at Georgetown University is also experienced in these types of activities and is a logical potential recipient of funding.

The conferees note the potential of skills training oriented toward private sector enterprises and the potential of programs like those of Mansfield University.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

Amendment No. 68: Deletes language proposed by the Senate and inserts new language permitting individuals currently under negotiated contracts with the African Development Foundation to be employed by the Foundation. The conferees understand that there are approximately four people who for a long time have been contract employees of the Foundation that have been caught by a change in employment regulations. It is the understanding of the conferees that this provision is a one-time exemption to allow for the transition of these contract employees into the new system.

OVERSEAS PRIVATE INVESTMENT CORPORATION

PROGRAM ACCOUNT

Amendment No. 69: Appropriates $9,800,000 for the subsidy costs of direct and guaranteed loan programs of the Overseas Private Investment Corporation, instead of $8,945,000 as proposed by the House and $11,605,000 as proposed by the Senate.

Amendment No. 70: Deletes language as proposed by the Senate setting a limitation of $650,000,000 on direct loans and total loan principal of the Overseas Private Investment Corporation.

Amendment No. 71: Deletes language proposed by the Senate setting gross obligations for the amount of equity investment at $5,000,000.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

Amendment No. 72: Earmarks $35,000,000 for refugees in Bosnia, Croatia and Slovenia instead of $25,000,000 as proposed by the Senate. The House did not include an earmarked amount.

ANTI-TERRORISM ASSISTANCE

Amendment No. 73: Appropriates $15,555,000 as proposed by the House for Anti-Terrorism Assistance instead of $11,848,000 as proposed by the Senate.

TITLE III—MILITARY ASSISTANCE FUNDS APPROPRIATED FOR THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Amendment No. 74: Inserts Senate language allowing members of national legislatures who are responsible for the oversight and management of the military to be eligible for civilian-related training programs.

Amendment No. 75: Inserts Senate language requiring that $3,660,000 be made available for expanded IMET programs initiated subsequent to enactment of this authority in 1991.

Amendment No. 76: Deletes Senate language which prohibited IMET funding for Indonesia pending certification that certain conditions have been met. The conferees agree to prohibit IMET to Indonesia. This issue is addressed further in Amendment Number 168.

FOREIGN MILITARY FINANCING PROGRAM

FUNDING LEVEL

Amendment No. 77: Appropriates $3,300,000,000 for Foreign Military Financing Program grants as proposed by the House instead of $3,840,000,000 as proposed by the Senate.

ASSISTANCE TO MOROCCO

Amendment No. 78: Deletes language proposed by the Senate which provided for a combined grant and loan program for Turkey, Portugal and Greece. Inserts language which earmarks $40,000,000 in Foreign Military Financing grants for Morocco. The conferees also included language clarifying that grants are nonrepayable notwithstanding section 23 of the Arms Export Control Act.

ASSISTANCE TO BASE RIGHTS COUNTRIES

Amendment No. 79: Deletes language proposed by the House. Inserts language which provides $149,000,000 for the subsidy costs for direct loans of not to exceed $855,000,000. Of the total amount of loans provided $450,000,000 only shall be for Turkey, $315,000,000 only shall be for Greece, and $90,000,000 only shall be for Portugal. The loans shall be made available at concessional rates of interest of not less than 5 percent. The House proposed appropriations for the subsidy cost of loans to these three countries in the same amounts, but at market rates of interest. The Senate proposed appropriations for the subsidy costs for a lesser amount of loans at concessional rates, and had provided that grant funds could be obligated upon apportionment.

Loan amounts for Greece and Turkey have been provided in a 7:10 ratio. Language included by the House required a 7:10 ratio.

With respect to the Greek Government's plans to procure electronic warfare equipment for the Hellenic Air Force's F-16 aircraft, the conferees believe that any procurement for such equipment financed through the FMF program should be from firms in the United States.

OBLIGATION OF FUNDS

Amendment No. 80: Inserts Senate language allowing funds made available for the FMF program to be obligated upon apportionment. The Defense Security Assistance Agency should be prepared to alter accounting and program procedures to enable greater clarity and consistency in its reporting in fiscal year 1994.

PERU

Amendment No. 81: Inserts Peru in the list of countries prohibited from receiving military assistance as proposed by the House.

LANDMINE CLEARING

Amendment No. 82: Inserts Senate language earmarking $1,000,000 for landmine clearing and related activities.

ADMINISTRATIVE EXPENSES

Amendment No. 83: Provides for a limitation of $300,000,000 for Department of Defense administrative expenses instead of $287,000,000 as proposed by the House and $310,000,000 as proposed by the Senate.

SPECIAL DEFENSE ACQUISITION FUND

Amendment No. 84: Provides $225,000,000 in obligational authority for the Special Defense Acquisition Fund instead of $150,000,000 as proposed by the House and $250,000,000 as proposed by the Senate.

Amendment No. 85: Inserts Senate language allowing obligational authority to remain in effect for three years.

Amendment No. 86: Inserts language providing that the Special Defense Acquisition Fund may be reimbursed for transfer of defense articles acquired under the Fund.

The proviso in prior year appropriations acts contemplated that the items should only be taken from the Special Defense Acquisition Fund to be provided on a grant basis under the MAP program where the Fund was reimbursed with MAP grant appropriated funds. Since the MAP program is no longer in existence, a technical change was desired to preserve the principle reflected in the original proviso that the Fund should be reimbursed where appropriate and to the extent possible.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

Amendment No. 87: Inserts a program limitation on the Export-Import Bank of $15,500,000,000 instead of $13,000,000,000 as proposed by the Senate and no limit as proposed by the House.

ADMINISTRATIVE EXPENSES

Amendment No. 88: Appropriates $45,683,000 as proposed by the Senate instead of $38,042,000 as proposed by the House.

The conferees are aware of the electricity shortages in the Philippines and the great need to develop energy sources. The conferees are also aware that the Exim Bank is considering financing the upgrade of the Philippine Nuclear Power Plant (PNPP), and that there has been considerable controversy over this plant since its inception.

In light of the above, the conferees believe that before Exim Bank enters into any agreement to provide direct loans, loan guarantees, or insurance for any purpose related to PNPP, it must be demonstrated that PNPP will meet safety, health and environmental standards comparable to those that would apply to a similar and currently operating nuclear plant in the United States.

Further, the conferees also believe that there must be a process by which the Philippine public, including nuclear safety, environmental, and health experts, may be informed about, and have an opportunity to present information and views regarding, any plan to upgrade the PNPP before Exim Bank makes a final decision on financing.

Before the Exim Bank enters into any agreement to finance the upgrade of PNPP, the Committee on Appropriations shall be provided by the Bank with a report regarding the plant's positive compliance with safety, health, and environmental standards, as described above.

TITLE V—GENERAL PROVISIONS

HUMAN RIGHTS

Amendment No. 89: Deletes a House provision requiring certain country specific information related to Human Rights.

The conferees agree that the Department of State should consult with the Committees on Appropriations concerning language included in the bill requiring additional reporting on human rights violations concerning children.

Amendment No. 90: Inserts subsection designation as proposed by the Senate.

Amendment No. 91: Inserts subsection designation as proposed by the Senate.

Amendment No. 92: Inserts Senate language requiring the annual Human Rights report to include information on each country's military expenditures, and the environment of indigenous peoples in governmental decisions affecting them.

MILITARY COUPS

Amendment No. 93: Deletes Senate language requiring cutoff of assistance in the event of an unconstitutional interruption of the power of a democratically elected government.

Amendment No. 94: Deletes Senate language allowing resumption of assistance once an unconstitutional interruption of the power of a democratically elected government has ceased.

The conferees agree not to retain language proposed by the Senate to require the termination of U.S. assistance to nations that experience an unconstitutional usurpation of governmental power by means other than a military coup. This language would have modified the provision carried annually in Foreign Operations appropriated acts requiring the termination of U.S. assistance to nations suffering the overthrow of a democratic government by military coup or decree. The conferees conclude that there were deficiencies in the proposed language. However, the conferees recognize the importance of devising a workable policy for enforcing a cutoff of U.S. assistance in cases, such as occurred in 1992 in Peru, of an unconstitutional usurpation of power by means other than a direct military coup. The conferees agree that the Committees on Appropriations will continue to explore this issue next year.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

Amendment No. 95: Inserts language allowing waivers of the requirements of section 620(q) of the Foreign Assistance Act of 1961 for certain countries for funds made available in this Act, or during the current fiscal year. The House had proposed a waiver for funds in this Act, and the Senate had proposed a waiver for funds made available during the current year.

The conferees acknowledge the progress made toward reconciliation, democratization, reform and economic development in Nicaragua since the election of Violeta Chamorro in 1990. Continued progress toward economic recovery depends upon prompt obligation of economic assistance funds. The conferees stress that concerted and continuing efforts must be made in several important areas. The conferees believe that the fiscal year 1992 funds appropriated for Nicaragua should be obligated. Once the fiscal year 1992 funds are made available, the following conditions should apply to the economic assistance for fiscal year 1993:

(1) A code of conduct on human rights should be formulated and implemented for military and police forces.

(2) Judicial reform is needed. Collaboration with other hemispheric organizations like the Organization of American States would be constructive.

(3) The conferees note the progress toward return or compensation for private property confiscated prior to the Chamorro government. Expeditious resolution of bona fide property claims is expected. Periodic reports on the implementation and satisfaction of bona fide claims are expected and should be provided to the Committees on Appropriations.

(4) The AID Inspector General and the GAO shall continue to monitor and audit expenditure of all U.S. assistance to ensure that it is not being misused or subject to corruption.

NOTIFICATION REQUIREMENTS

Amendment No. 96: Deletes Senate language expanding notification waiver.

Amendment No. 97: Deletes Senate language expanding emergency notification waiver.

Amendment No. 98: Restores House language on emergency circumstances.

Amendment No. 99: Deletes Senate language expanding emergency notification waiver.

Amendment No. 100: Deletes Senate language on waiver authority delegation and defining emergency circumstances.

EL SALVADOR

Amendment No. 101: Inserts language addressing assistance to El Salvador. The conferees agree to include the Senate language on assistance to El Salvador and to include a waiver of section 660 of the Foreign Assistant Act of 1961 for the Economic Support Fund. The provision restricting funds in the event of a coup has also been changed to clarify that it only affects funds in this Act.

ENVIRONMENT

Amendment No. 102: Deletes House and Senate language and inserts language addressing policies, funding levels, and earmarks for environmental programs of AID and the multilateral development banks.

The conferees agree that funds for the Parks in Peril project should be made available pursuant to an agreement that ensures that such funds will make up no more than 80 percent of the entire costs of the project.

MONTREAL PROTOCOL FACILITATION FUND

Amendment No. 103: Inserts Senate language earmarking $15,000,000 for the Montreal Protocol Facilitation Fund and transferring it to the United Nations Environment Program. The House had included a similar provision.

AFGHANISTAN-HUMANITARIAN ASSISTANCE

Amendment No. 104: Restores House language which allows assistance to be provided to the Afghan people. The Senate had allowed for assistance to the government of Afghanistan.

Amendment No. 105: Deletes Senate language providing certain objectives for assistance to Afghanistan.

SPECIAL NOTIFICATION REQUIREMENTS

Amendment No. 106: Inserts Senate language requiring that all funds for the Ivory Coast be provided through the regular notification procedures.

FAMILY PLANNING, CHILD SURVIVAL, AND AIDS ACTIVITIES

Amendment No. 107: Inserts "Family Planning" in title as proposed by the Senate.

Amendment No. 108: Inserts "family planning" activities for eligibility of earmarked funds in Section 542 as proposed by the Senate.

Amendment No. 109: Inserts "family planning activities" for eligibility under the contracting authority as proposed by the Senate.

AUTHORIZATION REQUIREMENT

Amendment No. 110: Inserts language waiving authorization requirement as proposed by the Senate. The House provided funds subject to authorization.

EARMARKS

Amendment No. 111: Inserts subsection designation as proposed by the Senate.

Amendment No. 112: Inserts "subsection" as proposed by the Senate.

Amendment No. 113: Inserts "subsection" as proposed by the Senate.

Amendment No. 114: Inserts Senate language granting additional authorities in the administering of earmarked funds.

NARCOTICS CONTROL PROGRAM

Amendment No. 115: Inserts Senate language allowing funds from both the administration of justice program and the IMET program to be spent for narcotics enforcement activities for law enforcement agencies in Colombia, Bolivia, Ecuador, and Peru as proposed by the Senate. The House had provided this authority only for administration of justice programs.

ASSISTANCE FOR CAMBODIA

Amendment No. 116: Deletes language proposed by the House and Senate and inserts language relating to assistance for Cambodia. The conferees include a prohibition on any assistance to the Khmer Rouge and recommend that $5,000,000 for children in Cambodia be included in Amendment No. 34.

ASSISTANCE FOR AFGHANISTAN

Amendment No. 117: Deletes language proposed by the House relating to the Soviet controlled Government of Afghanistan.

ELIGIBILITY FOR ASSISTANCE

Amendment No. 118: Inserts language allowing for delivery of development assistance through non-governmental organizations despite restrictions with respect to assistance for a given country. Before using this authority the President must notify the appropriate Committees of Congress. Assistance provided under Titles I and II of the Agricultural Trade and Development and Assistance Act of 1954 (Public Law 480) may also be provided despite aid restrictions. However, the appropriate Committees of Congress must be notified prior to any provision of assistance under Title I using this authority.

Amendment No. 119: Inserts Senate language prohibiting use of authority under this section for countries that support international terrorism and countries that violate internationally recognized human rights.

EL SALVADOR—ECONOMIC SUPPORT FUNDS

Amendment No. 120: Deletes language requiring that 25 percent of El Salvador's economic support funds be used for projects as proposed by the Senate. The conferees believe that 50 percent of El Salvador's economic support funds should be projectized, as is the current practice.

CONTRACTING FOR SERVICES

Amendment No. 121: Deletes Senate language which provided certain contracting authority to the Agency for International Development.

DEBT FOR DEVELOPMENT

Amendment No. 122: Inserts "endowments" as proposed by the Senate.

Amendment No. 123: Deletes House and Senate language and inserts language expanding debt for development authorities for the Agency for International Development.

Amendment No. 124: Deletes House language relating to establishment of endowments.

REPEAL OF FISCAL YEAR 1991 PROVISION

Amendment No. 125: Restores language repealing certain authorities of section 516(a) of the Foreign Assistance Act of 1961 as proposed by the House.

POW/MIA MILITARY DRAWDOWN

Amendment No. 126: Inserts Senate language granting drawdown authority to the President of not to exceed $15,000,000 for defense articles, services and training to be provided to Cambodia and Laos. This authority may be used at the President's discretion to support efforts to locate and repatriate members of the United States Armed Forces and civilians who remain unaccounted for from the Vietnam War. The conferees are concerned about the security and potential misuse of helicopters and other equipment which may be made available to the Government of Laos. The conferees stress that any equipment provided through this authority should be used only for the purposes specified. The Department of Defense is to rigorously monitor the end-use of this equipment, particularly helicopters.

KENYA

Amendment No. 127: Inserts Senate language restricting assistance to Kenya. The House had included similar restrictions.

ASSISTANCE FOR GUATEMALA

Amendment No. 128: Inserts subsection title as proposed by the Senate.

Amendment No. 129: Deletes House language containing notification requirement for Guatemala. The provision is duplicative, since notification of all obligation of funds to Guatemala is required under Section 540 of the General Provisions.

Amendment No. 130: Inserts new subsection designation as proposed by the Senate.

NUCLEAR NONPROLIFERATION POLICY IN SOUTH ASIA

Amendment No. 131: Inserts subsection designation as proposed by the Senate.

Amendment No. 132: Deletes House language on the impending bilateral conference.

Amendment No. 133: Inserts Senate language specifying a date for the report.

Amendment No. 134: Corrects printing error as proposed by the Senate.

Amendment No. 153: Inserts new subsection designation as proposed by the Senate.

Amendment No. 136: Deletes Sri Lanka in the reporting requirement as proposed by the Senate.

Amendment No. 137: Inserts new subsection designation as proposed by the Senate.

Amendment No. 138: Inserts new subsection designation as proposed by the Senate.

Amendment No. 139: Inserts new subsection designation as proposed by the Senate.

Amendment No. 140: Corrects printing error as proposed by the Senate.

RESCISSION

Amendment No. 141: Rescinds $45,750,000 in prior military assistance funds as proposed by the Senate instead of $75,000,000 as proposed by the House.

ANTINARCOTICS UPDATE

Amendment No. 142: Inserts Senate language allowing police training assistance for Panama to be used to improve penal institutions and to rehabilitate offenders.

AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION

Amendment No. 143: Inserts Senate language granting waivers for the Peace Corps, the Inter-American Foundation and the African Development Foundation from the restrictions on assistance.

REPORT ON CREDIT PROGRAMS

Amendment No. 144: Inserts Senate language directing the General Accounting Office to conduct a study of credit programs. The conferees note that two years ago Congress requested the Administration to centralize their country credit rating systems into one central system. Having now accomplished that centralization, the Administration has decided not only to classify this previously unclassified material but also to refuse to allow its distribution or delivery even in classified form and on a request basis. The Administration has now instituted a system whereby access to this previously unclassified material is handled solely by allowing viewing by congressional staff without note taking in the physical presence of Executive Branch personnel. This situation is made even more unacceptable by the fact that similar economic documents of the International Monetary Fund are available to the Committee and are delivered quickly on request. The conferees strongly request that this policy be reversed. Failing its reversal, the conferees will consider legislative solutions during the next budget cycle.

Amendment No. 145: Inserts Senate language providing $500,000 in Polish currencies for certain programs for Jagiellonian University.

AGRICULTURAL AID TO THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

Amendment No. 146: Inserts Senate language earmarking $50,000,000 for provision of United States agricultural commodities to address food and nutrition needs of the new independent states of the former Soviet Union.

STATE DEPARTMENT RESEARCH AND TRAINING PROGRAM

Amendment No. 147: Inserts Senate language earmarking $5,000,000 for the Department of State's Title VII program on Russian, Eurasian, and Eastern European research and training.

DEBT RESTRUCTURING

Amendment No. 148: Inserts language authorizing debt reduction under the Enterprise for the Americas Initiative and authorizing funds for the Multilateral Investment Fund of the Inter-American Development Bank. The conferees also included a requirement that the United States oppose any use of the Multilateral Investment Fund that may have an adverse impact on the environment, unless an environmental impact assessment has been available 120 days before a vote on a given loan.

CAPITAL PROJECT AND CASH PAYMENTS

Amendment No. 149: Inserts language making certain funds available for developmentally sound and sustainable capital projects. Any capital project in excess of $15,000,000 shall be subject to the notification procedures of the Committees on Appropriations. The provision also includes a specific definition of developmentally sound and sustainable projects. The conferees expect this provision will be implemented in a manner consistent with the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

LIMITATION ON ASSISTANCE FOR PERU

Amendment No. 150: Deletes language proposed by the Senate placing conditions on assistance to Peru. The provision of assistance to Peru is addressed elsewhere in the bill.

FUNDING FOR MULTILATERAL DEVELOPMENT BANKS

Amendment No. 151: Deletes language proposed by the Senate cutting 8.3 percent from funds appropriated to various multilateral development banks.

MIDDLE EAST ENVIRONMENTAL DEFENSE NETWORK

Amendment No. 152: Inserts language requiring the Agency for International Development to study the feasibility of Project EDEN and to make a recommendation on implementation.

BUY AMERICAN PROCUREMENT REQUIREMENTS

Amendment No. 153: Inserts language amending certain procurement regulations related to purchase of American products.

The conferees did not include Senate language creating a Buy America Advocate and a rewrite of the Buy America Procurement section of the Foreign Assistance Act. Instead, the conferees included procurement-related language similar to that enacted in the Freedom Support Act and have applied that language worldwide. The conferees have taken this action largely because of objections from the authorizing committees that a rewrite of this portion of the Foreign Assistance Act is their responsibility.

However, the conferees are very concerned about the diminution of Buy America provisions as administered by the Agency for International Development. What little restrictions exist are routinely waived by low-level officials in Washington, D.C. and in the field. The conferees are aware of too many cases where American companies have been excluded from procurement, and some instances where the United States government has simply written checks in order to finance foreign automobile operations in certain African countries. Both the House and Senate committees will be addressing this issue early in the next Congress, and hopefully, so will the authorizing committees. The result must be meaningful Buy America provisions.

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL

Amendment No. 154: Inserts Sense of the Congress language on the Arab League Boycott of Israel.

MORATORIUM ON ANTI-PERSONNEL LANDMINES

Amendment No. 155: Delete Senate language on a moratorium on the sale of antipersonnel landmines. This provision was included in other authorizing legislation.

IMPACT ON JOBS IN THE UNITED STATES

Amendment No. 156: Inserts language restricting use of assistance in this Act for various activities that are likely to cause a loss of jobs within the United States. Specifically the provision prohibits use of funds for: (1) financial incentives to enterprises within the United States to relocate outside the United States, if such inducement is likely to reduce the number of its employees within the United States (2) any assistance to establish or develop export processing zones in foreign countries unless the President determines and certifies that it is not likely to cause loss of jobs within the United States and (3) assistance for any project which contributes to the violation of internationally recognized workers' rights. The conferees expect the Agency for International Development and other applicable agencies to rigorously enforce the prohibitions contained in this section.

HUMANITARIAN ASSISTANCE FOR ARMENIA

Amendment No. 157: Inserts language earmarking $5,000,000 for Armenia, and changes the title and section number designation.

REPORT ON RUSSIAN MILITARY EXPORTS

Amendment No. 158: Inserts language requiring certain reports on Russian military exports. The Senate had proposed a similar provision.

PROHIBITION OF AIRCRAFT TRANSFER TO GUATEMALA

Amendment No. 159: Inserts language prohibiting transfer of aircraft from the Department of Defense to the Drug Enforcement Administration for activities in Guatemala, and changing the title and section number designation.

The conferees have carefully considered and strongly oppose the Drug Enforcement Administration's plans to deploy Blackhawk helicopters as a part of an expansion of Operation Cadence interdiction efforts in Guatemala. Several concerns compel this opposition.

In the context of ongoing human rights and political strains in U.S. relations with Guatemala, the creation of a new air wing would appear to send the wrong signal of support. Moreover, the conferees have strong reservations about the security, effectiveness and duplication of effort reflected in the operational plans.

In DEA briefings, representatives acknowledge there is no institutional experience in Guatemala with overseas airborne tactical missions nor operational experience with Blackhawks, an expensive, high maintenance, sophisticated helicopter. Currently, the Bureau of International Narcotics Matters at the Department of State maintains a small aviation unit in Guatemala to carry out both eradication and interdiction missions. Two helicopters are dedicated to DEA exclusively for use in Operation Cadence interdiction efforts. Despite almost continuous availability, these assets have only been used by DEA approximately 50 percent of the time.

Although there is strong support for international counternarcotics activities, the conferees view DEA's efforts to create and launch an independent air wing in Central America as an unnecessary duplication of effort.

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

Amendment No. 160: Inserts language with congressional findings on the situation in the territory of the former Yugoslavia, granting certain authorities to the President pursuant to lifting of the United Nations arms embargo against Bosnia-Hercegovina, and changing the section number designation.

ZAIRE ASSISTANCE

Amendment No. 161: Deletes language proposed by the Senate which allows certain waivers for assistance to Zaire.

IMF LOANS TO RUSSIA

Amendment No. 162: Deletes Senate language addressing International Monetary Fund (IMF) loans to Russia. The conferees agree that expansion of the IMF quota is particularly important at this time due to developments in Eastern Europe and the new independent states of the former Soviet Union. In appropriating the IMF quota increase, the conferees remain concerned about IMF shortcomings in several aspects of its program to assist Russia and the former Soviet states to achieve economic reform. The IMF has failed to deploy adequate IMF personnel in Russia or to mobilize private sector economic and financial experts and make them available to the Russian government. The IMF has failed to catalyze adequate debt relief and a timely resolution of responsibility for the former Soviet Union's debt. Such relief should include significant forbearance by OECD creditors to insure that IMF assistance to Russia and the Commonwealth of Independent States is not "roundtripped" to pay the Soviet's Western European creditors. The IMF has failed to assist in resolving the ruble zone issues undermining Russia's anti-inflationary efforts. The IMF has failed to mobilize the overall financial package pledged by the G–7 nations in a timely fashion and to provide to the Government of Russia a clear description of the components of the package and reliable timetable for its implementation.

AID OPERATING EXPENSES

Amendment No. 163: Deletes Senate language limiting Agency for International Development Operating Expenses.

BUDGET SUBMISSION-AID

Amendment No. 164: Inserts Senate language directing that certain information be included in the annual budget submission of the Agency for International Development, and changes the title and section number designation.

KURDISH HUMANITARIAN ASSISTANCE

Amendment No. 165: Inserts new language to the language inserted by the Senate providing up to $5,000,000 for Kurdish humanitarian assistance, and changing section number designation.

FORMER YUGOSLAVIA

Amendment No. 166: Deletes Sense of the Senate language on the situation in the territories of the former Yugoslavia.

RESTRICTIONS OF ASSISTANCE FOR MOROCCO

Amendment No. 167: Inserts Senate language restricting assistance to Morocco.

The conferees agree to include language providing that no more than $52,000,000 may be made available for Morocco from the Economic Support and Foreign Military Financing accounts ($20,000,000 is earmarked in ESF and $40,000,000 is earmarked in FMF), until the Administration certifies and reports to Congress that Morocco is fully cooperating with the United Nations in implementation of the Settlement Plan for self determination for the people of the Western Sahara. The conferees believe that it would also be helpful to know whether the opposing side in this dispute, the Polisario, is fully cooperating with the United Nations, and therefore request that the Administration include in its report information on both sides.

The conferees are aware of the most recent report by the Secretary-General of the United Nations on the situation concerning the Western Sahara (August 20, 1992), and are encouraged by that report, which notes that cease-fire violations have dramatically decreased from 102 in the three month period between March and May, 1992, to six for the period June through August 1992. The conferees note the observation of the Secretary-General in his report that he is "encouraged by the progress achieved until now in my Special Representatives' talks with the parties".

PROHIBITION OF IMET FOR INDONESIA

Amendment No. 168: Restores House language prohibiting use of International Military Education and Training funds for Indonesia, and changing the title and section number designation.

TITLE VI—LOAN GUARANTEES TO ISRAEL

Amendment No. 169: Inserts Senate language providing loan guarantees to Israel. The language allows the President to issue up to $10,000,000,000 in loan guarantees between October 1, 1992 and September 30, 1997 to assist Israel in its efforts to resettle and absorb immigrants into Israel from the republics of the former Soviet Union, Ethiopia and other countries. All subsidy and fee costs associated with the loan guarantees are to be paid by the Government of Israel.

TITLE VII—CANCER REGISTRIES

Amendment No. 170: Deletes language on the Cancer Registries Amendment Act, and the Third World Development and Threat Reduction Act of 1992.

The conferees expect the Secretary of the Treasury to instruct the United States executive director to each international financial institution, to use United States voice and vote to vigorously advocate and promote policies within such institutions designed to encourage developing countries to significantly reduce military and military-related expenditures and increase resources for primary health care and basic education. The U.S. executive directors should develop procedures and mechanisms within the appropriate institutions to collect data on military and military-related expenditures, primary health care and basic education, and take into account such information in carrying out the aforementioned provisions. The U.S. executive director should oppose the extension of financial assistance or technical assistance, except for the purposes of defense conversion or demobilization of combatants, to a developing country whose military expenditures are judged to be excessive in comparison to their combined expenditures on health and education.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follow:

New budget (obligational authority, fiscal year 1992	$14,400,026,946
Budget estimates of new (obligational) authority, fiscal year 1993	27,426,655,602
House bill, fiscal year 1993	13,772,265,903
Senate bill, fiscal year 1993	26,419,000,134
Conference agreement, fiscal year 1993	26,257,377,903
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1992	+11,857,350,957
Budget estimates of new (obligational) authority, fiscal year 1993	−1,169,277,699
House bill, fiscal year 1993	+12,485,112,000
Senate bill, fiscal year 1993	−161,622,231

DAVID R. OBEY,
SIDNEY R. YATES
(except No. 101—military assistance),
MATTHEW F. MCHUGH,
WILLIAM LEHMAN,
CHARLES WILSON,
LAWRENCE J. SMITH,
PETER J. VISCLOSKY,
BILL ALEXANDER,
JAMIE L. WHITTEN,
MICKEY EDWARDS
(except for amendment No. 78),
BILL GREEN,
BOB LIVINGSTON
(except for amendment No. 78),
JOSEPH M. MCDADE
(except for amendment No. 78),
Managers on the Part of the House.

PATRICK J. LEAHY,
DANIEL K. INOUYE,
J. BENNETT JOHNSTON,
DENNIS DECONCINI,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
ROBERT C. BYRD,
BOB KASTEN,
MARK O. HATFIELD,
ALFONSE D'AMATO,
ARLEN SPECTER,
TED STEVENS,
Managers on the Part of the Senate.

REPORT TO ACCOMPANY CONFERENCE REPORT ON H.R. 5739, EXPORT-IMPORT BANK REAUTHORIZATION

Ms. OAKAR, from the committee of Conference, submitted a privileged report (Rept. No. 102–1010) on the conference report on the bill (H.R. 5739) to reauthorize the Export-Import Bank of the United States, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT (H. REPT. 102–1010)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5739), To reauthorize the Export-Import Bank of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

I lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Export Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—REAUTHORIZATION OF EXPORT-IMPORT BANK

Sec. 101. Declaration of policy.
Sec. 102. Extension of authority.
Sec. 103. Tied aid credit fund extension.
Sec. 104. Use of loan guarantees.
Sec. 105. Expanded use of loan guarantees.
Sec. 106. Environmental policy.
Sec. 107. Insurance-related business stemming from Bank activities.
Sec. 108. Debt reduction; enterprise for the Americas initiative.
Sec. 109. Increase in aggregate loan, guarantee, and insurance authority.
Sec. 110. Limitation on financing for certain countries.
Sec. 111. Conditional allowance of assistance for exports to Angola.
Sec. 112. Financing of sales of defense articles or services.
Sec. 113. Increase in advisory committee membership.
Sec. 114. Financing of high technology exports to emerging democracies.
Sec. 115. Cooperation on export financing programs.
Sec. 116. Assistance for exports by small businesses.
Sec. 117. Compensation of employees.
Sec. 118. Report on regional offices.
Sec. 119. Report on financing of services.
Sec. 120. Report on demand for trade finance for the Baltic States, the independent states of the former Soviet Union, and Central and Eastern Europe.
Sec. 121. Elimination of outdated provisions.

TITLE II—EXPORT PROMOTION

Sec. 201. Trade Promotion Coordinating Committee.
Sec. 202. One-stop shops.
Sec. 203. Commercial Service cooperation in Federal financing and insurance programs.
Sec. 204. Environmental trade promotion.
Sec. 205. Rank of Commercial Service officers.
Sec. 206. Report on export policy.
Sec. 207. Provisional repeal of amendments.
Sec. 208. Export promotion authorization.

TITLE III—MISCELLANEOUS

Sec. 301. John Heinz Competitive Excellence Award.

TITLE I—REAUTHORIZATION OF EXPORT-IMPORT BANK

SEC. 101. DECLARATION OF POLICY.

The Congress finds that—

(1) as the world's largest economy, the United States has an enormous stake in the future of the global trading system;

(2) exports are a crucial force driving the United States economy;

(3) during 1991, the value of United States exports increased by 7.1 percent from the 1990 level to $421,600,000,000, supporting more than 7,000,000 full-time United States jobs, and affecting the lives of all of the people of the United States;

(4) exports also support the global strategic position of the United States;

(5) a significant part of a country's influence is drawn from the reputation of its goods, its industrial connections with other countries, and the capital it has available for investment, and trade finance is a critical component of this equation;

(6) the growth in United States exports has increased the demand for financing from the Export-Import Bank of the United States;

(7) during 1991, the value of exports assisted by the Export-Import Bank rose 28.7 percent, from $9,700,000,000 to $12,100,000,000, the highest level since 1981;

(8) the Export-Import Bank used its entire budget authority provided for 1991, and still could not meet all of the demand for its financing assistance; and

(9) accordingly, the charter of the Export-Import Bank, which is scheduled to expire on September 30, 1992, must be renewed in order that the Bank continue to arrange competitive and innovative financing for the foreign sales of United States exporters.

SEC. 102. EXTENSION OF AUTHORITY.

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "1992" and inserting "1997".

SEC. 103. TIED AID CREDIT FUND EXTENSION.

(a) IN GENERAL.—Section 15(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) is amended by striking "fiscal year 1992" and inserting "September 30, 1995".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 15(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(e)) is amended to read as follows:

"(e) AUTHORIZATION.—There are authorized to be appropriated to the Fund $500,000,000 for each of fiscal years 1993, 1994, and 1995. Such sums are authorized to remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 15 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3) is amended—

(1) by striking "predacious" each place such term appears and inserting "predatory";

(2) in subsection (a)(5)—

(A) by striking "temporary"; and

(B) by striking "existing arrangement" and inserting "existing Arrangement";

(3) in subsection (b)(1)—

(A) by striking "To carry out the purposes of subsection (a)(5), the" and inserting "The";

(B) in subparagraph (A), by inserting before the semicolon the following: "and with special attention to matching tied aid and partially untied aid credits extended by other governments—

"(i) in violation of the Arrangement; or

"(ii) in cases in which the Bank determines that United States trade or economic interests justify the matching of tied aid credits extended in compliance with the Arrangement, including grandfathered cases"; and

(C) in subparagraph (B), by striking "partially untied aid credits; and" and all that follows through the end of clause (ii), and inserting the following: "partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or

"(ii) engages in predatory financing practices that seek to circumvent international agreements on tied aid; or";

(4) in subsection (b)(2)(A), by striking "of the Treasury";

(5) in subsection (b)(2)(B), by striking "private financial institutions or entities" and inserting "United States exporters and private financial institutions or entities, and in consultation with other Federal agencies";

(6) in subsection (b)(4), by adding at the end the following: "The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B).";

(7) by amending paragraphs (1) and (2) of subsection (g) to read as follows:

"(1) IN GENERAL.—On or before October 15, 1992, and every 6 months thereafter, the Bank, in consultation with the Secretary, shall submit a report on tied aid credits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(2) CONTENTS OF REPORTS.—Each report required under paragraph (1) shall contain a description of—

"(A) the implementation of the Arrangement restricting tied aid and partially untied aid credits for commercial purposes, including the operation of notification and consultation procedures;

"(B) all principal offers of tied aid credit financing by foreign countries during the previous 6-month period, including all offers notified by countries participating in the Arrangement, and in particular—

"(i) offers grandfathered under the Arrangement; and

"(ii) notifications of exceptions under the Arrangement;

"(C) any use by the Bank of the Tied Aid Credit Fund to match specific offers, including those that are grandfathered or exceptions under the Arrangement; and

"(D) other actions by the United States Government to combat predatory financing practices by foreign governments, including additional negotiations among participating governments in the Arrangement."; and

(8) in subsection (h)—

(A) by striking "For the purpose of this section—" and inserting "For purposes of this section, the following definitions shall apply:"; and

(B) by adding at the end the following new paragraph:

"(6) OFFERS GRANDFATHERED UNDER THE ARRANGEMENT.—The term 'offers grandfathered under the Arrangement' means—

"(A) financing offers made or lines of credit extended on or before February 15, 1992; or

"(B) financing offers extended for subloans under lines of credit referred to in subparagraph (A) made on or before August 15, 1992, or, in the case of Mexico, on or before December 31, 1992.".

SEC. 104. USE OF LOAN GUARANTEES.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended in the fifth sentence by inserting after the first semicolon the following: "that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;".

SEC. 105. EXPANDED USE OF LOAN GUARANTEES.

Section 2(c)(3) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(c)(3)) is amended—

(1) by striking "With" and inserting the following:

"(A) IN GENERAL.—With"; and

(2) by adding at the end the following new subparagraph:

"(B) GUARANTEE COVERAGE.—For the guarantee program provided for in this subsection, the Bank may provide up to 100 percent coverage of the interest and principal if the Board of Directors determines such coverage to be necessary to ensure acceptance of Bank guarantees by financial institutions for any transaction in any export market in which the Bank is open for business.".

SEC. 106. ENVIRONMENTAL POLICY.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 17. ENVIRONMENTAL POLICY AND PROCEDURES.

"(a) ENVIRONMENTAL EFFECTS CONSIDERATION.—

"(1) IN GENERAL.—Consistent with the objectives of section 2(b)(1)(A), the Bank shall establish procedures to take into account the potential beneficial and adverse environmental effects of goods and services for which support is requested under its direct lending and guarantee programs. Such procedures shall apply to any transaction involving a project—

"(A) for which long-term support of $10,000,000 or more is requested from the Bank;

"(B) for which the Bank's support would be critical to its implementation; and

"(C) which may have significant environmental effects upon the global commons or any country not participating in the project, or may produce an emission, an effluent, or a principal product that is prohibited or strictly regulated pursuant to Federal environmental law.

"(2) AUTHORITY TO WITHHOLD FINANCING.—The procedures established under paragraph (1) shall permit the Board of Directors, in its judgment, to withhold financing from a project for environmental reasons or to approve financing after considering the potential environmental effects of a project.

"(b) USE OF BANK PROGRAMS TO ENCOURAGE CERTAIN EXPORTS.—The Bank shall encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects. The Board of Directors shall name an officer of the Bank to advise the Board on ways that the Bank's programs can be used to support the export of such goods and services. The officer shall act as liaison between the Bank and other Federal Government agencies, including the agencies whose representatives are members of the Environmental Trade Promotion Working Group of the Trade Promotion Coordinating Committee, with respect to overall United States Government policy on the environment.

"(c) INCLUSION IN REPORT TO CONGRESS.—The Bank shall provide in its annual report to the Congress a summary of its activities under subsections (a) and (b).

"(d) INTERPRETATION.—Nothing in this section shall be construed to create any cause of action.".

SEC. 107. INSURANCE-RELATED BUSINESS STEMMING FROM BANK ACTIVITIES.

Section 2(d) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(d)) is amended by striking paragraphs (2) and (3) and inserting after paragraph (1) the following:

"(2) COMPETITIVE OPPORTUNITY FOR INSURANCE COMPANIES.—In the case of any long-term loan or guarantee of not less than $10,000,000, the Bank shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

"(3) RESPONSIVE ACTIONS.—If the Bank becomes aware that a fair and open competitive opportunity is not accorded to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

"(A) may approve or deny the loan or guarantee after considering whether such action would be likely to achieve competitive access for United States insurance companies; and

"(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and to the United States Trade Representative for consideration of a recommendation to the President that access by such country to export credit of the United States should be restricted.

"(4) NOTICE OF APPROVAL.—If the Bank approves a loan or guarantee with respect to a foreign country notwithstanding information regarding denial by that foreign country of competitive opportunities for United States insurance companies, the Bank shall include notice of such approval and the reason for such approval in the report on competition in officially supported export credit required under subsection (b)(1)(A).

"(5) DEFINITIONS.—For purposes of this section—

"(A) the term 'United States insurance company'—

"(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

"(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i); and

"(B) the term 'fair and open competitive opportunity' means, with respect to the provision of insurance by a United States insurance company, that the company—

"(i) has received notice of the opportunity to provide such insurance; and

"(ii) has been evaluated for such opportunity on a nondiscriminatory basis.".

SEC. 108. DEBT REDUCTION; ENTERPRISE FOR THE AMERICAS INITIATIVE.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 18. DEBT REDUCTION; ENTERPRISE FOR THE AMERICAS INITIATIVE.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'eligible country' means a country designated by the President in accordance with section (b);

"(2) the term 'Facility' means the entity established in the Department of the Treasury by section 601 of the Agricultural Trade Development and Assistance Act of 1954; and

"(3) the term 'IMF' means the International Monetary Fund.

"(b) ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.—

"(1) REQUIREMENTS.—To be eligible for benefits from the Facility under this section, a country must—

"(A) be a Latin American or Caribbean country;

"(B) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

"(i) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility or, in exceptional circumstances, an IMF monitored program or its equivalent; and

"(ii) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

"(C) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

"(D) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

"(2) ELIGIBILITY DETERMINATIONS.—The President shall determine whether a country is an eligible country for purposes of paragraph (1).

"(c) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

"(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any loan or portion thereof made before January 1, 1992, to any eligible country or any agency thereof pursuant to this Act, or, on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

"(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

"(B) a debt buy-back by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development activities, in a manner consistent with sections 607 through 612 of the Agricultural Trade Development and Assistance Act of 1954,

if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

"(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

"(3) TREATMENT UNDER SECURITIES LAWS.—The filing of a registration statement under the Securities Act of 1933 shall not be required with respect to the sale or offer for sale by the Bank of a loan or any interest therein pursuant to this section. For purposes of the Securities Act of 1933, the Bank shall not be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan (or any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, or debt-for-nature swap.

"(4) ADMINISTRATION.—The Facility shall notify the Bank of purchasers that the President has determined to be eligible, and shall direct the Bank to carry out the sale, reduction, or cancellation of a loan pursuant to this section. The Bank shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

"(5) LIMITATIONS.—The authorities of this subsection may be exercised only to such extent as provided for in advance in appropriations Acts, as necessary to implement the Federal Credit Reform Act of 1990.

"(d) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

"(e) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (c)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"(f) DEBTOR CONSULTATION.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President shall consult with the country concerning, the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the sale, reduction, and cancellation of loans or portions thereof pursuant to this section, there are authorized to be appropriated to the President such sums as may be necessary, which are authorized to remain available until expended.".

SEC. 109. INCREASE IN AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

(a) FEES AND PREMIUMS.—Section 2(c)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(c)(1)) is amended to read as follows:

"(1) The Bank shall charge fees and premiums commensurate, in the judgment of the Bank, with risks covered in connection with the contractual liability that the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss.".

(b) AGGREGATE AUTHORITY.—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635e) is amended—

(1) by striking "SEC. 7. (a)(1)" and inserting the following:

"SEC. 7. AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

"(a) LIMITATION ON OUTSTANDING AMOUNTS.—";

(2) in subsection (a)—

(A) by striking paragraph (3); and

(B) by striking "$40,000,000,000" and inserting "$75,000,000,000"; and

(3) in subsection (a)(2)—

(A) by striking "(2)(A)(i)" and inserting the following:

"(b) PRESIDENTIAL DETERMINATION.—

"(1) IN GENERAL.—";

(B) by striking "(I)" and inserting "(A)";

(C) by striking "(II)" and inserting "(B)";

(D) by striking "(III)" and inserting "(C)";

(E) by striking "(ii) Not later than" and inserting the following:

"(2) REPORT.—Not later than";

(F) by striking "(B)(i)" and inserting the following:

"(3) REQUEST FOR LEGISLATION.—

"(A) IN GENERAL.—"; and

(G) by striking "(ii)" and inserting the following:

"(B) CONTINUED AVAILABILITY OF AUTHORITY.—".

SEC. 110. LIMITATION ON FINANCING FOR CERTAIN COUNTRIES.

Section 2(b)(2)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)(B)) is amended to read as follows:

"(B) MARXIST-LENINIST COUNTRY DEFINED.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'Marxist-Leninist country' means any country that maintains a centrally planned economy based on the principles of Marxism-Leninism, or is economically and militarily dependent on any other such country.

"(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in accordance with subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

"(I) Cambodian People's Republic.

"(II) Democratic People's Republic of Korea.

"(III) Democratic Republic of Afghanistan.

"(IV) Lao People's Democratic Republic.

"(V) People's Republic of China.

"(VI) Republic of Cuba.

"(VII) Socialist Federal Republic of Yugoslavia.

"(VIII) Socialist Republic of Vietnam.

"(IX) Tibet.".

SEC. 111. CONDITIONAL ALLOWANCE OF ASSISTANCE FOR EXPORTS TO ANGOLA.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended—

(1) by striking paragraph (11) and redesignating paragraph (12) as paragraph (11); and

(2) in paragraph (11), as redesignated, by striking "Notwithstanding any determination by the President under paragraph (2) or (11), the" and inserting "The".

SEC. 112. FINANCING OF SALES OF DEFENSE ARTICLES OR SERVICES.

(a) EXTENSION OF AUTHORITY.—Section 2(b)(6)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)) is amended—

(1) in clause (iv), by inserting "and" at the end;

(2) in clause (v), by striking "; and" and inserting a period; and

(3) by striking clause (vi).

(b) ADDITIONAL CRITERIA FOR NATIONAL INTEREST WAIVER.—Section 2(b)(6)(D)(i) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(D)(i)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) by redesignating subclause (II) as subclause (III); and

(3) by inserting after subclause (I) the following:

"(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and".

(c) REPORT.—Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended by adding at the end the following new subparagraph:

"(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use. Such report shall include a description of each of the transactions and the justification for the Bank's actions.".

(d) CONFORMING AMENDMENTS.—Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended—

(1) in subparagraph (A), by striking "designated under" and all that follows through the end of the subparagraph and inserting a period;

(2) in subparagraph (B)—

(A) by striking ", and section 32 of the Arms Export Control Act,"; and

(B) in clause (v), by striking "and services" and inserting "or services";

(3) in subparagraph (D)(i)(III), as redesignated by subsection (b) of this section, by striking "determination has" and inserting "determinations have";

(4) in subparagraph (D)(ii), by striking "sentence" and inserting "clause"; and

(5) in subparagraph (G), by striking "and services" and inserting "or services".

(e) REPEAL.—Section 32 of the Arms Export Control Act (22 U.S.C. 2772) is repealed.

SEC. 113. INCREASE IN ADVISORY COMMITTEE MEMBERSHIP.

Section 3(d)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(1)(A)) is amended by striking "twelve" and inserting "15".

SEC. 114. FINANCING OF HIGH TECHNOLOGY EXPORTS TO EMERGING DEMOCRACIES.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

"(H)(i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology items to such countries.

"(ii) In exercising its authority, the Bank shall develop a program for providing guarantees and insurance with respect to the export of high technology items to countries making the transition to market based economies, including eligible East European countries (within the meaning of section 4 of the Support For East European Democracy (SEED) Act of 1989).

"(iii) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall, to the maximum extent practicable, inform high technology companies, particularly small business concerns (as such term is defined in section 3 of the Small Business Act), about the programs of the Bank for United States companies interested in exporting high technology goods to countries making the transition to market based economies, including any eligible East European country (within the meaning of section 4 of the Support For East European Democracy (SEED) Act of 1989).

"(iv) In carrying out clause (iii), the Bank shall—

"(I) work with other agencies involved in export promotion and finance; and

"(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.".

SEC. 115. COOPERATION ON EXPORT FINANCING PROGRAMS.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 19. COOPERATION ON EXPORT FINANCING PROGRAMS.

"The Bank shall, subject to appropriate memoranda of understanding—

"(1) provide complete and current information on all of its programs and financing practices to—

"(A) the Small Business Administration and other Federal agencies involved in promoting exports and marketing export financing programs; and

"(B) State and local export financing organizations that indicate a desire to participate in export promotion; and

"(2) consistent with the provisions of section 2301(f)(2) of the Export Enhancement Act of 1988, undertake a program to provide training for personnel designated in such memoranda with respect to such financing programs.".

SEC. 116. ASSISTANCE FOR EXPORTS BY SMALL BUSINESSES.

Section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v)) is amended by inserting "directly" after "exports".

SEC. 117. COMPENSATION OF EMPLOYEES.

(a) IN GENERAL.—The Board of Directors of the Export-Import Bank of the United States may compensate not more than 35 employees of the Bank without regard to the provisions of chapter 51 or subchapter III or VIII of chapter 53 of title 5, United States Code.

(b) SUNSET.—Effective 2 years after the date of enactment of this Act, subsection (a) is hereby repealed.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Export-Import Bank of the United States shall submit a report to the Congress on—

(1) the recruitment and employee retention problems of the Bank;

(2) any relief from such problems afforded by the Office of Personnel Management;

(3) any use of the authority provided in subsection (a); and

(4) the conclusions and recommendations of the Bank with respect to—

(A) whether such problems have been satisfactorily addressed; and

(B) whether or not the authority of subsection (a) should be extended.

SEC. 118. REPORT ON REGIONAL OFFICES.

Not later than 1 year after the date of enactment of this Act, the Export-Import Bank of the United States shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the Bank's plan to establish and operate regional offices. In addition, the report shall consider the appropriateness of cooperating with other Federal agencies and State and local organizations in co-locating personnel of such agencies and organizations with personnel of the Bank in such regional offices.

SEC. 119. REPORT ON FINANCING OF SERVICES.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Export-Import Bank of the United States (in this section referred to as the "Bank") shall submit a report to the Committee on Banking, Finance and Urban Affairs and the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on ways of facilitating the export financing of high technology services.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) an analysis of the current export financing needs of firms dealing in high technology services;

(2) an identification of the export financing support provided by commercial lenders to finance the sale of high technology services;

(3) an identification of the official export credit programs in support of such exports of countries that are major participants in the Organization for Economic Cooperation and Development; and

(4) a review of the programs of the Bank to determine how it can meet identified market needs of firms dealing in high technology services.

(c) DEFINITION.—For purposes of this section, the term "high technology services" means industries in which above average percentages of scientists and engineers are employed, and which have the highest direct research and development expenditures per dollar of sales, including—

(1) computer programming and software services;

(2) data processing services; and

(3) computer related services.

SEC. 120. REPORT ON DEMAND FOR TRADE FINANCE FOR THE BALTIC STATES, THE INDEPENDENT STATES OF THE FORMER SOVIET UNION, AND CENTRAL AND EASTERN EUROPE.

(a) FINDINGS.—The Congress finds that—

(1) United States export participation in the emerging markets in the independent States of the former Soviet Union, Central and Eastern Europe, and the Baltic States holds definite potential for preserving and creating jobs in the United States and strengthening the competitiveness of United States exports;

(2) export assistance for United States goods destined for emerging republics is an investment in the development and establishment of their market economies, a critical element in maintaining existing United States businesses which export to the regions in which such republics are located, and a significant factor in the economic future of the United States and such republics;

(3) the Export-Import Bank of the United States (in this section referred to as the "Bank") has a unique opportunity to play a leading role in assisting United States exporters to participate in the rapidly changing and highly competitive markets in the independent States of the former Soviet Union, Central and Eastern Europe, and the Baltic States; and

(4) it is in the interest of the United States for the Bank to—

(A) monitor carefully the export assistance programs and terms offered by foreign governments for competitive exports; and

(B) make every effort to offer United States business export assistance for transactions in the independent States of the former Soviet Union, Central and Eastern Europe, and the Baltic States, that is comparable to the assistance being provided by other governments.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Bank shall transmit to the Congress a report analyzing the present and future demand for loans, guarantees, and insurance for trade between the United States and the Baltic States, between the United States and the independent States of the former Soviet Union, and between the United States and Central and Eastern Europe, and shall make recommendations regarding the adequacy of financing for trade between the United States and such countries. As used in this section, the term "independent States of the former Soviet Union" includes all successor states (other than the Baltic States) to the Soviet Union.

SEC. 121. ELIMINATION OF OUTDATED PROVISIONS.

(a) AMENDMENTS TO SECTION 2.—Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended—

(1) in subsection (a)(3)—

(A) by striking "(A) IN GENERAL.—";

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively;

(2) in subsection (b)(1)(A), by striking "The Bank shall also" and all that follows through the final period and inserting the following: "The Bank shall include in the annual report a description of its role in the implementation of the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 2312 of the Export Enhancement Act of 1988.";

(3) in subsection (b)(1)(E)(v), by striking "not less than—" and all that follows through the end of clause (v) and inserting "not less than 10 percent of such authority for each fiscal year."; and

(4) by striking subsection (f).

(b) AMENDMENT TO SECTION 4.—Section 4 of the Export-Import Bank Act of 1945 (12 U.S.C. 635b) is amended by striking all after the first sentence and inserting the following: "Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as the President may designate from time to time, to the extent of payments made for the capital stock of the Bank.".

(c) REPEAL OF CERTAIN OUTDATED SECTIONS.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended—

(1) by striking sections 5, 10, 12, 13, 14, and 16;

(2) by redesignating sections 6 through 9 as sections 5 through 8, respectively;

(3) by redesignating section 11 as section 9;

(4) by redesignating section 15 as section 10;

(5) by redesignating section 17, as added by section 106 of this Act, as section 11;

(6) by redesignating section 18, as added by section 108 of this Act, as section 12; and

(7) by redesignating section 19, as added by section 115 of this Act, as section 13.

TITLE II—EXPORT PROMOTION

SEC. 201. TRADE PROMOTION COORDINATING COMMITTEE.

Subtitle C of the Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2312. TRADE PROMOTION COORDINATING COMMITTEE.

"(a) Establishment and Purpose.—The President shall establish the Trade Promotion Coordinating Committee (hereafter in this section referred to as the 'TPCC'). The purpose of the TPCC shall be—

"(1) to provide a unifying framework to coordinate the export promotion and export financing activities of the United States Government; and

"(2) to develop a governmentwide strategic plan for carrying out Federal export promotion and export financing programs.

"(b) Duties.—The TPCC shall—

"(1) coordinate the development of the trade promotion policies and programs of the United States Government;

"(2) provide a central source of information for the business community on Federal export promotion and export financing programs;

"(3) coordinate official trade promotion efforts to ensure better delivery of services to United States businesses, including—

"(A) information and counseling on United States export promotion and export financing programs and opportunities in foreign markets;

"(B) representation of United States business interests abroad; and

"(C) assistance with foreign business contacts and projects;

"(4) prevent unnecessary duplication in Federal export promotion and export financing activities;

"(5) assess the appropriate levels and allocation of resources among agencies in support of export promotion and export financing and provide recommendations to the President based on its assessment; and

"(6) carry out such other duties as are deemed to be appropriate, consistent with the purpose of the TPCC.

"(c) Strategic Plan.—To carry out subsection (b), the TPCC shall develop and implement a governmentwide strategic plan for Federal trade promotion efforts. Such plan shall—

"(1) establish a set of priorities for Federal activities in support of United States exports and explain the rationale for the priorities;

"(2) review current Federal programs designed to promote the sale of United States exports in light of the priorities established under paragraph (1) and develop a plan to bring such activities into line with the priorities and to improve coordination of such activities;

"(3) identify areas of overlap and duplication among Federal export promotion activities and propose means of eliminating them;

"(4) propose to the President an annual unified Federal trade promotion budget that supports the plan for priority activities and improved coordination established under paragraph (2) and eliminates funding for the areas of overlap and duplication identified under paragraph (3); and

"(5) review efforts by the States (as defined in section 2301(i)) to promote United States exports and propose means of developing cooperation between State and Federal efforts, including colocation, cost-sharing between Federal and State export promotion programs, and sharing of market research data.

"(d) Membership.—

"(1) In General.—Members of the TPCC shall include representatives from—

"(A) the Department of Commerce;

"(B) the Department of State;

"(C) the Department of the Treasury;

"(D) the Department of Agriculture;

"(E) the Department of Energy;

"(F) the Department of Transportation;

"(G) the Office of the United States Trade Representative;

"(H) the Small Business Administration;

"(I) the Agency for International Development;

"(J) the Trade and Development Program;

"(K) the Overseas Private Investment Corporation;

"(L) the Export-Import Bank of the United States; and

"(M) at the discretion of the President, such other departments or agencies as may be necessary.

"(2) Chairperson.—The Secretary of Commerce shall serve as the chairperson of the TPCC.

"(e) Member Qualifications.—Members of the TPCC shall be appointed by the heads of their respective departments or agencies. Such members, as well as alternates designated by any members unable to attend a meeting of the TPCC, shall be individuals who exercise significant decisionmaking authority in their respective departments or agencies.

"(f) Report to the Congress.—The chairperson of the TPCC shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Foreign Affairs of the House of Representatives, not later than September 30, 1993, and annually thereafter, a report describing the strategic plan developed by the TPCC pursuant to subsection (c), the implementation of such plan, and any revisions thereto.".

SEC. 202. ONE-STOP SHOPS.

Section 2301(b) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(b)) is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(8) utilizing district and foreign offices as one-stop shops for United States exporters by providing exporters with information on all export promotion and export finance activities of the Federal Government, assisting exporters in identifying which Federal programs may be of greatest assistance, and assisting exporters in making contact with the Federal programs identified; and".

SEC. 203. COMMERCIAL SERVICE COOPERATION IN FEDERAL FINANCING AND INSURANCE PROGRAMS.

(a) In General.—Section 2301(b) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(b)) is amended by adding at the end the following new paragraph:

"(9) providing United States exporters and export finance institutions with information on all financing and insurance programs of the Export-Import Bank of the United States, the Overseas Private Investment Corporation, the Trade and Development Program, and the Small Business Administration, including providing assistance in completing applications for such programs and working with exporters and export finance institutions to address any deficiencies in such applications that have been submitted.".

(b) Training and Information Assistance.—Section 2301 of the Export Enhancement Act of 1988 (15 U.S.C. 4721) is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) Cooperation in Federal Financing and Insurance Programs.—To assist the Commercial Service in carrying out subsection (b)(9), and consistent with the provisions of section 13 of the Export-Import Bank Act of 1945, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, the Trade and Development Program, and the Small Business Administration shall each—

"(1) provide to the Commercial Service complete and current information on all of its programs and financing practices; and

"(2) undertake a training program regarding such programs and practices for Commercial Service Officers who are designated by the Assistant Secretary of Commerce and Director General of the Commercial Service.".

SEC. 204. ENVIRONMENTAL TRADE PROMOTION.

(a) TPCC Activities.—Subtitle C of the Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2313. ENVIRONMENTAL TRADE PROMOTION.

"(a) Statement of Policy.—It is the policy of the United States to foster the export of United States environmental technologies, goods, and services. In exercising their powers and functions, all appropriate departments and agencies of the United States Government shall encourage and support sales of such technologies, goods, and services.

"(b) Environmental Trade Working Group of the Trade Promotion Coordination Committee.—

"(1) Establishment and Purpose.—The President shall establish the Environmental Trade Promotion Working Group (hereafter in this section referred to as the 'Working Group') as a subcommittee of the Trade Promotion Coordination Committee (hereafter in this section referred to as the 'TPCC'), established under section 2312. The purpose of the Working Group shall be—

"(A) to address all issues with respect to the export promotion and export financing of United States environmental technologies, goods, and services; and

"(B) to develop a strategy for expanding United States exports of environmental technologies, goods, and services.

"(2) Membership.—The members of the Working Group shall be—

"(A) representatives of the departments and agencies that are represented on the TPCC, who are designated by the head of their respective departments or agencies to advise the head of such department or agency on ways of promoting the export of United States environmental technologies, goods, and services; and

"(B) a representative of the Environmental Protection Agency.

"(3) Chairperson.—The Secretary of Commerce (hereafter in this section referred to as the 'Secretary') shall designate the chairperson of the Working Group from among senior employees of the Department of Commerce. The chairperson shall—

"(A) assess the effectiveness of United States Government programs for the promotion of exports of environmental technologies, goods, and services;

"(B) recommend improvements to such programs, including regulatory changes or additional authority that may be necessary to improve the promotion of exports of environmental technologies, goods, and services;

"(C) ensure that the members of the Working Group coordinate their environmental trade promotion programs, including feasibility studies, technical assistance, training programs, business information services, and export financing; and

"(D) assess, jointly with the Working Group representative of the Environmental Protection Agency, the extent to which the environmental trade promotion programs of the Working Group advance the environmental goals established in 'Agenda 21' by the United Nations Conference on Environment and Development held at Rio de Janeiro, and in other international environmental agreements.

"(4) REPORT TO CONGRESS.—The chairperson of the TPCC shall include a report on the activities of the Working Group as a part of the annual report submitted to the Congress by the TPCC.

"(c) TRADE INFORMATION.—In support of the work of the Working Group, the Secretary shall, as part of the regular market survey and information services activities of the Department of Commerce, make available—

"(1) information on existing and emerging markets and market trends for environmental technologies, goods, and services; and

"(2) a description of the export promotion programs for environmental technologies, goods, and services of the agencies that are represented on the Working Group.

"(d) OVERSEAS SERVICES FOR EXPORTERS.—

"(1) AUTHORIZATION.—The Secretary is authorized to designate a Foreign Commercial Service officer to serve as the Environmental Export Assistance Officer in any country—

"(A) whose companies are important competitors for United States exports of environmental technologies, goods, and services; or

"(B) that offers promising markets for such exports.

"(2) DUTIES.—The officer designated under paragraph (1) shall provide export promotion assistance to United States companies, including—

"(A) assessments of government assistance provided to producers of environmental technologies, goods, and services in such countries, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(B) assistance in identifying potential customers and market opportunities in such countries;

"(C) assistance in obtaining necessary business services in such countries;

"(D) information on environmental standards and regulations in such countries; and

"(E) information on all United States Government programs that could assist the promotion, financing, and sale of exports of United States environmental technologies, goods, and services in such countries.".

(b) REPORT ON INSURANCE FEASIBILITY.—Not later than 1 year after the date of enactment of this Act, the chairperson of the Trade Promotion Coordinating Committee, after consultation with the appropriate departments and agencies of the United States Government, shall submit a report to the Congress that analyzes—

(1) the extent to which Federal investment insurance and export financing programs sufficiently protect against business failures or default on obligations arising from changes by a foreign government in its environmental laws or regulations; and

(2) the advisability and feasibility of expanding the coverage of such programs, or creating new programs, to address such risks.

SEC. 205. RANK OF COMMERCIAL SERVICE OFFICERS.

Section 2301(d)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(d)(1)) is amended in the first sentence by striking "8" and inserting "16".

SEC. 206. REPORT ON EXPORT POLICY.

The Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2314. REPORT ON EXPORT POLICY.

"(a) IN GENERAL.—Not later than May 31 of each year, the Secretary of Commerce shall submit to the Congress a report on the international economic position of the United States and, not later than June 30 of each year, shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives to testify on issues addressed in that report.

"(b) CONTENTS.—

"(1) IN GENERAL.—Each report required under subsection (a) shall address—

"(A) the state of United States international economic competitiveness, focusing, in particular, on the efforts of the Department of Commerce—

"(i) to encourage research and development of technologies and products deemed critical for industrial leadership;

"(ii) to promote investment in and improved manufacturing processes for such technologies and products; and

"(iii) to increase United States industrial exports of products using the technologies described in clause (i) to those markets where the United States Government has sought to reduce barriers to exports;

"(B) the report on the Trade Promotion Coordinating Committee strategic plan submitted to the Congress in accordance with section 2312(f);

"(C) other specific recommendations of the Department of Commerce to improve the United States balance of trade;

"(D) the effects on the international economic competitiveness of the United States of—

"(i) formal and informal trade barriers; and

"(ii) subsidies by foreign countries to their domestic industries;

"(E) the efforts of the Department of Commerce to reduce trade barriers; and

"(F) the adequacy of export financing programs of the United States Government and recommendations for improving such programs.

"(2) POLICY BASIS FOR REPORTS.—Portions of each report under this section may incorporate or be based upon relevant reports and testimony produced by the Department of Commerce or other agencies, but the policy views shall be those of the Secretary of Commerce.".

SEC. 207. PROVISIONAL REPEAL OF AMENDMENTS.

In the event of the enactment of title II of H.R. 3489, "An Act to reauthorize the Export Administration Act of 1979, and for other purposes", this title and the amendments made by this title are repealed, effective on the date of enactment of title II of H.R. 3489, "An Act to reauthorize the Export Administration Act of 1979, and for other purposes".

SEC. 208. EXPORT PROMOTION AUTHORIZATION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Commerce—

"(1) to carry out export promotion programs—

"(A) $190,000,000 for fiscal year 1993; and

"(B) $200,000,000 for fiscal year 1994; and

"(2) to carry out section 2303 of the Export Enhancement Act of 1988, $5,500,000 for each of fiscal years 1993 and 1994.".

TITLE III—MISCELLANEOUS

SEC. 301. JOHN HEINZ COMPETITIVE EXCELLENCE AWARD.

(a) ESTABLISHMENT.—There is hereby established the John Heinz Competitive Excellence Award, which shall be evidenced by a national medal bearing the inscription "John Heinz Competitive Excellence Award". The medal, to be minted by the United States Mint and provided to the Congress, shall be of such design and bear such additional inscriptions as the Secretary of the Treasury may prescribe, in consultation with the Majority and Minority Leaders of the Senate, the Speaker and the Minority Leader of the House of Representatives, and the family of Senator John Heinz. The medal shall be—

(1) three inches in diameter; and

(2) made of bronze obtained from recycled sources.

(b) AWARD CATEGORIES.—

(1) IN GENERAL.—Two separate awards may be given under this section in each year. One such award may be given to a qualifying individual (including employees of any State or local government, or the Federal Government), and 1 such award may be given to a qualifying organization, institution, or business.

(2) LIMITATION.—No award shall be made under this section to an entity in either category described in paragraph (1) in any year if there is no qualified individual, organization, institution, or business recommended under subsection (c) for an award in such category in that year.

(c) QUALIFICATION CRITERIA FOR AWARD.—

(1) SELECTION PANEL.—A selection panel shall be established, comprised of a total of 8 persons, including—

(A) 2 persons appointed by the Majority Leader of the Senate;

(B) 2 persons appointed by the Minority Leader of the Senate;

(C) 2 persons appointed by the Speaker of the House of Representatives; and

(D) 2 persons appointed by the Minority Leader of the House of Representatives.

(2) QUALIFICATION.—An individual, organization, institution, or business may qualify for an award under this section only if such individual, organization, institution, or business—

(A) is nominated to the Majority or Minority Leader of the Senate or to the Speaker or the Minority Leader of the House of Representatives by a member of the Senate or the House of Representatives;

(B) permits a rigorous evaluation by the Office of Technology Assessment of the way in which such individual, organization, institution, or business has demonstrated excellence in promoting United States industrial competitiveness; and

(C) meets such other requirements as the selection panel determines to be appropriate to achieve the objectives of this section.

(3) EVALUATION.—An evaluation of each nominee shall be conducted by the Office of Technology Assessment. The Office of Technology Assessment shall work with the selection panel to establish appropriate procedures for evaluating nominees.

(4) PANEL REVIEW.—The selection panel shall review the Office of Technology Assessment's evaluation of each nominee and may, based on those evaluations, recommend 1 award winner for each year for each category described in subsection (b)(1) to the Majority and Minority Leaders of the Senate and the Speaker and the Minority Leader of the House of Representatives.

(d) PRESENTATION OF AWARD.—

(1) IN GENERAL.—The Majority and Minority Leaders of the Senate and the Speaker and the Minority Leader of the House of Representatives shall make the award to an individual and an organization, institution, or business that has demonstrated excellence in promoting United States industrial competitiveness in the international marketplace through technological innovation, productivity improvement, or improved competitive strategies.

(2) CEREMONIES.—The presentation of an award under this section shall be made by the

Majority and Minority Leaders of the Senate and the Speaker and the Minority Leader of the House of Representatives, with such ceremonies as they may deem proper.

(3) PUBLICITY.—An individual, organization, institution, or business to which an award is made under this section may publicize its receipt of such award and use the award in its advertising, but it shall be ineligible to receive another award in the same category for a period of 5 years.

(e) PUBLICATION OF EVALUATIONS.—

(1) SUMMARY OF EVALUATIONS.—The Office of Technology Assessment shall ensure that all nominees receive a detailed summary of any evaluation conducted of such nominee under subsection (c).

(2) SUMMARY OF COMPETITIVENESS STRATEGY.—The Office of Technology Assessment shall also make available to all nominees and the public a summary of each award winner's competitiveness strategy. Proprietary information shall not be included in any such summary without the consent of the award winner.

(f) REIMBURSEMENT OF COSTS.—The Majority and Minority Leaders of the Senate and the Speaker and the Minority Leader of the House of Representatives are authorized to seek and accept gifts from public and private sources to defray the cost of implementing this section.

And the Senate agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and Senate amendment, and modifications committed to conference:

MARY ROSE OAKAR,
STEVEN NEAL,
JOHN J. LAFALCE,
ESTEBAN E. TORRES,
GERALD D. KLECZKA,
CHALMERS WYLIE,
JIM LEACH,
DOUG BEREUTER,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 106, 108, and 206 of the House bill, and title II and section 109(a)(7) of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
MEL LEVINE,
EDWARD FEIGHAN,
HARRY JOHNSTON,
WM. S. BROOMFIELD,
TOBY ROTH,
JOHN MILLER,

As additional conferees from the Committee on Foreign Affairs, for consideration of section 301 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
WM. S. BROOMFIELD,

As additional conferees from the Committee on Rules, for consideration of section 301 of the Senate amendment, and modifications committed to conference:

JOE MOAKLEY,
BUTLER DERRICK,
DAVID DREIER,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL S. SARBANES,
JAKE GARN,
CONNIE MACK,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5739), To reauthorize the Export-Import bank of the United States, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

SECTION 1—SHORT TITLE

Present law

No provision.

House bill

The House bill entitles this Act the "Export-Import Bank Charter Renewal Act of 1992."

Senate amendment

The Senate amendment entitles this Act the "Export Enhancement Act of 1992."

Conference agreement

The conference agreement is the Senate title.

TITLE I—REAUTHORIZATION OF EXPORT-IMPORT BANK

SECTION 101—DECLARATION OF POLICY

Present law

No provision.

House bill

The House bill (sec. 101) sets forth a number of findings regarding the importance of exports to the United States economy, the increase in Eximbank activity and the need to renew the charter of Eximbank.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement is the House provision.

SECTION 102—EXTENSION OF AUTHORITY

Present law

The current charter of Eximbank expires September 30, 1992.

House bill

The House bill (sec. 102) extends the charter of Eximbank for five years through September 30, 1997.

Senate amendment

The Senate amendment (sec. 101) has a similar provision.

Conference agreement

The conference agreement provides a five-year reauthorization for Eximbank.

SECTION 103—TIED AID CREDIT FUND EXTENSION

Present law

The Export-Import Bank Act of 1945 (Eximbank Act) in section 15 authorizes the Tied Aid Credit Fund, known as the WarChest, through fiscal year 1992. Section 15(b)(1)(A) of the Eximbank Act authorizes Eximbank "To supplement the financing of a United States export when there is a reasonable expectation that predacious financing will be provided by another country for a sale by a competitor of the United States exporter with respect to such export." Under section 15(b)(1)(B) of the Eximbank Act, Eximbank is also authorized "To supplement the financing of United States exports to foreign markets which are actual or potential markets for any country which the Bank determines (i) engages in predacious official export financing through the use of tied aid or partially untied aid credits and (ii) impedes negotiations to eliminate the use of such credits for commercial purposes." Section 15 further provides that the tied aid credit program shall be administered by Eximbank in cooperation with private financial institutions or entities, as appropriate, and requires Eximbank to submit a semiannual report to the Congress on tied aid credits.

House bill

The House bill (sec. 103) provides for an authorization level for the WarChest of $500 million per fiscal year, its current level, through FY1997.

Senate amendment

The Senate amendment (sec. 102) reauthorizes the WarChest for three years, through September 30, 1995, at $500 million a year. In addition, it amends sections of the Eximbank Act with respect to the defensive and positive use of the WarChest to (a) make clear that Eximbank has the authority to match tied aid credits extended by other governments in violation of the OECD Arrangement or in compliance with the Arrangement in those cases in which Eximbank makes a determination that it is in the trade or economic interests of the United States to do so, particularly cases grandfathered under the recently concluded OECD agreement, and (b) provide Eximbank authority to use tied aid credits to respond to situations in which other governments attempt to gain competitive advantage in foreign markets without formally violating tied aid credit agreements, for example, the use of aid that is not formally tied to domestic procurement but is in fact tied. The Senate amendment also provides for the administration of the tied aid credit program in cooperation with U.S. exporters as well as financial institutions, provides that Eximbank shall request and take into consideration the views of the private sector on principal sectors and key markets of countries described in Section 15(b)(1)(B), and revises Eximbank's semiannual report to Congress denied aid credits.

Conference agreement

The conference agreement is the Senate provision with an amendment providing that the tied aid credit program shall be administered in consultation with other Federal agencies, as appropriate.

SECTION 104—USE OF LOAN GUARANTEES

Present law

No provision.

House bill

The House bill (sec. 105) requires that Eximbank, in determining whether to provide support for a transaction under its loan, guarantee, or insurance program, shall consider the need to involve private capital in support of U.S. exports as well as the budgetary (subsidy) cost of the transaction under credit reform.

Senate amendment

The Senate amendment (sec. 103) has an identical provision.

Conference agreement

The conference agreement contains the requirement for Eximbank, in determining support under its programs, to take into account not only the subsidy cost of a transaction but also the need to involve private capital.

SECTION 105—EXPANDED USE OF LOAN GUARANTEES

Present law—

No provision.

House bill—

The House bill has no comparable provision.

Senate amendment—

The Senate amendment (sec. 104) provides that Eximbank, under its guarantee program, shall provide up to 100 percent coverage of interest and principal if Eximbank determines such coverage to be necessary to ensure acceptance of Eximbank guarantees by U.S. financial institutions for any transaction in any export market in which Eximbank is open.

Conference agreement

The conference agreement is the Senate provision with an amendment replacing the directive "shall provide" with "may provide."

SECTION 106—ENVIRONMENTAL POLICY

Present law

No provision.

House bill

The House bill has no comparable provision.

Senate amendment

The Senate amendment (sec. 105) provides for Eximbank procedures to take into account the potential beneficial and adverse environmental effects of goods and services for which long-term support of $10,000,000 is requested from the Bank. This provision authorizes Eximbank to withhold financing for environmental reasons or to approve financing after considering potential environmental effects. It directs Eximbank to encourage the use of its programs for environmental exports and requires Eximbank to submit in its annual report to the Congress a summary of its activities.

Conference agreement

The conference agreement is the Senate provision.

SECTION 107—INSURANCE-RELATED BUSINESS STEMMING FROM BANK ACTIVITIES

Present law

Section 2(d)(1) of the Eximbank Act provides that Eximbank shall work to ensure that U.S. companies are afforded an equal and nondiscriminatory opportunity to bid for insurance in connection with transactions assisted by Eximbank. Section 2(d)(2) requires the Chairman of Eximbank to review Eximbank's policies and programs in regard to this issue, and in coordination with the U.S. Trade Representative and the Departments of State, Treasury, and Commerce, undertake actions designated to promote equal and nondiscriminatory opportunities. Section 2(d)(3) provides for a one-time report to the Congress on insurance.

House bill

The House bill (sec. 109) amends sections 2(d) (2) and (3) to provide that, in any long-term loan or guarantee of at least $10 million, Eximbank shall seek to ensure that the foreign country accords U.S. insurance companies a fair and open opportunity to provide insurance against risk of loss in connection with such loan or guarantee. If Eximbank becomes aware that a fair and open competitive opportunity is not available to any U.S. insurance company, Eximbank may approve or deny the transaction after considering whether such denial would be likely to insure that the foreign country accords fair and open competitive opportunities to U.S. insurance companies. If Eximbank approves a transaction notwithstanding information confirming denial of such competitive opportunities, the U.S. Trade Representative shall include notice of and the reason for any Eximbank approval in the annual report on significant foreign barriers. Eximbank is also required to forward information regarding any foreign country that denies U.S. insurance companies a fair and open competitive opportunity to the Secretary of Commerce and the U.S. Trade Representative for consideration of a recommendation to the President to restrict access by such country to U.S. export credit.

Senate amendment

The Senate amendment (sec. 107) contains a similar provision, except it provides for Eximbank, rather than the U.S. Trade Representative, to include notice of and the reason for any Eximbank approval in Eximbank's annual report on competitiveness.

Conference agreement

The conference agreement is the Senate provision.

SECTION 108—DEBT REDUCTION; ENTERPRISE FOR THE AMERICAS INITIATIVE

Present law

No provision.

House bill

The House bill (Title III) provides authority for the Eximbank component of the Enterprise for the Americas Initiative (EAI). The provision sets forth the purpose and objectives of the EAI. It authorizes the President to sell to eligible purchasers loans made before January 1, 1992 to eligible countries or agencies thereof, pursuant to the Eximbank Act, and on receipt of payment from eligible purchasers, to reduce or cancel such loans, for the purpose of facilitating debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps, or debt buy-backs by an eligible country to support activities that link conservation with local community development. It also requires an annual Presidential report to the House Banking Committee and the President of the Senate on the operation of the EAI Facility. Under the provision, EAI authority may be exercised beginning in fiscal year 1992 and only to the extent provided for in appropriations Acts.

Senate amendment

The Senate amendment (sec. 108) contains a similar provision, but covers loans made before January 1, 1991. It does not provide for debt buy-backs or for an annual Presidential report. EAI authority may be exercised beginning in fiscal year 1993, to the extent provided for in appropriations Acts.

Conference agreement

The conference agreement is the Senate provision with an amendment. The amendment deletes language setting forth the purpose and objectives of the EAI, provides for debt buy-backs to support activities that link conservation with local community development, and child survival and other child development activities, changes the date of eligible debt to January 1, 1992, and stipulates that EAI authority may be exercised only to such extent provided for in appropriations Acts.

SECTION 109—INCREASE IN AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY

Present law

The Eximbank Act provides for a ceiling of $40 billion on the total amount of support that may be outstanding under Eximbank's programs at any one time. Up to $25,000,000,000 of guarantees and insurance may be counted against this ceiling at 25 percent of their face value.

House bill

The House bill (sec. 104) provides for a graduated increase in the ceiling from $40,000,000,000 to $69,166,666,666, at the rate of $5.8 billion per year through 1997.

Senate amendment

The Senate amendment (sec. 109(d)(2)) increases the ceiling from $40 billion to $75 billion. The Senate amendment (sec. 109(a)(8)) also provides for guarantees and insurance to be counted at their full face value against this ceiling, the same as direct loans.

Conference agreement

The conference agreement is the Senate provisions.

SECTION 110—LIMITATION ON FINANCING FOR CERTAIN COUNTRIES

Present law

The Eximbank Act prohibits Eximbank support for exports to Marxist-Leninist countries unless the President determines that such support is in the national interest. It sets forth a list of countries deemed to be Marxist-Leninist countries, subject to effective removal of a country from the list if the President determines that such country has ceased to be a Marxist-Leninist country. The President is required to make a separate national interest determination for transactions of $50,000,000 or more.

House bill

The House bill (sec. 203) deletes from the list of Marxist-Leninist countries twelve nations in Central and Eastern Europe and the territory of the former Soviet Union. The House bill (sec. 110) also deletes Angola from this list.

Senate amendment

The Senate amendment (sec. 109(a)(4)(5)(6)) repeals the list of Marxist-Leninist countries, but retains the current requirement that the President make a national interest determination to enable Eximbank to support exports destined for Marxist-Leninist countries. It also modifies the definition of a Marxist-Leninist country in the Eximbank Act to eliminate reference to the former Soviet Union in that definition and deletes the current requirement for a separate national interest determination for any Eximbank loan of $50 million or more.

Conference agreement

The conference agreement is the House provisions with an amendment also deleting any other country previously removed from such list by a Presidential determination that such country has ceased to be a Marxist-Leninist country. It modifies the definition of a Marxist-Leninist country as provided for in the Senate amendment but retains current determination requirements.

SECTION 111—CONDITIONAL ALLOWANCE OF ASSISTANCE FOR EXPORTS TO ANGOLA

Present law

Sections 2(b)(11) of the Eximbank Act prohibits Eximbank financing of exports to Angola until the President certified to the Congress that no Cuban or other Marxist-Leninist forces remain in Angola. Section 2(b)(12) further prohibits Eximbank support for exports to Angola until the President certifies that free and fair elections have been held in Angola and that the Government of Angola has taken steps to implement various human rights reforms.

House bill

The House bill (sec. 110) deletes the requirement for a Presidential certification that no Cuban or other Marxis-Leninist forces remain in Angola, and, as previously mentioned, strikes Angola from the list of Marxist-Leninist countries set forth in the Eximbank Act.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement is the House provision.

SECTION 112—FINANCING OF SALES OF DEFENSE ARTICLES OR SERVICES

Present law

Current law prohibits Eximbank from financing the export of defense articles and services to less developed countries. In addition, as a matter of policy, Eximbank has refrained from financing sales of defense article to developed countries. For purposes of the prohibition, the definition of a defense article and service is determined by Eximbank based on the identity of the enduser, the nature of the item, and the use to which it will be put. Section 2(b)(6)(B) of the Eximbank Act provides an exception to this prohibition to permit Eximbank to guarantee or insure, under certain circumstances, the sale of defense articles or services for anti-narcotics purposes. The authority to finance defense articles or services for anti-narcotics purposes expires September 30, 1992.

House bill

The House bill (sec. 206) prohibits Eximbank from financing the export of any defense articles or service to developed as well as developing countries, except under the exception for Eximbank financing of defense articles or services to be used for anti-narcotics purposes. The provisions extends for two years, until September 30, 1994, the exception authorizing Eximbank to finance defense articles or services for anti-narcotics purposes, but adds the requirement that the President must determine, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all end-use restrictions and has not used defense articles or services to violate internationally recognized human rights.

Senate amendment

The Senate amendment (sec. 109(a)(7)) extends Eximbank's authority to finance defense articles or services for anti-narcotics purposes to coincide with the expiration of the charter of Eximbank.

Conference agreement

The conference agreement is the House provisions with an amendment. The amendment require Eximbank to submit to the Congress a quarterly report on all instances in which Eximbank financed any sale of an article, service, or related technical data described in subparagraph 2(b)(6)(G) of the Eximbank Act that Eximbank determined will not be put to a military use. Eximbank's authority to finance defense articles or services for anti-narcotics purposes would be extended for five years and would expire when Eximbank's charter expires in 1997.

SECTION 113—INCREASE IN ADVISORY COMMITTEE MEMBERSHIP

Present law

Eximbank's Advisory Committee currently has 12 members.

House bill

The House bill (sec. 202) increased the size of the Advisory Committee from 12 to 15 members.

Senate amendment

The Senate amendment has an identical provisions.

Conference agreement

The conference agreement increases membership of the Advisory Committee from 12 to 15.

SECTION 114—FINANCING OF HIGH TECHNOLOGY EXPORTS TO EMERGING DEMOCRACIES

Present law

No provision.

House bill

The House bill (sec. 204) amends the Eximbank Act to authorize an initiative by Eximbank of up to $125 million to facilitate U.S. high technology exports to emerging democracies, primarily to SEED eligible countries, with particular attention to small business.

Senate amendment

The Senate amendment has no comparable provisions.

Conference agreement

The conference agreement is the House provisions with an amendment removing the limit of $125 million on total support. The committee of conference intends the Eximbank provide substantial support for high technology exports to emerging democracies but does not wish to limit those effort if financing opportunities in excess of $125 million arise.

SECTION 115—COOPERATION ON EXPORT FINANCING PROGRAMS

Present law

No provision.

House bill

The House bill (sec. 108, in part) requires Eximbank, subject to memoranda of understanding, to provide information on its programs and financing practices to the Small Business Administration, other federal export promotion and financing agencies, and state and local organizations and undertake a training program for personnel of these agencies.

Senate amendment

The Senate amendment (sec. 203) requires Eximbank to provide information on its programs and financing practices to the United States and Foreign Commercial Service (US&FCS) and undertake a training program for US&FCS officers.

Conference agreement

The conference agreement is the House bill with an amendment requiring that the training program undertaken by Eximbank be consistent with section 203 of the conference agreement.

SECTION 116—ASSISTANCE FOR EXPORTS BY SMALL BUSINESSES

Present law

Section 2(b)(1)(E)(v) of the Eximbank Act provides for a 10 percent set aside requirement for Eximbank support for small business.

House bill

The House bill (sec. 209) provides that, effective October 1, 1992, the 10 percent set aside requirement shall be calculated on support provided directly to small business concerns.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement is the House provision with an amendment deleting the specific effective date of October 1, 1992. It is the intent of the Managers that this calculation should take into account of Eximbank support for small business under its insurance program.

SECTION 117—APPOINTMENT AND COMPENSATION OF BANK PERSONNEL

Present law

No provision.

House bill

The House bill (sec 201) authorizes Eximbank to fix the compensation of employees without regard to the provision of Chapter 51 or certain subchapters of chapter 53 of title 5 of the U.S. Code, and to provide additional compensation and benefits to Eximbank employees if the same type of compensation or benefits are then being provided by any Federal bank regulatory agency.

Senate amendment.

The Senate amendment (sec. 106) contains a similar provision.

Conference agreement.

The conference agreement authorizes Eximbank to fix the compensation of not more than 35 employees of the Bank without regard to the applicable provisions of title 5 of the U.S. Code. This will allow the Bank to provide overall compensation comparable to other agencies for designated personnel that is sufficient to retain and recruit such personnel necessary for its highly specialized operations. The agreement provides a two-year sunset, and requires the Bank to submit a report to Congress not later than 1 year after the date of enactment on whether the personnel needs of the Bank are being satisfied and whether this authority should be extended.

It is the view of the conferees that the Eximbank has presented a strong case for greater flexibility in compensating Bank personnel. Particularly in light of the critical role played by the Eximbank in supporting U.S. export policy, the two-year sunset given this provision is not intended to imply that this is a one-time only authorization. Rather the intent is for the Bank to come back to Congress to describe its experience utilizing the authority of this provision and inform Congress whether the provision should be extended and whether authority to fix the compensation of employees in addition to the 35 provided in this section is needed.

SECTION 118—REPORT ON REGIONAL OFFICES

Present law

No provision.

House bill

The House bill (sec. 108, in part) requires Eximbank, subject to memoranda of understanding, to cooperate with the Small Business Administration, other federal export promotion and financing agencies, and state and local organizations in co-locating personnel at the same offices throughout the U.S. so that potential exports may obtain, through a "one-stop shop," working capital and export financing and insurance.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement has no comparable requires Eximbank to submit to the Congress within one year a report on Eximbank's plan to establish and operate regional offices. The report would also consider the appropriateness of cooperating with other federal agencies and state and local organizations in colocating personnel in such regional offices.

SECTION 119—REPORT ON FINANCING OF SERVICES

Present law

No provision.

House bill

The House bill (sec. 107) provides for the establishment of the Financing and Marketing Committee, comprised of the President of Eximbank, as Chair, and six individuals from depository institutions, State and local offices, small firms, and consultants, to conduct a study to identify policies which, if implemented, would facilitate the export of intangible goods and services. The provision requires the Financing and Marketing Committee to submit to the Congress within two years a report on the results of such study that would include an analysis of the foreign market potential for products and services of U.S. high technology firms and other firms capable of exporting intangible goods and services and the export financing needs of such firms, identification of the practices of commercial lenders to finance the sale of intangible goods and services in the U.S. evaluation of OECD programs for financing exports of such goods and services, review of Eximbank lending guidelines to determine if appropriate for meeting the needs of such firms, and recommendations on how Eximbank can market assistance to such firms.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement provides for Eximbank to submit to the Congress within one year a report on ways of facilitating the export financing of high technology services, including such items as computer programming and software services, data processing services, and computer related services. The report would analyze the current export financing needs of firms dealing in these services, identify export financing support provided by commercial lenders to finance the sale of these services, identify the official export credit programs of major OECD countries in support of such exports, and review Eximbank programs to determine how Eximbank can meet identified market needs of such firms.

SECTION 120—REPORT ON DEMAND FOR TRADE FINANCE FOR THE BALTIC STATES, THE INDEPENDENT STATES OF THE FORMER SOVIET UNION, AND CENTRAL AND EASTERN EUROPE

Present law

No provision.

House bill

The House bill (sec. 205) contains certain findings regarding the importance of U.S. export financing support to the evolving economies of eastern and central Europe, the Baltic states, and the former Soviet Union. It requires Eximbank to submit to the Congress by December 31, 1992, a report analyzing the present and future demand for loans, guarantees, and insurance in these areas and making recommendations for the promotion of trade between the U.S. and these countries.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement is the House provision, but extends the date for submission of the report until one year after enactment and provides for Eximbank recommendations regarding the adequacy of financing for trade between the U.S. and the subject countries. The report shall be transmitted to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs of the House and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SECTION 121—ELIMINATION OF OUTDATED PROVISIONS

Present law

No provision.

House bill

The House bill has no comparable provision.

Senate amendment

The Senate amendment (sec. 109(a)(1)(2)(3)(9), (c), (d)(1), (e)(1)) repeals a number of provisions contained in the charter of Eximbank which have become outdated or obsolete.

Conference agreement

The conference agreement in the Senate provision.

GAO STUDY OF THE PARTICIPATION OF THE EXPORT-IMPORT BANK IN SALES OF DEFENSE ARTICLES AND SERVICES TO FOREIGN COUNTRIES

Present law

No provision.

House bill

The House bill (sec. 207) requires the General Accounting Office to submit to the Congress within six months a report on Eximbank participation in financing sales of defense articles and services that summarizes such Eximbank participation, assesses whether foreign countries purchasing Eximbank-supported defense articles have complied with end-use restrictions or have used articles to violate internationally recognized human rights, and assesses the pros and cons of such Eximbank participation.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement is the Senate provision.

STUDY ON COMPETITIVE EFFECTS OF REQUIRING EXPORTS FINANCED BY THE EXPORT-IMPORT BANK TO BE CARRIED ON UNITED STATES FLAGGED VESSELS

Present law

No provision.

House bill

The House bill (sec. 208) requires Eximbank to submit to the Congress within three months a report on the competitive effects of requiring exports financed by Eximbank to be shipped on U.S. flagged vessels.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement is the Senate provision.

EFFECTIVE DATE FOR TITLE II

Present law

No provision.

House bill

The House bill (sec. 210) provides for an effective date of October 1, 1991 for Title II of the House bill.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement is the Senate provision, thereby making the entire bill effective upon enactment.

TITLE II—EXPORT PROMOTION

SECTION 201—TRADE PROMOTION COORDINATING COMMITTEE

Present law

No provision.

House bill

The House bill has no comparable provision.

Senate amendment

The Senate amendment (sec. 201) establishes in statute the Trade Promotion Coordinating Committee (TPCC) and directs it to coordinate the export promotion and financing activities of the federal government and to develop a governmentwide strategic plan for carrying out federal export promotion and financing programs. The plan is required to establish a set of priorities for federal activities in support of U.S. exports and explain the rationale for the priorities; review current federal programs in light of the priorities and develop a plan to bring such activities in line with the priorities and improve coordination of such activities; identify areas of overlap and duplication among federal activities and propose means of eliminating them; in conjunction with the Director of OMB, propose to the President annually a unified federal trade promotion budget that supports the plan for priority activities and improved coordination and eliminates funding for the areas of overlap and duplication; and review state efforts to promote U.S. exports and propose means of developing cooperation between state and federal efforts. The Chair of the TPCC is required to submit an annual report to the Congress describing the strategic plan developed by the TPCC, the implementation of the plan, and any revisions thereto.

Conference agreement

The conference agreement is the Senate provision, with an amendment deleting the reference to the Director of OMB in the annual unified federal trade promotion budget that must be proposed to the President.

SECTION 202—ONE-STOP SHOPS

Present law

No provision.

House bill

As previously mentioned, the House bill (sec. 108) requires Eximbank, subject to memoranda of understanding, to provide information on its programs and financing practices to the Small Business Administration, other federal export promotion and financing agencies, and state and local organizations, undertake a training program for personnel of these agencies, and cooperate with these agencies in co-locating personnel at the same offices throughout the U.S. so that potential exporters may obtain, through a "one-stop shop," working capital and export financing and insurance.

Senate amendment

The Senate amendment (sec. 202) requires the US&FCS to utilize its domestic and foreign offices as "one-stop shops" for U.S. exporters by providing information on all federal export promotion activities, assisting in identifying federal programs of greatest assistance, and assisting in making contact with such programs.

Conference agreement

The conference agreement is the Senate provision, reflecting the one-stop shop concept contained in the House bill.

SECTION 203—COMMERCIAL SERVICE COOPERATION IN FEDERAL FINANCING AND INSURANCE PROGRAMS

Present law

No provision.

House bill

As previously discussed, the House bill (sec. 108) requires Eximbank to provide information on its programs and financing practices to SBA, other federal export promotion and financing agencies, and state and local organizations, as well as to undertake a training program for personnel of these agencies.

Senate amendment

The Senate amendment (sec. 203) requires the US&FCS to provide U.S. exporters and export finance institutions with information on all financing and insurance programs of Eximbank, including providing assistance in completing applications for Eximbank programs, and working with exporters and export finance institutions to address any deficiencies in such applications. It also amends the Eximbank Act to require Eximbank to provide information on its programs and financing practices to the US&FCS and undertake a training program for US&FCS officers.

Conference agreement

The conference agreement requires (1) the Eximbank, the Overseas Private Investment Corporation, the Trade and Development Program, and the Small Business Administration—consistent with section 116 of the conference agreement—to provide information on their programs and financing practices to the US&FCS and undertake a training program for US&FCS officers and (2) the US&FCS to provide U.S. exporters and export finance institutions with information about the programs of Eximbank, OPIC, TDP, and SBA, assistance in completing applications for assistance from these agencies, and assistance in addressing any deficiencies in such applications. It is the intent of the conferees that US&FCS officers be knowledgeable about agency programs when they assist exporters and export finance institutions in addressing any deficiencies in applications submitted to the four agencies listed above, and that if they are not already knowledgeable, they should become so as soon as possible.

SECTION 204—ENVIRONMENTAL TRADE PROMOTION

Present law

No provision.

House bill

The House bill has no comparable provision.

Senate amendment

The Senate amendment (sec. 204) establishes the Environmental Trade Promotion Working Group within the TPCC, consisting of representatives of TPCC member agencies and a representative of the Environmental Protection Agency. It provides several directives to the Chair of the Working Group, including that such Chair assess the effectiveness of U.S. programs for the promotion of exports of environmental technologies, goods, and services, recommend improvements to such programs, and ensure the members of the Working Group coordinate their environmental trade promotion programs. A report on the activities of the Working Group is to be included in the annual TPCC report to the Congress. The provision also sets forth that it is the policy of the U.S. to foster environmental exports and that, in exercising its powers and functions, the Department of Commerce shall encourage and support such sales. It also authorizes the Secretary of Commerce to designate a FCS officer to serve as the Environmental Export Assistance Officer in any country whose companies are important competitors for or that offers promising markets for U.S. environmental exports.

Conference agreement

The conference agreement is the Senate provision with an amendment. The amendment states that in exercising their powers and functions, all appropriate departments and agencies of the U.S. Government shall encourage and support sales of environmental exports. It also adds a provision requiring the Chair of the TPCC to submit to the Congress within one year a report evaluating federal insurance programs with respect to risks arising from changes by a foreign government in its environmental laws and regulations.

SECTION 205—RANK OF COMMERCIAL SERVICE OFFICERS

Present law

The Secretary of Commerce is authorized to designate 8 FCS positions as Minister-Counselors.

House bill

The House bill has no comparable provision.

Senate amendment

The Senate amendment increases from 8 to 12 the number of Minister-Counselors.

Conference agreement

The conference agreement increases the number of Minister-Counselors to 16.

SECTION 206—REPORT ON EXPORT POLICY

Present law

No provision.

House bill

The House bill (sec. 106) requires Eximbank to submit to the Congress an annual report on the relationship of export financing to the strategic position of U.S. exports and to testify on such report. This report would address (a) the state of the competitiveness of U.S. export financing, focusing on the efforts of Eximbank and other U.S. export financing agencies, (b) the implementation of the governmentwide strategic plan developed by the TPCC, (c) recommendations of Eximbank to improve the U.S. balance of trade, and (d) the adequacy of U.S. Government export financing programs and recommendations for improvement.

Senate amendment

The Senate amendment (sec. 206) requires the Secretary of Commerce to submit to the Congress an annual report on the U.S. international economic position and to testify on such report. The report would address (a) the state of U.S. international economic competitiveness, focusing on the efforts of the Commerce Department to promote research and development of and investment in technologies and products deemed critical for industrial leadership and increase exports thereof, (b) the implementation of the governmentwide strategic plan developed by the TPCC, (c) recommendations of the Commerce Department to improve the U.S. balance of trade, (d) the effects of trade barriers and foreign subsidies on the international economic competitiveness of the U.S., (e) the efforts of the Commerce Department to reduce trade barriers, and (f) the adequacy of U.S. Government export financing programs and recommendations for improvement.

Conference agreement

The conference agreement is the Senate provision. The Eximbank Act is also amended to provide that Eximbank shall include in its annual report on competitiveness a description of Eximbank's role in the implementation of the strategic plan of the TPCC.

SECTION 207—PROVISIONAL REPEAL OF AMENDMENTS

The conference agreement provides for repeal of Title II in the event of enactment of Title II of H.R. 3489, "An act to reauthorize the Export Administration Act of 1979."

SECTION 208—EXPORT PROMOTION AUTHORIZATION

House bill

The House bill has no comparable provision.

Senate amendment

The Senate amendment authorizes to be appropriated to the Department of Commerce $182,000,000 for fiscal year 1993 and $190,000,000 for fiscal year 1994 for export promotion activities and $6,000,000 for each of fiscal year 1993 and 1994 for the Market Development Cooperator Program.

Conference agreement

The conference agreement provides $190,000,000 for fiscal year 1993 and $200,000,000 for fiscal year 1994 for export promotion activities and $5,500,000 for each of fiscal years 1993 and 1994 for the Market Development Cooperation Program.

TITLE III—MISCELLANEOUS

SECTION 301—JOHN HEINZ COMPETITIVE EXCELLENCE AWARD

Present law

No provision.

House bill

The House bill has no comparable provision.

Senate amendment

The Senate amendment (sec. 302) establishes in memory of Senator John Heinz two awards each year for excellence in promoting U.S. industrial competitiveness, to be presented by the Majority and Minority Leaders of the Senate.

Conference agreement

The conference agreement is the Senate provision with an amendment clarifying the role of the Secretary of the Treasury, specifying the size and material of the medals, and making it a congressional award involving participation by the Leadership and members of both Houses.

INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

Present law

No provision

House bill

The House bill has no comparable provision.

Senate amendment

The Senate amendment places a limitation on use of the International Emergency Economic Powers Act (IEEPA) in situations in which an international emergency is declared in order to extend or reinstate provisions of law that have lapsed due to inaction by the Congress or a veto by the President, by requiring that the use of emergency authority for routine extensions of law must be ratified by the Congress within 180 days or the authority expires.

Conference agreement

The conference agreement is the House provision.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and Senate amendment, and modifications committed to conference:

MARY ROSE OAKAR,
STEPHEN NEAL,
JOHN J. LAFALCE,
ESTEBAN E. TORRES,
GERALD D. KLECZKA,
CHALMERS WYLIE,
JIM LEACH,
DOUG BEREUTER,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 106, 108, and 206 of the House bill, and title II and section 109(a)(7) of the Senate amendment, and modifications committed to conference:

Dante B. Fascell,
Sam Gejdenson,
Mel Levine,
Edward Feighan,
Harry Johnston,
Wm. S. Broomfield,
Toby Roth,
John Miller,

As additional conferees from the Committee on Foreign Affairs, for consideration of section 301 of the Senate amendment, and modifications committed to conference:

Dante B. Fascell,
Sam Gejdenson,
Wm. S. Broomfield,

As additional conferees from the Committee on Rules, for consideration of section 301 of the Senate amendment, and modifications committed to conference:

Joe Moakley,
Butler Derrick,
David Dreier,
Managers on the Part of the House.

Don Riegle,
Alan Cranston,
Paul S. Sarbanes,
Jake Garn,
Connie Mack,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Clement (at the request of Mr. Gephardt) for today and the balance of the session on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dreier of California) to revise and extend their remarks and include extraneous material:)

Mr. McEwen, for 60 minutes, today.

Mr. James, for 5 minutes, today.

Mr. Bereuter, for 5 minutes, on October 5.

Mr. Taylor of North Carolina, for 5 minutes, today.

Mr. Fish, for 60 minutes, on October 5.

Mr. Duncan, for 5 minutes, today.

(The following Members (at the request of Mr. Hayes of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. LaFalce, for 5 minutes, today.

Mr. Hayes of Illinois, for 5 minutes, today.

Mr. Mazzoli, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. McDermott, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Dreier of California) and to include extraneous matter:)

Mr. Green of New York.

Mr. Gilman in two instances.

Mr. Rhodes.

Mr. Ridge.

Mr. James.

(The following Members (at the request of Mr. Hayes of Illinois) and to include extraneous matter:)

Mr. Darden.

Mr. Traficant in three instances.

Ms. Oakar.

Ms. Long.

Mr. Bonior.

Mr. Dorgan of North Dakota.

Mr. Serrano in four instances.

Mr. Ford of Michigan.

Mr. Guarini.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5488. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1993, and for other purposes.

ADJOURNMENT

Mr. McDERMOTT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to, accordingly (at 1 o'clock and 55 minutes a.m.) under its previous order, the House adjourned until Monday, October 5, 1992, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 599. Resolution waiving points of order against the conference report to accompany the bill (H.R. 5427) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes, and against the consideration of such conference report (Rept. 102–1008). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. H.R. 1246. A bill to authorize the establishment of the National African-American Museum within the Smithsonian Institution; with an amendment (Rept. 102–1009, Pt. 1). Ordered to be printed.

Ms. OAKAR: Committee of conference. Conference report on H.R. 5739 (Rept. 102–1010). Ordered to be printed.

Mr. OBEY: Committee of conference. Conference report on H.R. 5368 (Rept. 102–1011). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RIDGE (for himself, Mr. Barnard, and Mr. Moran):

H.R. 6131. A bill to improve economic opportunity and access to credit and stimulate the development of a secondary market for commercial loans by establishing the Federal Commercial Credit Corporation, to establish the Office of Secondary Commercial Credit Market Examination and Oversight in the Department of the Treasury, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TOWNS:

H.R. 6132. A bill to amend title IV of the Social Security Act to provide for comprehensive substance abuse treatment programs for pregnant women and caretaker parents; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. LLOYD:

H. Con. Res. 375. Concurrent resolution commending the designation by Central High School in Chattanooga, TN, of the high school's football stadium and football field as "Central Memorial Stadium" and "Etter-Farmer Field," respectively; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GEPHARDT introduced a bill (H.J. Res. 560) waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the 102d Congress; considered and passed.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 73: Ms. Molinari.

H.R. 1300: Mr. Bustamante.

H.R. 3058: Mr. Chapman.

H.R. 3059: Mr. Chapman.

H.R. 4094: Mr. Darden.

H.R. 5484: Mr. Lewis of Georgia.

H.R. 5842: Mr. Gejdenson and Mr. Roybal.

H.R. 5850: Mr. Fawell, Mr. Bryant, Mr. Stump, Mr. Rhodes, and Mr. Dornan of California.

H.J. Res. 552: Mr. Bonior.

H. Con. Res. 358: Mrs. Collins of Michigan.

EXTENSION OF REMARKS

TRIBUTE TO SANDRA ROSCOE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to honor a woman tragically struck down in the prime of her life with cancer. I am speaking of Sandra Roscoe, who when she died, was the mayor of Cortland, OH.

Mr. Speaker, Sandra Roscoe was as fine a person as anyone on this Earth. She died this past June while serving her community as its mayor. She had lived all of her life in Trumbull County which is in my 17th Congressional District. She attended John F. Kennedy High School in Niles and she belonged to St. Robert's Catholic Church in Cortland and also St. Peter and Paul Church of the Byzantine Rite in Warren.

Sandra Roscoe was a member of the Cortland City Council for 12 years, being the first woman council member in Cortland. As I noted before, she was the mayor of Cortland for two terms, being the first woman mayor of Trumbull County.

During her public service career, Sandra Roscoe was very active in the revitalization of Willow Park, part of the Trumbull County Metropolitan Parks Commission, the Trumbull County Board of Health, chairman of the Trumbull County Emergency Management Commission, Rotary International, Cortland Charter Commission, and the East Bazetta Fire Board. She received awards from Who's Who in America and the Young Business Woman of the Year.

Mr. Speaker, the people of Cortland lost a true friend in Sandra Roscoe. Quite frankly, Sandra Roscoe was irreplaceable. I extend my deepest sympathies to her family and friends. She was a tremendous woman. May God bless her.

THE BUDDY SYSTEM COMPUTER PROJECT

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Ms. LONG. Mr. Speaker, I extend my remarks for the RECORD today to bring to the attention of my colleagues the tremendous success of something I have spoken about in the House in the past—the buddy system computer project. As my colleagues may know, the House passed, as part of H.R. 4014, the Buddy System Computer Education Act. The Senate Committee on Labor and Human Resources has also passed identical buddy system language. I am hopeful that in these final days of the 102d Congress, that we will have an opportunity to see this language sent to the President and signed into law.

Today, however, I am pleased to insert into the RECORD a letter from Arthur G. Hansen, Ph.D., the chairman of the buddy system project in Indiana, and a summary of the independent evaluation of the Buddy System.

The letter and summary follows:

MESSAGE FROM THE BUDDY SYSTEM PROJECT

The Buddy System Project has been called one of the most exciting educational projects in the nation today. We have just completed our fourth year in the classroom, serving over 2000 Indiana families during the 1991-92 school year. Previous evaluations of Buddy have always pointed to significant accomplishments with students, teachers and parents. We are most happy to report that this year's measure of our performance continues to show outstanding results. This booklet contains summaries of two independent evaluations conducted on Buddy System sites during the past school year.

The first summary was prepared by Quality Performance Associates of St. Charles, Illinois and measured student outcomes and success of school and home computer use. One of its major findings was that Buddy promotes higher student outcomes on a wide range of measures, including computer skills, writing composition, and number of projects completed by students in the classroom. In terms of computer skills, the evaluator stated that "Buddy students are in another league from other elementary grade students tested" and probably "have more computer skills than many high school seniors." The evaluator also noted that students in the Buddy System Project for two or more years are scoring higher on standardized test scores than comparison students. Many of the increases were statistically significant and were measured in all 14 test score categories. While very encouraged by this finding, Buddy is certainly cautious about taking credit for test score increases. Other outcomes measured continue to be very positive and mirrored results of previous years' analyses.

The second summary is a cross-case analysis of nine student case studies conducted at three Buddy sites by evaluators from Indiana University. The case studies offer a confirmation of findings from the broader set of measures used in the first report. According to the evaluators, "the computers are being used extensively and enthusiastically, and . . . there has been a renewal effect on the teachers and a positive impact on the culture of the classroom." Also included is a focus on additional variables which have contributed to the overall success of the project.

If you are interested in a copy of the complete evaluation report (approximately 350 pages) or the actual case studies (approximately 250 pages), please contact the Buddy office.

We believe that these independent evaluations confirm our theory that technology, properly used in schools and homes, can make a significant difference in the delivery of education and in what students can learn and accomplish. Our vision remains constant—to insure a Buddy computer in the home of every Indiana student in grades 4-12. This bold initiative continues to place Indiana as a leader in the innovative use of educational technology. It is necessary that we continue to seek ways to expand the Buddy System Project if we are to prepare our students for meaningful lives and jobs in an Information Age economy. Your past interest and support is much appreciated, and we hope these new findings serve to reinforce the importance and urgency of our mission.

ARTHUR G. HANSEN, PH.D.,
Chairman.

EXECUTIVE SUMMARY OF THE BUDDY SYSTEM PROJECT EVALUATION

This is the fourth year of operation for the Buddy System Project. The Buddy Project provides computers for use in classrooms and student homes. The Project was initiated to serve as a catalyst for improving education and increasing economic opportunities within Indiana.

This year's evaluation examines student outcomes from the Project and describes the school and home computer activities which produce these outcomes. The evaluators have drawn a number of conclusions based on the study and have made recommendations about the Buddy Project. The evaluation addresses three issues:

Student outcomes
Success of school computer use
Success of home computer use

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

The evaluation findings strongly indicate that the Buddy System Project contributes to higher student achievement on a number of measures. Superior student outcomes are influenced by effective and successful school and home use of computers. Effective school and home implementation is produced (or blocked) by a number of contextual and Project factors. Good communication and cooperation between school and homes reinforces effective computer use in either location.

Overall recommendations: Continue the Buddy System Project in its current locations. Experiment with ways to expand the Project to other schools and to higher grades.

Student Outcomes

The Project promotes higher student outcomes on a wide range of measures—computer skill, computer production in the classroom, writing composition, and standardized test scores. In terms of computer skills, Buddy students are in another league from other elementary grade students tested. We would not be surprised to find that the elementary grade Buddy students have more computer skill than many high school seniors. The average Buddy student produces three computer products per week. This is ten times the number of computer products produced by comparison students. In addition, Buddy computer products require a higher level of problem solving and are more fully integrated into the curriculum than those from comparison classes. Buddy fifth grade students write higher quality papers

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

by computer than comparison fifth grade students write in longhand. Also, Buddy boys write higher quality papers than do comparison boys. On standardized tests, Buddy students from schools that have been in the Project for two or more years gain higher scores than students not in the Project. The greatest increases are in Study Skills, Social Studies, Science, Spelling scores on the CTBS and CAT. In fact, Buddy student scores are more positive for all 14 scores on the CTBS and CAT. We believe one major reason the Buddy Project is effective in increasing student outcomes is that it restructures the total educational experience for children.

Recommendations: Emphasize the use of computers as an information tool that is integrated into the curriculum. Continue to use cooperative learning strategies to address learning tasks that are authentically interesting and important to students.

Success of School Computer Use

The level and quality of school computer use is a great success for the Project. Buddy students spend an average of 49 minutes per day at school using the Buddy computers. This means Buddy students are spending approximately one-sixth of their school day on computers. In a typical day, 48% of the Buddy students use school computers for writing in content areas, 33% use computers to study spelling or some other subject, and 30% use computers to illustrate reports or other assignments. A smaller percentage of students spend time learning how to operate specific programs (14%), making files for hypermedia programs (14%), using database programs (12%), or using spreadsheet programs (10%).

Educators strongly agree that the Buddy Project has increased student self-esteem and has led to higher quality student schoolwork. For example, 81% of the Buddy educators say that students are writing more because of the computers; 90% say Buddy students do higher quality school work on the computers. Teacher and evaluator observations describe how Buddy schools have revitalized their instructional programs to focus on problem solving through computer integration into the curriculum. Students and teachers continue to be enthusiastic users of the computer over the years. Teacher skills have grown over the years.

In most schools, teachers and parents have not adopted computers as a common means of communicating with each other. About three-fourths of Buddy teachers say they only occasionally or never use the computer to send messages to parents or receive them. However, in half a dozen Buddy classes, teachers communicate weekly by computer with most of their students' parents. Teachers who communicate often with parents have insisted on such interaction and have built requirements and encouragement for it into their programs.

Recommendations: Continue offering training for teachers and coordinators. Increase direct and indirect support for integrating computers into the curriculum. Continue support and networking of teachers and coordinators. Encourage classroom use of adequate numbers of computers in order to increase integration with the curriculum; discourage mini-lab configurations of computers that encourage primarily "add-on" applications. Encourage building and district administrative support for the Project, and appreciation of the multiple ways in which the System strengthens education. Evaluate all Project support activities in terms of ways that the schools could assume them and become self-sustaining in pursuing improvement.

Train teachers and parents to effectively use telecommunications. Perhaps the Project could develop a training videotape for home use.

Success of Home Computer Use

Home use of computers is very successful for the Buddy students and is vital to the overall success of the Project. The home computers are used a minimum of between 150 and 175 hours during the school year. About half of this time, the computers are used at home by Buddy students. The remaining computer use time is evenly split between their siblings and parents. Eighty percent of the home computer time is spent on production programs (for example, word processing), content-based programs (such as spelling, reading comprehension, or math), or with telecommunications. Buddy students report spending 27% of their home computer time on assignments from school. When high and low achieving students are compared, there are no significant differences in the amount of time they spend on their home computers, or in the mix of academic and non-academic computer activities. Parents generally express very positive attitudes regarding the Buddy Project and would like their children to have more assigned use of the home computer.

In many homes, siblings and parents of the Buddy students do not use the home computers as much as it was hoped they would. However, there are a few homes in which family members used the home computer extensively. Many parents say that they have gained job-related skills as a result of their home computer.

When compared with the expenses involved in extending the school year, student home computers are a cost-effective means of increasing student learning time. The cost per child for the added study time made available by use of home computers is $240 per year. The cost for a similar amount of time spent in an extended school year would be $389 per child per year.

Recommendations: Continue the student home computer component of the Project. Encourage teachers to assign *more* computer homework. Encourage them to make more meaningful and challenging computer assignments. Encourage and support more parent training. Provide computer applications that address the needs and concerns of adults and other family members. Allow year-round family access to home computers. Arrange multi-year financing of computers to assist families who are able and willing to purchase their own computers.

PERSONAL EXPLANATION

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. CAMPBELL of California. Mr. Speaker, I rise today because upon reviewing the list of cosponsorship of bills in the House, I recently discovered that I was added to the list of cosponsors of House Joint Resolution 103. This was a mistake; I never cosponsored House Joint Resolution 103. I have found that errors of this kind have occurred from time to time, often because there is another Congressman with the name "Campbell."

House Joint Resolution 103 is a commemorative for "National Tourism Week." I had resolved early in my tenure here not to cosponsor commemoratives, and it is a policy I would like to preserve. Mr. Speaker, when commemoratives were created in the 1960's, there were only an average of 10 commemorative periods which took place each year at a minimal cost to the taxpayers. But both numbers and cost have now exploded. For instance, the 100th Congress passed 258 commemoratives with a total cost to the public of more than $340,000. The number of commemoratives has been on the rise and their cost is expected to exceed $8 million in the next 10 years. For these reasons, I do not cosponsor commemorative legislation, including House Joint Resolution 103.

However, because the bill passed the House, I am no longer able to delete my name from the list of cosponsors. I offer this statement for the record as the next best alternative.

WOMEN AND MINORITIES IN SCIENCE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. GREEN of New York. Mr. Speaker, on September 16, 1992, Representatives TIM VALENTINE and I sponsored a briefing on the status of women and minorities in science. I am pleased to commend to my colleagues the statement of a panelist at that briefing, Dr. Bernadine Healy, Director of the National Institutes of Health.

STATEMENT BY DR. BERNADINE HEALY

Representative Green and Representative Valentine, thank you for the opportunity to share some facts with you today. I would like to begin my asking each person in this room to think for a minute about your own life. Have you ever experienced a situation which you felt was intolerable or unjust? Do you remember how you felt? Perhaps Margaret Meade expressed it best, when she said "It is very difficult to know how to evaluate how essential it is to have one's soul seared by the great injustices of one's own time—being born a serf or slave, a woman believed to have no mind, a black man or a woman in a white man's world. . . . Such experiences sear the soul. They make their victims ache with bitterness and rage, with compassion for fellow sufferers, or with blind determination to escape even on the backs of fellow suffers. . . . Injustice experienced in the flesh. . . . is the stuff out of which change explodes." The unfortunate truth is that even today, in 1992, women and minorities still face the injustice of denied opportunities and inequality in the workplace. This reality is glaringly apparent in my chosen field of biomedical research.

Let us look at where we are today. Consider these statistics:

Only two percent of Fortune 500's Companies' top executives are women.

Women represent only 21.5 percent of all medical school faculty members; 49.8 percent of these women are clustered at the assistant professor level, while only 9.8 percent have achieved the rank of full professor.

There is only one female dean of a medical school.

In academia, men achieved the rank of full professor in 12 years, while women struggle for 20 years for the same rank, and are four times less likely overall to achieve this level of seniority.

The situation is worse for minority men and women.

Blacks comprise just slightly over five percent, and Hispanics only about two and one-half percent of medical school faculty in the United States.

While African Americans comprise 10.1 percent of the total workforce, they constitute only 3.7 percent of the Nation's physicians, only 2.1 percent of the nation's dentists, and only 2.4 percent of the nation's natural scientists.

Hispanics comprise 6.9 percent of the total workforce, yet only 5.5 percent of the nation's physicians, 3.3 percent of the nation's dentists, and 2.7 percent of the nation's natural scientists.

Of the 4,779 doctorates awarded in the life sciences in this country in 1990, only eight went to Native Americans.

These statistics clearly indicate that problems of underrepresentation *and* lack of advancement of women and minorities are indeed very real and impact upon all Americans. When a society refuses, for whatever reason, to fully and productively utilize all of its people, the inevitable result is that such a society is less resourceful, less efficient, and therefore less competitive. Valuable contributions that are within our grasp will remain just out of reach. If Albert Einstein had been born a woman, would we have recognized his genius? If Jonas Salk were Black or Hispanic, would the discovery of a polio vaccine have been delayed? It is entirely conceivable that the very people being denied the opportunity to contribute and advance in our society are the ones that have within themselves the knowledge, dreams, and ideas to make new and exciting discoveries a reality. At what price do we deny or delay their opportunity to contribute? And what impact will this inequality have on the health and welfare of our nation as we move into the next century?

The National Institutes of Health is keenly aware of the critical nature of these problems and is committed to increasing both the numbers and opportunities for all people in the field of science, with specific attention to women and minorities. Toward that end, in 1990 the NIH marked two important milestones—the creation of the Office of Research on Women's Health (ORWH) and the Office of Minority Programs (OMP).

The Office of Research on Women's Health (ORWH), headed by Dr. Vivian Pinn, has established the recruitment, retention, reentry, and promotion of women in science as one of its top priorities. The ORWH has already convened a Task Force charged with gathering relevant information on these issues. In March of this year, the Task Force held a public hearing and in June sponsored a national workshop focusing specifically on the recruitment, retention, re-entry, and advancement of women in biomedical careers. This Task Force is noteworthy because its makeup reflects gender, racial and ethnic diversity. The recommendations and deliberations generated by the meetings held earlier this year will provide an agenda for action to address these very serious issues.

The Office of Research on Women's Health has also focused increased attention on the special needs of women who choose to reenter a scientific career track after child care and familial responsibilities have delayed their career development. These women often have a particularly difficult time. Opportunities for re-training are often limited, and without this training, the chances of being re-hired into a scientific career are significantly reduced. Tenure track positions presently demand the fulfillment of obligations within a specified period of time, with little option for alternatives. Training grants and fellowships are not generally structured to accommodate part-time fellows? Deferral or sharing of fellowships is not usually considered a realistic alternative. Consideration of these factors and others have formed the basis for the design and implementation of new NIH training and re-entry opportunities for women scientists.

The NIH is equally committed to increasing the numbers of minority scientists represented in biomedical research careers. The NIH Office of Minority Programs was established for the purpose of supporting research to improve minority health. In March of this year, I announced plans to the Congress for an NIH Minority Health Initiative, a $45 million effort aimed at improving health in minority communities and attracting minorities into careers in medicine and research. Dr. John Ruffin, Director of the Office of Minority Programs, leads this effort.

The Minority Health Initiative will channel much needed support to the research projects targeting those diseases and conditions which disproportionately afflict minorities. These disorders include AIDS, non-insulin-dependent diabetes millitus, lupus, heart disease and stroke. Another key component of this Initiative is to attract minorities into health careers. The Office of Minority Program's long-term strategy calls for support of a variety of comprehensive activities that focus on increasing the numbers of minority biomedical scientists. The office will move quickly to establish several new projects in the arena of minority health training. Recent efforts have focused on creating pilot or "start-up" projects related to training at all levels of the educational pipeline—from pre-college to post graduate levels. However, in 1993 and beyond, the emphasis will shift to a sustained research training initiatives that will include four components:

Creation of research and research training centers that encourage collaboration between colleges, universities, school systems, business, community organizations and other groups with a focus on minority training.

Establishment of M.S.-Ph.D. programs in the biomedical sciences that link students in traditionally minority institutions with major research universities.

"Bridging" programs that create new opportunities for students in junior and community colleges to enroll in undergraduate programs in the biomedical sciences.

Pre-college intervention programs aimed at increasing the interest and preparation of underrepresented minority students in science and mathematics fields, implemented in collaboration with the National Science Foundation.

This effort is further supported by the programs already established at the NIH for the express purpose of increasing the number of minority biomedical scientists. For example, on July 30, one of the NIH's research institutes, the National Institute of General Medical Science (NIGMS), celebrated the 20th anniversary of its Minority Access to Research Careers (MARC) and Minority Biomedical Research Support (MBRS) Programs. The NIGMS has long been committed to ensuring the success and expansion of these programs.

The ultimate success of these programs however, is dependent upon a continuous pool of young people interested in scientific careers. The key to the successful cultivation of this pool lies in our ability to spark the awareness and interests of children at an early age. We need to instill in them an attraction and excitement for science and mathematics; an excitement that is continually renewed throughout the course of their educational experience. Unfortunately, at a time when the opportunities for scientific discovery have never been greater, fewer and fewer young people are considering careers in biomedical research. The NIH is committed to confronting this declining interest in science with renewed efforts to attract young people and to provide programs and experiences that will sustain and magnetize their interest over subsequent years.

In recognition of this problem, NIH has established the Office of Reduction under the direction of Dr. Michael Fordis. This office is responsible for the educational, training, and recruitment programs associated with the NIH intramural program. It is charged with the short term goal of consolidating the strengths of NIH training at the post doctoral level and building from those experience to develop new programs and materials to impact the science education of students and teachers at the precollege and college levels.

The Office of Education is endeavoring to accomplish this through the development of a number of innovative programs. One example is the NIH Summer Fellowship Program for In-Service Teachers, which is supported in part by the Office of Minority Programs and the Office of Research on Women's Health. This summer experience targets secondary teachers from across the nation who work in institutions with predominantly minority enrollments, trains them to be lead teachers in molecular and cellular biology, and prepare them to implement these new technologies back in their home school districts. There are also precollege programs and activities that provide opportunities for students from minority groups. These programs have been so successful that a broadcast quality videotape in which the student participants share their enthusiasm for science has been produced for national distribution.

Perhaps the most successful precollege program sponsored by NIH is the Minority High School Student Research Apprentice Program (MHSSRAP). This program is also aimed at attracting precollege minority students to enter careers in science. It provides minority high school students with up to eight weeks of hands-on research experience in basic and clinical laboratories across the country. Since 1981, over 10,000 students have participated. In 1991, it was expanded to include a high school teacher initiative. To qualify, a teacher must be a member of a minority group or reach a significant number of minority students. The program offers the teachers the opportunity to gain research experience, update their skills in modern research techniques and broaden their knowledge of scientific concepts through participation in summer research projects at a local university, health professional school or research organization. The long term goal is to establish year-round links between science teachers, secondary school students and research institutions. The program is currently being expanded to include elementary and middle school teachers as well.

To help develop and coordinate a comprehensive science education program at NIH, last year I established the Office of Science Education Policy. This office works with other NIH offices to assure a well coordinated internal effort while also working with other Public Health Service agencies and the Federal Coordinating Council on Science, Engineering, and Technology science education program. This office has been instrumental in helping to develop and administer a number of successful science education programs which fill gaps in the existing NIH life sciences initiative. Three of these innovative programs—the Science Education Partnership Awards (SEPA), the Science Enrichment Program, and the Biomedical Research Advancement: Saturday Scholars Program (BRASS)—have been given high marks by participants, observers and evaluators.

Through SEPA, NIH and the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) have funded twenty-four projects. One example is science partnership at the University of Southern California and the Francisco Bravo Medical Magnet High School in Los Angeles. The goals of this project include increasing the student's scientific literacy in the biomedical sciences, increasing the number of students entering the health professions, and heightening the awareness of the importance of biomedical research and issues of medical sciences as they relate to the inner city community.

After a successful two-year pilot funded by the National Cancer Institute, the Science Enrichment Program has been expanded into an NIH program and is being piloted on a national basis. The program is designed to encourage minority an medically underserved youth to pursue professional careers in science, mathematics, and research. This past summer, four regional Science Enrichment programs were funded.

The BRASS program grew out of the need to stimulate an interest in biomedical and life sciences in the Washington metropolitan areas' seventh and eighth grade students. The program explores various aspects of biomedical and behavioral life sciences by incorporating geography, economics, sociology and science to introduce young people to what happens in the real world. This exciting program, now in its second year, will be evaluated during the 1992–1993 school year. If it is successful, NIH plans to package the curriculum and provide it to other Federal laboratories and academic institutions across the country.

Programs such as these, which target students at a young age, are particularly important. Career decisions begin to be made at the junior and high school levels, and these programs help to nurture this decision-making process and assist students in making informed career choices. They are excellent examples of innovative programs that inspire young adults and their teachers, and begin to bring fresh talent to the biomedical sciences.

These NIH programs are but a part of a much larger strategy that is needed in order to take full advantage of the promise that women and minorities offer. This larger strategy requires not just government intervention, but also requires additional support from role models and mentors, particularly women and minorities, to encourage bright young minds toward science and to continue to inspire those already in the field.

We look to you in Congress for continued support of our programs and to raise public awareness of this critical issue. We welcome your recognition of the seriousness of the problem and the complexity of the solution. We urge you to carry to your home districts our concern about, and commitment to, attracting our best young people—especially women and minorities, into science, which I believe, is always the window to the future.

NEED TO PRESERVE REVENUE FOREGONE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. GILMAN. Mr. Speaker, as the ranking minority member on the Post Office and Civil Service Committee, I am deeply disappointed by recent legislative action which shortchanged the U.S. Postal Service on its revenue foregone needs. I hope that when this issue again is addressed in the new Congress, the Postal Service will be provided with sufficient revenue foregone funds which will enable it to preserve its fiscal integrity and to maintain its service delivery standards for all classes of mail.

I fully realize the Herculean task faced by conferees on the various appropriations measures. Laboring against a looming adjournment deadline, they also were cognizant of the fact a good-faith effort in controlling overspending was a top priority. Given the pressures they faced, they did commendable work. However, it is my hope they do not find themselves in the same time crunch next session.

Based on Postal Service projections, $482 million was required for revenue foregone which permits the delivery of mail at free or reduced rates for various nonprofit organizations. When the House first passed its version of the Treasury-Postal appropriations bill, it included $200 million for revenue foregone. The Senate followed the lead of the House and approved the same amount.

Unfortunately, the conference committee further reduced the revenue foregone amount to $121.9 million, and compounded the problem for the Postal Service by prohibiting it from collecting the difference from the various mailing organizations. Nevertheless, the Postal Service was required to deliver that mail at a reduced rate.

Mr. Speaker, I hope I am wrong, but it seems to me we are headed toward the abolition of revenue foregone funds. Since 1991, because of our failure to fully fund revenue foregone needs, the Postal Service has had to subsidize some of its customers to the tune of $81 million in fiscal year 1991, $100 million in fiscal year 1992, and now $360 million. That adds up to more than a half-a-billion dollars. If that trend continues, the cost will be $1 billion or the equivalent of a one cent increase in first-class postage.

The Postal Service cannot succeed in stabilizing rates and maintaining high service standards, if its needed revenue has to be diverted for other purposes.

END DISCRIMINATION AGAINST GAY MEN AND LESBIANS NOW

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. KOSTMAYER. Mr. Speaker, today, I am inserting into the RECORD the fourth and final part of a comprehensive study that the Philadelphia Lesbian and Gay Task Force released last week.

Titled "Discrimination and Violence Against Lesbian Women and Gay Men in Philadelphia and the Commonwealth of Pennsylvania," the study represents the largest survey of its kind in the United States. About 2,600 gay men and lesbians from Philadelphia, its surrounding suburbs, and 35 counties throughout Pennsylvania report their experiences of discrimination, harassment, and violence.

Although not all Members of Congress will agree with the study's recommendations and conclusions, I feel that the Philadelphia Lesbian and Gay Task Force has made an important contribution to the policy debate regarding the desperate need for civil rights protections for the millions of people who encounter discrimination based on their sexual orientation. I commend the task force for undertaking such a worthy project, and I urge all of my colleagues to read the study.

The fourth installment of the study follows:

PHILADELPHIA LESBIAN AND GAY TASK FORCE 1991-92 SURVEY

CONCLUSIONS

The present study extends the grim findings of our previous surveys. Lesbian and gay people continue to experience widespread discrimination in employment, housing and, especially, public accommodations, despite the existence of legal safeguards in some cities. Fear of discrimination and consequent concealment of sexual orientation are pervasive throughout the gay community. Lesbian and gay people continue to be singled out for violent victimization at rates far beyond those experienced by the general U.S. adult population. Anti-gay and anti-lesbian violence and harassment by police officers, teachers and other school officials, classmates, and family members continue to occur at alarmingly high rates.

In fact, the situation for lesbian and gay people today appears to be worse in some ways than it did at the time of the 1988 PLGTF report. Our 1991–92 respondents report higher rates of employment discrimination and dramatically higher rates of public accommodations-related discrimination than did our 1986–87 respondents. While there has been a decrease in the rate of relatively minor criminal violence against lesbian and gay people, the rates of serious attacks have remained steady and distressingly high. Furthermore, even though much expanded and more diverse than our previous studies, the present sample continues to be unrepresentative in a way that probably underestimates the actual levels of victimization experienced by the lesbian and gay population: it is a relatively educated, "upscale" sample, and it does not adequately represent the racial diversity and gender balance of our community. The true levels of discrimination and violence experienced by lesbian and gay people in Philadelphia and the Commonwealth of Pennsylvania are probably even greater than the shockingly high rates found in the current study.

Many factors contribute to the great risk of discrimination and violence experienced by lesbian women and gay men in Philadelphia and throughout Pennsylvania.

Institutionalized Homophobia and Heterosexism

As we noted in the Introduction, lesbian and gay people have recently been the targets of vicious assaults launched from the podium of the Republican National Convention. The Vatican directive to U.S. bishops to oppose legislation that would protect lesbian and gay citizens from discrimination further unleashed the hostility of our enemies. The freedom that political and religious leaders feel to attack the dignity and the human rights of a whole class of citizens once again demonstrates that we are the last remaining group of Americans against whom bigotry can be expressed publicly without disguise or fear of public condemnation. In 1986, the U.S. Supreme Court, in the infamous *Hardwick* v. *Bowers*, decision, declared that lesbian and gay citizens do not have the same constitutional rights taken for granted by other Americans. On the floor of the U.S. Senate, the State Assembly in Harrisburg, and the City Council of Philadelphia, elected officials have made statements about lesbian and gay people of a sort they would never dare express publicly about racial or ethnic minorities. And the lessons taught by political and religious leaders have been reinforced by the mass media, and by the failure of our schools to provide an atmosphere of tolerance and respect for diversity.

In the past few months:

Philadelphia District Attorney Lynne Abraham, who had earlier rejected PLGTF's recommendations (e.g., to establish a bias crime unit, and to institute sensitivity training for assistant district attorneys regarding sexual orientation), fomented a media circus of homophobia and AIDS-hysteria after the arrest of Edward Savitz;

Pennsylvania Attorney General Ernest Preate underwent an election-year revelation that sexual activities go on in adult bookstores, and his crusade to close them down now threatens the effectiveness of AIDS-prevention educational efforts;

KYW-TV in Philadelphia followed the Attorney General's lead with one of the most irresponsible and sensationalistic "news" series in many years, characterizing public health efforts to distribute condoms as a waste of taxpayers' money, and Mayor Ed Rendell caved in to their sensationalism, suspending important health department programs;

On August 23, 1992, the Philadelphia police responded to neighbors' complaints by conducting a sweep of Schuylkill River Park, rounding up approximately 30 men and eventually charging 18 with violations of a hitherto unknown and rarely enforced curfew;

Pennsylvania State police and other law enforcement agencies have initiated undercover activities in parks around the state, entrapping gay and bisexual men and threatening them with publicity and possible loss of their jobs and families (at least one man arrested in a state park told the PLGTF Hotline that he was contemplating suicide);

Philadelphia Police Commissioner Richard Neal, meeting with representatives of lesbian/gay and AIDS activist organizations shortly after taking office, denied that there is any problem of homophobia or AIDS-phobia among the police, despite the findings of the Citizens Advisory Group appointed by former Commissioner Williams that the events of September 12, 1991, were largely caused by police homophobia and AIDS-phobia.

Many of these manifestations of institutionalized homophobia and heterosexism will not surface in the questions we put to our respondents, but they are all indicative of the atmosphere of prejudice and repression which permits and encourages anti-lesbian/gay discrimination and violence.

Absence of Civil Rights Legislation

In the past two years five states have joined Wisconsin in providing civil rights for lesbian and gay people: Connecticut, Hawaii, Massachusetts, New Jersey and Vermont. Still, lesbian and gay Pennsylvanians have no civil rights protections at the federal or state level. Philadelphia, Harrisburg, and Pittsburgh residents are protected at the local level against discrimination in employment, housing and public accommodations. However, our survey indicates that discrimination persists in these cities despite the existence of civil rights legislation. Yet, very few suits alleging anti-lesbian or anti-gay discrimination have been filed with the Philadelphia Commission on Human Relations (PCHR), the agency charged with enforcing the Philadelphia Fair Practices Act. One possible reason for this is that the existing legislation provides only limited safeguards against discrimination. Lesbians and gay people are still at risk of discrimination in areas such as child custody decisions and child visitation and adoption rights. By filing charges of discrimination and publicly identifying their sexual orientation, lesbian and gay people put themselves at risk of further discrimination in areas where they are unprotected by existing legislation. Also, in the few cases where lesbian or gay people have filed charges of discrimination, the cases have been mired in administrative process, and very few cases have resulted in resolutions that are satisfactory to the lesbian or gay litigants. In sum, most lesbian and gay Pennsylvanians have no civil rights protections, and in the few cities where there are local protections, they are largely ineffective because they are not comprehensive and because the process for resolving complaints is bogged down in bureaucratic red tape.

AIDS-Related Victimization

AIDS has had a tremendous impact on the lesbian and gay community. Many lives have been lost to this disease and many more people will die. However, the negative impact of AIDS was initially exacerbated by governmental and media indifference, and later by sensationalism that fed on and reinforced public homophobia and hysteria concerning sexuality. Despite the relative incommunicability of AIDS, people with AIDS and people who are HIV (Human Immunodeficiency Virus) positive have been treated as pariahs. For example, when Philadelphia police donned latex gloves, sprayed mace and used their batons against unarmed protestors during President Bush's visit to Philadelphia on September 12, 1991, they exposed the AIDS-phobia and homophobia that characterizes a police force with limited knowledge about HIV and its transmission as well as one whose training on the management of demonstrations and civil disobedience is woefully inadequate.

The passage of the HIV prevention, Education, Counseling, Testing and Confidentiality Act introduced by Pennsylvania State Representative Babette Josephs and enacted in March 1991 is one of the Commonwealth's few positive responses to the AIDS epidemic. One of the nation's most comprehensive and progressive AIDS confidentiality bills, this legislation makes it illegal to disclose a person's HIV status without written permission; mandates pre- and post-counseling for people who are tested; and makes it illegal for hospitals to test a patient's blood for HIV without her or his written consent.

Inadequate Law Enforcement

The justice system should give the same priority to anti-lesbian and anti-gay victimization that it accords other cases of violence and discrimination. Unfortunately, our survey and other studies found many cases where law enforcement officers were unsympathetic to lesbian and gay victims and where judges gave less severe punishment to perpetrators and anti-gay and anti-lesbian crimes. By not treating anti-lesbian/gay victimization as seriously as other crimes, the justice system gives tacit approval to the perpetrators of this victimization, and fails in its mission of deterring crimes against members of society. Herek and Berrill (1992) use the term "secondary victimization" to describe this phenomenon, noting that it "shapes the way lesbian and gay male survivors respond to primary victimization of hate crimes." Our study also found many instances where the police themselves were the perpetrators of anti-lesbian/gay violence and harassment. Clearly, police in the Commonwealth are not being adequately informed about the inappropriateness of heterosexist and homophobic behavior, and they are not being adequately trained about the specific needs of lesbian and gay crime victims.

Failure To Include Sexual Orientation as a Protected Category in Bias Crime Legislation

Anti-gay and anti-lesbian crimes are as deplorable and as devastating as other forms of bigotry. All hate-motivate crimes should be of grave concern to democratic governments, because such crimes deny constitutionally guaranteed rights of privacy and freedom of association and expression. Hate crimes statutes increase penalties for certain offenses, when it can be established that the crime was motivated by racial or religious bigotry and/or enables victims of such crimes to initiate civil actions against perpetrators. Twenty states and the District of Columbia have hate crime laws that include crimes based on sexual orientation. Additionally, fourteen states, including Pennsylvania, have hate crimes statutes that do not include sexual orientation as a protected category in bias crime legislation, despite evidence that homosexuals are among the most frequent victims of bias crimes (Finn and McNeil, 1987).

Inadequate Bias Crime Statistics

Despite the fact that the Hate Crimes Statistics Act was passed due to the efforts of NGLTF and other lesbian/gay organizations, lesbian and gay people who report victimization to the authorities are nonetheless at risk of discrimination in the absence of state or federal civil rights legislation. Without this protection, gay and lesbian people will remain reluctant to report hate crimes. In the absence of such data, state and local governments, which rely on the federal government for statistical information, will have a difficult time effectively allowing resources to combat bias crimes. In the first Hate Crimes Report prepared by the Office of the Attorney General of Pennsylvania it was noted that the State Police, mandated to collect data on hate crimes in the Commonwealth, do not currently collect data on anti-lesbian/gay attacks, despite the inclusion of this category in the Federal Hate Crimes Statistics Act (Preate, 1988–90, p.5).

Inadequacies in the Education System

Statistics in the present study indicate that large numbers of lesbian and gay respondents experienced violence and harassment by classmates and teachers in junior and senior high school. Furthermore, findings indicate that school victimization rates are negatively correlated with age of respondent, indicating that the situation in our schools is getting worse today. Documentation from the PLGTF Violence and Discrimination Hotline Project and results from other studies indicate that the principal perpetrators of anti-lesbian and anti-gay violence are teen-age and young adult males, the recent products of our schools. "The general profile of a 'gay-basher' . . . is a young male, often acting together with other young males, all of whom are strangers to the victims" (Berrill, 1992, p.29). Clearly, our school system is failing to inform these youngs that violence and harassment of gay and lesbian people is repugnant and immoral. Also, our schools are failing to provide a safe and supportive environment for lesbian and gay youths. Accurate information about lesbian and gay people is not provided in the general curriculum, and lesbian and gay youths are rarely able to find positive role models within the education system. Some religious institutions and members of the media also contribute to the problem by failing to provide accurate information about homosexuality and by failing to condemn anti-gay and anti-lesbian victimization.

As a result of intensive efforts by the Philadelphia Lesbian and Gay Task Force, the Philadelphia Federation of Teachers, and other allies, some gains have been achieved. In 1991 the Philadelphia Board of Education adopted Policy #123, "Adolescent Sexuality," in order to address the issues of teen pregnancy and HIV transmission. The policy includes a mandate to "assure a safe, equitable and positive school experience for lesbian and gay students." The Pennsylvania Department of Education adopted a non-discrimination policy in educational programs on the basis of sexual orientation in March, 1992. However, the remaining Task Force policy recommendations have not been implemented (see below).

Policy Recommendations

The problems cited above contribute to the significant levels of violence and discrimination experienced by lesbian and gay people. PLGTF proposes a number of policy recommendations to address these problems:

Enactment of Civil Rights Legislation. In order to provide full and equal protection to gay and lesbian people, PLGTF recommends that:

The U.S. Congress amend the 1964 Civil Rights Act to include the category sexual orientation;"

The Governor of the Commonwealth of Pennsylvania proposes and the state legislature enact an amendment to the Pennsylvania Human Relations Act and the Pennsylvania Fair Educational Opportunities Act (1955, PL 744, as amended) which incorporates "sexual orientation" as a protected category and which, provides criminal penalties for civil rights infringements;

The Governor of the Commonwealth of Pennsylvania proposes and the state legislature enact legislation to prohibit the use of sexual orientation, per se, as a primary factor in awarding child custody, visitation and adoption rights;

The Governor of the Commonwealth of Pennsylvania proposes and the state legislature enact legislation to prohibit discrimination on the basis of sexual orientation in all instructional materials at the elementary and secondary school level.

AIDS-Related Legislation and Training. In order to alleviate the great, negative impact that AIDS has had on society, PLGTF recommends that:

The federal government appropriate adequate funding for comprehensive research and explicit educational programs to halt the spread of AIDS and dispel public misconceptions about this disease;

The state government substantially increase appropriations for community-based education and public health programs in regard to AIDS;

The city of Philadephia's Department of Public Health continue to support needle exchange on a citywide basis, in conjunction with expanded opportunities for treatment, providing adequate funding and personnel so that IV drug users have access to clean needles, bleach kits and information about AIDS and its transmission.

Comprehensive Legislation to Combat Bias Crimes. In order to provide the victims of anti-lesbian/gay violence the same protection accorded victims of racial or religious bigotry, PLGTF recommends that:

The Pennsylvania legislature amend existing bias crime legislation to include "sexual orientation" and "gender" as protected categories and to make provision for civil cause of action against perpetrators.

Collection of Bias Crime Statistics. In order to develop a statistical data base to facilitate the combatting of bias crimes, PLGTF recommends that:

State and local human relations offices cooperate with law enforcement agencies in gathering and disseminating information about hate-motivated crimes;

Law enforcement agencies and human relations offices cooperate with organizations in the private sector that deal with bias crime issues;

The state government enact legislation mandating the reporting of bias-motivated violence and harrassment in the schools, including anti-lesbian/gay attacks, and requiring that such data be distributed to local school boards and the media.

The Philadelphia District Attorney's Office establish a bias crime unit to coordinate the evaluation and reporting of bias crime incidents in cooperation with the Philadelphia Commission on Human Relations (PCHR) and the Philadelphia Police Department.

Curriculum Revision and Training Programs in the Education System. In order to combat anti-lesbian/gay violence in our schools, to provide a safe and supportive environment for gay and lesbian students, and to dispel misconceptions about homosexuality that can lead to anti-lesbian/gay victimization, PLGTF recommends that:

Public and private schools establish clear policies that prohibit discrimination on the basis of sexual orientation in employment, staff development programs, curriculum, instructional materials, testing instruments and library acquisitions;

Public and private schools develop comprehensive training programs, with periodic review and evaluation, for all teachers and professional support staff, specifically on the matters of sexual orientation, race, gender, age, disabiliity, religion and ethnicity;

Public and private schools, in consultation with trained curriculum specialists, undertake revision of history, social studies, literature and health curricula, guided by clearly defined institutional policies that require sensitivity to and inclusion of educational materials on minority issues, including sexual orientation and women's studies;

Library acquisitions be guided by an institutional mandate to reflect human diversity and respect for difference;

Training Programs in Law Enforcement. In order to improve the police response to anti-lesbian/gay violence and combat police violence and harassment of gay and lesbian people, PLGTF recommends that:

Law enforcement agencies establish comprehensive recruit and in-service training programs, subject to periodic review, testing and evaluation, on minority issues, including sexual orientation;

Law enforcement agencies about the National Organization of Black Law Enforcement Executives' (NOBLE) Model Law "Enforcement Response," as amended, in order to assure a precise delineation of roles, responsibilities and procedures in effectively investigating, reporting and analyzing hate-motivated crimes.

The Mayor and/or Philadelphia City Council establish a permanent Citizen's Police Advisory Board that is empowered to investigate and evaluate issues of public concern such as the September 12, 1991 confrontation between police and demonstrators.

State and local police departments develop mandated training courses for recruits as well as in-service training for uniformed and plainclothes personnel of all ranks that focuses on crowd control and demonstrators; the rights, history and motivations of demonstrators; and issues of groups such as ACT UP.

All police personnel be required to attend AIDS education seminars that include medical information about the risks to police officers in the course of their work, as well as the examination of attitudes about AIDS and people with AIDS.

Training Programs in State Government. In order to assure non-discrimination in state employment and in the provision of state services and benefits, PLGTF recommends that:

The Governor of the Commonwealth of Pennsylvania institute a comprehensive training program, subject to periodic review and evaluation, on minority issues, including sexual orientation, for all state agency and state contractor personnel.

Training Programs in Social Service Agencies. In order to insure a satisfactory response to the needs of lesbian and gay victims of violence and discrimination, PLGTF recommends that:

Victim service agencies institute comprehensive staff training programs about minority issues, including sexual orientation;

Victim service agencies advertise the availability of their programs to the lesbian and gay community and develop a working relationship with gay and lesbian community organizations.

Finally, PLGTF believes it is essential that religious institutions and the media, as vehicles for public information and education, play an active role in condemning anti-lesbian/gay victimization and in providing accurate information about homosexuality, to dispel public misconceptions about gay and lesbian people that can lead to bias crimes.

Our study has demonstrated that anti-gay and anti-lesbian violence and discrimination are pervasive problems throughout Philadelphia and the Commonwealth of Pennsylvania. A timely, multifaceted response by people in government, law enforcement, education, social service agencies, religious institutions and the media is essential in order to combat this senseless victimization.

TRIBUTE TO GREGORY MICHAEL RAKUSHIN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to a man who exemplifies diligence and determination. Mr. Speaker, I am proud to honor Gregory Michael Rakushin.

July 1 was a milestone for Mr. Rakushin, for it marked 47 years of perfect attendance. That's right, imagine not missing a single day of public school, college or work, for 47 years straight.

Mr. Rakushin began his streak in his hometown of Brownsville, PA. By the time he reached high school, his streak had become so well known that his classmates threatened to foil his record by kidnaping him.

But Mr. Rakushin prevailed and graduated in 1958. He continued to set perfect records in pursuit of his bachelor's degree at California State College in California, PA, and while earning his masters degree at West Virginia University.

With his streak still intact, Mr. Rakushin entered the teaching profession at Struthers High School, serving as a guidance counselor and science teacher. In 29 years he didn't miss a day.

This year Mr. Rakushin retires from his profession and, later this month, his friends and family will pay him his due honor at a dinner. I join them in their salute.

Best of luck in your retirement, Mr. Rakushin. I am proud to have you in my district.

TRIBUTE TO DAVID JACOBS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Ms. OAKAR. Mr. Speaker, perhaps no one deserves the title of "Mr. Cleveland" more than David Jacobs. With his brother, Richard, and their company, Jacobs, Visconsi & Jacobs Co. and the Richard & David Jacobs Group, David Jacobs invested millions in downtown Cleveland and changed the way we look at our city forever.

David Jacobs died on September 17, 1992 at the age of 71 of complications from pneumonia. His passing was typical of the way David Jacobs did everything in life: Quietly, very low-key, with great dignity. But the changes he and his brother wrought during a 37-year partnership, will stand as a permanent monument to civic activism and an unwavering faith in his community.

Visit Cleveland, especially during the summer, and you can hear, from the lakefront, the noise of the fans attending an Indians game. Ask those fans how they feel about David Jacobs. Had it not been for him and his brother, no doubt the Indians would be playing elsewhere. The brothers bought the Cleveland Indians in 1986, and although they never enjoyed a winning season, baseball experts say the youthful nucleus being nurtured in the minor league system is there to eventually give the city a championship team.

When civic leaders approached David and Richard Jacobs about backing the new Gateway Stadium, the brothers never hesitated and agreed to move the team to the new complex. When the first ball is thrown out in the spring of 1994, David will surely be watching and quietly smiling with pleasure at the latest wonder of the many he accomplished in Cleveland.

It is hard to look at Cleveland's skyline and not see the dynamic imprint of David and Richard Jacobs. The Galleria at Erieview was a bold statement of design and function. Their most recent project was the $330 million Society Center, boasting the tallest building between New York City and Chicago. The Jacobs style of urban development was not restricted to just Cleveland. Since the brothers began working together in 1955, they have developed 41 regional shopping centers in 14 States, and have overseen the development of office buildings and hotels.

David Jacobs was born and raised in Akron, OH, graduating from Buchtel High School. During World War II, David Jacobs served with great distinction in the Navy before his discharge in 1945. He graduated from Indiana University with a degree in business administration in 1947.

David Jacobs was a loving husband and father and a devoted family man. He is survived by his wife, Barbara; daughter, Marje Bell of St. Louis; sons David Jr., of Santa Monica, CA, and John of Bloomington, IN, and three grandchildren.

It is hard to reconcile the image of this shy, quiet man being so successful in the rough-and-tumble world of urban development. That he was successful will always be evident when someone cranes their neck to see to the top of the Society Center, or warms a seat at a home game of the Cleveland Indians at the Gateway Stadium. Yes, David Jacobs truly was "Mr. Cleveland."

PERSONAL EXPLANATION

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. CAMPBELL of California. Mr. Speaker, upon reviewing the cosponsorship lists for bills in the House, I recently discovered that I had been included as a cosponsor of H.R. 1168. This inclusion was made in error; I never cosponsored H.R. 1168. I have found that errors of this kind have occasionally happened over the last 4 years—often because there is another Congressman with the name "Campbell."

Because the bill passed the House, I am no longer able to have my name deleted from the list of cosponsors. I offer this statement in the RECORD as the next best alternative.

TRIBUTE TO AMANDA HOPSON

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. HALL of Texas. Mr. Speaker, I rise today to honor all the volunteers and participants who unselfishly gave their time and money to help the Ears for Amanda Campaign; but most of all, I rise to honor the incredible young lady they sought to help, Amanda Hopson.

Amanda is a beautiful 9-year-old from Ben Wheeler, TX, in my district. When Amanda was 2 years old, her parents, Will Don and Leanne, discovered that Amanda had developed meningitis, which eventually left her deaf. Amanda then spend the following 7 years without her ability to hear.

On July 21 of this year, after a successful operation Amanda's dream came true—she was able to hear again. Through the efforts of Ears for Amanda, a fundraising group made up of family, friends, and citizens from the very supportive communities of Ben Wheeler and Van, enough money had been raised for Amanda to receive a cochlear implant which would restore her hearing. Today, Amanda is learning to adjust to her new ability. She is going through continuing follow-up sessions, speech therapy, and is presently attending school at the Andy Woods Elementary School in Tyler, TX.

Having raised over $25,000 dollars for Amanda's surgery, Ears for Amanda was a very successful campaign. Countless hours were spent planning and organizing the different events that comprised the fundraising drive. Some of the events held included: A trailride-barbecue, a womanless beauty pageant, several garage sales, an auction, and a fishfry to name a few.

Ears for Amanda would not have been possible without the efforts of several dedicated individuals. Because it would be impossible for me to name everybody, let me name just some of them. They include: Lois Hukill, Connie Mason, Dorman Lindsey, Donja Justice, Janet Hankins, Debi Sides, Killi Padilla, and Josh Fuller.

I am so proud of each of the wonderful people who pulled together to make a difference in the young life of Amanda Hopson, and I take this opportunity, on behalf of each of us in Congress, to thank them for their efforts. Mr. Speaker, as we adjourn today, let us do so in honor of Amanda Hopson, as well as everyone involved in the Ears for Amanda Campaign.

TRIBUTE TO THE NILES McKINLEY MEMORIAL CENTER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the McKinley Memorial Library on the 75th anniversary of the dedication of their original building, the edifice which houses both a library and a memorial to the birthplace to President McKinley.

In 1908, the Niles Library Association was founded as a public library to serve the citizens of Niles. In 1910, Joseph Butler conceived the idea of building a memorial in Niles, OH, to honor the memory of William McKinley, 25th President of the United States who had been born in Niles in 1843. McKinley, after 5 years as President, had died at the hand of an assassin in 1901. The building of the McKinley Memorial, and the public library housed within, between 1915–17, was a sign of the growth of the community in the early 20th century. The Doric Greek structure of Georgian marble was built by public subscription at the cost of $500,000. Through the generous donation of $50,000 by industrialist Henry Clay Frick, the south wing was completed as a home for the town's public library and the name of the library was changed to the McKinley Memorial Library. The library-memorial has served the Niles community in both times of economic depression and war, as well as times of prosperity and peace. The library wing was completely restored and remodeled in 1985 to continue the historic commitment to the past while introducing the technologies of the future. This process was exemplified in details such as restoration of ornamentation while at the same time automating the circulation system. Thus, the McKinley Memorial and Library will truly bridge the generations.

Mr. Speaker, the McKinley Memorial and Library is a great asset to the community. Students and adults both utilize its offerings to better themselves and their understanding of history.

TRIBUTE TO REPRESENTATIVE WALTER JONES

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. VALENTINE. Mr. Speaker, I rise in tribute to our late colleague, and my close friend for nearly four decades, Walter Jones.

Walter Jones represented the First District of North Carolina for a quarter of a century. In that time, he came to be revered by the people he represented as well as by those with whom he served in the House.

For the people of eastern North Carolina who earn their livelihood from the soil or the sea, Walter Jones was a leader who put their interests first. As a senior member of the House Agriculture Committee and chairman of the House Merchant Marine and Fisheries Committee, he never lost sight of his responsibility to the farming and fishing families of the First District.

I met Walter when we both served in the North Carolina House of Representatives in 1955. Even at that early point in his political career, he was an outstanding legislator who authored the law that made automobile liability insurance a requirement in North Carolina.

When I came to the U.S. House of Representatives in 1983, I naturally looked to my longtime friend Walter Jones for guidance. He was a model Representative who used the power of his office for the betterment of both his district and our Nation.

Walter will be missed by all of us in the House and by the people of the First District, but his legacy of effective leadership will inspire those of us who served with him and those who will come after him for many years. If we all accomplish as much for our constituents as Walter did, this institution and our Nation will have been enriched.

SALUTE TO FRANK SINATRA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. SERRANO. Mr. Speaker, today I rise to pay tribute to the legendary entertainer Mr. Frank Sinatra on the occasion of the publication of "Sinatra: The Man and His Music." For more than 50 years, Mr. Sinatra has enchanted people all over the world with his exceptional, distinctive voice. On a personal note, it was through my enjoyment of, even devotion to, the music of Frank Sinatra that I learned to speak English, when my father would bring his records back to Puerto Rico from the United States.

Mr. Sinatra's unique recording career is exquisitely documented in "Sinatra: The Man and His Music." Through their remarkable scholarship, the book's authors, Ed O'Brien and Scott P. Sayers, Jr., have enabled readers to better appreciate Mr. Sinatra's extraordinary accomplishments and have captured for posterity the life of one of America's most famous sons. From the outset of his career when he won a singing contest and sang with the bands of Harry James and Tommy Dorsey through to his present status as internationally reknowned recording artist, Mr. O'Brien and Mr. Sayers have meticulously traced Mr. Sinatra's steps and produced a definitive study of this peerless performer's career.

Frank Sinatra is indisputably one of the greatest singers the world has ever known and I would like today to pay tribute to Mr. Sinatra and commend Mr. O'Brien and Mr. Sayers for successfully capturing for the public the recording history of this American legend.

SIXTY-EIGHTH ANNIVERSARY CELEBRATION FOR SMITH CHAPEL AFRICAN METHODIST EPISCOPAL CHURCH OF INKSTER, MI

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. FORD of Michigan. Mr. Speaker, I rise to recognize the Smith Chapel African Methodist Episcopal Church of Inkster, MI. Smith Chapel A.M.E. is celebrating its 68th anniversary the weekend of October 16–17.

From Rev. William Brown, Smith Chapel A.M.E.'s first pastor, to Rev. David R. Jarrett Sr., the current pastor, the church has been blessed with a succession of gifted leaders. Reverend Brown took the helm of the original Smith Chapel congregation then known as St. Vernon Church, in early 1925. Soon thereafter, the church formally took its current name of Smith Chapel to honor the late Bishop, C.S. Smith. The Smith Chapel congregation met for services in various homes until the first church was built in 1926. The congregation worshipped in this church on Springhill Road until the present-day church on Walnut and Beech Streets was established in the midforties. The sanctuary of the church was completed in 1946. In the nearly 50 years since, the church and parsonage have undergone extensive renovation to accommodate the ever-growing congregation.

Smith Chapel calls itself "The place where the Word is proclaimed, felt, and shared." This title truly epitomizes the mission of Smith Chapel. Indeed, the spiritual growth of the Smith Chapel congregation, as well as the physical growth of the church structure itself, has been accompanied by a growth in the church's involvement with the larger community. I am proud of the achievements of Smith Chapel in meeting the day-to-day needs of the sick, working parents, and students who aspire to higher education. In 1968, Smith Chapel welcomed the Wayne County Health Clinic under their roof. The clinic set up their operation in the Smith Chapel basement. In 1969, under the leadership of Wilzetta Brown-Williams and Mary Ruth Ross, the Smith Church established the Frances E. Davis Day Care Center, the first day care center in Inkster. The church also established the Almyra E. Meek Scholarship Fund to assist young people in furthering their education.

As a legislator who has spent his career fighting to see that the Federal Government help provide health care, child care, and education for all who need it, I deeply appreciate the efforts of churches and other community groups like Smith Chapel that reach out and meet the needs of those in their community. I wish the Smith Chapel 68 more years of progress. I look forward to working with this special community in the coming years.

PEOPLE'S BANK CELEBRATES 150 YEARS OF BUSINESS

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. SHAYS. Mr. Speaker, today I am pleased to congratulate People's Bank as it celebrates 150 years of business. In 1842 the first branch of People's Bank was established in Bridgeport, CT. During the first week of business, a total of $97 was deposited in the bank. By 1900, the bank's assets totaled nearly $4 million. Today, People's Bank has assets of approximately $6 billion, 2,200 employees, and 72 branches throughout the State of Connecticut.

Originally established to serve local families, People's Bank has expanded into a multiservice financial institution. From commercial banking to trust services to credit cards, the services offered by People's Bank help make it the highly competitive financial institution it is today. Throughout these expansions, however, People's Bank has maintained the high standards of customer service on which it has prided itself throughout 150 years of business.

I am proud of the support People's Bank provides to nonprofit community development projects statewide. It is also a strong supporter of education, the arts, and affordable housing in Connecticut. The people of Bridgeport, Hartford, New Haven, Stamford, and neighboring communities are fortunate to be able to enjoy the benefits and services offered by People's Bank. I wish the bank great success during the next 1½ centuries.

CENTRAL HIGH SCHOOL STADIUM DEDICATION OCTOBER 2, 1992

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mrs. LLOYD. Mr. Speaker, I am pleased to introduce legislation today to commemorate the dedication of the Central High School football stadium as Central Memorial Stadium in honor of the sons and daughters of Central High School who have made the supreme sacrifice in defending this great country. I would also like to recognize the naming of Central High's football field to be Etter-Farmer Field in honor of the outstanding careers and accomplishments of coaches E.B. Etter and Stan Farmer.

Central High School is located in Chattanooga, TN and was founded in 1907. Since its inception, it has flourished and grown into an institution committed to its study body, by striking a unique balance between academic and athletic achievement.

Mr. Speaker, as we embark on the fall season and the great American tradition of football, I urge my colleagues to join with me in recognizing the dedication of Central High School's football memorial stadium and Etter-Farmer Field.

TRIBUTE TO THE MARCUS GARVEY CHILD DEVELOPMENT CENTER

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Marcus Garvey Child Development Center of the South Bronx. For the past 21 years, the Marcus Garvey Center has been providing quality care to children between the ages of 2½ and 12 years. The center consists of four preschool classes and two school-age classes. There are both indoor and outdoor—one rooftop and two terrace—play areas. The activities organized for the children vary depending on the age of the child, the stage of development and the hours of care.

The Marcus Garvey center currently cares for more than 100 children. They are provided with a nutritional meal service; an educational foundation and learning skills; group interaction and socialization activities; and supervised playtime to meet their mental, emotional, social, and physical development needs. The center strives to offer a multitude of enrichment activities in order to ensure the development of a well-rounded person.

Included in the center's curriculum are multicultural activities such as dance festivals, science fairs, and a black history program. There is also a multiculture week, a Puerto Rican Discovery Day and an annual Marcus Garvey Day celebration. The Marcus Garvey Center's objective is to prepare the children as best possible to meet the challenges of the future. The center's motto is "Future leaders are our goal" and it accomplishes this principle by encouraging the development of a positive attitude, a willingness to try and learn, and a degree of self discipline in the children. The Marcus Garvey Center supports the children in all their endeavors and in return expects them to put forth their best efforts.

The Marcus Garvey Center cares for children during their most formative years and is therefore greatly responsible for how they develop. Clearly, the center has excelled in performing its duties. Last November, the Marcus Garvey Center received the 1991 Council of Supervisors and Administrators of the city of New York Effective Leadership-Effective Schools Award. The center's commitment to the development of healthy and successful individuals has also been recognized by other local organizations. Throughout the two decades of its existence, the Marcus Garvey Child Development Center has played an invaluable role in the community of the South Bronx—showing our children not only how to broaden their horizons and enrich their lives, but also encouraging them to do the same for the community in which they live. Today, I would like to praise the Marcus Garvey Center for its outstanding work and express my deep appreciation for its dedication to our children.

BAYONNE JEWISH COMMUNITY CENTER HONORS ETHEL AND ALFRED ROSENTHAL AND CELEBRATES 40TH ANNIVERSARY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. GUARINI. Mr. Speaker, on October 17, two outstanding members of the Jewish Community Center of Bayonne will be honored. They are Dr. Alfred Rosenthal and his wife Ethel. October 17 is also the 40th anniversary of the Bayonne Jewish Community Center—a very dedicated civic organization in my home district.

Dr. Rosenthal and his wife became actively involved in the Bayonne Jewish Community Center soon after it opened, in 1953. Dr. Rosenthal, the center's current personnel chairman, is not only active in the center, but also in the community. He has a private practice in internal medicine, and serves on the staff of several area hospitals. He is also actively involved in the Hudson County chapter of the American Heart Association.

Ethel Rosenthal started her many years of service with the organization as chairwoman of the art committee. She also began the leisure and learning series—which quickly became one of the center's most popular programs. In 1962, she joined the center's board of directors, and later made history by becoming the center's first woman president in 1971. She has also served as chairwoman of the center's sustaining fund drive, which raised $350,000 between 1982 and 1985, and she currently chairs the Sustaining Fund Management Committee. Mrs. Rosenthal has received honors and awards from distinguished groups, such as the National Conference of Christians and Jews, and the Jersey Journal newspaper named her a "Woman of Achievement."

Dr. Rosenthal and his wife Ethel have devoted much of their lives to serving their community. Through the Jewish Community Center of Bayonne, they have been able to contribute their tremendous talent and energy to bring Jewish citizens closer together, and to make their whole community a better place to live.

Bayonne's first Jewish Community Center was founded in the 1930's, and was located in an old home on Lincoln Parkway. In those early days, the center offered programs for a senior citizen's group, a nursery school, a Cub Scout group, arts, and sports. The center's activities were so popular that the center soon outgrew its facilities.

The organization found an ideal lot on Kennedy Boulevard, and bought the land from the city of Bayonne. But the group had to overcome some major hurdles before the current site was built.

First, construction was delayed for several years because of a shortage of funds. Thanks to the help of Jack Siegal and Al Scolnick, an aggressive fund-raising campaign was started. Sidney Epstein headed a building committee, and Carl Goldberg, a local architect, designed the center.

But soon the plans hit another snag. Because of the Korean war, there was a shortage of steel available for construction of the building. A local businessman, Barney Rubine, was able to provide some badly needed steel reinforcing rods.

No sooner did construction get underway than the builders hit bedrock underground. The construction process took much longer than expected, but the Bayonne Jewish Community Center met every obstacle head-on, and the building was finally finished in 1952. The group decided to grace their new home with a cornerstone imported directly from Israel.

We in Hudson County are indeed fortunate to have this distinguished center as part of our community. Mr. Speaker and my distinguished colleagues, please join me in saluting the honorees—Ethel and Alfred Rosenthal—and the 40th anniversary of the Bayonne Jewish Community Center.

INTRODUCTION OF FEDERAL COMMERCIAL CREDIT MARKETING CORPORATION ACT OF 1992

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. RIDGE. Mr. Speaker, today I introduce the Federal Commercial Credit Marketing Corporation Act of 1992. This bill will create a secondary mortgage market entity to stop future credit crunches, diversify the risk of our insured depository institutions, and lower costs for small business and other borrowers.

In the midst of this long recession, one strength of the economy has been the abundance of mortgage money available for home purchases and refinancing. Fewer consumers that normal have been buying new homes, but this is due to a lack of demand rather than a lack of mortgage money. Many Americans have been refinancing their homes, meanwhile, saving themselves hundreds of dollars each month.

Contrast this situation with that of small business and other types of borrowers. Not only have they been unable to secure new lines of credit lately, they can't even hold on to existing lines of credit. Many Pennsylvania borrowers, who would otherwise be happy to expand and hire and sell more products, have seen the planned expansion stymied by a lack of credit. Some employers have had to donwnsize when they lose existing lines of credit. These lost opportunities have cost tens of thousands of jobs in Pennsylvania and across the country.

Why the difference? Why can homeowners find plenty of mortgage money, and small business borrowers not find any? There is never any single easy answer in economics, but one large factor is the lack of a liquid secondary mortgage market for commercial loans. Everyone knows about Fannie Mae and Freddie Mac in the housing markets. They have brought lower costs and increased liquidity to homeowners. But no such entity exists for commercial borrowers. The Resolution Trust Corporation has done some work in this area, and Wall Street has done limited packaging of credit card receivables and other debt. But the potential for large-scale packaging of bank assets is largely untapped.

My bill would therefore apply the advantages of existing government-sponsored entities [GSE's] to the commercial banking system with one critical difference. Some say, and with good reason, that Fannie Mae today is too successful. It's grown so much that it is—even if one overlooks implicit Federal backing—a "too big to fail" institution. And the purely private sector simply cannot compete, so we have nationalized the secondary mortgage market in an unnecessary manner.

My bill would provide for a "jump start" with a definite sunset date, after which all Federal connections would expire. After 10 years, the corporation will have to apply for a purely private corporate charter, and will not receive any implicit subsidies. In effect, we will turn over all operations to the private sector, where they properly belong.

The initial capitalization for CreditMac will come from preferred stock sold to the Federal Reserve, which will pay for this stock with funds earned from the "sterile reserves" paid in by the banks. I suspect this provisions will provoke controversy. But my aim is to have bank sterile reserves capitalize this new entity for a temporary period. Once CreditMac has enough equity to buy back the Fed stock, it will do so. And it would have to do so, or its common stockholders would have to do so, prior to CreditMac becoming fully private in 10 years.

I want to stress that while my primary goal is to bring more lending opportunities to those wishing to hire and expand and put families back to work, a secondary goal is to stabilize the banking system by allowing it to diversify its risk. In other words, banks hold the majority of commercial loans on their books, which means the risk of the loans is shared only by depositors, meaning U.S. taxpayers, and holders of bank stock. But by having CreditMac buy these loans and sell shares of bundled loans to investors, a major portion of the risk is removed from depositors and bank shareholders and sold to millions of investors in CreditMac securities.

Insured depository institutions alone will be able to sell to CreditMac for the first 10 years. We do need to update the banking charter so it can compete in the modern world, and this bill is but one step. Once CreditMac becomes fully private, of course, competitors will be able to sell to CreditMac. But by then I hope Congress will make wise decisions on what role insured depository institutions will play in the modern economic age.

I want to stress that this bill will probably have some flaws. We will introduce an even better version next year. I do not pretend to be an expert in this emerging area, to I want to hear the debate that will result from the introduction. I am pleased to be joined by Representative DOUG BARNARD, JR., who truly is an expert in banking matters, and who shall soon return to Georgia. I am also pleased to be joined by JIM MORAN. We will use the debate stimulated by this forward-looking bill to refine our approach and help prevent future credit crunches that so dearly cost our workers in Pennsylvania, Georgia, Virginia, and across the country.

STOP THE KILLING IN BOSNIA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. LEVINE of California. Mr. Speaker, a disaster of historic proportions is occurring in what once was Yugoslavia. Already more than 100,000 Bosnians—most of which are Moslems, but some are Croats and disloyal Serbs—have been interned in prisoner-of-war camps.

These men, women, and children are part of an ethnic cleansing campaign by Serbians of non-Serb influences. The world has seen ethnic cleansing before. It cannot be tolerated against anybody under any circumstances. As many have noted, such a policy smacks of Hitler's war against the Jews during World War II, and should outrage the rest of the world.

Almost every day brings news of a new outrage in Yugoslavia. Almost every night the evening news carries footage of the murder of innocents by one faction in the conflict.

Just yesterday, the State Department indicated that it believed that as many as 3,000 Bosnian Moslem men, women, and children were massacred by Serbian forces. The bodies of the victims were then thrown into the Sava River, buried in mass graves, or cremated.

While our European allies have condemned the violence in Yugoslavia and committed to send ground forces to the region to facilitate the shipment of food and other supplies, the Bush administration has remained on the sidelines, refusing to become involved or to demonstrate any leadership in this tragedy.

While people die, the international community, Europe, and the administration dither. They make excuses not to act. Just as we refused to respond to reports of atrocities being sponsored by Hitler and Stalin in the 1930's, we have taken no meaningful action in response to this latest atrocity. Such inaction is both immoral and inexcusable.

The New York Times warns that CIA intelligence analysts believe more than 100,000 people will die this winter in Bosnia unless the West takes decisive action. Even more frightening are estimates by the U.N. High Commissioner for Refugees that the death toll could reach 400,000.

Despite pleading from those organizing the U.N. peacekeeping and resupply effort, it is unlikely that any forces will arrive for another 5 to 8 weeks—well after winter has set in.

Where is the decisive George Bush that rallied the world to defeat Saddam Hussein? Why can he not expend the same energy to save hundreds of thousands of people in Bosnia? There is no excuse for inaction in Yugoslavia. Our failure to respond to the killing there will be viewed by history as irresponsible and inexcusable.

I urge the President to take some time from his campaign schedule and rally the world against the ethnic war in Yugoslavia. If the world will not act, we must. We can use American air power, which brought Saddam's army to its knees, to compel the Serbs to halt their war against the Moslems and the Bosnians. Why does the President shrink from the use of force when it is so clearly necessary and justified?

If the world will not act, we must. History will not regard kindly our failure to respond to this modern genocide. I urge the President to act to stop the war. Stop the killing. And bring peace to a troubled nation.

CENTENNIAL OF ST. ANSELM'S CHURCH

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. SERRANO. Mr. Speaker, I rise today in celebration of the upcoming 100th anniversary of the Church of St. Anselm in the Bronx. Throughout the past century, St. Anselm's Church has played a valuable role in the daily life of the members of the South Bronx community, guiding and enriching their lives intellectually and spiritually.

St. Anselm's Parish was established in 1892. The Archbishop of New York at the time offered Rev. Alexius Edelbrock, of the Benedictine Order, the spiritual care of this new parish, composed primarily of German immigrants. Reverent Edelbrock immediately began to make plans for a church, a rectory, and a school.

The rectory at St. Anselm's was built in 1892 and construction of the church itself was begun that same year. By the end of 1893, the basement of the church building began to function as a provisional church. The main church building was finally finished in 1917 and was inaugurated at the end of the year with a Christmas Mass. St. Anselm's Church was build as a replica of the famous Basilica of St. Sophia in Istanbul and it is the only Byzantine building of its kind in the Nation. Inside the church there are 12 granite columns, a dome of gigantic proportions and 24 oval windows. The artistic decoration was carried out between 1924 and 1927 by the most talented Benedictine artists of the time.

The school at St. Anselm's began to operate in November of 1908 under the direction of the Dominican Sisters of Blauvelt, who continue to lead the school to this day, with 560 children. During the first 33 years of its existence, the school was completely free but since then all students have enjoyed partial scholarships. Today, the school has 730 students of which 95 percent are Catholic and the majority are Hispanic or black. The school strives to provide its students with a solid Christian and humanist education as well as a thorough knowledge of modern science through extensive use of its laboratories and three computer rooms. In addition, St. Anselm's school is well-known for its outstanding athletic and recreational programs, for example, the after-school program for 125 children whose parents work. Every week, three bingoes are held to raise funds for the school and each year a raffle and a candy sale are held. Throughout the past 84 years, the school has produced many graduates, among which was the Most Rev. Edwin Broderick, retired Bishop of New York.

St. Anselm's Church has always been an active participant in neighborhood programs for housing, education, sanitation and security, among others. In fact, for many years St. Anselm's kept open a refuge for the homeless people in the area. Throughout its century of existence, St. Anselm's has been an invaluable source of guidance, inspiration and assistance to the people of the South Bronx and under the present direction of Padre Andres Alava it continues in this tradition. Today, on behalf of this community, I would like to express to all those that for the past 100 years have made St. Anselm's what it is our deepest gratitude and our hope that St. Anselm's will celebrate many centuries to come.

NATIONAL PEARL HARBOR REMEMBRANCE DAY

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. SANGMEISTER. Mr. Speaker, December 7 of last year marked the 50th anniversary of one of the most significant events in our country's history. I am speaking, of course, of the Japanese attack on Pearl Harbor; 2,400 Americans were left dead and another 1,000 were injured in this attack which prompted the United States' entry into the Second World War. Ultimately, over 16.5 million Americans would be drawn into this conflict—over 400,000 would lose their lives.

In the wake of this anniversary, I introduced legislation to permanently recognize the significance of this event. House Joint Resolution 450 would designate December 7 of each year as "National Pearl Harbor Remembrance Day." I believe such designation is warranted and long overdue. Not only would such a designation serve as a lasting tribute to those killed and wounded, it would remind future generations of the significance this event had in shaping United States and world history. I rise today, in the waning hours of this Congress, to thank the 83 cosponsors of this legislation, pledge my support of similar legislation in the 103d Congress, and to salute Richard Foltynewicz, a marine from Ottawa, IL, whose tireless advocacy on behalf of the veterans of Pearl Harbor and World War II should be an inspiration to us all.

Since first being introduced to Mr. Foltynewicz about a year ago, I have had the distinct pleasure of knowing that true patriots still exist. In my 30 years of public service, I have met few individuals with as much dedication and heartfelt belief in a cause. Like many of us here, Richard served in World War II and has vivid memories of the Japanese attack on Pearl Harbor. He is proud of his service to country and possesses a "let's get it done" attitude we rarely see these days. He has established the Foundation for a National Pearl Harbor Day and has spent countless days developing a grassroots network of veterans committed to making December 7 a permanent day of remembrance.

Knowing that House Joint Resolution 450 will not be acted on this year, I am asking this Congress to pause and remember the significance of the attack on Pearl Harbor. Pearl Harbor changed the course of history and deserves permanent recognition as a day of Remembrance. But, don't take my word for it. I suggest you ask a World War II veteran, 20,000 of whom are living in each one of our congressional districts—or ask the family members of the 406,000 who died in service.

My message to Richard Foltynewicz is this: We may not have gotten it done this year but we are not giving up. On behalf of the soldiers and survivors of World War II, I pledge to reintroduce House Joint Resolution 450 in the 103d Congress.

SALUTE TO THE SISTER CLARA MOHAMMED SCHOOL OF THE BRONX

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. SERRANO. Mr. Speaker, I rise today to salute the Sister Clara Mohammed School located in the Bronx on the occasion of its fourth annual educational benefit to be held later this month.

Sister Clara Mohammed School is one of 50 Sister Clara Mohammed Schools throughout the United States that serves Moslem and non-Moslem students and are open to children of all races and nationalities. These schools are nonprofit Islamic institutions that teach religion, moral discipline, and academic excellence. They are led by Imam W. Deen Mohammed, a noted religous leader who was the first Moslem to offer an invocation in the U.S. Senate. Throughout his life, Imam W. Deen Mohammed has displayed an exceptional commitment and dedication to his fellow people. He has worked hard to encourage communication and cooperation among the various major religions in order to address the numerous problems facing humanity. Among his many concerns, Imam W. Deen Mohammed has always emphasized the importance of a quality education to successful endeavors and through the Sister Clara Mohammed Schools he strives to provide children with the foundation they need to accomplish their goals.

One of the principal goals of the Sister Clara Mohammed School in the Bronx is to provide the younger residents of the Bronx with a quality, tuition-free education. There is no doubt that thus far the school has excelled in achieving this end. Today, on behalf of the people of the South Bronx, I would like to commend the Sister Clara Mohammed Schools community, led by Imam W. Deen Mohammed, for its dedication to providing our children with an outstanding education and express my sincerest thanks.

NATIONAL ENERGY STRATEGY PROVISIONS ON GREENHOUSE GASES

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 4, 1992

Mr. COOPER. Mr. Speaker, I am proud to support the comprehensive national energy legislation expected to be moving through the House today. Part of the balance of this bill comes from a provision to encourage voluntary greenhouse gas reductions by allowing submission of baselines, reductions, and fixations to the Energy Information Administration for inclusion in a national data base.

This provision was drawn from an amendment I offered with Representative MIKE SYNAR of Oklahoma during consideration of this bill in the Energy and Power Subcommittee. It garnered support from Chairman PHIL

SHARP, ranking member CARLOS MOORHEAD and full committee Chairman JOHN DINGELL. I remain grateful for the strong support of these colleagues throughout consideration of the bill in full committee, floor action and, most importantly, during conference with the Senate. Additionally, I appreciate the help of Senators TIM WIRTH, and JOE LIEBERMAN, who supported the provision in the Senate, and Senator BENNETT JOHNSTON and his staff for support in the conference.

Already, this provision has been hailed in "The New Republic" as a critical component of the national energy strategy. In its October 19, 1992 issue, it says,

> On measures to combat global warming, the bill also represents a milestone. Since the Earth Summit in Rio, many large corporations have been leery of cutting greenhouse emissions voluntarily, fearing they could end up in a worse position if mandatory controls come later. Their later cuts would come from a smaller base, in the same way that a law to end obesity by requiring everyone to lose twenty pounds would be harder on the slender than the well-padded. The bill removes this excuse by allowing corporations to register current output of greenhouse gases and, in the event of mandatory controls, receive credits for voluntary cuts. This measure could allow the United States to meet Rio's first-round greenhouse goals more quickly than first thought—and with scant dislocation.

This editorial ends on the most important point: Control of greenhouse gases can be affordable, if industry makes wise investments and plans ahead. If they get smart, participate in this program and make it work, our economy will be stronger, our industry more efficient and our Nation more competitive.

The final agreement on the voluntary reduction program contains less detail than the original House language, and it gives more discretion for the administration. With proper implementation, this can be a valuable environmental program to help the United States meet its international obligations under the Rio agreement. The provision fits perfectly with the joint implementation provisions of the Rio Convention by allowing volunteers to report reductions/fixations made other countries, which can be very cost effective for all concerned.

I hope companies keep this program in mind as they plan their compliance with the Clean Air Act. Since it did not directly control most greenhouse gases, there are no guarantees that those compliance options with greenhouse benefits will be chosen. In fact, there is a good possibility that some companies will adopt clean air plans that increase greenhouse emissions. Thankfully, this voluntary program can give industry a signal to choose the options that simultaneously control acid rain pollutants, ozone precursors, and greenhouse gases. This kind of efficient planning and investment will save our Nation money in the long run.

Already, our proposal has achieved good results. Following introduction of the original Cooper/Synar COPE bill in 1990, three utilities announced programs to voluntarily cut their greenhouse gas emissions, using the menu of reduction options we pioneered. These utilities include the Los Angeles Department of Water and Power, Southern California Edison, and New England Electric Service. One independent power producer, AES Corp., set an encouraging example even before we introduced our bill by offsetting greenhouse emissions from its new power plants by setting aside endangered tropical forests. Under section 1605 of this energy bill, these companies, among others, would be entitled to make their case for the Federal Government to approve their reductions for inclusion in the greenhouse gas data base.

I am proud that the core concepts of the House provisions are represented in the final agreement. The companies participating in this program will have a burden of proving to the Energy Information Administration that their reductions meet the accuracy requirements of the bill.

The conferees streamlined several provisions of the program, not with the intent to diminish the accuracy of the program, but to enhance it by offering the agency flexibility to set proper guidelines. I am satisfied that the program will benefit from more administrative flexibility, and the public can be confident that, since the United States committed in the Rio Convention to report our actions for international review, these agencies will implement this program diligently.

I am encouraged that the full range of cost-effective reduction options was retained from the original Cooper/Synar proposal, including—fuel switching, forest management practices, tree planting, use of renewable energy, manufacture and use of vehicles with reduced greenhouse gas emissions, appliance efficiency, energy efficiency, methane recovery, cogeneration, chlorofluorocarbon capture and replacement, and powerplant heat rate improvement. Importantly, these reductions may be reported from demonstrated reductions or fixations achieved by the volunteers anywhere in the world. Additional reduction and fixation options may also be submitted, provided the volunteer can prove the accuracy of the reduction/fixation to EIA pursuant to the DOE guidelines. The open-ended nature of the program will spur innovation, encouraging the search for new options with increased environmental performance, and better cost effectiveness.

In closing, I want to thank Dan Dudek, Bill Roberts, Joe Goffman and Alice LeBlanc of the Environmental Defense Fund for their help in developing and advancing this program. And I also appreciate the advice and support of several companies, including Wisconsin Electric Power Co., Northern States Power Co., New England Electric Service, the Los Angeles Department of Water and Power, Arizona Public Service Co., Interstate Natural Gas Association, INGA, Enron Corp., ANR Pipeline/Coastal Corp., Wisconsin Natural Gas Co., AES Corp., COPEC, California Energy Co., and the Center for Clean Air Policy. They have helped us advance this effort, and I trust they will help us make it work as it is implemented in the coming months.